

Use it or Lose it

**By Reg P. Wydeven
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Last week I wrote about my son's purchase of his iPod. Thanks to my dad, he was able to find a great deal at Amazon.com. Because he bought it online, my son was also able to save on sales tax, as Wisconsin, like most states, does not force out-of-state online retailers to collect sales tax. Since he used my credit card, however, I'm still on the hook for the 5% because of Wisconsin's use tax.

Wisconsin's use tax is the yin to the sales' tax yang. The Department of Revenue requires Wisconsin residents to pay the use tax when sales tax is not charged. Therefore, because Amazon.com did not collect sales tax from my son when he bought his iPod (using my account and credit card), I have the obligation to report and pay the use tax for it.

The rule of thumb is that any goods or services that would be subject to Wisconsin sales tax are also subject to the use tax. While this would apply to regular purchases like action figures and comic books, it also applies to less obvious purchases, like ring tones, digital apps, music and video downloads. So if the retailer doesn't collect the sales tax, the use tax applies.

Retailers headquartered outside of Wisconsin are legally required to collect sales tax if they have a physical presence here, such as a store or warehouse. Online retailers like Amazon.com rarely have such a presence, and therefore, are not required to collect sales tax.

In addition to online purchases, typical transactions where sales tax is not collected include mail-order catalog purchases, shopping network purchases, and auctions. Out-of-state purchases are another great example, such as clothing purchases from the Mall of America, as Minnesota does not collect sales tax to attract shoppers.

Taxable services are subject to the use tax as well. For example, if my son's iPod broke and we shipped it out-of-state to be fixed, we would owe the use tax if the repairer does not collect Wisconsin sales tax, including the charges for shipping and handling.

The amount of use tax that I must pay is the same as the sales tax I would pay in the county in which the good or service is used, stored or consumed. Therefore, as a resident of Outagamie County, I owe a 5% use tax on the iPod. If we lived in Brown County, we would owe 5.5% due to the stadium tax.

In 2002, my very understanding wife went with me to the Star Wars convention in Indianapolis. Of course, I had to buy the limited edition action figure of George Lucas dressed as an X-wing pilot. Indiana imposes a sales tax rate of 7%, therefore, Wisconsin allows me a credit for sales tax properly paid in another state against the use tax. I cannot, however, offset foreign taxes or customs duty charges against the use tax.

Taxpayers can report and pay their use tax liability on their Wisconsin income tax return (Form 1, 1A, WI-Z, or 1NPR). There is a specific line on these returns entitled "Sales and use tax due on out-of-state purchases." Alternatively, taxpayers can claim and pay their use tax quarterly on the Wisconsin Form UT-5, Consumer Use Tax Return. Failing to pay the use tax can result in interest and penalties added to the use tax owed.

To make use tax liabilities easier to track, the Wisconsin Department of Revenue developed a free Use Tax Calculator in an Excel spreadsheet that can be downloaded from the agency's website.

If Congress doesn't pass the Enzi-Alexander-Durbin bill which requires online retailers to collect state sales tax, Wisconsin's covered. So if you're thinking of shopping online to save an extra 5%, remember – what's the use?

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