

informational
paper #5



sales and use tax

legislative fiscal bureau
state of wisconsin
january 2021

Sales and Use Tax

Prepared by

Sydney Emmerich

Wisconsin Legislative Fiscal Bureau
One East Main, Suite 301
Madison, WI 53703
<http://legis.wisconsin.gov/lfb>

TABLE OF CONTENTS

Introduction	1
Historical Development of State Sales Taxation in the U.S.	1
The Nature of Sales Taxation	2
Regressivity of the Sales Tax	3
Exemptions from Sales Tax Base.....	4
Temporary Tax Holidays and Rebates	5
Use Tax.....	7
The Historical Development of the Wisconsin Sales Tax	8
Wisconsin Sales Tax Holiday.....	9
Wisconsin Sales Tax Rebates.....	9
Streamlined Sales Tax Project (SSTP).....	9
Current Law.....	10
Taxable Services	11
Sales Tax Exemptions.....	11
Administration	12
Sales and Use Tax Collections.....	13
Local Sales Taxes.....	15
Tax Rate Comparison with Other States	16
Tax Base Comparison with Other States.....	17
Nexus, Remote Sales, and Electronic Commerce	20
Wisconsin Remote Sales	21
Marketplace Providers	22
Taxation of Internet Access Service.....	22
Appendix: Wisconsin Sales Tax Exemptions	25
Business Enterprises	25
Farms	27
Exempt Entities	27
Medical Supplies.....	28
Family Purchases	28
Other Sales Tax Exemptions	29
Use Tax Exemptions.....	30
Exemptions Arrived at Through the Definition of Taxable Sales.....	31

Sales and Use Tax

Generally, sales tax is a state and local tax imposed at a flat rate on the purchase price of goods and services at retail sales to consumers. Sales tax is collected by retailers and remitted to the taxing authority. This generally requires a retailer to obtain a seller's permit and keep accurate records of sales and purchases. The goods and services subject to taxation vary by state.

Unlike the sales tax, use tax is imposed upon, and remitted by, the consumer equal to the purchase price of goods and services used or consumed within the tax jurisdiction. Use tax prevents a consumer from avoiding sales tax by purchasing goods in a foreign tax jurisdiction with a lower, or nonexistent, sales tax rate. Generally, consumers will receive a credit for any sales tax amounts paid on a transaction completed outside the state. This prevents double taxation of the same sale. Use tax may also apply in various other situations where sales tax is not paid, such as when a seller purchases goods for resale (which is not a retail sale and thus exempt from sales tax) and then uses the goods in a taxable manner in the interim.

In Wisconsin, the state sales and use tax is 5% on the purchase price of taxable retail sales. In addition, counties may impose local sales and use tax of up to 0.5% on the purchase price, and certain other local taxes may apply.

This paper describes the nature and the historical development of sales and use tax in the United States and Wisconsin. It provides collections information and explains how state sales and use tax is collected and charged to consumers. The Appendix provides an overview of Wisconsin exemptions from sales tax. Detailed information regarding local sales tax and revenues can be found in the Legislative Fiscal Bureau's

informational paper entitled, "Local Government Revenue Options."

Historical Development of State Sales Taxation in the U.S.

State sales taxes in the United States developed independently of similar taxes in other countries. The sales tax originated in the occupation taxes that some states imposed on certain business activities in the nineteenth and early twentieth centuries. Beginning in the 1930s, the occupational taxes evolved into the world's first significant retail sales taxes.

The first state retail sales tax was enacted by Mississippi in 1932, replacing a broad business occupation tax. As with other business occupation taxes, the Mississippi tax had been imposed on the receipts of each taxable business. Therefore, a product making its way through the distribution chain was taxed at each stage of production. With conversion to a retail sales tax, only the final sale was taxed, which necessitated raising the tax rate to generate the same amount of revenue. The sales tax was attractive to other states because of its relative administrative simplicity and its productivity as a revenue source, particularly in a time of economic depression. The tax allowed states to design a selective tax on nonessential goods and avoid imposing additional taxes directly on business. Prior to World War II, 22 states joined Mississippi in enacting permanent sales taxes; another six enacted taxes that expired within two years.

The second wave of sales tax activity began in 1947 with enactment of a tax by Tennessee. By 1960, another 12 states (and the District of

Columbia) had enacted or reenacted sales taxes. By 1969, an additional 11 states had done so (including Wisconsin in 1962), bringing the total number of states with sales taxes to the current 45. Five states do not have a state sales tax: Alaska, Delaware, Montana, New Hampshire, and Oregon (Alaska does, however, have local sales taxes). These five states have relatively small populations, reducing the revenue potential of the tax. Thus, while 90% of the states impose a sales tax, 97.5% of the U.S. population lives in states with a statewide sales tax.

In March, 2000, state revenue departments began an effort to craft a multi-state agreement through the Streamlined Sales Tax Project (SSTP). The impetus for the Project was to simplify and modernize sales and use tax administration among the states so that sellers without sufficient business nexus that are not required to collect the tax under federal law would voluntarily agree to collect and remit tax on sales to residents of participating states. The Streamlined Sales and Use Tax Agreement (SSUTA) was the product of this effort by participating states (those having approval by their own state to participate in the SSTP), with involvement of various members of the business community. Wisconsin was authorized to participate in the development of the SSUTA under 2001 Act 16.

Under the terms of the Agreement, which was adopted by the participating states in November, 2002, and which has been amended several times since then, the Agreement would become effective when at least 10 states comprising at least 20% of the total population of all states imposing a state sales tax had petitioned for membership and been found to be in compliance with the Agreement's requirements by the Agreement's governing board. The SSUTA became effective on October 1, 2005. At that time, there were 18 member states. As of July, 2020, there were 24 member states, including Wisconsin, participating in the Agreement. Information regarding the changes to state tax law from joining the SSUTA is described

throughout this paper.

Prior to 2018, states could not impose sales and use tax on sellers unless those sellers met the established physical presence requirement, upheld by the 1992 U.S. Supreme Court decision *Quill Corporation v. North Dakota*. However, the 2018 decision in *South Dakota v. Wayfair, Inc.* overturned the requirement for a seller to have a physical presence in the state. The *Wayfair* decision allows states to require out-of-state sellers to collect and remit sales and use tax, regardless of whether a physical presence nexus exists, as long as certain requirements are met. The impact of this decision is discussed in more depth in the section titled "Nexus, Remote Sales, and Electronic Commerce."

The Nature of Sales Taxation

The most common sales tax structure in use by the states is a single-stage retail sales tax on gross receipts, or sales price, from the sales of certain personal property. However, there is significant variation in the nature and extent of state sales taxes. For purposes of this paper, a distinction is made between narrow-based, product-specific excise taxes, and broad-based taxes; the discussion will be limited to broad-based taxes.

Within the broad-based category, there can be two basic types of tax imposed: a general sales tax with a broadly-defined tax base and specifically-identified exemptions; or a selective tax imposed only on the sales of those products listed in the statutes. These approaches can be combined within a state. For example, Wisconsin imposes a general sales tax on goods and a selective tax on services. Furthermore, the tax can be imposed on only retail sales. Retail sales are generally those sales made to private consumers, but also may include some purchases of certain property to be used, but not resold, in a trade or business.

As state sales taxes have developed over the years, standards have evolved for evaluating tax structures for their efficiency, equity, administration, and compliance. Due and Mikesell summarize the following sales tax structure guidelines in Sales Taxation: State and Local Structure and Administration:

a. As a uniform tax on consumer expenditures, the sales tax should be designed to facilitate shifting to the ultimate consumer, apply at a uniform rate to all except justifiably-exempt consumption expenditures, and be based on the final consumer price paid.

b. The tax structure should attempt to minimize regressivity in the distribution of the tax burden, based on accepted principles of equity.

c. The tax structure should not impede economic efficiency by indirectly favoring certain types of distribution channels, methods of business operation, or forms of business organization.

d. The tax structure should facilitate administration and compliance.

As tax policy goals, these principles find widely varying degrees of adherence among state sales tax structures. Two main problems with sales tax structure are the regressive nature of the tax and the use of exemptions from the tax base.

Regressivity of the Sales Tax

The sales tax has generally been thought to be inherently regressive because the proportion of an individual's or family's income devoted to consumption declines as income increases. Persons at lower income levels, therefore, tend to pay a larger share of their income in sales tax. The sales tax base and exemptions, however, have a significant impact on the degree of sales tax regressivity. In Wisconsin, the exemption of food, drugs, and certain other items, and the imposition of the tax on certain services, offsets part of the regressive

effect.

In 1979, the Wisconsin Department of Revenue (DOR) published the Wisconsin Tax Burden Study, a comprehensive study of the incidence of major Wisconsin taxes. This study found that the sales tax was regressive for persons with total economic income up to \$6,000, but closer to proportional for incomes between \$6,000 and \$40,000. The results for incomes greater than \$40,000 varied with the assumptions used and the particular income level, but tended towards regressivity. Another tax burden study by DOR, the 2004 Wisconsin Tax Incidence Study, was released in December, 2004. The focus of the 2004 study was the burden of Wisconsin state and local taxes in tax year 2001. As was the case with the 1979 study, the more recent study examined the sales tax burden under a variety of assumptions. Under each set of assumptions, the sales and use tax was found to be regressive over all income groups in 2001, with the poorest 20% of households paying between 3.3% and 4.0% of income in sales and use tax and the top 1% of households paying between 1.5% and 1.9%.

A 1992 study conducted by Gilbert Metcalf challenged the notion that the sales tax is inherently regressive. Metcalf computed the lifetime incidence of the major state and local taxes used during the 1980s and concluded that the incidence of a general sales tax is not regressive when viewed over a consumer's lifetime purchases. In fact, he contended that the sales tax is as progressive as the income tax when viewed with a lifetime perspective for the following three reasons: (a) the variation in income due to "life cycle effects" is eliminated with a lifetime perspective as a cause of variations in tax incidence, which would tend to make the sales tax look less regressive and the income tax less progressive; (b) federal tax deductibility of the income tax tends to make the income tax less progressive; and (c) exemptions for items with low elasticities (such as food for home consumption) in a majority of states tend to increase the progressivity of the sales tax.

Metcalf argues that the sales tax may seem regressive if sales tax is computed as a percentage of a household's income in any given year, even considering exemptions for food, prescription drugs, and other necessities. However, he contends, many households at the low end of the income distribution are not poor. Rather, they are spending income from the past or future. For example, some young people who will eventually make a good living borrow to buy now and some retired people live off of savings. Thus, lower-income people may consume more than they earn and may appear very different when viewed with a lifetime income perspective. The Wisconsin Tax Incidence Study also notes that an analysis over a given year may overstate the lifetime burden for lower-income households and therefore overstate the long-term regressivity of the sales tax.

