



# Digital Goods

**How Do Wisconsin Sales and Use Taxes Apply to Sales and Purchases of Digital Goods?**

# TABLE OF CONTENTS

	Page
<b>1. INTRODUCTION .....</b>	<b>4</b>
A. General .....	4
B. What is Taxable? .....	4
C. Use Tax.....	5
D. Who Must Obtain a Seller's Permit?.....	5
E. Who Must Obtain a Use Tax Registration Certificate?.....	5
F. How to Obtain a Seller's Permit or Use Tax Registration Certificate .....	5
G. Filing Tax Returns and Payment of Tax.....	5
<b>2. WHAT ARE DIGITAL GOODS?.....</b>	<b>7</b>
<b>3. IMPOSITION OF SALES AND USE TAXES ON DIGITAL GOODS.....</b>	<b>8</b>
A. Statutory Language – Sales Tax.....	8
B. Statutory Language – Use Tax.....	8
<b>4. WHEN DOES A SALE OF A DIGITAL GOOD OCCUR?.....</b>	<b>8</b>
<b>5. SOURCING SALES AND PURCHASES OF DIGITAL GOODS.....</b>	<b>9</b>
A. Statutory Language.....	9
B. Determination of Where the Sale of a Digital Good Takes Place .....	10
C. Determination of Where the Lease, Rental, or License of a Digital Good Takes Place.....	11
<b>6. DIGITAL AUDIO WORKS .....</b>	<b>11</b>
A. Statutory Language.....	11
B. What is a Digital Audio Work? .....	12
C. What is Not a Digital Audio Work? .....	12
<b>7. DIGITAL AUDIOVISUAL WORKS .....</b>	<b>12</b>
A. Statutory Language.....	12
B. What is a Digital Audiovisual Work?.....	12
C. What is Not a Digital Audiovisual Work? .....	13
<b>8. DIGITAL BOOKS .....</b>	<b>13</b>
A. Statutory Language.....	13
B. What is a Digital Book? .....	13
C. What is Not a Digital Book? .....	13
<b>9. ADDITIONAL DIGITAL GOODS .....</b>	<b>14</b>
A. Statutory Language.....	14
B. What Are Additional Digital Goods?.....	15
<b>10. DIGITAL CODES.....</b>	<b>17</b>
A. Statutory Language.....	17
B. What is a Digital Code?.....	17
C. What is Not a Digital Code?.....	18
D. Sales and Use Tax Treatment of Digital Codes.....	18
<b>11. DIGITAL GOODS NOT SUBJECT TO SALES AND USE TAXES.....</b>	<b>18</b>
<b>12. BUNDLED TRANSACTIONS .....</b>	<b>19</b>

## TABLE OF CONTENTS (CONTINUED)

	Page
<b>13. EXEMPTIONS FOR DIGITAL GOODS .....</b>	<b>20</b>
A. Statutory Language.....	20
B. Scope of Exemption .....	20
C. Examples of the Exemptions for Tangible Personal Property That May Apply to Digital Goods .....	20
D. Exemption for Digital Goods When Tangible Form of Digital Good Not Subject to Tax .....	24
E. Exemption for Real Estate Broker Memberships .....	24
<b>14. IF YOU HAVE QUESTIONS OR NEED ASSISTANCE .....</b>	<b>24</b>

### IMPORTANT CHANGES

**What are digital goods?** See Part 2. for clarification that digital goods may include prewritten computer software.

**Exemption for real estate broker memberships.** See Part 13.E. for a new exemption effective June 1, 2024, for certain real estate broker memberships.

See the [Sales Tax Rate Chart](#) for current sales tax rates in Wisconsin. Recent rate changes include:

- Racine County imposes 0.5% county sales and use tax, effective April 1, 2025.
- Manitowoc County imposes 0.5% county sales and use tax, effective January 1, 2025.
- Milwaukee County tax rate increased from 0.5% to 0.9%, effective January 1, 2024.
- City of Milwaukee imposed a 2% city tax, effective January 1, 2024.

### Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of January 31, 2025: Ch. 77, [Wis. Stats.](#) and chg. Tax 11, [Wis. Adm. Code.](#)

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

## 1. INTRODUCTION

### A. General

Wisconsin sales and use taxes apply to the sales of and the storage, use, or other consumption in Wisconsin of specified digital goods, additional digital goods, and digital codes. These goods are taxable unless an exemption applies.

[Publication 235](#), *Advertising Companies – How Do Wisconsin Sales and Use Taxes Affect Your Operations?* provides additional sales and use tax information on digital goods.

Sales and purchases of digital goods which are subject to the state sales or use tax may also be subject to the county tax, city tax, and premier resort area tax. Additional information about these taxes is contained in the following:

- (1) [Sales Tax Rate Chart](#) – Lists the total state, county, and city sales and use tax rates.
- (2) [Publication 403](#), *Premier Resort Area Tax*. Applies to certain retailers making taxable sales of tangible personal property, certain items, digital goods, and taxable services in the cities of Bayfield, Eagle River, Rhinelander, Wisconsin Dells and the villages of Lake Delton, Sister Bay, Stockholm, and Ephraim.

### B. What is Taxable?

Sales, licenses, leases, and rentals of tangible personal property, certain coins and stamps, certain leased property affixed to realty, certain digital goods, and certain services are subject to the 5% Wisconsin state sales tax. For further information about these taxable products and services, see [Publication 201](#), *Wisconsin Sales and Use Tax Information*.

### C. Use Tax

The 5% Wisconsin use tax is imposed on the storage, use, or other consumption in Wisconsin of taxable products and services, if no Wisconsin sales or use tax has been previously paid.

The use tax is based on the buyer's purchase price of the taxable product or service.

### D. Who Must Obtain a Seller's Permit?

Every individual, partnership, corporation, or other organization making taxable sales in Wisconsin must have a seller's permit, unless all sales licenses, leases, or rentals by the seller are exempt from sales or use tax.

### E. Who Must Obtain a Use Tax Registration Certificate?

An out-of-state seller that has no physical presence or activities in Wisconsin other than making sales into Wisconsin is a remote seller. Effective October 1, 2018, remote sellers must register for a use tax registration certificate if it has gross sales into Wisconsin that exceed \$100,000 or 200 or more transactions into Wisconsin in the previous or current year.

The annual gross sales amount includes both taxable and nontaxable sales into Wisconsin. In addition, the annual amount includes sales into Wisconsin by the remote seller on behalf of other sellers and sales made by another seller on the remote seller's behalf.

Effective February 20, 2021, the 200-transaction threshold was eliminated, and remote sellers use a calendar year to determine if they are required to register for a use tax registration certificate. As a result, remote sellers that have more than \$100,000 in annual gross sales in Wisconsin in either the previous or current calendar year must collect and remit sales or use tax on taxable sales in Wisconsin. See the [Remote Sellers Common Questions](#) for additional information.

