

# Field Audit of Wisconsin Tax Returns

## WHY ARE RETURNS SELECTED FOR FIELD AUDIT?

The usual reason for selecting Wisconsin tax returns for field audit is to verify the correctness of various items (income, sales, purchases, inventories, and deductions) that have been reported on the returns.

The majority of taxpayers are honest and have nothing to fear from an examination of their Wisconsin tax returns. The fact that returns have been selected for field audit does not suggest a suspicion of willful evasion of correct tax reporting.

## WHAT IS A FIELD AUDIT?

A field audit is a **detailed** examination of your books and records to determine if the correct amounts were reported on the tax returns. In some instances, the auditor will obtain information from other sources such as banks, creditors, suppliers, etc., to verify items on the returns.

A field audit usually includes one or more of the following taxes: income, franchise, sales and use, withholding, and excise taxes. Wisconsin Statutes authorize the department to conduct field audits of tax returns (secs. 71.74(2), 77.59(2), 78.80(1m), 139.092 and 139.39(6)).

If possible, the audit will be conducted at your place of business, in your home, or at the office of your accountant, attorney, or other person who may represent you. The auditor will try to select the place that is most appropriate under the circumstances and most convenient for you.

The audit typically begins when you are notified by letter that your tax returns have been selected for examination. The letter also informs you of the time and date of your first meeting with the auditor. However, the auditor may also contact you by phone to schedule your first meeting. At this meeting, the auditor will want to discuss the nature of your business or employment, the accounting or record system used, and other related matters. If you assemble your records in a neat and orderly

manner before this meeting, you may be able to resolve unclear items with the least amount of time and effort. The auditor may also want to meet with you again at various times during the audit to ask questions about certain transactions.

## HOW MANY YEARS WILL BE AUDITED?

A field audit will generally include the tax returns for the last four years. Wisconsin Statutes (secs. 71.77(2), 77.59(3), 78.70(7), 139.092, 139.39(6), and 139.83) state that a notice of assessment or refund resulting from a field audit must be given to the taxpayer within four years of the due date of the return or the date the return was filed, whichever is later. This period may be extended if agreed upon in writing by the taxpayer and the department. For example, a taxpayer may be requested to sign an extension agreement if he or she has delayed the audit, with the result that a particular year's audit cannot be completed within the four-year period.

Two exceptions to this four-year audit period are:

1. An assessment of additional income or franchise taxes may be made within six years after a return was filed if (a) less than 75% of the correct taxable income was reported on the tax return, and (b) the additional tax is over \$100 for that return.
2. If no return was filed or if an incorrect return was filed with intent to defeat or evade the taxes, there is no limit as to how many years the department may go back to assess additional taxes. This applies to income, franchise, withholding, sales and use, and excise tax returns.

## MUTUAL COMMITMENT DATE PROCESS

To complete field audits efficiently and to foster a cooperative effort in completing field audits, the department uses a Mutual Commitment Date process. During your first meeting with the auditor, the auditor will explain to you how this process works. At the end of the auditor's "initial field work" visit or

two weeks after the auditor's "initial field work" visit begins, whichever comes first, the auditor will meet with you to discuss and verbally establish three time periods for the conduct of the audit. For this purpose, "initial field work" is defined as when the auditor starts auditing your records in the field, which typically begins on the day of your first meeting with the auditor. These three time periods are as follows:

1. The number of days you have to respond to written information requests made by the auditor.
2. The deadline date for you to submit to the department a claim for refund relating to the period being audited to allow the department sufficient time to review the claim for refund and include action on it in the results of the audit.
3. The deadline date for the auditor to provide a Notice of Proposed Audit Report to you based on you and the auditor jointly working together on the audit to allow this deadline to be met. This is the Mutual Commitment Date (MCD).

Following the meeting where you and the auditor verbally agree to these three time periods, the auditor will provide you with a Mutual Commitment Date Process Summary form that confirms the time periods that were established. If for some reason agreement cannot be reached on these time periods, the audit will proceed without using the Mutual Commitment Date process.

The MCD is established after the first two time periods are established and is contingent on the first two time periods being met. However, the MCD is not locked in or mandatory, but rather a goal for you and the auditor to meet so that the audit can be completed in an efficient and timely manner. Although it is expected that the MCD will be met, it is recognized that there could be some unexpected delays that prevent the MCD from being met.

