

Hotels, Motels, and Other Lodging Providers

**How Do Wisconsin Sales and Use Taxes
Affect Your Operations?**

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I. INTRODUCTION

This publication explains how Wisconsin sales and use taxes affect hotels, motels, and other lodging providers. It includes examples of taxable and nontaxable sales and rentals and information about purchases by hotels, motels, and other lodging providers.

“Hotel,” as used in this publication, includes hotels, motels, bed and breakfasts, resorts, lodges, inns, and others providing lodging accommodations to the public.

Note: Certain sales and purchases by hotels which are subject to the 5% state sales and use tax may also be subject to the: (a) 0.5% county sales and use tax, (b) 0.1% stadium sales and use tax, (c) local exposition taxes, and (d) 0.5% premier resort area sales tax. Additional information about these taxes is contained in the following:

- (a) County tax: Publication 201, *Wisconsin Sales and Use Tax Information*, Section XVIII.
- (b) Stadium tax: Publication 201, *Wisconsin Sales and Use Tax Information*, Section XVIII. Applies to sales and purchases made in Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties.
- (c) Local exposition taxes: Publication 410, *Local Exposition Taxes*. Applies to sales and purchases of certain lodging, food, beverages, and car rentals in municipalities wholly or partially within Milwaukee county.
- (d) Premier resort area tax: Publication 403, *Premier Resort Area Tax*. Applies to sales by certain types of retailers of tangible personal property and taxable services in the Village of Lake Delton and City of Wisconsin Dells.

Publications 201, 403, and 410 are available from any Department of Revenue office.

CAUTION

- The information in this publication reflects interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of April 1, 1999. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations in this publication.
- The examples and lists of taxable and nontaxable sales and purchases are not all-inclusive. They merely set forth common examples.

II. HOTEL'S SALES AND RENTALS TO CUSTOMERS

A. Lodging Services

- **Less Than One Month** — Furnishing lodging to the same person or entity (e.g., corporation, partnership, sole proprietorship) at a hotel for a continuous period of **less than one month** is subject to Wisconsin sales tax.

“One month,” as used in this publication, means the lesser of: (1) a calendar month, or (2) a continuous period of 30 days. For purposes of counting the number of days stayed at a hotel, the day the customer checks into the hotel is counted as a day. However, the day the customer checks out of the hotel is **not** counted as a day.

Example — Lodging for Less Than One Month: Customer B checks into Hotel A on August 1 and checks out of Hotel A on August 30. Hotel A has provided lodging to Customer B for 29 days. The charge to Customer B is subject to Wisconsin sales tax because he did not stay for an entire calendar month or for a continuous period of 30 days or more.

- **One Month or More** — Furnishing lodging to the same person or entity (e.g., corporation, partnership, sole proprietorship) at a hotel for a continuous period of **one month or more** is **not** subject to Wisconsin sales tax.

Example - Lodging for One Month or More: Customer D checks into Hotel C on July 20 and checks out of Hotel C on August 19. Hotel C has provided lodging to

Customer D for 30 days. The charge to Customer D is **not** subject to Wisconsin sales tax because Customer D purchased lodging services for a continuous period of 30 days or more.

- **Lodging Packages** — The entire charge for furnishing lodging packages, which include lodging along with other taxable or nontaxable property or services, is subject to Wisconsin sales tax.

Example - Lodging Packages: Hotel E offers a lodging package for \$170. The package includes two nights of lodging, two breakfast buffets, dinner, and the use of the health spa. The entire \$170 is subject to Wisconsin sales tax.

- **Lodging for Federal and Wisconsin Governmental Agencies and Certain Nonprofit Organizations** — Lodging furnished to the agencies and organizations listed below is not subject to Wisconsin sales tax:

- 1) **Wisconsin** governmental agencies (including counties, cities, villages, towns, and public school districts),
- 2) federal governmental agencies, and
- 3) nonprofit organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals.

