

*NAIOP Wisconsin  
Six-Pack for Breakfast*

# ***Property Management Sales Tax***

***Presented by: Mark Spaeth, Schenck Business Solutions  
Joe Pickart, Whyte Hirschboeck Dudek, SC***



# *Property Management*



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# General Overview

- **Section 77.52 (2) Wis. Stats. provides that for the purpose of selling, performing, or furnishing certain services at retail in Wisconsin to consumers or users, a tax is imposed upon all persons selling, performing, or furnishing the services at the rate of 5% of the gross receipts from the sale, performance, or furnishing of the services.**



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# Taxable Services

- **Services subject to tax include the following:**
  - *The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection, and maintenance of all items of tangible personal property unless:*
    - *When installed or applied, the installation or application of the tangible personal property will constitute an addition or capital improvement of real property.*
    - *At the time of such service the transaction was exempt from tax.*

*Landscaping and lawn maintenance*

# *Types of Transactions*

- ***Transactions include:***
  - *Direct Charges for taxable services:*
    - *Repair HVAC*
    - *Lawn mowing*
  - *Loaned Employees*
    - *Providing taxable and/or non-taxable services.*
  - *General Management Contracts (3% to 5%)*

# *Taxable Direct Charges/Billing*

- ***Includes:***
  - *Repair of HVAC*
  - *Plumbing repairs*
  - *Lawn mowing*
  - *Carpet cleaning*
  - *Non routine janitorial services*
  - *Sales of parts*
  - *Key duplication*
  - *Changing light bulbs*



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# *Non-taxable Direct Charges/Billing*

- ***Includes:***

- *Repair and installation of real property*
- *Snow removal , sanding, salting*
- *Monitoring building temperature and adjusting thermostat*
- *Routine and repetitive janitorial services*
- *Moving furniture*
- *Carpet replacement*



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# *Loaned Employees (Temporary Help Services)*

- ***If the loaned employee is providing taxable services, either all or a portion of their services are subject to sales tax depending on recordkeeping.***
- ***Section Tax 11.67(2)(c), Wis. Adm. Code, provides that if there is a single charge for providing both taxable and nontaxable services, the entire charge is subject to tax, unless it is determined by the department that another method, such as allocation or primary purpose, more accurately reflects the tax.***



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# *Loaned Employee (Temporary Help Services)*

- ***This type of transaction is currently being contested. Manpower vs. Wis. Dept. of Revenue is at the Wisconsin Tax Appeals Commission. Oral arguments were heard on February 11, 2009.***
- ***The state is trying to say that if Manpower provides temporary employees and they perform taxable services, the receipts from the provision of the service are subject to tax.***



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# Case Study #1

- **#1** *Company A is a building management company. Company A hires an employee to mow lawns at properties it owns.*
- **Result #1** – *There are no tax ramifications since there is no retail sale involving an employee doing work for the company that employs them.*



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# Case Study #2

- **#2** *Company C enters into a contract with Company Z to provide services for Company Z with Company C's employees. The fee may be a lump sum or an amount per hour.*
- **Result #2** – *If the services being performed by Company C are services subject to tax under sec. 77.52(2)(a), the charges by Company C to Company Z are taxable, unless an exemption applies. It is taxable because the people performing the services are employees of Company C not Company Z.*



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# Case Study #3

- **#3** – *Company D enters into a contract to provide on-site facility operations at an office complex owned by Company X. Services include:*
  - *Ensuring proper operation of mechanical systems*
  - *Changing light bulbs and tubes*
  - *Moving furniture*
  - *Clearing clogged pipes*
  - *Routine and repetitive janitorial services*
  - *Lawn and garden services*
  - *Snow plowing, sanding, and salting parking lots, etc*
  - *Carpet cleaning*
  - *Carpet replacement*



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# Case Study #3 (Cont.)

- **Result #3** – *The portion of the monthly charge by Company D to Company X for the following services is subject to sales tax under sec. 77.52(2)(a):*
  - *Inspection, maintenance, and repair of furnaces, boilers, A/C, water heaters, etc.*
  - *Lawn and garden services*
  - *Changing light bulbs and tubes*
  - *Carpet cleaning*



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# Case Study #3 (Cont.)

- **Result #3 (Cont.)** – *The portion of the monthly charge by Company D to Company X for the following services is not subject to tax:*
  - *Monitoring building temperature to adjust temperature*
  - *Moving furniture*
  - *Clearing clogged plumbing pipes*
  - *Routine and repetitive janitorial services*
  - *Snowplowing, sanding, and salting parking lots, etc.*
  - *Carpet replacement*



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# Case Study #3 (Cont.)

- **The amount of tax can be determined by the following methods:**
  - *Actual time spent on each activity*
  - *Primary nature of services performed by each employee*
  - *All services are subject to tax if no documentation is kept and not reasonable allocation can be made*



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# *What is Taxable??*

## ***Concluding Remarks***

