

Wisconsin TAX BULLETIN

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Federal Provisions Relating to Health Savings Accounts Do Not Apply for Wisconsin

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), was enacted December 8, 2003. This federal Act amended the Internal Revenue Code (“IRC”) and provided for the establishment of health savings accounts.

For tax years beginning in 2004, Wisconsin generally follows the IRC as amended to December 31, 2002. Because the federal provisions in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 relating to health savings accounts were enacted during 2003, they do not apply for Wisconsin for taxable years beginning in 2004.

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Tax Return Volunteers Needed

Would you like to become a volunteer for Volunteer Income Tax Assistance (“VITA”), or for the Tax Counseling for the Elderly (“TCE”) program of the American Association of Retired Persons (“AARP”)? VITA and TCE/AARP volunteers help persons with low to moderate income prepare federal and state income tax returns and Wisconsin homestead credit claims. Volunteers can choose to work during the day, at night, or on weekends.

Last year VITA and TCE/AARP volunteers, operating 416 Wisconsin sites, helped prepare over 45,000 federal and Wisconsin returns for low and moderate-income persons.

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Form Changes for 2004

Listed below are brief descriptions of the major changes to the Wisconsin individual income tax forms (Forms 1, 1A, WI-Z, and 1NPR) for 2004. There are no major changes to the homestead credit claim (Schedule H), and the farmland preservation credit claim (Schedule FC) for 2004.

Additionally, there are two new schedules that have been developed for 2004. Schedule DI will be used to claim the new dairy investment credit. Schedule H-EZ is a simplified form for claiming the homestead credit.

Copies of the 2004 Forms 1, 1A, WI-Z, and 1NPR, and Schedules H, H-EZ, FC, and DI are reproduced on pages 31 to 51 of this Bulletin. Copies of these and other Wisconsin tax forms are also available on the department’s web site, www.dor.state.wi.us.

- The percentage rate for computing farmland tax relief credit on Forms 1 and 1NPR is changed from 16% to 15%. The maximum allowable credit is \$1,500.
- A line is added to Forms WI-Z, 1A, 1, and 1NPR for designations for breast cancer research.
- The line on Form 1A for educator expenses is eliminated. The notation “Not deductible for Wisconsin” has been added to the line on Form 1NPR for educator expenses. This subtraction expired for 2004 for Wisconsin.
- A line is added to Forms 1 and 1NPR for the new dairy investment credit.

2004
Tax
Filing

Number of returns
2,931,925 – up 1.8%

2003 returns – 2,678,227

Number of refunds
2.3 million - no change

Electronic filing

Fed/State E-file	
Preparer	1,027,545 - up 10%
Taxpayer	251,074 - up 21%
TeleFile	79,559 - up 7%
Free-File	81,044 - up 24%
Total*	1,439,222

* 54% of 2003 returns filed

Season at a Glance

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- Boxes are added to lines 4 (Other additions) and 11 (Other subtractions) of Form 1. The various additions and subtractions are assigned code numbers that are to be entered in these boxes.
- A box has been added to the line for credit for net income tax paid to other states on Forms 1 and 1NPR. The box is used to enter the 2-digit postal abbreviation of the state for which tax was paid.
- When the married filing separate return filing status is used, the spouse’s social security number is to be entered in the social security number area of Forms 1 and 1NPR. The instructions on the forms are revised to reflect this change.
- Lines are added to Form 1NPR to conform with changes made to federal Form 1040. There are new lines for (1) the deduction for certain business expenses of reservists, performing artists, and fee-basis government officials and (2) health savings accounts. The line for health savings accounts includes the notation “Not deductible for Wisconsin.” [☞](#)

Reminders for Tax Practitioners – Mailing Addresses and Direct Deposit Information

With the increase in the number of electronically filed returns received this past filing season, the Wisconsin Department of Revenue (“DOR”) encountered a significantly larger volume of direct deposit rejects from banks and undeliverable refund checks from the Post Office. A majority of the returns that generated the rejects and returned checks were prepared by tax practitioners.

When a direct deposit reject occurs, the refund must be issued via a paper check instead. This adds

approximately one month to the time it takes to receive a refund. Undeliverable refund checks are held until DOR is contacted with correct address information.

The following reminders for the upcoming filing season are offered by DOR to tax practitioners, so they may better serve their customers:

- Verify the customer’s current mailing address.
- When a customer elects a direct deposit of their refund, verify the accuracy of their bank routing number and account number. A check is the best document to use to verify the routing number, as this information is not always correct on a deposit slip.

Following the above steps will help customers receive their refunds timely, and in the manner they have elected. [☞](#)

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Tax Return Volunteers Needed

(Continued from page 1)

Both the Internal Revenue Service and Wisconsin Department of Revenue provide training to VITA volunteers and TCE/AARP instructors. As a volunteer, you will be trained to prepare federal Forms 1040-EZ, 1040A, and 1040 (1040 training is limited to Schedules A, Itemized Deductions; B, Interest and Dividend Income; and D, Capital Gains and Losses), and Wisconsin Forms WI-Z, 1A, and 1, and Schedules H and H-EZ, Homestead Credit. TCE/AARP volunteers will also be trained to help persons prepare federal and Wisconsin estimated tax vouchers.

Enrolled agents participating in these programs may earn up to half of their required **CPE credits**. Other income tax practitioners may also earn CPE credits.

These practitioners should check with their professional associations. **Note:** If you are a CPA, you may be eligible for CPE credits if you conduct classes for volunteers.

With the tax season fast approaching, VITA and TCE/AARP programs are in need of volunteers. If you would like to volunteer, please call or e-mail either:

John Lulay 1-414-297-1766 John.F.Lulay@IRS.gov

or

Rick Dilley 1-608-266-2606 Rdilley@dor.state.wi.us.



Federal Provisions Relating to Health Savings Accounts Do Not Apply for Wisconsin

(Continued from page 1)

Effect of Wisconsin Not Following 2003 Federal Law Changes

All federal provisions relating to health savings accounts do not apply for Wisconsin. For example:

- A deduction is not allowed for the amount contributed to a health savings account for an individual.
- Earnings on the health savings account are taxable to the individual.
- Amounts distributed from the health savings account are not taxable to Wisconsin, regardless of whether or not the amount is used to pay medical expenses.
- Medical expenses paid with a distribution from a health savings account are allowed in the computation of the Wisconsin itemized deduction credit.
- A rollover from an Archer medical savings account to a health savings account results in a taxable transaction.
- Amounts contributed by an employer to a health savings account for an employee are taxable wages to the employee.

- Amounts contributed to a health savings account pre-tax by an employee under sec. 125, IRC (cafeteria plan), are taxable wages for Wisconsin.


Employers Must Notify Employee on W-2 Wage Statement

Contributions to a health savings account that represent additional wages to an employee for Wisconsin purposes can be reported to employees by either:

- (1) including the amount that is taxable for Wisconsin purposes (but not taxable for federal purposes) in Box 16 of the 2004 Form W-2, or
- (2) providing employees with a supplemental “Wisconsin only” 2004 Form W-2 with the taxable health savings account benefits shown in Box 16.

Where to Adjust for Differences Between Wisconsin and Federal Law

Individuals should use Wisconsin Schedule I (titled “Adjustments to Convert 2004 Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin”) to adjust for differences between the Wisconsin and federal income tax treatment of health savings accounts.

Schedule I is available from any Wisconsin Department of Revenue office. Schedule I is also available from the department’s Internet web site at www.dor.state.wi.us. (Note: The 2004 Schedule I instructions will be available on the department’s web site about November 30, 2004.) 

Current Issues: Audits of Businesses With Gambling Machines

The Department of Revenue's auditors and Alcohol and Tobacco Enforcement agents ("A&T") are working together to ensure compliance with Wisconsin laws as they apply to video gambling machines. Auditors routinely verify whether the correct amounts of Wisconsin income, franchise, sales and use taxes are reported and remitted with respect to income and gross receipts from the operation of such machines. Auditors may request assistance from A&T for purposes of determining the gross receipts from video gambling machines and whether violations of Wisconsin video gambling laws have occurred.

Gambling Law Violations

The operation of video gambling machines is a violation of Wisconsin law. In 2003, the department was given the sole authority by the Wisconsin Legislature to investigate video gambling violations on the premises of persons holding "Class B" liquor and wine licenses and/or Class "B" fermented malt beverage licenses (Class B premises) with five or fewer video gambling machines.* The presence of five or fewer video gambling machines on Class B premises is a violation subject to civil forfeiture. The penalties include seizure of the machines, seizure of money in the machines, and a \$500 fine per machine. District attorneys retain the authority to prosecute the violation, even though local law enforcement may not investigate the violation.

