

# Wisconsin Department of Revenue

## TOPICAL AND COURT CASE INDEX

### INTRODUCTION

#### Purpose and Structure

The Topical and Court Case Index is designed to help you find reference material on a given subject of tax law administered by the Wisconsin Department of Revenue's Income, Sales, and Excise Tax (IS&E) Division. The index is divided into two parts. Part I is the Topical Index, and Part II is the Court Case Index.

Information is provided relating to the following types of tax: individual income, corporation franchise or income, withholding, sales and use, gift, inheritance and estate, cigarette, tobacco products, beer, intoxicating liquor and wine, and fuel. In addition, information is provided relating to homestead credit, farmland preservation credit, and the recycling surcharge.

### PART I – TOPICAL INDEX

The Topical Index includes the references listed below. The references are included in each of the tax sections, unless noted otherwise.

**Statute:** Wisconsin Statutes, including all Wisconsin laws enacted as of October 31, 2011.

The Motor Vehicle Fuel, Alternate Fuels and General Aviation Fuel Tax section of the index includes two columns for statutes. The law in this area was substantially changed, effective April 1, 1994. The statute columns list the statutes that became effective April 1, 1994, and the statutes that applied before April 1, 1994.

The references in the Gift Tax section of the index are to the 1987-88 statutes. The gift tax was eliminated for gifts on or after January 1, 1992.

Certain references in the Inheritance and Estate Tax section of the index are identified with an asterisk (\*). These are references to the 1987-88 statutes that are relevant with regard to deaths that occurred prior to January 1, 1992.

**Adm. Rule:** Wisconsin Administrative Rules adopted as of October 31, 2011.

**Tax Bulletin:** *Wisconsin Tax Bulletins* (WTBs) published by the IS&E Division as of October 31, 2011. Numbers in this column refer to the issue number of the WTB, which appears in the upper part of each Bulletin, and to the page number. (Example: "172-29" is the July 2011 WTB, issue number 172, page 29.) Page numbers preceded by an "A" refer to an addendum found in the WTB.

**Publication (P):** Publications published by the IS&E Division as of October 31, 2011. Publications are noted by the prefix P in front of the number of the publication. (Example: See P126 under "Annuities" on page 2.)

**AGO (A):** Relevant Attorney Generals' Opinions as of October 31, 2011. A listing of these opinions can be found as an addendum following the index for each type of tax.

**Sales Tax Report** (included only in Sales and Use Tax section): Sales and Use Tax Reports issued by the IS&E Division as of October 31, 2011. For years prior to 1982, the number in this column refers to the date of the Sales and Use Tax Report, which appears in the upper right-hand part of each report. (Example: 9-81

is the September 1981 Tax Report.) Beginning with 1982, the number in this column refers to the year and the number of the Sales and Use Tax Report issued that year; the number appears in the upper portion of each report. (Example: 3-11 is the September 2011 Tax Report, issue number 3-11, the third Tax Report issued in 2011.)

**Withholding Tax Guide (W)** (included only in Withholding of Tax section): Wisconsin Employer's Withholding Tax Guide in effect as of October 31, 2011 (i.e., the Guide with a revision date of 07/09 on the cover). References are noted by the prefix W in front of the page number. (Example: W3 is page 3 of the Wisconsin Employer's Withholding Tax Guide.)

**Withholding Tax Update** (included only in Withholding of Tax section): Withholding Tax Updates issued by the IS&E Division as of October 31, 2011. The number in this column refers to the number of the Withholding Tax Update, which appears in the upper left-hand part of each update. (Example: 10-1 is the December 2010 Withholding Tax Update, number 2010-1.)

## PART II – COURT CASE INDEX

The Court Case Index includes references to decisions by the Wisconsin Tax Appeals Commission (successor to Wisconsin Board of Tax Appeals), the Circuit Court, the Court of Appeals, and the Wisconsin Supreme Court as of October 31, 2011. Small claims decisions of the Wisconsin Tax Appeals Commission are generally not included because such decisions may not be cited as precedent. However, in those instances where a small claims decision has been published (generally in the *Wisconsin Tax Bulletin*), references to those cases have been included in this index and are identified with an asterisk (\*) in the last name or corporation name column. The cases are listed by type of tax and then alphabetically by issue. The following information is listed for each case.

