

**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
100029	Vendors Doing Business with Wisconsin - Common Questions

State of Wisconsin
Department of Revenue

Vendors Doing Business with Wisconsin

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. What are the provisions of the law affecting vendors who sell to state agencies and authorities?
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4. How can you require us to register, collect, and remit Wisconsin sales or use tax if we don't have nexus with Wisconsin?
5. How does the Wayfair Decision affect sales and use tax registration requirements for vendors?
6. Does this law affect us if we are a non-profit corporation or organization?
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9. How can I find out if the product or service sold by our company is subject to Wisconsin sales and use tax?
10. Do we have to register if all of our sales in Wisconsin will be exempt from sales and use tax?
11. Who can complete an Affidavit of Exempt Sales?
12. Why did we receive a request to complete a Registration Verification when we are already registered to collect Wisconsin sales and use tax?
13. What is an affiliate?
14. Do we need to complete an Affiliate Registration Verification if we have an affiliate that does not make any sales in Wisconsin?
15. What will happen if our company or our affiliate does not register to collect and remit Wisconsin sales and use tax and does not qualify to sign an Affidavit of Exempt Sales?

16. How will we know if we are on the vendor certification list?
17. If we are on the vendor certification list, what do we need to do so we can sell goods or services to Wisconsin state agencies and authorities?
18. Is the information provided by vendors used for any other purpose?

1. What are the provisions of the law affecting vendors who sell to state agencies and authorities?

The law provides that Wisconsin state agencies and authorities cannot purchase any materials, supplies, equipment, or contractual services from a vendor, if the vendor and its affiliates are not registered, collecting, and remitting Wisconsin sales or use tax on sales of tangible personal property and taxable services in Wisconsin. The Secretary of Revenue is required to periodically certify to the Secretary of Administration, the names of vendors and their affiliates who are not properly registered and remitting Wisconsin sales or use tax. (Sections [16.75\(10m\)](#) and [77.66, Wis. Stats.](#))

2. What state agencies and authorities are covered by this law?

- o All Wisconsin State Agencies
- o Legislative and Judicial Branches
- o University of Wisconsin Hospitals and Clinics Authority
- o Fox River Navigational System Authority
- o Wisconsin Aerospace Authority
- o Wisconsin Housing and Economic Development Authority
- o Lower Fox River Remediation Authority
- o Wisconsin Economic Development Corporation
- o Bradley Center Sports and Entertainment Corporation
- o Wisconsin Health and Educational Facilities Authority

3. Does this law affect us if we do not have nexus activity in Wisconsin that would require us to collect and remit sales and use tax with Wisconsin (Nexus)?

Yes. While this law does not change the definition of nexus, it does prohibit Wisconsin agencies and authorities from purchasing from vendors if they and their affiliates are not registered, collecting, and remitting Wisconsin sales or use tax. If you want to sell to Wisconsin agencies and authorities, you and any affiliates selling in Wisconsin must be registered, unless you and/or your affiliates qualify to sign an [Affidavit of Exempt Sales Form \(A-006\)](#).

4. How can you require us to register, collect, and remit Wisconsin sales or use tax if we don't have nexus with Wisconsin?

The department cannot require you to register if you do not have nexus with Wisconsin. However, if you or any of your affiliates are not registered and do not qualify to sign an [Affidavit of Exempt Sales Form \(A-006\)](#), Wisconsin state agencies and authorities will be prohibited from purchasing property or services from your company and your affiliates.

5. How does the Wayfair Decision affect sales and use tax registration requirements for vendors?

The Wayfair Decision does not affect vendor registration requirements. To be an eligible vendor for Wisconsin state agencies and authorities, a vendor must register to collect and remit Wisconsin sales and use tax even if sales to Wisconsin customers fall under the thresholds established by the Wayfair Decision, unless eligible to submit the [Affidavit of Exempt Sales \(A-006\)](#).

6. Does this law affect us if we are a non-profit corporation or organization?

Yes. In order to continue doing business with Wisconsin state agencies and authorities, a non-profit corporation or organization must register to collect and remit Wisconsin sales and use tax if its sales of products or services are subject to the tax.

