



Minnesota and Wisconsin Sales and Use Tax Border Issues

m DEPARTMENT
OF REVENUE
Minnesota Business Tax Education


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Disclaimer

This presentation is for educational purposes only. It is meant to accompany an oral presentation and not to be used as a standalone document.

This presentation is based on the facts and circumstances being discussed, and on the laws in effect when it is presented. It does not supersede or alter any provisions of Minnesota laws, administrative rules, court cases, or revenue notices.

If you have any questions, contact us at salesuse.edu@state.mn.us, 651-296-6181, or 1-800-657-3777 (toll-free).



Minnesota Business Tax Education Program
Offering sales and use tax classes in cooperation with bordering states.

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Course objectives


After completing this course you will be able to:

- Apply the basic sales and use tax concepts for Minnesota, Wisconsin, and their local taxing jurisdictions to your business
- Recognize the exceptions to the general rules and exemptions available in each state
- Distinguish how Sales and Use Tax law applies to different types of businesses and their business activities
- Identify how to use and when to accept an exemption certificate
- Identify the documentation necessary for Sales and Use Tax records and returns
- List several resources that are available to help you answer your questions

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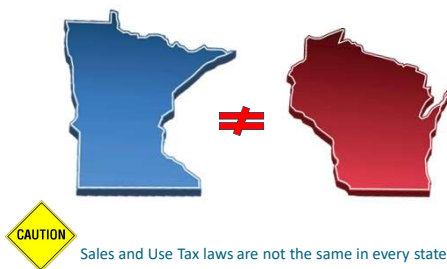
Part 1

In this section we will cover:

- Course overview
- Course objectives

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Course overview



Graphic indicators



If the Minnesota state graphic is pictured on the slide, the information on that slide *only* applies to Minnesota.



If the Wisconsin state graphic is pictured on the slide, the information on that slide *only* applies to Wisconsin.

If *no* state graphic is included on the slide, the information on that particular slide applies to *both* Minnesota and Wisconsin, unless otherwise noted.

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Part 2

In this section we will cover:

- Who needs to register
- What activities create nexus for sales and use tax

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Who needs to register?

You must register if you:

- Make taxable sales into Minnesota
 - All businesses with a physical presence in Minnesota
 - Remote sellers who exceed the Small Seller Exception
 - ❑ 100 or more retail sales shipped to Minnesota
 - ❑ 10 or more retail sales shipped to Minnesota that total more than \$100,000



- Make purchases subject to use tax

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Who needs to register?



You must register if you:

- Make taxable sales into Wisconsin
 - All businesses with a physical presence in Wisconsin (see next slide)
 - Remote sellers that do not qualify for the small seller exception in either the current or previous year
 - ❑ 200 or more separate sales transactions into Wisconsin
 - ❑ Annual gross sales into Wisconsin exceeds \$100,000
- Make purchases subject to use tax
- www.revenue.wi.gov/Pages/Businesses/remote-sellers.aspx



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Who needs to register?

Businesses with a physical presence must register.



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Who needs to register?

Remote sellers that do not qualify for the small seller exception, must register even if they only make sales into a state through the use of:



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Who needs to register?

Does a remote seller who sells through a Marketplace Provider need to register to collect sales tax?

- You only sell through a Marketplace
 - If the Marketplace collects on your behalf, you do not need to register.
 - If the Marketplace does not collect sales tax on your behalf, you must register and collect the tax unless you meet the Small Seller Exception.
- You sell through a Marketplace, your own website, and through other sources
 - If all retail sales combined into either state exceed the Small Seller Exception, you must collect and remit tax for all sales not reported by the Marketplace.

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Who needs to register?

You may apply for a Minnesota Tax ID Number through the:

- Minnesota Department of Revenue's [Business Center](#)
 - Register online
 - Register by phone
 - Mail a completed paper registration form
- Streamlined Sales Tax Registration System ([SSTRS](#))



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Who needs to register?




You may apply for a Wisconsin Tax ID Number through the:

- Wisconsin Department of Revenue
 - Register online
 - Register by phone
 - Mail a completed paper registration form
- Streamlined Sales Tax Registration System ([SSTRS](#))



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**Sales and
Use Tax
Basics**

Part 3

In this section we will cover:

- How we define or apply specific terms?
- What is taxable?
- What is included in the sales price?
- What is not included in the sales price?
- What is use tax?
- Where does the sale take place?
- What is the tax rate?

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What is sales tax?

Sales tax is a tax charged by the seller on the “sales price” of retail sales of taxable services and tangible personal property.

- Sales tax is a transactional tax, therefore, the seller must look at each transaction to determine its taxability.
- Sales tax is imposed at the state and local levels.

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Sales tax is a trust tax



1. Collect
2. File
3. Remit

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What is a sale?



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What is included in the sales price?



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What is not included in the sales price?



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Sales tax computation - coupons

Manufacturer's Coupon

	50 cents off
Light bulb	\$ 2.50
Tax on \$2.50	+ .17 (6.875%)
Subtotal	\$ 2.67
Less coupon	- .50
Total Due	\$ 2.17

Retailer's Coupon

	50 cents off
Light bulb	\$ 2.50
Less coupon	- .50
Selling price	\$ 2.00
Tax on \$2.00	+ .14 (6.875%)
Total Due	\$ 2.14

- **Retailer's coupon** – seller reduces price by coupon before taxing
- **Manufacturer's coupon** – apply tax before coupon is subtracted

Note: Gift Certificates are treated like cash - the tax is due when you use them to purchase a taxable item.

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Sales tax is a transaction tax - seller

- Businesses often sell taxable and nontaxable goods and services in the normal course of business.
- The seller must look at each transaction.

Examples:

- A general contractor rents equipment (without an operator) to a subcontractor.
- A wholesaler makes a retail sale to an employee.
- A farm implement dealer sells equipment to a contractor.
- An accounting firm sells software to a client and installs it on the client's computers.

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Sales tax is a transaction tax

ABC Super Store
123 Main Street
Grand Rapids, MN 55744

Invoice #: 98765
Date: 03/03/2017

Item Description	Price
Gallon 2% Milk	3.00 N
24-pk Soda pop	7.00 T
Potato chips	5.00 N
Blue-ray 3D movie	20.00 T
Subtotal:	\$ 35.00
6.875 Sales tax (on \$27.00):	1.86
Invoice Total:	\$ 36.86

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Sales tax – end user

Important reminder!