### F. How to Obtain a Seller's Permit or Use Tax Registration Certificate

A retailer may apply for a seller's permit or use tax registration certificate using one of the following methods:

- Use the Department of Revenue's [Online Business Tax Registration](#) process to submit the application electronically.
- Register through the [Streamlined Sales Tax Governing Board's website](#).
- Complete [Form BTR-101](#), *Application for Business Tax Registration*, and mail it to the Department of Revenue. Keep a copy of the completed application for your records.

**Note:** It is important that you fill in all the requested information on the online application, on Form BTR-101, or on the application on the Streamlined Sales Tax Governing Board's website.

### G. Filing Tax Returns and Payment of Tax

(1) How often must a return be filed?

If you have a seller's permit, use tax registration certificate, or consumer use tax registration certificate, you must file a return for each "reporting period," even if no tax is due for that period. Your "reporting period" will be either monthly, quarterly, or annually. For example, if your reporting period is monthly, you must file a return for each month of the year, regardless of whether any tax is due for the month.

Generally, your reporting period will be quarterly unless DOR notifies you in writing that your returns must be filed monthly or annually.

Wisconsin sales and use tax returns must be filed using one of the electronic filing methods listed in Part 1.F. A seller that is unable to file electronically may request a waiver from DOR. A waiver will be granted if the requirement to file electronically causes an *undue hardship*. An example of an undue hardship is the onset of a disabling illness or injury.

Your request for a waiver must be **in writing**. The request should indicate the business name, tax account number, and the reason why your sales and use tax returns cannot be electronically filed. Requests can be emailed, faxed or mailed to:

Email: [DORWaiverRequest@wisconsin.gov](mailto:DORWaiverRequest@wisconsin.gov)  
Fax: (608) 224-5761  
Mail: Wisconsin Department of Revenue  
Mandate Waiver Request  
P.O. Box 8902  
Madison, WI 53708-8902

Additional information about is available in the [Sales and Use Tax Electronic Filing Options](#) common questions or you may contact the department by mail or email at [DORBusinessTax@wisconsin.gov](mailto:DORBusinessTax@wisconsin.gov) or by telephone at (608) 266-2776.

If you have been granted a waiver, a return will be mailed to you shortly before the end of each reporting period. If you do not receive your return within 15 days after the end of the reporting period, call DOR at (608) 266-2776.

## (2) Electronic filing and payment options available for sales and use tax return filing

### (a) My Tax Account

[My Tax Account](#) is a free, secure, online application that allows you to file and pay your sales and use taxes electronically. It performs the necessary computations of tax based on information that you enter and allows you to make your tax payment via electronic funds transfer, credit card, or paper check. [My Tax Account](#) also allows you to:

- View business tax filing and payment history and identify any tax periods that need attention.
- Change your address, obtain an extension to file a return, or inactivate your account.
- File a buyer's claim for refund of sales tax paid to a seller in error.
- Appeal adjustment notices.

To use [My Tax Account](#), you must obtain a logon ID and password from DOR. Go to the [My Tax Account Common Questions](#) on DOR's website for more information, including how to obtain your logon ID and password.

### (b) Sales Tele Filé

You can file your Wisconsin sales and use tax return with any touch-tone telephone. This program accepts four payment types: Direct withdrawal from your checking or savings account (only available during the call in which you file your return); credit card, check, or money order. To use [TeleFile](#), obtain

a Sales TeleFile [Worksheet and Payment Voucher](#) from DOR's website. When you have completed the worksheet, call (608) 261-5340 (Madison number) or (414) 227-3895 (Milwaukee number) to actually file your return.

(c) e-File Transmission

This program is a service for taxpayers using approved private vendors' software or who have the technical expertise to create a file in XML format. e-file transmission places return data into a file format that can be directly processed into DOR system. Using secure transmission over the Internet you can submit a payment at the same time that you file your return using ACH debit or ACH credit. You will receive an email acknowledgement to confirm receipt of a successful file transmission. Information about file transmission can be found on DOR's [website](#).

If you have questions about electronic filing or payments, contact the department by writing to Wisconsin Department of Revenue, Electronic Funds Transfer Assistance, Mail Stop 3-80, PO Box 8902, Madison, WI 53708-8902; calling (608) 266-2776; or emailing at [DORBusinessTax@wisconsin.gov](mailto:DORBusinessTax@wisconsin.gov).

## 2. WHAT ARE DIGITAL GOODS?

A digital good is a product transferred electronically to a purchaser. Transferred electronically means that a purchaser accesses or obtains a product through means other than tangible storage media. (Section [77.51\(21g\)](#), Wis. Stats.) A digital good may include prewritten computer software that is accessed through means other than tangible storage media (e.g., video game accessed online). However, a digital good does not include charges for remote access to prewritten computer software if the software is used to process a client's data and the processing is under the direction and control of the service provider (sec. [Tax 11.71\(3\)\(a\)](#), Wis. Adm. Code). See the department's common questions page on [Sales and Use Tax Treatment Computer - Hardware, Software, Services](#) for more information.

Digital goods include versions of products that have historically been produced and transferred as articles of tangible personal property and are now produced and transferred electronically. A certain digital good may also be available for transfer as an article of tangible personal property. However, it is not necessary for a product transferred electronically to have a tangible counterpart to be a digital good.

### Examples of Digital Goods Include:

- Recorded music that has been produced and sold as a digitally-encoded file which is transferred electronically to the purchaser.
- A transmission of sound, images, or any combination thereof, such as a live radio or television broadcast, regardless of whether the transmission is an analog signal or a digital signal.
- Previously recorded sounds or images such as music, movies, or video or electronic games that are transferred electronically to customers by retailers of such products.
- Newsletter, magazine, newspaper, or report that is transferred electronically to the purchaser.

### How Digital Goods are Transferred:

Digital goods are transferred electronically to purchasers in various ways, including:

- Uploading or downloading a digital good using the internet
- Streaming or accessing a digital good over the internet
- Emailing a digital good to the purchaser

**Note:** It is not necessary for the purchaser of the digital good to record the digital good on tangible storage media for the product to be considered a digital good. Additionally, a digital good is transferred electronically regardless of whether the purchaser is allowed to make or retain a copy of the digital good.

**Example 1:** A retailer sells a movie and streams the movie to the purchaser using the Internet. The purchaser watches the movie as it is being streamed without having the right to record the movie. The retailer is selling a digital good.

**Example 2:** A retailer sells a movie and uploads the movie to the purchaser using the Internet. The purchaser has the right to and does record the movie on a hard drive. The purchaser has the right to watch the movie as many times as he wishes by playing the recorded movie file. The retailer is selling a digital good.

### 3. IMPOSITION OF SALES AND USE TAXES ON DIGITAL GOODS

#### A. Statutory Language – Sales Tax

Section [77.52\(1\)\(d\)](#), Wis. Stats., provides the following:

"A tax is imposed on all retailers at the rate of 5 percent of the sales price from the sale, lease, license, or rental of specified digital goods and additional digital goods at retail for the right to use the specified digital goods or additional digital goods on a permanent or less than permanent basis and regardless of whether the purchaser is required to make continued payments for such right."

