

**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.

<b>Document Number</b>	<b>Document Title</b>
<b>100144</b>	Lodging Marketplace License - Common Questions

State of Wisconsin  
Department of Revenue

## Lodging Marketplace License Common Questions

**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 is a lodging marketplace?
2. I am offering short-term lodging in Wisconsin. Who is responsible for collecting and paying sales tax?
3. Is short-term lodging subject to county and stadium tax?
4. Am I required to collect local room taxes?
5. How do I know if the marketplace I am working with is collecting the tax?
6. What is the occasional sales exemption?
7. Is the lodging marketplace license the same as the seller's permit?
8. If I know an individual is renting their home and is not collecting and remitting sales tax, what should I do?

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### 1. **What is a lodging marketplace?**

A lodging marketplace is a person or business that (1) provides a platform used by an unaffiliated 3rd party to offer the short-term rental of a residential dwelling for a fee, for fewer than 29 consecutive days, and (2) collects the consideration for the rental from the occupant.

For Wisconsin purposes, the lodging marketplace must:

- Register for a lodging marketplace license (  [Form S-231](#)).
- Register for a Wisconsin seller's permit with the Department of Revenue (DOR) if the marketplace does not have a Wisconsin seller's permit.
- Collect Wisconsin sales and use taxes from the occupant and forward to DOR.
- Contact each Wisconsin municipality in which it makes short-term rentals to determine if additional registration is required.
- Collect applicable Wisconsin municipal room taxes from the occupant and forward to the municipality.

- Notify the owner of a short-term rental that taxes were collected and forwarded the appropriate taxing authorities.

**2. I am offering short-term lodging in Wisconsin. Who is responsible for collecting and paying sales tax?**

Homeowners or other individuals who make rooms or lodging available to the public for periods less than one month are responsible for collecting and paying sales tax on sales of short-term lodging in Wisconsin. This includes the short-term rental of a home, room, apartment, cabin, inn, motel, or any other building in which accommodations are made available to the public. "One month" means a calendar month or 30 days, whichever is less, counting the first day of the rental and not counting the last day of rental.

Sales made through a lodging marketplace prior to January 1, 2020

If you offer to rent short-term residential lodging through a marketplace website, the marketplace may be required to collect the tax and forward it to the appropriate taxing agency if it meets the definition of lodging marketplace as defined in #1 above (2017 Wis. Act 59). If the marketplace collects the tax, you do not need to collect the tax on those sales. However, if the marketplace does not notify the owner of the short-term residential rental that the marketplace collected and remitted the taxes, the owner is liable for remitting the tax.

Effective January 1, 2020

Marketplace providers are required to collect and remit tax on the entire amount charged to the purchaser for all sales of taxable products and services that the marketplace provider facilitates on behalf of a marketplace seller. Therefore, if you offer to sell lodging, including short-term residential lodging, through a marketplace provider's website, the marketplace provider must collect the tax and forward it to the appropriate taxing agency.

See [Marketplace Providers and Sellers](#) for more information.

See examples below.

**3. Is short-term lodging subject to county and stadium tax?**

Short-term lodging is subject to the 5% Wisconsin sales and use tax. It may also be subject to the following taxes administered by the Wisconsin Department of Revenue:

- [County sales tax](#)
- [Baseball stadium district tax](#)
- [Local exposition room tax](#)
- [Premier resort area tax](#)

**4. Am I required to collect local room taxes?**

Contact the local municipality in which you offer short-term lodging to determine if additional registration requirements apply.

**5. How do I know if the marketplace I am working with is collecting the tax?**

See [Lodging Marketplace License](#) for the list of marketplaces who have registered with us for a lodging marketplace license.

### Prior to January 1, 2020

If the marketplace you are working with is not on this list, review your agreement with the marketplace. If the agreement does not state that the marketplace will collect the tax, ask the marketplace if it will be collecting the tax.

If the marketplace is required to collect tax on short-term residential lodging (e.g., meets the definition of lodging marketplace), the marketplace must collect tax from the occupant, forward the tax to the appropriate taxing authority, and notify the owner of the short-term residential lodging that the marketplace has collected and forwarded the taxes (2017 Wis. Act 59). If the marketplace does not collect the tax, you are responsible for collecting and remitting the tax.

