

WITHHOLDING TAX UPDATE

2011-1

December 2011

The Withholding Tax Updates are no longer being printed, but will continue to be available at www.revenue.wi.gov.

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CURRENT WITHHOLDING TAX RATES TO APPLY FOR 2012

The current withholding tax rates will continue for 2012. The current rates are found in Publication W-166, *Wisconsin Employer's Withholding Tax Guide*, for payroll periods beginning on or after October 1, 2009.

RECENT LEGISLATION RELATING TO HEALTH CARE BENEFITS FOR ADULT CHILDREN UNDER AGE 27

Effective for taxable years beginning on or after January 1, 2011, Wisconsin has adopted the federal law provisions relating to the treatment of health insurance benefits provided to an adult child who has not attained the age of 27 as of the end of the tax year.

More information on the 2011 treatment of health care benefits for adult children is available at:
<http://www.revenue.wi.gov/taxpro/news/111107.html>.

FILING FREQUENCY CHANGES

Each year the department runs an annual scan process, which evaluates the amount of your deposits from the last year and adjusts your periodic filing frequency accordingly. The department ran this process in November to determine your filing frequency for 2012 withholding tax deposits. Taxpayers were notified in writing as to their new filing frequency if it was changed.

REMINDER – USE YOUR WITHHOLDING TAX ACCOUNT NUMBER

All Wisconsin withholding numbers begin with 036. This 15-digit number should be used on all withholding correspondence including Forms W-2, WT-6, WT-7, W2-G, 1099-R and 1099-M.

2011 TREATMENT OF HEALTH SAVINGS ACCOUNTS (HSAs)

Effective for taxable years beginning in 2011 and thereafter, Wisconsin will follow the federal provisions relating to HSAs. The only difference is the imposition of penalties. The Wisconsin penalty for excess contributions that are not withdrawn is equal to 33 percent of the federal 6 percent penalty or 1.98 percent. The Wisconsin penalty for distributions not used for qualified medical expenses is 33 percent of the federal 20 percent penalty or 6.6 percent.

For more information on the 2011 treatment of HSAs, go to <http://www.revenue.wi.gov/taxpro/fact/hsa2011.pdf>.

WITHHOLDING DEPOSIT REPORT (WT-6) FILING OPTIONS

Employers that are required to file Form WT-6 are required to file Form WT-6 electronically. Filing options include:

- *My Tax Account* – DOR web site
New users see Getting Started
- ACH Credit – through your financial institution
- File Transfer – DOR web site
- Credit Card – 1-800-272-9829; Use code 5800
- Withholding Telephone Filing System “TeleFile”
Call 608-261-5340 or 414-227-3895
- WT-6 Fill-in Form – (when waiver granted)

For more information on electronic filing options, go to www.revenue.wi.gov/withholding.

ANNUAL RECONCILIATION (WT-7) FORM CHANGES

The following changes have been made for the 2011 Form WT-7:

- The Wisconsin advance earned income credit (previously listed as Line 3 on 2010 WT-7) has been eliminated. This credit is not available for taxable years beginning on or after January 1, 2011.
- **Line 1** now reads “Enter the number of W-2s prepared for the calendar year.”
- **Line 2** now reads “Enter the number of other wage statements (Forms 1099-R, W-2G, etc.) for the calendar year.”
- **Line 3** now reads “Total of the amounts entered on Line 1 and 2.”

The department requires all employers to file their Form WT-7 electronically. A waiver from electronic filing may be requested in writing if the requirement to file electronically causes an undue hardship.

ANNUAL RECONCILIATION (WT-7) FILING OPTIONS

Form WT-7 filing options include:

- *My Tax Account* – DOR web site
New users see Getting Started
- File Transfer – DOR web site
- Withholding Telephone Filing System “TeleFile”
Call 608-261-5340 or 414-227-3895
- WT-7 Fill-in Form (when waiver granted)

Note: If you close your withholding account before December 31, Form WT-7 and wage statements (Forms W-2, W2-G, 1099-R, etc.) are due within **30** days of the account cease date.

