

SALES TO NATIVE AMERICAN TRIBAL MEMBERS

Sales Tax Exemption

Fact Sheet 2103-2

revenue.wi.gov

This fact sheet explains when sales tax exemptions apply to purchases made on tribal reservations by tribal members of that reservation and how tribal members may claim them.

WHEN DOES A SALES TAX EXEMPTION APPLY FOR A SALE TO A TRIBAL MEMBER?

Sales of taxable products to a tribal member are not subject to Wisconsin sales or use tax if:

- the sales take place on the tribal member's tribal reservation, **and**
- the tribal member resides on that reservation.

However, sales of taxable products to a tribal member that take place off the tribal member's reservation or which are sold to a tribal member who does not reside on his or her tribal reservation are generally subject to Wisconsin sales or use taxes.

NOTE: When a tribal member is making an exempt purchase, the tribal member should do one of the following to claim the exemption:

1. Provide a properly completed exemption certificate (e.g., Form S-211, Wisconsin Sales and Use Tax Exemption Certificate) to the seller. The tribal member should check the appropriate box under "other" and fill in his or her enrollment number and the reservation on which the tribal member is enrolled and resides.
2. Provide the seller with (a) the tribal member's enrollment number, (b) the Tribe of the enrolled member, and (c) the reservation where the taxable product or service is furnished to the tribal member.

Definitions:

The following definitions apply for purposes of the Wisconsin sales tax exemptions:

"Native Americans" means all persons of Native American descent who are enrolled members of any federally recognized tribe.

"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.

"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 (e.g., the tribal reservation for an enrolled member of the Oneida Tribe is the Oneida reservation). Unless noted otherwise, whenever reservation is used in this fact sheet, it includes trust land.

"Trust land" means land the title to which is held in trust by the United States for the benefit of a tribe or an enrolled member of that tribe.

Note: The Ho-Chunk Nation does not have a consolidated reservation, but has trust lands in 14 counties.

Examples to Illustrate When the Exemption Does and Does Not Apply:

Example 1: Native American C, who is an enrolled member of a tribe and lives on the tribe's tribal reservation purchases satellite television service from Retailer D. Retailer D's sale of the satellite television service is not subject to Wisconsin sales or use tax since the sale is being made to Native American C and the service is furnished to Native American C on Native American C's tribal reservation.

Example 2: Native American A, who is an enrolled member of a tribe, but who lives off that tribe's tribal reservation purchases satellite television service from Retailer B. Retailer B's sale of the satellite television service is subject to Wisconsin sales or use tax since the service is being furnished to Native American A off of Native American A's tribal reservation.

Example 3: Native American Y, who is an enrolled member of a tribe and lives on that tribe's tribal reservation, purchases tangible personal property from a retailer. The retailer is located off the tribal reservation, but delivers the tangible personal property to Native American Y on his tribal reservation. The sale of the tangible personal property to Native American Y is not subject to Wisconsin sales or use tax since Native American Y takes possession of the tangible personal property on the tribal reservation.

Example 4: Native American Z, who is an enrolled member of a tribe, but who lives off that tribe's tribal reservation, purchases tangible personal property from a retailer located off the tribal reservation. The retailer delivers the tangible personal property to Native American Z on the tribal reservation. Although possession of the tangible personal property is transferred to Native American Z on the tribal reservation, since Native American Z does not reside on the tribal reservation, it is presumed that the property is intended for storage, use, or other consumption off the tribal reservation and is subject to Wisconsin sales or use tax.

Example 5: Native American X, who is an enrolled member of a tribe and lives on that tribe's tribal reservation, purchases tangible personal property from a retailer off the tribal reservation. The sale of the tangible personal property to Native American X is subject to Wisconsin sales or use tax since Native American X takes possession of the tangible personal property off the tribal reservation.

(Note: The information in this fact sheet does not apply to purchases of construction materials by Native American tribal members who may use the construction materials in real property construction activities off the tribal member's tribal reservation. For additional information, see Part IV.F. of Publication 207, Sales and Use Tax Information for Contractors.)

Any questions?

If you are unable to find an answer to your question about sales tax, email, write, or call the department.

