

# Submitted Sales and Use Tax Questions

May 11, 2007 – 4-H Development Presentation – County Governmental Units

Janet K. Abrams, Staff Specialist

Wisconsin Department of Revenue

## A. General Questions

### 1. How is sales tax reported and also submitted?

If you do not file using the Sales Internet Process (SIP), a return (Form ST-12) will be mailed to you shortly before the end of each reporting period. If you file your sales and use tax returns on a monthly basis, you will be sent three returns at a time. For example, returns for July, August, and September will be sent to you at the end of July. Instructions are included with the return explaining how to complete the return.

If you do not receive your return within 15 days after the end of the reporting period, phone the Department of Revenue at (608) 266-2776.

Electronic filing and payment options are also available. For more information about these options, please go to <http://www.revenue.wi.gov/faqs/pcs/e-option.html>.

### 2. Are there forms that need to be filled out?

You should file your return on Form ST-12, or you may file your return electronically. Please note that the department may require a person registered or required to be registered for Wisconsin sales or use tax purposes to file its sales and use tax refunds by electronic means. See *Answer 1*, above.

### 3. How is sales tax paid ... monthly, quarterly, annually?

If you have a seller's permit, use tax registration certificate, or consumer use tax registration certificate, you must file a return for each "reporting period," even if no tax is due for that period. Your "reporting period" will be either monthly, quarterly, or annually. For example, if your reporting period is monthly, you must file a return for each month of the year, regardless of whether any tax is due for the month.

Generally, your reporting period will be quarterly unless the Department of Revenue notifies you in writing that your returns must be filed monthly or annually.

#### **4. What's the best way to get an answer for a specific situation?**

If you have a question about sales and use taxes, write to the department in Madison or call or visit any department office.

Write . . . Wisconsin Department of Revenue  
Mail Stop 5-77  
P.O. Box 8949  
Madison, WI 53708-8949

Fax . . . (608) 267-1030

E-Mail . . . [sales10@dor.state.wi.us](mailto:sales10@dor.state.wi.us)

Visit our web site . . . [www.revenue.wi.gov](http://www.revenue.wi.gov)

#### **B. Sales and Use Tax Questions Related to 4-H (Non-Profit Organizations)**

##### **1. Does sales tax have to be collected on plat books?**

Yes, unless an exemption applies. Wisconsin sales of tangible personal property, including plat books, are subject to Wisconsin sales tax.

Please see *Answer C.1.*, below, for information about a county's sale of a plat book.

##### **2. How does money collected for plat book advertising factor into sales tax?**

The charge to a business for including its advertisement in a plat book is not subject to sales tax.

##### **3. The Adult Leaders sells a plat book for a fundraiser. When mailing the plat book we have been told that we need to charge/and also pay an additional sales tax on the postage. Is this correct?**

Yes, regardless of whether a charge for mailing the plat book listed separately or included in the charge for the plat book, the mailing charge is subject to tax to the same extent that the plat book is. For example, if the sale of the plat book is subject to sales tax, the mailing charge is also subject to tax.

Section Tax 11.94(2), Wis. Adm. Code (October 1999 Register), provides, in part, the following:

“When a seller charges a purchaser for the delivery of taxable tangible personal property, the seller's total charge, including any transportation charge, shall be subject to the sales or use tax. ...”

**4. If a 4-H organization previously paid sales tax, but does not meet the new \$25,000 limit, do we need to notify the department?**

Although you are not required to notify the department and inactivate your seller's permit, you may wish to do this so that you may qualify for the occasional sale exemption. If you would qualify for the occasional sale exemption, except for the fact that you hold a seller's permit, you may request inactivation of your seller's permit. You may do so in by one of the following methods:

- E-mail the department at [sales10@dor.state.wi.us](mailto:sales10@dor.state.wi.us);
- Call the department at (608) 266-2776;
- Write to the department at  
Wisconsin Department of Revenue  
PO Box 8902  
Madison, WI 53708-8902

Be sure to include your organization's name, address, tax account, date of inactivation, and reason for inactivation.

Failure to inactivate your account will mean that you are liable for tax on your sales of tangible personal property and taxable services for the period of time that your account is active.

**NOTE:** Prior to an event that involves entertainment (as described in *Answer 9*), you will need to reactivate your seller's permit. It is not necessary for you to complete a new application. You may reactivate your seller's permit by calling, e-mailing, or writing to the numbers and/or addresses listed above and requesting re-activation of your account as of the beginning date of your event.

**5. What happens if we meet the limits one year and not the next?**

An organization may reactivate its seller's permit if it no longer meets the criteria for the occasional sale exemption. It is not necessary to complete a new application. The organization may reactivate its seller's permit by calling, e-mailing, or writing to the numbers and/or addresses listed above

and requesting re-activation of its account as of the beginning date of your event.

**Note:** If a nonprofit organization requested inactivation of its seller's permit in good faith but later, due to unforeseen circumstances, exceeds the standards, only the sales occurring after the standards are exceeded are subject to sales tax.

## 6. Is sales tax assessed to clothing sales?

Yes, unless an exemption applies. Wisconsin sales of tangible personal property, including clothing, is subject to Wisconsin sales tax.

