

**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
100213	Use Tax - Common Questions

State of Wisconsin
Department of Revenue

Use Tax

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 Wisconsin use tax?
2. What if I already paid tax in another state?
3. What is taxable?
4. What is the use tax rate?
5. What are the special county tax rules?
6. What must I do if I buy taxable goods or services from an out-of-state mail-order company, television shopping channel, Internet seller, or Internet auction service and no Wisconsin tax is charged by the vendor?
7. Can an out-of-state business such as a mail-order company collect Wisconsin use tax on taxable goods that are mailed or delivered into Wisconsin?
8. Is a taxable service performed in another state subject to use tax?
9. Is there a convenient way to keep track of my taxable purchases during the year?
10. On what amount should the use tax be calculated?
11. How do I pay use tax?
12. What will happen if I don't pay the use tax I owe?

1. **What is the Wisconsin use tax?**

Use tax is the counterpart of sales tax. Use tax must be paid when Wisconsin sales tax (state, county, and stadium) is not charged and no exemption applies. If you purchase taxable items from retailers who do not collect Wisconsin sales tax or bring taxable items into Wisconsin from other states or foreign countries, you owe use tax.

2. **What if I already paid tax in another state?**

Wisconsin allows a credit, for sales tax properly paid in another state, against use tax due. If you properly paid sales tax in another state, the sales tax paid may be used to offset the Wisconsin use tax due. See Wisconsin Tax Bulletin [#157](#), page 28 for further information. **Note:** Foreign taxes and customs duty charges are not eligible for this credit.

3. What is taxable?

All goods and services that are taxable under Wisconsin's sales tax law are also subject to use tax. Use tax only applies when sales tax is not paid. The following types of purchases are subject to use tax: out-of-state, mail-order catalog, television shopping, auction, toll-free "800" and internet purchases.

Examples of taxable items include automobiles, appliances, clothing, cigarettes, furniture, jewelry, DVDs, ring tones, computers, prewritten computer software, and music or video downloads. Examples of taxable services include repair services to your motor vehicle, television, or computer.

4. What is the use tax rate?

The state use tax rate is 5% and if the item purchased is used, stored or consumed in a county that imposes county and/or stadium tax, you must also pay an additional 0.5% (county tax) and/or 0.1% (baseball stadium district tax - this tax ends on March 31, 2020). See the total sales and use tax rate for each county.

Rate Boundary	Tax Rate
State	5.0%
County	0.5%
Baseball stadium district	0.1%

Example: You have a camera shipped to your home in Dane County. The use tax rate is 5.5% (5% state tax plus 0.5% Dane County tax).

The baseball stadium district is comprised of Milwaukee, Ozaukee, Racine, Washington, and Waukesha counties. The baseball stadium district tax ends on March 31, 2020.

Click [here](#) for more information on the county and stadium sales and use taxes.

5. What are the special county tax rules?

Generally, if an item is purchased in a county that has not adopted the county tax and is later brought to a taxable county where it is used, stored, or consumed, the purchase is not subject to the county use tax.

Exceptions: Construction materials, titled items and certain purchases by nonresidents:

- *Construction* materials purchased in a county that has not adopted the county tax and later used to improve real property in a county that has adopted the county tax, are subject to county use tax. For more information, see Wisconsin Tax Bulletin [#157](#) or Publication [#207](#), Sales and Use Tax Information for Contractors.

- *Purchases of motor vehicles, boats, recreational vehicles as defined in sec. 340.01(48r), Wis. Stats., and aircraft* are taxed, for county and stadium sales and use tax purposes, based on the county in which the item is customarily kept.
- *Purchases of snowmobiles, trailers, semi-trailers, all-terrain vehicles, utility terrain vehicles, and off-highway motorcycles* are taxed, for county and stadium sales and use tax purposes, based on where the buyer receives possession of the items.
- *Sales of motor vehicles, aircraft and truck bodies (including semitrailers) to nonresidents* who do not use the property other than to remove it from Wisconsin, are exempt from Wisconsin sales and use tax.
- *Sales of boats, recreational vehicles as defined in sec. 340.01(48r), Wis. Stats., snowmobiles, trailers, all-terrain vehicles, utility terrain vehicles, and off-highway motorcycles to nonresidents* are subject to Wisconsin sales and use tax.