Visit our website revenue.wi.gov

Email DORSalesandUse@revenue.wi.gov

Write Wisconsin Department of Revenue
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Madison, WI 53708-8949

Telephone (608) 266-2776

Fax (608) 267-1030

Last updated March 4, 2014

WISCONSIN SALES AND USE TAX EXEMPTION CERTIFICATE

Check One Single Purchase Continuous

Purchaser's Business Name	Purchaser's Address
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The above purchaser, whose signature appears on the reverse side of this form, claims exemption from Wisconsin state, county, baseball or football stadium, local exposition, and premier resort sales or use tax on the purchase, lease, license, or rental of tangible personal property, property under s.77.52(1)(b), items under s.77.52(1)(c), goods under s.77.52(1)(d), or taxable services, as indicated by the box(es) checked below.

I hereby certify that I am engaged in the business of selling, leasing, licensing, or renting: _____

(Purchaser's description of property, items, goods, or services sold by purchaser.)

Purchaser's description of property or services purchased (itemize property, items, or goods purchased if "single purchase"):

Seller's Name	Seller's Address
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REASON FOR EXEMPTION

Resale (Enter purchaser's seller's permit or use tax certificate number) _____

Manufacturing and Biotechnology

- Tangible personal property (TPP) or item under s.77.52(1)(b) that is used exclusively and directly by a manufacturer in manufacturing an article of TPP or items or property under s.77.52(1)(b) or (c) that is destined for sale and that becomes an ingredient or component part of the article of TPP or items or property under s.77.52(1)(b) or (c) destined for sale or is consumed or destroyed or loses its identity in manufacturing the article of TPP or items or property under s.77.52(1)(b) or (c) destined for sale.
- Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property or items or property under s.77.52(1)(b) or (c) and safety attachments for those machines and equipment.
- The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of machines and specific processing equipment, that the above purchaser would be authorized to purchase without sales or use tax, at the time the service is performed. Tools used to repair exempt machines are not exempt.
- Fuel and electricity consumed in manufacturing tangible personal property or items or property under s.77.52(1)(b) or (c) in this state.
Percent of fuel exempt: _____ % Percent of electricity exempt: _____ %
- Portion of the amount of fuel converted to steam for purposes of resale. Percent of fuel exempt: _____ %
- Property used exclusively and directly in qualified research, by persons engaged in manufacturing at a building assessed under s. 70.995, by persons engaged primarily in biotechnology in Wisconsin, or a combined group member conducting qualified research for another combined group member that meets these requirements.

Farming (To qualify for this exemption, the purchaser must use item(s) exclusively and directly in the business of farming, including dairy farming, agriculture, horticulture, floriculture, silviculture, or custom farming services.)

- Tractors (except lawn and garden tractors), all-terrain vehicles (ATV) and farm machines, including accessories, attachments, and parts, lubricants, nonpowered equipment, and other tangible personal property or items or property under s.77.52(1)(b) or (c) that are used exclusively and directly, or are consumed or lose their identities in the business of farming. This includes services to the property and items above.
- Feed, seeds for planting, plants, fertilizer, soil conditioners, sprays, pesticides, and fungicides.
- Breeding and other livestock, poultry, and farm work stock.
- Containers for fruits, vegetables, grain, hay, and silage (including containers used to transfer merchandise to customers), and plastic bags, sleeves, and sheeting used to store or cover hay and silage. Baling twine and baling wire.
- Animal waste containers or component parts thereof (may only mark certificate as "Single Purchase").
- Animal bedding, medicine for farm livestock, and milk house supplies.

Federal and Wisconsin Governmental Units

Enter CES No., if applicable

- The United States and its unincorporated agencies and instrumentalities and any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States.
- Any federally recognized American Indian tribe or band in this state.
- State of Wisconsin or any agency thereof; Local Exposition District, Professional Baseball Park District, or Professional Football Stadium District.
- Wisconsin county, city, village, or town, including public inland lake protection and rehabilitation district, municipal public housing authorities, uptown business improvement districts, local cultural arts district, the Wisconsin Aerospace Authority, the Health Insurance Risk-Sharing Plan Authority, the Fox River Navigational System Authority, and the Wisconsin Economic Development Corporation.
- Wisconsin public schools, school districts, universities, and technical college districts.
- County-city hospitals or UW Hospitals and Clinics Authority.
- Sewerage commission, metropolitan sewerage district, or a joint local water authority.

