

Sales and Use Tax Information for Contractors

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IMPORTANT CHANGES

- **Business tax registration.** The Application for Permit has been replaced by the Application for Business Tax Registration (Form BTR-101). Information is added regarding online registration. Pages 2 and 3
- **Communications equipment.** Computer cabling is added to the list of communications equipment. Page 4
- **Foundations and building supports.** Information is added to clarify that foundations and building supports for material handling equipment and other machines do not retain their character as tangible personal property when installed. Pages 5 and 7
- **Service station equipment.** Piping from the underground tank to the dispenser retains its character as tangible personal property and is being removed from this section. See *Wisconsin Tax Bulletin 103*, page 41. Page 7
- **Retaining walls.** The word “nondecorative” is removed. Retaining walls are real property regardless of whether decorative or not. Page 7
- **Minor tangible personal property sold with real property contract.** Information is added to clarify how gross receipts subject to sales tax can be allocated when a few items of tangible personal property are sold as part of a real property construction contract. Pages 8 and 19
- **Property deemed tangible personal property.** As a result of a law change, the phrase “office, restaurant, and tavern-type equipment” has been changed to “equipment in offices, business facilities, schools, and hospitals (but not in residential facilities including personal residences, apartments, long-term care facilities, as defined under sec. 16.009(1)(em), Wis. Stats., state institutions, as defined under sec. 101.123(1)(i), Wis. Stats., Type 1 secured correctional facilities, as defined in sec. 938.02(19), Wis. Stats. or similar facilities).” Pages 9 and 25
- **Waste treatment facilities.** Due to a law change, there is no longer a requirement that an industrial waste treatment facility (except utilities) be approved for property tax exemption prior to claiming a sales or use tax exemption. See

sec. Tax 11.11, Wis. Adm. Code (November 2002 Register) for the current tax treatment. Page 10

- **County tax.** There are 58 counties that have adopted the county tax. Added to the list of counties with a tax are: Grant (4/1/02), Green (1/1/03), Lafayette (4/1/01), Marinette (10/1/01), and Wood (1/1/04) Counties. Page 13
- **Construction for Native American Tribes.** Information is added to clarify the exemption that applies to building materials used in real property construction activities for a Tribe on the Tribe’s reservation. Page 15
- **Credit for tax paid to other states.** Information is added to explain the credit. Page 17
- **Overhead expenses.** Information is added to explain the treatment of separately stated charges for overhead and other expenses. Page 19
- **Department offices.** The Department of Revenue offices in Manitowoc, Marshfield, Monroe, Rice Lake, Racine, Watertown, Waupaca, and West Bend have been closed. A few offices have had changes in addresses and telephone numbers. Pages 20 and 21

I. INTRODUCTION

A. General

This publication explains how the Wisconsin state, county, and stadium sales and use tax affects contractors.

This information generally relates to the state’s 5% sales and use tax, however, it may also apply to the 0.5% county and 0.1% and 0.5% stadium sales and use taxes. Parts IV.C and D contain information about the county and stadium taxes. Additional information about the county and stadium taxes is in Publication 201, which is available from any department office.

The Department of Revenue has offices located throughout Wisconsin to help you. If you have questions, write to the Department of Revenue in Madison or call or visit any department office listed in Part VIII of this publication.

CAUTION

The information in this publication reflects interpretations by the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of September 1, 2004. Laws enacted after this date, new administrative rules, and court decisions may change the interpretations in this publication.

B. Difference Between the Wisconsin Sales and Use Tax

Sales Tax: The Wisconsin sales tax is a 5% tax imposed on the gross receipts of persons who sell, lease, or rent tangible personal property or taxable services at retail in Wisconsin. Generally, a sale of personal property is at retail unless the buyer purchases the property for the purpose of reselling it.

When sales tax is imposed on taxable services, both material and labor charges are subject to the tax. For example, the charges for both labor and parts for repairing a window air conditioner are taxable.

Charges for improvements to real estate are not subject to sales tax on either materials or labor. However, in most instances, the contractor must pay sales or use tax on the cost of materials consumed in constructing real property improvements.

The contractor must determine whether the charges are for real estate improvements (nontaxable) or for tangible personal property (taxable). This is explained in greater detail in Part II of this publication.

Use Tax: The Wisconsin use tax is a 5% tax imposed on the sales price of tangible personal property or taxable services that are used, stored, or consumed in Wisconsin, upon which a Wisconsin sales or use tax has not previously been paid.

Example: A use tax is imposed upon a purchaser when property is purchased without tax for resale, but then is used by the purchaser and not resold.

Example: A use tax is imposed upon a purchaser when property is purchased from an out-of-state seller, no Wisconsin tax is charged by the seller, and the property is consumed in real property construction in Wisconsin.

Example: A use tax is imposed upon a purchaser when property is purchased from an out-of-state seller, no Wisconsin tax is charged by the seller, and the property is stored in Wisconsin, even though it is subsequently consumed in real property construction outside Wisconsin.

C. Tax Rate

The tax rate of 5% is the same for both the Wisconsin state sales tax and use tax. The sales tax is based upon gross receipts from retail sales. The use tax is based upon the sales price of the property or service purchased. If a sale is subject to the 0.5% county tax, the tax rate is 5.5% (5% state tax and 0.5% county tax). If the sale is subject to the 0.1% baseball stadium tax, the tax rate is 5.1%, or 5.6% if county tax applies. If the sale is subject to the 0.5% football stadium tax, the tax rate is 5.5% (5% state tax and 0.5% football stadium tax).

D. Registration

1. Seller's Permit

Every person desiring to engage in the business of selling taxable tangible personal property or services in Wisconsin must apply for a seller's permit. The seller's permit shows that a retailer is properly registered with the Department of Revenue, as required by law. It is a misdemeanor to sell taxable property or services without a seller's permit.

2. Use Tax Registration

- If a contractor is not required to hold a seller's permit, but regularly has a use tax obligation because purchases are made without tax, the contractor should apply for a Consumer's Use Tax Certificate.
- Contractors from other states whose only activity in Wisconsin is real property construction also must obtain a Consumer's Use Tax Certificate.
- Contractors from other states engaged in both real property construction and the sale, installation, repair, or other service of tangible personal property in Wisconsin must obtain a Use Tax Certificate.

3. Application

A person may apply for a seller's permit or one of the use tax certificates described in 2. above using one of the following methods:

- Complete Form BTR-101, Application for Business Tax Registration, and mail it to the Department of Revenue. Form BTR-101 may be obtained from any Department of Revenue office or online at www.dor.state.wi.us/forms/sales/index.htm.
- Use the Department of Revenue's on-line registration system and submit your application electronically. Go to <https://w2.dor.state.wi.us/GenericFile/application?interview=1086489>.

You should apply at least three weeks before your business operations begin.

4. Business Tax Registration Fees

Persons applying for a seller's permit or use tax certificate may be required to pay a Business Tax Registration (BTR) fee of \$20. The \$20 BTR fee is not required for a Consumer's Use Tax Certificate. The initial BTR fee covers a period of two years. At the end of that period, a \$10 BTR renewal fee applies. The Department of Revenue will send a renewal notice.

E. Filing Tax Returns and Payment of Tax

Every holder of a Seller's Permit, Use Tax Certificate, or Consumer's Use Tax Certificate must file a return for each reporting period. A reporting period may be monthly, quarterly, or annually, depending on the person's annual tax liability. The Department of Revenue will notify each person of their reporting period and the due date for filing returns.

II. CONTRACTORS MUST DISTINGUISH BETWEEN REAL PROPERTY AND PERSONAL PROPERTY

A. Why?

A contractor must first determine whether it is:

1. Selling or servicing tangible personal property.

2. Engaging in real property construction activities.

The contractor's sales and purchases are taxed differently under each of these two situations.

B. Contractor As a Retailer

1. When Is a Contractor a Retailer?

A contractor is a *retailer* when:

- a. Selling or servicing tangible personal property or installing property which remains personal property after installation.
- b. Performing services to real estate which is ordinarily considered real property, but is deemed to have retained its character as personal property for repair and maintenance purposes (sec. 77.52(2)(a)10, Wis. Stats.).

If a contractor is a retailer, it must obtain a seller's permit, file tax returns (Form ST-12), and pay the sales tax on its **gross receipts** from the retail sale of tangible personal property or taxable services unless an exemption applies.

Example: A contractor repairs a furnace in a customer's residence for \$100. The \$100 is subject to sales tax.

2. Purchases by a Contractor Who Is a Retailer.

The contractor may **purchase** without sales or use tax the property sold and physically transferred to the customer in the installation, repair, or servicing of **tangible personal property**. This is done by issuing an exemption certificate claiming resale to the supplier of such property. When the contractor resells the property or uses it in the repair or servicing of tangible personal property, the contractor must report the sale on its return and is liable for sales tax based on the sales price to the customer, unless an exemption applies.

Example: A contractor purchases furnace parts which will be used in repairing furnaces in residences. These parts may be purchased from the supplier without tax by giving the supplier a properly completed exemption certificate claiming resale.

3. Examples – Contractor As a Retailer

Listed below are examples of when a contractor is a retailer and should charge tax, unless an exemption applies.

- a. Selling lumber, roofing materials, etc., without installation.
- b. Repairing, altering, fitting, cleaning, painting, coating, inspecting, maintaining, or providing other services to tangible personal property.
- c. Repairing, altering, fitting, cleaning, painting, coating, inspecting, maintaining, or providing other services to certain property which is considered to retain its character as tangible personal property after installation, regardless of the extent to which any such item is fastened to, connected with, or built into real property, and regardless of whether such property is considered to be real property for other purposes (sec. 77.52(2)(a)10, Wis. Stats.). See Part III.A. for a description of such property.
- d. Performing landscaping and lawn maintenance services, including landscape planning and counseling, and lawn and garden services such as planting, mowing, spraying, fertilizing, and shrub and tree services. See Part III.B. for additional information regarding landscaping and lawn maintenance services.
- e. Selling or installing property which remains personal property after installation. This includes:

Acoustical panels used as office partitions, which are not attached to the floor or any part of the building.

Above ground prefabricated fuel storage tanks constructed in a factory and transported to a job site.