Specified digital goods is defined by sec. [77.51\(17x\)](#), Wis. Stats.:

"Specified digital goods" means digital audio works, digital audiovisual works, and digital books. For purposes of this subchapter, the sale of or the storage, use, or other consumption of a digital code is treated the same as the sale of or the storage, use, or other consumption of any specified digital goods for which the digital code relates."

For the statutory definition of additional digital goods, see Part 9.

#### B. Statutory Language – Use Tax

Section [77.53\(1\)](#), Wis. Stats., provides, in part, the following:

"...[A]n excise tax is levied and imposed...on the storage, use, or other consumption of goods in this state under s. 77.52 (1) (d) purchased from any retailer, if the purchaser has the right to use the goods on a permanent or less than permanent basis and regardless of whether the purchaser is required to make continued payments for such right, at the rate of 5 percent of the purchase price of the goods; and on the storage, use or other consumption of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) manufactured, processed or otherwise altered, in or outside this state, by the person who stores, uses or consumes it, from material purchased from any retailer, at the rate of 5% of the purchase price of that material."

### 4. WHEN DOES A SALE OF A DIGITAL GOOD OCCUR?

Section [77.585\(8\)\(b\)](#), Wis. Stats., provides the following:

- (1) "Except as provided in subd. 2., a sale or purchase involving a digital good under s. 77.52 (1) (d) is completed at the time when possession is transferred by the seller or the seller's agent to the purchaser or the purchaser's agent or when the digital good is first used, whichever comes first.



- (2) A sale or purchase of a product transferred electronically, including a digital good under s. 77.52 (1) (d), that is sold by subscription, is completed at the time when the payment for the subscription is due to the seller. For purposes of this subdivision, 'subscription' means an agreement with a seller that grants the consumer the right to obtain products transferred electronically from within one or more product categories having the same tax treatment, in a fixed quantity or for a fixed period of time, or both."

**Note:** The examples below illustrate the application of sec. 77.585(8)(b), Wis. Stats., to the sale of digital codes. Digital codes are discussed in Part 10.

**Example 1:** On September 28, 2020, Customer placed an order for a digital good with Retailer. The contract for sale is NOT in writing. Retailer mailed the digital code, on a plastic card, to Customer. Customer received the digital code on September 30, 2020, at their mailbox located in Wisconsin. The sale of the digital code occurs on September 30, 2020, the date Retailer's agent (the U.S. Postal Service) transferred possession of the digital code to Customer.

**Example 2:** Customer places an order with Retailer for a gift subscription for digital audio works on October 10, 2020. The subscription is in the name of a recipient provided by Customer. Retailer is to notify the recipient of the gift subscription during the week before Christmas Day 2020. The subscription agreement provides that Retailer will bill Customer for the subscription in January 2021. Retailer's sale of the subscription occurs in January 2021, when it bills Customer for the subscription as provided by the terms of the subscription agreement.

## 5. SOURCING SALES AND PURCHASES OF DIGITAL GOODS

### A. Statutory Language

Section [77.522\(1\)\(a\)1.](#), Wis. Stats., provides the following:

" 'Receive' means taking possession of tangible personal property or items or property under s. 77.52 (1) (b) or (c); making first use of services; or taking possession or making first use of digital goods under s. 77.52 (1) (d), whichever comes first. 'Receive' does not include a shipping company taking possession of tangible personal property or items or property under s. 77.52 (1) (b) or (c) on a purchaser's behalf."

Section [77.522\(1\)\(b\)](#), Wis. Stats., provides the following:

"Except as provided in par. (c) and subs. (3), (4), and (5), the location of a sale is determined as follows:

- (1) If a purchaser receives the product at a seller's business location, the sale is sourced to that business location.
- (2) If a purchaser does not receive the product at a seller's business location, the sale is sourced to the location where the purchaser, or the purchaser's designated donee, receives the product, including the location indicated by the instructions known to the seller for delivery to the purchaser or the purchaser's designated donee.
- (3) If the location of a sale of a product cannot be determined under subds. 1. and 2., the sale is sourced to the purchaser's address as indicated by the seller's business records, if the records are maintained in the ordinary course of the seller's business and if using that address to establish the location of a sale is not in bad faith.
- (4) If the location of a sale of a product cannot be determined under subds. 1. to 3., the sale is sourced to the purchaser's address as obtained during the consummation of the sale, including the address indicated on the purchaser's payment instrument, if no other address is available and if using that address is not in bad faith.

- (5) If the location of a sale of a product cannot be determined under subds. 1. to 4., including the circumstance in which the seller has insufficient information to determine the locations under subds. 1. to 4., the location of the sale is determined as follows:
- (a) If the item sold is tangible personal property or an item or property under s. 77.52 (1) (b) or (c), the sale is sourced to the location from which the tangible personal property or item or property under s. 77.52 (1) (b) or (c) is shipped.
  - (b) If the item sold is a digital good or computer software delivered electronically, the sale is sourced to the location from which the digital good or computer software was first available for transmission by the seller, not including any location that merely provided the digital transfer of the product sold.
  - (c) If a service is sold, the sale is sourced to the location from which the service was provided."

Section [77.522\(3\)\(a\)](#), Wis. Stats., provides the following:

"Except as provided in pars. (b) and (c), with regard to the first or only payment on the lease or rental, the lease or rental of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) is sourced to the location determined under sub. (1) (b). Subsequent periodic payments on the lease or rental are sourced to the property's, item's, or good's primary location as indicated by an address for the property, item, or good that is provided by the lessee and that is available to the lessor in records that the lessor maintains in the ordinary course of the lessor's business, if the use of such an address does not constitute bad faith. The location of a lease or rental as determined under this paragraph shall not be altered by any intermittent use of the property, item, or good at different locations."

Section [77.522\(3\)\(d\)](#), Wis. Stats., provides that:

"A license of tangible personal property or items or property under s. 77.52(1)(b), (c), or (d), shall be treated as a lease or rental of tangible personal property under this subsection."

## B. Determination of Where the Sale of a Digital Good Takes Place

The following hierarchy is used to source the **sale** (but not a **lease, rental, or license**) of a digital good to a location:

- (1) If the purchaser takes possession or makes first use of the digital good at the seller's place of business, the sale is sourced to (i.e., takes place at) that location.

**Example 1:** Customer purchases three songs at Retailer's store. While at the store, Retailer electronically transfers the songs to Customer's device. The sale is sourced to Retailer's store location (sec. 77.522(1)(b)1., Wis. Stats.).

- (2) If 1. does not apply, the sale is sourced to (i.e., takes place at) the location where the purchaser, or the purchaser's designated donee, takes possession or makes first use of the digital good, including the location indicated by the instructions known to the seller for delivery to the purchaser or the purchaser's designated donee.

**Example 2:** Company has several business locations in Wisconsin and Minnesota. Company purchases a subscription from Retailer. The subscription allows employees of Company, using a computer, monitor, and Internet access, to go to Retailer's website, enter a username and password, and select and view training videos covering a variety of topics for a period of one-year. The subscription is a sale of a digital audiovisual work. Company provides Retailer with written information indicating that Company will make first use of the product at a location in Wisconsin. The sale is sourced to Wisconsin, as the location indicated by the

instructions known to the seller for delivery to the purchaser or the purchaser's designated donee is a location in Wisconsin (sec. 77.522(1)(b)2., Wis. Stats.).