Other

- Containers and other packaging, packing, and shipping materials, used to transfer merchandise to customers of the purchaser.
 - Trailers and accessories, attachments, parts, supplies, materials, and service for motor trucks, tractors, and trailers which are used exclusively in common or contract carriage under LC or IC No. (if applicable) _____.
 - Items or services purchased directly by and used by religious, charitable, educational, scientific, or other organizations holding a Wisconsin Certificate of Exempt Status. CES No. _____.
 - Tangible personal property and items, property and goods under s.77.52(1)(b), (c), and (d) to be resold by _____ on my behalf where _____ is registered to collect and remit sales tax to the Department of Revenue on such sales.
 - Tangible personal property, property, items and goods under s.77.52(1)(b), (c), and (d), or services purchased by a Native American with enrollment # _____, who is enrolled with and resides on the _____ Reservation, where buyer will take possession of such property, items, goods, or services.
 - Tangible personal property and items and property under s.77.52(1)(b) and (c) becoming a component of an industrial or municipal waste treatment facility, including replacement parts, chemicals, and supplies used or consumed in operating the facility. Caution: Do not check the "continuous" box at the top of page 1.
 - Portion of the amount of electricity or natural gas used or consumed in an industrial waste treatment facility. (Percent of electricity or natural gas exempt _____%)
 - Electricity, natural gas, fuel oil, propane, coal, steam, corn, and wood (including wood pellets which are 100% wood) used for fuel for **residential** or **farm** use.
- | | % of Electricity
Exempt | % of Natural Gas
Exempt | % of Fuel
Exempt |
|--|----------------------------|----------------------------|---------------------|
| <input type="checkbox"/> Residential | _____ % | _____ % | _____ % |
| <input type="checkbox"/> Farm | _____ % | _____ % | _____ % |

Address Delivered: _____

- Percent of printed advertising material solely for out-of-state use. _____ %
- Catalogs, and the envelopes in which the catalogs are mailed, that are designed to advertise and promote the sale of merchandise or to advertise the services of individual business firms.
- Property used exclusively and directly in raising animals sold for use in qualified research or manufacturing.
- Other purchases exempted by law. (State items and exemption). _____

I hereby certify that if the item(s) being purchased are not used in an exempt manner, I will remit use tax on the purchase price at the time of first taxable use. I understand that failure to remit the use tax may result in a future liability that may include tax, interest, and penalty.

Signature of Purchaser	Print or Type Name	Title	Date
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(DETACH AND PRESENT TO SELLER)

A similar out-of-state organization, generally organized under sec. 501(c)(3) of the Internal Revenue Code, may purchase products or services exempt from Wisconsin sales tax even though it has not been issued a CES number. This exemption does *not* apply to out-of-state public schools, including public colleges and universities, and governmental units from other states.

Purchases (for lodging, meals, auto rental, etc.) by employees/representatives of exempt organizations performing organization business, are exempt from sales tax, provided 1) the retailer issues the billing or invoice in the name of the exempt organization, 2) the CES number is entered on the billing or invoice, and 3) the retailer retains a copy of that document.

Waste treatment facilities: The exemption applies to the sale of tangible personal property and items and property under s.77.52(1)(b) and (c) to a contractor for incorporation into real property which is part of an industrial or commercial waste treatment facility that qualifies for property tax exemption or a Wisconsin or federal governmental waste treatment facility.

Electricity, natural gas, fuel oil, coal, steam, corn, and wood (including wood pellets which are 100% wood) used for fuel:

- The sales price from the sale of electricity and natural gas for residential use during the months of November through April are exempt from sales and use tax.
- The sales price from sales of fuel oil, propane, coal, steam, corn, and wood (including wood pellets which are 100% wood) used for fuel sold for residential use are exempt from sales or use tax. Wood pellets are considered 100% wood even though the pellets may contain a small amount of binding material used to form the pellets.
- The sales price from the sale of fuel and electricity for use in farming are exempt all year.