The *end user* is responsible for:

- Paying appropriate sales or use tax
- On all purchases of taxable tangible personal property or taxable services,
- Regardless of whether or not the seller charged tax.

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What is use tax?

- Self-assessed and paid directly to the state.
- Applies when you purchase taxable items or services for your own use without paying sales tax.
- Is the complement to sales tax - it reduces unfair competition for all businesses.
- Most audit assessments are for use tax.

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Sales tax is a transaction tax - purchaser

- Businesses often purchase taxable and nontaxable goods and services in the normal course of business.
- The purchaser must look at each transaction to determine taxability.
- Examples
 - A general contractor buys materials for a tax exempt job.
 - A retail electronics store buys taxable office supplies.
 - A manufacturer buys utilities to heat their facility.

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Where does the sale take place?

Sourcing determines where the sale takes place and which taxes are imposed on the sale.

1. Seller's Address
(if that's where title to or possession of item takes place)

2. Delivery Address
(if item is shipped or delivered to customer or where service is performed)

3. Billing Address
(based on the address that the seller has in their records for the customer)

Minnesota Statutes 297A.668 and 297A.669 and Wisconsin Statutes 77.522

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What constitutes receive and receipt?

With respect to sourcing, **receive** and **receipt** are defined as:

A. Taking possession of tangible personal property,

B. Making first use of services, or

C. Taking possession or making first use of digital goods, whichever comes first.

Note: The terms "receive" and "receipt" do not include possession by a shipping company on behalf of the purchaser.

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Special sourcing rules

Special Sourcing Rules for:

- Direct mail
- Florists
- Leases, licenses, and rentals of motor vehicles, trailers, semitrailers, or aircraft that do not qualify as transportation equipment
- Manufactured and modular housing
- Telecommunication services
- Transportation equipment
- Leases, licenses, and rentals of tangible personal property



Note: Effective July 1, 2013 Wisconsin exempts advertising and promotional direct mail and services that result in advertising and promotional direct mail.

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Sourcing leases/rentals of TPP

Leases or rentals that require recurring periodic payments:

- First payment is sourced according to the general sourcing rules.
- Subsequent payments are sourced to the primary property location for each payment.
 - The primary property location is the address for the leased property given to the lessor by the lessee.
 - Intermittent use at a different location does not alter the sourcing.

Note: The sourcing rules for leases of motor vehicles and transportation equipment have slightly different rules. See M.S. 297A.668, Subd. 4 and 5 for details and Wisconsin Statutes 77.522(3)(b) and (c).

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What is the tax rate in Minnesota?



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Local taxes



Local taxes are added to the general rate sales tax to compute the total tax rate.

- City tax
- County tax
- Special local tax(es)
- Motor vehicle \$20 excise tax

Note: Some cities and counties impose a \$20 local excise tax on sales of motor vehicles rather than a sales tax. See Fact Sheets 164, 164M, and 164S relating to local sales and use taxes.

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Local taxes

Where do I find local tax information?

Select the **Sales & Use Tax** link under **For Businesses** on our website's home page.

Then, click on the **Tax Information** tab.

Select the **Local Tax Information** link.

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Local taxes

What is the sales tax rate calculator?

- Provides the state and local *general* sales and use tax rates that apply to sales made to specific locations in Minnesota.

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Local taxes

Sales Tax Rate Calculator

Use this calculator to determine the state and local general sales and use tax rate to apply to sales and purchases made in Minnesota. This calculator **does not include special local taxes** (lodging, entertainment, liquor, admissions and restaurant taxes). If special local taxes apply, add them to the rate provided below.

For more information, see [Fact Sheet 164N, Minneapolis Special Local Taxes](#) and [Fact Sheet 164S, Special Local Taxes](#).

Enter **either** of the following to find a Minnesota sales tax rate:

- Address, apartment or suite number (if applicable), and city
- Nine-digit ZIP code – You **must** use a valid nine-digit ZIP code to get accurate results.

Address: 3787 56th AVE NE Apt/Suite/Other STE 130 City: (circle press) State: MN
 ZIP Code: 55014 -3850 Effective period: (Apr-Jun 2018) (optional) Dollar amount: \$

Calculate **Reset** (Click "Reset" button to reset fields and enter another zip code)

The Sales Tax rate for 55014-3850 is: 7.125% (Apr-Jun 2018)
 (MN State=6.875%, Anoka County Transit Tax=0.25%)

Find a ZIP code based on an address
 Read about Streamlined Sales and Use Tax

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What is the tax rate in Wisconsin?



- Wisconsin's general sales tax rate is currently 5%
- The state use tax rate is also 5%

Note: 66 Wisconsin counties have adopted the 0.5% county sales and use tax, five counties have adopted the 0.1% baseball stadium taxes, one county has adopted the football stadium tax (no longer applies after September 30, 2015), the City and County of Milwaukee have adopted local exposition district taxes, and various municipalities have adopted premier resort area taxes. These will be discussed in detail later.

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Wisconsin counties with county tax



Adams	Columbia	Forest	Kewaunee	Oconto	Rusk	Walworth
Ashland	Crawford	Grant	La Crosse	Oneida	St. Croix	Washburn
Barron	Dane	Green	Lafayette	Ozaukee	Sauk	Washington
Bayfield	Dodge	Green Lake	Langlade	Pepin	Sawyer	Waupaca
Brown*	Door	Iowa	Lincoln	Pierce	Shawano	Wausara
Buffalo	Douglas	Iron	Marathon	Polk	Sheboygan	Wood
Burnett	Dunn	Jackson	Marinette	Portage	Taylor	
Calumet**	Eau Claire	Jefferson	Marquette	Price	Trempealeau	
Chippewa	Florence	Juneau	Milwaukee	Richland	Vernon	
Clark	Fond du Lac	Kenosha	Monroe	Rock	Vilas	

* Brown County tax effective January 1, 2018.
 ** Calumet County tax effective April 1, 2018.