For lodging furnished to these governmental agencies and nonprofit organizations to be exempt from Wisconsin sales tax, the following conditions must be met:

- 1) The hotel issues the invoice or billing document in the name of the governmental agency or nonprofit organization, and
- 2) The hotel receives one of the following:
 - a) For Wisconsin or federal governmental units:

1. A purchase order or similar written document identifying the governmental unit as the purchaser,
2. A properly completed exemption certificate (Form S-211), or
3. The federal or Wisconsin governmental unit's CES number which the hotel records on its copy of the invoice.

- b) For **Wisconsin** nonprofit organizations, the Certificate of Exempt Status (CES) number which the hotel must enter on the hotel's copy of the invoice or billing document, or a properly completed exemption certificate (Form S-211) which provides the nonprofit organization's CES number.
- c) For nonprofit organizations not located in Wisconsin, which are organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, a properly completed exemption certificate (Form S-211), even though they have not been issued a Wisconsin CES number.

The hotel must keep a copy of each of the documents (e.g. invoice or billing document, purchase order, CES number, exemption certificate, etc.) referred to in numbers 1) and 2) above, to show that the sale was exempt.

Example - Exempt Sale to Wisconsin Governmental Employee: A City of La Crosse employe purchases two nights of lodging while traveling on city business. The employe provides to the hotel a letter from the City of La Crosse, indicating that the employe is on city business and is authorized to purchase lodging relating to such business. On its billing, the hotel indicates that the City of La Crosse is the customer (the name of the city employe may also appear on the billing). The employe pays the bill with his or her own funds and is subsequently reimbursed by the City of La Crosse. The sale of the lodging is **not** sub-

ject to Wisconsin sales tax because it is considered a sale to a Wisconsin governmental agency. The hotel should keep the letter from the City of La Crosse in its files.

Note: In the above example, if the hotel had issued the billing solely in the employee's name (rather than the city's), the sale would be subject to Wisconsin sales tax since it would be considered a sale to the individual, rather than a sale to the City of La Crosse.

- **Governmental Agencies From Other States** — Furnishing lodging to governmental agencies (including counties, cities, villages, and towns) **of states other than Wisconsin** is subject to Wisconsin sales tax.

Example — Taxable Sale to Governmental Agency Located Outside Wisconsin: A City of Chicago employee purchases four nights lodging from Hotel F while traveling on city business in Wisconsin. The sale of the lodging is subject to Wisconsin sales tax because the City of Chicago is not a Wisconsin governmental agency.

- **Foreign Diplomats** — Furnishing lodging to a foreign diplomat who has an exemption card issued by the federal Department of State is **not** subject to Wisconsin sales tax. The card has a photograph of the individual, personal data, an expiration date, the mission name, and a tax exemption number on it. The tax exemption number must be recorded on the hotel's invoice to exempt this type of sale from Wisconsin sales tax.
- **Rooms Generally Used as Sleeping Accommodations** — Rentals of rooms generally used as sleeping accommodations are subject to Wisconsin sales tax, regardless of how the room is used.

Example - Sleeping Room Used by a Salesperson for Display Room: A salesperson pays to use a room, which is normally used for sleeping accommodations, as a display room from 8:00 a.m. to 4:00 p.m. Since this room is generally used for sleeping accommodations, the charge for the use of the room is subject to Wisconsin sales tax.

- **Meeting and Conference Rooms** - Rentals of meeting and conference rooms used for meetings, conventions, conferences, and seminars are **not** subject to Wisconsin sales tax.
- **Forfeited Room Deposits** - Amounts customers deposit to hold a room and which are forfeited to the hotel because the customer fails to arrive and use the room (i.e., no shows) are **not** subject to Wisconsin sales tax, if the room is available to be furnished to another guest.

If the hotel keeps the room available for the guest who is charged the deposit, the deposit is taxable.

B. Meals, Food, and Beverages

- **Consumed On Hotel's Premises** — Sales of meals, sandwiches, food, and beverages to be consumed on the hotel's premises are subject to Wisconsin sales tax. Common areas where meals, sandwiches, food, and beverages may be provided include the customer's room, a restaurant, bar, snack bar, or coffee shop.
- **Consumed Off Hotel's Premises** — Sales of meals, sandwiches, heated foods and beverages, soda fountain items, candy, gum, lozenges, and popcorn are examples of items sold by hotels for consumption off the hotel's premises which are subject to Wisconsin sales tax.
- **Room Service Charges, Delivery Charges, and Gratuities** — Room service charges, delivery charges, and **mandatory** gratuities on taxable meals, food, and beverages are subject to Wisconsin sales tax. However, gratuities given at the customer's discretion are not subject to Wisconsin sales tax.
- **Meals Sold To Employees** — Sales of meals to employees are taxable in the same manner as explained in the three previous paragraphs.