A retailer of electricity, fuel, or natural gas shall have a signed exemption certificate for exempt sales for residential or farm use unless any of the following apply:

1. 100% of the electricity, fuel, or natural gas is for exempt use.
2. The sale is to an account which is properly classified as residential or farm pursuant to schedules which are filed for rate tariff with the Wisconsin Public Service Commission which are in force at the time of sale.
3. The sale is to an account which is properly classified as residential or farm for classification purposes as directed by the Federal Rural Electrification Administration.

"Farm use" means used in farming, including use in a tractor or other farm machines used directly in farming, in a furnace heating a farm building, in providing lighting in farm buildings, and use in operating motors of machines used directly in farming.

"Residential use" means use in a structure or portion of a structure which is a person's permanent principal residence. It does not include use in motor homes, travel trailers, other recreational vehicles, or transient accommodations. "Transient accommodations" means rooms or lodging available to the public for a fee for a continuous period of less than one month in a building such as a hotel, motel, inn, tourist home, tourist house or court, summer camp, resort lodge, or cabin.

Other purchases exempted by law include:

1. Printed material which is designed to advertise and promote the sale of merchandise, or to advertise the services of individual business firms, which printed material is purchased and stored for the purpose of subsequently transporting it outside the state by the purchaser for use thereafter solely outside the state.
2. Parts, supplies, or repairs for a school bus used exclusively as a contract carrier pursuant to a contract with a school or other organization.
3. Waste reduction and recycling machinery and equipment, including parts and repairs, which are exclusively and directly used for waste reduction and recycling activities.
4. Railway cars, locomotives, and other rolling stock used in railroad operations, or accessories, attachments, parts, lubricants, or fuel therefor.
5. Commercial vessels and barges of 50-ton burden or over engaged in interstate or foreign commerce or commercial fishing, and accessories, attachments, parts, and fuel therefor.
6. Fuel sold for use in motorboats that are regularly employed in carrying persons for hire for sport fishing in and upon the outlying waters, as defined in sec. 29.001(63), Wis. Stats., and the rivers and tributaries specified in sec. 29.2285(2)(a)1. and 2., Wis. Stats., if the owner and all operators are licensed under sec. 29.514, Wis. Stats., to operate the boat for that purpose.
7. A product whose power source is the wind, direct radiant energy received from the sun, or gas generated by the anaerobic digestion of animal manure and other agricultural waste, if the product produces at least 200 watts of alternating current or at least 600 British thermal units per day, but not including a product that is an uninterruptible power source that is designed primarily for computers.
8. Effective July 1, 2013, snowmaking and snow-grooming machines and equipment, including accessories, attachments, and parts for the machines and fuel and electricity used to operate such machines and equipment, that are used exclusively and directly for snowmaking at ski hills, ski slopes, and ski trails.
9. Effective July 1, 2013, advertising and promotional direct mail and printing services used to produce advertising and promotional direct mail.

SIGNATURE: For corporations, this form must be signed by an employee or officer of the corporation.

QUESTIONS: If you have questions, please contact us.

WISCONSIN DEPARTMENT OF REVENUE
Customer Service Bureau
PO Box 8949
Madison WI 53708-8949

Phone: (608) 266-2776

Fax: (608) 267-1030

Website: www.revenue.wi.gov

INSTRUCTIONS

This certificate may be used to claim exemption from Wisconsin state, county, baseball and football stadium, local exposition, and premier resort sales or use taxes.

Under the sales and use tax law, all receipts from sales of tangible personal property, property, items and goods under s.77.52(1)(b), (c), and (d), or taxable services are subject to the tax until the contrary is established. However, a seller who receives a fully completed exemption certificate no later than 90 days after the date of sale is relieved of any responsibility for collection or payment of the tax upon transactions covered by the certificate. A fully completed certificate is one which is completely filled in and indicates the reason for exemption.