The regressivity of the sales tax is also impacted by whether individual consumers or businesses pay the tax. Sales taxes paid by businesses on their taxable purchases represent business costs that ultimately are reflected in market prices or reduced after-tax profits. If the tax is reflected in higher prices that consumers pay for the products of business, then the tax is shifted forward to consumers. If it is reflected in reduced profits or dividends, then it is borne by the stockholders or owners of the business. A tax tends to be more regressive if consumers ultimately bear the sales tax than if stockholders ultimately bear the tax. This is because consumption expenditures account for a larger proportion of incomes of lower-income families than for higher-income families, while a larger proportion of stock-ownership is in the hands of higher-income families.

A 1981 study by the Advisory Commission on Intergovernmental Relations estimated that the average state received 35% of its sales tax revenues from businesses. The 1979 Wisconsin Tax Burden Study had estimated that individuals paid 55% and businesses paid 45% of the sales tax. A 1999 study by Raymond Ring, Jr., published by the *National*

Tax Journal, utilized state sales tax data from two years, 1979 and 1989. Ring reported that, on average, approximately 59% of the sales tax was paid by in-state consumers and 41% was paid by businesses and tourists. The Ring study estimated that, in Wisconsin, in-state consumers paid 62% of the state sales tax, while businesses and tourists paid the remaining 38%. The most recent study of the Wisconsin tax burden, the 2004 Wisconsin Tax Incidence Study, estimated that individuals paid 67% and businesses paid 33% of sales taxes in tax year 2001.

Exemptions from Sales Tax Base

As noted, most states provide a number of sales tax exemptions, which can have two very different effects. On one hand, exemptions narrow the tax base (which puts a greater burden on the purchasers of goods remaining taxable), impede economic efficiency, create inequities between types of businesses, and complicate administration and compliance of the tax. On the other hand, when enacted in the context of a generally broad-based tax, exemptions can be used selectively to lessen the regressivity of the tax.

It is generally agreed that a strong case for an exemption can be made for food for home consumption. If food is exempt from an otherwise general sales tax, the tax tends to become proportional over the middle range of income levels, although remaining regressive as to the highest and lowest income levels. A strong case can also be made for an exemption for prescription drugs. Most states exempt food and prescription drugs from the sales tax.

One of the broadest exemptions in many states applies to personal and business services. Unlike most consumer expenditures, spending on services tends to increase as income rises. Therefore, imposing the sales tax on most services could reduce the regressivity of the tax.

Providing even a limited number of

exemptions tends to decrease the simplicity and administrative efficiency of an otherwise general sales tax. For this reason, use of an income tax credit approximating a portion of sales taxes paid (for example, average sales taxes paid on food and other essential items) is frequently suggested, and is used in some states, to introduce a more directly progressive element into the sales tax. Such a credit would be most effective if made refundable and thus available to persons with no income tax liability. It could be structured as a flat credit amount limited to persons below a certain income level, or as a declining amount as income rises. Alternative approaches for income tax reductions based on sales taxes paid include an increase in the standard deduction or an increase in the allowable personal exemption credits. With each of these proposals, the initial problem is determining the appropriate amount of relief or credit. Unlike property tax relief credits, such as Wisconsin's homestead credit, there is no convenient measure of the amount of tax actually paid for use in determining the appropriate amount of relief. For this reason, limiting the overall cost of the credit is frequently the dominant issue debated.

Temporary Tax Holidays and Rebates

Sales tax holidays and rebates are two mechanisms states have utilized in recent years to provide targeted tax relief to their residents. Sales tax holidays provide for a limited period of time in which the sales tax does not apply to sales of certain goods and services. Sales tax rebates provide refunds for taxes already paid.

From a fiscal standpoint, sales tax holidays and rebates have the virtue of being limited in scope. Holidays are limited in that tax is waived only for certain goods and because they are in effect only during specified days of the year. In addition, most holidays utilize price thresholds above which the tax-free treatment does not apply. Rebates are limited in that they generally are enacted on a one-time basis, typically in times of strong economic growth.

Sales Tax Holiday. The State of New York implemented the first sales tax holiday, suspending taxation of all clothing and footwear priced under \$500 purchased during the first week of January, 1997. Subsequently, New York created a sales tax exemption for clothing and footwear selling for less than \$110.

In 2020, 16 states held 25 sales tax holidays. The most common sales tax holidays applied to clothing and footwear (15 states), school supplies (11 states), computers (six states), disaster preparedness items (four states), and energy efficient products (four states). Massachusetts offered a general holiday (with specified exceptions) in 2020 for single items of tangible personal property costing \$2,500 or less. New Mexico held a similar holiday for tangible personal property costing \$500 or less, if items were purchased from a small business. Mississippi also held a sales tax holiday for firearms, ammunition and hunting supplies. Other 2020 tax holidays were held in Alabama, Florida, Texas, and Virginia for generators. Additionally, Tennessee held a one-time holiday in 2020 for the retail sale of food and drinks by restaurants. Louisiana, which previously held three annual sales tax holidays, has suspended all holidays until July 1, 2025.

The SSUTA provides certain administrative requirements for sales tax holidays in order to maintain conformity with the Agreement, should a member state choose to hold such a holiday. For example, the state may only hold a holiday if the product is defined under the Agreement and if the state: (a) provides notice of the holiday at least 60 days prior to the first day of the calendar quarter in which the proposed holiday will begin; (b) does not require a seller to obtain an exemption certificate for the items covered by the holiday during the tax holiday; and (c) does not limit the holiday to a specific entity or for a specific use. A state may limit a product-based exemption under the Agreement to items purchased for personal or non-business use. Certain other administrative requirements, such as the treatment of layaway

sales, bundled transactions, coupons and discounts, rain checks, exchanges, and returns, are also required to maintain conformity under the Agreement.

Proponents argue that sales tax holidays stimulate the economy by drawing in residents from other states for cross-border sales and by generating in-state consumer interest. Further, they emphasize that tax holidays provide a simple method for returning money to specific taxpayers without creating permanent exemptions. For example, a one-time or annual tax holiday may provide tax relief for a favored activity, such as retail sales related to education. Moreover, proponents maintain that tax holidays are especially beneficial for lower-income households. They argue that these households are more responsive to price changes than their wealthier counterparts, and as such will be more likely to take advantage of a tax holiday. Supporters argue further that the savings realized from a tax holiday are proportionally larger, as a share of total income, for those with lower earnings.

Opponents contend that sales tax holidays do not stimulate the economy because they shift the timing of purchases rather than generate new ones. Additionally, cross-border sales may be minimal without significantly large reductions in sales tax (and assuming that foreign residents would not owe use tax to their local jurisdiction).

Opponents also argue that the tax relief benefits of tax holidays may be limited due to poor targeting. First, sellers may capture the tax relief meant for consumers by raising prices during the tax holiday. Second, tax holidays cannot provide tax relief to consumers unless they spend money within a certain time frame. Because wealthy consumers are more likely able to time their purchases than lower-income consumers, wealthy consumers may be more likely to receive tax relief. Third, tax holidays may suffer from ill-defined or arbitrary product inclusion. For example, some students may prefer products which do not qualify

as school supplies and many senior citizens have no need for school supplies. As a result, such persons would not enjoy the benefits of a tax holiday limited to certain school supplies.

Finally, as with other sales tax exemptions, sales tax holidays decrease the simplicity and administrative efficiency of a general sales tax. For a few days a year, every retailer needs to change their accounting and collection methods.

Sales Tax Rebate. Unlike a sales tax holiday, which prevents the collection of taxes in the first instance, a sales tax rebate returns money already collected. This requires a delivery mechanism and a method to determine the size of the rebate. For example, a sales tax rebate could be targeted to low-income families in the form of a refundable tax credit on their income taxes, or more generally provided to all families in the form of a check in the mail. Additionally, rebates can be offered to refund the sales tax paid by certain persons or for specified items.

Since the late 1990s, Colorado, Connecticut, Minnesota, and Wisconsin have used a sales tax rebate to return revenue surpluses to taxpayers. Connecticut's rebate in 1998 was \$50 per qualified citizen. Colorado issued rebates in 1998, 1999, 2000, and 2015 that were based on a person's income. For tax year 2005, Colorado issued a rebate of \$15 (\$30 for married-joint filers). Minnesota, which provided sales tax rebates in 1999, 2000, and 2001, and Wisconsin, with its first rebate in 2000, also based their rebates on a person's income (Wisconsin's 2018 rebate was based on the number of qualified children each taxpayer claimed.) Among other sources, Colorado, Minnesota, and Wisconsin (in 2000) made use of the state income tax form as a primary method of determining eligibility for, and the amount of, the rebate. By contrast, Wisconsin's 2018 rebate required taxpayers to submit eligibility information online or by phone, rather than through the state income tax form. Wisconsin's 2000 and 2018 sales tax rebates are described in greater detail in this paper under

the section entitled "The Historical Development of the Wisconsin Sales Tax".

In contrast, some states have offered sales tax rebates for tax paid by certain persons or for specified items. For example, in 2018, Florida allowed farmers and ranchers to apply for rebates on sales taxes paid on hurricane-damaged farm fencing and non-residential building materials purchased within a specified time frame. In addition, Idaho offers an ongoing rebate to developers of retail complexes who have engaged in approved transportation improvement projects. These developers can receive 60% of the sales and use tax paid by qualified retailers within the complex, to reimburse the developer for expenses incurred during the project.

Use Tax

In general, a sales tax is imposed on the purchase price from the sale, lease, or rental of tangible personal property and services identified by state law. A companion use tax is imposed on the storage, use, or other consumption of the property or services purchased from out-of-state retailers if the same sale would have been taxable in the state. A credit is allowed for sales tax paid in the other state or to a federally recognized American Indian tribe or band in this state. All states that impose a sales tax also impose a corresponding use tax. The use tax, rather than the sales tax, is also imposed on private-party transactions of certain registered items, such as boats and automobiles.

The use tax is imposed as a complement to the sales tax in order to prevent consumers from avoiding tax by purchasing taxable goods in other states and to allow state merchants to compete on an equal basis with sellers in other states that have lower sales tax rates or no sales tax. An enforceable use tax assures the equal taxation of all purchases by state residents and gives no competitive

advantage to either resident or nonresident sellers.