- (3) If 1. or 2. do not apply, the sale is sourced to (i.e., takes place at) the purchaser's address as indicated by the seller's business records, if the records are maintained in the ordinary course of the seller's business and if using that address to establish the location of a sale is not in bad faith.

**Example 3:** Customer, a resident of Wisconsin, visits Retailer's website. Customer purchases a movie, which Retailer electronically transfers to Customer's device. At the time of the transfer, Retailer does not know where Customer's device is located, but Retailer does have Customer's address that it maintains in its records in the ordinary course of its business. The sale is sourced to Customer's address (sec. 77.522(1)(b)3., Wis. Stats.).

- (4) If 1., 2., or 3. do not apply, the sale is sourced to (i.e., takes place at) the purchaser's address as obtained during the consummation of the sale, including the address indicated on the purchaser's payment instrument, if no other address is available and if using that address is not in bad faith.

**Example 4:** Customer, a resident of Wisconsin, visits Retailer's website. Customer purchases a movie using a credit card. Retailer then electronically transfers the movie to Customer's device. At the time of the sale, Retailer does not know where Customer will take possession or make first use of the movie. Retailer does not have an address for Customer in the records it maintains in the ordinary course of its business. Prior to completing the sale, Retailer requires its customers to provide their name, address, an email address, and phone number. Retailer sources the sale to the address furnished by Customer (sec. 77.522(1)(b)4., Wis. Stats.).

- (5) If the location of a sale of the digital good cannot be determined under 1., 2., 3., or 4., including the circumstance in which the seller has insufficient information to determine the location under 1., 2., 3., or 4., the sale is sourced to (i.e., takes place at) the location from which the digital good was first available for transmission by the seller, not including any location from which the digital good was merely transferred electronically.

### C. Determination of Where the Lease, Rental, or License of a Digital Good Takes Place

The following is used to source the lease, rental, or license of a digital good:

- (1) With regard to the first or only payment on the lease, rental, or license of the digital good, the lease, rental, or license is sourced to the location as determined under Part 5.B.
- (2) Subsequent periodic payments on the lease, rental, or license are sourced to the digital good's primary location as indicated by an address for the digital good that is provided by the lessee or licensee and that is available to the lessor or licensor in records that the lessor or licensor maintains in the ordinary course of the lessor's or licensor's business, if the use of such an address does not constitute bad faith. The location of a lease, rental, or license as determined under this paragraph shall not be altered by any intermittent use of the digital good at different locations.

## 6. DIGITAL AUDIO WORKS

### A. Statutory Language

Section [77.51\(3pa\)](#), Wis. Stats., provides that:

" 'Digital audio works' means works that result from the fixation of a series of musical, spoken, or other sounds that are transferred electronically, including prerecorded or live music, prerecorded or live readings of books or

other written materials, prerecorded or live speeches, ringtones, or other sound recordings but not including audio greeting cards sent by electronic mail."

### B. What is a Digital Audio Work?

Examples of digital audio works include:

- Recorded or live songs
- Recorded or live readings of books or other written materials
- Recorded or live speeches or lectures
- Ringtones (digitized sound files that are downloaded onto a device and that may be used to alert the customer regarding a communication, but not including ringback tones or other digital audio files that are not stored on the purchaser's communication device)
- Background music furnished to business, industry, and others from a central studio over telephone circuits or by FM radio

### C. What is Not a Digital Audio Work?

- Works that contain visual elements in addition to sound (see "digital audiovisual works" in Part 7.)
- Audio greeting cards transferred electronically (see note below)
- Recorded music, audio books, or recorded speeches or lectures that are transferred using a tangible medium such as tape or CD
- Ringback tones and other digital audio files which are not stored on the purchaser's communication device

**Note:** While audio greeting cards transferred electronically are not "digital audio works," they are "additional digital goods." See Part 9. for additional information.

## 7. DIGITAL AUDIOVISUAL WORKS

### A. Statutory Language

Section [77.51\(3p\)](#), Wis. Stats., provides that:

" 'Digital audiovisual works' means a series of related images that, when shown in succession, impart an impression of motion, along with accompanying sounds, if any, and that are transferred electronically. 'Digital audiovisual works' includes motion pictures, musical videos, news and entertainment programs, and live events, but does not include video greeting cards or video or electronic games."

### B. What is a Digital Audiovisual Work?

Examples of digital audiovisual works include:

- Movies
- Motion pictures
- Musical videos
- News and entertainment programs
- Live or recorded events, such as professional football games or stock car races

- Prerecorded webinars that are not provided incidentally with educational services (see article titled "[Sales Tax Treatment of Educational Products, Goods, and Services](#)" for additional information)

### C. What is Not a Digital Audiovisual Work?

- Video greeting cards (see note below)
- Video or electronic games (see note below)
- Movies, music videos, news and entertainment programs, or video or electronic games transferred other than electronically, such as on a tape or CD

**Note:** While video greeting cards and video or electronic games transferred electronically are not digital audiovisual works, such items are additional digital goods. See Part 9. for additional information.

## 8. DIGITAL BOOKS

### A. Statutory Language

Section [77.51\(3pb\)](#), Wis. Stats., provides that:

" 'Digital books' means works that are generally recognized in the ordinary and usual sense as books and are transferred electronically. 'Digital books' includes any literary work, other than a digital audio work or digital audiovisual work, that is expressed in words, numbers, or other verbal or numerical symbols or indicia, if the literary work is generally recognized in the ordinary and usual sense as a book, work of fiction or nonfiction, or a short story, but does not include newspapers or other news or information products, periodicals, chat room discussions, or blogs."

### B. What is a Digital Book?

A digital book is broadly defined to include any literary work (other than a digital audio work or digital audiovisual work) that meets all of the following:

- Is expressed in words, numbers, or other verbal or numerical symbols or indicia,
- Is generally recognized in the ordinary and usual sense as a book, work of fiction or nonfiction, or a short story, and
- Is transferred electronically.

Examples of digital books include:

- Novels and autobiographies
- Encyclopedias, dictionaries, and repair manuals
- Phone directories, business directories, zip code directories
- Educational textbooks
- Cookbooks

### C. What is Not a Digital Book?

(1) Newspapers or other news or information products transferred electronically are not digital books. Examples of Newspapers or other news or information products include:

- Newspapers, as defined in Part 9.A.

- A website maintained by or for a local television station which posts current news, weather and sports information for viewing by the person accessing the website

**Note (1):** Newspapers or other news or information products, while not subject to tax as a digital book, may be subject to tax as an additional digital good. See Part 9 for additional information.

**Note (2):** Newspapers are exempt from sales and use taxes, regardless of whether they are transferred electronically or in paper form.