FORM W-2 ELECTRONIC FILING

There are three ways to electronically file Forms W-2 with the Wisconsin Department of Revenue (DOR):

- In a Portable Document Format (PDF) file through DOR’s web site. **Note:** DOR can only accept PDF files created on the Social Security Administration’s web site. For step by step instructions, [click here](#).
- **New!** At the same time as the Annual Reconciliation (Form WT-7) through *My Tax Account*. A different method will need to be used to meet federal W-2 reporting requirements.
- In an EFW2 text file through DOR’s [web site](#). Specifications for submission in this manner are outlined in Wisconsin Publication [CO-001](#).

Submission through DOR’s web site is easy and free. No PIN or password is required to transfer PDF or EFW2 text files.

FEDERAL WAGE STATEMENTS AND INFORMATION RETURNS

Persons required to file federal wage statements and information returns (Forms 1099-R and 1099-Misc) electronically with the Internal Revenue Service (IRS) must file comparable forms in the same manner with the department (we no longer accept magnetic media). **The Department of Revenue requires employers with more than 50 wage or information statements to file electronically.** See Publication [509](#), *Filing Wage Statements and Information Returns Electronically* and Publication [117](#), *Guide to Wisconsin Information Returns*.

E-mail or mail copies of IRS approvals for participation in the Combined Federal/State Filing Program; requests for waivers from filing wage and information returns electronically; and requests for extensions of time to file wage and information returns electronically to:

E-file waivers:

Wisconsin Department of Revenue
PO Box 8949
Madison WI 53708-8949

Extensions:

Wisconsin Department of Revenue
PO Box 8902
Madison WI 53708-8902

TRANSIT PASS & COMMUTER FRINGE BENEFITS

The treatment of transit pass and commuter fringe benefits is the only remaining difference between federal and Wisconsin law that relates to wages and reporting on the 2011 Form W-2.

For federal purposes, the amount that may be excluded from gross income for the transit pass and commuter fringe benefits is limited to \$230 per month.

For Wisconsin purposes, the amount that may be excluded from gross income for the transit pass and commuter fringe benefits is limited to \$120 per month.

To report this difference on the 2011 Form W-2, employers must either:

- Include the amount that is taxable for Wisconsin purposes, but not taxable for federal purposes, in Box 16 of the Form W-2, or
- Provide the employee with a supplemental “Wisconsin Only” Form W-2 with the taxable benefits shown in Box 16.

WISCONSIN/MINNESOTA INCOME TAX RECIPROCITY STUDY

The Wisconsin Department of Revenue in conjunction with the Minnesota Department of Revenue is conducting a study using information from the 2011 income tax returns of each state. The study is to determine the number of residents of each state who earned personal service income in the other state and the total amount of that income earned in the other state. This study will also determine the change in tax revenue in each state if an income tax reciprocity agreement were resumed between Minnesota and Wisconsin.

To help us gather the necessary information, a section has been added to the Wisconsin Forms 1, 1A, WI-Z, and 1NPR for Minnesota residents who worked in Wisconsin and for Wisconsin residents who worked in Minnesota to provide additional information as to income earned in the other state.

New! JOB CREATION DEDUCTION

Corporate Franchise/Income Tax and Individual and Fiduciary Income Taxes – Beginning with taxable years commencing on or after January 1, 2011, a subtraction from federal income is allowed based on the increase in the number of full-time equivalent employees that are employed in Wisconsin during the taxable year. The subtraction from federal income is equal to \$2,000 per eligible employee for businesses with gross receipts of greater than \$5 million and \$4,000 per eligible employee for businesses with gross receipts of \$5 million or less.