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Which areas have a stadium tax?



- 0.5% Football Stadium Tax
 - Brown County
 - No longer applies after September 30, 2015
- 0.1% Baseball Stadium Tax
 - Milwaukee County
 - Ozaukee County
 - Racine County
 - Washington County
 - Waukesha County

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What areas have a premier resort tax?



- Premier resort area tax includes:
 - Village of Lake Delton and City of Wisconsin Dells - 1.25%
 - City of Bayfield – 0.5%
 - City of Eagle River – 0.5%
 - City of Rhinelander – 0.5% (effective January 1, 2017)
 - Village of Sister Bay – 0.5% (effective July 1, 2018)
 - Village of Stockholm – 0.5%
- Tax is imposed on retailers classified in the Standard Industrial Classification manual (1987 edition) under certain tourist related industry numbers
- This is a local retail sales tax authorized by WI Legislature and is administered by the WDOR – See Publication 403.

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What is the sales tax rate calculator?



Sales Tax Rate Calculator

- Get state, county and stadium sales and use tax rates for specific Wisconsin zip codes
- Enter 5 or 9-digit zip code of the location of the sale
- 5 digit zip codes cross county lines 35 – 40% of time

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What is the sales tax rate calculator?



Wisconsin State, County and Stadium Sales Tax Rate Look-Up

Note: This sales tax rate locator is intended to be used only for the purpose of determining the proper Wisconsin state, county and stadium district (baseball and football) sales tax rate(s) that apply to a transaction that takes place at a specific location, as determined by that location's 5-digit zip code. This rate locator does not identify any other taxes that may also apply to a transaction such as the local exposition district taxes, the premier resort area taxes, the rental vehicle fees, etc.

You may search for the appropriate Wisconsin State, County and Stadium sales tax rate(s) by entering either a 5-digit or 9-digit zip code. Use the instructions below.

- 6-digit (2G+4) searches are preferred and should always return only 1 tax jurisdiction.
- 5-digit searches often return multiple tax jurisdictions. If multiple jurisdictions are returned, you must determine the appropriate jurisdiction for your transaction.

Find Sales Tax Rates By Zip+4

Sale Date (mm/dd/yyyy and 10/01/2000 or later):

08/18/2016

Zip:

+4:

Search Reset Quit

Don't know the entire zip +4? Click on the logo below to look up the zip +4 for any address.



Instructions:

- Enter the date of the transaction in the space indicated using the format mm/dd/yyyy.
- Enter a 9-digit zip code (2G+4) in the space indicated. (Note: If you do not know the 9-digit zip code for the address where the sale will take place, click here for a link to the United States Postal Service web site to look up the 9-digit zip code based upon the address. If after checking the USPS web site you are still unable to obtain the 9-digit zip code, enter the 5-digit zip code where the sale will take place. Be aware that 5-digit zip codes often cross county lines and the results displayed when entering just a 5-digit zip code may include more than one taxing jurisdiction. It is up to you the user, to determine the proper taxing jurisdiction and rate based on the results displayed.)
- Press "Search".
- To look up the rate(s) for another zip code, press "Reset" or "New Search" and follow these instructions again.

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What are local exposition taxes?



- Milwaukee County
 - 2.5% basic room tax
 - 7% additional room tax (City of Milwaukee only)
 - 0.5% food and beverage tax
 - 3% Rental Car Tax

Note: Wisconsin Center Tax District a/k/a Local Exposition District - helps funding for the purpose of acquiring and managing exposition center facilities.

See Publication 410 for more information.

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Five categories of sales



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What is tangible personal property (TPP)?



- **Tangible** - something that can be seen, weighed, measured, felt, touched, or is perceptible to the senses
- **Personal** - any item not incorporated into real property
- **Property** - something that is owned or leased
- Other items specifically defined by statute as TPP (e.g., prewritten computer software)

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How do we tax tangible personal property?



Presume it is taxable unless it qualifies for an exception or an exemption within the statutes.

Examples of taxable TPP include:

- Building materials
- Candy and soft drinks
- Computer software (prewritten)
- Furniture
- Machinery and equipment
- Office supplies
- Prepared food
- Utilities (e.g. electricity, gas, fuel oil, water, coal, etc.)

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Prewritten computer software

The sale, lease, or license to use a canned or prewritten computer software program is taxable, regardless of the method in which it is delivered.



See Minnesota Fact Sheet 134, Computer Software, for details.



See Wisconsin Department of Revenue website, Common Questions section for computer related products and services for more details.

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Software maintenance agreements

When are software maintenance agreements taxed?

Details of agreement	Taxability of agreement
Required by vendor	The entire charge is taxable
Includes only upgrades or enhancements	The entire charge is taxable
Optional and includes upgrades, enhancements and support services	20% of the charge is taxable
Optional and includes support services only	Not taxable

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Prewritten computer software



- Computer Software
 - Prewritten computer software is taxable
 - If the prewritten modules that are later customized, charges for modifications not taxable if separately stated
- Software Maintenance Contracts
 - Follow tax treatment of software to which it relates
 - Tax specifically imposed in sec. 77.52(2)(a)13m., Wis. Stats.
 - March 2009 *Sales and Use Tax Report*

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Which digital products are taxable?



The following digital products are taxable in *both* states:

- Digital audio works
- Digital audiovisual works
- Digital books
- Digital codes
- E-greeting cards
- Online video and electronic games

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Which digital products are taxable?



The following additional digital products are taxable in Wisconsin:

- Finished artwork
- Newspaper or other news or information products
- Periodicals
- Photographs

Note: If the tangible form was exempt or not subject to tax, the digital form is also not subject to tax. See Publication 240 – Digital Goods for additional information.

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 **Which services are taxable in Minnesota?**

Taxable Services

- Admissions to places of amusement
- Admissions to tanning facilities
- Temporary (less than 30 days) lodging
- Nonresidential parking services
- Memberships to a sports or athletic facility
- Delivery of aggregate (exclusion for road construction)
- Laundry, dry cleaning, and alteration services

Within each of these broad categories there are some activities that are not taxed. See applicable fact sheets for details.