7. What should I do if my only Wisconsin activity consists of receiving grants and/or aids from Wisconsin agencies?

If your only activity in Wisconsin consists of receiving grants and/or aids, you do not have to register to collect and remit Wisconsin sales and use tax since you do not have taxable sales of tangible personal property or services in Wisconsin. Complete and submit a [Registration Verification Form \(A-001\)](#) and an [Affidavit of Exempt Sales form \(A-006\)](#). In addition, you will need to complete an [Affiliate Registration Verification Form \(A-002\)](#) if you have affiliates with any Wisconsin business activity.

8. How do we register to collect and remit Wisconsin sales and use tax?

You can register online using the Department of Revenue's online [Business Tax Registration](#), which provides registration and filing options, or on paper using [Application for Business Tax Registration \(BTR-101\)](#). For additional information about registering, collecting and remitting Wisconsin sales and use tax, please see our [website](#).

9. How can I find out if the product or service sold by our company is subject to Wisconsin sales and use tax?

The Wisconsin Department of Revenue website has many [sales and use tax publications](#) that may help you determine if your product or service is taxable. You may also refer to [Chapter 77](#) of the Wisconsin statutes.

Questions about Wisconsin sales and use tax laws may be directed to the Department's Customer Service Bureau.

Telephone:(608) 266-2776

Email: DORBusinessTax@wisconsin.gov

Mail:

MS 5-77

Wisconsin Department of Revenue

Customer Service Bureau

PO Box 8949

Madison, WI 53708-8949

10. Do we have to register if all of our sales in Wisconsin will be exempt from sales and use tax?

No. If all of your sales in Wisconsin will be exempt from sales and use tax, you may sign an [Affidavit of Exempt Sales Form \(A-006\)](#) instead of registering.

11. Who can complete an Affidavit of Exempt Sales?

Any business that only makes sales that are not subject to sales or use tax under ch. 77, Wis. Stats., may complete an [Affidavit of Exempt Sales](#). This is certification that all sales the business makes in Wisconsin are exempt from the Wisconsin sales and use tax. Examples of exempt sales are sales for resale, sales to governmental units, sales to exempt organizations,

and sales of non-taxable services. Exempt sales do not include sales of tangible personal property or taxable services not taxed solely because the vendor or affiliate does not have activity in Wisconsin that requires them to collect and remit sales and use tax (Nexus).

12. Why did we receive a request to complete a Registration Verification when we are already registered to collect Wisconsin sales and use tax?

All vendors are required to complete a [Registration Verification Form \(A-001\)](#), because we need to know if you have any affiliates that make sales of property or services in Wisconsin. If you have any such affiliates, you need to complete an [Affiliate Registration Verification Form \(A-002\)](#). You may also need to complete an [Application for Business Tax Registration \(BTR-101\)](#) or [Affidavit of Exempt Sales Form \(A-006\)](#) for each affiliate.

13. What is an affiliate?

An affiliate means a business that controls, is controlled by, or is under common control with another business. Control means to own, directly or indirectly, more than 10% of the interest in or voting securities of a business.

14. Do we need to complete an Affiliate Registration Verification if we have an affiliate that does not make any sales in Wisconsin?

No. If your affiliate does not make any Wisconsin sales of products or services, you do not need to complete an [Affiliate Registration Verification Form \(A-002\)](#) for it.

15. What will happen if our company or our affiliate does not register to collect and remit Wisconsin sales and use tax and does not qualify to sign an Affidavit of Exempt Sales?

If your company, or an affiliate, does not register to collect and remit Wisconsin sales and use tax and does not qualify to sign an [Affidavit of Exempt Sales Form \(A-006\)](#), we will certify your company to the Wisconsin Department of Administration. Wisconsin agencies and authorities will then be prohibited from purchasing property or services from your company and your affiliates. Companies will be removed from the certification list if they later register to collect Wisconsin sales and use tax or complete a valid [Affidavit of Exempt Sales Form \(A-006\)](#).

16. How will we know if we are on the vendor certification list?

A "Notice of Intent to Certify" will be sent to any company that we intend to put on the certification (ineligible) list.

17. If we are on the vendor certification list, what do we need to do so we can sell goods or services to Wisconsin state agencies and authorities?

Contact us at the contact information below.

18. Is the information provided by vendors used for any other purpose?

Information may be used to determine filing requirements for all Wisconsin tax types for current and prior years.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of November 27, 2019: Sections 16.002, 16.70, 16.71, 73.03, 77.51 and 77.66, Wis. Stats.

Laws enacted and in effect after November 27, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to November 27, 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 2-233

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Email additional questions to DORVendorLaw@wisconsin.gov

Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

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