For more information, see [Reporting Sales Tax on Sales of Motor Vehicles, Boats, Snowmobiles, Recreational Vehicles, Trailers, Semitrailers, All-Terrain Vehicles, and Aircraft](#).

6. What must I do if I buy taxable goods or services from an out-of-state mail-order company, television shopping channel, internet seller, or internet auction service and no Wisconsin tax is charged by the vendor?

If you buy the goods or services for use in Wisconsin, you must report and pay the use tax as explained in [Question 11](#) below.

7. Can an out-of-state business such as a mail-order company collect Wisconsin use tax on taxable goods that are mailed or delivered into Wisconsin?

Yes. If the business has registered to collect Wisconsin use tax, it must collect the tax from you. If the business is not registered, then you must report and pay the tax yourself.

- Prior to October 1, 2018 - When an out-of-state retail business has a physical presence (such as a store or warehouse) in Wisconsin, it is required by law to register and collect Wisconsin tax. However, mail order and Internet companies and others who advertise in Wisconsin, but do not have a physical presence in Wisconsin, may not be required to register and collect Wisconsin tax. Some out-of-state businesses register and collect use tax as a courtesy to their customers.
- October 1, 2018 and thereafter - Wisconsin requires remote sellers to collect and remit sales or use tax on sales of taxable products and services in Wisconsin. However, certain small sellers may not be required to register and collect Wisconsin tax. New standards for administering sales tax laws on remote sellers have been developed by rule. The rule is consistent with the Court's decision in *Wayfair*, which approved a small seller exception for sellers who do not have annual sales of products and services into the state of (1) more than \$100,000, or (2) 200 or more separate transactions. Effective December 16, 2018, Wisconsin sales and use tax statutes were amended (2017 Wis. Act 368) to provide the small seller exception by law, consistent with the Court's decision in *Wayfair* and the rule.

Note: The small seller exception does not apply to sellers with a physical presence in Wisconsin.

For additional information, see the department's web page for [Remote Sellers – Wayfair Decision](#).

8. **Is a taxable service performed in another state subject to use tax?**

It can be. For example, a Wisconsin resident sends a watch to another state for repair. The watch is repaired and shipped back to the Wisconsin resident. The retailer does not charge tax. The Wisconsin resident owes use tax on the total repair charge (including shipping charges billed by the retailer). Although the repair was performed outside of Wisconsin, the Wisconsin resident took possession of the service in Wisconsin.

9. **Is there a convenient way to keep track of my taxable purchases during the year?**

Yes. The Wisconsin Department of Revenue has developed a free [Use Tax Calculator](#) (in an Excel spreadsheet) to help individuals and businesses track and calculate use tax owed to Wisconsin. The spreadsheet can be used by persons who have some type of spreadsheet software on their computers (Excel, QuatroPro, etc.).

10. **On what amount should the use tax be calculated?**

Calculate the use tax by multiplying the total cost of the taxable goods or services purchased, including separately stated charges such as shipping and handling, by the tax rate.

11. **How do I pay use tax?**

Individuals have two options for paying Wisconsin use tax.

- Individuals can pay use tax on their [Wisconsin income tax return](#) (Form 1, 1A, WI-Z, or 1NPR). A line entitled "Sales and use tax due on out-of-state purchases" on Wisconsin income tax returns allows individuals to report their annual use tax liability, or
- Individuals can report and pay use tax quarterly on the [Wisconsin Form UT-5](#), Consumer Use Tax Return.

Businesses have two options for paying Wisconsin use tax.

- A business can pay use tax on its Wisconsin sales and use tax return, or
- A business can report and pay use tax quarterly on a [Wisconsin Form UT-5](#), Consumer Use Tax Return.

12. **What will happen if I don't pay the use tax I owe?**

If you don't pay the use tax you owe, you may be subject to interest and penalties in addition to the use tax.

The department audits businesses and enters into agreements with other states to ensure that use tax owed by individuals and businesses on out-of-state purchases is remitted to the department.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of February 19, 2020: Sections 73.03, 77.51, 77.52, 77.522, 77.524, 77.53, 77.54, 77.58, 77.60, 77.61, 77.70, 77.705, 77.71, 77.72, 77.73 and 340.01, Wis. Stats., and secs. Tax 11.001, 11.01, 11.50, 11.66 and 11.945, Wis. Adm. Code.

Laws enacted and in effect after February 19, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to February 19, 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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Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

Guidance Document Number: 100213

February 19, 2020

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