A hotel is considered to have "sold" a meal to an employee in any of the following four situations and is responsible for collecting and remitting Wisconsin sales tax on these sales:

- 1) Employee pays cash for the meal.

- 2) A charge for the meal is deducted from the employee's wages.
- 3) An employee receives meals in lieu of cash to bring the employee's compensation up to the legal minimum wage.
- 4) An employee has the option to receive cash for meals not consumed.

- **Cover Charges** - Cover or minimum charges which entitle customers to receive entertainment or to dance are subject to Wisconsin sales tax.

Example - Cover Charges: A hotel provides entertainment in its bar on Saturday nights. Everyone entering the bar after 8:00 p.m. is charged a \$2 cover charge. The \$2 charge is subject to Wisconsin sales tax.

Note: Sales of meals, food, beverages, and cover charges to Wisconsin and federal governmental agencies, certain nonprofit organizations, and qualifying foreign diplomats are not taxable. See the section titled "Lodging for Federal and Wisconsin Governmental Agencies and Certain Nonprofit Organizations," on page 2 of this publication, concerning sales to these types of customers.

C. Telephone Calls, FAX Transmissions, and Cable TV Charges

- Charges by a hotel for telephone services, FAX transmissions, and cable TV services are not subject to Wisconsin sales tax.
- Charges by a hotel for "pay-per-view" channels which the hotel purchases from the pay-per-view provider and then provides to the customer are not subject to Wisconsin sales tax. (**Note:** If the hotel is acting as the billing and collection agent of the pay-per-view service provider, the hotel may be required to collect the applicable tax from the customer on behalf of the pay-per-view provider.)

D. Vending Machines, Video Games, and Amusement Devices

- **Vending Machines** — Sales of chewing gum, candy, cigarettes, peanuts, popcorn, soft drinks,

sandwiches, hygienic products, shoe shining, and other tangible personal property and taxable services through vending machines are subject to Wisconsin sales tax.

If the hotel "controls" or is the "operator" of the machine, the hotel's receipts from the vending machines are subject to Wisconsin sales tax.

A hotel is considered to have "control" over the vending machine or be the "operator" if: (1) the hotel has the right to access the machine for stocking, restocking, or removing the receipts from the machine, or (2) the hotel owns the tangible personal property sold through the vending machine.

- **Video Games and Amusement Devices** — Receipts from video games and amusement devices are subject to Wisconsin sales tax.

If the hotel "controls" or is the "operator" of the video game or amusement device, the hotel's receipts from the video games and amusement devices are subject to Wisconsin sales tax. See the section above titled "Vending Machines" for an explanation of "control" and "operator."

- **Commissions** — Commissions received by a hotel from a third party who "controls" or is the "operator" of the vending machines, video games, and amusement devices are **not** subject to Wisconsin sales tax by the hotel. The third party is responsible for reporting the Wisconsin sales tax on the gross receipts (e.g., money) from the machine, without any deduction for the commission which is paid.

Example - Commissions: Hotel B receives a commission equal to 50% of the gross receipts from a video game in return for allowing Company A to place the video game in Hotel B. Hotel B is not the operator of and does not control the video game. The gross receipts from the video game are \$200. Hotel B receives a commission of \$100. The \$100 commission received by Hotel B is not subject to Wisconsin sales tax. Company A's gross receipts from the video game of \$200 are subject to Wisconsin sales tax and must be reported on Company A's sales and use tax return.

E. Gift Shop Sales

- Sales of souvenirs, clothing, postcards, candy, magazines, and other tangible personal property are subject to Wisconsin sales tax.
- Sales of newspapers are not subject to Wisconsin sales tax.