The sales tax is generally a tax on retailers for the privilege of making taxable sales and is usually passed on by a retailer to its customers. The retailers collect the sales tax from their customers and remit the tax to the state. Unlike the sales tax, the use tax is imposed on the buyer. A buyer may be required to file its own tax return and pay the use tax to the state. (In Wisconsin, consumers have the option of including their use tax on their individual income tax returns.)

As discussed in further detail below, under some circumstances, out-of-state sellers are required to collect the use tax from the buyer and remit the tax to the state in which the buyer is located. For example, a mail order catalog business located in Illinois may have sufficient presence or connection (nexus) to Wisconsin that it is required to collect the use tax from sales to its Wisconsin customers and remit those collections to the Wisconsin Department of Revenue. As of August, 2020, there were 15,651 active out-of-state use tax registrants (retailers who collect use tax on their sales to Wisconsin residents) and 4,814 active consumer use tax registrants (businesses and other purchasers that regularly pay use tax). In addition, 476 nonregistered consumers filed a use tax return in state fiscal year 2019-20.

In addition, use tax can be remitted by consumers through several other mechanisms. The Department of Transportation and the Department of Natural Resources received 645,110 and 155,177 use tax returns for registered items, respectively, totaling \$150.4 million in calendar year 2019. Use tax may also be reported and paid by individual income tax filers through the Wisconsin individual income tax form. For 2019-20, 40,300 individual income tax filers in Wisconsin paid a total of \$2.6 million in use tax through the individual income tax form. The average use tax payment for such taxpayers was \$65.

The Historical Development of the Wisconsin Sales Tax

The Wisconsin sales tax was first enacted with Chapter 620, Laws of 1961. It was first effective in 1962 as a 3% selective tax on designated categories of goods and services. As a companion to the sales tax, a 3% use tax was imposed on items purchased out-of-state but used in Wisconsin, if those items would have been taxable if purchased in the state. Among the major taxable goods were alcoholic beverages and tobacco, motor vehicles, household furnishings, and recreational equipment. Taxable services included restaurant meals, hotel rooms, telephone service, and admissions to entertainment. Although the tax was only imposed selectively, various exemptions were specified. Definitional exemptions included sales for resale, sales prohibited from taxation under federal law, and sales of property for export. Other exemptions included farm vehicles, purchases by governmental and charitable organizations, and certain occasional sales.

The original sales tax law also included various provisions to facilitate administration and enforcement. Businesses were required to obtain sellers' permits and make monthly reports and tax payments. DOR was authorized to conduct audits and adopt administrative rules regarding a bracket system for tax collections and other matters. A retailers' discount was established to allow sellers to retain 2% of monthly tax collections as compensation for administrative costs.

The 1962 sales tax required that \$55 million of annual collections be paid to towns, villages, and cities for distribution to taxpayers, according to a calculation based in part on a formula then in use for distribution of certain utility tax revenues. The dollar amount of this distribution was modified in subsequent years; in 1971 these provisions were eliminated from the sales tax statutes and made part of the shared revenue statutes.

The sales tax rate was raised to 4% in 1969 and the selective tax on property and services was converted to a general tax on property, with an expanded list of specific exemptions and taxable services. The tax rate was increased again with Chapter 317, Laws of 1981; effective May 1, 1982, the tax rate increased from 4% to 5%. As with the 1961 law that first enacted the sales tax, the 1982 increase in the sales tax was enacted in the context of increased property tax relief. Amounts collected after June 30, 1983, were to be distributed as a supplement to the Wisconsin State Property Tax Relief (WSPTR) credit. As passed by the Legislature, the provision for use of the one cent sales tax increase for property tax relief was contingent on the Legislature adopting and placing on the April, 1983, referendum ballot a constitutional amendment earmarking a portion of sales tax revenues for school property tax relief and on approval of the amendment by the voters. The Governor vetoed the language that tied the additional property tax relief to future passage and voter approval of the constitutional amendment. Thus, the vetoes established the increase in the property tax credit, but left the continuation of the sales tax rate at 5% past July 1, 1983, contingent upon adoption of the constitutional amendment. However, in January, 1983, faced with a severe general fund deficit, the Legislature permanently extended the sales tax at a 5% rate and eliminated, for the 1984 distribution and thereafter, the property tax supplement created in 1981.

The tax base has frequently been modified since the sales tax was enacted to impose the tax on additional services or to exempt certain items of tangible personal property. 2009 Act 2 expanded the sales tax base to include digital goods and provided that certain digital products are subject to sales tax if the good would have been subject to tax if furnished in tangible form. A list of the currently taxed services and examples of the sales tax exemptions are provided under the following section describing current law. A more detailed list of the sales and use tax exemptions is provided in the Appendix.

The retailers' discount, originally established as 2% of the sales and use tax payable, was reduced to 1% in 1963. The discount was changed again in 1981 from a flat 1% to a three-tiered system: (a) 2% on the first \$10,000 of tax collected annually; (b) 1% on the second \$10,000; and (c) 0.5% on collections over \$20,000. The three-tiered system was eliminated in 1991 in favor of a flat 0.5% of sales and use tax payable. In 1995, the retailers' discount was modified to be the greater of \$10 or 0.5% of sales and use tax liability per reporting period, not to exceed the amount of tax actually payable. In 2009, the retailer's discount was again modified so that the total amount of the discount may not exceed \$1,000 for any sales tax filer in any filing period. However, under SSUTA, certain multi-state sellers, sellers that use a certified automated system, and certified service providers may receive collection compensation in excess of the retailer's discount under state law. Collection compensation for members of SSUTA is discussed in more detail later in the paper.

Wisconsin Sales Tax Holiday

Wisconsin held a sales tax holiday from August 1 to August 5, 2018. Prior to this time, Wisconsin had never held a sales tax holiday. The holiday exempted from the sales tax clothing and school supplies each costing \$75 or less, school computer supplies for personal use costing \$250 or less, and computers for personal use costing \$750 or less. The holiday was authorized on a one-time basis under 2017 Act 367 and was estimated to reduce sales tax revenues by \$14 million.

Wisconsin Sales Tax Rebates

Wisconsin provided a child sales tax rebate totaling \$94.3 million to 537,673 claimants (on behalf of 942,599 qualified children) in calendar year 2018. Claimants received a \$100 rebate for each qualified child. The amount of the rebate was intended to approximate the total sales tax paid in 2017 on expenses related to raising children. In order to claim the rebate, the qualified child had to

be: (a) the claimant's dependent for tax year 2017; (b) under the age of 18 on December 31, 2017; (c) a U.S. citizen; and (d) a resident of Wisconsin on December 31, 2017. This rebate was authorized under 2017 Act 367.

A one-time sales tax rebate totaling \$688.2 million was also provided to 2.5 million households in calendar year 2000. The rebate amount was based on filing status and Wisconsin adjusted gross income as reported in 1998 state individual income tax returns and ranged from \$184 to \$267 (\$360 to \$534 for married couples filing jointly). Wisconsin residents who did not file a state income tax return or homestead credit claim in 1998 were eligible for the rebate upon filing a form with the Department of Revenue. In addition, nonresidents were allowed to claim a rebate for documented sales taxes paid in 1998. The rebate was authorized under 1999 Act 10.

Streamlined Sales Tax Project (SSTP)

As noted earlier, the SSTP is a multi-state initiative intended to simplify and modernize the collection and administration of sales and use tax nationwide. Although the SSTP aims to improve sales and use tax administration for all types of commerce, a pivotal goal of the project is to simplify the sales and use tax structure to such an extent that sellers will participate by (among other steps) voluntarily collecting tax on their remote sales. As stated in the Agreement, the SSUTA focuses on improving sales and use tax administration systems for all sellers and for all types of commerce through:

- state level administration of sales and use tax collections
- uniformity in the state and local tax base
- uniformity of major tax base definitions
- central, electronic registration system

- simplification of state and local tax rates
- uniform sourcing rules for all taxable transactions
- simplified administration of exemptions
- simplified tax returns
- simplification of tax remittance
- protection of consumer privacy

Effective October 1, 2009, Wisconsin became the 20th full member state of the SSTP after enactment of 2009 Act 2, which modified certain aspects of the state's sales and use tax laws in order to conform to the terms of the SSUTA and authorized DOR to participate as a member state of the SSTP governing board. The governing board administers the Agreement and enters into contracts on behalf of member states. The SSUTA does not require participating states to have identical tax bases. However, the Agreement requires states to use uniform definitions in establishing their tax bases and also requires uniform treatment of certain items such as sourcing (generally destination-based) and treatment of drop-shipments (generally the purchaser is liable for remitting use tax). The uniformity provisions modified the tax base and resulted in certain items that were taxable to become exempt (for example, fruit drink with 51% to 99% juice and candy made with flour) and certain sales that were exempt to become taxable (for example, ready-to-drink tea and ice cream cakes prepared by a retailer).

Conforming to the SSUTA required changes to certain administrative provisions, including, for example, certain database requirements, monetary compensation for certain sellers voluntarily registering to collect and remit tax, the use of uniform rounding rules and uniform tax returns, and tax amnesty (under specified conditions) for sellers registering to collect tax under the SSUTA.

As of July 1, 2020, 7,900 sellers have voluntarily registered under the SSUTA to collect and remit sales and use tax in Wisconsin. Of these voluntary sellers, 6,688 are filing returns, and the remaining 1,212 sellers are in nonfiling status, indicating that they haven't made any taxable sales into the state. The nonfiling status is no longer available for sellers registering after the February 11, 2019, change to the SSUTA registration system, which allows sellers to register only in the states in which they will file a return. An additional 3,135 sellers are registered under the SSUTA, but do not collect in Wisconsin.

Current Law

Wisconsin imposes a 5% general sales tax on the retail sales price from the sale, license, lease, and rental of: (a) tangible personal property (including pre-written computer software); (b) collector coins and stamps; (c) digital goods, including digital codes; (d) certain leased property affixed to real property; and (e) a limited number of services specifically enumerated in the statutes. Counties have the option of imposing an additional 0.5% local sales tax.

The sales tax is generally imposed on the sale, lease, or rental of all tangible personal property not specifically exempted. This contrasts with the treatment of services, where the tax is imposed only on those services specifically listed in the statutes.

Generally, the sales tax does not apply to sales of intangible assets (such as stocks, bonds, insurance certificates, and intellectual property) and real property or fixtures (the real estate transfer fee applies to such sales).

Use tax is imposed on goods or services purchased out-of-state and used in Wisconsin, if the good or service would be taxable if purchased in

Wisconsin. The use tax rate is the same as the sales tax rate. In computing use tax liability, a credit is provided for sales tax paid in the state in which the good or service was purchased. A similar credit is provided for the amount of sales tax paid to a federally recognized American Indian tribe or band in this state.

