

# Wisconsin TAX BULLETIN

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## New Tax Laws

Since the last issue of the *Wisconsin Tax Bulletin* (WTB), the Wisconsin Legislature has enacted changes to the Wisconsin tax laws. See page 4 for details. In addition, several bills affecting Wisconsin taxes are pending action by Governor Doyle. Any of these bills that become law will be published in [News for Tax Practitioners](#) and the next issue of the WTB.

## New Form For Requesting Waivers From Filing and Paying Electronically

[Form EFT-102](#), *Electronic Filing or Electronic Payment Waiver Request*, has been created to facilitate requests for waiver from filing and paying electronically. This form provides the department with required information concerning the ability to electronically file or pay, as well as steps that are being taken to ensure future filings or payments will be electronic. Form EFT-102 must be submitted at least 60 days prior to the due date of the electronic filing or payment for which a waiver is requested. [↗](#)

## Sales and Use Tax Report Available

The latest issue of the [Sales and Use Tax Report](#) became available on the Department of Revenue's web site in March. The *Sales and Use Tax Report* provides information concerning recent sales and use tax law changes and other pertinent sales and use tax information, including the following important reminders:

- Beginning April 1, 2010, the 0.5% county tax went into effect in Fond du Lac County.
- Many retailers who were not previously required to register to collect and remit the local food and beverage tax may now be required to do so.
- Effective July 1, 2010, the 0.25% local food and beverage tax will be increased to 0.5%. [↗](#)

## Important Changes to Paying Taxes Online

The Department of Revenue (DOR) has changed the way taxes are paid online. Tax return and estimated tax payments may be made for:

- Corporation franchise or income tax
- Excise taxes (motor fuel, cigarette and tobacco, and beer and liquor)
- Fiduciary income tax
- Individual income tax
- Pass through withholding
- Real estate transfer fees
- Utility taxes
- Wage certification

In addition to cost savings for DOR, this comprehensive online payment method provides:

- One payment location
- A single login ID and password for businesses
- Easy access for individuals and fiduciaries

Businesses will pay the above taxes through *My Tax Account* and individuals and fiduciaries have a new, easy-to-use application. Specific instructions and links to make online payments for the above taxes are available at [www.revenue.wi.gov/eserv/eft3.html](http://www.revenue.wi.gov/eserv/eft3.html).

Previously, U.S. Bank offered an electronic funds transfer (EFT) web site. Since DOR now hosts one comprehensive page, the U.S. Bank page will not be available after May 22, 2010. A notice has been placed on the U.S. Bank's EFT web site about this change and any individuals going to that web site after May 22 will be redirected to DOR's new online payment page. [↗](#)

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## Updated Publications

Since the last issue of the *Wisconsin Tax Bulletin*, the following publications of the Income, Sales, and Excise Tax (IS&E) Division of the Department of Revenue have been revised:

### Income and Franchise Taxes


- 102 Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (2/10)
- 119 Limited Liability Companies (3/10)

### Sales and Use Taxes


- 229 Brackets for Collecting Wisconsin Sales or Use Tax on Retail Sales (1/10)

### Other Topics

- 115 2010 Handbook for Federal/State Electronic Filing (2/10)

All of the IS&E Division's publications may be downloaded or ordered online at <http://www.revenue.wi.gov/html/taxpubs.html>. There are over 70 publications available, covering a wide range of topics. 

## Reminder: Reporting Wisconsin Withholding on Schedules K-1

When completing Schedules 2K-1, 3K-1, or 5K-1, pass-through entities are reminded to report the Wisconsin withholding computed from column H of Part 2 of [Form PW-1](#) for each beneficiary, member, partner, or shareholder, not the estimated withholding tax payments on the income allocable to the beneficiary, member, partner, or shareholder. Additional information is available in the [instructions](#) for Form PW-1. 



## Enforcement Report

### Prisoners Charged with Tax Crimes

Criminal complaints have been charged against four women who are either current or former prisoners of the Taycheedah Correctional Institution (TCI) for filing fraudulent state homestead credit claims and other related crimes.