Air handling equipment, including blowers, dust collectors, exhaust equipment, and air washers, used directly with a single machine or a specific process such as paint spraying or welding.

Amusement rides and recreational equipment, including giant amusement slides, ski lift facilities, water rides, and space towers, except their concrete foundations.

Catwalks and platforms providing access to a machine or equipment.

Communication equipment in offices, business facilities, schools, and hospitals (but not in residential facilities including personal residences, apartments, long-term care facilities, as defined under sec. 16.009(1)(em), Wis. Stats., state institutions, as defined under sec. 101.123(1)(i), Wis. Stats., Type 1 secured correctional facilities, as defined in sec. 938.02(19), Wis. Stats., or similar facilities), including:

- intercoms and sound paging systems
- pneumatic tube systems
- telephone and other communication equipment
- music and sound equipment
- public address systems
- nurse call systems
- cable television (CATV) dishes and accessories
- computer cabling

Concrete provided to contractors at the job site which merely requires delivery, whether to separate receptacles or forms.

Equipment for the wind generation of electricity by a business, except for the concrete foundations.

Fabrication of precast steel piling by a fabricator, who delivers it to the job site, where it is placed by another contractor.

Farm irrigation systems, including pumps, power units to drive the pumps, transmission units, sprinkler devices, and sectional piping. (This does not apply to underground installa-

tions at a golf course or other nonfarm locations.)

Furniture, radios, television sets, antennas, washers, dryers, portable lamps, home freezers, portable appliances, and window air conditioning units.

Materials handling equipment, including storage rack systems installed for business use, except foundation and supports to the building.

Office, bank, and savings and loan furniture and equipment, including office machines, safe deposit boxes, drive-up and walk-up windows, night depository equipment, remote TV auto teller systems, camera security equipment monitoring business activity within a building, and vault doors.

Personal property used to carry on a trade or business, including fixtures and equipment installed in stores, factories, laboratories, schools, hospitals, taverns, night clubs, restaurants, ice arenas, bowling centers, hotels and motels, barber and beauty shops, figure salons, theaters, and gasoline service stations but not in residential facilities including personal residences, apartments, long-term care facilities, as defined under sec. 16.009(1)(em), Wis. Stats., state institutions, as defined under sec. 101.123(1)(i), Wis. Stats., Type 1 secured correctional facilities, as defined in sec. 938.02(19), Wis. Stats., or similar facilities). This includes:

- cabinets not affixed to real estate and cabinets affixed to real estate in a doctor's office, motel room, or other business operation which are used to carry on the trade or business. However, cabinets in public restrooms are not considered tangible personal property when installed because they are not used to carry on a trade or business.
- counters, refrigerated display cases, and condensing units, shelving, and registers in a retail store
- theater's stage lights, projection equipment, and seating

- hoists, gasoline dispensers, car wash equipment, air compressors, and above ground product tanks at a service station (underground product tanks are realty improvements)

School equipment, including:

- factory prefab chalk or tack boards
- folding or portable bleachers
- library tables, desks, shelving, and counters
- classroom tables, desks, and chairs
- fixed seats, or seats and tables for auditoriums and lecture rooms
- cabinets for art, home economic, and music rooms
- trophy and display cases
- movable wardrobes and lockers
- portable coat racks
- gym equipment, including basketball backboards
- food service equipment
- stage equipment
- drapery and drapery tracks

Traffic and railroad signals

Trees, plants, and shrubs in containers in a commercial building.

Venetian blinds, draperies, and drapery rods, even though custom made and installed by the contractor.

Note: Persons installing property in jails should contact the department for more information on what remains tangible personal property when installed.

- f. Installing, altering, repairing, or servicing trade fixtures in commercial establishments

(stores, factories, taverns, night clubs, restaurants, ice arenas, bowling centers, hotels, motels, barber and beauty shops, figure salons, theaters, motor vehicle service stations, etc.). This includes:

Examining a faulty portable conveyor in a retail establishment and replacing a motor.

Examining, tightening, and demoinsturizing all contacts on hoist controls in a service station.

Locating a short and replacing wiring between the starter and motor on a grain bin conveyor.

Replacing a defective ballast in a lamp in an office.

Caution: Installing, altering, repairing, or servicing fixtures and equipment in residences and other residential structures may be considered to be realty improvements and not subject to tax.

Note: Attachment I beginning on page 23 provides more details on repairing or installing items in commercial establishments as compared to doing similar work in residential buildings.

C. Contractor As a Consumer

1. When Is a Contractor a Consumer?

A contractor is a consumer of tangible personal property when engaged in real property construction activities, such as improving, altering, installing, repairing, or otherwise servicing real property. See Part III for exceptions.

“Real property construction activities” means activities that occur at a site where tangible personal property that is applied or adapted to the use or purpose to which real property is devoted is affixed to that real property, if the intent of the person who affixed the property is to make a permanent accession to real property. “Real property construction activities” do not include affixing to real property tangible personal property that remains tangible personal property after it is affixed.

2. Paying Tax on Purchases.

In most instances, the contractor will pay a sales or use tax on its **purchases** of property consumed in real property construction activities. When a contractor is a consumer, its **gross receipts** from labor and material related to real property construction activities are **not** subject to sales tax.

Note: A contractor who performs a real property construction activity is not permitted to collect the tax from customers because the tax is imposed on the sale of the materials to the contractor. The tax increases the cost of the contractor’s building materials and, presumably, in negotiating the contract, the tax on the contractor’s purchases will be taken into consideration as a cost of doing business.

Example: A contractor is installing a furnace in a customer’s residence. The contractor is the consumer of the furnace and must pay sales or use tax on its purchase of the furnace. The contractor’s charge to the customer for labor and materials in installing the furnace is not subject to tax.

If the contractor does not pay sales tax on purchases of tangible personal property, the contractor must pay use tax directly to Wisconsin. For example, a contractor’s billing for both labor and materials for installing a furnace in a house is not subject to sales tax. However, the contractor should have (1) paid sales tax to its supplier when purchasing the sheet metal, furnace, and other materials used in installing the new furnace in the house, or (2) paid use tax directly to Wisconsin on materials not subject to sales tax used in installing the new furnace.

If the contractor knows which materials are to be used in real property construction activities, the contractor must pay the sales tax on such purchases.

If the contractor is both a retailer because it has taxable gross receipts and a consumer of items used in improving realty, and does not know at the time of purchase how the materials will be used, special rules apply. See Part V.C. for those rules.

3. Examples – Contractor As a Consumer.

The following examples illustrate when a contractor is a consumer in a real property activity. The contractor's gross receipts from this activity are not subject to the sales tax. However, the contractor must pay a sales or use tax on its cost of materials consumed in such activity.

a. Constructing buildings and structural components and other improvements to buildings. This includes the roof, walls, floors, ceiling, and partitions which are attached to the realty, as well as the permanent covers for walls, such as paneling or tile. Other building components are:

- central air conditioning and space heating systems, including furnaces, boilers, motors, compressors, pipes, ducts, and solar collectors
 - general wiring and lighting facilities
 - plumbing and plumbing fixtures, such as septic tanks, restroom sinks and cabinets, lavatories, and bathtubs
 - shutters, windows, doors, door controls, and air curtains
 - inlaid carpeting
 - stairs, stair lifts, escalators, elevators, and related equipment essential to their operation
 - household furnace additions such as a flue damper, humidifier, or stack pack
 - loading platforms
 - awnings, canopies, and patio covers providing shelter
 - built-in household items such as kitchen cabinets, dishwashers, fans, garbage disposals, and incinerators
 - catwalks that provide access to various sections and levels of the building, serving the function of stairways and hallways
 - energy management systems used to control the lighting, heating, or cooling of the building
 - flooring, including computer room floors
 - insulating or weather stripping in a building
 - paint spray booth or walk-in cold storage units if one wall is a wall of the building
 - sculptured works of art which become a component part of a building, such as a mosaic tile mural affixed to a wall
 - an intercommunication system in a residence
 - blowers, exhaust equipment, and air-washers used to remove smoke, dust, and fumes from the air in a building or room of a building
 - concrete foundations and building supports, including foundations for manufacturing or processing machinery and equipment
 - silos, grain elevators, and buildings used to store grain
- Example:* A one story structure specifically designed for the storage of grain, which is constructed of corrugated steel panel sides, has a pitched metal roof, and is built on a concrete foundation.
- underground gasoline storage tanks used by a retail service station
 - radio, television, and CATV broadcasting or receiving towers constructed of steel and anchored to a concrete base on the owner's land
- b. Constructing land improvements such as walls, roads, walks, bridges, fences, retaining walls, railway tracks, ponds, dams, ditches, wells, nonfarm underground irrigation systems, drainage, storm, and sanitary sewers, and water supply lines for drinking water, sanitary purposes, and fire protection. Other

land improvements or items considered real property construction activities are as follows:

- large fuel storage tanks constructed on the site
- fixed (year-round) wharves and docks
- swimming pools either partially or wholly underground
- cemetery monuments
- street and parking lot lighting
- truck platform scale foundations
- paved parking areas and yard bumpers
- logging truck roads
- building demolition work

D. Contractor May Act As Both Retailer and Consumer on Same Job

A contractor may be both a retailer and consumer when engaged in personal property and real property activities on the same job. Examples are:

1. A contractor wires a new warehouse and also installs conveyors within the warehouse. The contractor's charge for installing the conveyor is a retail sale subject to sales tax because this is a personal property activity. The charge for wiring from the conveyor to the power source is not taxable because this is a real property activity.
2. A contractor installs a new frozen food counter in a supermarket and also installs wiring from the power source to an outlet. The new line from the power source to the outlet is a real property improvement; thus, the contractor's charges for labor and material in installing the wiring are not taxable. The charge for installing the counter and the wiring from the counter to the outlet is a retail sale subject to sales tax.

If a few items of tangible personal property or taxable services, minor in cost in relation to the total amount of a contract, are sold as part of a contract which includes construction of a building or other structure and

no separate charge is made in any documents provided to the customer for the personal property or taxable services (e.g., contract, contract addendum or appendix, etc.), the cost of the property or taxable services to the construction contractor shall be used as the measure of gross receipts subject to sales tax. If a separate charge is made for any of the tangible personal property or taxable services, the separate charge is subject to the tax, unless an exemption applies.