F. Rentals of Tangible Personal Property

- **Furniture and Equipment** — Rentals of furniture and equipment, such as tables, audio-visual equipment, video tapes, microphones, microwave ovens, refrigerators, etc., are subject to Wisconsin sales tax.

Example — Renting Equipment: Customer A rents a meeting room from Hotel B for \$300. Customer A is also charged \$100 for the use of audio-visual equipment. The equipment rental charge of \$100 is subject to Wisconsin sales tax. The \$300 for the rental of the meeting room is not subject to Wisconsin sales tax.

Example — Renting Meeting Room With Equipment: Customer C rents a meeting room from Hotel D for \$500. The \$500 entitles Customer C to use of the room and various audio-visual equipment, tables, and chairs, regardless of whether Customer C actually uses the items. The \$500 is not subject to Wisconsin sales tax.

- **Recreational Equipment** — Rentals of recreational equipment, such as bicycles, canoes, boats, rafts, water skis, fishing poles, and motor bikes are subject to Wisconsin sales tax.

G. Parking

Charges for providing parking space are subject to Wisconsin sales tax.

Example — Separate Charge for Room and Parking: Customer A stays in Hotel B for one night. Hotel B has a parking ramp. Hotel B charges Customer A \$80 for the room. If Customer A chooses to park in the parking ramp, Hotel B adds a separate charge of \$10 for park-

ing. Both the \$80 for the room and the \$10 for the parking are subject to Wisconsin sales tax.

Example — Parking Only: Hotel C offers parking for \$20 per day to persons not staying at their hotel. The \$20 is subject to Wisconsin sales tax.

Example - Parking Charge to Eat at Restaurant: Hotel D charges \$3 to park in the hotel's parking lot while eating at a restaurant. The \$3 is subject to Wisconsin sales tax.

H. Laundry and Dry Cleaning Services and Machines

- Laundry and dry cleaning services provided by hotels are subject to Wisconsin sales tax.
- Receipts from self-service laundry machines activated by tokens or magnetic cards are subject to Wisconsin sales tax.
- Receipts from coin-operated, self-service laundry machines are not subject to Wisconsin sales tax.

I. Photocopying Services and Machines

- Charges for photocopies made by hotels for customers are subject to Wisconsin sales tax.
- Receipts from self-service photocopy machines which are coin-operated or activated by tokens or magnetic cards are subject to Wisconsin sales tax.

J. Admissions to Amusement, Athletic, Entertainment, and Recreational Facilities

Charges for providing access to amusement, athletic, entertainment, and recreational facilities, places or events, (e.g., bars, night clubs, swimming pools, golf courses, driving ranges, and horseback riding) are subject to Wisconsin sales tax. A tax release published in *Wisconsin Tax Bulletin* #78 (July 1992), titled "Admissions to Athletic or Recreational Events or Places," provides additional information on what charges relating to the use of athletic and health club facilities are subject to Wisconsin sales tax. Call or visit any Department of Revenue office or write to the Wisconsin Depart-

ment of Revenue, P.O. Box 8902, Madison, WI 53708-8902, if you would like a copy of this tax release.

K. New and Used Equipment and Furnishings

Sales of new and used furniture, televisions, computers, and other tangible personal property are subject to Wisconsin sales tax. These sales are subject to Wisconsin sales tax, even though the hotel paid Wisconsin sales or use tax at the time the items were originally purchased.

Example - Sale of Used Televisions: Hotel B sells used television sets for \$50 each. Hotel B had paid sales tax on the television sets when they were originally purchased five years ago. The \$50 charge is subject to Wisconsin sales tax, even though the hotel paid Wisconsin sales tax on the television sets when they were originally purchased.

L. Tanning Beds and Spas

Charges for the use of tanning beds and spas are not subject to Wisconsin sales tax.

III. HOTEL'S PURCHASES

A. Taxable Purchases

Hotels are the consumers of the items they use to provide lodging services to their customers. Therefore, hotels must pay Wisconsin sales or use tax on their purchases of such items.

Note: If Wisconsin sales or use tax is not charged by the supplier of these items, Wisconsin use tax must be reported and paid by the hotel to the Wisconsin Department of Revenue on its Wisconsin Sales and Use Tax Return (Form ST-12).

