

VOLUME 4 ISSUE NO. 4 — JULY/AUGUST 2018

MERIT SHOP

CONTRACTOR

WISCONSIN

CONSTRUCTION
**NOT IMMUNE TO
DRUG CRISIS**

PERSONAL
PROPERTY **TAX**
ON MACHINERY

NEW

A SUMMARY
OF REVISIONS

CODE

CHANGES

PLUS:

SPEAKER

**PAUL
RYAN'S
POLITICAL
CAREER**

ALSO INSIDE:
**A MORE EFFICIENT
GOVERNMENT
COULD COST YOU**
PAGE 5



Wisconsin Chapter

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PERSONAL PROPERTY

TAX ON MACHINERY

HOW ITS REPEAL IMPACTS CONSTRUCTION CONTRACTORS

By Ryan Gartman, Principle at CLA — CliftonLarsonAllen

Understanding how federal tax reform will affect your business has received much press and dialogue for the construction industry. However, local property tax reform changes have not received quite the press and interest that federal tax reform change has. Business owners are looking for places to turn for advice. The 2017-2019 State Budget, recently signed into law by Wisconsin Gov. Scott Walker, included a repeal of the personal property tax on all machinery. Job site equipment and shop machinery are now exempt for property tax filings effective Jan. 1, 2018.

What happened?

Prior to 2018, only machinery used in manufacturing was exempt from personal property tax in Wisconsin. As the Wisconsin Legislature evaluated a change to personal property tax, the most impactful property reclassification that would still fit within the state budget was machinery. The state approved reform reclassifying all machinery, historically reported on Schedule C of the Wisconsin property tax return, as exempt property. The state intends to reimburse local municipalities for lost revenue from their historical Schedule C receipts.

What does this mean?

While limited in formal guidance for companies in Wisconsin, the state provided the following definition of machinery; “a structure or assemblage of parts that transmits forces, motion or energy from one part to another in a predetermined way by electrical, mechanical or chemical means.” (Wis. Stat. §70.111(27) (a).

The Wisconsin Department of Revenue has published the updated Form PA-003 to report personal property tax for 2018 and beyond. Schedule C, where this machinery had been previously reported, has now been blacked out from the report.

As an aside, the personal property tax law changes also included a reporting repeal on all property previously reported on Schedule D1 (which is now blacked out), which covered exempt computer equipment and software (owned), cash registers and single-function fax machines.

machinery;

“a structure or assemblage of parts that transmits forces, motion or energy from one part to another in a predetermined way by electrical, mechanical or chemical means.”

(Wis. Stat. §70.111(27) (a).

CONTRACTOR STATEMENT OF BUILDING MATERIALS PURCHASED
Section 77.54 (9m), Wis. Stats.

What is the purpose of the form?

Under Wisconsin law a construction contractor, in fulfillment of a real property construction activity, may purchase building materials exempt from sales and use tax if the building materials (1) are transferred to a Wisconsin county, city, village, town, school district, county-city hospital, sewerage commission, metropolitan sewerage district, joint local water authority, or qualifying nonprofit organization, and (2) become a part of a qualifying facility located in Wisconsin that is owned by that entity. Use this form to document your purchases of such building materials.

Highways, streets, and roads are not qualifying facilities, even if located within a facility.

Am I required to use this form?

No. This form is for record-keeping purposes only. Completing this form does not relieve you of liability. You must provide the seller a fully completed exemption certificate (e.g., Form S-211) when making purchases of materials that are not taxable for sales and use tax purposes.

Instructions

- Retain corresponding purchase orders/invoices with this form.
- Retain contracts or agreements that identify the contracting parties, bid amount, type of work, and signatures of contracting parties.
- Do not mail this form to the Wisconsin Department of Revenue.

Purchasing Contractor

Legal name		Trade name/DBA	
Project name or number (per your records)	Your scheduled start date (mm/yy)	Your estimated completion date (mm/yy)	
Mailing address	City	State	Zip
E-mail address	FEBN	Business phone number ()	
Bid amount for your contract \$	Your estimated cost of materials for this contract \$	Wisconsin withholding tax number	

Project Information

Contractor who holds contract with qualifying exempt entity		Contract name		Contact phone number ()	
Qualifying exempt entity		CES number (if not a governmental unit)			
Mailing address of qualifying exempt entity	City	State	Zip		
Physical location of facility (give actual address, when applicable, where facility is located)					
City	State	Zip			
Type of facility (check and give description below). Caution: Only the types of property listed are qualifying facilities.					
<input type="checkbox"/> Athletic park	<input type="checkbox"/> Athletic field	<input type="checkbox"/> Building	<input type="checkbox"/> Parking garage	<input type="checkbox"/> Parking lot	
<input type="checkbox"/> Shelter	<input type="checkbox"/> Storm sewer	<input type="checkbox"/> Water supply system	<input type="checkbox"/> Sewerage and waste water treatment facility		
Description:					

Need more information? See [Wisconsin Tax Bulletin 192](#) (January 2016), pages 19-21.