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 **Which services are taxable in Minnesota?**

Taxable Services

- Motor vehicle washing, waxing, rust proofing, and cleaning services
- Commercial and residential building cleaning and maintenance services
- Detective, security, and alarm services
- Pet grooming and kennel services
- Lawn and garden care services
- Massages (not medically prescribed)
- Telecommunications services

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Which services are taxable in Wisconsin? 

Taxable Services

- Telecommunication services
- Ancillary services such as directory assistance, voice mail, etc.
- Telecommunication messaging services
- Internet access services
- Photographic services
- Landscaping services
- Parking services
- Lodging services
- Laundry and dry cleaning services

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Which services are taxable in Wisconsin?



Taxable Services

- Towing and hauling of motor vehicles and car wash services
- Producing, fabricating, processing, printing or imprinting of TPP
- Admissions to amusement, athletic, entertainment or recreational events and places, except county fairs
- Privilege of access to clubs or of having access to or the use of amusement, athletic, entertainment, or recreation devices or facilities
- Repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of all tangible personal property
- Cable television service
- Service and maintenance contracts for taxable TPP

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How do we define different types of labor?

We commonly refer to four types of labor:

1. **Construction labor** – to permanently attach an item or materials to a building or real property.
2. **Fabrication labor** – to make or create a product or alter an existing product into a new or changed product.
3. **Installation labor** – to set an item (TPP) into position, or to connect, adjust or program it for use.
4. **Repair labor** – to restore an item so that it can be used for its original purpose. Repair labor keeps an item in good working order or ensures it keeps operating safely and efficiently.

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When is labor taxed?

Type of Labor	Taxable?	Taxable?	Examples
Repair labor	No (if separately stated)	Yes	<ul style="list-style-type: none"> ▪ Car repair ▪ Equipment repair ▪ Calibrating equipment ▪ Sharpening tools
Fabrication labor	Yes	Yes	<ul style="list-style-type: none"> ▪ Custom sawing ▪ Bending sheet metal
Installation labor	Yes	Yes (if TPP remains TPP after installation)	<ul style="list-style-type: none"> ▪ Computer equipment ▪ Modular furniture
Construction labor	No	No (if the labor is used to make a RP improvement)	<ul style="list-style-type: none"> ▪ Build office building

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Sales and Use Tax Basics

When are repair and maintenance contracts taxed?

Type of Contract	Is the contract taxable?
Optional maintenance contracts (bundled – one nonitemized price)	Yes. Tax is due when the contracted maintenance is sold.
Optional maintenance contracts (unbundled – separate itemized prices)	No. The service provider charges sales tax to the customer on the taxable items when the repair is performed.
Extended warranty contracts	No. The service provider owes tax on the parts provided under the contract.

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Sales tax computed on labor...

Example for billing to a customer:

Item	Minnesota	Wisconsin
Computer repair labor	\$ 200.00 (non-taxable)	\$ 200.00 (taxed)
Installation of canned software	+ 100.00 (taxed)	+ 100.00 (taxed)
Replacement hard drive	+ 200.00 (taxed)	+ 200.00 (taxed)
Delivery	+ 20.00 (taxed)	+ 20.00 (taxed)
Subtotal	\$ 520.00	\$ 520.00
Tax	+ 22.00 (rate of 6.875%)	+ 26.00 (rate of 5%)
Total	\$ 542.00	\$ 546.00

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Credit for tax paid to another state

Both states allow a credit for the amount of sales tax owed in another state.

- Tax must be legally due and owed
- Credit allowed up to the amount of tax due to the state on that same purchase.

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Variable rate calculation

1. Calculate the applicable amount of tax due (variable rate X sales price).

2. Enter the amount(s) as variable rate use tax when you file your Minnesota sales and use tax return.

Minnesota sales tax rate	6.875%
Wisconsin state and local sales tax	(5.500%)
Variable rate tax due to Minnesota	1.375%

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Tax paid to another state example



The LaCrosse business takes its computer to a Winona business to be repaired and brings the repaired computer back to LaCrosse for use when completed.

- The Winona business charges the appropriate 7.375% tax rate, Minnesota sales and Winona Co. tax, on the replacement hard drive (\$200 x 7.375% = \$14.75) and installation of canned software (\$100 x 7.375% = 7.38) but does not charge tax on the separately stated repair labor of \$200.
- Wisconsin and LaCrosse Co. use taxes are due on the entire charge (\$500 x 5.5% = \$27.50).
- A credit is allowed for the 6.875% MN tax and the 0.5% Winona Co. tax on the repair parts and installation of canned software to offset the 5.5% tax due to Wisconsin (see computation on next slide).

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Tax paid to another state calculation



Example - Wisconsin Use Tax Computation

Computer repair charge	\$500.00
WI tax rate (state and county)	<u>x 5.5%</u>
WI Use tax due	\$ 27.50
Credit for tax paid to MN	<u>- 22.00</u>
Wisconsin use tax due	\$ 5.50
WI state and county rate	<u>÷ 5.5%</u>
Taxable amount to report for WI use tax	\$100.00

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How Sales and Use Tax Applies to Business Activity

Part 4

In this section we will cover how sales and use tax laws apply to:

- Retailers
- Contractors
- Government agencies
- Nonprofit organizations
- Service providers
- Manufacturers
- Agricultural producers and farmers


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Retailers

Retailers sell TPP to businesses and individuals.

- They must collect sales tax on goods they sell.*
- Their purchases of business assets and office supplies are taxable.
- Their inventory bought for resale is not taxable.*
- They are responsible for paying use tax on goods taken out of inventory for their own use.

* The seller must charge tax *unless* the item is specifically exempt by law or they have a completed exemption certificate on file (to the state that the sale is sourced to if the seller is required to register in that state.)



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Contractors

– End user of TPP

A contractor is someone who:

- Supplies labor and materials
- Constructs, alters, repairs, or improves real property
- Is the **end user** of the materials and equipment

Note: A materials only contract is considered a retail sale.



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Contractors

– End user of TPP

The following purchases are taxable:

- Building materials and supplies, unless an exemption applies for the job
- Construction equipment and tools
- Business assets and office supplies

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Contractors

- What is real property?