Criminal complaints were filed against the four women on February 26, 2010, by the State Attorney General's Office, following a joint investigation by the Wisconsin Capitol Police and the Wisconsin Department of Revenue's Criminal Investigation Section. The Department of Corrections was instrumental in identifying irregularities and participating in the investigation.

Wendy Nelsen, AKA Wendy Eland, 43, formerly of Green Bay and currently incarcerated at the Taycheedah Correctional Institution in Fond du Lac County, was charged with eleven felony counts of preparing fraudulent homestead credit claims.

Kristine Flynn, 51, a TCI inmate formerly of Whitehall, was charged with six felony counts of preparing false homestead credit claims and one count of preparing a false statement related to a claim.

(continued on page 3)

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**Enforcement Report**

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Former TCI inmate Nicole Ousley, 37, of Milwaukee, was charged with two felony counts of preparing false homestead credit claims, two counts of preparing false statements related to those claims, and one count of false swearing.

Former TCI inmate Amy Prelwitz, 29, from Two Rivers and currently incarcerated in the Manitowoc County Jail, was charged with one felony count of preparing a false homestead credit claim and one count of preparing a false statement related to the claim.

The complaints allege that each fraudulent homestead credit claim, with one exception, was filed for a year during which the claimant was incarcerated. Attached to each claim is a rent certificate containing false information about the landlord, rental property address, time actually lived at the rental property, and rent paid.

Bail was set at \$10,000 cash bond for both Nelson and Flynn. Ousley and Prelwitz each had bail set at \$5,000 cash bond.

If convicted, filing a fraudulent homestead credit claim carries a maximum penalty of 6 years in prison and a maximum fine of \$10,000, or both, for each count. Making false statements and false swearing each carry a maximum penalty of 9 months imprisonment and a maximum fine of \$10,000, or both.

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**Oconomowoc Woman Found Guilty and Sentenced For Tax Crime**

Lynette R. Mercier, 43, of Oconomowoc pled guilty in March 2010 in Waukesha County Circuit Court to one count of willful failure to file a Wisconsin income tax return. The charge was brought by the Waukesha County District Attorney's Office following an investigation by the Wisconsin Department of Revenue's Criminal Investigation Section.

According to the criminal complaint, Ms. Mercier failed to file a 2006 income tax return with income of \$53,012. The complaint further states that Ms. Mercier failed to file income tax returns for 2002 through 2005.

Ms. Mercier was sentenced in April 2010 to six months in county jail with Huber privileges, stayed. Mercier received one year probation and was ordered to comply with all recommendations of the Department of Revenue, including filing all past tax returns and paying restitution to the state in the amount of \$2,697. As a condition of probation, Mercier must serve 10 days in jail.

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**Milwaukee Man Arrested For Tax Fraud**

Dwayne Green, 49, Milwaukee, was arrested in April 2010 for filing fraudulent tax claims and identity theft. Green was charged in Milwaukee County with nine felonies alleging that he defrauded the State of Wisconsin out of \$79,591.

According to the criminal complaint, between 2005 and 2009, Green filed 44 fraudulent homestead credit claims using stolen identities. The complaint further alleges that between 2004 and 2009 Green was responsible for filing 102 tax returns for other persons in which he claimed fraudulent earned income credits or fraudulent deductions for dependents. The returns showed a pattern of claiming the same persons as dependents on multiple claims.

Green was charged by the Public Integrity Unit of the Milwaukee County District Attorney's Office after an investigation by the Wisconsin Department of Revenue and Wisconsin Department of Justice.

If convicted on all counts, Green faces up to 54 years in prison and \$90,000 in fines. [Ⓜ](#)

## New Tax Laws

The The Wisconsin Legislature has enacted a number of changes to the Wisconsin tax laws. Following are brief descriptions of the major individual and fiduciary income tax, corporation franchise or income tax, and sales and use tax provisions. These provisions are contained in 2009 Acts 161, 180, and 204.

The description for each provision indicates the sections of the statutes affected and the effective date of the new provision.

