

From: Division for Libraries and Technology, Library Services

The Wisconsin Department of Revenue (DOR) conducts periodic audits for compliance with the state sales tax laws and administrative code rules. Recent audits raised questions from public libraries concerning the sales tax laws and regulations as they apply to libraries and other government agencies.

While sales **to** public libraries are exempt from the sales tax, sales **by** public libraries are generally not exempt from the sales tax. Public library sales subject to the Wisconsin sales tax include the sale of photocopies, computer printouts, withdrawn books, used equipment and furniture, and the rental of best-selling books and videos. Items such as brewed coffee are also subject to sales tax, under the category of "prepared food."

[Wisconsin Administrative Code section Tax 11.05](#) details the sales tax rules for state and local government agencies. Public libraries fall under the same general rules that apply to other state and local government agencies. Wisconsin Department of Revenue's Publication 209 - ["Sales and Use Tax Information for Wisconsin Counties and Municipalities"](#) - is also a helpful resource.

Library fines, including charges for materials that are not returned and charges for a duplicate library card, are specifically exempt from the sales tax. Also exempt are photocopy and records search charges made in response to an official public records request.

To simplify the collection of sales taxes, libraries (and other organizations) do not need to add sales tax onto their taxable sales and charges—they can consider sales tax as part of the price charged. However, libraries who do this must notify customers by a sign and/or on receipts provided to the customer, that "prices include sales tax". If prices include sales tax, taxes due are calculated not on total receipts, but on the receipts before taxes. (For example, if total receipts are \$1,000 including taxes, and the applicable sales tax rate is 5%, taxes are due not on the full \$1,000, but instead on \$1,000 divided by 1.05, or \$952.38.)

Any organization making sales subject to the sales tax must have a seller's permit from the Wisconsin Department of Revenue (DOR). Such organizations also need to file regular returns with the DOR and submit taxes due. If a municipality, or any of its sub-units (including the library), makes taxable sales, the municipality must handle the necessary filing and tax submission under its seller's permit.

Friends of the Library groups often conduct book sales and other sales as fundraisers. These sales may be exempt from the sales tax if they meet certain standards. (Note that [these standards were increased by the DOR at the beginning of 2017](#).) Sales by non-profit organizations on less than 75 days per year or having total taxable receipts of less than \$50,000 per year are exempt "occasional sales" if the sales event does not involve an admission charge and paid entertainment, and the organization does not have and is not

required to have a seller's permit for other purposes. A municipality may also qualify for the "occasional sales" exemption if it meets the same standards. DOR Publication 206, [Sales Tax Exemptions for Nonprofit Organizations](#) contains information on occasional sales, non-profit definition, and sales tax exemption for non-profit purchases. The DOR also provides a [FAQ on Occasional Sale exemption](#), which may prove helpful.

If a library contracts with a private vendor who owns and has control over the photocopy machines in the library, then the vendor is responsible for collecting sales tax. The same would be true for coffee / beverage / snack machines owned by a private vendor.

Some organizations believe that if they call payments "donations" they can avoid the obligation to collect sales tax. To qualify as a donation, a payment must be totally voluntary, with no restrictions placed on people who do not make a payment. For example, if a library requests a \$.10 donation per computer printout, the library cannot place any restriction on computer printouts made by people who do not make the donation. The DOR looks at the facts surrounding requests for donations to determine whether they are truly voluntary donations, or, instead, sales subject to the sales tax.

Questions about sales tax laws and regulations can be directed to the Wisconsin Department of Revenue at (608) 266-2776.