A gambling machine is a contrivance which, for a consideration, affords the player an opportunity to obtain something of value, the award of which is determined by chance, even though accompanied by some skill and whether or not the prize is automatically paid by the machine. A "gambling machine" does not include any of the following:

- A device used in conducting a bingo occasion or raffle event under ch. 563, used in conducting a lottery under ch. 565 or used in conducting a race under ch. 562.
- Any amusement device if it rewards the player exclusively with one or more non-redeemable free replays for achieving certain scores and does not change the ratio or record the number of the free replays so awarded.
- An amusement device involving skill, if it rewards the player exclusively with merchandise contained within the amusement device proper and limited to prizes, toys and novelties, each having a wholesale value which is not more than seven times the cost charged to play the amusement device once or \$5, whichever is less. In this subdivision, "skill" means, within an opportunity provided for all players fairly to obtain prizes or rewards of merchandise, a player's precision, dexterity or ability to use his or her knowledge which enables him or her to obtain more frequent rewards or prizes than does another less precise, dexterous or knowledgeable player.

*Cities, towns, and villages still have the authority to prohibit by ordinance all forms of gambling and to seize anything devised solely for gambling or used for gambling. Local law enforcement investigates and enforces these local ordinances.

Income and Franchise Taxes

The gross income from gambling machines must be reported with other income from an operator's business. An operator is entitled to deductions from income for ordinary and necessary business expenses related to the gambling machines in the same manner as other business expenses (for example, pay outs, lease payments, depreciation, supplies, etc.). Income and expenses are reported on the operator's federal and Wisconsin income or franchise tax returns.

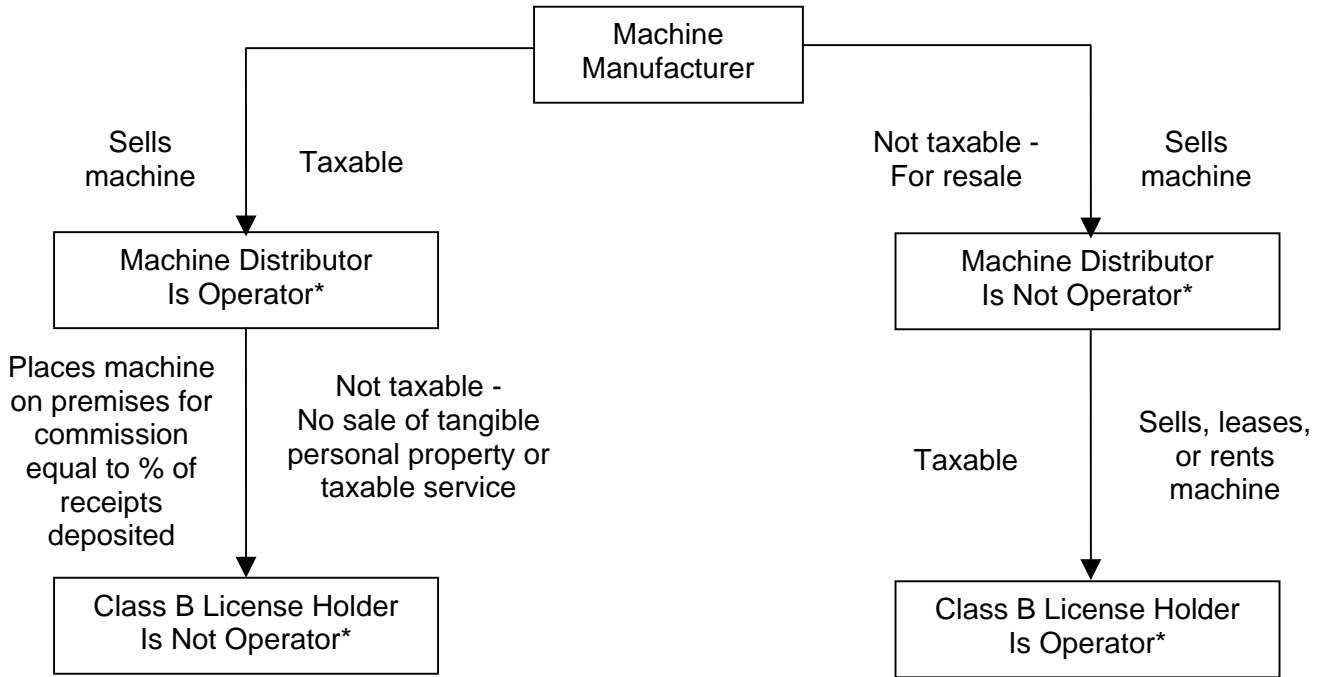
Wisconsin Sales and Use Taxes

Gross receipts from providing access to or use of video gambling machines in Wisconsin are subject to Wisconsin sales tax. The person responsible for reporting and remitting the sales tax to the Department of Revenue is the "operator" of the machine. The machine operator is subject to Wisconsin sales or use tax on its purchase, lease, or rental of the machine.

The machine operator may not purchase, lease, or rent the machine without tax for resale because the machine operator is considered to be using the machine to provide amusement, recreation, or entertainment.

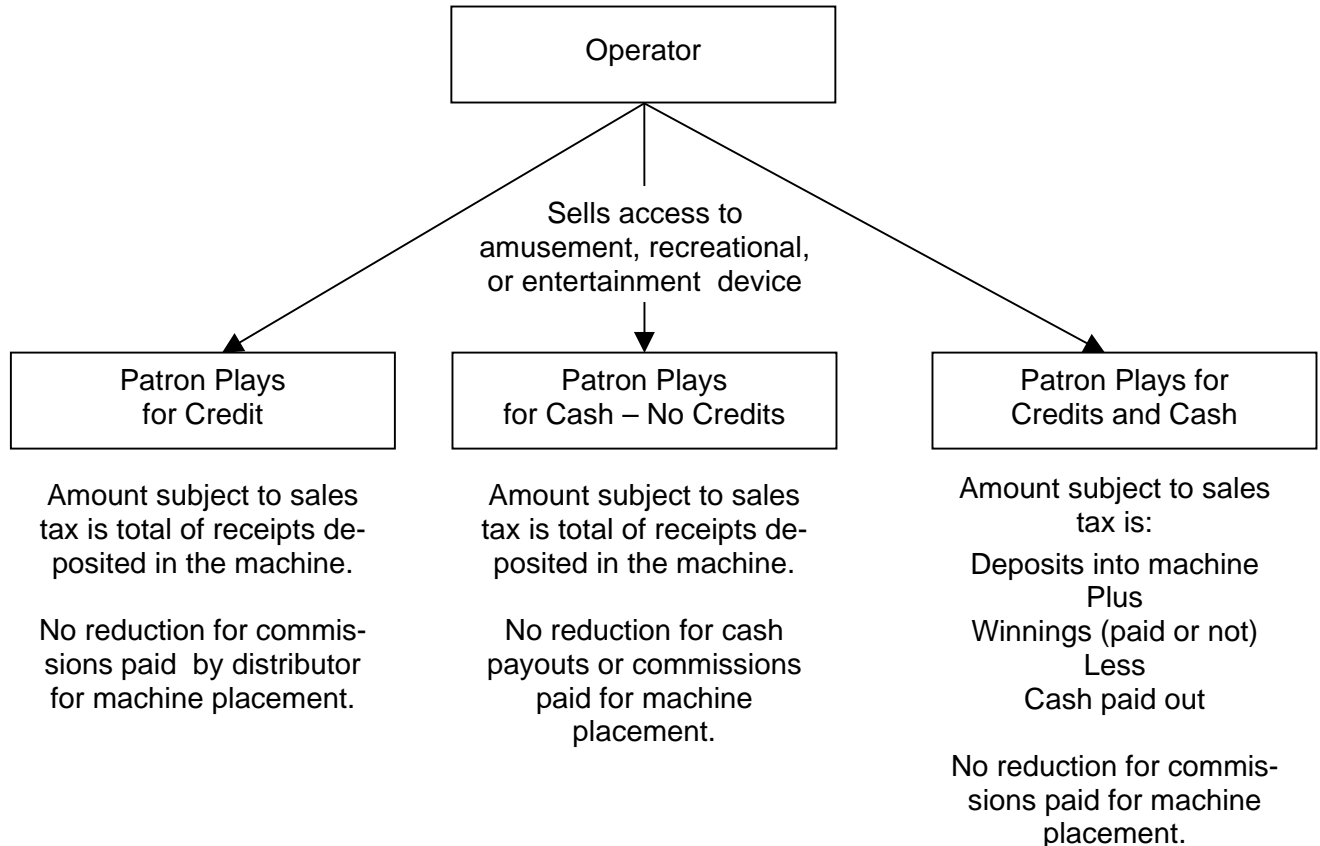
The following flowcharts illustrate the sales and use tax treatment.