- (2) Periodicals are not digital books. The statutes do not define the term periodical. A periodical, according to The American Heritage Dictionary of the English Language, Fifth Edition (2020), is: "A publication issued at regular intervals of more than one day."

Examples of periodicals transferred electronically and that are not digital books include:

- Magazines issued weekly, monthly or at some other regular interval of more than on one day
- Scientific journals
- Trade publications
- Newspapers issued at regular intervals other than daily

**Note:** A periodical, while not subject to tax as a digital book, may be subject to tax as an additional digital good. See Part 9 for additional information.

- (3) Chat room discussions are not digital books.

**Example:** A person, using a computer and Internet access, reaches a website which hosts a chat room. The person enters a log-in name and password. The person is now able to see various postings by other users, as well as being able to post their own comments to the chat room. The electronic transfer of this information to and/or from the person, is not the electronic transfer of a digital book.

- (4) Blogs are not digital books. The term blog is a contraction of the term web log. The term typically refers to a website with regular entries of commentary, descriptions of events, or other material such as graphics or video.

**Example:** A person, using a computer and Internet access, accesses a website which hosts a blog. The person is able to see the contents of the web log. The electronic transfer of this information is not the transfer of a digital book.

**Note:** A blog, while not subject to tax as a digital book, may be subject to tax as an additional digital good. See Part 9 for additional information.

## 9. ADDITIONAL DIGITAL GOODS

### A. Statutory Language

Section [77.51\(1a\)](#), Wis. Stats., provides the following:

"(a) 'Additional digital goods' means all of the following, if transferred electronically:

- (1) Greeting cards.
- (2) Finished artwork.

- (3) Periodicals.
- (4) Video or electronic games.
- (5) Newspapers or other news or information products.

(b) For purposes of this subchapter, the sale, license, lease, or rental of or the storage, use, or other consumption of a digital code is treated the same as the sale of or the storage, use, or other consumption of any additional digital goods for which the digital code relates."

Section [77.51\(3rm\)](#), Wis. Stats., provides that:

" 'Finished artwork' means the final art used for actual reproduction by photomechanical or other processes or for display purposes but **does not include Website or home page designs**. 'Finished artwork' includes all of the following items regardless of whether such items are reproduced:

- (a) Drawings.
- (b) Paintings.
- (c) Designs.
- (d) Photographs.
- (e) Lettering.
- (f) Paste-ups.
- (g) Mechanicals.
- (h) Assemblies.
- (i) Charts.
- (j) Graphs.
- (k) Illustrative materials." (Emphasis added)

Section [77.51\(8\)](#), Wis. Stats., defines "newspaper" as follows:

" 'Newspaper' means those publications which are commonly understood to be newspapers and which are printed and distributed periodically at daily, weekly or other short intervals for the dissemination of current news and information of a general character and of a general interest to the public. In addition, any publication which qualifies as a newspaper under s. [985.03 \(1\)](#) is a newspaper. 'Newspaper' also includes advertising supplements if they are printed by a newspaper and distributed as a component part of one of that newspaper's publications or if they are printed by a newspaper or a commercial printer and sold to a newspaper for inclusion in publications of that newspaper. A 'newspaper' does not include handbills, circulars, flyers, or the like, advertising supplements not described in this subsection which are distributed with a newspaper, nor any publication which is issued to supply information on certain subjects of interest to particular groups, unless such publication otherwise qualifies as a newspaper within this subsection. In this subsection, advertising is not considered news of a general character and of a general interest."

## B. What Are Additional Digital Goods?

Additional digital goods are those items specifically enumerated by statute (see Part 9.A.), transferred electronically, and are not a digital audio work, a digital audiovisual work, or a digital book.

The following are examples of specific products transferred electronically that are additional digital goods:

(1) Electronic greeting cards

**Example:** For a fee, Individual obtains access to a website that allows Individual to select a card (e.g., a birthday card, anniversary card, get well card), write a message for the card, and have a notification message sent to an email address provided by Individual. The website sends an email message to the email address and provides a link in the message. When the recipient opens the email message, the recipient is informed that Individual has sent them a card, and the card may be viewed by clicking on the link provided. Upon clicking on the link, the card and message is transferred electronically to the recipient for viewing. The charges by the website are subject to Wisconsin sales or use taxes as receipts from the sale of an additional digital good.

(2) Finished artwork

**Example:** Advertising Agency is hired by Department Store to design a promotional brochure. Upon approval of the brochure design, Advertising Agency electronically transfers the brochure design to Department Store. Department Store uses the design to print the brochures in Department Store's in-house printing plant. Department Store provides the brochure free of charge to potential customers. Advertising Agency's sale of the brochure design is the sale of finished artwork and is subject to Wisconsin sales and use taxes as a sale of an additional digital good.

(3) Periodicals

**Example:** Company offers its customers the ability to purchase a single issue of various magazines that are downloaded to the customer's electronic reading device. Customer purchases a single issue of a weekly magazine, and it is transferred electronically to Customer's device. Company's charges are subject to Wisconsin sales and use taxes as receipts from the sale of an additional digital good.

**Note:** Charges for certain subscriptions to magazines transferred electronically are exempt from Wisconsin sales and use taxes. See Part 13.C.(7).

(4) Video or electronic games

**Example:** Retailer sells video games. When a customer purchases the game, Retailer transfers the game electronically to the customer. Retailer charges for the video game are subject to Wisconsin sales and use taxes as receipts from the sale of an additional digital good.

(5) Newspapers or other news or information products

(a) Newspapers

**Example:** Newspaper sells a print edition of its newspaper. It also sells versions of its newspaper that are transferred electronically to the customer. One version provides the customer only all of the articles in the paper version of the newspaper transferred electronically to the customer's device once a day. The other version is an exact replica of the newspaper (e.g., a PDF version) with only all of the news and advertising as it appears in the print edition and is transferred electronically to the customer's device once a day. Both products transferred electronically are additional digital goods that are newspapers. Charges for newspapers, whether sold as tangible personal property or as an additional digital good, are exempt from Wisconsin sales and use taxes.

(b) Other news or information products

Other news or information products refers to products that disseminate news or information.



News is defined in The American Heritage Dictionary of the English Language, Fifth Edition (2020), as: "Information about recent events or happenings, especially as reported by newspapers, websites, radio, television, and other forms of media" and includes "A presentation of such information, as in a newspaper or on a newscast."

Information means a collection of facts or data.

Examples of other news or information products that are taxable as additional digital goods when transferred electronically include, but are not limited to:

- Access to an online database or website of current or historical information that allows the user to view and/or download the information. Examples include:
  - Listing of job opportunities
  - Construction plans and construction plan information
  - Price or valuation information
  - Personal information, such as address, age, or phone numbers
- Information alerts sent by email
- Newsletters transferred electronically
- Online news services
- Instructional guides

## 10. DIGITAL CODES

### A. Statutory Language

Digital Code is defined by sec. [77.51\(3pc\)](#), Wis. Stats., to mean:

"[A] code that provides the person who holds the code a right to obtain an additional digital good, a digital audiovisual work, digital audio work, or digital book and that may be obtained by any means, including tangible forms and electronic mail, regardless of whether the code is designated as song code, video code, or book code. 'Digital code' includes codes used to access or obtain any specified digital goods, or any additional digital goods that have been previously purchased, and promotion cards or codes that are purchased by a retailer or other business entity for use by the retailer's or entity's customers. 'Digital code' does not include the following:

- (1) A code that represents any redeemable card, gift card, or gift certificate that entitles the holder of such card or certificate to select any specified digital goods or additional digital goods at the cash value indicated by the card or certificate.
- (2) Digital cash that represents a monetary value that a customer may use to pay for a future purchase."