### Effective January 1, 2020

Marketplace providers are required to collect and remit tax for all sales of taxable products and services that the marketplace provider facilitates on behalf of a marketplace seller. The marketplace provider is required to notify the marketplace seller that the provider is collecting and remitting the tax. If the marketplace provider does not inform the marketplace seller that tax has been collected and remitted, the marketplace seller is not liable for the tax, unless the failure to collect tax is not due to insufficient or incorrect information given to the marketplace provider by the marketplace seller.

See [Marketplace Providers and Sellers](#) for more information.

#### 6. **What is the occasional sale exemption?**

Starting with sales made in 2018, you are not required to hold a seller's permit if your taxable sales are less than \$2,000 in a calendar year. Prior to 2018, a \$1,000 threshold applied.

If a seller holds or is required to hold a seller's permit, its sales do not qualify as exempt occasional sales (with an exception for persons who hold a seller's permit solely for bingo sales).

#### 7. **Is the lodging marketplace license the same as the seller's permit?**

No. The permit is for a person making taxable sales in Wisconsin. If you are required to register for a [lodging marketplace license](#), you must also have a Wisconsin seller's permit. You may register for a Wisconsin seller's permit at [tap.revenue.wi.gov/btr](http://tap.revenue.wi.gov/btr).

#### 8. **If I know an individual is renting their home and is not collecting and remitting sales tax, what should I do?**

Complete [Form P-626](#), Wisconsin Tax Information Referral Form. You may email, mail or fax the form to us. More information is available at <https://www.revenue.wi.gov/Pages/FAQS/ise-fraud.aspx>.

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## Examples

**Homeowner sells lodging using third-party website.** Jane purchases a cabin in Door County. She rents out the cabin for a 14-day period using a third-party's website. The occupant pays Jane \$2,200 for lodging. The third-party website does not, directly or indirectly, process the payment from the occupant.

*Does Jane need to apply for a lodging marketplace license?*

No. Jane does not need to apply for a marketplace license because she does not provide a platform through which others offer short-term residential lodging. However, Jane is selling taxable lodging. Prior to January 1, 2020, if the third-party website does not collect the taxes from the occupant, Jane must register for a seller's permit and remit applicable taxes to the Wisconsin Department of Revenue.

The tax treatment is the same if the cabin rental occurs on or after January 1, 2020. Jane is liable for Wisconsin sales or use tax on her sale of taxable lodging if the third-party website does not collect the taxes from the occupant. The third-party website does not meet the definition of a marketplace provider, as defined in sec. 77.51(7i), Wis. Stats., since it does not, directly or indirectly, process the payment from the purchaser.

Jane should contact her municipality to determine if local municipal room tax or additional registration requirements apply.

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**Homeowner sells lodging using own website.** John plans to rent his home each weekend of home football games. He will advertise the weekend rentals on his website.

*Does John need to apply for a lodging marketplace license?*

No. John does not need a lodging marketplace license. He does not provide a platform used by an unaffiliated third party to offer short-term residential lodging. If John's sales of short-term lodging qualify for the occasional sales exemption (do not exceed \$2,000 for the calendar year), he is not required to hold a seller's permit. He should contact the municipality to determine municipal requirements.

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**Hotel or motel.** A hotel located in Wisconsin rents out rooms and suites to travelers.

*Does the hotel need to apply for a lodging marketplace license?*

No. The hotel does not need to apply for a marketplace license because it does not provide short-term residential lodging. However, the hotel is selling taxable lodging. Therefore, the hotel must hold a Wisconsin seller's permit and collect applicable taxes. Municipal requirements (e.g., local room tax) may also apply.

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**Real estate company.** A real estate company located in Wisconsin provides a website used by clients to offer short-term residential lodging. The real estate company collects payment for the rentals from the occupants.

*Does the real estate company need to apply for a lodging marketplace license?*

Yes. The real estate company is providing a platform used by an unaffiliated third party to offer short-term residential rentals. The real estate company must register for a lodging marketplace license and a Wisconsin seller's permit to collect applicable taxes. Municipal requirements may also apply.

If the sale occurs on or after January 1, 2020, the real estate company is a marketplace provider that is required to collect and remit tax on the sale of the short-term rentals that it facilitates on behalf of its clients (i.e., marketplace sellers).

See [Marketplace Providers and Sellers](#) for more information.

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## Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of January 2, 2020: Sections 66.0615, 73.03, Wis. Stats., Ch. 77, Wis. Stats., and Ch. Tax 11, Wis. Adm. Code.

Laws enacted and in effect after January 2, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to January 2, 2020, 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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