Taxable Services

Under current law, the following service categories are taxable:

- hotel, motel, and other lodgings not exceeding one continuous month
- admissions to amusement, athletic, entertainment, or recreational events, access to amusement, athletic, entertainment, or recreational devices or facilities, access to clubs, and consideration paid for certain items and furnishings related to bingo
 - prepaid calling services
 - intrastate, interstate, and international telecommunications services, except interstate 800 services
 - specialized or non-repetitive cleaning services to tangible personal property
 - ancillary services (such as directory assistance and voice mail services), except for detailed telecommunication services that separately indicate information pertaining to individual calls on a customer's billing statement
 - recording telecommunication messages and transmitting them to the purchaser at that purchaser's direction if not incidental to the sale of another service that is not subject to tax
 - laundry, dry cleaning, pressing and dyeing services, except: (a) if performed on raw materials or goods in process destined for sale; (b) if performed by the customer through the use of self-service machines; or (c) if performed on cloth

diapers by a diaper service

- photographic services
- towing and hauling of motor vehicles by a tow truck
 - parking and docking of motor vehicles, aircraft, and boats and also storage of boats
 - installation, repair, maintenance, and related services to personal property, other than real property improvements (unless the property being installed or repaired is exempt when sold or constitutes an addition to, or capital improvement of, real property), except for the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of any aircraft or aircraft parts and except for services provided by veterinarians
 - producing, fabricating, processing, printing, and imprinting services for consumers who furnish the materials, except for printed advertising materials, catalogs, direct mail, and envelopes that are exempt from the sales tax
 - cable television or video services, including installation
 - warranties and service contracts, including maintenance agreements and computer software maintenance contracts for prewritten computer software, for the future performance of inspection, repair, maintenance, and related services under the contract
 - landscaping and lawn maintenance services

Federal law preempts taxation of internet access service (described in greater detail later in this paper).

Sales Tax Exemptions

Exemptions from the general sales tax are

provided for specified types of personal property, transactions, and entities. In some cases, exemptions are provided for items used in the course of business such as manufacturing machinery and equipment, property that becomes an ingredient in the manufacturing process, farm tractors and machines, seeds, and other tangible personal property used in farming. In other cases, the exemptions relate to personal and family needs such as food for home consumption, prescription drugs, and water delivered through mains. In addition, exemptions are provided for sales to certain governmental, educational, and charitable organizations and for specified sales by such organizations. More detailed information about exemptions from the general sales and use tax is provided in the Appendix.

Administration

Sellers of taxable property and services must obtain a business tax registration certificate and a permit for each location from the Department of Revenue (and may be required to make a security deposit not to exceed \$15,000, or a larger amount from a certified service provider) and periodically file a sales tax return and make payment of tax due. Returns and payment are generally due on a quarterly basis, but the Department may require sellers with a quarterly liability exceeding \$1,200 to report monthly, due on the last day of the next month; sellers with a quarterly liability exceeding \$3,600 may be required to report monthly, due on the 20th day of the next month. Retailers with sales and use tax liability of \$600 or less have the option of filing annually. The Department may also permit a different reporting period.

Sellers that register with the state through the SSUTA's central registration system, prior to February 11, 2019, and that do not anticipate making sales in Wisconsin are not required to file a return until such time that the seller makes a taxable sale in this state. Once such a sale is made, the seller is required to file a quarterly return due on the last day of the month following the last day in the quarter in which the sale occurred, and is

required to continue to file quarterly returns unless DOR notifies the seller in writing of a different filing frequency.

Sellers registering on or after February 11, 2019, must register with the state and collect taxes if and when they: (a) have economic nexus with the state; or (b) they exceed the small seller exception. Sellers can also voluntarily collect tax in the state. Once registered, these sellers are required to file returns as described above.

Any person who intentionally fails to remit both the county and state sales taxes collected to the state, or who fraudulently withholds, uses, or spends sales tax receipts, is guilty of criminal theft. The monetary penalty for failure to file a sales tax return is 25% of the sales and use tax due, as estimated by DOR. Conversely, some sellers continue to collect tax erroneously on products that are not taxable. Such sellers must either return the tax erroneously paid to the buyer, or remit to DOR the tax erroneously collected plus a penalty equal to 25% of the amount that is not returned to the buyer.

If a single-owner entity is disregarded as a separate entity from its owner for income or franchise tax purposes, then the entity is disregarded as a separate entity for sales tax purposes. Additionally, if the owner elects to file a separate return for each disregarded entity, then a business tax registration certificate is required for each entity. Further, a notice or assessment sent to the owner of a disregarded entity is considered a notice sent to the disregarded entity (and vice versa). This is a modification of a previous law that gave parent companies the ability to engage in tax avoidance activities. In contrast to current law, prior language allowed a single owner entity to be considered an entity separate from its owner for sales tax purposes.

2019 Act 15 specified that DOR must disclose information about a retailer's outstanding sales and use tax liability to any person requesting such

information that intends to purchase the retailer's stock of goods or become the successor or assignee of the retailer, given that proper documentation is provided. Additionally, 2019 Act 10 directs DOR to provide a one-time reduction from total tax due in a sales tax audit, equal to 10% of additional sales tax imposed for each year of the audit period, if the annual gross sales of the person being audited are less than \$5 million for each year of the audit period.

Sellers may deduct the retailers' discount from taxes due, as compensation for administrative costs, equal to the greater of \$10 or 0.5% of the tax liability per reporting period, but not more than the amount of tax actually payable. The amount of the deduction for the retailers' discount may not exceed \$1,000 per reporting period. If reports and payments are delinquent, this discount is forfeited. In addition, a \$20 late filing fee is assessed and the delinquent taxes bear monthly interest of 1.5% until paid if the Department shows that the taxpayer's delinquency was due to willful neglect and not to reasonable cause. Further penalties are imposed for incorrect returns filed due to willful neglect or fraud. Late, non-delinquent payments bear annual interest of 12%, while refunds of overpaid taxes receive interest of 3%.

Under SSUTA, multi-state sellers, sellers that use a certified automated system, and certified service providers that voluntarily register with DOR may receive collection compensation in an amount determined by the Department based on contracts with the SSTP Governing Board on behalf of member states. Volunteer sellers using a certified automated system are permitted to retain 1.5% of the taxes due, in addition to the retailer's discount, to a member or associate member state in each year for a period of 24 months to help compensate the seller for the investment in software used to voluntarily collect Wisconsin taxes. This additional compensation is limited to \$10,000 per state per 12-month period. Under the Agreement, compensation for certified service providers for each volunteer seller is provided using a tiered

system based on total taxes collected in all member states, at the rates specified below:

Total Taxes Collected in all Member States	Rate of Compensation
\$0 - \$250,000	8%
\$250,000 - \$1,000,000	7
\$1,000,000 - \$2,500,000	6
\$2,500,000 - \$5,000,000	5
\$5,000,000 - \$10,000,000	4
\$10,000,000 - \$25,000,000	3
Greater than \$25,000,000	2

As of July 1, 2020, there is one certified automated system (no sellers in Wisconsin currently use it) and six certified service providers (used by 3,549 sellers) that are registered with the Streamlined Sales Tax Governing Board. The remaining 3,139 voluntary sellers registered through the Agreement use their own systems to collect and remit taxes and are not eligible for the declining marginal rate of compensation.

Out-of-state vendors and their affiliates doing business with the State of Wisconsin are required to register and collect sales and use tax on all of their Wisconsin sales. If a vendor (or its affiliates) fails to collect sales or use taxes on taxable sales to Wisconsin residents, DOR is required to place the vendor's name on a list that is certified and sent to the Department of Administration. The state is prohibited from doing business with a vendor whose name appears on the list. As of July, 2020, there were 1,579 vendors on the list published by DOR.

Sales and Use Tax Collections

Wisconsin's sales and use tax has been a significant source of state revenue since its enactment. As shown in Table 1, since 2009-10, annual growth in sales tax collections has ranged from a low of -3.4% in 2009-10 to a high of 5.7% in 2014-15. Declining revenue reflects the impact of the

Table 1: Wisconsin Sales and Use Tax Collections 2009-10 through 2019-20 (\$ in Millions)

	<u>Sales & Use Tax Collections</u>		Sales & Use Tax as % of General Fund Collections
	Amount	% Change	
2009-10	\$3,944.2	-3.4%	32.5%
2010-11	4,109.0	4.2	31.8
2011-12	4,288.7	4.4	31.7
2012-13	4,410.1	2.8	31.3
2013-14	4,628.3	4.9	33.2
2014-15	4,892.1	5.7	33.6
2015-16	5,065.8	3.6	33.6
2016-17	5,223.9	3.1	33.7
2017-18	5,448.1	4.3	33.7
2018-19	5,695.5	4.5	32.8
2019-20	5,836.2	2.5	33.3

2008-09 recession and was one of only two years (the other being 2008-09) that Wisconsin has seen a contraction in state sales tax revenue. Following this downturn, the state has seen moderate growth, with its lowest being in 2019-20, at the onset of the coronavirus recession of 2020. The average annual growth rate in non-recession years (2010-11 through 2018-19) has been 4.2%. Table 1 also indicates that revenue from the sales tax has constituted approximately one-third of total general fund revenues for most of the period shown.

Table 2 provides a breakdown of sales and use tax collections by type of business for calendar year 2019. Greater detail for businesses in the retail trade and service categories, which account for 46.1% and 28.4% of all sales tax collections, respectively, is provided in Tables 3 and 4. The data for these tables are derived from DOR compilations of sales and use tax reports according to the North American Industry Classification System (NAICS) category to which each business is assigned. Although these data provide the best available indication of the number of sales tax filers and volume of retail sales by each type of business, their reliability is limited because DOR determines the business classifications based on a brief description of the seller's principal business and merchandise, as part of the application for a seller's permit. In the case of a business with sales in a variety of areas or with products that have changed over a period of time, the coding may not accurately reflect the extent and nature of sales by the business. A sales tax filer may represent a single business location, or an owner filing one sales tax return for numerous locations.