### B. What is a Digital Code?

A digital code is a code:

- that may be obtained by any means including tangible forms and electronic mail, regardless of whether the code is designated as song code, video code, or book code, and
- allows the person who holds the code the right to obtain any one or more additional digital goods, digital audiovisual works, digital audio works, or digital books.

**Example:** Customer purchases a code from Retailer. Retailer mails the code to Customer on a plastic card. The code allows the holder of the card to go online, select five movies from a predetermined list of movies, and download the movies (i.e., digital audiovisual works) from Retailer's website. There is no cash value associated with the card. The code is a digital code because the code provides Customer the right to obtain digital audiovisual works.

### C. What is Not a Digital Code?

Digital code does not include:

- A code that represents a gift card or gift certificate that allows the holder of the code to select any digital goods at the cash value indicated by the card or certificate.
- A code that is in the nature of or represents cash and that may be used to pay for a future purchase.
- A code that is redeemable for property, items, goods or services other than specified digital goods or additional digital goods.

**Example:** Customer purchases a code from Retailer. Retailer emails the code to an email address provided by Customer. The value of the code is \$50.00. The recipient of the code may go online and download various digital audio works and digital audiovisual works from Retailer's website. Using the code, the recipient may use the cash value to pay for the purchases. If the value of the code is exceeded, the recipient may use a credit card to pay for the remaining balance due on the purchase. The code is not a digital code because the code is in the nature of or represents cash that may be used to pay for future purchases. However, Wisconsin sales or use taxes will apply to the sale or purchase of any digital good which is made using the value of the code.

**Example:** Customer purchases a code from Retailer C on a plastic card for \$25.00. The card is good for 100 points to be used for purchases at Retailer D's website. The code allows the holder of the card to log into the holder's account with Retailer D and add the 100 points to his or her account. That person may then use the points to purchase and download various electronic games (i.e., additional digital goods) from Retailer D. The code is not a digital code because the code is in the nature of or represents cash that may be used to pay for future purchases. Retailer C's charges for the code are not subject to tax.

### D. Sales and Use Tax Treatment of Digital Codes

The sale of and the storage, use, or other consumption of a digital code is treated in the same manner as the sale of or the storage, use or other consumption of the digital goods to which the digital code relates.

A retailer making a sale of a digital code that is redeemable for particular digital goods is treated as having made a sale of the digital goods at the time the digital code is sold to the purchaser.

## 11. DIGITAL GOODS NOT SUBJECT TO SALES AND USE TAXES

Not every sale of a digital good (i.e., a product transferred electronically) is subject to the sales tax imposed by sec. 77.52(1)(d), Wis. Stats.

- Wisconsin sales tax is only imposed on specified digital goods, additional digital goods, and digital codes relating to such digital goods (See Part 3.A.).
- Exemptions can apply to the sale or purchase of digital goods. For example, specified digital goods or additional digital goods are exempt from tax if the sale of such goods in tangible form is exempt from tax (See Part 13).
- A sale may not be taxable even though a digital good is transferred to the customer. For example, the sale of a live webinar (i.e., specified digital good) is a nontaxable educational service and the webinar is considered incidental to (and not a separate taxable sale from) the sale of the nontaxable educational service.

## 12. BUNDLED TRANSACTIONS

A bundled transaction is the retail sale of two or more products, not including real property and services to real property, if the products are distinct and identifiable and sold for one nonitemized price.\* Products includes tangible personal property; items, property, and goods as described in sec. 77.52(1)(b), (c), and (d), Wis. Stats.; and services.

\*Certain exceptions apply. These exceptions are listed in sec. [Tax 11.985](#), Wis. Adm. Code. Bundled transactions, along with definitions of distinct and identifiable product and one non-itemized price.

The entire sales price of a bundled transaction is subject to Wisconsin sales or use tax, except as follows:

Retailer may identify the nontaxable portion of sales price: When a retailer is able to identify (by reasonable and verifiable standards from the retailer's books and records that are kept in the ordinary course of its business) the portion of the sales price that is attributable to products that are not subject to the tax, the retailer may choose to tax only the portion attributable to the taxable products. **Exception:** This option does not apply to a bundled transaction that contains food and food ingredients, drugs, durable medical equipment, mobility-enhancing equipment, prosthetic devices, or medical supplies.

**Example:** For a single monthly subscription fee of \$300, Company provides the following information and services relating to commodities in a given industry:

- (1) Access to real-time prices on Company's website
- (2) Ability to view live feeds of different commodities exchanges
- (3) Ability to receive text messages on prices from different commodities exchanges
- (4) Ability to set price alerts related to changes in prices in the different commodities exchanges
- (5) Access to daily commentaries from trading floors of the exchanges
- (6) Access to database containing historical information for research purposes
- (7) Access to archived news articles
- (8) Access to online prewritten computer software that performs calculations based on subscriber input (interest, gains, losses, payments)\*
- (9) Access to live webinars on commodity trading

\*The use of the software is a nontaxable data processing service as described in Common Questions: [Sales and Use Tax Treatment Computer - Hardware, Software, Services](#), Question 4.B.

The taxable products in this example are items 1 - 7 (the real-time prices, the live feeds, the text messages, the price alerts, daily commentaries, access to database of historical information, and access to archived news articles). The nontaxable products are items 8 and 9 (the ability to use the software and access to live webinars on commodity trading).

The portion of the purchase price or sales price of items 1 - 7 is more than 10% of the \$300 subscription fee for all the items listed above.

**Note:** If the retailer can identify, by reasonable and verifiable standards from the retailer's books and records, that portion of the sales price that is attributable to the products that are not subject to tax, the retailer is only required to charge Wisconsin sales tax on the taxable products.

Additional information on bundled transactions is available in the tax release titled "Bundled Transactions" which was published on pages 26-40 of [Wisconsin Tax Bulletin 201](#) (April 2018), Part 8.C. in [Publication 201](#), *Wisconsin Sales and Use Tax Information*, and in sec. [Tax 11.985](#), Wis. Adm. Code.

## 13. EXEMPTIONS FOR DIGITAL GOODS

### A. Statutory Language

Under sec. [77.54\(50\)](#), Wis. Stats., a sales and use tax exemption is provided for:

"The sales price from the sale of and the storage, use or the consumption of specified digital goods or additional digital goods if the sale of and the storage, use or other consumption of such goods sold in a tangible form is exempt from, or not subject to, taxation under this subchapter."