---

**Questions 7, 8, and 9 all refer to the standards for the occasional sale exemption for a nonprofit organization. All of the three standards listed below must be met by a nonprofit organization for its sales to qualify as exempt occasional sales:**

**Standard 1: The organization is not engaged in a “trade or business.” (See *Answers 7 and 8*, below.)**

**Standard 2: Entertainment is not involved at an event for which charges by the organization constitute admissions. (See *Answer 9*, below.)**

**Standard 3: The organization does not have and is not required to have a seller's permit. (See *Answer 9*, below, for exception.)**

See Publication 206, *Sales Tax Exemption for Nonprofit Organizations*, for additional information about the occasional sale exemption. This publication can be downloaded at <http://www.revenue.wi.gov/pubs/pb206.pdf>.

---

## 7. How does the 20-day limit work?

For purposes of the occasional sale exemption for nonprofit organizations, a nonprofit organization is **not** considered to be engaged in a “trade or business” if its sales of otherwise taxable tangible personal property or services or its events occur on 20 days or less during the calendar year, **regardless of the dollar amount of sales**. For events involving the sales of tickets, only the actual days of the events are counted, not the days of ticket sales.

*Example:* Boy Scout Troop takes orders for Christmas wreaths from October 1 through November 1. The wreaths are delivered by the Troop on December 15 and 16. For purposes of determining whether its events meet the 20-day test, Boy Scout Troop should use the days of delivery, rather than days orders are taken.

## **8. What is factored in to the \$25,000 limit?**

A nonprofit organization is **not** considered to be engaged in a “trade or business” if its “receipts” for the calendar year are \$25,000 or less, ***regardless of the number of days on which its sales or events occur.***

For this purpose, “receipts” means the gross receipts from all sales in Wisconsin of otherwise taxable tangible personal property and services after subtracting allowable exemptions.

*Example 1:* Church B sells cookies and cakes at a bake sale for off-premises consumption. Since the sale of cookies and cakes for off-premises consumption is exempt from sales tax, Church B’s sale of these items is not counted as receipts for purposes of the \$25,000 receipts test.

*Example 2:* Nonprofit Organization C, which sells hundreds of Christmas trees, sells five Christmas trees for \$100 to a Wisconsin public school. Although Christmas trees are taxable tangible personal property, a Wisconsin public school may purchase tangible personal property exempt from sales tax. As a result, this \$100 exempt sale to the school is not counted as receipts for purposes of the \$25,000 receipts test.

*Example 3:* Nonprofit Organization D sells 1,000 raffle tickets at \$5 each for a total of \$5,000. Since the sale of raffle tickets is not subject to sales tax, the \$5,000 that Nonprofit Organization D receives from its sale of raffle tickets is not counted as receipts for purposes of the \$25,000 receipts test.

## **9. Can you clarify what is classified as entertainment?**

A nonprofit organization’s sales do not qualify for the occasional sale exemption when entertainment is involved at an event for which charges by the organization constitute admissions.

For this purpose, “entertainment” means entertainment provided at an “admission” event by all persons or groups (for example, band or singers)

who are paid in the aggregate more than \$500 per event by all persons **for performing, for reimbursement of expenses, or prize money**. See Publication 206 for the definition of “admissions.”

*Example 1:* Four different bands are paid \$200 each to perform at various times during a 3-day event. There is an admission charge for access to the event. Since the total payment for entertainment (\$800) exceeds \$500, entertainment is deemed to be involved. As a result, receipts from the event are taxable.

*Example 2:* Two nonprofit organizations cosponsor an admission event at which a band is hired to perform. Each organization pays the band \$300. Since the total payment for entertainment (\$600) exceeds \$500, entertainment is deemed to be involved. As a result, receipts from the event are taxable.

*Example 3:* Nonprofit Organization E holds an admission event in which a celebrity is paid \$800 to appear. Nonprofit Organization E does not pay the celebrity. Sponsor F pays the \$800 fee to the celebrity on behalf of Nonprofit Organization E. Since the total payment for entertainment (\$800) by all persons exceeds \$500, entertainment is deemed to be involved. As a result, receipts from the event are taxable.

**Exception:** A nonprofit organization that would otherwise qualify for exempt occasional sales, except for the involvement of entertainment, may (1) obtain a seller’s permit from the Department of Revenue for the day or days of the event involving entertainment; (2) pay the sales tax on sales of tangible personal property and taxable services on these days; and (3) request inactivation of the seller’s permit after the event by contacting the Department of Revenue.

If the above three steps have been taken, the nonprofit organization may still make exempt occasional sales on days not covered by the permit.

**Note:** Days and receipts from events involving admissions to entertainment for which a seller’s permit was obtained **are** included with all other sales in determining the 20-day test and the \$25,000 taxable receipts test in *Answers 7 and 8*.

**Caution:** A nonprofit organization that obtains a seller’s permit for an event and does not request inactivation of the seller’s permit after the event does not qualify for the occasional sale exemption on sales of tangible personal property and taxable services subsequent to the event, regardless of the number of days and dollar amount of its sales.