8-227 (R, 1-17)

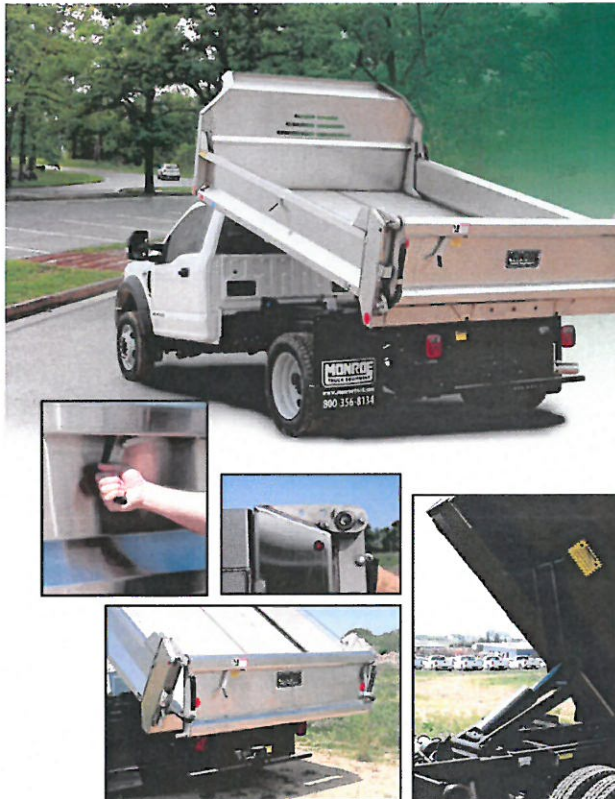
Wisconsin Department of Revenue

For limited construction enterprises that were classified as manufacturing already, please note that, because manufacturing machinery was already exempt from Wisconsin's personal property tax, the changes will not have large effects on manufacturing company classifications.

For most of the state's construction companies, this should have been considered in the annual filing, usually due in March. For items previously included on Schedule C: Machinery, your default position should have been to remove these items from the return (unless clearly misclassified in the past).

Opportunities

Going forward, construction companies should evaluate whether their property is required to be included elsewhere on the property tax return or is an otherwise exempt item. If this is not the case, evaluate whether the property meets the new definition of machinery and can be excluded. For items that you have reclassified to machinery on the Jan. 1, 2018 return, the validity of this reclassification will ultimately be at the discretion of your local assessor. Local municipalities have already been scrutinizing the reporting done by construction companies. Therefore, in these early years following this legislative change, it will be important to make those reclassifications as future attempts to reclassify something to exempt machinery will likely be even more challenging.



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The repeal of the Wisconsin personal property tax on non-manufacturing machinery, tools, and patterns will likely result in significant tax savings for all companies with offices in Wisconsin. It is important to review all schedules on Form PA-003 for exempt machinery, not just Schedule C. There may have been machinery previously reported on other schedules that is/are now exempt.

Other reminders

Don't forget, effective for contracts entered into on July 1, 2018 or later, the exemption for products sold in relation to a real property construction contract with a tax-exempt entity is also expanded to include contracts with Wisconsin colleges and educational institutions. This comes from a windfall of administrative burden lifting dealt out from Act 59 last September.

In 2013, Wisconsin enacted a sales tax exemption for products sold by a contractor as part of a "lump-sum" contract for real property construction if the sales price assigned to the products was less than 10 percent of the total, lump-sum contract price. Effective for contracts entered into after Dec. 1, 2017, this exemption has been expanded by Act 59 to apply to all real property construction contracts, whether or not they are quoted as a "lump sum." However, in order for the exemption to qualify, the total sales price of the products still must be less than 10 percent of the total contract price.

Act 59 also expands this exemption to apply to both prime contractors and their subcontractors. If a prime contractor qualifies for this exemption, then the prime contractor is still considered the consumer of the products and must pay the related sales/use tax. In addition, if a prime contractor qualifies for the exemption, then the sale of products by the subcontractor to the prime contractor is now also exempt if the total sales price of the taxable products is less than 10 percent of the total contract price. In



ABC member Ryan Gartman of Clifton-LarsonAllen (left) visiting with State Senator Devin LeMahieu (right).

those cases, the subcontractor is deemed to be the consumer of those products and must pay sales/use tax on them.

These recent state and local tax developments should help lower property tax assessments to contractors in this state. The developments should also lower the administrative time involved with passing through sales tax exempt material to the public sector.

The information contained herein is general in nature and is not intended, and should not be construed, as legal, accounting, investment or tax advice or

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