### B. Scope of Exemption

The sale of and the storage, use or other consumption of any specified digital good or additional digital good is exempt from sales and use taxes if the digital good sold in a tangible form would qualify for exemption from sales and use taxes or is not subject to sales and use taxes.

**Example:** An entity exempt from Wisconsin sales and use taxes on its purchases of tangible personal property and taxable services under sec. 77.54(9a)(a), Wis. Stats., purchases finished art from a vendor for \$500. The vendor transfers the finished art electronically to the entity. If the finished art had been transferred to it in a tangible form, the entity could have purchased the artwork without tax under sec. 77.54(9a)(a), Wis. Stats. Thus, the sale of the finished artwork as an additional digital good is exempt from sales and use taxes under sec. 77.54(50), Wis. Stats.

### C. Examples of the Exemptions for Tangible Personal Property That May Apply to Digital Goods

The following exemptions from sales and use taxes for sales and purchases of tangible personal property may apply in the case of the sale or purchase of a digital good.

#### (1) Federal preemption

Section [77.54\(1\)](#), Wis. Stats., provides an exemption from sales and use taxes for:

"The sales price from the sale of and the storage, use or other consumption in this state of tangible personal property, and items and property and goods under s. 77.52 (1) (b) and (c), and services the sales price from the sale of which, or the storage, use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States or under the constitution of this state."

**Example:** A U.S. Government agency sells a map which it transfers electronically to Customer B, at a location in Wisconsin. The sale of the map is a sale of a digital good. However, the sale of the digital good is exempt under sec. 77.54(50), Wis. Stats. Had the map been transferred to Customer B in a tangible form, the sale would have been exempt under sec. 77.54(1), Wis. Stats.

#### (2) Consumed in manufacturing exemption

Section [77.54\(2\)](#), Wis. Stats., provides an exemption from sale and use taxes for:

"The sales price from the sales of and the storage, use, or other consumption of tangible personal property or item under s. 77.52 (1) (b) that is used exclusively and directly by a manufacturer in manufacturing an article of tangible personal property or item 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 tangible personal property or item 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 tangible personal property or item or property under s. 77.52 (1) (b) or (c) destined for sale, except as provided in sub. (30) (a) 6."

**Example:** Company purchases finished artwork, which constitutes an additional digital good, from Advertising Agency. The finished artwork is transferred electronically by Advertising Agency to Printer. Company contracts with Printer to purchase 10,000 pamphlets using the finished artwork. Printer is to furnish the paper and ink used to print the pamphlets. Company's purchase of the additional digital good (the finished artwork) is exempt from Wisconsin sales and use taxes under sec. 77.54(50), Wis. Stats. The additional digital good is used exclusively and directly by Printer in manufacturing tangible personal property and is consumed, destroyed, or loses its identity in the manufacture of tangible personal property (the pamphlets) destined for sale by Printer to Company. Had the finished artwork been purchased in a tangible form and used in the same manner described above, the purchase of the finished artwork would have been exempt under sec. 77.54(2), Wis. Stats.

(3) Consumed in manufacturing exemption – newspapers, shopper's guides, and periodicals

Section [77.54\(2m\)](#), Wis. Stats., provides an exemption from sale and use taxes for:

"The sales price from the sales of and the storage, use, or other consumption of tangible personal property or services that are used exclusively and directly by a manufacturer in manufacturing shoppers guides, newspapers, or periodicals and that become an ingredient or component of shoppers guides, newspapers, or periodicals or that are consumed or lose their identity in the manufacture of shoppers guides, newspapers, or periodicals, whether or not the shoppers guides, newspapers, or periodicals are transferred without charge to the recipient. In this subsection, "shoppers guides," "newspapers," and "periodicals" have the meanings under sub. (15). The exemption under this subdivision does not apply to advertising supplements that are not newspapers."

**Example:** Newspaper publishes a shopper's guide, which is distributed weekly, free of charge. Newspaper purchases finished artwork, which constitutes an additional digital good, from Business. The finished artwork is incorporated by Newspaper into one of the weekly editions of its shopper's guide. Newspaper's purchase of the additional digital good (the finished artwork) is exempt from Wisconsin sales and use taxes under sec. 77.54(50), Wis. Stats. The additional digital good is used exclusively and directly in manufacturing tangible personal property and is consumed, destroyed, or loses its identity in the manufacture of a shopper's guide. Had the finished artwork been purchased in a tangible form and used in the manner described above, the purchase of the finished artwork would have been exempt under sec. 77.54(2m), Wis. Stats.

(4) Farming exemptions

Section [77.54\(3\)\(a\)](#), Wis. Stats., provides an exemption for:

"The sales price from the sales of and the storage, use, or other consumption of tractors and 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, including dairy farming, agriculture, horticulture, floriculture, silviculture, and custom farming services, but excluding automobiles, trucks, and other motor vehicles for highway use; excluding personal property that is attached to, fastened to, connected to, or built into real property or that becomes an addition to, component of, or capital improvement of real property; and excluding tangible personal property, or items or property under s. 77.52 (1) (b) or (c), used or consumed in the erection of buildings or in the alteration, repair, or improvement of real property, regardless of any contribution that that personal property, or items or property under s. 77.52

(1) (b) or (c), makes to the production process in that building or real property and regardless of the extent to which that personal property, or items or property under s. 77.52 (1) (b) or (c), functions as a machine, except as provided in par. (c)."

**Example:** Individual is engaged in the business of farming in Wisconsin. Using a computer and Internet access, Individual orders a repair manual for a tractor from a vendor engaged in business in Wisconsin. The tractor is used by Individual exclusively in his farming business. The vendor transfers the repair manual electronically to Individual. Provided Individual uses the specified digital good (the repair manual) solely (i.e., 100%) in the business of farming, Individual may purchase the specified digital good (the repair manual) without tax under sec. 77.54(50), Wis. Stats. Had the repair manual been transferred to Individual in a tangible form, the purchase would have qualified for exemption under sec. 77.54(3)(a), Wis. Stats., as other tangible personal property consumed in the business of farming.

(5) Sales by elementary or secondary schools

Section [77.54\(4\)](#), Wis. Stats., provides an exemption for:

"The sales price from the sale of tangible personal property and items and property under s. 77.52 (1) (b) and (c) and the storage, use or other consumption in this state of tangible personal property and items and property under s. 77.52 (1) (b) and (c), which is the subject of any such sale, by any elementary school or secondary school, exempted as such from payment of income or franchise tax under ch. 71, whether public or private."

**Example:** A public high school in Wisconsin holds a fund-raising event. Persons attending the event may purchase a "digital code" which allows the person to go to a specified website and download a copy of the high school's spring band concert. The high school's sale of the digital code is treated the same as sale of the digital audio work the digital code may be redeemed for, pursuant to sec. 77.51(17x), Wis. Stats. The high school's sale of and the purchaser's storage, use or other consumption in Wisconsin of the digital code is exempt from Wisconsin sales and use taxes under sec. 77.54(50), Wis. Stats. Had the copy of the band concert been transferred by the high school to the purchaser in a tangible form, it would have been exempt from Wisconsin sales and use taxes under sec. 77.54(4), Wis. Stats.