Note: Refer to Part V.C. for tax treatment of purchases of materials.

III. EXCEPTIONS TO PART II

There are four exceptions to the general sales and use tax treatment of items described in Part II. These exceptions are:

- A. Property deemed personal property for repair and maintenance purposes. These items are treated as personal property for purposes of imposing sales tax on repair and maintenance services even though they may be real property when originally installed or replaced.
- B. Landscaping and lawn maintenance services. These services are subject to sales tax even though they may involve real property improvements.
- C. Waste treatment facilities. Property may be purchased without tax by a contractor even though it is used in this real property improvement.
- D. Professional sports and entertainment home stadiums. Property may be purchased without tax by a contractor even though it is used in this real property improvement.

Explanations of these exceptions follow.

A. Property Deemed Personal Property for Repair and Maintenance Purposes

Charges for both labor and materials for repairing, altering, fitting, cleaning, painting, coating, inspecting, maintaining, or servicing the items listed below are taxable, regardless of whether the service may be considered an addition to or a capital improvement of real property and even though the original installation may

have been a real property improvement. Such items are:

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|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>air conditioners awnings bar equipment bathroom fixtures blinds boilers burglar alarm and fire alarm fixtures carpeting and rugs clothes dryers clothes washers coolers dehumidifiers dishwashers electric clocks electronic dust collectors electric signs freezers furnaces furniture and furnishings garbage disposal units gas and electric logs grills and rotisseries heat lamps heaters humidifiers incinerators intercoms jukeboxes laundry, dry cleaning, and pressing machines equipment in offices, business facilities, schools, and hospitals (but not in residential facilities including personal residences, apartments, long-term care facilities, as defined under sec. 16.009(1)(em), Wis. Stats., state institutions, as defined under sec. 101.123(1)(i), Wis. Stats., Type 1 secured correctional facilities, as defined in sec. 938.09(19), Wis.</p> | <p>Stats. or similar facilities), including by way of illustration but not of limitation: beverage making equipment canvas awnings chandeliers compressors condensing units evaporative condensers fans ice and milk dispensers lamps office and business machines pneumatic conveying systems soda fountains steam warmers and tables vending machines venetian blinds Note: Some of these items may be tangible personal property in residences. See Part II.A.3 on pages 4 and 5. ovens (including associated hoods and exhaust systems) power tools radios and radio antennas record players recreational, sporting, gymnasium, and athletic goods and equipment including by way of illustration but not of limitation: bowling alleys golf practice equipment pool tables</p> |
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| <p>punching bags ski tows swimming pools refrigerators sinks stoves tape players</p> | <p>television receivers and antennas vacuum cleaners water conditioners and softeners water heaters water pumps</p> |
|--------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------|

B. Landscaping and Lawn Maintenance Services

The following services are taxable regardless of whether performed on lawn or garden areas, including residential, business, commercial, and industrial areas, cemeteries, golf courses, athletic fields, and stadiums, as well as when performed in parking lot areas, near or adjacent to a building, and along highways, streets, and walkways:

- Landscaping services, including landscape planning and landscape counseling.
- Lawn maintenance services and other lawn services, including planting, sodding, mowing, raking, weeding, thatching, spraying, and fertilizing lawns.
- Garden services, including plowing, rototilling, planting, spraying, fertilizing, and weeding.
- Shrub and tree services, including planting, bracing, fertilizing, spraying, pruning, trimming, surgery, and removal of shrubs, stumps, and trees.

These services are taxable, regardless of whether performed by landscapers, architects, construction contractors, or other persons. Although some of the above services also involve realty improvements, the services are still taxable. For example, the sale and laying of sod for \$1,000 may ordinarily be considered a realty improvement. However, the total charge of \$1,000 is deemed to be a sale of a taxable service and tangible personal property and is subject to the sales tax.

For additional information regarding the sales and use tax treatment of landscaping and lawn maintenance services, contact any Department of Revenue office and ask for Publication 210, "Sales and Use Tax Treatment of Landscaping."

C. Waste Treatment Facilities

1. Exemption

Tangible personal property which becomes a component part of a utility, industrial, or governmental waste treatment facility is exempt from sales and use tax (sec. 77.54(26), Wis. Stats.).

Section Tax 11.11, Wis. Adm. Code, entitled “Waste treatment facilities (industrial and governmental),” provides more information on this subject.

2. Industrial Facilities

An industrial waste treatment facility is any property taxed under ch. 70, Wis. Stats., that is built, constructed or installed as a unit used for the treatment of liquid or other wastes resulting from any process of industry, manufacture, trade, business or the development of any natural resource. Tangible personal property becoming a component part of an industrial waste treatment facility is exempt from Wisconsin sales and use tax if the facility qualifies for property tax exemption under sec. 70.11(21)(a), Wis. Stats.

It is not necessary for an industrial facility or contractors engaged in constructing a waste treatment facility for an industrial customer to obtain Department of Revenue approval that the facility qualifies for the property tax exemption prior to claiming the sales or use tax exemption. However, contractors or subcontractors may be liable for sales and use tax on a purchase of tangible personal property that becomes a component part of a facility that is determined to not qualify for a waste treatment facility property tax exemption under sec. 70.11(21)(a), Wis. Stats.

Refer to sec. Tax 12.40, Wis. Adm. Code, for information related to the property tax exemption for industrial waste treatment facilities. For more information regarding the property tax exemption for industrial waste treatment facilities of manufacturers, write or call the district office of the Wisconsin Department of Revenue, Bureau of Manufacturing and Telco Assessments. To locate the district office, write or call Wisconsin Department of Revenue, Bureau of Manufacturing and Telco Assessment, P.O. Box 8971, Madison, WI 53708-8971; telephone (608) 266-1147. The

web site is www.dor.state.wi.us/contact/slfbmta. To ascertain whether a nonmanufacturing property would be exempt under sec. 70.11(21), Wis. Stats., owners may refer to the Wisconsin Property Assessment Manual or contact the local property tax assessor. Contact information is available at www.dor.state.wi.us/html/assrlist.pdf.

3. Utility Facilities

If a utility waste treatment facility qualifies for the property tax exemption under sec. 76.02(10), Wis. Stats., as approved by the Department of Revenue, the facility also qualifies for the sales and use tax exemption.

Contractors shall determine whether a utility waste treatment facility they are constructing has been approved by the Department of Revenue for a property tax exemption.

To determine if a utility waste treatment facility, including railroads, airlines, and pipelines has been approved for a property tax exemption by the Department of Revenue, write or call the Department of Revenue, Bureau of Utility and Special Taxes, P.O. Box 8933, Madison, WI 53708-8933; telephone (608) 266-8162.

Caution: The contractor or subcontractor may be liable for the sales or use tax on its purchases if there has been no approval.

4. Municipal (Government) Facilities

Construction materials which become a component part of a Wisconsin governmental waste treatment facility may be purchased without tax by contractors pursuant to the standards set forth in sec. Tax 11.11, Wis. Adm. Code. Governmental waste treatment facilities include:

- a. Wastewater treatment facilities. In general terms, this is everything within the fence, except storm sewers, water supply systems, private domestic wastewater treatment facilities, and collection and discharge systems.
- b. Sanitary landfills. This includes collection and burner systems, laboratory equipment, maintenance buildings, garages, office buildings, fences, and gates.

- c. Ground water facilities. These are municipal facilities constructed to treat hazardous or contaminated ground water and include oil and water separators, air strippers, aerators, blowers, filters, carbon units, controls, thermal oxidizers, and pumps. Not included within the exemption are the collection and discharge systems.

It is not necessary for a governmental unit or contractors engaged in constructing a waste treatment facility for a Wisconsin governmental unit to obtain Department of Revenue approval of the governmental unit's waste treatment facility to qualify for the waste treatment facility exemption.

5. Purchases by Contractors and Subcontractors

The sales tax exemption for waste treatment facilities includes the purchases of tangible personal property by a contractor who incorporates these purchases into a waste treatment facility.

The contractor should certify on an exemption certificate, Form S-211, the intended exempt use of the item and give the Form S-211 to its supplier. Suppliers of construction or repair materials for waste treatment facilities should not charge sales tax on such sales if they accept from the purchaser in good faith an exemption certificate (Form S-211).

Purchases of items which do not become a part of the waste treatment facility are subject to the tax. This includes items such as industrial gases, form lumber, tunnel shields, and supplies used by the contractor during construction. Payments by a contractor for equipment purchased (or leased) to perform a construction job are also taxable.

6. Repair Services, Chemicals, and Supplies

The repair, service, alteration, fitting cleaning, painting, coating, inspection, and maintenance of exempt waste treatment facilities, including the repair and replacement parts, are exempt. The exemption also applies to chemicals and supplies, including fuel and electricity, used in operating the exempt facilities.

D. Professional Sports and Entertainment Home Stadiums

Building materials, supplies, and equipment used solely for or solely in the construction, renovation, or development of property that would be exempt under sec. 70.11(36), Wis. Stats., are exempt from Wisconsin sales or use tax if sold to or stored, used, or consumed by a contractor, subcontractor, owner, or builder.

Property exempt under sec. 70.11(36), Wis. Stats., is:

- Property consisting of or contained in a sports and entertainment home stadium, except a football stadium, including but not limited to parking lots, garages, restaurants, parks, concession facilities, entertainment facilities, transportation facilities, and other functionally related or auxiliary facilities and structures; including those facilities and structures while they are being built; constructed by, leased to or primarily used by a professional athletic team that is a member of a league that includes teams that have home stadiums in other states, and the land on which that stadium and those structures and facilities are located.
- Property consisting of or contained in a football stadium, as defined in sec. 229.821(6), Wis. Stats., and related facilities and structures, including those facilities and structures while they are being built or constructed, primarily used by a professional football team described in sec. 229.823, Wis. Stats., and the land, including parking lots, on which that stadium and those facilities and structures are located. Related facilities and structures are limited to improvements that share common structural supports with the stadium or are physically attached to the stadium.