For sales and use tax purposes, **real property** includes:

- Land
- Permanent buildings and structures
- Improvements and fixtures incorporated into a building or structure given its current use
 - intended to be of a permanent benefit
 - cannot be removed without causing substantial damage to the building or structure

Exception: Real property does not include tools, implements, machinery, and equipment attached or installed into real property that qualify for exemption under section 297A.68 (for example "capital equipment" used in manufacturing to produce a product ultimately sold at retail.)

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Contractors

- Sales of real property

Examples of real property include:

- Commercial and residential buildings
- Drywall, flooring, and roofing materials incorporated into real property
- Landscaped lawns and gardens
- Roads, bridges, and railroad tracks

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Contractor/Retailer

Many contractors also make retail sales (e.g., floor covering stores). If you don't know how the items will be used when you buy them, you must determine your primary business activity.

- **Primarily a contractor** - at least 50 percent of your business purchases are used for construction activities
- **Primarily a retailer** - at least 50 percent of your business purchases are sold at retail



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Contractor/Retailer

- Purchasing and reporting guidelines

If you are **primarily a contractor (consumer)**:

- Pay tax on all your purchases.
- Charge sales tax on the actual sales price (including your mark-up) if materials are later sold at retail.
- Deduct the cost of the materials resold on your sales and use tax return to accommodate for sales or use tax already paid.

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Contractor/Retailer

- Purchasing and reporting guidelines

Contractor's Purchase Invoice		Customer's Sales Invoice		Amount Reported on the Sales and Use Tax Return	
Materials	\$ 50.00	Materials	\$150.00	Gross Receipts	\$150
Tax (6.875%)	\$ 3.44	Tax (6.875%)	\$ 10.31	Less: Original Invoice	\$ 50
Total	\$ 53.44	Total	\$160.31	General Rate Sales	\$100

Note: The \$50 purchase amount from the contractor's original invoice is not recorded on your return. This is an example only. Report total taxable sales on the return.

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Contractor/Retailer - Purchasing and reporting guidelines



Contractor's Purchase Invoice		Customer's Sales Invoice		Amount Reported on the Sales and Use Tax Return (Form ST-12)	
Materials	\$ 50.00	Materials	\$150.00	Total Sales (Line 1)	\$150
Tax (5.5%)	\$ 2.75	Tax (5.5%)	\$ 8.25	Less: Other (Line 5)	\$ 50
Total	\$ 52.75	Total	\$158.25	Taxable Sales	\$100

Note: Wisconsin allows a subtraction for tax paid on purchases of materials that are resold as taxable sales. If the materials are resold in a nontaxable sale, the purchaser must request a refund from the materials supplier or file a Buyer's Claim for Refund.

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Contractor/Retailer - Purchasing and reporting guidelines

If you are **primarily a retailer**:

- Buy the items exempt for resale, by providing a completed exemption certificate to your supplier.
- Pay use tax on your cost of the materials if any of the items are later used to improve real property.

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Contractors - What is real property?



- Land and buildings (few exceptions)
- Any TPP attached to the land or building (numerous exceptions)
 - Certain property is "deemed" personal property for repair and maintenance purposes, thus repairs and maintenance to these items are taxable, but the original installation may be real property (e.g., furnaces, air conditioners, bathroom fixtures)

Note: See Publication 207 for additional information on what is real property vs. tangible personal property in Wisconsin.

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Contractors

- Sales of real property



- Sales of real property (RP) or improvements to RP are *not* taxable in Wisconsin.
- Examples:
 - Residential and commercial buildings
 - HVAC systems, electrical wiring and plumbing fixtures that have been incorporated into the building
 - Roads, bridges, and railroad tracks
 - Fencing (permanent)

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Contractors

- Sales of real property (*continued*)



- Certain items are considered real property when installed in residential setting but TPP when installed in a commercial setting. Examples:
 - Certain counters and cabinets
 - Music and sound equipment
 - Computer and communications cabling
- In commercial property, certain items are considered real property when they serve a building function, but TPP when they serve a process function. Examples:
 - Boilers
 - Generators
 - Awnings

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Contractors

- Publication 207



Chart to Aid in Distinguishing Real vs. Personal Property Activities (*begins on page 32*)

- **P** - Means that the item is considered personal property when used in the manner indicated in the column heading.
- **RE** - Means that the item is considered real property when used in the manner indicated in the column heading.

Item	Residential		Commercial			
	Install (1)	Repair (2)	Real Estate Function Install (3)	Repair (4)	Process Function Install (5)	Repair (6)
Air Conditioners-Central	RE	P	RE	P	P	P
Air Conditioners-Window	P	P	P	P	P	P

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Contractors

- New exemption



Exemption for building materials sold to a construction contractor under certain conditions:

1. Real property construction activity
2. Building materials must be transferred to a qualifying exempt entity
3. Building materials must become part of a facility owned by the qualifying exempt entity
4. Applies to contracts entered into on or after January 1, 2016

Note: Form S-227, *Contractor Statement of Building Materials Purchased*, was developed to help contractors document these purchases.

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Contractors

- New exemption (continued)



- A qualifying exempt entity includes (not all-inclusive):
 - Any county, city, village, or town within Wisconsin
 - Any public school district within Wisconsin
 - Any nonprofit organization that holds a Wisconsin Certificate of Exempt Status (CES) number
- The exemption does not apply to the following (not all-inclusive):
 - A public college, university or technical college (Wisconsin or non-Wisconsin)
 - A state governmental unit (Wisconsin or non-Wisconsin)

Note: For contracts entered into on and after July 1, 2018, a qualifying exempt entity includes a technical college district, the Board of Regents of the UW-System, an institution, a college campus, and the UW-Extension.

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Contractors

- New exemption (continued)



- Facility includes:
 - Any building, shelter, parking lot, parking garage, athletic field, athletic park, storm sewer, water supply system, or sewerage and waste water treatment facility
- Facility does not include:
 - A highway, street, or road

Note: See *Wisconsin Tax Bulletins #192-19* and *#199-23* for additional details.

