



bulletin

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Copy to: Office Manager

NEW TAX RATES FOR 2005

MOTOR VEHICLE DEALERS' MEASURE OF USE TAX INCREASED TO \$122

Wisconsin licensed motor vehicle dealers are permitted to report use tax on a certain dollar amount per plate per month for the use of motor vehicles assigned to certain employees and dealership owners.

*Use Tax On
Plates Increases*

Effective January 1, 2005, the amount subject to use tax is increased from \$118 to \$122 per plate per month. (Note: The use tax per plate per month is not \$122. Rather, \$122 is multiplied by the use tax rate (5%, 5.1%, 5.5% or 5.6%))

The reason for the increase to \$122 per plate is that sec. 77.53(1m)(a), Wis. Stats. (1997-98) requires that the Department of Revenue annually adjust the amount subject to use tax.

*Not All Vehicles Can Use
The Per Plate Method*

Other vehicles used in addition to retention, demonstration or display should use either the purchase price or annual lease value. Attached to this bulletin is an excerpt from the

In This Issue . . .

- Motor Vehicle Dealers Measure of Use Tax Increased to \$122
- Other Tax Issues

State of Wisconsin Department of Revenue Publication 202, *Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs* that discusses dealers use of motor vehicles. Dealers should review their monthly sales tax returns and the use of their dealer plates to insure that the proper use tax is reported for vehicles driven by employees and others that are held for sale by the dealership.

OTHER TAX ISSUES

Mileage Rates Increase for 2005

*Mileage Rate For 2005 Is
40.5 Cents*

For those dealers and employees who use their personal vehicles for business purposes the optional standard mileage rate has increased for the year 2005. The standard rate for the cost of operating a car is 40.5 cents a mile for all business miles driven. The rate for 2004 was 37.5 cents a mile. The optional rate for use of an automobile as a charitable contribution is 14 cents and the rate for medical and moving expense is 15 cents in 2005. This information is contained in Revenue Procedure 2004-64. It provides rules for substantiating the deductible expenses of using an automobile for these purposes. Dealers and others who use their personal vehicles for any of the stated purposes should consult with their tax advisor.

Time To Look Back

*Demonstrator Valuation
To Be Used By February*

Dealers who have employees that use demonstrator vehicles (and are using the Simplified Partial or Simplified Full Exclusion Methods to eliminate the mileage limitation and mileage record-keeping requirement for demonstrators in exchange for taxing a portion of the value) should be calculating the average sales prices for last year. Revenue Procedure 2001-56 states that the average sales price must be determined in January of each year and must be applied no later than February of that year. For further information see NADA Management Guide L.17, *A Dealers Guide to the Federal Tax Treatment of Demos.*

Excerpt from Publication 202 – Sales and Use Tax Information for Motor Vehicles Sales, Leases, and Repairs

Dealer’s Use of Motor Vehicles

A motor vehicle dealer is entitled to purchase motor vehicles for resale, lease, or rental without payment of the sales tax. The dealer may use the motor vehicle for retention, demonstration, or display without becoming liable for the sales tax or use tax. However, if the motor vehicle is used for “purposes in addition to retention, demonstration, or display,” the dealer becomes liable for the payment of use tax. “Purposes other than demonstration or display” includes business use as well as personal use. It includes such use as running errands for parts and supplies, salesperson transportation, and owner, partner, or officer transportation.

The amount subject to use tax on motor vehicles purchased and used by a dealer for any purpose, in addition to retention, demonstration, or display, is as follows:

1. *Motor vehicles held for sale and assigned to (a) specific dealer employees subject to withholding of federal income taxes on wages or (b) owners who actively participate in the daily operation of the dealership*

The amount subject to use tax per month per plate (regular or dealer) is as follows for the periods listed:

1/1/05 - 12/31/05	\$122
1/1/04 - 12/31/04	\$118
1/1/03 - 12/31/03	\$116
1/1/02 - 12/31/02	\$114
1/1/01 - 12/31/01	\$110
1/1/00 - 12/31/00	\$106
1/1/99 – 12/31/99	\$104
1/1/98 – 12/31/98	\$102
1/1/97 – 12/31/97	\$ 99
9/1/95 – 12/31/96	\$ 96

The department annually adjusts the amount subject to tax to the nearest whole dollar to reflect the annual percentage change in the U.S. Consumer Price Index for All Urban Customers, U.S. City Average, as determined by the U.S. Department of Labor, for the 12 months ending on June 30 of the year before the change.

Examples of motor vehicles subject to use tax based on an amount per plate per month include (this list is not all-inclusive):

- Automobiles assigned to salespersons who use the automobiles for personal travel (e.g., travel to and from home)

- Automobiles assigned to the controller and other employees subject to withholding for federal income tax purposes who use the automobiles for personal travel (e.g., travel to and from home)
- Automobiles assigned to sole proprietors, partners, shareholders, LLC members, or other owners of a dealership who actively participate in the daily operation of the dealership and use the automobiles for personal travel (e.g., travel to and from home)

“Actively participate” means the person performs services for the dealership, including selling, accounting, managing, and consulting, for more than 500 hours in a taxable year for which the person receives compensation. “Actively participate” does not include services performed only in the capacity of an investor, including studying and reviewing financial statements or reports on the operation of the business, preparing or compiling summaries or analyses of the finances of the business for the investor’s own use, or monitoring the finances or operations of the activity in a nonmanagerial capacity.