IV. SPECIAL SITUATIONS

A. Real Property Construction Contracts With Exempt Entities

Constructing Buildings for Governmental Units, Schools, Churches, Hospitals, or Other Exempt Entities: Even though a contractor is constructing a building for governmental units, schools, churches, hospitals, or other exempt entities described in sec. 77.54(9a), Wis. Stats., the sales of building mate-

rials to the contractor used in real property construction are taxable.

The reason for this treatment is that the contractor is the consumer of the building materials used in constructing the building. Therefore, the sale to the contractor is a retail sale and is subject to tax. (Refer to sec. Tax 11.04, Wis. Adm. Code, "Constructing buildings for exempt entities.") An exception to this rule is when building materials are purchased to alter, repair, or improve a waste treatment facility as described in Part III.C. of this publication.

Exempt Entities Buying Materials Tax Free: Under Wisconsin sales and use tax law, purchases made by Wisconsin exempt entities may be made without payment of Wisconsin sales or use tax. This includes purchases of materials and equipment that will be used by construction contractors in performing real property construction activities for exempt entities. The exempt entity must be invoiced for the materials and equipment, pay the supplier for the materials and equipment, and provide the supplier with one of the following:

- a. An exemption certificate (Form S-211).
- b. The federal or Wisconsin governmental unit's Certificate of Exempt Status (CES) number which the supplier should record on the invoice it keeps.
- c. If a Wisconsin or federal governmental unit, a purchase order or similar written document identifying the governmental unit as the purchaser.

An exempt entity's transfer to its construction contractor of materials the exempt entity purchases directly from suppliers is not considered a taxable transaction, regardless of whether:

1. The contract specifies that the contractor is to provide all materials and the exempt entity subsequently obtains a reduction in the contract price for the direct purchased materials (e.g., change order), or
2. The contract excludes those materials the exempt entity will purchase directly from suppliers, resulting in no need for a reduction in the contract price (e.g., change order).

Caution: A contractor is subject to Wisconsin sales or use tax on materials it purchases and uses in real prop-

erty construction for an exempt entity even if it bills the exempt entity or another party separately for the materials.

If any person has questions regarding this subject, refer to the tax release titled "Purchases of Building Materials by Exempt Entities for Use by Contractors in Real Property Construction," published in the *Wisconsin Tax Bulletin 115* (October 1999) for more information. Further questions may be addressed to Wisconsin Department of Revenue, P.O. Box 8933, Madison, WI 53708-8933.

B. General Contractors and Subcontractors

The sales and use tax treatment differs for real property and personal property with regard to contractors and subcontractors as follows:

1. Real Property

The subcontractor is the consumer of all materials used in completing the real property construction contract, and must pay sales or use tax on all materials consumed or used. The subcontractor's invoice to the general contractor should not include a specific charge for sales and use tax.

Example: A subcontractor installs the heating and cooling systems in a building being constructed by the general contractor. The subcontractor must pay sales or use tax on the heating and cooling materials installed. The subcontractor does not charge sales tax to the contractor for the sale and installation.

2. Personal Property and Taxable Services (including items in Part III which are treated as personal property and landscaping).

The subcontractor is selling the items of personal property and taxable services to the general contractor who will ultimately resell them to the customer. The general contractor should give an exemption certificate claiming resale to the subcontractor. If the general contractor does not give an exemption certificate, the subcontractor could be liable for the sales tax.

Example: A subcontractor installs cabinets in examining rooms of a medical clinic being constructed by a general contractor. The general contractor should give the subcontractor an exemption certificate claiming resale so that the sale

of the cabinets to the contractor will not be subject to sales tax. The charge by the general contractor to the customer for the cabinets is subject to Wisconsin sales or use tax.

C. County Use Tax on Construction Materials

If a contractor is engaged in real property construction activities in a county which has adopted the county tax (taxable county), the 0.5% county use tax is imposed upon the purchase price of tangible personal property used in constructing, altering, repairing, or improving real property and that becomes a component part of real property in that county.

Example 1: A contractor located in a taxable county purchases lumber from a Wisconsin retailer who has charged the 5% sales tax but did not charge the county tax (delivery was in a nontaxable county). The lumber was used in building a house in a taxable county. The contractor must pay the 0.5% county use tax on the cost of the lumber.

Example 2: A contractor located in a nontaxable county purchases lumber from a Wisconsin retailer who charged the 5% sales tax but did not charge any county tax. The lumber is later used in building a house in a taxable county. The contractor must pay the 0.5% county use tax on the cost of the lumber.

A contractor is also subject to the 0.5% county use tax on tangible personal property stored in a taxable county that will be used to construct, alter, repair, or improve real property.

Example: A contractor located in a taxable county purchases lumber from two sources: 1) a Wisconsin retailer located in a nontaxable county and 2) an out-of-state retailer. The contractor took possession of the lumber in a taxable county (the lumber was delivered by common carrier to the contractor’s location). The retailers charged the 5% sales tax but did not charge the county tax (the retailers are not engaged in business in the taxable county). The contractor stores the lumber in the taxable county until it is used to build a house in a nontaxable county. The contractor must pay the 0.5% county use tax on the cost of the lumber.

Exception: Sales of building materials to contractors engaged in the business of constructing, altering, repairing, or improving real estate for others are not subject to the county tax if (a) the materials are affixed and made a structural part of real estate, and (b) the amount payable to the contractor is fixed without re-

gard to the costs included in performing a written contract that was irrevocably entered into prior to the effective date of the county tax, or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before the effective date of the county tax. Wisconsin Form S-207CT-1 may be used by contractors to purchase materials without county tax under this exception.

Listed below are the 58 counties that have adopted the 0.5% county tax as of September 1, 2004, and the effective date for each county’s tax.

| Counties With County Tax | | | |
|---------------------------------|-----------------------|---------------|-----------------------|
| County | Effective Date | County | Effective Date |
| Adams | 1/1/94 | Marathon | 4/1/87 |
| Ashland | 4/1/88 | Marinette | 10/1/01 |
| Barron | 4/1/86 | Marquette | 4/1/89 |
| Bayfield | 4/1/91 | Milwaukee | 4/1/91 |
| Buffalo | 4/1/87 | Monroe | 4/1/90 |
| Burnett | 4/1/89 | Oconto | 7/1/94 |
| Chippewa | 4/1/91 | Oneida | 4/1/87 |
| Columbia | 4/1/89 | Ozaukee | 4/1/91 |
| Crawford | 4/1/91 | Pepin | 4/1/91 |
| Dane | 4/1/91 | Pierce | 4/1/88 |
| Dodge | 4/1/94 | Polk | 4/1/88 |
| Door | 4/1/88 | Portage | 4/1/89 |
| Douglas | 4/1/91 | Price | 1/1/93 |
| Dunn | 4/1/86 | Richland | 4/1/89 |
| Eau Claire | 1/1/99 | Rusk | 4/1/87 |
| Forest | 4/1/95 | St. Croix | 4/1/87 |
| Grant | 4/1/02 | Sauk | 4/1/92 |
| Green | 1/1/03 | Sawyer | 4/1/87 |
| Green Lake | 7/1/99 | Shawano | 4/1/90 |
| Iowa | 4/1/87 | Taylor | 7/1/99 |
| Iron | 4/1/91 | Trempealeau | 10/1/95 |
| Jackson | 4/1/87 | Vernon | 1/1/97 |
| Jefferson | 4/1/91 | Vilas | 4/1/88 |
| Juneau | 4/1/92 | Walworth | 4/1/87 |
| Kenosha | 4/1/91 | Washburn | 4/1/91 |
| La Crosse | 4/1/90 | Washington | 1/1/99 |
| Lafayette | 4/1/01 | Waupaca | 4/1/89 |
| Langlade | 4/1/88 | Waushara | 4/1/90 |
| Lincoln | 4/1/87 | Wood | 1/1/04 |

As of September 1, 2004, there is **no** county sales and use tax in the following 19 Wisconsin counties.

Counties Without County Tax

| | | |
|-------------|-----------|-----------|
| Brown | Kewaunee | Rock |
| Calumet | Manitowoc | Sheboygan |
| Clark | Menominee | Waukesha |
| Florence | Outagamie | Winnebago |
| Fond du Lac | Racine | |

D. Stadium Use Tax on Construction Materials

If a contractor is engaged in real property construction activities in any of the following counties, the stadium use tax, as noted below, is imposed on the purchase of tangible personal property used in constructing, altering, repairing, or improving real property and that becomes a component part of real property in that county, if a stadium sales tax has not been charged:

Baseball Stadium Tax (0.1%) - effective January 1, 1996

| | |
|------------------|-------------------|
| Milwaukee County | Waukesha County |
| Ozaukee County | Washington County |
| Racine County | |

Football Stadium Tax (0.5%) - effective November 1, 2000

Brown County

A contractor is also subject to the stadium use tax on the purchase of tangible personal property stored in any of the above counties that will be used to construct, alter, repair, or improve real property, if a stadium sales tax has not been charged.

Exception: Sales of building materials to contractors engaged in the business of constructing, altering, repairing, or improving real estate for others are not subject to the stadium tax if (a) the materials are affixed and made a structural part of real estate, and (b) the amount payable to the contractor is fixed without regard to the costs included in performing a written contract that was irrevocably entered into prior to the effective date of the stadium tax or that resulted from the acceptance of a formal written bid accompanied by a bond or other performance guaranty that was irrevocably submitted before the effective date of the stadium tax. Wisconsin Form S-207CT may be used by contractors to purchase materials without stadium tax under this exception.

E. Quarries/Gravel, Etc.

1. Real Property

The purchase of gravel or other materials consumed in a real property construction contract is subject to sales or use tax. The real property construction contract price is not subject to sales tax. For example, the dumping and spreading of gravel in its final resting place is considered real property construction and not taxable.

2. Personal Property

If the contractor dumps the gravel or other materials and someone other than the contractor moves, spreads, grades, rakes, or otherwise places the materials in their final resting place, the contractor is selling tangible personal property. The sale of the gravel or other materials is subject to sales tax. The contractor may purchase these materials without tax by giving the supplier an exemption certificate claiming resale.

Example: A contractor sells a truckload of stone to a homeowner who uses it in landscaping at his or her residence. The sale of the stone is subject to sales tax.