Most sales tax collections are from businesses with higher taxable receipts. Such filers include large, high-volume businesses (for example,

Table 2: State Sales and Use Tax Reported in Calendar Year 2019 by Type of Industry (\$ in Millions)

Type of Industry	<u>Sales Tax Filers</u>		<u>Sales Tax</u>	
	Number	% of Total	Amount	% of Total
Agriculture, Forestry, Fishing and Hunting	2,091	1.1%	\$4.4	0.1%
Construction	8,321	4.3	120.9	2.2
Mining, Quarrying, and Oil and Gas Extraction	221	0.1	6.5	0.1
Utilities	180	0.1	221.9	4.0
Information	3,486	1.8	462.0	8.3
Manufacturing	16,286	8.5	208.1	3.7
Retail Trade	53,314	27.7	2,573.1	46.1
Services	92,671	48.2	1,588.9	28.4
Wholesale Trade	9,340	4.8	350.4	6.3
Transportation and Warehousing	1,739	0.9	14.8	0.2
*Other	<u>4,789</u>	<u>2.5</u>	<u>34.4</u>	<u>0.6</u>
Total	192,438	100.0%	\$5,585.4	100.0%

*\$34.4 million was remitted in 2019 for miscellaneous, unknown, and unclassified NAICS codes. Occasional sales totaled \$150.4 million in 2019, but are not included in this table.

Table 3: State Sales and Use Tax in Calendar Year 2019 from Retail Trade Business (\$ in Millions)

Type of Store	Sales Tax Filers		Sales Tax	
	Number	% of Total	Amount	% of Total
Motor Vehicle and Parts Dealers	3,384	6.3%	\$650.3	25.3%
Gasoline Stations	1,440	2.7	143.8	5.6
Clothing and Clothing Accessories Stores	4,091	7.7	135.5	5.3
Electronics and Appliance Stores	643	1.2	62.2	2.4
Building Material and Garden Equipment and Supplies Dealers	2,506	4.7	346.4	13.5
Food and Beverage Stores	2,598	4.9	152.2	5.9
Furniture and Home Furnishings Stores	1,558	2.9	86.4	3.3
Health and Personal Care Stores	1,831	3.4	59.3	2.3
Sporting Goods, Hobby, Book, and Music Stores	3,681	6.9	66.0	2.6
General Merchandise Stores	1,059	2.0	456.8	17.7
Miscellaneous Store Retailers	18,561	34.8	209.1	8.1
Nonstore Retailers	<u>11,962</u>	<u>22.5</u>	<u>205.1</u>	<u>8.0</u>
Total	53,314	100.0%	\$2,573.1	100.0%

department stores) that may report sales at several locations in the state, and smaller businesses selling high-cost items at a single location, such as automobiles. In calendar year 2019, 61.1% of sales and use tax registrants had taxable receipts of \$25,000 or less, but paid only 0.4% of the total tax. Alternatively, the 1.3% of businesses with over \$5 million in taxable receipts accounted for 69.6% of total tax collections. Overall, only 10.3% of businesses had taxable receipts in 2019 of over \$500,000, but they collected 91.9% of the tax.

Table 3 shows the distribution of sales tax from taxable sales and the number of business filers operating in the retail trade sector. The "Miscellaneous Store Retailers" category in Table 3 is comprised of businesses with fixed point-of-sale locations with unique characteristics, such as florists, used merchandise stores, and pet supply stores. "Miscellaneous Store Retailers" in calendar year 2019 generated only 8.1% of tax collections, but accounted for 34.8% of all retail trade sales tax filers. The category for "General Merchandise Stores," on the other hand, generated 17.7% of collections, yet made up only 2.0% of total filers. These distinctions reflect differences in the nature and cost of products sold, the amount of taxable sales as a percent of total sales, the number of retail locations reported by each filer, and the

average size of each retail location for a given category of retailers, as measured by sales volume.

Table 4 shows similar data for service sector sales tax filers. "Accommodations and Food Services" accounted for 39.8% of sales tax in the service sector, and 21.2% of such filers.

Local Sales Taxes

Several types of local sales and use taxes are levied in Wisconsin. Wisconsin counties are permitted to impose a 0.5% county sales and use tax. Currently, 68 of the state's 72 counties have such a tax in place. (Manitowoc, Racine, Waukesha, and Winnebago counties do not.) The other types of local sales taxes levied in the state are food and beverage taxes as part of the local exposition district taxes, and taxes on items sold by tourism related businesses as part of the premier resort area taxes. Detailed information regarding local sales taxes can be found in the Legislative Fiscal Bureau's informational paper entitled, "Local Government Revenue Options."

Table 4: State Sales and Use Tax in Calendar Year 2019 from Service Business (\$ in Millions)

Type of Store	Sales Tax Filers		Sales Tax	
	Number	% of Total	Amount	% of Total
Finance and Insurance	1,042	1.1%	\$41.4	2.6%
Real Estate and Rental and Leasing	5,238	5.7	149.3	9.4
Professional, Scientific, and Technical Services	15,219	16.4	149.1	9.4
Management of Companies and Enterprises	265	0.3	55.1	3.5
Administrative and Support and Waste Management and Remediation Services	8,385	9.1	83.1	5.2
Educational Services	1,379	1.5	11.3	0.7
Health Care and Social Assistance	4,096	4.4	21.0	1.3
Arts, Entertainment, and Recreation	8,046	8.7	100.9	6.4
Accommodation and Food Services	19,654	21.2	631.7	39.8
Public Administration	691	0.7	22.7	1.4
Other Services (except Public Administration)	<u>28,656</u>	<u>30.9</u>	<u>323.3</u>	<u>20.3</u>
Total	92,671	100.0%	\$1,588.9	100.0%

Tax Rate Comparison with Other States

A total of 45 states and the District of Columbia impose a state sales tax. Of these states, 37 also collect a local sales tax.

As of December, 2020, state sales tax rates ranged from 2.9% (Colorado) to 7.25% (California), exclusive of optional local sales taxes. It should be noted that California's 7.25% tax rate includes a 1.25% county sales and use tax, which each county in the state has enacted. Wisconsin has the lowest sales and use tax rate at 5% as compared to nearby state rates (Indiana 7%, Minnesota 6.875%, Illinois 6.25%, and Michigan and Iowa 6%). Sales tax rates and the treatment of commonly exempt items by the states appear in Table 5.

Among the major factors in determining the relative fiscal role of the sales tax in the states are the definition of the tax base (taxable sales), and the tax rate. Tax rate increases are, administratively, the simplest means of increasing revenue. Throughout most of the 1990s, many states realized substantial year-over-year revenue gains from their primary taxes, including the sales tax. Early in 2001, however, this trend began to reverse

as an economic recession took hold. Many states responded to their declining fiscal position by, among other measures, raising their sales tax rates. States responded similarly to the 2008-2009 recession with (usually temporary) sales tax rate increases. Since 2000, more than half of the states have enacted sales tax rate increases, sometimes on a temporary basis. Since this paper was last updated in January, 2019, Utah increased its rate from 5.95% to 6.1%. Arizona's tax rate is scheduled to decrease by 0.6% on July 1, 2021.

The five states that do not have a sales tax are Alaska, Delaware, Montana, New Hampshire, and Oregon, although Delaware imposes gross receipts taxes on certain industries and a use tax on lessees. Alaska allows local jurisdictions to impose their own general sales tax. The remaining three states aren't completely exempt from sales tax, however. Each has certain provisions that allow for taxation of tourist-related businesses. Montana allows eligible resort areas and communities to impose local resort taxes. Likewise, New Hampshire imposes a limited sales tax on meals, hotels and similar lodging, and vehicle rentals. Finally, some local jurisdictions in Oregon impose limited taxes on sales of prepared food and transient lodging.

Tax Base Comparison with Other States

The sales tax base varies widely among the states, particularly with regard to services. Most of the 46 states (including the District of Columbia) with a sales tax impose the tax on personal property generally, subject to various exclusions and exemptions. Since the tax is in principle imposed on final sales or consumer purchases, most states, like Wisconsin, exclude sales for resale. Also commonly excluded are sales of property that is consumed in the production of, or becomes an ingredient of, other property for sale; many states also exclude or exempt some goods used in the production of property that are not consumed in the process. A number of states exempt machinery used in the production process, and most states exempt agricultural supplies and equipment used directly in farming.

As shown in Table 5, exemptions for property sold for personal consumption also vary widely. Some exemptions apply to goods that are considered essential. For example, 35 states exempt residential energy (heating fuel, electricity, and natural gas) in whole or part, 33 states exempt food sold for home consumption, seven states exempt clothing, and 10 states exempt nonprescription drugs. Although not shown in Table 5, prescription drugs are exempt in every state except Illinois, which taxes them at a reduced rate. Gasoline, which is typically subject to a separate excise tax, is exempt from the general sales tax in 39 states, while newspapers and periodicals are exempt in 35 states.

A number of states provide a partial exemption for items shown in Table 5. For example, Wisconsin provides an exemption for residential sales of natural gas and electricity only during the months of November through April. For more detailed information regarding the sales tax structures in other states, see the U.S. Master Sales and Use Tax Guide, published by the CCH

Incorporated.

The first sales taxes enacted by states extended only to certain personal property. The overall tax base was fairly limited, and it was generally believed that restricting the tax to goods facilitated administration and avoided taxing labor. There has been a gradual inclusion of some services in the sales tax base as the tax is increasingly perceived as being passed on to consumers, like the tax on goods, as opposed to being a tax on labor. As the base has broadened to include many goods, continuing to exempt services has become more of an administrative hindrance than an aid. State revenue needs also have given impetus to this movement. When Wisconsin enacted its selective sales tax on services in 1961, it included several of the services most frequently taxed in other states and has added other services since then.

In most states, the sales tax is imposed on the retail sales of tangible personal property; only services that are explicitly listed are also taxed. Thus, charges for services such as cleaning, laundering, or barbering, if not specifically listed as taxable, are tax-free. However, in such cases, materials used or consumed in the performance of a tax-free service are generally taxable when sold to the service provider. Some states specify that if a transfer of property is inconsequential to the sale of a service, the transfer of that property is not taxed to the consumer. On the other hand, if the service is inconsequential to the transfer of property, the entire transaction is taxed.

Table 6 shows the taxability of certain services in each state. Professional and personal services include, but are not limited to, services provided by attorneys, accountants, architects, barbers, beauticians, and laundries.

As shown in Table 6, services industries subject to the sales and use tax vary widely across the states. Some of the more commonly taxed services are: the labor portion of repair services, taxed in 24 states, and janitorial services, taxed in 18 states.

