

**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>FS2104</b>	Wisconsin Use Tax - Fact Sheet

**Wisconsin Use Tax  
Fact Sheet 2104**

[revenue.wi.gov](http://revenue.wi.gov)

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.

**Do I Owe Use Tax?**

Use tax is the counterpart of sales tax. Use tax applies when Wisconsin sales tax (state or county) is not charged and no exemption applies. If you make purchases taxable items from a retailer who does not collect Wisconsin sales tax, or bring taxable items into Wisconsin from other states or from foreign countries, you owe use tax.

**What Is the Use Tax Rate?**

The state use tax rate is 5%, and if the item purchased is used, stored or consumed in a county that imposes county and/or stadium tax, you must also pay an additional 0.5% (county tax) and/or 0.1% (baseball stadium tax prior to 04/01/20).

State	5%
County	0.5%
Baseball stadium district tax	0.1% *

\* The baseball stadium district tax ended 03/31/20. The baseball stadium district is comprised of Milwaukee, Ozaukee, Racine, Washington, and Waukesha Counties.

See the [total sales and use tax rate](#) for each county and more information on the [county](#) and [stadium](#) sales and use taxes at [revenue.wi.gov](http://revenue.wi.gov) (enter "tax rate" in search box).

**Special Rules For County Use Tax**

If an item is purchased in a county that has not adopted the county tax and is later brought to a taxable county where it is used, stored, or consumed, the item is not subject to the county use tax.

**Exceptions:** Construction materials, titled items and certain purchases by nonresidents:

- *Construction materials* purchased in a county that has not adopted the county tax and later used to improve real property in a county that has adopted the county tax are subject to county use tax.
- *Purchases of motor vehicles, boats, [recreational vehicles](#), and aircraft* are taxed, for county sales and use tax purposes, based on the county in which the item is [customarily kept](#).
- *Purchases of snowmobiles, trailers, semi-trailers and all-terrain vehicles* are taxed, for county sales and use tax purposes, based on where the buyer receives possession of the items.
- *Purchases of motor vehicles, aircraft and truck bodies (including semitrailers) by nonresidents* who do not use the property other than to remove it from Wisconsin are exempt from Wisconsin sales and use tax.

## Credit For Tax Paid in Another State

Wisconsin state and county use tax due may be offset by tax properly paid in another state. See *Credit for Sales and Use Taxes Paid to Other States and Their Local Units of Government* in [Wisconsin Tax Bulletin # 157](#) for more information. Foreign taxes and customs duty charges are not eligible for this credit.

## Why is There a Use Tax?

Use tax protects in-state businesses from unfair competition. When sales or use tax is not collected on taxable purchases used in your community, local businesses are operating at a competitive disadvantage.

## Why Don't All Out-Of-State Retailers Collect Use Tax?

An out-of-state retailer that does not have a physical presence in Wisconsin ([remote seller](#)) is not required to collect and remit Wisconsin sales or use tax if it qualifies for the small seller exception. The small seller exception applies if the remote seller has gross sales of \$100,000 or less and less than 200 separate sales transactions in Wisconsin in both the current or prior year. If the small seller exception does not apply, the remote seller is required to collect and remit tax on taxable sales in Wisconsin.

An out-of-state business that has a physical presence (such as a store or warehouse) or activities in Wisconsin is required to collect and remit Wisconsin tax on its taxable sales.

## What is Taxable?

Sales, licenses, leases, and rentals of the following products are subject to Wisconsin state and county sales taxes:

- Tangible personal property
- Coins or stamps of the United States that are sold, licensed, leased, rented, or traded as collector's items above their face value
- Certain leased property affixed to real property
- Certain digital goods. Digital goods are transferred electronically to the purchaser. Examples include greeting cards, finished artwork, periodicals, video or electronic games, and newspapers or other news or information products. See [Publication 240](#) for more information.

In addition, certain services are subject to Wisconsin sales and use taxes. For a listing of taxable products and services visit [revenue.wi.gov](http://revenue.wi.gov) (enter "what is taxable" in search box).

Following are examples of purchases which frequently result in a use tax liability.

- **Mail order and Internet purchases.** Businesses and individuals owe Wisconsin use tax if the business or individual buys taxable products such as cigarettes, computers, digital music or videos, electronic games, furniture, prewritten computer software, office supplies online or by mail order or from a retailer who is not registered to collect Wisconsin tax.

*Example:* An accounting firm located in Milwaukee County, which has a county tax, purchases \$20,000 of computers, stationery, and reference books online from out-of-state retailers who do not collect sales or use tax. These purchases are stored or used in Milwaukee County. The accounting firm owes Wisconsin use tax of \$1,100 (\$20,000 x 5.5%).