1. Tangible Personal Property

The following are examples of tangible personal property purchased by hotels which are subject to Wisconsin sales or use tax:

a. Furniture, Appliances, etc.:

artwork
beds

bellman carts
blinds
carpeting
chairs and couches
desks and dressers
drapes
flags
freezers
ice machines
intercoms
lamps
microwave ovens
mirrors
night stands
radios
recreational equipment
refrigerators
satellite dishes (does not include concrete foundation)
signs (does not include concrete foundation)
tables
telephones
televisions
vending machines
video cassette players/recorders (VCRs)
video games, pool tables, dart boards, juke-boxes

b. Office Equipment and Supplies:

advertising brochures and literature used in Wisconsin
check machines
computer equipment
computer supplies
copy machines and supplies
desks
envelopes
FAX machines and supplies
file folders
guest receipts
name badges
paper
pens and pencils
reservation slips
stationery
time clock and time cards

c. Room Supplies:

bath mats
Bibles

candy
champagne
clothing hangers
coffee makers
cups
door tags
flowers
garbage cans
glasses
ice buckets
keys
matchbooks
paper and plastic bags
shampoo
soap
tissues
toiletries

d. Linen Supplies:

bath mats
bedding
laundry bags
towels
uniforms
washcloths

e. Cleaning and Maintenance Equipment and Supplies:

carpet sweepers
cleaning supplies
laundry machines and dryers
lawn equipment and supplies
maid carts
pool chemicals and supplies
repair parts for any taxable tangible personal property
snow removal equipment (e.g., snow blowers, plows, shovels)
storage racks
portable vacuum cleaners

f. Restaurant and Bar Equipment and Supplies:

bar stools
chairs
cookware
cooking utensils
counters
cloth napkins

dishwashers
food and drinks given away to customers and employees (see exception in Part B.3. on page 8)
garbage disposal units
glassware
refrigerators
serving carts
serving utensils (see exception in Part B.2. on page 8)
stools
storage containers
stoves and ovens
tables
tablecloths
tableware (see exception in Part B.2. on page 8)

Caution: If any of the tangible personal property listed in Part III.A.1. on pages 6 and 7 of this publication is also installed by the supplier of the item and the installation results in a real property improvement (rather than a sale and installation of tangible personal property), the hotel is not liable for Wisconsin sales or use tax on the hotel's purchase and installation of the item. The supplier who installs these items is required to pay Wisconsin sales or use tax on its purchase price of the tangible personal property used in making the real property improvement.

Example 1: Hotel X purchases carpeting from Carpet Supplier Y. Carpet Supplier Y also installs the carpet for Hotel X. Hotel X's purchase of the carpeting and installation from Carpet Supplier Y is not subject to Wisconsin sales or use tax since this represents a real property improvement. Carpet Supplier Y is required to pay Wisconsin sales or use tax on Carpet Supplier Y's cost of the materials used in making the real property improvement.

Example 2: Hotel L purchases a mirror to be installed (i.e. affixed to the wall) in one of its sleeping rooms from Mirror Installer M. Mirror Installer M also installs the mirror in the sleeping room. Hotel L's purchase of the mirror and installation is subject to Wisconsin sales or use tax since the mirror, when installed in a sleeping room, represents a purchase of tangible personal

property used to carry on a trade or business. Mirror Installer M may purchase the mirror from its supplier without paying Wisconsin sales or use tax.

If you have questions as to whether a particular item, when installed, constitutes a taxable or nontaxable purchase, call or visit any Department of Revenue office or write to the Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902.

2. Services

The following are examples of services purchased by hotels which are subject to Wisconsin sales or use tax:

- cable and satellite TV
- cleaning and maintaining pools
- cleaning carpeting and rugs
- cleaning tangible personal property (e.g., drapes, couches, chairs)
- inspecting, repairing and maintaining tangible personal property (e.g., televisions, refrigerators, boilers, furnaces, water softeners, water heaters)
- landscaping and gardening
- telephone and FAX transmissions

B. Nontaxable Purchases

The following purchases of tangible personal property or services by hotels are **not** subject to Wisconsin sales or use tax:

1. Tangible Personal Property to Be Resold

Purchases of tangible personal property (e.g., books, magazines, candy, postcards, clothing, toiletries, and souvenirs), which will be resold to customers, are **not** subject to Wisconsin sales or use tax. **Note:** If the tangible personal property is transferred as part of the sale of the lodging service (i.e., shampoo provided in each room), the hotel may not purchase those items without tax.