Note: Motor vehicles **not** subject to use tax (i.e., there is no sales tax due on a dealer plate affixed to the vehicle) include the following:

- Motor vehicles used only as demonstrators for customers
- Motor vehicles that are driven to and from auctions and that are held only for sale
- Motor vehicles provided by a dealer to customers without charge for use while their motor vehicle is being serviced or repaired by the dealer

Example: A motor vehicle dealer holds a dealer plate that it uses only on motor vehicles it drives to auction to sell. Use tax is not due.

2. *Motor vehicles held for sale and not assigned to specific dealer employees subject to withholding for federal income tax purposes on wages or certain dealership owners*

The amount subject to tax is the “lease value” of the motor vehicle for the period the motor vehicle is used by the dealer for any purpose, in addition to retention, demonstration, or display. The “lease value” is computed using the IRS Lease Value Table contained in IRS Reg. § 1.61-21(d)(2).

See Appendix H for a copy of the IRS Lease Value Table in effect as of November 1, 2000.

Examples of motor vehicles subject to use tax based on amounts from the IRS Lease Value Table include (this list is not all-inclusive):

- Motor vehicles used to transport customers (e.g., courtesy shuttle)
- Motor vehicles assigned to owners of a dealership who do not actively participate in the daily operation of the dealership. See B.1. for a definition of “actively participate.”
- Motor vehicles used by spouses or family members of the dealer who are not (a) dealer employees subject to withholding for federal income tax purposes or (b) owners who actively participate in the daily operation of the dealership

- Motor vehicles assigned to officers and directors of the dealer who are not subject to withholding for federal income tax purposes
- Motor vehicles provided by a dealer to municipalities and nonprofit organizations who use them for community service projects (e.g., DARE)
- Motor vehicles provided to athletic coaches, celebrities, and other dignitaries without charge for their use

If the motor vehicle is used for a purpose, in addition to retention, demonstration, or display, for a period of less than one calendar month, the lease value may be prorated to reflect the period it was used during the calendar month.

Example: Dealer A removes a new vehicle from inventory on February 1, 2000, that it will use as a courtesy shuttle for customers. The purchase price of the vehicle to the dealer was \$12,000. Using the federal lease value tables, Dealer A computes a monthly lease value of \$300 (\$3,600 annual lease value ÷ 12 months). At the end of the business day on February 15, Dealer A returns the vehicle to inventory for sale. Dealer A owes Wisconsin use tax on the vehicle of \$8.05 (\$300 monthly lease value x 15/28 (or \$161) x 5%).

3. *Motor vehicles not held for sale which are properly capitalized for income or franchise tax purposes*

The amount subject to use tax is the sales price of the motor vehicle to the dealer.

Examples of motor vehicles subject to use tax based on the sales price to the dealer include (this list is not all-inclusive):

- Tow trucks not held for sale
- Parts trucks not held for sale
- Motor vehicles not held for sale used to haul other vehicles to and from auctions
- Snow plows not held for sale
- Antique vehicles not held for sale (e.g. held for promotional purposes)
- New motor vehicles purchased by used motor vehicle dealers that may not be held for sale until after certain Department of Transportation requirements have been met

B. Mixed Use Vehicles

Some motor vehicle dealerships may use motor vehicles in more than one manner. For example, a motor vehicle may be used as both a service rental and to pick up parts, mail, etc.

A vehicle used to pick up parts, mail, etc., that is held for sale is required to be licensed in the dealer's name and the dealer must pay use tax on the lease value, as described in Part VII.B.2, while used to pick up parts, mail, etc.

A service rental vehicle used exclusively for rental may be purchased by the dealership as property for resale since the rental of a motor vehicle is considered to be a continuing sale. The dealer reports sales tax on the receipts from the rental of the motor vehicle.

If a motor vehicle is used both as a service rental and to pick up parts, mail, etc., the lease value, as described in Part VII.B.2, for the time the motor vehicle is used to pick up parts, mail, etc., is subject to use tax. Any receipts from the rental of that same motor vehicle are subject to sales tax. The use tax paid on the lease value of the motor vehicle may not be used to offset sales tax due on the rental receipts.

Example: Company A, a Wisconsin licensed motor vehicle dealer, purchases a vehicle for \$12,000 without tax for resale. Company A uses the vehicle for 40% of the month to pick up parts, mail, etc., and 60% of the month as a service rental. Receipts from the rental of the motor vehicle during the month are \$400.

Company A will report state sales and use tax relating to this vehicle for the month as follows:

Sales tax on rental receipts	
(\$400 receipts X 5% tax rate)	\$20
Use tax on lease value	
[((\$3,600 annual lease value ÷ 12 months)	
X 40% taxable use X 5% tax rate]	<u>\$ 6</u>
Total sales and use tax relating to	
vehicle for the month	<u><u>\$26</u></u>