

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100174	Occasional Sale Exemption - Common Questions

State of Wisconsin
Department of Revenue

Occasional Sale Exemption

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. What is the occasional sale exemption?
2. What change was made to the occasional sale exemption, effective January of 2018?
3. If my sales qualify for the occasional sale exemption, can I still purchase the products that I sell without tax, for resale?
4. If I expect to have less than \$2,000 in sales of taxable products or services in the upcoming year, should I cancel my seller's permit?
5. If I cancel my seller's permit in one year, but my next year's sales are \$2,000 or more, what should I do?
6. If I do not hold a seller's permit, and I make isolated and sporadic sales of \$2,000 or more, am I liable for tax on all of my sales?

1. **What is the occasional sale exemption?**

Occasional sales of taxable products and services by a person who does not hold and is not required to hold a seller's permit may be exempt from Wisconsin sales tax. For example, an individual who holds a garage sale may qualify for the occasional sale exemption on his or her sales if the individual is not pursuing a vocation, occupation, or business as a vendor of taxable products.

2. **What change was made to the occasional sale exemption, effective January of 2018?**

Starting with sales in 2018, a seller who has less than \$2,000 in sales of taxable products or services in a calendar year is not required to hold a seller's permit. The law change presumes the seller is not pursuing a vocation, occupation, or business as a vendor of taxable products if that vendor's sales of taxable products or services do not exceed \$2,000 in a year. Previously, the threshold was \$1,000 in sales of taxable products or services in a year.

3. **If my sales qualify for the occasional sale exemption, can I still purchase the products that I sell without tax, for resale?**

No. If your sales are exempt occasional sales, you must pay tax on your purchase of the products that you sell.

4. If I expect to have less than \$2,000 in sales of taxable products or services in the upcoming year, should I cancel my seller's permit?

You may want to review whether you expect to have less than \$2,000 in taxable sales for the current calendar year. If you expect that your sales of taxable products and services will be less than \$2,000, you may inactivate your seller's permit. You will then be required to pay tax on your purchase of the products that you sell (i.e., if you qualify for the occasional sale exemption, you may not purchase the products that you sell without tax, for resale). You should use caution, however, when inactivating your seller's permit. If your sales exceed the \$2,000 threshold, you are liable for tax on all of your sales, including your first \$2,000 of sales.

If you do not inactivate your seller's permit, your sales are subject to tax, even if your taxable sales for the current calendar are less than \$2,000. If you hold, or are required to hold, a seller's permit, your sales are subject to sales tax. You may not retroactively cancel your seller's permit for purposes of claiming the occasional sale exemption.

5. If I cancel my seller's permit in one year, but my next year's sales are \$2,000 or more, what should I do?

If your sales are \$2,000 or more, you are liable for tax on all of your sales, including your first \$2,000 of sales. You must reactivate your account.

6. If I do not hold a seller's permit, and I make isolated and sporadic sales of \$2,000 or more, am I liable for tax on all of my sales?

If you are not in the full or part-time business of selling taxable products or services and make isolated and sporadic sales of \$2,000 or more, your sales may qualify for the occasional sale exemption. For example, an accountant who does not make sales of taxable products or services replaces its office furniture. The accountant sells its old office furniture for \$3,000, which is its only sale of taxable products and services in that year. The accountant's sale of the office furniture qualifies for the occasional sale exemption, since its sale of taxable products is isolated and sporadic.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of February 20, 2020: Sections 73.03, 77.51, 77.52 and 77.54, Wis. Stats., and secs. Tax 11.002 and 11.33, Wis. Adm. Code.

Laws enacted and in effect after February 20, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to February 20, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2) (a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

MS 5-77

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