- **Out-of-state and out-of-country purchases.** Businesses and individuals owe Wisconsin use tax if the business or individual purchases taxable products or services in another state or outside the United States, and subsequently bring the product, or the property on which a taxable service was performed, into Wisconsin. Businesses and individuals also owe Wisconsin use tax on orders placed with a retailer in another state or outside the United States, for delivery to a location in Wisconsin if the retailer does not charge tax.

*Example:* A Wisconsin resident living in Marathon County purchases a digital camera for \$700 at a store in the State of Oregon while on vacation. Oregon does not impose a sales or use tax. The Wisconsin resident brings the camera home to Marathon County, Wisconsin. The individual owes Wisconsin use tax of \$38.50 (\$700 X 5.5%).

*Example:* An individual purchases a painting while vacationing in Canada. The retailer ships the painting to the individual's home in Bayfield County. The retailer charges the individual \$2,500, including shipping and handling. The individual owes \$137.50 Wisconsin use tax of (\$2,500 X 5.5%).

- **Inventory.** If a business buys inventory without tax for resale, and then uses the inventory, the business owes use tax.

*Example:* A retailer of office furniture buys a desk and places it in its inventory. Rather than selling the desk, the retailer uses the desk in its office. The retailer owes use tax on its purchase price of the desk.

- **Giveaways.** Generally, if a business purchases items without tax and then gives them away in Wisconsin, the business owes use tax.

*Example:* To advertise its business, an insurance agency gives pens and calendars to its Wisconsin customers. The agency's purchases of the pens and calendars are subject to tax.

Use tax applies to the total purchase price of taxable items, including charges by the retailer for shipping and handling.

## How Do I Keep Track of My Purchases?

The Department of Revenue has developed a free [Use Tax Calculator](#) (in an Excel spreadsheet) to help individuals and businesses track and calculate use tax owed to Wisconsin.

## How Do I Pay Use Tax?

- A business **registered** to collect Wisconsin sales or use taxes must report tax due on its Wisconsin sales and use tax return.
- A business **not registered** to collect Wisconsin sales or use taxes has two options to report its tax:
  - If you regularly make purchases subject to use tax, apply for a Wisconsin tax number at [tap.revenue.wi.gov/btr](http://tap.revenue.wi.gov/btr) and use your Wisconsin sales and use tax return to report use tax, or
  - If you do not make purchases subject to use tax on a regular basis, report your use tax quarterly on [Form UT-5, Consumer Use Tax Return](#).
- Individuals have two options:
  - Pay use tax on your Wisconsin income tax return (Form 1, 1A, WI-Z, or 1NPR). A special line titled "Sales and use tax due on Internet, mail order, or other out-of-state purchases" is on Wisconsin income tax returns to allow you to report your annual use tax liability, or
  - Report and pay use tax quarterly on the Wisconsin Form UT-5, *Consumer Use Tax Return*.

## What if I Don't Pay the Use Tax Owed?

Failure to timely pay use tax is very costly. In addition to the tax, you may be subject to: late filing fees, interest, penalties of up to 50% of the tax owed, delinquent collection fees, and collection actions.

The department obtains information about purchases through audits of businesses and agreements with other states to ensure use tax owed on purchases is paid.

## Any Questions?

If you are unable to find an answer to your question about sales and use taxes, visit our website at [revenue.wi.gov](http://revenue.wi.gov) or contact us.

**Visit our website:** [revenue.wi.gov](http://revenue.wi.gov)  
**Email:** [DORSalesandUse@wisconsin.gov](mailto:DORSalesandUse@wisconsin.gov)  
**Write:** Mail Stop 5-77  
Wisconsin Department of Revenue  
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P.O. Box 8949  
Madison, WI 53708-8949  
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*Last updated May 26, 2020*

### **Applicable Laws and Rules**

This document provides statements or interpretations of the following laws and regulations in effect as of May 26, 2020: Sections 73.03, 77.51, 77.52, 77.522, 77.524, 77.53, 77.54, 77.58, 77.60, 77.61, 77.70, 77.705, 77.71, 77.72, 77.73 and 340.01, Wis. Stats., and secs. Tax 11.001, 11.01, 11.50, 11.66 and 11.945, Wis. Adm. Code.

Laws enacted and in effect after May 26, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to May 26, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a) Wis. Stats.

### **Certification Statement**

As the Secretary of the Wisconsin Department of Revenue (DOR), I have reviewed this guidance document or proposed guidance document and I certify that it complies with secs. 227.10 and 227.11, Wis. Stats. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is not explicitly required or explicitly permitted by a statute or rule that has been lawfully promulgated. I further certify that the guidance document or proposed guidance document contains no standard, requirement, or threshold that is more restrictive than a standard, requirement, or threshold contained in the Wisconsin Statutes.

DEPARTMENT OF REVENUE



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Peter Barca

Secretary of Revenue