**Issue:** A brief description of the issue involved in the case.

**Cite:**

**Wisconsin Board of Tax Appeals (“WBTA”)** – References are to the volume and page number of *Decisions – Wisconsin Board of Tax Appeals*. (Example: 2WBTA138 is page 138 of volume 2 of *Decisions – Wisconsin Board of Tax Appeals*.)

**Wisconsin Tax Appeals Commission (“WTAC”)** – References are to the volume and page number of *Decisions – Wisconsin Tax Appeals Commission*. (Example: 9WTAC147 is page 147 of volume 9 of *Decisions – Wisconsin Tax Appeals Commission*.)

**Commerce Clearing House, Inc.** – References are to paragraph numbers in the *Wisconsin Tax Reporter* published by Commerce Clearing House, Inc. (“CCH”). (Example: 400-616 is the paragraph where the *David E. Birren vs. Wisconsin Department of Revenue* case can be found in the *Wisconsin Tax Reporter*.)

An entry that has “(1ST)” following the CCH paragraph number refers to the *Wisconsin Tax Reporter* transfer binder “1 Wisconsin Tax Cases.” Decisions from 1960 and prior years are included in this transfer binder. (Example: 200-006(1ST) is the paragraph where the *Motors Acceptance Company vs. Wisconsin Tax Commission* case can be found in the *Wisconsin Tax Report* transfer binder “1 Wisconsin Tax Cases.”)

**Wisconsin Reports (Callaghans)** – *Wisconsin Reports* include cases determined in the Wisconsin Supreme Court and, since 1978, cases determined in the Court of Appeals. References are to the volume and page number (Examples: 193Wis41 is a reference to page 41 of volume 193 of the *Wisconsin Reports* and 69Wis(2d)723 is a reference to page 723 of volume 69 of the 2d series of the *Wisconsin Reports*).

**Wisconsin Tax Bulletin (“WTB”)** – References are to the issue number of the *Wisconsin Tax Bulletin* in which the decision was summarized, and to the page number of that Bulletin. (Example: WTB 173-7 is page 7 of the October 2011 *Wisconsin Tax Bulletin*, issue number 17.)

**Level of Appeal:** Four columns indicate the level of appeal. The four levels are:

- TAC Wisconsin Tax Appeals Commission (or its predecessor, Wisconsin Board of Tax Appeals)
- CC Circuit Court
- CA Court of Appeals
- SC Wisconsin Supreme Court

**Action:** This column refers to the action taken by the Tax Appeals Commission or courts relating to the specific issue in a case. The following symbols are used:

- A Affirmed
- AP Affirmed in Part
- R Reversed
- D Dismissed
- RM Remanded

The action listed in the TAC column is in relationship to the action taken by the Department of Revenue. If the appeal is above the TAC level, the action listed is in relationship to the immediate preceding decision. (Example: The following actions are listed: TAC – affirmed, CC – reversed, and CA – affirmed. This indicates that the Tax Appeals Commission affirmed the department, the Circuit Court reversed the Tax Appeals Commission, and the Court of Appeals affirmed the Circuit Court’s reversal.)

In situations where a case has been remanded or the subject of a rehearing, the case will appear two or more times in the index. (Example: If a case was remanded by the Circuit Court to the Tax Appeals Commission, there

will be two separate entries for the case. The first entry showing the Tax Appeals Commission decision and the Circuit Court remand, and the second entry showing the Tax Appeals Commission decision resulting from the remand.)

**Date:** The date of a decision is indicated for each level of appeal. If an action appears in the action column but no date is shown, the information on this decision was taken from a reading of a subsequent decision and the date of the prior decision was not available.

**Final:** The last column will have one of three entries:

- Yes The case is final, no further appeal is possible.
- No The case is not final.
- NNA The case is final, but the department has issued a notice of nonacquiescence with the Wisconsin Tax Appeals Commission decision.

**Note:** This index is designed to aid you in researching Wisconsin tax issues. However, it is not intended to be a final authority. You should always review the full text of a decision before citing a case as a precedent.

Every effort has been made to make this index as complete and accurate as possible. However, you should be aware of the following:

1. The index does not include *all* Wisconsin court cases involving tax issues. (For example, cases involving minor procedural matters have been omitted.)
2. Some cases appearing in the index may not have precedential value. (For example, some cases are small claims cases not allowable as precedents.)
3. Not *all* issues for a particular case may be identified by the index.