Use Schedule JC to claim the job creation deduction. For more information on this deduction, go to <http://www.revenue.wi.gov/taxpro/fact/jobcreation.pdf>. For clarification on the calculation of full-time equivalent employees, reference Administrative Rule 3.05 at <https://health.wisconsin.gov/admrules/public/Rmo?nRmoId=11083>.

You may also write to the Wisconsin Department of Revenue, Mail Stop 5-144, PO Box 8906, Madison WI 53708-8906, or call the Department of Revenue at 608-266-2772.

New! RELOCATED BUSINESS CREDIT OR DEDUCTION

Corporate Franchise/Income Tax – For taxable years beginning on or after January 1, 2011, for two consecutive taxable years beginning with the year in which the taxpayer's business relocates to Wisconsin from another state or country and begins doing business in Wisconsin, a credit is allowed equal to the amount of income or franchise tax liability after applying all other allowable credits, deductions, and exclusions.

Individual and Fiduciary Income Taxes – For taxable years beginning on or after January 1, 2011, for two consecutive taxable years beginning with the year in which the taxpayer's business relocates to Wisconsin from another state or country and begins doing business in Wisconsin, a subtraction from federal income is allowed for the net business income earned by the relocated business.

Use Schedule RB to claim the relocated business credit or deduction. For more information on this deduction, go to <http://www.revenue.wi.gov/taxpro/fact/relocated.pdf>. You may also write to the Wisconsin Department of Revenue, Mail Stop 5-144, PO Box 8906, Madison WI 53708-8906, or call the Department of Revenue at 608-266-2772.

MY TAX ACCOUNT UPDATE – Upgrade in December!

We have received a lot of positive feedback from you about the *My Tax Account* upgrade launched in June. We've built on that by giving *My Tax Account* a more modern look and improved navigation.

New features include:

- Printing from the confirmation page
- Improved tabs and menu options
- Revised motor fuel tax refund claim for faster filing
- E-filing other motor fuel tax forms to meet your filing requirement

Plus, we've redesigned our web site. Look for an improved *My Tax Account* login page and navigation that makes it easier for businesses and individuals to find all of our online features.

EMPLOYEES CLAIMING EXEMPTION FROM WITHHOLDING (FORMS W-4 and WT-4)

Wisconsin law requires that a copy of the appropriate exemption form be filed with the department whenever either of the following conditions exists:

- The employee claims more than 10 exemptions. (Send a copy of either federal Form W-4 or Wisconsin Form WT-4).
- The employee claims complete exemption from Wisconsin withholding and earns over \$200 a week. (Send a copy of Wisconsin Form WT-4). Form WT-4 is the only form that can be used to claim complete exemption from Wisconsin withholding. Federal Form W-4 cannot be substituted.

Send W-4/WT-4 copies claiming more than 10 exemptions or, WT-4 copies claiming complete exemption from withholding to: Wisconsin Department of Revenue, Audit Bureau, PO Box 8906, Madison, WI 53708-8906.

When an employee is claiming complete exemption from Wisconsin withholding tax, a new WT-4 must be filed annually. The employer must receive a completed WT-4 for the current income year on or before April 30, of that year. If the employee fails to furnish an exemption form, then the employee shall be considered as claiming zero withholding exemptions.

NEW HIRE REPORTING REQUIREMENT

All employers with a federal employer identification number must report all newly hired or rehired employees to the New Hire Program. A newly hired employee is someone who has not worked for you before or is rehired, recalled, or returning after an unpaid interval of more than 90 days. Employers must report all of their newly hired employees within **20 days** after the employee starts working for them (or returns to work when rehired or recalled).

New Hire, a national program, is designed to aid in locating parents who owe child support. Child support money helps families stay off of assistance, helps custodial parents provide a better life for their children, and reduces the tax burden for all taxpayers.

The easiest and most cost effective method to report new hires is via the Internet. To begin reporting, visit the New Hire web site at www.wi-newhire.com.