Sale, Lease, or Rental of Gambling Machine



* “Operator” means the person who owns property sold through the machine, has access to the machine for stocking or restocking or for removing the gross receipts, or who, in general, has control over the machine and its contents.

Gross Receipts From Furnishing Access to Gambling Machines



Recordkeeping

Records must be kept in order to properly report and remit Wisconsin income or franchise taxes and sales and use taxes. These records include all of the following (this list is not all-inclusive):

- A report of money (currency and coins) removed from the machine and the date removed.
- Originals of any tickets, tapes, or similar documents produced by the machine that shows the money deposited into the machine, credits issued and used, and pay outs.
- The name and address of the recipient of each pay out.
- Copies of completed federal Form W-2G, *Certain Gambling Winnings*, if federal law requires the reporting of the pay out to the recipient, including social security number of the recipient.
- Records of commissions paid by distributors for placement of machines at Class B premises, including the name and address of the payor and payee, amount paid, and date of payment.
- Sales invoices or lease agreements for machines, maintenance, supplies, and any other expenses.

If proper records are not maintained, gross receipts and income subject to tax may be determined by the department through income reconstruction methods and

income tax deductions may be disallowed for lack of substantiation. If an operator files an incorrect income or franchise tax and sales or use tax returns due to negligence or fraud, penalties and interest may be assessed and the operator's seller's permit may be revoked. The interest rate on delinquent taxes is 18% per year. Civil penalties can be as much as 100% of the amount of tax not reported on the return. Criminal penalties for failing to file or filing a false return include a fine up to \$10,000 and imprisonment.

Any Questions

Contact the department's Customer Service Bureau at:

Franchise or Income Taxes

Wisconsin Department of Revenue
Mail Stop 5-77
P.O. Box 8906
(608) 266-2776
income@dor.state.wi.us

Sales and Use and Withholding Taxes

Wisconsin Department of Revenue
Mail Stop 5-77
P.O. Box 8902
(608) 266-2776
sales10@dor.state.wi.us

On-Line Business Tax Registration is Now Available


Thanks to a new initiative, businesses may now request the most common business permits – seller's, withholding, consumer's and/or use tax – by completing and submitting Form BTR-101, *Application for Business Tax Registration*, electronically. This new process will enable businesses to receive their requested permits in a matter of days instead of weeks.

The normal purchase/processing fee of \$20 will remain the same, but the turnaround time to process and mail the permits is significantly reduced. If a quicker turnaround is needed, an expedited service is available for an additional \$10.

The businessperson electronically checkmarks the permits they are interested in obtaining, fills out the

required fields, and hits submit. A few days later, the requested permits arrive in the mail. This process eliminates the need for mailing in several different forms to the Department of Revenue, where the information would then be keyed into the computer system.

In addition to speeding up the turnaround time for permits, the new system allows the businessperson to manage the company's permit account by updating mailing information, adding business locations, and adding tax permits.

Businesses with questions about the application process may call the Department of Revenue at (608) 266-2776 or e-mail questions to sales10@dor.state.wi.us. 



New EFT Payment Options for Corporations

There are two new Electronic Funds Transfer (“EFT”) payment options for corporation franchise and income tax. For the last several years, corporations could only pay estimated tax using EFT. Corporations registered to pay by EFT may now, however, also pay **tax due** with their returns and **bills** using EFT, simply by choosing the appropriate tax type code when making their payment:

- | | |
|-----------------------------------|-------|
| • Corporation Estimated Payment | 02100 |
| • Corporation Tax Due with Return | 02200 |
| • Corporation Bill | 02540 |

To learn more about paying by EFT or registering to pay by EFT visit www.dor.state.wi.us/eserv/eftgen.html.



Electronically Filed Homestead Credit Information

The third year for filing homestead credit claims electronically (“e-filing”) saw a 20% increase over the amount of electronically filed claims for 2002. To date, 70,252 claimants filed their 2003 homestead credit claims electronically, which is more than 31% of the total number of homestead credit claims filed so far for 2003.

Approximately 60,471 (86%) of the claims filed electronically were filed through a preparer, 5,130 (7%) were filed using vendor software, and 4,561 (7%) were filed using the “Wisconsin Free-File” fill-in-the-form web site application.

Of the 70,252 e-filed homestead credit claims, 54,303 (77%) finished processing **within five business days**. The remaining 15,949 (23%) were selected for review. Of the claims selected for review, 1,620 (10%) needed letters for additional information, 2,664 (17%) needed letters to obtain missing Form W-RAs with required attachments, and 7,062 (48%) were adjusted. The balance were resolved within one to four weeks based on the information submitted.

Avoid delays - Many of the claims selected could have avoided review if the property tax bill information, rent certificate information, and/or household income information had been entered completely and correctly before transmitting the claim. For more information on providing the necessary information, see www.dor.state.wi.us/eserv/hcfilling.html.

Follow the tips below to avoid some of the errors and delays experienced this year. (Note: Schedule H and rent certificate line references are to the 2004 Schedule H and rent certificate.)

Form W-RA Information Tips

- The Form W-RA, *Required Attachments for Electronic Filing*, must be mailed to the Wisconsin Department of Revenue with the required homestead credit documentation **within 48 hours of Wisconsin acknowledgment**. Not receiving the Form W-RA is the main reason delays occur.
- Put Form W-RA as the front document, with attachments stapled behind. (Hint: Attachments include wage statements [Forms W-2] and Forms 1099-R, original rent certificate(s), copy of 2004 property tax bill(s) and/or closing statement, and any other document or note needed per the homestead credit instructions.)
- Don’t mail a paper copy of the electronically transmitted income tax return or homestead credit claim. This will cause delays.
- Don’t staple two or more claimants’ Form W-RAs and attachments together.
- Don’t mail Form W-RA before receiving the Wisconsin acknowledgment. (Hint: Be sure you mail it to the correct address, listed below.)
- Send Form W-RA and ALL of the required attachments to:

Using U.S. Postal Service

Wisconsin Department of Revenue
P.O. Box 34
Madison, WI 53786-0001

Using another service

Wisconsin Department of Revenue
Mail Opening Mail Drop 1-151
2135 Rimrock Road
Madison, WI 53713.

Property Tax Bill Information Sheet Tips

- Enter the information **exactly** as it is shown on the property tax bill (year, name of owner, type of owner, address of property, assessed land valuation, assessed improvement valuation, number of acres [if shown], taxes before lottery/gaming credit, and lottery/gaming credit [if shown]). (Hint: By not providing all of this information, a claim will be rejected because information needed to calculate allowable taxes is missing.)
- Don't reduce the taxes for ownership percentage, personal use percentage, or acreage adjustment when entering the taxes on the property tax bill information sheet. (Hints: The property tax reductions for acreage and personal use percentage should be done on Schedules 1 and 2 on page 3 of the Schedule H and then entered on line 13 of Schedule H. The reduction for ownership percentage should be done when allowable taxes are entered on line 13 of Schedule H.)
- Indicate "Self and/or spouse" as the ownership type if the claimant or spouse has a life estate ownership interest in the homestead property.
- Enter the address of the property exactly as shown on the property tax bill. (Hints: Enter N, S, E, or W as shown on the property tax bill, and don't enter a rural route address when the property tax bill shows a street address; for example, use W4459 Center Road rather than RR 2.)
- Use the "Adjoining Property Tax Bill Information" section when there is more than one property tax bill. (Hint: Be sure to enter number of acres, assessed valuation of land, assessed valuation of improvements [if any], and the property tax amount.)
- Only enter dates of occupancy when a home was purchased or sold during the year.
- When a home was sold during the year, enter the date of sale, allocated property taxes, selling price, selling expenses from the closing statement, and adjusted basis of the home sold in the correct data fields.
- Don't enter property tax bill information when line 10b of the rent certificate has an amount that should be entered on line 13 of Schedule H. If software requires you to enter property tax bill information when line 10b of the rent certificate has

an amount, contact the software company. The software should allow for this situation.