Table 5: State Sales Tax Rates and Treatment of Commonly Exempt Items: December, 2020

State	Tax Rate	Sales Tax Exemptions					
		Grocery Food	Non-Prescription Drugs	Clothing	Residential Energy	News-papers	Gasoline
Alabama	4.000%*•	T	T	T	E	T	E
Alaska	NA*	NA	NA	NA	NA	NA	NA
Arizona	5.600*•	E	T	T	T	T	E
Arkansas	6.500*•	T	T	T	T	E	E
California	7.250*•	E	T	T	E	E	E
Colorado	2.900*•	E	T	T	E	E	E
Connecticut	6.350•	E	E	T	E	E	E
Delaware	NA	NA	NA	NA	NA	NA	NA
District of Columbia	6.000•	E	E	T	E	T	E
Florida	6.000*•	E	T	T	E	E	T
Georgia	4.000*	E	T	T	T	T	E
Hawaii	4.000*•	T	T	T	T	T	T
Idaho	6.000*	T	T	T	E	T	E
Illinois	6.250*•	T	T	T	E	E	T
Indiana	7.000•	E	T	T	T	E	T
Iowa	6.000*	E	T	T	E	E	E
Kansas	6.500*	T	T	T	E	T	E
Kentucky	6.000	E	T	T	E	T	E
Louisiana	4.450*•	E	T	T	E	E	E
Maine	5.500•	E	T	T	E	E	E
Maryland	6.000•	E	E	T	E	E	E
Massachusetts	6.250	E	T	E	E	E	E
Michigan	6.000•	E	T	T	E	E	T
Minnesota	6.875*•	E	E	E	E	E	E
Mississippi	7.000*•	T	T	T	E	E	E
Missouri	4.225*•	T	T	T	E	T	E
Montana	NA	NA	NA	NA	NA	NA	NA
Nebraska	5.500*	E	T	T	T	E	E
Nevada	6.850*	E	T	T	E	E	E
New Hampshire	NA	NA	NA	NA	NA	NA	NA
New Jersey	6.625*	E	E	E	E	E	E
New Mexico	5.125*•	E	T	T	T	E	E
New York	4.000*•	E	E	E	E	E	T
North Carolina	4.750*•	E	T	T	T	T	E
North Dakota	5.000*•	E	T	T	E	E	E
Ohio	5.750*	E	T	T	E	E	E
Oklahoma	4.500*	T	T	T	E	E	E
Oregon	NA*	NA	NA	NA	NA	NA	NA
Pennsylvania	6.000*	E	E	E	E	E	E
Rhode Island	7.000•	E	T	E	E	E	E
South Carolina	6.000*•	E	T	T	E	E	E
South Dakota	4.500*•	T	T	T	T	T	E
Tennessee	7.000*•	T	T	T	E	E	E
Texas	6.250*•	E	E	T	E	E	E
Utah	6.100*•	T	T	T	T	E	E
Vermont	6.000*•	E	E	E	E	E	E
Virginia	5.300*•	T	E	T	E	E	E
Washington	6.500*•	E	T	T	E	E	E
West Virginia	6.000*•	E	T	T	E	E	T
WISCONSIN	5.000*	E	T	T	E	E	E
Wyoming	4.000*	E	T	T	T	E	E

*Additional local sales taxes may apply.

•Variable tax rates for select items.

For Exemptions: T--Taxable; E--Fully or Partially Exempt (Consult sources identified at bottom for more detailed information.)

Notes: California: Every county has adopted a 1.25% sales tax rate, resulting in a uniform statewide rate of 7.25%

Delaware: Imposes a merchants and manufacturers gross receipts tax and a use tax on leases.

Nevada: Local sales tax minimum of 2.25% included.

Utah: Includes uniform statewide 1.25% local tax rate.

Virginia: Every locality imposes a 1% local sales tax rate, resulting in a uniform statewide rate of 5.3%

Wyoming: The rate is reduced to 3.5% on July 1 of any year in which the unappropriated general fund balance at the end of the current budget period exceeds \$35 million.

Sources: Commerce Clearing House publications, state revenue websites, and state statutes.

Table 6: State Sales Tax Treatment of Select Services, 2020

State	Janitorial Services	Medical Services	Personal/Professional	Repair	Transportation
Alabama	E	E	E	E	E*
Alaska	NA	NA	NA	NA	NA
Arizona	E	E	E	E*	T
Arkansas	T	E	E*	T	E
California	E	E	E	E	E
Colorado	E	E	E	E	E
Connecticut	T	E	E*	T	E*
Delaware	NA	NA	NA	NA	NA
District of Columbia	T	E	E*	T	E
Florida	T	E	E	T	T
Georgia	E	E	E	E	E*
Hawaii #	T	T	T	T	T
Idaho	E	E	E	E	T
Illinois	E	E	E	E	E
Indiana	E	E	E	E	E
Iowa	T	E	E*	T	T
Kansas	E*	E	E*	T	E
Kentucky	E	E	E*	E	E
Louisiana	T	E	E	T	E
Maine	E	E	E	E	E
Maryland	T	E	E	E	E
Massachusetts	E	E	E	E	E
Michigan	E	E	E	E	E
Minnesota	T	E	E*	E	E
Mississippi	E	E	E*	T	E
Missouri	E	E	E	E	T
Montana	NA	NA	NA	NA	NA
Nebraska	T	E	E*	T	E
Nevada	E	E	E	E	E
New Hampshire	NA	NA	NA	NA	NA
New Jersey	T	E	E*	T	E*
New Mexico #	T	T	T	T	T
New York	T	E	E	T	T
North Carolina	E	E	E*	T	E
North Dakota	E	E	E	E	E
Ohio	T	E	E*	T	T
Oklahoma	E	E	E	E	T
Oregon	NA	NA	NA	NA	NA
Pennsylvania	T	E	E*	T	E
Rhode Island	E	E	E	E	T
South Carolina	E	E	E	E	E
South Dakota #	T	E	T	T	T
Tennessee	E*	E	E*	T	E
Texas	T	E	T	T	E
Utah	E*	E	E*	T	E
Vermont	E	E	E	E	E
Virginia	E	E	E	E	E
Washington	E	E	E*	T	E*
West Virginia #	T	E	E*	T	T
WISCONSIN	E*	E	E*	T	E
Wyoming	E	E	E	T	T

T -Taxable

E -- Fully or Partially Exempt (More detailed information regarding exemptions may be found in the sources identified below.)

Services are generally taxable, with specified exemptions.

* A limited number of services are taxable.

Source: Commerce Clearing House publications, state revenue websites, and state statutes.

Some other taxable services are transportation, taxed in 14 states, personal/professional, taxed in four states, and medical, taxed in two states. Several states tax a limited number of services within these service industries. An additional 18 states tax some personal/professional services, five states tax some transportation services, four states tax some janitorial services, and one state taxes some repair services.

In contrast to states that tax services selectively, the states of Hawaii, New Mexico, South Dakota, and West Virginia impose a general sales tax on services as well as on goods, with specific exemptions provided. Hawaii imposes an excise tax on the gross proceeds of sales on businesses, which is passed on to consumers like a sales tax. Certain entities are exempt from the tax, including public utilities owned by the state, certain charitable nonprofit organizations, and hospitals.

The New Mexico tax is structured as a gross receipts tax on persons for the privilege of engaging in business in the state. The tax is generally imposed on receipts from all property sold or leased and services performed, with specific exemptions or deductions provided for a number of items (for example, certain agricultural services, telecommunication services for internet access, health care services, and construction and manufacturing-related services).

South Dakota generally imposes a retail sales tax on sales of property and services, and provides exemptions such as certain membership organization fees, health, educational, social, agricultural, and certain financial and construction services. Finally, West Virginia imposes a general consumer sales and service tax on the privilege of selling tangible personal property and services unless specifically exempted, such as professional or personal services and contracting services.

Nexus, Remote Sales, and Electronic Commerce

U.S. Supreme Court precedent had traditionally prevented a state from imposing tax upon a business without a substantial physical presence in the state, such as a brick and mortar store or resident employees. The U.S. Constitution imposes two limitations on taxing jurisdiction: the due process clause (requiring a minimum connection between the taxpayer's interstate activities and the state) and the commerce clause (requiring a substantial connection between the state and the taxed activity). The traditional test to determine if a tax unfairly burdens interstate commerce was laid out by the U.S. Supreme Court in *Complete Auto Transit Inc. v. Brady*. Under *Complete Auto*, the tax is permitted if it: (a) applies to an activity with a substantial nexus with the taxing state; (b) is fairly apportioned; (c) does not discriminate against interstate commerce; and (d) is fairly related to the services the state provides.

In 1992, the Supreme Court announced a rule in *Quill Corp. v. North Dakota*, which upheld a bright line physical presence requirement to impose sales and use tax. The Supreme Court held in *Quill* that when this physical presence nexus is absent, states' efforts to collect taxes on remote sales place an undue burden on interstate commerce and thereby violate the U.S. Constitution. This rule was in place for 26 years.

However, in the 2018 decision in *Wayfair v. South Dakota*, the Court overturned *Quill's* physical presence requirement. This decision permits states to require out-of-state sellers lacking a physical presence in the state to collect and remit sales and use tax, provided the imposition of the tax meets the requirements established in *Complete Auto*.

While the Court did not specify its own nexus threshold in *Wayfair*, it found that South Dakota's

threshold of 200 annual transactions or \$100,000 in annual sales into the state satisfied the requirements laid out in *Complete Auto*. This prompted several other states to adopt similar thresholds for the collection of sales and use tax on sales by remote sellers.

Opponents of the *Wayfair* decision worry that requiring vendors to collect and remit sales taxes on out-of-state purchases will subject firms to the undue burden of calculating taxes, for thousands of taxing jurisdictions nationwide, that differ in their rates, in the categories included in their tax bases, and in the definitions of goods within those categories. To reduce the burden of compliance, critics argue Congress should mandate that states join the SSUTA before imposing sales tax collection obligations on remote sellers.

Congressional Action. In its *Quill* decision, the Supreme Court concluded that the commerce clause empowers Congress to give states the authority to require vendors to collect and remit sales tax on remote purchases. Despite the recognition of its authority, Congress has yet to respond to *Quill* or *Wayfair*.

However, legislation has been periodically introduced to address the imposition of sales tax on remote sellers. For example, the Online Sales Simplicity and Small Business Relief Act of 2019 was proposed to exempt businesses with \$10 million or less in nationwide sales from sales tax collection obligations until all states that impose a sales tax join a compact (like the SSUTA) to simplify sales tax collection. Additionally, the Stop Taxing Our Potential Act of 2019, proposed a reversal of the *Wayfair* decision by re-establishing a physical presence nexus requirement for state sales tax collection responsibilities. As of the day of publication of this paper, Congress has not passed the Online Sales Simplicity Act, the Stop Taxing Our Potential Act, or any other bills concerning the taxation of remote sellers.

