

# Sales and Use Tax Treatment of Landscaping

## I. INTRODUCTION

This publication explains the Wisconsin sales and use tax treatment of landscaping and lawn maintenance services. It gives examples of taxable and nontaxable sales and the tax treatment of purchases. If you have any questions after reading this publication, contact any Wisconsin Department of Revenue office for assistance.

### CAUTION

The information in this publication reflects the positions of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature as of December 1, 2007. Laws enacted after this date, new administrative rules, and court decisions may change the interpretations in this publication. The examples and lists are not all-inclusive. They merely set forth common examples.

## II. WISCONSIN LAW

The sale of landscaping and lawn maintenance services, including any tangible personal property transferred with such services, is subject to Wisconsin sales and use tax, unless an exemption applies.

## III. LANDSCAPING AND LAWN MAINTENANCE INCLUDE

The following are landscaping and lawn maintenance services, regardless of whether performed in residential, business, commercial and industrial areas, cemeteries, golf courses, athletic fields, and stadiums, or along highways, streets, and walkways. (This list is not all-inclusive.)

- A. Designing or planning a lawn or garden as to the type and location of grass, sod, flowers, trees, shrubs, and other plant material.
- B. Removing and clearing sod, brush, trees, and other vegetation, even though related to a real property improvement such as constructing a highway, parking lot, sidewalk, patio, underground swimming pool, basement, or foundation of a building.
- C. Planting, weeding, edging, spraying, fertilizing, thatching, raking, and mowing lawns.

**Example:** Company A contracts with a customer to fertilize the customer's lawn and spray for weeds for \$100. This fee includes the labor and all materials. The \$100 is subject to sales tax.

- D. Laying, installing, or cutting sod, including sod revetments around a sand trap on a golf course. (See Item V. F. for an exception.)

**Example:** Company A contracts with a customer to lay sod at the customer's residence. The invoice given to the customer includes a \$100 charge for the sod and a \$200 charge for labor. The entire invoice price of \$300 is subject to sales tax.

- E. Planting, trimming, spraying, fertilizing, moving, removing, pruning, bracing, and surgery of trees, stumps, plants, shrubs, hedges, and flowers. (See Items IV.D. and V.A., B., C., D., and E., for exceptions.)
- F. Planting, plowing, rototilling, weeding, spraying, and fertilizing gardens and flower beds.
- G. Grading the final planting material, such as topsoil, in preparation of planting seed or sod.

**Example:** A contractor backfills soil previously piled at a construction site, grades the soil in preparation of planting, and plants seed. Grading the soil in preparation of planting and planting the seed are landscaping services subject to Wisconsin sales or use tax, unless an exemption applies.

- H. Planting grass, ivy, and other plants, regardless of whether they control erosion.
- I. Installing jute mesh (filtering mesh) a few inches below ground to prevent erosion when planting grass.
- J. Installing edging, laying plastic, and installing rocks, stones, boulders, bark, and wood chips, around plants, trees, and shrubs, to retard the growth of weeds and other plant material.
- K. Weed cutting performed by a governmental unit under a weed control ordinance that is billed to the property owner.
- L. Removing a diseased tree by a governmental unit where the property owner is billed for the removal.

- M. Grading the final layer of topsoil and installing sod or planting seed on that topsoil where trenches have been dug or where sump pump, transmission or other lines have been buried.
- N. Turf grass advisory services for a golf course.
- O. Grading green mixes on golf courses in preparation of planting.

Although some of the services described above involve realty improvements, the services are still taxable landscaping and lawn maintenance services (unless an exemption applies), regardless of whether performed by landscapers, architects, construction contractors, or any other persons.

## IV. LANDSCAPING AND LAWN MAINTENANCE DO NOT INCLUDE

The following services are real property improvements that are not landscaping or lawn maintenance services. Therefore, the charges for these services (labor and materials) are not subject to Wisconsin sales tax.

- A. Rough grading, including digging, hauling, leveling, moving, or removing earth, sand, gravel, stones, and rocks.
- B. Installing rocks, stones, boulders, bricks, wood timbers, and wood ties as retaining walls, regardless of whether they are for decorative or ornamental purposes. (See Item III.J.)

**Exception:** Rough grading does not include the stripping off of topsoil and plant material. It also does not include the grading of the final planting material (e.g., top soil), in preparation of planting seed, sod, or other plant material. (See Items III.B. and G.)

- C. Installing fences, patios, steps, decks, driveways, parking lots, walks, swimming pools

**Example:** A contractor installs a boulder retaining wall that is decorative and holds back soil. The invoice includes charges of \$1,000 for materials and \$1,200 for labor. The invoice price of \$2,200 is not subject to sales tax. The contractor is subject to Wisconsin sales or use tax on its purchase price of boulders and other materials used in making the real property improvement.

wholly or partially underground, ponds, tennis courts, sprinkler systems, and outdoor lighting.

**Note:** The installation of silt fencing is neither a landscaping service nor a real property improvement. Silt fencing remains tangible personal property when installed. Therefore, the sale and installation are taxable, unless the installer is required to remove the silt fencing or an exemption applies.

D. Tree and shrub trimming and spraying performed on a utility's right-of-way to prevent interference with the utility lines or to make the utility lines inaccessible to children.

E. Digging trenches and laying drain pipes or tiles in the trenches.

F. Constructing window wells and culverts.

G. Burying a sump pump line.

**Example:** Company A installs and buries a sump pump line for a customer for \$500. This is not subject to tax. However, any charges for spreading topsoil, seeding or sodding over the backfilled trench is subject to tax.