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Contractors

- Sales and Use Tax Resources Web Page



- Revenue.wi.gov/pages/training/contractors.aspx
- Videos
 - Construction Contracts with Exempt Entities
 - Understanding Sales Tax for Residential Personal/Real Property
- Links to other contractor resources (e.g. publications, articles)
- Upcoming contractor seminars

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Government agencies

- Collect sales tax on taxable goods and services sold
- Determine taxability of purchases of taxable goods and services based on type of government:
 - Federal government agencies are not taxable
 - Tribal governments are not taxable
 - State agencies are taxable (use direct pay authorization)
 - Cities, counties, and townships are not taxable (exceptions apply)



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Government agencies (continued)

- Purchases made by government employees are taxable
- Purchases of prepared food, lodging, and motor vehicles are taxable (except by federal government)
- Other states or political subdivisions of other states may qualify for an exemption

84

Government agencies



- Wisconsin state and local governmental agencies must charge sales tax on all taxable sales.
- They do not have to pay sales or use tax on their purchases of taxable goods and services.
- Examples of exempt governmental units in Wisconsin:
 - Federal governmental agencies
 - Federally recognized American Indian Tribe or Band in Wisconsin
 - Wisconsin governmental agencies
 - Local governmental agencies from Wisconsin

Note: State and local government agencies from other states are taxable in Wisconsin.

85

Nonprofit organizations

Nonprofit organizations that may obtain exempt status for sales and use tax are:

- Charitable organizations (must qualify for exempt status for Federal purposes under 501(c)(3))
- Religious organizations (e.g. churches, synagogues, mosques, etc.)
- Educational organizations (e.g. scouts and youth groups)



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Nonprofit organizations approved for Sales and Use Tax exemption

- Collect sales tax on taxable goods and services sold, unless the fundraising exemption applies
- Do not pay sales or use tax on purchases used to further the nonprofit's activities
- Pay sales tax on the following:
 - Lodging
 - Motor vehicles
 - Prepared food
 - Purchases made by employees

87

Nonprofit organizations



- All purchases made by a qualifying nonprofit organization are exempt.
- Exempt organizations may be required to charge sales tax on their sales
- Occasional sale exemption for exempt organizations
 - 75-day and \$50,000 sales standards (eff. 1/1/17)
 - Entertainment may not be involved at events for which admissions are charged
- Publication 206 – Sales Tax Exemption for Nonprofit Organizations

Note: Prior to 1/1/17 the occasional sale exemption for exempt organizations was limited to 20-day and \$25,000 sales standards.

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Taxable service providers



Specific services identified in the statutes are taxable in Minnesota.

- The majority of sales are taxable (see fact sheets for exceptions).
- Materials used or consumed in providing the service may qualify for exemption.
- Short-lived detachable tools may qualify for exemption.
- Machinery and equipment used in providing the services are taxable.



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Nontaxable service providers

Many service providers provide services that are typically *not* subject to tax. Examples include:

- Accountants
- Attorneys
- Banks
- Consulting firms
- Health care providers



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Nontaxable service providers *(continued)*

- If they provide any taxable services or make sales of TPP, they are required to register and collect the applicable taxes like any other business.
- Examples include:
 - Accountants who sell computer software and install it on their client's computer
 - Banks that sell collector coin sets
- Purchases of business assets and office supplies are taxable (unless an exemption applies).

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Manufacturers

- Industrial production process

The industrial production process includes:

- Design, research and development for production of a product
- Removal of raw materials from stock to begin production activities
- Actual production activities that affect changes to produce the product
- Testing and quality control of the product
- Placement of the product in finished goods inventory



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Manufacturers

- Purchases for industrial production

- Business assets and office supplies are taxable
- Returnable packaging is taxable
- Product packaging and other nonreturnable packaging is not taxable*
- Raw materials, chemicals and utilities used or consumed in production are not taxable*
- "Separate detachable tools" and "special tooling" are not taxable*

*The purchaser must provide the seller with a completed exemption certificate for these items.

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Manufacturers - Capital equipment

- Upfront exemption for capital equipment available (*effective July 1, 2015*)
- Machinery and equipment may qualify as capital equipment if:
 - ✓ used in Minnesota **and**
 - ✓ essential to the integrated production process

94

Manufacturers - What is manufacturing?



Wisconsin defines manufacturing as:

- production by machinery
- of a new article
- with a different form
- for a different use and
- with a different name and
- by a process popularly regarded as manufacturing.

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Manufacturers - The manufacturing process



Scope of Manufacturing (start to end of process):

- Remove raw materials from inventory to a work area in the same plant
- Step-by-step manufacturing process
- Testing and quality control during manufacturing process
- Conveyance of finished product to finished goods inventory area

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Manufacturers - Manufacturing exemption



Exemptions available:

- Machines and specific processing equipment used exclusively and directly in manufacturing
 - Includes repair and replacement parts and safety attachments
- Items consumed, destroyed or losing their identity in the manufacturing process
 - Must be exclusively and directly used
 - Must be used by a manufacturer
 - Product must be destined for sale

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Manufacturers - Manufacturing exemption (*continued*)



Exemptions do not apply to:

- Research and development activities
 - Exemptions are available for machinery and equipment and certain items used exclusively and directly in qualified research as provided in sec. 77.54(57), Wis. Stats.
 - See Fact Sheets 2101-1 and 2101-2 for more information
- Design (e.g. CAD software)
- Machinery and equipment used both in the manufacturing process and outside of the manufacturing process (e.g. forklifts)

Note: See Publication 203 – Sales and Use Tax Information for Manufacturers

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Packaging and shipping materials



- Exemption applies to manufacturers and nonmanufacturers:
 - ✓ Containers, labels, sacks, cans, boxes, drums, bags or other packaging and shipping materials used by the purchaser to transfer merchandise to customers
 - ✓ Meat casing, wrapping paper, tape, containers, labels, sacks, cans, boxes, drums, bags or other packaging and shipping materials for use in packing, packaging or shipping meat or meat products regardless of whether such items are used to transfer merchandise to customers.
- ✓ Exemption does not include equipment or tools used to package merchandise, unless another exemption applies (e.g., manufacturing machine or processing equipment)

Note: See Part VII in Publication 203 – Sales and Use Tax Information for Manufacturers

99

Farmers

- What is agricultural production/farming?