State Responses to Wayfair. Following the

Court's decision in *Wayfair*, most states have moved to enact rules or legislation in an attempt to require use tax collection on internet companies that make sales into their states. As of August, 2020, 43 states (of the 45 with a sales and use tax) and the District of Columbia require remote sales tax collection. Only Florida and Missouri have yet to enact such legislation. Likewise, 42 states and the District of Columbia have marketplace facilitator collection laws, with Kansas joining Florida and Missouri on the list of states without such rules.

Beginning on October 1, 2018, DOR requires remote sellers to collect and remit sales and use tax on sales of taxable goods and services in Wisconsin. Consistent with South Dakota's economic nexus law upheld in *Wayfair*, Wisconsin established a small seller exception for sellers with fewer than 200 annual transactions or \$100,000 or less in annual sales into the state. 2017 Act 368 codified this economic nexus threshold in statute and required remote sellers that met or exceeded this threshold to register with DOR and collect state sales and use tax.

Effective on January 1, 2020, 2019 Act 10 imposes liability to collect sales tax on marketplace providers that facilitate retail sales on behalf of marketplace sellers. Regardless of whether marketplace providers are selling their own products, or products on behalf of a third party, providers are required to collect sales tax on all transactions, provided they meet the Act 368 economic nexus threshold.

DOR was also required under Act 10 to determine, for individual income tax rate reduction purposes, the amount of additional sales tax revenue reported to the Department due to remote seller and marketplace providers collecting and remitting sales and use taxes on purchases by Wisconsin residents. For the time period October 1, 2018, to September 30, 2019, DOR determined that this amount was \$79.2 million. The amount for October 1, 2019, to September 30, 2020, was \$257.3

million. As a result, the individual income tax rates for the bottom two income tax brackets were reduced from 4.00% and 5.21%, respectively, to 3.54% and 4.65% beginning in tax year 2020.

Wisconsin Remote Sales

Goods and services purchased by Wisconsin residents over the internet are subject to the Wisconsin sales and use tax in the same manner that they would be if purchased through other means (such as through a mail-order catalog). As with other sales, Wisconsin vendors selling over the internet to Wisconsin customers are required to collect the sales tax on taxable goods and services.

It is the buyer's responsibility to pay the Wisconsin use tax if the seller is an out-of-state seller that qualifies for the small seller exception and has not voluntarily agreed to collect the tax.

Wisconsin law considers all out-of-state vendors, to the extent permitted under federal law, as retailers engaged in business within the state for use tax purposes if they sell tangible personal property or other taxable items or services for storage, use, or other consumption in Wisconsin. Unless a specific exemption applies, out-of-state sellers have nexus under Wisconsin law and are thus required to collect use tax if they:

- conduct 200 or more transactions in Wisconsin or make more than \$100,000 in annual gross sales into Wisconsin in either the current or previous year;
- own real property in Wisconsin;
- lease or rent out tangible personal property, collector coins and stamps, or fixtures in Wisconsin;
- maintain (either directly or through an agent or subsidiary) an office, place of distribution, sales or sample room, warehouse or storage place, or other place of business;

- have a related affiliate which uses facilities or employees in Wisconsin to advertise, promote, or facilitate the establishment of, or market for, in-state sales of items for the seller or for providing services to the seller's customers in Wisconsin (such as resolving complaints and accepting returns);
- service, repair, or install equipment or other tangible personal property or taxable goods in Wisconsin;
- deliver taxable goods into Wisconsin in a vehicle they operate;
- perform construction activities in Wisconsin; or
- have any representative (including a manufacturer's representative, agent, salesperson, canvasser, or solicitor) operating in Wisconsin, either directly or through a subsidiary, for the purpose of performing any of the actions described above (even for non-taxable services) or for selling, delivering, or taking orders for any tangible personal property or services.

Marketplace Providers

The definition of a retailer for purposes of sales tax collection was expanded under Act 10 to mean every seller who makes any sale of tangible personal property or services, regardless of whether the sale is made on the seller's own behalf or on behalf of another person. Therefore, this includes marketplace providers, defined as persons who facilitate the retail sale of, and process the payment for, taxable goods and services on behalf of a marketplace seller. The sales price subject to tax includes the price charged to a purchaser, including any charges for facilitating the sale on the seller's behalf. A marketplace seller is defined as a seller who sells products through a physical or electronic marketplace operated by a marketplace provider, regardless of whether the seller is required to be registered with DOR.

The marketplace provider, and not the marketplace seller, is liable for collecting and remitting tax on a sale facilitated on behalf of the marketplace seller, granted that the following conditions are met: (a) the provider has not been granted a waiver (described below); and (b) the marketplace seller gives the provider sufficient and correct information to accurately remit the tax. If either of these conditions are not met, the marketplace seller may be audited and held liable for the tax on the sale. In addition, the marketplace provider is required to notify the seller that the provider is collecting and remitting the tax.

A marketplace provider is also liable for obtaining an exemption certificate from each purchaser claiming an exemption for a sale facilitated by the marketplace provider on behalf of a marketplace seller. As with remote sellers, if the marketplace provider qualifies for the small seller exception and has not agreed to remit taxes, this responsibility falls on the buyer. Likewise, if a marketplace seller meets the small seller exception, but sells products through a marketplace provider who does not, those sales are taxable.

A marketplace provider may request a waiver from collecting and remitting tax on sales facilitated on behalf of marketplace sellers if the provider's only activities are facilitating sales of tangible personal property or services on behalf of marketplace sellers operating under a hotel, motel, or restaurant brand name shared with the provider. DOR may grant the waiver if it is satisfied the taxes will be collected and remitted by the marketplace seller. DOR may grant waivers to other types of marketplace providers if there is evidence that the marketplace sellers have a history of reliably collecting and remitting the tax to DOR on sales or there is other evidence that the marketplace sellers will do so in the future.

Taxation of Internet Access Service

Wisconsin law imposes the 5% state sales and use tax, as well as county and stadium district sales

and use taxes, on telecommunications services. DOR had interpreted the general statute imposing the sales tax on telecommunications services to include internet access charges. Administrative rules relating to the sales tax on telecommunications services enumerated fifteen taxable telecommunications services, including internet access services. 2009 Act 2 amended state law to specifically state that internet access service is taxable.

The federal Internet Tax Freedom Act of 1998 created a moratorium on taxation of charges for internet services. This moratorium was initially temporary, but was extended by Congress several times and made permanent as part of the Trade Facilitation and Trade Enforcement Act of 2015. Wisconsin, as one of nine states that imposed and enforced a tax on internet access services prior to October 1, 1998, received grandfather protection from the moratorium until 2020. Pursuant to 2017 Act 59, Wisconsin's sales tax on internet access services was repealed beginning July 1, 2020, to

reflect federal preemption. At the time of passage, an annual reduction (beginning in fiscal year 2020-21) in sales tax collections of \$166 million was estimated.

In addition to the moratorium on state taxation of internet access charges, the Internet Tax Freedom Act of 1998, as amended, imposes a moratorium on "multiple and discriminatory taxes" on electronic commerce. With certain exceptions, taxation of a single transaction by more than one state or political subdivision of a state is prohibited. In addition, taxes on electronic commerce are limited to taxes that would be imposed on the same products and services sold by other means.

The federal ban on taxation of internet access charges has sometimes been mistakenly understood to apply to all taxes on internet sales. However, the prohibition against multiple and discriminatory taxation of a single transaction does not negate existing state sales and use tax laws.

APPENDIX

Wisconsin Sales Tax Exemptions

Exemptions from the general sales and use tax are provided for the following types of personal property or sales:

Business Enterprises

- machinery and equipment, including safety attachments and repair parts, used exclusively and directly by a manufacturer in manufacturing
- property that is used exclusively and directly by a manufacturer in manufacturing an article of tangible personal property that is destined for sale and that: (a) becomes an ingredient or component part of the manufactured item that is subsequently sold; or (b) is consumed or destroyed or loses its identity in manufacturing the item that is subsequently sold
- packing and shipping materials and containers used to transfer merchandise to customers or to pack or ship meat products
- property that is used exclusively and directly by a manufacturer in manufacturing shoppers guides, newspapers, or periodicals and that becomes an ingredient or component or is consumed or destroyed in the production of newspapers, periodicals, or shoppers guides
- computers and servers that are used to store copies that are sent to a printing press and property purchased from out-of-state sellers that is temporarily stored in this state and then delivered and used outside of this state, for commercial printing, book printing, or support activities for printing
- printed advertising material for out-of-state use
- advertising and promotional direct mail
- catalogs, and the envelopes in which the catalogs are mailed, designed to advertise and promote the sale of merchandise of individual business firms
- raw materials incorporated into printed material for out-of-state use
- newspapers, shoppers guides, periodicals sold by subscription, and certain publications transferred without charge to the recipient
- property that becomes a component part of a waste treatment facility
- equipment and parts used exclusively for waste reduction or recycling
- motor vehicles that are not required to be licensed and are used for recycling or waste reduction activities
- motor vehicles, including parts, sold to common or contract carriers
- federal tax imposed on the seller in a retail sale of a heavy truck or trailer that is separately stated on the invoice, bill of sale, or similar document that the seller gives to the purchaser
- aircraft, including parts and fuel, for use in interstate or foreign commerce
- railroad cars, including parts and fuel
- mobile units used for mixing and processing
- snowmaking and snow-grooming machines

and equipment, as well as fuel and electricity used to operate the machines and equipment, that are used for snowmaking and snow-grooming at ski hills, ski slopes, and ski trails

- commercial boats, barges, parts, and fuel engaged in interstate or foreign commerce or commercial fishing

- fuel consumed by boats during business associated with chartered fishing by persons possessing a sport trolling license

- fuel and electricity consumed in manufacturing tangible personal property in Wisconsin

- fuels used by utilities to generate power and the portion of fuel converted to steam for the purpose of resale by persons other than utilities

- certain products, and electricity or energy produced from such a product, whose power source is wind energy, direct radiant energy received from the sun, or gas generated from certain types of anaerobic digestion, if the product produces a certain amount of energy per day

- wood residue used as fuel in a business activity

- certain equipment used in logging

- equipment used in maple syrup production

- motion picture film or tape, motion pictures, radio, or television programs for listening, viewing, or broadcast, and related advertising materials for commercial purposes

- property that is sold to a person who is licensed to operate a commercial radio or television station if the property is used to originate or integrate program materials for transmissions that are generally available to the public free of charge

- tangible and digital music sold for exclusive

use in a jukebox, except where the sales price of the music is separately indicated from the sales price of the jukebox

- machinery and equipment, as well as property or items that lose their identity, used in qualified research that are sold to: (a) a person engaged in manufacturing in this state at a building assessed as a manufacturing property; (b) a person engaged primarily in biotechnology in this state; or (c) a "combined group" member who is conducting qualified research for another combined group member described in "a" or "b" [In general, under income and franchise tax law, a combined group of corporations is a group of firms that have common ownership and conduct a unitary business.]