Rent Certificate Information Tips

- Claim only the claimant's share of rent on lines 14a and 14c of Schedule H.
- Only claim rent that is properly documented by a signed rent certificate or, if the rent certificate is not signed, by copies of money orders or cancelled checks.
- Don't indicate that the landlord will not sign the rent certificate when you have a landlord signed rent certificate. (Hints: Don't enter rent certificate information without an original landlord signed rent certificate. If a landlord signed rent certificate is not provided when you are preparing the claim, obtain one from the claimant before proceeding with the claim.)
- If the landlord will not sign a rent certificate, indicate this and complete all of the required information for both the claimant and landlord. Mail copies of each cancelled check or money order receipt to verify the rent paid along with Form W-RA, *Required Attachments for Electronic Filing*. If the claimant does not have rent receipts, contact the Department of Revenue at (608) 266-8641 for additional instructions.
- Enter the month and day when entering the dates of occupancy on line 4 of the rent certificate. Don't enter the month and year. (Hint: By incorrectly entering the month and year, the days of occupancy and allowable rent cannot be correctly computed.)
- Enter the information exactly as it is shown on the rent certificate. (Hint: If software automatically computes and enters the rent for lines 11c, 11e, and 13a of the rent certificate, verify that the amounts are the same as shown on the original rent certificate. If they are not, you must override the amounts so they match the amounts on the original rent certificate.)
- When the box for line 9b of the original rent certificate is checked, be sure to check it on the rent certificate information sheet.
- Each column for line 11b of the electronic rent certificate has 2-byte data fields for months and 2-byte fields for days. (Hint: Only use the "days" data fields when the rent certificate shows a fraction of a month or a number of days on line 11b; for

example, enter 10 1/2 months as “10” months and “15” days.)

- Complete the “Shared Living Expenses Schedule” section of the electronic rent certificate when the original rent certificate has that information.

Tax and Rent Information Tips

- Check the boxes above line 13 of Schedule H when applicable. The check boxes are to indicate more than one acre and not part of a farm, more than one acre and part of a farm, non-homestead use of property, and if Wisconsin Works (W2) or county relief was received during the year.

Household Income Information Tips

- Include the distributive share of partnership, limited liability company (“LLC”), and tax-option (S) corporation depreciation, Section 179 expense, depletion, amortization, and intangible drilling costs on line 11g of Schedule H. (Hint: Don’t include it on line 11h or 11i.)
- Include depreciation from federal Schedules C, C-EZ, E, F, and federal Form 8829 on line 11i of Schedule H.
- Include mileage depreciation for car and truck expenses (when the standard mileage rate was used to compute the expense) on line 11h of Schedule H. (Hints: Use Homestead Credit Note #4 to indicate the number of miles that were used in computing the expense. Use Homestead Credit Note #6 to indicate the car and truck expenses were computed using actual expenses.)

- Include nontaxable pension and annuity income on line 9d of Schedule H.
- Include deferred compensation labeled with D, E, F, G, H, or S (from box 12 on a wage statement) on line 9e of Schedule H.
- Include the gain from the sale of a home that is excluded under I.R.C. Section 121 on line 11c of Schedule H (even though this is not taxable income, it is includable in household income).
- Include child support, maintenance payments, and other support money on line 9i of Schedule H.
- If “other” subtractions are listed on line 11 of Form 1 and are not specifically identified, include a note to indicate the source(s) of the subtraction with Form W-RA, *Required Attachments for Electronic Filing*. (Hint: “Contact Preparer” and “Other Subtractions” are not sufficient identification.)
- Use the Homestead Credit Notes when needed. (Hint: “Needed” includes situations per the Schedule H instructions, such as (a) relating to low income, (b) either claimant and/or spouse is age 65 or over and did not receive social security, (c) distributive share of tax-option (S) corporation, partnership, and LLC depreciation, Section 179 expense, depletion, amortization, and intangible drilling costs is “None”, (d) less than 12 months of property taxes/rent, (e) IRA/pension/annuity rollovers, (f) married, divorced, or separated during year, (g) lottery/gaming credit not claimed or allowed separately from tax bill, moved during the year, etc.) [☞](#)



Tips to Speed Processing of Corporation Tax Returns

Processing corporation tax returns takes longer when the returns are incomplete or assembled improperly. Avoid errors and delays in processing your tax return by following these tips:

1. **File your return using the correct year’s form.** If you do not, it may be sent back to you. The year of the return should correspond to the first date of the tax period covered. For example, if you file a return for the period covering June 1, 2003 through May 31, 2004, you would file a 2003 corporation franchise or income tax return because the first date in the period covered is in 2003.
2. **If the address or name of your corporation has changed** from the information on the label from the tax booklet, enter your new name/address and check the appropriate box indicating there is a change. If you do not have a label to compare to and you have had a name or address change in the last two years, check the box to ensure that the new information is correctly entered. If this is not done, your new address may not get updated in the Department of Revenue’s system.
3. Check the appropriate box on the return if you are filing a **first or final return** for the corporation. This information is important in determining past and future filing requirements.

4. Check the appropriate box on the return if you are filing an **amended return** or write “Amended” on the top of the return.
5. Enter the correct **Federal Employer Identification Number (“FEIN”)**. The FEIN should be nine digits long. Some printers/software only print eight digits, so check your return before you mail it in.
6. Fill in the **gross receipts and total company assets** lines on the tax return.
7. **DO NOT staple checks to the return** or put checks inside or on the back of the return. They may be overlooked, and you could receive a bill. Paperclip all checks to the front page of the return. To avoid this problem, make your payments by electronic funds transfer (“EFT”). See more at <http://www.dor.state.wi.us/eserv/eftgen.html>.
8. **Only use one staple** or clip, in the upper left corner of the return. Staples placed in other areas of the return must be removed to key the information from the return.
9. **Attach the deconsolidated federal return and ALL schedules** that apply.
10. **Assemble the return in the correct order:**
 - Wisconsin tax return
 - Federal tax return
 - Any attachments
 - **Any extensions** (place as the **BACK** page) – If you have a federal extension, you must include it with your state return even though you are not required to submit it with your federal return.




Making Corporation Estimated Tax Payments

If a corporation’s franchise or income tax due (including the recycling surcharge) is \$500 or more, it generally must make quarterly estimated tax payments. The quarterly payments may be made either with a Wisconsin Form 4-ES or by Electronic Funds Transfer (“EFT”).

Corporations that made an estimated tax payment with a Form 4-ES in the current year will automatically receive estimated tax vouchers (Form 4-ES) before the next year’s tax is due. Taxpayers that receive the Form 4-ES in the mail but have no estimated tax payment obligation for the next year **should not** complete and return the

form. (Some taxpayers think that because the department sends them the pre-printed vouchers they are obligated to complete and return them, even though they are not making estimated payments.)

Estimated tax payments can be made by EFT. Taxpayers that make estimated tax payments by EFT do not need to complete the Form 4-ES. For more information about EFT payments, call (608) 264-9918; write to Wisconsin Department of Revenue, P. O. Box 8912, Madison, WI 53708-8912; or visit the department’s web site, www.dor.state.wi.us. This site also provides information about forms and filing requirements. 


Tax Form Order Blanks Mailed

In late October, the department mailed order blanks (Form P-744) to tax preparers. Use these original order blanks (not copies) to request bulk orders of 2004 Wisconsin tax forms that require payment. Forms that do not require payment are not listed on the order blank.

Some of the forms you order will be accompanied by additional information. For example, your order will include instructions for the forms you request; Schedules 2K-1 and WD for Form 2 will be included with fiduciary Form 2 orders; and Schedules 3K-1 will be included with partnership Form 3 orders.

If you have not received an order blank, you may request one by: contacting any department office; writing to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949; or calling (608) 266-1961.

Place your order as early as possible after receiving the order blank. Orders are expected to be filled in late December and early January.

As an alternative to ordering forms, most forms in Package WI-X may be reproduced. Package WI-X will be mailed separately in January. New for this year, Package WI-X will also be available as a CD-ROM. In addition, 2004 Wisconsin income tax forms will be available at some libraries. 

Magnetic Media/Electronic Filing Required for Some Forms

Employers and payers may be required to file wage statements and information returns on magnetic media or electronically with the Wisconsin Department of Revenue. Wisconsin magnetic media or electronic filing is required if all of the following apply:

- Comparable wage statements or information returns are required to be filed on magnetic media or electronically with the Internal Revenue Service or Social Security Administration.

- The income on the form is required to be reported to Wisconsin.
- The Combined Federal/State Filing Program is not being used.
- No waiver has been granted by the department.

Wisconsin Publication 509, *Filing Wage Statements and Information Returns on Magnetic Media or by Electronic Transmission*, provides more information about magnetic media and electronic filing. For information about how to obtain this publication, see the article titled “Tax Publications Available” on page 14 of this Bulletin. [↗](#)

Refund Interception Program Continues to Grow

The fiscal year ending June 30, 2004, saw continued growth for the Wisconsin Department of Revenue’s (“DOR’s”) refund interception program for state agencies and local governments. The program brought in more than \$32 million for the 242 state, federal, county and municipal agencies that participated in the program, up 14% from last year, while enrollment increased by 48%.