3. Leased Land

The contractor may lease land or a gravel pit from a landowner and pay a royalty or lease based on the materials removed. If the arrangement with the landowner is the lease of real property or the sale of intangible mineral rights (even if measured by weight or volume of material removed) and the contractor severs the materials from the real property, the landowner's receipts are not subject to sales tax.

If these materials are then consumed in a real property construction contract, the contractor is not subject to sales or use tax on such materials.

F. Construction Contracts on Native American Reservations

1. Definitions

"Native American" means all persons of Native American descent who are enrolled members of any federally recognized Tribe. "Native Ameri-

can” also includes Native American Tribes, Native American corporations (corporations controlled and operated by Native Americans who are enrolled members of the Tribe of the reservation on which the corporation operates), and Native American partnerships (partnerships that are controlled and operated by Native Americans who are enrolled members of the Tribe of the reservation on which the partnership operates).

“Reservation” means all land within the boundaries of the Bad River, Forest County Potawatomi, Lac Courte Oreilles, Lac du Flambeau, Menominee, Mole Lake, Oneida, Red Cliff, St. Croix, and Stockbridge-Munsee reservations, as well as any Ho-Chunk Nation communities.

“Sales” means sales of tangible personal property or taxable services.

“Tribe” means a federally recognized Tribe or Band of Native Americans and includes tribal entities and tribal authorities.

“Tribal reservation” means the reservation of the Tribe of which a Native American is an enrolled member (for example, the tribal reservation for an enrolled member of the Oneida Tribe is the Oneida reservation). Unless otherwise noted, “reservation” includes trust land, which is land the title to which is held in trust by the United States for an individual Native American or a Tribe.

2. General Tax Treatment

Construction materials are taxable if sold to a non-Native American contractor who incorporates the materials into realty on a reservation, regardless of whether the materials were delivered to the contractor off the reservation in Wisconsin or another state, or on the reservation (unless exempt from tax under the conditions in 3.b.).

Example: A non-Native American contractor acquires building materials from an out-of-state seller without payment of Wisconsin sales tax. The contractor uses the material to repair a tribal member’s home roof on a Native American reservation. The contractor is the consumer of materials used in real property construction activities and is, therefore, required to pay use tax on such materials consumed.

A Native American, who takes delivery of construction materials off the reservation, is subject to the Wisconsin sales or use tax.

3. The following sales on a tribal reservation are exempt:

a. The sale of construction materials to a Native American contractor if (1) delivery of the materials to the Native American contractor occurs on the Native American contractor’s tribal reservation and (2) the construction materials will be used on the Native American contractor’s tribal reservation. However, if the materials are later used off the Native American contractor’s tribal reservation, the contractor will be subject to the Wisconsin use tax on its purchase of the materials.

b. The sale and delivery of construction materials to a non-Native American contractor on or off the reservation which the contractor uses in a construction project on the reservation for the Tribe if federal preemption applies.

“Federal preemption” means that Indian Treaties and federal statutes have been held in court decisions to prohibit in certain circumstances state taxation of Tribes and Native Americans. Generally, federal pre-emption will apply to a tribal project on the Tribe’s reservation that improves the self sufficiency of the Tribe.

4. Some Native American tribes impose a tribal use tax on construction materials used by persons doing business on the reservation. This tribal use tax is in addition to, rather than in place of, the Wisconsin sales and use tax. Also, Wisconsin law does not authorize a credit for tribal tax against the Wisconsin sales and use tax. It is possible to have both the tribal use tax and the Wisconsin sales or use tax (and county tax and stadium tax, if applicable) imposed on the use of construction materials on the reservation.

V. OTHER ITEMS RELATED TO BUSINESS OPERATIONS OF CONTRACTORS

A. Purchases of Materials – Personal Property

A contractor may purchase without sales or use tax the materials sold or transferred to a customer in the installation, repair, or servicing of personal property. This is done by issuing an exemption certificate claiming resale to its supplier of such materials. This is discussed in Parts II.B. and VI.

B. Purchases of Materials – Real Property

If the contractor knows which materials are to be used in a real property activity, the contractor must pay the sales tax on such purchases to its supplier.

When a contractor is a consumer, its gross receipts from labor and material related to a real property activity are not subject to the sales tax. This is discussed in Part II.C. The contractor will, in most instances, pay a sales or use tax on its purchases of materials consumed in improving realty.

C. When a Contractor Is Both a Consumer and a Retailer

A contractor who acts as both a consumer and retailer may not know when it purchases materials whether they will be consumed in real property construction activities, resold to others, or used in the repair or servicing of personal property. In such instances, a contractor may do one of the following at the time of making purchases:

1. *Give an exemption certificate claiming resale to suppliers and purchase the materials without tax.* If the contractor later resells the materials or uses them in the repair or servicing of personal property, the contractor must report the sale on its sales and use tax return and is liable for the sales tax based on the sales price to the customer, unless an exemption applies. However, if the materials are used in a real property activity, the contractor must report a use tax on the purchase price on its sales tax return.

Example: A contractor purchases 1,000 feet of wire without tax for \$100 (10¢ per foot) by giving the supplier an exemption certificate claiming resale. The contractor sells 600 feet of the wire

over-the-counter for \$120 and the remaining 400 feet of wire is used to wire a home. The contractor must report \$6 of sales tax on its sale of the wire ($\$120 \times 5\%$) and \$2 of use tax for use of 400 feet of wire in a real property improvement ($\$40 \times 5\%$) on its sales and use tax return.

2. *Pay sales tax to supplier on all materials purchased.* If the materials are later consumed in a real property activity, the tax obligation is satisfied because it was paid to suppliers when purchasing the materials.

If the materials are resold at retail in a sale subject to sales or use tax, the contractor must report sales tax for the sales on its sales tax return. It may also take a deduction on line 5 of its sales and use tax return (titled “Other”) for the amount paid to suppliers when the materials were purchased. The deduction is taken on the sales and use tax return for the period in which the retail sale of the materials is made by the contractor.

Example: A contractor purchased 1,000 feet of wire for \$100 and paid \$5 tax. The 1,000 feet of wire was later resold over-the-counter for \$150. Sales tax of \$7.50 ($\$150 \times 5\%$) was charged on the retail sale and reported by the contractor on its sales and use tax return. A \$100 deduction for the amount paid to the supplier on the wire purchased by the contractor may be taken on line 5 of the sales and use tax return for the period in which the \$150 sale of wire is reported by the contractor.

D. Purchases or Rentals of Machinery and Equipment

A contractor’s purchase or rental of the following are taxable:

1. Machinery and equipment, such as road building equipment, tunnel shields, construction machines, and trucks.
2. Tools, such as power saws and hand tools.
3. Supplies, such as machine lubricating and fuel oils, form lumber, and industrial gases.

The contractor is the consumer of such personal property and must pay tax on its purchase or rental of such property.

E. Service vs. Rental

Service: If a contractor uses his or her own equipment to perform a job and assumes the responsibility for the satisfactory completion of the job, the charge to the customer for the equipment is not taxable because the contractor is considered to be providing a service not subject to tax.

Rental: If a contractor furnishes his or her equipment with an operator to perform a job which the customer will supervise and be responsible for the satisfactory completion of, the charge to the customer for the equipment is taxable because the contractor is renting tangible personal property. The charge for the operator is not taxable if stated separately on the invoice **and** provided the customer has the option of taking the equipment without the operator. If there is not an option, the entire charge for the equipment and operator is taxable.

Exception: Charges for the use of motor trucks are taxable rental charges, except where (1) drivers are provided by the truck's owner to operate the truck and (2) the Wisconsin Public Service Commission or the Department of Transportation's Division of Motor Vehicles considers the arrangement a transportation service under the regulations issued by those agencies.

F. Motor Vehicle Fuel or Alternate Fuel Excise Tax Refunds

Motor vehicle fuel or alternate fuel may be purchased exempt from sales tax because it is subject to the motor vehicle fuel or alternate fuel tax under Chapter 78, Wis. Stats. If the motor vehicle fuel or alternate fuel taxes are later refunded under sec. 78.75, Wis. Stats., because the buyer does not use the fuel in operating a motor vehicle upon public highways, the purchase price of the fuel less the excise taxes refunded, will be subject to sales or use tax, except where another exemption may apply, such as use in farming.

Also, a contractor may hold an alternate fuel license which allows it to purchase fuels for off-highway usage and not be subject to excise tax. The contractor is subject to Wisconsin sales or use tax on fuel used in construction equipment and nonhighway vehicles.

G. Sales of Used Equipment

If a contractor holds or is required to hold a seller's permit, the sale of used machinery and equipment (ex-

cluding registered vehicles) to other contractors is subject to sales and use tax.

Purchases of used equipment and machinery (excluding registered vehicles) from persons who don't hold or are not required to hold a seller's permit that qualify as occasional sales are exempt from Wisconsin sales or use tax.

H. Credit for Tax Paid to Another State

A contractor is subject to Wisconsin use tax on tangible personal property and taxable services purchased outside Wisconsin that are stored, used, or consumed in Wisconsin. However, if another state's tax was properly paid on the purchase of the property or service (e.g., the contractor took possession of the property in that state), the amount of Wisconsin use tax due may be offset by the tax paid to the other state. Similarly, the amount of Wisconsin county and/or stadium use tax due may be offset by a similar local sales or use tax properly paid in the other state.

Example 1: Contractor A purchased building materials in St Paul, Minnesota, for \$10,000. The supplier charged the 6.5% Minnesota sales tax of \$650 and the 0.5% St. Paul sales tax of \$50 on the sale of the building materials. Contractor A uses the building materials in real property construction in Hudson, Wisconsin. Because the materials are stored, used, or consumed in Wisconsin, the purchase of the materials is subject to Wisconsin and St. Croix County use tax. However, no tax must be reported on the Wisconsin sales and use tax return because the Wisconsin use tax due of \$500 (5% X \$10,000) is offset by the Minnesota sales tax paid. The St. Croix County use tax due of \$50 is offset by the St. Paul sales tax paid.