2. Certain Restaurant and Bar Disposable Items

Purchases of paper and plastic **disposable** items which are transferred to customers when **selling** (rather than giving away at no charge) meals, food, food products, and beverages are **not** subject to Wisconsin sales or use tax. Examples of such items include paper napkins, paper and plastic cups, straws, disposable placemats, plastic utensils, and styrofoam or paper take-home containers.

Note: Purchases of paper and plastic disposable items which are transferred to customers when **giving away** (rather than selling) meals, food, food products, and beverages, are subject to Wisconsin sales or use tax.

Example — Disposable Items Given Away With Complimentary Breakfast: Hotel A provides a free breakfast with the purchase of lodging. In addition to the food items, Hotel A also purchases napkins, plastic utensils, and paper and plastic cups which will be used by the persons who receive the free breakfast. Hotel A's purchases of the napkins, plastic utensils, and paper and plastic cups are subject to Wisconsin sales or use tax because no exemption applies.

Since Hotel A is giving away the breakfasts at no charge (rather than selling them), Hotel A is the consumer of the food, beverages, napkins, plastic utensils, and paper and plastic cups. Therefore, Hotel A is required to pay Wisconsin sales or use tax on the purchase of these items, unless an exemption applies, such as for purchases of food or food products for human consumption, as discussed below.

3. Food, Food Products, and Beverages Given Away

Purchases of food, food products, and beverages, which qualify for the exemption for food, food products, and beverages for human consumption, are not subject to Wisconsin sales or use tax.

Example — Complimentary Breakfast:

Hotel A offers a complimentary breakfast to its customers. Hotel A purchases the bakery items, fruit, coffee (5 lb. can), and juice from Supplier B. Supplier B does not charge Wisconsin sales or use tax on the items. The purchases of the bakery items, fruit, coffee, and juice by Hotel A are not subject to Wisconsin sales or use tax because the items qualify for the exemption for purchases of food, food products, and beverages for human consumption.

Note: If the item being given to customers at no charge is not an exempt food, food product, or beverage (e.g., candy, mints, soda), the hotel should pay Wisconsin sales tax on the item when it is purchased. If the hotel did not pay the proper amount of Wisconsin sales tax when the item was purchased, the hotel is responsible for the Wisconsin use tax due on the purchase price of the item being given away.

4. Meals for Employees

The taxability of food, food products, beverages, and disposable items purchased by hotels and given to employees for free is the same as discussed in Parts III.B.2. and 3. on page 8.

5. Tangible Personal Property Which Will Be Rented to Others

Purchases of tangible personal property which will be used **only** for rental to others are **not** subject to Wisconsin sales and use tax. Examples of such items include audio-visual equipment, bicycles, canoes, rafts, skis, fishing poles, recorders, and tapes.

Note: If an item is not used **only** for rental to others (e.g., the hotel provides the item at no additional charge or uses the item itself), the purchase of the item is subject to Wisconsin sales or use tax. In addition, the rental receipts from this item are also subject to Wisconsin sales tax.

Example — Item Being Rented and Also Used By Hotel:

Hotel D purchases a video cassette recorder (VCR) which will be used by its employees for training purposes and also for rental to others. Since the VCR is not being used only for rental to others, Hotel D's purchase of the VCR is subject to Wisconsin sales or use tax. In addition, Hotel D's receipts from renting the VCR to others are also subject to Wisconsin sales tax.

IV. ANY QUESTIONS?

If you have questions about sales and use taxes or local exposition taxes, call or visit any Department of Revenue office or write to the Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902.

V. ANY SUGGESTIONS?

The Department of Revenue wants this publication to be as complete and informative as possible. If you have any suggestions to improve this publication, please either call or write to:

Attn: Administration Technical Services
Wisconsin Department of Revenue
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