H. Plowing or removing snow.

I. Spraying for weeds in lakes and ponds.

J. Installing sand in a sand trap on a golf course.

## V. EXEMPT SALES OF LANDSCAPING AND LAWN MAINTENANCE SERVICES

The following landscaping and lawn maintenance services are exempt from Wisconsin sales tax, provided the purchaser gives the seller a properly completed exemption certificate (this list is not all-inclusive):

A. Planting trees and shrubs for resale.

**Example:** The charge for planting trees that will be later transferred to customers with landscaping services is not taxable. This service is for resale.

B. Trimming or pruning Christmas trees for a commercial grower who will sell the trees.

C. Planting, fertilizing, spraying, or trimming trees for a commercial orchard.

**Example:** A landscaper contracts with a commercial orchard to fertilize and spray the orchard's trees. The landscaper charges the orchard \$500, which includes labor and materials. The charge is exempt from sales tax.

D. Cutting down trees in a forest for pulpwood, lumber or other business purposes.

E. Plowing, planting, fertilizing, or harvesting a farmer's field or land upon which crops are raised.

F. Cutting sod on a sod farm for a person who is in the business of growing, selling, and/or installing sod.

G. Collecting deposits from contractors, developers, or property owners by a governmental unit, which will use the funds for planting trees and shrubs in a development, or on an owner's property. However, any charge by the governmental unit to the property owner or developer for planting trees is taxable.

H. Landscaping for a Wisconsin or federal governmental unit that is billed to the governmental unit.

## VI. PURCHASES

### A. Nontaxable Purchases

A person may purchase without sales or use tax any property it physically transfers to the customer in providing the landscaping and lawn maintenance services in Parts III and V. The person must give its supplier a properly completed exemption certificate claiming resale.

**Example:** Company A supplies the fertilizer in providing lawn care services to a customer. Company A may purchase the fertilizer without sales tax by giving its supplier a valid, properly completed exemption certificate claiming resale.

### B. Taxable Purchases

A person is required to pay Wisconsin sales or use tax on property it purchases and transfers to the customer in providing the real property improvements in Part IV, unless an exemption applies. In addition, all purchases of machinery

and equipment, including tools, used in providing both taxable and nontaxable services are subject to sales tax.

**Examples:** 1) Company C sprays herbicide on a utility's right-of-way. This is a service to real property, not a landscaping service. Company C must pay sales or use tax on its purchase of herbicide and equipment used in providing the service.

2) Company D installs and buries a sump pump line for a customer. This is a real property improvement, and except for the leveling of topsoil and planting of seed and sod, is not a landscaping service. Company D must pay sales or use tax on its purchase of the sump pump it installs.

## VII. SPECIAL SITUATIONS

### A. Mixed Transactions

A person providing both taxable services and tangible personal property, and nontaxable services and real property improvements, must indicate on the invoice the portion of the sale that is taxable and the portion of the sale that is not taxable. Sales tax should be charged on the taxable portion.

**Example:** Company A contracts with a utility to fertilize and spray the lawn at the utility's corporate headquarters and to spray herbicide on the utility's right-of-way. Company A charges the utility \$300 for fertilizing and spraying the lawn and \$500 for spraying herbicide on the utility's right-of-way for a total invoice price of \$800. Sales tax must be charged on the \$300 charge for fertilizing and spraying the lawn.

### B. County and Stadium Tax

The types of services and tangible personal property that are subject to the state 5% sales and use tax are also subject to the 0.5% county and 0.1% and 0.5% stadium sales and use taxes. To be subject to a county tax or stadium tax, (1) a person must be "engaged in business" in the taxable county or the stadium district, and (2) the sale of taxable services or tangible personal property must have a "situs" in that taxable county or the stadium district.

Landscaping services have a "situs" at the location where they are furnished to the customer.

**Examples:** 1) Company E plants trees and shrubs in a county which has the 0.5% county tax. The landscaping service was furnished in a taxable county and is subject to the 0.5% county tax, regardless of Company E's business location.

2) Company F is in the business of landscape planning and has an office in a county that does not have the county tax. Company F contracts with a customer to redesign the landscaping at the customer's residence located in a county that has the county tax. Company F visits the customer's residence and then has the plans drawn up at Company F's office. Company F delivers the plans to the customer at the customer's residence.

The service is subject to the county tax. The sale of this service is considered to take place where Company F transfers possession of the plans to the customer. If the customer had gone to Company F's office (located in a county that has no county tax) to pick up the plans, the service would not be subject to the county tax.

Additional information about the county and stadium taxes is found in Wisconsin Publication 201, which may be obtained from any Department of Revenue office or the department's web site.

## VIII. ANY QUESTIONS?

If you have any questions, contact your nearest Department of Revenue office. To contact the department's Madison office, write Wisconsin Department of Revenue at Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949, telephone (608) 266-2776, fax (608) 267-1030, e-mail [sales10@revenue.wi.gov](mailto:sales10@revenue.wi.gov), or visit the department's web site at [www.revenue.wi.gov](http://www.revenue.wi.gov).

**Important:** If you grow, sell, or otherwise deal in nursery stock, you may need a license from the Wisconsin Department of Agriculture. For more information, write to WDATCP, Nursery Program, P.O. Box 8911, Madison, WI 53708-8911 or call (608) 224-4574.