Example 2: Contractor A purchased building materials in Minneapolis, Minnesota, for \$10,000. The supplier charged the 6.5% Minnesota sales tax of \$650 on the sale of the building materials. No local sales tax was charged. Contractor A uses the building materials in real property construction in Hudson, Wisconsin. Because the materials are stored, used, or consumed in Wisconsin, the purchase of the materials is subject to Wisconsin and St. Croix County use tax. However, no Wisconsin state use tax must be reported on the Wisconsin sales and use tax return because the Wisconsin use tax due of \$500 (5% X \$10,000) is offset by the Minnesota state sales tax paid. St. Croix use tax of \$50 must be reported and remitted to Wisconsin because no similar local tax was paid in Minnesota. The excess

Minnesota state sales tax paid may not be used to offset the St. Croix County use tax due.

For more information about the credit for taxes paid to another state, refer to *Wisconsin Tax Bulletin 100*, page 29. For information on how to claim the credit on your sales and use tax return, refer to the instructions for Form ST-12.

VI. RECORD KEEPING

A. General

Every contractor required to have a seller's permit, consumer's use tax certificate, or use tax certificate must keep adequate records so that the contractor, as well as the Department of Revenue, can determine the correct amount of tax for which the contractor is liable.

The contractor must keep a complete and accurate record of beginning and ending inventories, purchases, sales, canceled checks, receipts, invoices, bills of lading, and all other pertinent documents and books of accounting pertaining to the business. See sec. Tax 11.92, Wis. Adm. Code, "Records and record keeping," for more information on record keeping.

B. Records to Keep – Exempt Sales

If a contractor claims that part or all of its retail sales of tangible personal property or taxable services are exempt from sales and use tax, the contractor must keep a record of the name and address of the person to whom the exempt sale was made, the date of sale, the article sold, the amount of exemption, and the reason the sale was exempt from tax. This record must be signed by the purchaser.

The reason for keeping such records is that the sales and use tax law provides that all gross receipts are taxable until the contrary is established. The seller (contractor) has the burden of proving that a sale of tangible personal property or taxable services is exempt, unless the seller takes a certificate (or other information as described in 3 below) in an approved form in good faith from the purchaser which indicates that the property or service being purchased is for resale or is otherwise exempt.

Three common reasons that sales of tangible personal property or taxable services may be exempt are:

1. The use to be made of the item purchased is exempt or the item is to be resold. For example, the item is going to be used exclusively and directly in manufacturing or in farming and is, therefore, exempt.

The seller should obtain a completed exemption certificate (Form S-211) from the purchaser.

2. The purchasing organization is exempt (e.g., Wisconsin public schools and municipalities, federal government).

Sales to the federal government and Wisconsin governments, municipalities, and public schools should be supported by one of the following:

- a. A purchase order or similar written document identifying the governmental unit as the purchaser.
- b. An exemption certificate (Form S-211).
- c. Recording the federal government or Wisconsin governmental unit's Certificate of Exempt Status (CES) number on the invoice.

Exempt sales to nonprofit organizations holding a CES (e.g., church) can be supported by an exemption certificate (Form S-211) or by recording the CES number on the invoice.

Nonprofit organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, may apply on Form S-103 (Application for Certificate of Exempt Status) to the Department of Revenue for a Certificate of Exempt Status. If the application is approved, the nonprofit organization will be issued a CES number by the department.

3. The purchaser furnishes the seller (a) a copy of its Wisconsin direct pay permit or (b) a statement that the purchaser holds a Wisconsin direct pay permit, the permit number, and the date the permit was issued. The purchaser is subject to Wisconsin use tax on the purchase price if the property or service purchased is used in a taxable manner.

Note: If exemptions are claimed for any of the above three reasons, the seller must keep the completed cer-

tificates, purchase orders, and invoices to prove that the sales were exempt.

C. Contractor’s Billings to Its Customers

To determine its sales and use tax liability, a contractor must segregate its billing charges (gross receipts) according to whether the contractor is acting as (1) a retailer (selling personal property or providing labor or services to personal property) or (2) a consumer (improving, altering, or repairing real property).

The billing for each transaction, job, or contract must be set forth so that charges for labor performed and materials used that are subject to sales tax are segregated from nontaxable charges for real property activities. The materials used in a real property activity must be identified to enable the contractor to determine the amount of its material purchases that are subject to sales or use tax.

If a few items of tangible personal property or taxable services, minor in cost in relation to the total amount of a contract, are sold as part of a contract which includes construction of a building or other structure and no separate charge is made in any documents provided to the customer (e.g., contract, contract addendum or appendix, etc.) for the personal property or taxable services, the cost of the property or taxable services to the construction contractor shall be used as the measure of gross receipts subject to sales tax. If a separate charge is made for any of the tangible personal property or taxable services, the separate charge is subject to the tax, unless an exemption applies.

Contractors have certain overhead costs and expenses that they incur in completing a construction project that they may choose to separately state from the materials and labor in the contract documents. The contractor is the consumer of such items and is subject to Wisconsin sales or use tax on those that are tangible personal property or taxable services, even if these costs are passed on to the customer.

The charge to the customer for the overhead costs and expenses are part of the gross receipts from the sale of real property improvements, tangible personal property, and services to tangible personal property. These charges should be allocated to the material and labor charges to which they relate and tax imposed on those charges relating to taxable sales. Charges relating to nontaxable sales would not be taxed.

Example: A contractor constructs a building for a customer that includes both real property construction, the sale and installation of tangible personal property, and taxable services, such as landscaping. The customer is charged as follows:

| | |
|-----------------------------------------------------|--------------------|
| Real property improvements (labor and materials) | \$2,500,000 |
| Tangible personal property (labor and materials) | 500,000 |
| Landscaping (labor and materials) | <u>100,000</u> |
| Subtotal | \$3,100,000 |
| General Conditions*, Project Management | <u>300,000</u> |
| Total Contract Price | <u>\$3,400,000</u> |

*Includes items such as portable toilet rentals, temporary fencing, meeting expenses, plan documents, etc., that are not physically transferred to the customer and apply to all aspects of the construction project.

The \$300,000 separately stated charge for items that apply to both the real property and tangible personal property can be allocated based on the selling price of each item compared to the total selling price of those items. Therefore, of the \$300,000 charge, \$57,000 can be allocated to the tangible personal property and taxable services ($\$600,000 \div \$3,100,000 = 19\% \times \$300,000$) and \$243,000 allocated to the real property ($\$2,500,000 \div \$3,100,000 = 81\% \times \$300,000$).

The contract amount subject to sales tax is \$657,000 (\$500,000 tangible personal property + \$100,000 landscaping service + \$57,000 overhead expenses).

VII. OTHER TAXES AND FEES TO BE AWARE OF

If you have business activities or earn income in Wisconsin, you may also be subject to Wisconsin taxes other than sales and use taxes. Although the information below is not intended to be all-inclusive, it may help you in obtaining information about other Wisconsin taxes.

Individual Income Tax: Every person who is a resident of Wisconsin and who has gross income more than a certain amount is subject to Wisconsin income taxes, regardless of where the income is earned.

A person who is a nonresident of Wisconsin is subject to Wisconsin income taxes if he or she has gross income of \$2,000 or more from personal services performed in Wis-

consin or from business or property in Wisconsin. For more information, write to: Wisconsin Department of Revenue, Mail Stop 5-144, P.O. Box 8949, Madison, WI 53708-8949.

Corporation Franchise or Income Tax: Every corporation organized under the laws of Wisconsin or licensed to do business in Wisconsin (except certain organizations exempt under sec. 71.26(1), Wis. Stats.) is required to file a Wisconsin corporate franchise or income tax return, regardless of whether or not business was transacted. Unlicensed corporations are also required to file returns for each year they have certain business activities in Wisconsin. For more information, write to: Wisconsin Department of Revenue, Mail Stop 5-144, P.O. Box 8906, Madison, WI 53708-8906.

Bond Requirement: Out-of-state construction contractors and subcontractors are required to file a surety bond with the Wisconsin Department of Revenue at Mail Stop 5-77, P.O. Box 8902, Madison, WI 53708-8902, to guarantee the payment of franchise or income taxes, unemployment compensation contributions, income taxes withheld from employees' wages, and sales and use taxes. When total construction contracts, which begin in the same calendar year, equal or exceed \$50,000, a surety bond is required. The surety bond is 3% of the aggregate amount of contracts. It must be posted within sixty (60) days after construction has begun.

Example: A construction contractor entered into three contracts during the calendar year.

- Contract A for \$10,000 begins April 15; no surety bond is required because an aggregate of \$50,000 has not been reached.
- Contract B for \$50,000 begins May 15; a 3% surety bond is required on the aggregate \$60,000 of contracts and is due by July 15.
- Contract C for \$40,000 begins August 1; surety bonds are required on the aggregate \$100,000 of contracts but a 3% surety bond must now be posted on only the \$40,000 of additional contracts and is due by October 1.

Withholding: If a business has employees in Wisconsin, the business may be required to withhold Wisconsin income taxes from the employees' wages. An employer required to withhold must apply for a withholding registration certificate from the department. For more in-

formation, write to: Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8902, Madison, WI 53708-8902.

Unemployment And Worker's Compensation: For more information on these taxes write to: Wisconsin Department of Workforce Development, P.O. Box 7901, Madison, WI 53707-7901.

Motor Vehicle Alternate Fuel Tax: An alternate fuel tax is imposed on all compressed natural gas (CNG) or liquid propane (LPG) placed into the supply tank of a motor vehicle. If you purchase CNG or LPG for heating and use this fuel in your truck or automobile, you must obtain an Alternate Fuel Users License and pay the tax directly to the Department of Revenue.

If you sell or purchase alternate fuel and have questions about the alternate fuel tax, write to: Wisconsin Department of Revenue, Mail Stop 5-107, P.O. Box 8906, Madison, WI 53708-8906.

VIII. ANY QUESTIONS?

A. Department of Revenue Assistance

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 8902
Madison, WI 53708-8902

Fax . . . (608) 267-1030

E-Mail . . . sales10@dor.state.wi.us

Visit our web site . . . www.dor.state.wi.us

Call or stop in . . .