Both state and federal law require the New Hire Program. If you would like more information, call the New Hire Processing Center toll free at 1-888-300-4473.

REMINDER RELATING TO THIRD PARTY SICK PAY

Wisconsin does not follow the federal provisions relating to payments of sick pay made by third parties (e.g., an insurance company). Wisconsin statutes provide that when a third party payor of sick pay makes payments directly to the employee and the employee has provided a written request to withhold Wisconsin income tax from those payments, the third party payor must report and remit the income tax withheld from sick pay, not the employer.

Therefore, for Wisconsin purposes, the payor of third party sick pay plans who are withholding Wisconsin income tax must issue a wage statement (federal Form W-2) directly to the individual who received the sick pay. The Form W-2 must report the amount of taxable sick pay and the total amount of Wisconsin income tax withheld.

PASS-THROUGH ENTITIES: QUARTERLY ESTIMATED PAYMENTS

A pass-through entity is required to pay quarterly estimated withholding tax on a nonresident member's share of income attributable to Wisconsin.

The pass-through entity must make quarterly payments of withholding tax on or before the **15th day of the 3rd, 6th, 9th, and 12th** month of the taxable year. If you have obtained a waiver from electronic payment, use Form PW-ES, *Wisconsin Pass-Through Entity Withholding Estimated Payment Voucher*, to make quarterly payments of estimated nonresident withholding tax.

Pass-through entities must **also** file Form PW-1 annually to report estimated withholding tax paid and to pay any additional withholding tax due on behalf of their nonresident shareholders, partners, members, or beneficiaries.

Form PW-1 must be filed electronically. You can file Form PW-1 through the Federal/State E-File Program, which uses approved third-party vendor software. If you choose not to use this program, you can launch the free E-File program offered by the Department of Revenue.

Visit www.revenue.wi.gov/eserv/pw/index.html for information about electronically filing Form PW-1. See www.revenue.wi.gov/faqs/ise/pass.html for answers to frequently asked questions about pass-through entity withholding.

REMINDER RELATING TO PROFESSIONAL EMPLOYER ORGANIZATIONS (PEOs)

Employers who have a Wisconsin withholding tax account number and are now, or in the future, contracting with a PEO, should inactivate their Wisconsin withholding tax account number, if:

- The PEO is providing their non-temporary, ongoing employee workforce to the employer, **and**
- Under the contract, the PEO has the obligation to pay the employees providing services for the employer.

Affected employers should e-mail or mail notification to the department. Notification should include the name of the PEO, the PEO's Wisconsin withholding tax account number, and indicate when the contract with the PEO is effective. The employer should submit Form WT-7, *Employers Annual Reconciliation of Wisconsin Income Tax Withheld from Wages*, within 30 days of such notification.

WITHHOLDING TAX ELECTRONIC MAILING LIST

Subscribe **now** to the department's withholding tax electronic mailing list to receive withholding tax related communications at www.revenue.wi.gov/html/lists.html.

REQUEST A WITHHOLDING APPEAL

You have the right to appeal: tax adjustments, estimated tax amounts due, late filing fees, and negligence penalties. The following items are not appealable: interest, return item charges and refund offsets.

You can submit an appeal online through *My Tax Account*. Log into *My Tax Account*, go to the withholding tax account summary page, select **Appeal Request** and enter the required information. You will receive a confirmation number when the appeal is submitted.

You can also send an appeal to Wisconsin Department of Revenue, PO Box 8981, Madison, WI 53708-8981 or fax to (608) 264-6884. Include your tax account number and the tax period in all correspondence.

Only the appeals submitted in a timely manner via the proper methods above will be accepted by the department.

WHERE TO DIRECT QUESTIONS

Wisconsin Department of Revenue
Mail Stop 5-77
PO Box 8949
Madison WI 53708-8949

E-mail: dorwithholdingtax@revenue.wi.gov
Phone: 608-266-2776
Visit: www.revenue.wi.gov