### *Individual and Fiduciary Income Taxes and Corporation Franchise or Income Taxes*

**Certain Federal Laws Adopted for Wisconsin** (2009 Act 161, amend secs. 71.01(6)(t), (u), and (um), 71.22(4)(t), (u), and (um), 71.22(4m)(r), (s), and (sm), 71.26(2)(b)20., 21., and 22., 71.34(1g)(t), (u), and (um), and 71.42(2)(s), (t) and (um), various effective dates.)

Certain provisions of the federal Internal Revenue Code have been adopted for Wisconsin tax purposes. The provisions are sec. 512 of Public Law (P.L.) 109-222, sec. 811 of P.L.109-280, and P. L. 110-245, the Heroes Earnings Assistance and Relief Tax Act of 2008 (adopted with certain exceptions).

#### Section 512 of P.L. 109-222

For federal income tax purposes, taxpayers may convert a traditional, SEP, or SIMPLE IRA or an eligible rollover distribution from a retirement plan to a Roth IRA. As a result of sec. 512 of P.L. 109-222, effective for taxable years beginning in 2010 and thereafter, the conversion may be made even though the taxpayer's modified adjusted gross income exceeds \$100,000. No penalties will apply on the conversion.

Taxpayers who make the conversion in 2010 may postpone payment of tax on the converted amount until they file their 2011 and 2012 income tax returns, or they may elect to report the entire taxable amount on their 2010 returns.

As a result of 2009 Act 161, the 2010 federal provisions relating to converting an IRA or other eligible distribution to a Roth IRA also apply for Wisconsin.

#### Section 811 of P.L. 109-280

For federal tax purposes, increased contribution limits to IRAs and other retirement plans were to apply through 2010 and then sunset for 2011. Section 811 of P.L. 109-280 made the increased retirement plan and IRA contribution limits permanent.

As a result of 2009 Act 161, the retirement plan and IRA contribution limits that will apply for federal tax purposes for 2011 and thereafter will also apply for Wisconsin.

#### P.L. 110-245

2009 Act 161 adopted the provisions of federal P.L. 110-245, the Heroes Earnings Assistance and Relief Tax Act of 2008, with three exceptions. The exceptions are: sec. 110, relating to the exclusion of gain from the sale of a principal residence by an individual or spouse serving outside the United States in the Peace Corps; sec. 113, relating to the gain from the sale of a principal residence by specified intelligence community employees; and sec. 301, relating to property of expatriates.

The changes to the Internal Revenue Code made by P.L. 110-245 that were adopted for Wisconsin tax purposes apply at the same time as for federal purposes.

**Revisor's Corrections** (2009 Act 180, clarify secs. 71.07(3w)(a)6., 71.28(3w)(a)6., and 71.47(3w)(a)6. and 2009 Act 183, amend secs. 71.01(6)(um), 71.22(4)(um) and (4m)(sm), 71.26(2)(b)22., and 71.34(1g)(um), effective March 30, 2010.)

For purposes of the enterprise zone jobs credit, the definition of "zone payroll" was not repealed by 2007 Act 100. "Zone payroll" means the amount of state payroll that is attributable to wages paid to full-time employees for services that are performed in an enterprise zone. "Zone payroll" does not include the amount of wages paid to any full-time employees that exceeds \$100,000.

The definition of "Internal Revenue Code" is clarified to exclude P.L. 110-246.

*Sales and Use Taxes*

**Exemption Expanded to Include Food and Food Ingredients Sold by Child Welfare Facilities** (2009 Act 204, amend sec. 77.54(20n)(b), effective May 6, 2010.)

Effective May 6, 2010, food and food ingredients, except soft drinks, sold by any facility certified or licensed under Chapter 48, Wis. Stats., are exempt from Wisconsin sales and use taxes. Such facilities include licensed child placement agencies, residential care centers, foster homes, treatment foster homes, group homes, and shelter care facilities.

Under prior law, food and food ingredients, except soft drinks, sold by hospitals, sanatoriums, nursing homes, retirement homes, community-based residential facilities, as defined in sec. 50.01(1g), Wis. Stats., and day care centers registered under Chapter 48, Wis. Stats., were exempt from Wisconsin sales and use taxes. These sales continue to be exempt under current law. [↗](#)