First authorized in the early 1980’s, the program was initiated to allow the department to intercept state tax refunds and refundable credits for debts owed to other state agencies. The program, later expanded to include local governments and the IRS, replaced the original modem-based information exchange system with an Internet-based application that made data exchange

considerably easier. This change in technology, as well as other modifications, resulted in tremendous growth for the program, and new agencies continue to enroll at a steady pace.

The program is currently undergoing a complete facelift that will make participation even easier and more efficient. Plans include a redesign of TRIP, the Internet-based application used to exchange debtor information, that will result in increased reporting options and a more “user friendly” information display. Additionally, the IT architecture behind the program will be updated to eliminate system limitations and make administration of the program easier for both DOR and the client agencies.

For more information about the refund interception program, please contact the department at (608) 266-8517, or via e-mail at trip@dor.state.wi.us. [↗](#)

Auditors Discover Over \$22 Million in Unpaid Use Tax

As part of its efforts to obtain compliance with Wisconsin use tax laws, Department of Revenue auditors assessed over \$22 million of use tax in the fiscal year ending June 30, 2004.

Field auditors found that many businesses, while properly accounting for tax on sales, do not have a system to keep track of purchases subject to use tax. For example, purchases were made from unregistered out-of-state sellers (e.g., mail order or Internet companies) without a sales or use tax being paid . . . until the businesses were audited.

Office audit staff found that many purchasers of motor vehicles, all-terrain vehicles, aircraft, boats, and

snowmobiles failed to properly report use tax because they underreported the purchase price or claimed invalid exemptions when they registered motor vehicles, all-terrain vehicles, aircraft, boats, and snowmobiles purchased from nondealers and out-of-state dealers. Use tax was also assessed on cigarette purchases where the applicable sales tax was not paid at the time of purchase. In addition, discovery projects targeting particular industries and individuals resulted in use tax collections for purchases made from unregistered out-of-state sellers (e.g., mail order or Internet companies).

The \$22 million of use tax assessed does not include interest and penalties that were also imposed.

Purchasers should carefully review their accounting methods to ensure that use tax is properly reported. [↗](#)

Information or Inquiries?

Listed below are telephone numbers to call if you wish to contact the Department of Revenue about any of the taxes administered by the Income, Sales, and Excise Tax Division and the Processing and Customer Services Division. A comprehensive listing of telephone numbers and addresses appears in *Wisconsin Tax Bulletin* 138 (April 2004), pages 34 to 37.

Madison – Main Office Area Code (608)

Appeals	266-0185
Audit of Returns: Corporation, Individual, Homestead	266-2772
Beverage Tax	266-6702
Cigarette, Tobacco Products Taxes	266-8970
Copies of Returns	266-2890
Corporation Franchise and Income Taxes	266-2772
Delinquent Taxes	266-7879
Electronic Filing:	
Individual Income Tax	264-6886
Sales Tax	266-2776
Electronic Funds Transfer (“EFT”)	264-9918
Estimated Taxes	266-2772
Fiduciary, Estate Taxes	266-2772
Forms Request:	
By mail	266-1961
Fax-A-Form	261-6229
Homestead Credit	266-8641
Individual Income Tax	266-2772
Motor Vehicle Fuel Tax	266-3223
Refunds	266-8100
Sales, Use, Withholding Taxes	266-2776
Sales Internet Process (“SIP”)	261-6261
TTY	267-1049

District Offices

Appleton	(920) 832-2727
Eau Claire	(715) 836-2811
Milwaukee:	
General	(414) 227-4000
Refunds	(414) 227-4907
TTY	(414) 227-4147



Reminder: IRS Mileage Rates for 2004 Apply for Wisconsin

The Internal Revenue Service (“IRS”) optional standard mileage rates for 2004, for computing automobile expenses for business, charitable, medical, and moving expense purposes, also apply for Wisconsin.

For 2004 the business standard mileage rate is 37.5¢ per mile for all business miles driven, without regard to whether the automobile was previously considered fully depreciated. If the standard mileage rate of 37.5¢ per mile is used, depreciation is considered to be allowed at 16¢ per mile. However, no portion of the 37.5¢ per mile is considered to be depreciation after the adjusted basis of the automobile reaches zero.

For 2004 the mileage rate allowed for calculating automobile expenses for charitable deduction purposes is 14¢ per mile. The rate for medical expense and moving expense deductions is 14¢ per mile. [☞](#)



Index of Reference Material Available

Are you looking for an easy way to locate reference material to research a Wisconsin tax question? The *Wisconsin Topical and Court Case Index* may be just what you need.

This two-part index will help you find reference material relating to income, franchise, withholding, sales/use, estate, and excise taxes.

The “Topical Index” portion lists by tax type, alphabetically by subject, references to Wisconsin statutes, administrative rules, tax releases, private letter rulings, Wisconsin tax publications, *Sales and Use Tax Reports*, Attorney General opinions, and *Wisconsin Tax Bulletin* articles.

The “Court Case Index” lists by tax type, alphabetically by issue, decisions of the Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court.

The *Wisconsin Topical and Court Case Index* is available by subscription for \$18 per year, plus sales tax. This includes a volume published in January and an addendum published in June. To order your copy, complete the order blank on page 57 of this Bulletin. The Index is also on the department’s Internet web site at www.dor.state.wi.us. Just click on “Publications.” [☞](#)



Pointers for Withholding Tax Reporting

- Make withholding deposits by Electronic Funds Transfer (“EFT”). It is quick, easy and allows you to receive a confirmation that your payment was received. For more information visit <http://www.dor.state.wi.us/eserv/eftgen.html>.
- If you can’t use EFT to report a liability and make deposits, use the department pre-printed vouchers (WT-6). The pre-printed vouchers should be used whenever possible, as vouchers need to be a specified size and have information in specific places in order to process through imaging equipment.
- Write your six-digit Wisconsin Employer Identification Number (“WEIN”) on the memo portion of your check or check stub.
- Do not include correspondence with Form WT-6 unless it is absolutely necessary. Correspondence slows down the processing of the payment. If you need to report an address change, use the pink address change cards provided with the vouchers.
- If you no longer have employees, contact the department at (608) 266-2776 to inactivate your account. Do not send WT-6 vouchers reporting zero liability if your account has been inactivated, as this makes unnecessary work for the department.
- Use the department pre-printed Employers Annual Reconciliation (WT-7) form whenever possible, as this form is processed through data imaging equipment and needs to be printed with specific spacing and data. [☞](#)

State Election Campaign Fund Checkoffs Increase for 2004

Wisconsin income tax returns include checkboxes for taxpayers and spouses to designate \$1 to the State Election Campaign Fund.

During July 2003 through June 2004 (primarily 2003 tax returns), taxpayers designated \$241,852 to the election campaign fund on their Wisconsin tax returns. This compares to \$191,729 for the prior year. [☞](#)



Income Tax Refunds Issued

The 2004 income tax processing season went very smoothly, with direct deposit refunds for electronically filed returns averaging 5 days to complete and the mailing of checks for paper returns not requiring adjustment averaging 21 days. A large amount of this success is due to the continued growth of electronic filing. Electronic filing results in faster refunds than paper filing because electronic returns move through the department’s computer systems more quickly and are more accurate than paper returns.

The department issued 2,253,354 refunds during the fiscal year ending June 30, 2004 (primarily 2003 returns). The average refund amount was \$560.58. The average refund for 2002 returns was \$548.00. Over 578,000 direct deposit refunds from e-filed returns were issued into taxpayers’ accounts.

Here are some other comparisons:

	<u>2003</u> <u>Returns</u>	<u>2002</u> <u>Returns</u>
Number of individual income tax returns	2,931,925	2,879,073
Itemized deduction credit		
% of taxpayers claiming	26%	27%
Average credit	\$564	\$590
Homestead credit		
# of claimants	235,674	226,041
Average credit	\$503	\$498
Age 65 or older	42%	43%
Renters*	57%	57%
Homeowners*	49%	49%
*some claimants were both		
Farmland preservation credit		
# of claimants	20,442	21,003
Average credit	\$736	\$802
Earned income credit		
# of claimants	228,047	220,578
Average credit	\$338	\$328
Sales/use tax payments		
Amount collected	\$1,679,758	\$1,598,697
# of payers	25,885	26,140

Tax Publications Available

Listed below are 74 publications that are available, free of charge, from the Department of Revenue. Copies are available at any department office, or by mail, e-mail, fax, or the Internet.