(6) Certain transactions relating to aircraft, motor vehicles, and truck bodies

Section [77.54\(5\)\(a\)](#), Wis. Stats., provides an exemption for:

"Aircraft, including accessories, attachments, fuel and parts therefor, sold to persons using such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government, or sold to any foreign government for use by such government outside this state and aircraft, motor vehicles or truck bodies sold to persons who are not residents of this state and who will not use such aircraft, motor vehicles or trucks for which the truck bodies were made in this state otherwise than in the removal of such aircraft, motor vehicles or trucks from this state.

**Example:** Airline purchases a flight manual, which is transferred electronically by the retailer, to Airline, for one of its passenger aircraft. Airline assigns the manual to that aircraft. Airline's purchase of the manual is exempt from tax under sec. 77.54(50), Wis. Stats. Had the manual been transferred to Airline in a tangible form, the purchase of the manual would have been exempt under sec. 77.54(5)(a), Wis. Stats.

(7) Newspapers, periodicals, controlled circulation publications, and shopper's guides

Section [77.54\(15\)](#), Wis. Stats., provides an exemption for:



"The sales price from the sale of and the storage, use or other consumption of all newspapers, of periodicals sold by subscription and regularly issued at average intervals not exceeding 3 months, or issued at average intervals not exceeding 6 months by an educational association or corporation sales to which are exempt under sub. (9a) (f), of controlled circulation publications sold to commercial publishers for distribution without charge or mainly without charge or regularly distributed by or on behalf of publishers without charge or mainly without charge to the recipient and of shoppers guides which distribute no less than 48 issues in a 12-month period. In this subsection, "shoppers guide" means a community publication delivered, or attempted to be delivered, to most of the households in its coverage area without a required subscription fee, which advertises a broad range of products and services offered by several types of businesses and individuals. In this subsection, "controlled circulation publication" means a publication that has at least 24 pages, is issued at regular intervals not exceeding 3 months, that devotes not more than 75% of its pages to advertising and that is not conducted as an auxiliary to, and essentially for the advancement of, the main business or calling of the person that owns and controls it."

**Example:** Publisher's publication meets the definition of a periodical. The periodical is regularly issued on a quarterly basis. Publisher makes the periodical available for sale by subscription as well as for sale by single copy. In addition, Publisher offers the purchaser the option of having the periodical delivered electronically or having a paper copy mailed to them.

- (a) Individual visits Publisher's website and purchases the current issue of the periodical. Publisher transfers the periodical electronically to Individual. Using the sourcing rules under sec. 77.522, Wis. Stats., Publisher determines that the sale of the additional good (a periodical transferred electronically), is sourced to a location in Wisconsin. The exemption under sec. 77.54(15), Wis. Stats., does not apply to the sale of the periodical to Individual, because the periodical is not sold by subscription. Publisher is liable for Wisconsin sales tax on its sale of the additional digital good (the periodical) to Individual.
  - (b) Individual visits Publisher's website and purchases a one-year subscription (4 issues, issued quarterly) of the periodical, to be transferred electronically. Using the sourcing rules under sec. 77.522, Wis. Stats., Publisher determines that the sale of the subscription of the additional digital good (the periodical issues to be transferred electronically) is sourced to Wisconsin. The sale of this subscription is exempt from Wisconsin sales and use taxes under sec. 77.54(50), Wis. Stats. Had the sale of the subscription of the periodical been for issues to be delivered to Individual in a tangible format, the sale would have been exempt under sec. 77.54(15), Wis. Stats.
- (8) Volunteer fire departments – fire trucks and fire fighting equipment

Section [77.54\(16\)](#), Wis. Stats., provides an exemption for:

"The sales price from the sale of and the storage, use or other consumption of fire trucks and fire fighting equipment, including accessories, attachments, parts and supplies therefor, sold to volunteer fire departments."

**Example:** A Wisconsin township contracts with a volunteer fire department to provide fire and emergency services. The fire department has GPS devices on its fire trucks and emergency vehicles to aid in responding to a fire or other call. The volunteer fire department purchases an updated map for its GPS device. The map is downloaded by the fire department using the Internet, and then installed on its GPS devices. The volunteer fire department's purchase of the updated map is exempt from Wisconsin sales and use taxes under sec. 77.54(50), Wis. Stats. Had the purchase of the map been in a tangible format (e.g., on a CD), it would have been exempt from sales and use taxes under sec. 77.54(16), Wis. Stats., as an accessory for a fire truck sold to a volunteer fire department.

- (9) Sales by American Legion baseball teams

Section [77.54\(35\)](#), Wis. Stats., provides an exemption, for:

"The sales price from the sales of tangible personal property, or items or property under s. 77.52 (1) (b) or (c), tickets, or admissions by any baseball team affiliated with the Wisconsin Department of American Legion baseball."

**Example:** A baseball team affiliated with the Wisconsin Department of American Legion baseball sells photographs of the team and photographs and videos of games the team has played in. The photographs and videos are available online and transferred electronically to the purchaser. The baseball team's charge to the customer purchasing the photographs or videos is exempt under sec. 77.54(50), Wis. Stats. Had the photographs or videos been transferred by the baseball team using a tangible medium, the sale would have been exempt under sec. 77.54(35), Wis. Stats.

#### D. Exemption for Digital Goods When Tangible Form of Digital Good Not Subject to Tax

Sales of specified or additional digital goods may qualify for exemption under sec. 77.54(50), Wis. Stats., when the sale, in a tangible form, is not subject to tax. Examples include:

- Viewing a live educational seminar via webcast
- Participating in a business seminar via live webinar

#### E. Exemption for Real Estate Broker Memberships

Section [77.54\(72\)](#), Wis. Stats., provides an exemption from sales and use taxes, effective June 1, 2024, for:

"The sales price from the sale of and the storage, use, or other consumption of a membership sold to a real estate broker licensed under ch. [452](#) who, pursuant to the broker's membership agreement, offers to compensate and cooperate with other real estate brokers in brokering sales of properties and who obtains access to information about real estate listings and compensation offers from other real estate brokers."

Example: Broker, a licensed real estate broker under ch. 452, purchases a membership from a regional real estate association that allows the broker to both access property listings from other brokers and create new property listings for their own clients. This membership also provides tools to offer compensation to cooperating brokers who help facilitate sales. The purchase of the membership is exempt since it meets the requirements under sec. 77.54(72), Wis. Stats.

## 14. IF YOU HAVE QUESTIONS OR NEED ASSISTANCE

If you have a question about sales and use taxes, you may contact DOR as follows:

Visit our website . . . [revenue.wi.gov](https://revenue.wi.gov)

Email . . . [DORSalesandUse@wisconsin.gov](mailto:DORSalesandUse@wisconsin.gov)

Write . . .  
Mail Stop 5-77  
Wisconsin Department of Revenue  
P.O. Box 8949  
Madison, WI 53708-8949

Telephone . . . (608) 266-2776

Fax . . . (608) 267-1030