

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100116	Disaster Relief Payments - Common Questions

State of Wisconsin
Department of Revenue

Disaster Relief Payments

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. Are purchases made using disaster relief payments subject to Wisconsin sales and use tax?
 - FEMA Electronic Funds Transfer and U.S. Treasury Checks
 - American Red Cross Disbursing Orders (ARCDO).
 - American Red Cross Client Assistance Cards (CAC).

1. Are purchases made using disaster relief payments subject to Wisconsin sales and use tax?

The Federal Emergency Management Agency (FEMA) and the American Red Cross (ARC) provide relief to disaster victims by distributing funds to those in need. Funds are distributed using various methods including:

- making electronic transfers directly into a disaster victim's bank account
- issuing U.S. Treasury checks to a disaster victim
- providing the disaster victim with an ARC Disbursing Order (ARCDO)
- providing the disaster victim with a Client Assistance Card (CAC)

The following is the Wisconsin sales and use tax treatment of purchases made using each of these payment methods.

- **FEMA Electronic Funds Transfer and U. S. Treasury Checks:**
Purchases made by disaster victims with funds FEMA electronically transfers into their bank accounts or receives in the form of a U.S. Treasury check are subject to Wisconsin sales or use tax in the same manner as any other purchase made by that individual.

For example, Individual is a victim of Hurricane Harvey and receives funds from FEMA through an electronic funds transfer directly into Individual's bank account. Individual uses these funds to purchase gasoline for his automobile and a meal at a restaurant. Individual's purchase of the gasoline for his automobile is not subject to Wisconsin sales tax since gasoline for automobiles is generally not subject to Wisconsin sales tax.

Individual's purchase of the meal is subject to Wisconsin sales tax. The fact that these purchases are made with funds that were provided to Individual by FEMA does not affect the taxability of the transactions.

o **American Red Cross Disbursing Orders (ARCDO):**

An ARCDO is a voucher that the American Red Cross (ARC) provides to a disaster victim for a specific vendor and is good up to a specified dollar amount. Although an ARCDO is mainly issued for lodging for the victims, they are also issued for items such as groceries and clothing. A vendor that accepts an ARCDO submits a copy of the invoice or receipt showing purchases by the victim, along with a copy of the ARCDO, to the ARC. (Note: Do not send a copy of the invoice or receipt along with the ARCDO if the purchase was for less than \$25 or was for groceries.) The ARC then sends a check to the vendor to pay for the purchase.

Purchases made using ARCDOs, as described above, are not subject to Wisconsin sales or use tax since the ARC makes the purchases. The vendor should keep a copy of the ARCDO and receipt, and indicate the ARC's Certificate of Exempt Status (CES) number on the receipt to prove that the sale qualifies for exemption from Wisconsin sales and use tax. The CES number for the ARC is contained in the merchant instructions for the ARCDO.

o **American Red Cross Client Assistance Cards (CAC):**

American Red Cross Client Assistance Cards (CACs) are prepaid credit cards which the ARC issues to some victims. Generally, CACs can be used anywhere that a MasterCard is accepted and may be used to purchase any items other than alcohol, tobacco and firearms.

When ARC sets up a CAC account for a victim, the financial institution through which the CAC has been issued will remove the specified amount of funds from the ARC's bank account and transfer the funds to the CAC account. The victim will then select a personal identification number (PIN) for the account and have approximately 15 days to spend the balance on the card. The ARC reserves the right to deactivate or suspend the card at any time if misuse is suspected. In addition, any funds left on the card after a specified period of time are returned to the ARC's bank account.

Purchases made using CACs are not subject to Wisconsin sales or use tax, provided the invoice for the purchase is made out in the name of the ARC and the purchaser pays for the purchase using the CAC. The retailer should keep a copy of the CAC and receipt, and indicate the ARC's Certificate of Exempt Status number on the receipt to prove that the sale qualifies for exemption from Wisconsin sales and use tax.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of December 6, 2019: Sections 77.52 and 77.54, Wis. Stats., and sec. Tax 11.14, Wis. Adm. Code.

Laws enacted and in effect after December 6, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to December 6, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

MS 5-77

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