- **Agriculture** - planting, raising and harvesting crops; rearing, feeding and managing animals
- **Aquaculture** - cultivating plants and animals in water
- **Floriculture** - cultivating flowering plants
- **Horticulture** - cultivating fruits, vegetables, and plants
- **Silviculture** - the care and cultivation of forest trees



Notes:

The resulting product must be ultimately be sold at retail. See Fact Sheet 100, *Agricultural Production* for details.

You must be in the business of farming to claim the exemptions. See Publication 221, *Farm suppliers and Farmers* for details.

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Farmers

- Agricultural production

- Feed, seed, fertilizers, and herbicides are not taxable.
- Fuels, electricity, gas, and steam used or consumed in agricultural production are not taxable.
- Packaging materials used to package food products (e.g. berry boxes, bushel baskets, egg cartons, milk cans, paper bags) are not taxable.
- Farm machinery is not taxable.
- Returnable containers used to package non-food items are taxable.

101

Farmers

- Farming exemptions



Items that qualify for exemption if used exclusively by the purchaser in the business of farming:

- Seeds
- Plants
- Fertilizers
- Soil conditioners
- Farm work stock
- Baling twine
- Containers for fruits and vegetables

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Farmers

- Farming exemptions (*continued*)




The following items are exempt if used *exclusively and directly*, or are *consumed or lose their identity*, in the *business* of farming:

- Tractors and machines, including accessories, attachments, and parts
- Lubricants
- Non-powered equipment
- Other tangible personal property

Note: See Publication 221, Farm Suppliers and Farmers, for details.

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Part 5

In this section we will cover:

- When do I need an exemption certificate?
- Authorized exemption certificates

- Required elements for a complete exemption certificate
- Purchaser's responsibilities
- Seller's responsibilities

104

Exemption certificates

General Rule

Sales of tangible personal property and taxable services are taxable *unless*:

- A specific exemption exists within the statutes and
- The purchaser provides the seller with a completed exemption certificate (there are exceptions).

105

Exemption certificates

- Do I need an exemption certificate?

There are three ways for a sale to be exempt from sales and use taxes:

1. Product-based exemption

Example: prescription drugs for humans.
Do not need exemption certificate – exempt by statute.

2. Entity-based exemption

Example: certain nonprofit organizations.
Need exemption certificate unless exempt by statute.

3. Use-based exemption

Examples: resale or manufacturing.
Always need an exemption certificate.

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Exemption certificates

Authorized exemption certificates:

- Certificate of Exemption, Form ST3
Minnesota Department of Revenue form
- Wisconsin Sales and Use Tax Exemption Certificate, Form S-211
Wisconsin Department of Revenue form
- Certificate of Exemption, Form F0003
Streamlined Sales Tax form
- Uniform Sales and Use Tax Certificate
Multistate Tax Commission form **Note:** Not accepted by Wisconsin for manufacturing.
- Self-prepared and other state's exemption certificates, if all required elements are included **Note:** Not accepted by Wisconsin unless approved by the WI DOR.

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Exemption certificates

- Is the exemption certificate complete?

Required elements for a complete exemption certificate:

- Purchaser's name and address
- Purchaser's state tax ID number and state of issue (if no state tax ID number, the purchaser's FEIN or their Driver's license number with state of issue)
- Purchaser's type of business
- Reason for exemption
- Purchaser's signature (required if paper certificate; no signature is required if submitted electronically)

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Exemption certificates

- Purchaser's responsibilities

The purchaser is required to:

- Know if you qualify to claim an exemption
- Complete an exemption certificate
- Give the exemption certificate to the seller at the time of purchase
- Pay use tax (and any applicable interest and penalties) if the items purchased are not exempt.


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Exemption certificates

- Seller's responsibilities

- Review all exemption certificates, remembering these key points:
 - ✓ All required fields must be completed and the paper form must be signed and dated.
 - ✓ Do *not* accept certificates that are not properly completed.
 - ✓ Never accept a tax ID number alone.
 - ✓ Never accept a copy of the purchaser's sales tax confirmation letter or permit in lieu of an exemption certificate.
- Exemption certificates should be kept as part of the seller's business records, preferably in a separate file.
- Do not unlawfully solicit exemption certificates.

113



Part 6

In this section we will cover:

- Why good record keeping is essential
- Use tax accrual
- How to choose the appropriate accounting method (cash vs. accrual)

114

Maintaining your records

Invoices are documents sent to purchasers when goods are shipped or when services are completed. Information that should be recorded on your sales invoices include:

- Seller's name and address
- Terms of purchase
- Date of transaction
- Product or service
- Quantities
- Amount of tax charged, if any
- Price per item
- Location of sale
- Purchaser's name and address

Remember: For sales tax purposes the destination of the sale tends to "drive" sales tax liability. Shipping or delivery information on the invoice is crucial in order to know where sales tax is due.

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Maintaining your records

- What should I look for when reviewing invoices?

- Review every invoice before you pay it (especially watch purchases from out-of-state vendors who may not be required to be registered).
- Determine if items on the invoice are taxable.
- Watch for taxable items purchased with an exemption certificate.
- Watch vendor changes (e.g. new computer system).
- Never add use tax to a vendor payment; always self-assess the tax and remit it directly to the Department of Revenue. (You do not know if they are registered to collect sales tax in your state.)
- Record the amount of use tax accrued on the actual invoice.



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Maintaining your records

- Recording your use tax liability

- Purchaser is obligated to accurately account for, report, and pay use tax.
- Record this information (e.g., sales journal):
 - ✓ Date of purchase
 - ✓ Invoice number
 - ✓ Vendor's name and description of item
 - ✓ Taxable amount
 - ✓ Amount of state and local use taxes paid
- Keep a copy of the back-up documentation with each sales and use tax return.

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Maintaining your records

- Accounting methods

Cash Basis	vs.	Accrual Basis
<ul style="list-style-type: none"> Record income when actually received Report sales tax when actually received Report use tax when invoice is paid 		<ul style="list-style-type: none"> Record income when sales are made Report sales tax when sales are made Report use tax based on the invoice date



Wisconsin requires businesses to file sales and use tax reports using the accrual method. A cash basis business should make the necessary adjustments to report on the accrual method for sales and use tax reporting purposes.