RESALE: A purchaser using the resale exemption is attesting that the tangible personal property, property, items, or goods under s.77.52(1)(b), (c), or (d), or taxable services being purchased will be resold, leased, licensed, or rented. However, in the event any such property, items, or goods is used for any purpose other than retention, demonstration, or display while holding it for sale, lease, license, or rental in the regular course of business, the purchaser is required to report and pay the tax on the purchase of the property, item, or good.

The following purchasers may make purchases for resale even though they do not hold a Wisconsin seller's permit or use tax certificate: (a) A wholesaler who only sells to other sellers for resale may insert "Wholesale only" in the space for the seller's permit number; (b) A person who only sells or repairs exempt property, such as to a manufacturer or farmer, may insert "Exempt sales only"; (c) A nonprofit organization may insert "Exempt sales only" if its subsequent sales of the tangible personal property, property, items, or goods under s.77.52(1)(b), (c), or (d), or taxable services are exempt as occasional sales.

A seller is allowed to accept an exemption certificate from an out-of-state retailer claiming the resale exemption for tangible personal property and items, property, and goods under sec. 77.52(1)(b), (c) and (d), Wis. Stats., drop shipped to a Wisconsin location, regardless of whether or not the out-of-state retailer holds a Wisconsin seller's permit. The out-of-state retailer's permit number, if the other state issues one, and state should be listed on the exemption certificate. If the exemption certificate does not list the Wisconsin seller's permit number or the out-of-state retailer's permit number and state, to be fully complete and valid the exemption certificate must contain a statement indicating the out-of-state retailer is a seller that is not required to hold a permit.

A resale exemption may be granted if the purchaser is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. If the buyer purchases an item without tax for resale, but uses the item, the buyer owes use tax on its purchase of the item.

MANUFACTURING: "Manufacturing" means the production by machinery of a new article of tangible personal property or items or property under s.77.52(1)(b) or (c) with a different form, use, and name from existing materials, by a process popularly regarded as manufacturing, and that begins with the conveying raw materials and supplies from plant inventory to

the place where work is performed in the same plant and ends with conveying finished units of tangible personal property or items or property under s.77.52(1)(b) or (c) to the point of first storage in the same plant.

FARMING: This certificate may not be used by farmers to claim exemption for the purchase of motor vehicles or trailers for highway use, lawn or garden tractors, snowmobiles, or for items used for the personal convenience of the farmer. When claiming an exemption for an ATV which is also registered for public use, a written description including the percentages of time for personal and farm use, must be submitted with the ATV Registration Application.

The sales price from the sale of electricity, natural gas, and other fuels for use in farming are exempt all 12 months of the year. Farmers claiming this exemption should check the box for electricity and fuel located in the "Other" section.

This certificate cannot be used as an exemption for paying Wisconsin motor vehicle fuel tax.

FEDERAL AND WISCONSIN GOVERNMENTAL UNITS: This exemption may only be accepted from federal and Wisconsin governmental units and federally recognized American Indian tribes or bands in Wisconsin and replaces the requirement for having a purchase order from the governmental unit or recording on invoices the Certificate of Exempt Status (CES) number of the governmental unit. Governmental units of other countries and states may not use this exemption certificate. The governmental unit should check the box that best describes their unit of government.

OTHER:

Containers: This exemption applies regardless of whether or not the containers are returnable. Containers used by the purchaser only for storage or to transfer merchandise owned by the purchaser from one location to another do not qualify for the exemption.

Common or contract carriers: The exemption available to common or contract carriers for certain vehicles and repairs listed on this certificate applies only to those units used "exclusively" in such common or contract carriage. A carrier may qualify for the common or contract carriage exemption even if it does not hold a LC or IC number. The fact that a carrier holds a LC or IC number is not in itself a reason for exemption. A carrier may qualify for the common or contract carrier exemption even if it does not hold an LC or IC number.

Organizations holding a Certificate of Exempt Status (CES) number: Wisconsin organizations organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, may purchase products or services exempt from Wisconsin sales tax if the organization holds a CES number issued by the Wisconsin Department of Revenue. Wisconsin and federal governmental units, and any federally recognized American Indian tribe or band in Wisconsin, will also qualify for a CES.