By Mail

Write to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949; call (608) 266-1961; or fax a request to (608) 267-1030.

By E-Mail

You may e-mail your request to forms@dor.state.wi.us.

Via Your Fax Machine

Use the department's Fax-A-Form system by calling (608) 261-6229 from a fax telephone and entering the retrieval code "10" plus the publication number.

Via the Internet

Access the department's web site at www.dor.state.wi.us, and click on "Publications" and then "Tax Publications."

Note: The numbers of some publications may be followed by an asterisk (*). These are publications that are new or have been revised since the last issue of the *Wisconsin Tax Bulletin*.

Income and Franchise Taxes

- | | |
|---|---|
| <p>102 Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (12/03)</p> <p>103 Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, and Trusts (11/03)</p> <p>104 Wisconsin Taxation of Military Personnel (5/04)</p> <p>106 Wisconsin Tax Information for Retirees (11/03)</p> <p>109 Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 2003 (11/03)</p> <p>112 Wisconsin Estimated Tax and Estimated Surcharge for Individuals, Estates, Trusts, Corporations, Partnerships (11/02)</p> <p>113 Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (10/03)</p> <p>116 Income Tax Payments are Due Throughout the Year (11/02)</p> | <p>119 Limited Liability Companies (LLCs) (12/02)</p> <p>120 Net Operating Losses for Individuals, Estates, and Trusts (11/03)</p> <p>121 Reciprocity (11/03)</p> <p>122 Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 2003 (11/03)</p> <p>123 Business Tax Credits for 2003 (12/03)</p> <p>125 Credit for Tax Paid to Another State (11/03)</p> <p>126 How Your Retirement Benefits Are Taxed (11/03)</p> <p>600 Wisconsin Taxation of Lottery Winnings (12/03)</p> <p>601 Wisconsin Taxation of Pari-Mutuel Wager Winnings (1/02)</p> |
|---|---|
- Sales and Use Taxes**
- | |
|---|
| <p>200 Electrical Contractors – How Do Wisconsin Sales and Use Taxes Affect Your Business? (11/02)</p> <p>201 Wisconsin Sales and Use Tax Information (11/02)</p> <p>202 Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs (11/00)</p> <p>203 Sales and Use Tax Information for Manufacturers (7/00)</p> <p>204 Sales and Use Tax Information for Colleges, Universities and Technical Colleges (3/01)</p> <p>205 Use Tax Information for Individuals (4/03)</p> <p>206 Sales Tax Exemption for Nonprofit Organizations (6/00)</p> <p>207* Sales and Use Tax Information for Contractors (9/04)</p> <p>210 Sales and Use Tax Treatment of Landscaping (11/03)</p> <p>211 Cemetery Monument Dealers – How Do Wisconsin Sales and Use Taxes Affect You? (6/00)</p> <p>212 Businesses: Do You Owe Use Tax on Imported Goods? (4/03)</p> <p>213 Travelers: Don't Forget About Use Tax (4/03)</p> <p>214 Businesses: Do You Owe Use Tax? (4/03)</p> <p>216 Filing Claims for Refund of Sales or Use Tax (2/03)</p> <p>217 Auctioneers – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (1/00)</p> |
|---|

- 219 Hotels, Motels, and Other Lodging Providers – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (2/03)
- 220 Grocers – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (10/01)
- 221 Farm Suppliers and Farmers – How Do Wisconsin Sales and Use Taxes Affect Sales to Farmers? (3/02)
- 222 Motor Vehicle Fuel Users: Do You Owe Use Tax? (3/00)
- 223 Bakeries – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (1/03)
- 224 Veterinarians – How Do Wisconsin Sales and Use Taxes Affect Your Business? (6/99)
- 225 Barber and Beauty Shops – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (12/02)
- 226 Golf Courses – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (4/04)
- 227 E-file Sales Tax returns with S.I.P. (3/01)
- 229 Brackets for Collecting Wisconsin Sales or Use Tax on Retail Sales (11/01)
- 230 Sales and Use Tax Information for Sellers of Antiques, Crafts, and Artwork (12/02)

Excise Tax

- AB-103 Alcohol Beverage Tax Information (3/03)
- MF-106 Alternate Fuel Tax Information (4/04)
- MF-107 Motor Vehicle Fuel Tax Information (4/04)
- MF-108 General Aviation Fuel Tax Information (4/04)
- 302 Wisconsin Alcohol Beverage and Tobacco Laws for Retailers (4/03)

Other Taxes and Credits

- 127 Wisconsin Homestead Credit Situations and Solutions (11/03)
- 400 Wisconsin's Recycling Surcharge (12/03)
- 403 Premier Resort Area Tax (2/03)
- 410 Local Exposition Taxes (2/03)
- 503 Wisconsin Farmland Preservation Credit (11/03)

- 508 Wisconsin Tax Requirements Relating to Nonresident Entertainers (2/03)
- W-166 Wisconsin Employer's Withholding Tax Guide (2/04)

Audits and Appeals

- 501 Field Audit of Wisconsin Tax Returns (2/04)
- 505 Taxpayers' Appeal Rights of Office Audit Adjustments (2/02)
- 506 Taxpayers' Appeal Rights of Field Audit Adjustments (10/03)
- 507 How to Appeal to the Tax Appeals Commission (6/03)
- 515 Non-Statistical Sampling (1/01)

Other Topics

- 111 How to Get a Private Letter Ruling From the Wisconsin Department of Revenue (2/01)
- 114 Your Wisconsin Taxpayer Bill of Rights (10/01)
- 115* 2005 Handbook for Federal/State Electronic Filing (10/04)
- 117 Guide to Wisconsin Information Returns (11/03)
- 124 Petition for Compromise of Delinquent Taxes (11/03)
- 130 Fax A Form (12/03)
- 140 A Tax Practitioner's Guide to Electronic Filing (6/03)
- 401 Extensions of Time to File (12/03)
- 405 Wisconsin Taxation of Native Americans (12/01)
- 500 Tax Guide for Wisconsin Political Organizations and Candidates (12/03)
- 502 Directory of Wisconsin Tax Publications (11/03)
- 504 Directory for Wisconsin Department of Revenue (5/03)
- 509 Filing Wage Statements and Information Returns on Magnetic Media or by Electronic Transmission (11/03)
- 700 Speakers Bureau presenting . . . (6/00) [🔗](#)



Endangered Resources Contributions Decrease in 2004

The 2003 Wisconsin income tax returns included a line for taxpayers to designate a contribution to the Wisconsin Endangered Resources Fund. These contributions help protect and care for Wisconsin's endangered species, nongame wildlife, and rare plant and animal habitats.

Donations to the Endangered Resources Fund can be made on both paper filed tax returns and electronically filed returns.

During July 2003 through June 2004 (primarily 2003 returns), 39,452 taxpayers contributed \$629,895 to the Endangered Resources Fund. This compares with 2002 income tax returns, where 41,855 taxpayers contributed \$647,689. [↗](#)

2004 Package WI-X Available in January

Wisconsin's Package WI-X will be available by January 31, 2005. Package WI-X will contain actual size copies of most 2004 Wisconsin individual and fiduciary income tax, corporation franchise and income tax, partnership, estate tax, motor vehicle fuel tax, sales and use tax, and withholding tax forms.

The cost of the 2004 Package WI-X is \$7.00, plus sales tax. New for this year, Package WI-X is also available as a CD-ROM for a cost of \$6.00, plus sales tax. Either version may be ordered on the tax form order blank

(Form P-744). This order blank was mailed in late October. See the article titled "Tax Form Order Blanks Mailed" on page 10 of this Bulletin, for more information.

If you want to purchase copies of the 2004 Package WI-X and did not receive an order blank, you may mail a request, specifying which version you are ordering and indicating the number of copies you require, along with your remittance for the amount due. Send it to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949. [↗](#)

FreeFile WISCONSIN "Wisconsin Free-File" Completes Its Second Year

More than 81,000 taxpayers used Wisconsin Free-File ("Free-File"), the Department of Revenue's own electronic form and filing service, to file their 2003 Wisconsin individual income tax returns and homestead credit claims. Free-File provides online instructions and fill-in forms on which taxpayers can enter information and submit their return electronically. This second year for Free-File was once again a very successful one, with its use seeing an increase of more than 24% over its first year.

Free-File was developed in response to taxpayers' comments about wanting a free electronic filing alternative. Free-File is for filing Wisconsin income tax returns and homestead credit claims only. Tax filers using Free-File must file their federal return with the Internal Revenue Service ("IRS") separately, but they do need to enter some federal information to complete their state filing. While the department intends to eventually expand eligibility, Free-File currently does not support filers who file federal Schedules C, C-EZ, D, E, F and federal Form 4797.