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Part 7

In this section we will cover:

- The statute of limitations
- Minnesota's **eServices**
- Wisconsin's filing and payment options
- Common reasons you may need to file an amended return

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Filing and payment information

- Statute of limitations

The normal statute of limitations for filing a return is different in Minnesota and Wisconsin.



Minnesota

3½ years after the return is filed.





Wisconsin

4 years after the due date of the corresponding income or franchise tax return covering the same period, assuming the return was filed on time.

Note: There is no statute of limitations if a business does not file a sales and use tax return, or files fraudulent sales and use tax returns.

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Filing and payment information



You must do two things to avoid late filing and/or late payment penalties:

1. **File** your return electronically by the due date.
(either online-or by telephone)
2. **Pay** your sales and use tax liability electronically or by check on or before the due date.

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Filing and payment information


Three Options for Electronic Filing:

1. **My Tax Account** – A free online business tax service that allows businesses to access their accounts to
 - view current account status
 - file and amend returns
 - make payments
 - manage and update account information

It's simple, secure and available 24/7. http://www.revenue.wi.gov/faqs/my_tax_account/index.html

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Filing and payment information


2. **File Transmission** – a secure process that provides a direct electronic interface between your system and WDOR
 - upload sales and use tax returns in an electronic file
 - for the retailer and/or their representatives<http://www.revenue.wi.gov/faqs/pcs/s-trans.html>
3. **Telefile** - an interactive voice response program using the telephone
 - enter sales and use tax returns using the telephone
 - no need for personal computer<http://www.revenue.wi.gov/eserv/e-sales.html>

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Filing and payment information

Common reasons you may need to file an amended return are:

- Reported too much or too little tax on your original return
- Reported the tax on the wrong tax line
- Charged tax incorrectly to a customer and have refunded the tax to the customer
- Received a completed exemption certificate from a customer (you reported the tax in a prior period and have since refunded the tax to your customer)

Note: Wisconsin may allow a deduction on the current return when a fully completed exemption certificate is received on a previously reported taxable sale.



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Communicating with the Department of Revenue

Part 8

In this section we will cover:

- Where to direct your sales and use tax questions
- Additional resources

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Communicating with the Department of Revenue


Sales and Use Tax General Contact Information

- Minnesota Revenue website: revenue.state.mn.us
- Questions relating to Sales and Use Tax Law?
Email: salesuse.tech@state.mn.us
- Questions relating to your Sales and Use Tax account activity?
Email: salesuse.tax@state.mn.us
- Prefer telephone assistance?
Phone: 651-296-6181 or 800-657-3777




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 **Communicating with the Department of Revenue**


 **GovDelivery**

- Choose the updates you want - by tax type and publication type
- Choose the frequency of notifications
- Sign in directly or use your social media account – **Facebook, Yahoo! or Google**




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 **Communicating with the Department of Revenue**

 **Sales and Use Tax Videos**

Available Videos:

- e-Services Instructional Videos
- Education Video Series
- Inside Scoop: Streamlined Sales Tax



youtube.com/MNRevenue

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 **Communicating with the Department of Revenue**

Social Media

Keep up with the latest news from the Minnesota Department of Revenue on Twitter, Facebook, and LinkedIn.

 twitter.com/MNRevenue

 facebook.com/MNRevenue

 linkedin.com/company/minnesota-department-of-revenue

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Communicating with the Department of Revenue

- Resources



Wisconsin DOR Web Site: www.revenue.wi.gov

- Wisconsin Tax Bulletin
- Sales and Use Tax Report
- Withholding Tax Update
- Wisconsin Administrative Code
- Topical & Court Case Index
- Link to Wisconsin Statutes
- Sales and Use Tax Articles
- Common Questions

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Communicating with the Department of Revenue

- Contact information



Sales and Use Tax Questions

Phone - (608) 266-2776
 Email - DORSalesanduse@wisconsin.gov
 Address - P.O. Box 8902, Madison, WI 53708-8902

Business Registration Online

Phone - (608) 266-2776
 Email - DORBusinessTax@wisconsin.gov
 Address - P.O. Box 8902, Madison, WI 53708-8902

Withholding Tax Questions

Phone - (608) 266-2776
 Email - DORWithholdingTax@wisconsin.gov
 Address - P.O. Box 8949, Madison, WI 53708-8949



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Communicating with the Department of Revenue

- Automatic email list




Sign up for Department of Revenue electronic mail lists at
<https://www.revenue.wi.gov/Pages/HTML/lists.aspx>

Recommended electronic mail lists:

- Sales and Use Tax
- Tax Professional
- Withholding Tax
- Wisconsin Economic Outlook



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Course Review

Part 9

In this section we will:

- Review the course objectives
- Answer participants questions


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Course review

During this class, we discussed ...

- Whether or not you are required to register in Minnesota, Wisconsin, or both states
- What areas have local taxes in each state
- Basic sales and use tax concepts for Minnesota, Wisconsin and their local taxing jurisdictions
- What's taxable in each state
- Exceptions to the general rules and exemptions available
- The major differences between Minnesota and Wisconsin laws and how those differences may affect your business
- How the laws apply to different types of businesses
- How and when to use and accept an exemption certificate
- General recordkeeping and filing and payment information for Sales and Use Tax
- Resources available to help answer your questions

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Questions?


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 Minnesota Business Tax Education
Offering sales and use tax classes in cooperation with bordering states.

 **Contractors**
- What is real property?

Is the improvement or fixture real property?

Start Here

```

graph TD
    Q1[Is the improvement or fixture incorporated into and intended to be a permanent benefit to a building or structure?] -- No --> A1[The improvement or fixture is tangible personal property and the sale is a retail sale.]
    Q1 -- Yes --> Q2[Does the item add benefit to the building or structure given its present use?]
    Q2 -- No --> A2[The improvement or fixture is tangible personal property and the sale is a retail sale.]
    Q2 -- Yes --> Q3[Will removing the item cause substantial damage to the building or structure?]
    Q3 -- No --> A3[The improvement or fixture is tangible personal property and the sale is a retail sale.]
    Q3 -- Yes --> A4[The improvement or fixture is real property]
  
```

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