

NEW LAW CHANGES WISCONSIN SALES AND USE TAX RULES FOR CONSTRUCTION CONTRACTORS

A new Wisconsin law allows contractors to purchase materials tax-free for construction projects undertaken by certain tax-exempt government and non-profit entities. Under former law, such entities generally had to purchase the construction materials directly themselves in order to receive the Wisconsin sales and use tax exemption. Now, construction contractors may make tax-exempt purchases of construction materials for projects owned by exempt entities. These entities generally include the State of Wisconsin and its agencies, counties, municipalities, school districts and other units of local government, sewerage commissions and districts, water authorities, religious, charitable and non-profit entities, and Indian tribes. The new law took effect on January 1, 2016, and applies to construction contracts entered on or after that date.

To qualify for the tax exemption, the contractor must transfer the materials to the exempt entity, and the materials must become "a component of a facility in this state that is owned by the entity." The new law defines "facility" as a "building, shelter, parking lot, parking garage, athletic field, athletic park, storm sewer, water supply system, or sewerage and waste water treatment facility." There is a notable express exception. A "facility" does not include a highway, street, or road. Consequently, the new rules will not apply to road and highway projects.

The purpose of the new law is to avoid inflation of the cost of public construction projects due to difficulties in realizing the sales and use tax exemption under prior law. The new law should help government and non-profit entities take full advantage of their tax-exempt status in connection with construction projects. It will also simplify the material purchasing process both for the tax-exempt owner and for the contractor.

If you have any questions, please contact Attorney [Steve J. Slawinski](#) at O'Neil Cannon at 414-276-5000.