Offices Providing Daily Assistance (Monday-Friday)

| Location | Address | Telephone |
|------------|----------------------|----------------|
| Appleton | 265 W. Northland | (920) 832-2727 |
| Eau Claire | 718 W. Clairemont | (715) 836-2811 |
| Madison | 4638 University Ave. | (608) 266-2776 |
| Milwaukee | 819 N. Sixth St. | (414) 227-4444 |
| Waukesha | 141 NW Barstow | (262) 521-5310 |

The offices providing assistance daily are open 7:45 a.m. to 4:30 p.m.

**Offices Providing Assistance on
Monday Mornings Only (unless otherwise noted)**

| Location | Address | Telephone |
|------------------|-----------------------|----------------|
| Baraboo | 1000 Log Lodge Ct. | (608) 356-3472 |
| Beaver Dam | 220 Seippel Blvd. | (920) 356-6090 |
| Elkhorn | 715 W. Walworth St. | (262) 723-4098 |
| Fond du Lac | 845 S. Main | (920) 929-3985 |
| Grafton | 1930 Wisconsin Ave. | (262) 375-7948 |
| Green Bay (M-Th) | 200 N. Jefferson St. | (920) 448-5179 |
| Hayward | 100 Ranch Rd. | (715) 634-8478 |
| Hudson | 2100 O'Neil Rd. | (715) 381-5060 |
| Janesville | 101 E. Milwaukee | (608) 758-6190 |
| Kenosha (M&W) | 4911 88th Ave. | (262) 653-7088 |
| La Crosse | 620 Main St. | (608) 785-9720 |
| Lancaster | 130 W. Elm | (608) 723-2641 |
| Marinette | 1926 Hall Ave. | (715) 732-7565 |
| Oshkosh | 515 S. Washburn | (920) 424-2100 |
| Rhineland | 203 Schiek Plaza | (715) 365-2666 |
| Shawano | 1340 E. Green Bay St. | (715) 526-5647 |
| Sheboygan | 807 Center Ave. | (920) 459-3101 |
| Superior | 1225 Tower Ave. | (715) 392-7985 |
| Tomah | 203 E. Clifton St. | (608) 372-3256 |
| Wausau | 710 Third St. | (715) 842-8665 |
| Wisconsin Rapids | 830 Airport Ave. | (715) 421-0500 |

B. Other Information

1. Sales and Use Tax Report

The **Sales and Use Tax Report** is published one or more times each year by the Department of Revenue and is mailed without charge to all persons holding a seller's permit or use tax registration certificate. It includes general information about sales and use tax, including new tax laws enacted by the legislature.

2. Publications

You may obtain the following sales and use tax publications from any Department of Revenue office or online at www.dor.state.wi.us/pubs.html.

| Number | Title |
|--------|-----------------------------------------|
| 200 | Electrical Contractors |
| 201 | Wisconsin Sales and Use Tax Information |

| Number | Title |
|--------|---------------------------------------------------------------------------|
| 202 | Sales and Use Tax Information: Motor Vehicle Sales, Leases, and Repairs |
| 203 | Sales and Use Tax Information for Manufacturers |
| 205 | Do You Owe Use Tax? (Individuals) |
| 206 | Sales Tax Exemption for Nonprofit Organization |
| 210 | Sales and Use Tax Treatment of Landscaping Services |
| 211 | Sales and Use Tax Information for Cemetery Monument Dealers |
| 212 | Businesses: Do You Owe Use Tax on Imported Goods? |
| 214 | Do You Owe Use Tax? (Businesses) |
| 216 | Filing Claims for Refund of Sales or Use Tax |
| 217 | Auctioneers |
| 219 | Hotels, Motels, and Other Lodging Providers |
| 220 | Grocers |
| 221 | Farm Suppliers and Farmers |
| 222 | Motor Vehicle Fuel Users: Do You Owe Use Tax? |
| 223 | Bakeries |
| 224 | Veterinarians |
| 225 | Barber and Beauty Shops |
| 226 | Golf Courses |
| 227 | Sales Internet Process (SIP) |
| 229 | Brackets for Collecting Wisconsin Sales or Use Tax on Retail Sales |
| 230 | Sales and Use Tax Information for Sellers of Antiques, Crafts and Artwork |
| 403 | Premier Resort Area Taxes |
| 405 | Wisconsin Taxation of Native Americans |
| 410 | Local Exposition Taxes |

3. Wisconsin Tax Bulletin

The **Wisconsin Tax Bulletin** is a quarterly publication of the Department of Revenue which is distributed to those persons who have purchased a subscription. The Bulletin includes information on most taxes administered by the Department of

Revenue, including sales and use, income, franchise, and excise taxes. It includes up-to-date information on new tax laws, interpretations of existing laws, and information on filing returns. It gives brief excerpts of major Wisconsin tax cases decided by the Wisconsin Tax Appeals Commission and the courts.

A subscription, which costs \$7 per year, may be obtained by writing to: Department of Administration, Document Sales, P.O. Box 7840, 202 South Thornton Avenue, Madison, WI 53707-7840.

The Bulletins are also available online at www.dor.state.wi.us/ise/wtb/index.html

4. Rules – Wisconsin Administrative Code

The **Wisconsin Administrative Code** includes administrative rules that interpret the Wisconsin Statutes. Rules have the force and effect of law. The Department of Revenue has adopted a number of rules pertaining to sales and use tax.

A book of the administrative rules of the Department of Revenue may be obtained from: Department of Administration, Document Sales, P.O. Box 7840, Madison, WI 53707-7840. A subscription update service which provides all new Department of Revenue rules and changes to existing rules is also available from Document Sales. Sales and use tax rules are also available online at www.legis.state.wi.us/rsb/code/tax/tax011.pdf.

5. Topical and Court Case Index

The **Topical and Court Case Index** is a two-part index. The first part (a Topical Index) will help you find the particular Wisconsin Statute, administrative rule, Wisconsin Tax Bulletin tax release, private letter ruling, or Attorney General opinion

that deals with your questions. The second part of the index (a Court Case Index) will help you find court decisions relating to your questions.

The **Topical and Court Case Index** is available for \$18 (plus sales tax) per copy. That price includes an addendum of updated information which will be provided in May. Copies can be purchased from: Wisconsin Department of Administration, Document Sales, P.O. Box 7840, Madison, WI 53707-7840 (telephone (608) 266-3358).

IX. SPEAKERS BUREAU

The department's Speakers Bureau provides speakers to professional organizations and community groups throughout Wisconsin. If you would like a speaker to address your group, please call the Speakers Bureau at (608) 266-9829.

Subjects that may be discussed include updates on income, corporate, and sales tax and homestead credit laws, audit procedures, common taxpayer errors, how tax laws apply to exempt organizations, sales tax problems for contractors or manufacturers, etc.

There is no charge for services provided by the Speakers Bureau.

X. BUSINESS DEVELOPMENT ASSISTANCE – DEPARTMENT OF COMMERCE, PERMIT INFORMATION CENTER

If you have questions about what other permits may be needed for your business, or need assistance in obtaining a permit, call the Permit Information Center at 1-800-HELPBUS (435-7287) or find information online at www.wisconsin.gov/state/byb/.

Chart to Aid in Distinguishing Real vs. Personal Property Activities

I. EXPLANATIONS

Items — For purposes of this chart it is assumed that the items listed are all sold attached, affixed, installed, or fastened to real property by the contractor. If listed items are not sold attached to real property, etc., by the contractor, the answer given on the chart may not apply. It is also assumed that the repair of such items either occurs while the item is still attached to the real estate or the contractor removes the item, repairs it, and reinstalls it. Under other circumstances the answer given in the chart may not apply.

Residential (columns 1 and 2)—Includes all structures or parts of structures that provide permanent living space for people (e.g., homes, apartment buildings, convalescent homes).

Commercial (columns 3 through 6)—All structures/property not classified as residential.

Real Estate Function (columns 3 and 4)—If the item serves a real estate or building function, look in columns 3 and 4 (e.g., a furnace boiler used to heat a building).

Process Function (columns 5 and 6)—If the item serves a process (e.g., manufacturing, farming, fabricating, retailing, etc.) function, look in columns 5 and 6 for a determination (e.g., a furnace boiler used to heat glass at a bottle manufacturing plant).

Install (columns 1, 3 and 5)—Includes first-time installation or replacing an existing item.

Repair (columns 2, 4 and 6)—Means repairing an existing item, including the repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of a listed item.

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.

N/A—Means that the item is typically not used in the manner indicated in the column heading.

II. TAX EFFECT

Real Property—The contractor is considered to be the consumer of materials used in performing real property construction contracts. The contractor would pay sales or use tax on the cost of the materials used.

Personal Property—The contractor is the retailer of materials and services provided with respect to items classified as personal property. The contractor would charge sales tax on the entire billing to the customer, including labor and materials.

Caution: The information on the following chart is a generalization for instructional purposes only. The facts and circumstances in any particular situation will determine the actual tax treatment for that situation and may differ from the treatment presented here.