In most cases, Free-File is a paperless process with no requirement for a signature document. However, when instructions appear asking for supporting documentation filers are required to submit Wisconsin Form W-RA, *Required Attachments for Electronic Filing*. Anyone claiming homestead credit is required to submit supporting documentation, as well as a few others with specific filing situations.

Free-File is used primarily by taxpayers that do not use a paid preparer. Free-File, like paper instructions and forms, does not compete with paid preparers and other tax professionals since it offers no tax preparation assistance or advice. The department will continue to value the partnerships it has with paid preparers, other tax professionals, and the vendors of full-featured tax preparation software.

Free-File is available from early January through October 15th each year, and may be accessed by visiting the department's web site at www.dor.state.wi.us. [↗](#)

Preparers Help Bolster Electronic Filing

In the 2004 tax season, nearly 1,439,000 income tax returns were electronically filed with the Wisconsin Department of Revenue (“DOR”), through one of the four accepted e-file methods. E-filing as a whole grew by 6%, but e-filing by preparers grew by 10%. The success of the Wisconsin e-file program is due in large part to the participation and cooperation of tax practitioners who are approved Electronic Return Originators (“EROs”).

The BENEFITS of e-file for an ERO’s clients are:

- Return less likely to be adjusted, because the data on e-filed returns are more accurate; the software performs mathematical calculations.
- Direct deposit is available only for e-filed Wisconsin returns.
- Refunds will be issued within one week for returns that need no additional review.
- Taxpayers receive acknowledgements of their returns being filed, from both DOR and the IRS.
- Balance due returns can be filed early in the season, but can be paid on April 15th.
- Electronic filing reduces processing costs for DOR, which benefits all taxpayers.
- Wisconsin allows electronic filing through October 15th for returns with extensions.

How do tax practitioners become EROs with DOR?

- 1) Complete an Electronic Return Originator application (federal Form 8633), and submit it to the IRS.
- 2) Send DOR a copy of the federal application (Form 8633), and a copy of the IRS acceptance letter with your Electronic Filing Identification Number (“EFIN”) on it. Participants who are not sole proprietors must also provide a list of the full names, addresses, and social security numbers of all partners or officers.
- 3) IRS-approved EROs will automatically be accepted into the Wisconsin e-file program, but applicants will be reviewed for delinquent tax liabilities and non-filing status.

These documents can be faxed to (608) 267-1030 or mailed to

Wisconsin Department of Revenue
Electronic Filing Office
Mail Stop 5-77
P.O. Box 8949
Madison, WI 53708-8949

For more information on electronic filing, visit the department’s web site at www.dor.state.wi.us, send an e-mail message to the Electronic Filing Office at efiling@dor.state.wi.us, or call (608) 264-9959. [☞](#)



Guidelines for Reproduced and Substitute Tax Forms

Tax returns may generally be filed on forms that have been reproduced or on substitute forms that have been approved by the department. However, certain guidelines must be followed to ensure that the reproduced or substitute forms are compatible with the department’s processing system.

A copy of the “Guidelines for Reproduced and Substitute Tax Forms” appears on pages 54 to 56 of this Bulletin. The guidelines are also on the department’s web site at www.dor.state.wi.us. Click on “Forms” and then “Reproduced and Substitute Tax Forms,” which may be found under the heading “Tax Return Guidelines.” [☞](#)



Wisconsin Tax Bulletin Annual Index Available

Once each year the *Wisconsin Tax Bulletin* includes an index of materials that have appeared in past Bulletins. The index will help you locate reference materials including articles, court case summaries, tax releases, and private

letter rulings, to research questions about Wisconsin taxes.

The latest *Wisconsin Tax Bulletin* index available appears in *Wisconsin Tax Bulletin* 137 (January 2004), pages 39 to 72. It includes information for issues 1 to 136 (through October 2003). [☞](#)

Question and Answer ?

Caution: The answers in this article reflect interpretations by the Wisconsin Department of Revenue, of laws enacted by the Wisconsin Legislature as of the date of this Bulletin. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations.

(Sales and Use Tax)

QI am leasing a photocopier to a Wisconsin business. The lease provides that the lessee must pay the local property taxes on the copier. Is the charge for the property taxes included in my taxable gross receipts?

A Property taxes are part of the lessor's taxable gross receipts if:

- a. the property taxes are levied by the governmental unit against the lessor, and
- b. the contract calls for the lessee to reimburse the lessor for the property taxes or pay the property taxes directly to the taxing jurisdiction on the lessor's behalf.

If the taxes are assessed and levied by the governmental unit against the lessee, they are not included in the lessor's gross receipts.

(Homestead Credit)

QMust child support, adoption assistance payments and caretaker supplement payments be included in income on the homestead credit claim?

A Court ordered child support payments, adoption assistance payments and caretaker supplement payments must be included. Voluntary child support payments do not have to be included. [↗](#)



Sales and Use Tax Report Mailed

The September 2004 *Sales and Use Tax Report (2-04)* was sent in late September and early October to all persons registered for Wisconsin sales and use tax purposes. The *Sales and Use Tax Report* contains summaries of any recent sales and use tax law changes in addition to other pertinent sales and use tax information. Topics covered in the September 2004 Report include:

- registration questions and answers;
- on-line registration for a seller's permit;
- increase to the motor vehicle dealers' measure of use tax; and
- seller liability for granting exemptions not provided by law.

A copy of the Report appears on pages 52 and 53 of this Bulletin. It is also available on the Department of Revenue's web site at:

<http://www.dor.state.wi.us/ise/sales/04-2.pdf>



Motor Vehicle Dealers' Measure of Use Tax Increased to \$122

Wisconsin licensed motor vehicle dealers are permitted to report use tax on a certain dollar amount per plate per month for the use of motor vehicles assigned to certain employees and dealership owners.

Effective January 1, 2005, the amount subject to use tax is increased from \$118 to \$122 per plate per month. (Note: The use tax per plate per month is not \$122. Rather, \$122 is multiplied by the use tax rate (5%, 5.1%, 5.5%, or 5.6%) to arrive at the use tax due per plate per month.)

The reason for the increase to \$122 per plate is that sec. 77.53(1m)(a), Wis. Stats. (2001-02), requires that the Department of Revenue annually adjust the amount subject to use tax to reflect the annual percentage change in the U.S. Consumer Price Index for All Urban Consumers, U.S. City Average, as determined by the U.S. Department of Labor for the 12 month period ending June 30. The percentage change for the period July 2003 to June 2004 was 3.27% ($\$118 \times 1.0327 = \122 rounded to the nearest whole dollar). [↗](#)



Wanted: Your Comments About the *Wisconsin Tax Bulletin*

The *Wisconsin Tax Bulletin* (“WTB”) is published to provide tax information to **YOU**, the readers. To make the WTB more useful, the department is seeking suggestions for items that may be of interest to you, and ways to make the WTB more valuable to you.

How could the department improve on the information it publishes? What topics do you want covered or

expanded? Do you have particular likes or dislikes about the WTB? Do you have ideas, comments, or suggestions you’d like to share?

Please take a few moments to give us your comments or ideas, and be a part of improving your WTB. Send your comments or ideas to Dale Kleven, Wisconsin Department of Revenue, Mail Stop 6-40, P.O. Box 8933, Madison, WI 53708-8933. If you prefer, you may fax your comments to him at (608) 261-6240, or you may e-mail or call him at isetechsvc@dor.state.wi.us or (608) 266-8253. We’d like to hear from you! [✉](#)

Woman Sentenced for Theft and Tax Fraud

The former bookkeeper for Walgenmeyer’s Carpet and Tile was sentenced in July 2004 to five years in prison for filing a fraudulent Wisconsin income tax return and placed on probation for fifteen years for stealing money from her employer.

Amy E. Mitchell, 26, of Madison, Wisconsin was charged with ten counts of theft in a business setting, one count of failure to file a Wisconsin income tax return, and one count of filing a fraudulent tax return. According to the criminal complaint, Mitchell took \$186,667 from West Side Rolling Carpets from June 2001 through June 2002. West Side Rolling Carpets does business as Walgenmeyer’s Carpet and Tile. The complaint states that Mitchell evaded Wisconsin income taxes of \$4,023 in 2001 and \$8,045 in 2002. Mitchell pled no contest to two theft counts and one tax fraud count on April 12, 2004.

Dane County Circuit Court Judge Diane Nicks ordered that Mitchell’s imprisonment include two years in confinement followed by three years of extended supervision. Among the conditions of probation are the requirements that Mitchell attend school or work full time and that Mitchell make restitution to the carpet business and to the Wisconsin Department of Revenue. According to the criminal complaint, Mitchell has already returned the following assets to Walgenmeyer’s: \$32,000 in cash, a 17-foot Bayliner boat, a 2000 Chrysler Concorde, a Ford Explorer, a 65” high definition TV, and a 55” TV.