- sales of certain items and property that are used in raising animals that are sold primarily to a biotechnology business, an institution of higher education, or a governmental unit for use in qualified research or manufacturing

- modular and manufactured homes that are used in real property construction activities outside this state

- property and services sold by a construction contractor as part of a contract if the total sales price of all products is less than 10% of the total amount of the contract

- building materials used to construct, develop, or renovate a home stadium for any professional athletic team participating in a multistate league

- building materials purchased by a construction contractor that become a part of a facility to be transferred to a local unit of government, an institution of higher education, a state veterans organization, a nonprofit organization organized exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to animals, or certain title holding companies,

where a facility includes a building, shelter, parking lot or garage, athletic field or park, storm sewer, water supply system, or sewerage and waste water treatment facility, but not a highway, street, or road

- building materials, supplies, and equipment and the sale of services and the storage, use, or other consumption of the same property and services acquired solely for, or used solely in, the initial construction and development of the Milwaukee Bucks basketball sports and entertainment arena facilities

- property and services that are used solely in the construction or development of facilities located in an electronics and information technology manufacturing zone, and if the capital expenditures for the construction of such facilities may be claimed as a credit as certified by the Wisconsin Economic Development Corporation

- building materials for the construction or repair of holding structures used for weighing and dropping feed or fertilizer ingredients into a mixer or for storage of grain

- machines and specific processing equipment used in a fertilizer blending, feed milling, or grain drying operation, including various holding structures used for weighing and dropping feed or fertilizer ingredients into a mixer or for storage of grain

- live game birds and clay pigeons sold to bird hunting preserves and clay pigeons sold to certain trapshooting facilities

- farm-raised deer sold to a person operating a hunting preserve or game farm

- clay pigeons sold to nonprofit gun clubs that provide gun safety classes to at least 25 individuals in a calendar year or whose admission qualifies as an occasional sale, or to a gun club whose sales price for admissions are taxable

Farms

- farm tractors and machines, including parts, lubricants, nonpowered equipment, and other tangible personal property used or consumed in the business of farming

- seeds, plants, feed, fertilizer, pesticides and related chemicals, fuel, livestock, wire and twine, animal bedding, milkhouse supplies, plastic sheeting, and certain containers used in farming

- drugs used on farm livestock, not including workstock, or on bees

- animal tags and standard milk samples sold by the Department of Agriculture, Trade and Consumer Protection

- livestock semen used for artificial insemination

- electricity sold for farm use

- fuel sold for use in farming

- sales of farm-raised fish sold to a registered fish farm or to an individual with a valid permit for stocking fish

Exempt Entities

- sales to certain governmental, educational, scientific, religious, and charitable organizations, and to any affiliates organized solely to collect income for any of the above entities

- sales to state veterans organizations, except equipment and property used in food and beverage sales

- sales to U.S. government agencies and U.S. government-owned corporations

- sales to certain nonprofit cemeteries

- sales to federally recognized American Indian tribes or bands in this state

- sales of tickets, admissions, items, and property by American Legion baseball teams

- sales of tangible personal property by elementary and secondary schools

- sales by a home exchange service that is operated by the Department of Veterans Affairs

- food and food ingredients, except soft drinks, sold by hospitals, sanatoriums, nursing homes, retirement homes, community-based residential facilities, child welfare agencies, and child care facilities, and prepared food sold to elderly or handicapped persons providing mobile meals on wheels

- admission to Circus World Museum and to county fairs

- admission fees to state parks and forests and state park camping fees

- tickets or admissions to elementary and secondary school activities

- admissions by a nonprofit gun club, including the sale of a gun club membership, if the gun club provides safety classes to at least 25 individuals in a calendar year

- sales of admissions by a nonprofit organization to participate in any sports activity in which more than 50% of the participants are 19 years old or younger

- fire trucks and firefighting equipment sold to a volunteer fire department

- snowmobile trail grooming equipment and attachments sold to snowmobile clubs

- charges imposed by an authority for copies

of public records

- occasional sales of tangible personal property, certain other property, or services made by a nonprofit organization are generally exempt from the sales tax if the sales occur on 75 days or fewer per year, or if the receipts from such sales do not exceed \$50,000; admissions to an event involving entertainment may fit within the scope of this exemption if the aggregate amount paid for the performance does not exceed \$10,000

Medical Supplies

- prescription drugs for human beings, including drugs furnished free of charge to health care providers

- durable medical equipment and accessories that are for use in a person's home, mobility-enhancing equipment, and prosthetic devices if the equipment or devices are used for a human being

- supplies used to determine blood sugar level

- sales of patient health care records that are sold to the patient or to a person the patient authorizes to receive the records

- veterinary services

Family Purchases

- motor vehicle sales, including sales of off-highway motorcycles, to certain family members

- purchase of used mobile homes and used manufactured homes for use as a residence

- sales price from the rental of a mobile or manufactured home that is used as a residence for longer than one month

- 35% of the sales price for a new manufactured home

- 35% of the sales price of certain modular homes or the sales price minus the cost of materials that became component parts of a building being sold

- food and food ingredients, except candy, soft drinks, and dietary supplements

- prepared food sold by a retailer if the retailer: (a) manufactures the prepared food in a building assessed as manufacturing property; (b) makes no retail sales of prepared food at such a property; and either: (1) freezes the prepared food prior to its sale and sells the prepared food at retail in a frozen state without accompanying eating utensils; and/or (2) sells prepared food that consists of more than 50% yogurt

- food sold through vending machines that would be exempt if sold in a grocery store

- water delivered through mains

- electricity and natural gas sold for residential purposes from November through April

- coal, fuel oil, propane, steam, biomass, peat fuel cubes produced from solid waste, and wood sold for residential fuel (applies throughout the year) for use in a person's permanent, principal residence

- caskets and burial vaults

Other Sales Tax Exemptions

- sales prohibited from taxation under federal law or the state constitution

- United States flag and the flag of the State of Wisconsin

- certain sales of tangible personal property or taxable services to business affiliates

- sales of property and services under a

contract entered into prior to such property being made taxable (however, purchaser is subject to use tax)

- motor vehicle, aviation, and alternate fuel subject to Wisconsin excise tax

- sales of vegetable oil or animal fat that is converted into motor fuel that is exempt from the state motor fuel tax under the exemption for personal renewable fuel

- aircraft and motor vehicles for use outside the state

- parts used to modify or repair aircraft

- occasional sales, defined as those made by a seller whose total taxable sales price from sales of tangible personal property and taxable services is less than \$2,000 during a calendar year, except for bingo receipts and most motor vehicle sales

- sale of food and food ingredients furnished in accordance with a contract with a higher education institution to students or National Football League teams

- candy, soft drinks, dietary supplements, prepared foods, and disposable products transferred with meals provided for no consideration by restaurants to employees during work hours

- sales to common or contract carriers, if the property is delivered by that carrier to a location out-of-state

- sales to a purchaser for use solely outside Wisconsin and delivered to a forwarding agent, export packer, or other person for exportation, which will be delivered to a port outside the U.S.

- low-income assistance fees charged by electric utilities and electric cooperatives

- a license or right to purchase admission to

professional football games at the Green Bay Packer stadium, which entitles the purchaser to purchase admission to at least three professional football games in a single football season

- railroad crossties to common or contract carriers shipped by that carrier to a point outside the state

- telecommunication services, including purchase reauthorization numbers, obtained by using the rights to purchase such services by paying in advance and by using both an access number and an authorization code.

- sale of a service provided by an electric cooperative to another electric cooperative, or a telecommunications utility to another telecommunications utility, for disaster relief work performed during a disaster period

- digital goods, if the purchase of such goods sold in tangible form is exempt from the sales tax

- sales of video or electronic games sold in tangible form to a person providing a taxable service through an amusement device if the video or electronic game is used exclusively for an amusement device, sales of tangible personal property used exclusively as a prize from the use of the amusement device, and tournament or league entrance fees advertised and set aside as prize money

- taxable items that are bundled with exempt items (such as a gift basket) and sold by the seller for one nonitemized price if the amount of the taxable products does not exceed 10% of the total bundled transaction

- taxable items that are bundled with exempt items by the seller for one nonitemized price if: (a) the bundled item contains food and food ingredients, drugs, durable medical equipment, mobility-enhancing equipment, prosthetic devices, or medical supplies; and (b) the taxable portion of the bundled transaction does not exceed 50% of the

total sales price in the bundled transaction

- charges for the police and fire protection fee

- charges for countywide "911" emergency phone systems

- tangible personal property that is stored in Wisconsin for not more than 120 days, provided the property is to be used by a person engaged in an activity classified as construction for a real property construction activity occurring outside of Wisconsin: (a) for a nonprofit organization; (b) for a public school district; or (c) within a business district where business tax incentives have been granted

Use Tax Exemptions

- receipts from the purchase of property, if such receipts are included in sales receipts subject to the sales tax

- automobile dealer loan of a motor vehicle to a school driver education program

- aircraft based in Wisconsin that was purchased out-of-state by a nonresident for which sales and use tax has been paid in the state of purchase

- household goods, boats, and various vehicles brought into the state with owners who move to Wisconsin

- donations of inventory to certain government units and nonprofit organizations

- state and federal motor fuel taxes that are refunded to exempt purchasers of fuel

- tangible personal property purchased outside of Wisconsin by an out-of-state business and brought into Wisconsin for use solely in disaster relief work

Exemptions Arrived at Through the Definition of Taxable Sales

- sales for resale (that is, wholesale sales are generally exempt, but retail sales made by a wholesaler are taxable)
- certain discounts, terms, or coupons that are not reimbursed by a third party that are taken by a purchaser on a sale
- interest, financing, and carrying charges from credit that is extended on sales if separately stated on the invoice
- separately stated taxes that are legally imposed directly on the purchaser
- separately stated delivery charges for direct mail
- the trade-in value allowed as part of the purchase of a motor vehicle or other personal property
- certain transfers of property to or from a corporation, limited liability company, or partnership; cash discounts; and cash or credit refunds on returned property
- certain transfers of transmission facilities to an electric transmission company
- detailed telecommunications billing services that separately indicate information pertaining to individual calls on a customer's billing statement
- installing or applying services to property, items, or goods that will constitute an addition or capital improvement to real property when installed, and installation or replacement services that are real property construction activities
- a product that is provided free of charge to a purchaser who must also purchase another product that is subject to sales tax if the purchase is made in the same transaction