

Sales/Use/Indirect:

Wisconsin DOR Summarizes Ruling that Contracts Created Taxable Sales/Leasebacks Rather than Nontaxable Refinancing

Wisconsin Tax Bulletin 227, Wis. Dept. of Rev. (10/24). A Wisconsin Department of Revenue (Department) bulletin summarizes a recent Wisconsin Tax Appeals Commission (Commission) ruling, which held that certain contracts for an aircraft and software created valid sales/leasebacks subject to Wisconsin sales tax rather than nontaxable refinancing agreements. According to the bulletin, the Department argued that the form of the leases was controlling and because the terms of the leases provided for a sale/leaseback, the lease receipts for tangible personal property were subject to Wisconsin sales tax. In contrast, the bulletin explains that the taxpayer argued that the form of the lease must be ignored, and the substance of the lease should be determinative and therefore, the leases constituted nontaxable financing arrangements. The bulletin explains that the Commission ultimately concluded that the Wisconsin statutory definitions of a lease and sale control over the form of the agreements, and therefore, the leases of the aircraft and software in this case constituted sales/leasebacks subject to sales tax under Wis. Stat. section 77.52(1b). According to the bulletin, the taxpayer has appealed this Commission decision. Please contact us with any questions.

URL: <https://www.revenue.wi.gov/WisconsinTaxBulletin/227-10-24-WTB.pdf>

— Jeremy Blodgett (Milwaukee)
Senior Manager
Deloitte Tax LLP
jblodgett@deloitte.com

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

About Deloitte

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see www.deloitte.com/about to learn more.

Deloitte provides industry-leading audit and assurance, tax and legal, consulting, financial advisory, and risk advisory services to nearly 90% of the Fortune Global 500® and thousands of private companies. Our professionals deliver measurable and lasting results that help reinforce public trust in capital markets, enable clients to transform and thrive, and lead the way toward a stronger economy, a more equitable society and a sustainable world. Building on its 175-plus year history, Deloitte spans more than 150 countries and territories. Learn how Deloitte’s approximately 415,000 people worldwide make an impact that matters at www.deloitte.com.