| Item | Residential | | Commercial | | | |
|----------------------------|----------------|---------------|----------------------|---------------|------------------|---------------|
| | Install (1) | Repair (2) | Real Estate Function | | Process Function | |
| | | | Install (3) | Repair (4) | Install (5) | Repair (6) |
| Advertising Signs | N/A | N/A | N/A | N/A | P | P |
| Air Conditioners-Central | RE | P | RE | P | P | P |
| Air Conditioners-Window | P | P | P | P | P | P |
| Air Curtains | RE | RE | RE | RE | N/A | N/A |
| Air Ducts | RE | RE | RE | RE | N/A | N/A |
| Athletic and Gym Equipment | RE | P | N/A | N/A | P | P |
| Awnings | RE | P | RE | P | P | P |
| Bar Equipment | RE | P | N/A | N/A | P | P |

| Item | Residential | | Commercial | | | |
|-----------------------------------------------------------------------------------------------------------------------------|----------------|---------------|----------------------|---------------|------------------|---------------|
| | Install (1) | Repair (2) | Real Estate Function | | Process Function | |
| | | | Install (3) | Repair (4) | Install (5) | Repair (6) |
| Bathroom Fixtures (includes bathtub, sink, toilet, faucets, cabinets, mirror, exhaust fan, towel bars, toilet paper holder) | RE | P | RE | P | N/A | N/A |
| Boilers | RE | P | RE | P | P | P |
| Bridges | RE | RE | RE | RE | N/A | N/A |
| Broadcasting Towers (on leased land) | N/A | N/A | P | P | P | P |
| Broadcasting Towers (on own land) | N/A | N/A | RE | RE | RE | RE |
| Buildings | RE | RE | RE | RE | N/A | N/A |
| Buildings Sold for Removal | P | N/A | P | N/A | N/A | N/A |
| Burglar Alarm Fixtures | RE | P | RE | P | P | P |
| Cabinets (except in bathrooms) - see p. 5 | RE | RE | RE | RE | P | P |
| Cabinets (in bathrooms) - see p. 5 | RE | P | RE | P | N/A | N/A |
| Cable TV Station Equipment | N/A | N/A | N/A | N/A | P | P |
| Camera Security Equipment | RE | P | RE | P | P | P |
| Canopies (not awnings) | RE | RE | RE | RE | N/A | N/A |
| Carpeting | RE | P | RE | P | N/A | N/A |
| Casework (see Cabinets) | | | | | | |
| Cemetery Monuments | RE | RE | RE | RE | N/A | N/A |
| Computer Room Floors | RE | RE | RE | RE | N/A | N/A |
| Coolers (internal, walk-in, is one or more walls of building) | RE | P | RE | P | RE | P |
| Coolers (internal, walk-in, no walls are walls of building) | RE | P | P | P | P | P |
| Counters (except in bathrooms) – see p. 5 | RE | RE | RE | RE | P | P |
| Counters (in bathrooms) – see p. 5 | RE | P | RE | P | N/A | N/A |
| Curtains | P | P | P | P | P | P |
| Dams | RE | RE | RE | RE | N/A | N/A |
| Dehumidifiers | RE | P | RE | P | P | P |
| Dishwashers | RE | P | N/A | N/A | P | P |
| Ditches | RE | RE | RE | RE | N/A | N/A |
| Doors | RE | RE | RE | RE | N/A | N/A |
| Door Controls | RE | RE | RE | RE | N/A | N/A |
| Drapes | P | P | P | P | P | P |
| Driveup/Walkup Windows | N/A | N/A | N/A | N/A | P | P |
| Dryers (clothes) | P | P | N/A | N/A | P | P |
| Electric Clocks | P | P | P | P | P | P |
| Electric Dust Collectors | RE | P | RE | P | P | P |
| Electric Signs | RE | P | RE | P | P | P |
| Elevators, Building | RE | RE | RE | RE | N/A | N/A |
| Fans (e.g. ceiling) | RE | RE | RE | P | P | P |
| Faucets (not in bathroom) | RE | RE | RE | RE | P | P |
| Faucets (in bathroom) | RE | P | RE | P | N/A | N/A |
| Fencing | RE | RE | RE | RE | N/A | N/A |
| Fire Alarm Fixtures | RE | P | RE | P | P | P |
| Fixed (year-around) Wharves and Docks | RE | RE | RE | RE | RE | RE |
| Floors | RE | RE | RE | RE | N/A | N/A |
| Foundations and Building Supports (including for machinery) | RE | RE | RE | RE | RE | RE |
| Freezers (free-standing) | P | P | N/A | N/A | P | P |
| Furnaces | RE | P | RE | P | P | P |
| Furniture | P | P | N/A | N/A | P | P |
| Garage Door Openers | RE | RE | RE | RE | N/A | N/A |

| Item | Residential | | Commercial | | | |
|------------------------------------------------------------------------------------|----------------|---------------|----------------------|---------------|------------------|---------------|
| | Install (1) | Repair (2) | Real Estate Function | | Process Function | |
| | | | Install (3) | Repair (4) | Install (5) | Repair (6) |
| Garbage Disposals | RE | P | RE | P | P | P |
| Gas and Electric Logs | P | P | P | P | P | P |
| Gasoline Pumps | RE | RE | N/A | N/A | P | P |
| General Lighting *in offices, business facilities, schools, and hospitals | RE | RE | RE | P* | N/A | N/A |
| General Wiring | RE | RE | RE | RE | P | P |
| Grain Elevators | N/A | N/A | RE | RE | P | P |
| Grills and Rotisseries | RE | P | N/A | N/A | P | P |
| Heating, Cooling, and Vent. System Units | RE | P | RE | P | P | P |
| Hoists | RE | RE | N/A | N/A | P | P |
| Humidifiers (addition to furnace) | RE | P | RE | P | P | P |
| Improvements to Land (except landscaping) | RE | RE | RE | RE | N/A | N/A |
| Incinerators | RE | P | RE | P | P | P |
| Intercoms | RE | P | N/A | N/A | P | P |
| Jukeboxes | P | P | N/A | N/A | P | P |
| Kitchen Cabinets (see Cabinets) | | | | | | |
| Laundry, Dry Cleaning Machines | P | P | N/A | N/A | P | P |
| Light Fixtures (see General Lighting) | | | | | | |
| Loading Platforms | RE | RE | RE | RE | N/A | N/A |
| Lockers | RE | RE | N/A | N/A | P | P |
| Mobile Homes on Leased Land (regardless of whether or not "on a foundation") | P | P | P | P | P | P |
| Mobile Homes on Owned Land ("on a foundation") | RE | RE | RE | RE | RE | RE |
| Mobile Homes on Owned Land (not "on a foundation") | P | P | P | P | P | P |
| Music and Sound Equipment | RE | P | N/A | N/A | P | P |
| Night Depository Equipment | N/A | N/A | N/A | N/A | P | P |
| Office, Bank, and Savings & Loan Office Machines | N/A | N/A | N/A | N/A | P | P |
| Ovens (including hoods and exhaust system) | RE | P | N/A | N/A | P | P |
| Partitions and Movable Walls (affixed to RE) | RE | RE | RE | RE | RE | RE |
| Piers (seasonal) | P | P | P | P | P | P |
| Pneumatic Tube System | N/A | N/A | N/A | N/A | P | P |
| Ponds | RE | RE | RE | RE | RE | RE |
| Portable Appliances | P | P | P | P | P | P |
| Portable Lamps | P | P | P | P | P | P |
| Pumps | RE | P | RE | P | P | P |
| Radio and TV Sets and Antennas | P | P | N/A | N/A | P | P |
| Radio Station Equipment | N/A | N/A | N/A | N/A | P | P |
| Railroad Signs and Signals | P | P | P | P | P | P |
| Railway Switch Tracks | RE | RE | RE | RE | RE | RE |
| Recreational and Sporting Equipment | RE | P | N/A | N/A | P | P |
| Remote TV Auto Teller System | N/A | N/A | N/A | N/A | P | P |
| Restaurant and Tavern Type Equipment | RE | P | N/A | N/A | P | P |
| Roads | RE | RE | RE | RE | N/A | N/A |
| Roofs | RE | RE | RE | RE | N/A | N/A |
| Safe Deposit Boxes | N/A | N/A | N/A | N/A | P | P |
| Sanitation and Plumbing System | RE | RE | RE | RE | N/A | N/A |

| Item | Residential | | Commercial | | | |
|----------------------------------------------------------------------|----------------|---------------|----------------------|---------------|------------------|---------------|
| | Install (1) | Repair (2) | Real Estate Function | | Process Function | |
| | | | Install (3) | Repair (4) | Install (5) | Repair (6) |
| Seating in Auditoriums and Theaters | N/A | N/A | N/A | N/A | P | P |
| Sewers, Drain, Storm, Sanitation | RE | RE | RE | RE | N/A | N/A |
| Shades | P | P | P | P | P | P |
| Sidewalks | RE | RE | RE | RE | N/A | N/A |
| Signs (see specific type) | | | | | | |
| Silos | RE | RE | RE | RE | N/A | N/A |
| Sinks (other than bathroom fixtures) | RE | P | RE | P | P | P |
| Sprinkler Systems (fire safety) | RE | RE | RE | RE | P | P |
| Stair Lifts | RE | RE | RE | RE | P | P |
| Stairways | RE | RE | RE | RE | P | P |
| Stand-by Generators | RE | P | RE | P | P | P |
| Standing Timber Sold for Removal | P | N/A | P | N/A | N/A | N/A |
| Stop and Go Lights | P | P | P | P | P | P |
| Storage Tanks Constructed on Site | RE | RE | RE | RE | RE | RE |
| Storm Doors and Windows | RE | RE | RE | RE | N/A | N/A |
| Street and Parking Lights | RE | RE | RE | RE | RE | RE |
| Street Identification Signs | P | P | P | P | P | P |
| Structural and Other Improvements to Buildings | RE | RE | RE | RE | RE | RE |
| Swimming Pools (wholly or part in ground) | RE | P | RE | P | RE | P |
| Tables | RE | P | N/A | N/A | P | P |
| Theater Stage Lights and Projection Equipment | N/A | N/A | N/A | N/A | P | P |
| Thermostats (wall mounted) | RE | RE | RE | RE | P | P |
| Traffic Signs and Signals (e.g., stop, yield) | P | P | P | P | P | P |
| Transformers (on easement/leased property) | P | P | P | P | P | P |
| Transformers (on owner's property) | RE | RE | RE | RE | P | P |
| Truck Platform Scale Foundations | N/A | N/A | RE | RE | RE | RE |
| TV Station Equipment | N/A | N/A | N/A | N/A | P | P |
| Underground Concrete Foundations | RE | RE | RE | RE | RE | RE |
| Underground Irrigation System (farm) | N/A | N/A | P | P | P | P |
| Underground Irrigation System (nonfarm) | RE | RE | RE | RE | RE | RE |
| Underground Tanks | RE | RE | RE | RE | RE | RE |
| Utility Transmission/Distribution Lines Above Ground on Right-of-Way | P | P | P | P | P | P |
| Vault Doors | RE | RE | N/A | N/A | P | P |
| Venetian Blinds | P | P | P | P | N/A | N/A |
| Washers (clothes) | P | P | N/A | N/A | P | P |
| Water Heaters | RE | P | RE | P | P | P |
| Water Lines - Drinking, Sanitation, Fire | RE | RE | RE | RE | RE | RE |
| Water Softeners | RE | P | RE | P | P | P |
| Wells | RE | RE | RE | RE | N/A | N/A |
| Windows (except driveup/walkup) | RE | RE | RE | RE | N/A | N/A |