### **C. Sales and Use Tax Questions Related to Money Handled through County Government**

#### **1. Is there a difference if publications are sold at cost to an individual versus being sold at cost to a non-profit such as a 4-H club?**

Sales of publications are subject to Wisconsin sales tax, unless an exemption applies (e.g., resale). If the County sells a publication to a nonprofit organization that holds a Certificate of Exempt Status (CES) number, the sale is exempt from Wisconsin sales tax. If the nonprofit organization does not hold a CES number but will sell the publications (e.g., for a fundraiser), the nonprofit organization may provide the county with an exemption certificate claiming resale. The County's sale of publications to an individual are subject to tax, unless an exemption applies.

#### *Exemption for a County's Sale of Records*

Sales of copies of "records," possibly including plat books, by a county are exempt from Wisconsin sales tax under sec. 77.54(32), Wis. Stats. (2005-06). Sales of documents that are readily available in the marketplace or at a public library for inspection, however, are subject to tax. For example, if County X sells a map that is published and sold in the marketplace by a private company, County X's sale of the map is subject to Wisconsin sales tax.

The law provides an exemption for the following: "The gross receipts from charges, including charges for a search, imposed by an authority, as defined in s. 19.32(1), for copies of a public record that a person may examine and use under s. 16.61(12) or for **copies of a record under s. 19.35(1).**" (Emphasis added.)

Wisconsin counties are local agencies having custody of records; therefore, Wisconsin counties are considered "authorities" under sec. 19.32(1), Wis. Stats. (2005-06). For purposes of the exemption, a "record" is a material on which information is recorded or preserved that any requestor has the right to inspect under sec. 19.35(1)(a), Wis. Stats. (2005-06). Therefore, if material, such as a plat book, "...has been created or is being kept by an authority..." it meets this requirement. Please note that if a plat book (or other document) is readily available in the marketplace or at a public library for inspection, the sale of such document does not qualify for exemption.

## **2. What about clothing/t-shirts that are part of registration for an educational program?**

Assuming that the clothing/t-shirts are not an optional part of the registration (see examples), the county is the consumer of the clothing/t-shirts that it provides incidentally with the educational program. Since purchases by the county are exempt from sales and use tax, the county is not liable for Wisconsin sales or use tax on its purchase of the clothing/t-shirts that it uses and transfers incidentally to the participants in its provision of the educational service.

*Example 1:* County A charges participants \$50 each to attend an educational program. Each participant receives a t-shirt for attending the program. There is no reduction in the program fee if the participant does not want the t-shirt. The t-shirt is provided incidentally to the participant with the educational program; therefore, County A is the consumer of the t-shirt that it uses in providing the educational service to the participants. County A's purchases are exempt from sales tax, since County A is a Wisconsin governmental unit.

*Example 2:* Same as *Example 1*, except that if a participant does not want the t-shirt, the participant is charged \$40 for the educational program (i.e., without the t-shirt). Since County A is making two sales (i.e., the sale of the educational program for \$40 and the sale of the t-shirt for \$10), the sale of the t-shirt is subject to Wisconsin sales tax. For those situations where the participant wants the t-shirt, County A must allocate \$10 of the \$50 total fee to its sale of the t-shirt.

*Example 3:* County B charges participants \$40 each to attend an educational program. Each participant is also charged \$10 each for a t-shirt. The participant must purchase a t-shirt to attend the educational program. The t-shirt is not an optional charge, since each participant is required to pay the entire \$50 to participate in the program. The t-shirt is provided incidentally to the participant with the educational program; therefore, County A is the consumer of the t-shirt that it uses in providing the educational service to the participants. County A's purchases are exempt from sales tax, since County A is a Wisconsin governmental unit.

## **3. What about meals and educational materials that are included in a registration fee for an educational program?**

Assuming that the meals and educational materials are provided incidentally with the educational program, the county is the consumer of the clothing/t-shirts that it provides incidentally with the educational program. Since purchases by the county are exempt from sales and use

tax, the county is not liable for Wisconsin sales or use tax on its purchase of the meals and educational materials that it uses and transfers incidentally to the participants in its provision of the educational service.

However, when the meals and/or educational materials are not provided incidentally with the educational services, the charge for the meals and/or educational materials is subject to sales tax.

Please see *Answer C.2.*, above, for applicable examples.

**Note:** Meals that are provided at a summer camp are subject to sales tax. If a combined charge is made for the privileges extended by a camp, an allocation between taxable and exempt receipts must be made. Section Tax 11.46(5), Wis. Adm. Code (December 1996), provides the following information relating to combined charges at camps:

“An allocation between taxable and exempt receipts shall be made when a single, combined charge is made for all the privileges extended by a camp. Adequate records shall be maintained to enable the proper allocation; otherwise, the total charge shall be taxable. For purposes of allocating, the following shall apply:

(a) If there is no separate charge for meals, gross receipts from the sale of meals may be determined by adding 10% to the cost of the food and labor for food preparation to cover the overhead costs.

(b) If there is no separate charge for lodging, gross receipts from lodging furnished by private camps to any person residing for a continuous period of less than one month shall be presumed to be \$5 per person per night.”