Filing a fraudulent income tax return is a felony punishable by up to six years imprisonment or up to \$10,000 in fines, or both, together with the cost of prosecution. In addition to the criminal penalties,

Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collections of the taxes, penalties, and interest follows a conviction for criminal violations.

Special Agents from the Wisconsin Department of Revenue’s Alcohol and Tobacco Enforcement Unit, along with the Fond du Lac County Sheriff’s Department, conducted several investigations into the sale of illegal cigarettes at the Fond du Lac County Fair the weekend of July 17-18, 2004. Two separate individuals were found selling untaxed cigarettes without a license.

Agents initially received a complaint alleging a person was selling untaxed Kentucky cigarettes on and near the midway. A person meeting the description was located and agents were able to make an undercover purchase of cigarettes from him. The seller was detained a short time later and agents located a supply of untaxed Kentucky cigarettes and Wisconsin Tribal taxed cigarettes in the trunk of his car.

Unrelated to the first incident, agents also made an undercover purchase of untaxed Kentucky cigarettes from one of the vendors at the fair. This vendor said he had obtained the cigarettes by placing an order over the Internet.

In both instances, agents seized the untaxed cigarettes and the suspects were released pending the filing of criminal charges in Fond du Lac County Circuit Court. Both individuals could face charges for possession of illegal untaxed cigarettes and for selling cigarettes without a license. The Department of Revenue may also review these cases for cigarette tax evasion, which could result in excise tax assessments and penalties.

Barbara Brandt, Chief of the Department of Revenue's Criminal Investigation Section, said the possession and sale of untaxed cigarettes has been a growing problem in Wisconsin during the past several years. Ms. Brandt indicated that many times these types of illegal sales also involve the sale of cigarettes to underage persons, failure to report the sales and income tax, and the sale of non-approved brands of cigarettes (each brand of cigarette sold in Wisconsin must be approved by the Department of Revenue as being compliant with the Master Settlement Agreement with the tobacco manufacturers).

The Wisconsin Alcohol and Tobacco Enforcement Unit is located within the Criminal Investigation Section of the Wisconsin Department of Revenue and is responsible for enforcing the state's alcohol and tobacco product laws. Special Agents are located in field offices throughout the state.

Barbara J. Julson, 47, of Eau Claire, Wisconsin was charged today by Chippewa County District Attorney Rachel Anderson with one count of felony forgery and one count of felony theft. The complaint alleges that Julson embezzled more than one million dollars from her employer, Chippewa Concrete, from 1999 through 2002. Julson was also charged today by Eau Claire County District Attorney Rich White with one misdemeanor count of failure to file a tax return for the year 2001 and one felony count of filing a fraudulent income tax return for the year 2000. According to the complaint, she failed to report the alleged embezzlement income of \$382,024 in that year.

Julson supposedly used old blank checks that were no longer in use by Chippewa Concrete to create fraudulent checks. She is accused of making the checks payable to various employees, then forging the authorized signature on the face of the check and the employee's endorsement on the back of the check. Julson would then cash the checks at Chippewa Concrete's bank, where she was known as an employee of the company. Julson would indicate to bank employees that she was cashing the checks as a favor for the employees to whom the checks were made payable.

Julson is also accused of writing checks to herself that were cashed or deposited into her account at Royal Credit Union or into a joint account with her husband at the Bank of Mondovi. Through these various schemes, it is alleged that Julson embezzled \$1,163,464 over four years - \$12,223 in 1999, \$382,024 in 2000, \$663,467 in 2001 and \$105,750 in 2002.

Julson's nephew, Kevin Patrow, President of Chippewa Concrete, discovered the theft in March 2002. According to information in the complaint, Julson admitted to Patrow that she had written and cashed the checks because of her gambling habit. The complaint also states that Julson and her husband reported \$269,835 of gambling winnings and \$262,736 of gambling losses on their 2000 joint income tax return. None of the \$382,024 alleged to have been embezzled by Ms. Julson in 2000 was reported on the return.

The charges are the result of a joint investigation by the Lake Hallie Police Department, the Criminal Investigation Section of the Wisconsin Department of Revenue, and the Wisconsin Department of Justice's Division of Criminal Investigation.

If convicted on all charges, Julson faces 37 1/2 years in prison and \$30,000 in fines. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collection of the tax, penalty, and interest due follows the conviction for criminal tax violations.

Note: The information in the following section of this article was obtained from a story in the July 23, 2004, issue of the Ironwood Daily Globe.

Video gaming machines were seized from both Bert's Launderette and the Brite Spot tavern in Hurley in July 2004 in a raid conducted by the state Department of Justice. Both establishments could face felony counts for having more than five of the machines. Employees of the Division of Criminal Investigation obtained search warrants for the raid through the Iron County District Attorney's office.

Iron County District Attorney Marty Lipske confirmed that the two establishments were checked in an investigation of the machines and related materials. Lipske said he was aware the machines were loaded into U-Haul vehicles and taken away. Lipske also said he expects to eventually receive paperwork from investigators for possible charges.

"All I can tell you is we're doing a search warrant," said Robert W. Sloey, director of the Department of Justice's Gaming Bureau and Financial Crimes Unit in Madison, as machines were being loaded into U-Hauls at Bert's Launderette on U.S. 51. Earlier, a similar scene occurred at the Brite Spot on Poplar Street.

It's been estimated there are at least 20,000 to 30,000 video gaming machines in the state. Both the Department of Justice and Department of Revenue govern their operation. Justice Department agents can seize machines if an establishment has six or more. If there are five machines or fewer, Department of Revenue agents are responsible for enforcement.

Dede Morgan, a spokesperson for the Department of Justice in Madison, said that having six or more machines in an establishment constitutes a felony charge. Both Hurley establishments that were raided had six or more machines, she said. She also said the video machines are being "stored in custody" at an undisclosed location. "We will continue to work together with the District Attorney's office," Morgan said. "It's an ongoing investigation, but much of our work is now done."

Julie A. Davis, the former bookkeeper who embezzled over \$139,000 from Wisconsin Aviation, pled guilty in August 2004 to theft, identity theft, and two counts of state income tax fraud. Ms. Davis was then sentenced to four years in prison for tax fraud and identity theft and twenty years probation on the theft charge.

Ms. Davis, 43, of Middleton, Wisconsin was charged in July 2004 with one count of theft in a business setting and eight counts of identity theft. According to the criminal complaint, Ms. Davis engaged in a scheme from February 2000 to January 2003 whereby she created checks payable to former employees, endorsed the checks, and deposited them into her bank account. None of the theft income was reported on Ms. Davis' tax returns. Ms. Davis was subsequently charged with three felony counts of filing fraudulent Wisconsin income tax returns for 2000, 2001, and 2002 and one count of failure to file a return for 2003.

Dane County Circuit Court Judge Daniel R. Moeser ordered that Davis' imprisonment include three years in confinement followed by one year of extended supervision.

Filing a fraudulent income tax return is a felony punishable by up to six years imprisonment or up to \$10,000 in fines, or both, together with the cost of prosecution. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collection of the taxes, penalties, and interest follows a conviction for criminal violations. [↗](#)

Administrative Rules in Process

Listed below are administrative rules that are currently in the rule promulgation process. The rules are shown at their stage in the process as of October 1, 2004 and at each step where action occurred during the period from July 2, 2004, through October 1, 2004.

The listing includes rule numbers and names, and whether a rule is amended (A), repealed and recreated (R&R), or a new rule (NR).

To order up-to-date administrative rules of the Department of Revenue, you can use the order blank on page 57 of this Bulletin to order the Tax section of the Wisconsin Administrative Code.

Scope Statement Published

- 2.99 Dairy investment credit – NR (published September 30, 2004)
- 3.04 Subtraction for military pay received by members of a reserve component of the armed forces – NR (published September 30, 2004)

Sent to Revisor for Publication of Notice

- 1.12 Electronic funds transfer – A (published July 31, 2004)
- 2.49 Apportionment of net business incomes of interstate finance companies – R&R (published August 31, 2004)
- 2.495 Apportionment of net business incomes of interstate brokers-dealers, investment advisers, investment companies, and underwriters – NR (published August 31, 2004)

Emergency Rules Adopted (effective September 17, 2004)

- 2.99 Dairy investment credit – NR
- 3.04 Subtraction for military pay received by members of a reserve component of the armed forces – NR [↗](#)