## CLAIMS FOR REFUND

If the audit is performed without using the Mutual Commitment Date process described above, the auditor will plan the audit work to try and operate as efficiently as possible in an attempt to bring the audit to an early conclusion. Occasionally, a taxpayer will file a claim for refund during the audit. To assist in the audit process, you should file any claim for refund as early in the audit process as possible so the auditor can plan for and include the review of the claim for refund in the audit work. If you file a claim for refund late in the audit process, it is possible that action on this claim for refund may not be able to be included in the audit report and assessment or refund notice resulting from the field audit.

## INTEREST AND PENALTIES

Interest on refunds of taxes is 9% per year. Interest on assessments of additional taxes is 12% per year. Interest on delinquent taxes (taxes not paid by the due date of the return or a notice of assessment) is 18% per year.

A 25% penalty may be imposed if there was negligence in filing the tax return. For example, if the additional tax assessed by field audit was \$1,000 and it was determined that negligence was involved, the penalty would be \$250. An additional penalty of 25% may be imposed on assessments which result from the fact that sufficient records have not been maintained, if you were notified in a prior audit that your records were insufficient (this applies to income, franchise, withholding, and sales and use tax returns).

If a tax return was not filed or an incorrect return was filed with intent to defeat or evade taxes, a 50% or 100% penalty may be imposed, depending on the type of tax.

If the department provides written notifications for requested records as required by secs. Tax 2.85 or 11.90, Wis. Adm. Code, and you don't provide these requested records in the time specified, a

penalty may be imposed. This penalty has the following two parts:

- A. The disallowance of deductions, credits, or exemptions or the inclusion of income, additional taxable sales or additional taxable purchases to which the requested records relate.
- B. For each violation, \$500 or 25% of the amount of additional tax resulting from any adjustment that was a result of failure to produce requested records, whichever is greater.

This penalty may not be imposed if you can show under all the facts and circumstances that not providing the records was reasonable or justified by factors beyond your control.

## COMPLETION OF THE AUDIT

Upon completing the audit, a conference is usually held at which time the auditor will review with you (and/or your authorized representative) the audit report containing any proposed adjustments, changes in the tax liability, interest, and penalties. It is important that you understand any changes. Do not hesitate to ask questions about anything that is not clear to you.

At the conference, the auditor will ask if you agree in full, agree in part, or disagree totally with the proposed audit report. If you agree in full, the auditor will ask you to sign the Notice of Proposed Audit Report form indicating you are in full agreement. If you do not fully agree with the report, you will be asked to contact the auditor or the auditor's supervisor to further discuss your objections. (Differences can often be settled during these additional conferences without expensive and time consuming appeal hearings and court trials.) You will then be asked to sign the Notice of Proposed Audit Report form indicating whether you agree fully, agree partially, or disagree totally.

If the field audit results in an assessment of additional tax and you agree with the assessment, you may wait until the audit is completely processed

and any amount due is billed or you may **PREPAY** the amount due. If you wish to prepay the amount due, inform the auditor that you wish to do so and the auditor will furnish you with the audit report with interest computed to the date payment will be made. Your check prepaying the amount due should be made payable to the Wisconsin Department of Revenue and sent to the auditor. The prepaid field audit will then be processed and you will receive official written notice of the prepaid field audit assessment action which you should keep along with the field audit report you were given by the auditor.

In the case of field audit actions, other than prepaid assessments, the department will notify you by mail of the results of the field audit. If there are changes to be made to the tax you self-determined, you will receive an assessment or refund notice and a copy of the audit report. The notice and report will explain the adjustments, the amount of tax, interest and penalty (if any), and your appeal rights. If there is no tax due or no refund, a letter will be sent to you explaining that there is no change in your tax liability.

## APPEAL RIGHTS

Except for the refund claim procedure described below, field audit actions, including both assessment and refund actions, become final unless appealed and generally preclude any further adjustments to the years covered by field audit. Please refer to Publication 506 *Taxpayer's Appeal Rights of Field Audit Adjustments* for a description of your appeal rights. A copy of this publication will be enclosed with any assessment or refund notice resulting from a field audit action. You may also obtain a copy of this publication from any Department of Revenue office, from the auditor, or from [www.revenue.wi.gov](http://www.revenue.wi.gov).

In the case of an assessment notice, you may pay the full amount of the assessment without filing an appeal. If you later wish to contest some or all of the adjustments, a claim for refund may be filed. This claim for refund must be filed within two years from the date the assessment notice was issued. Exceptions: 1) For income or franchise tax refunds

for years beginning on or after January 1, 2000, this claim for refund must be filed within four years from the date the assessment notice was issued. 2) The time period is four years from the due date of the Wisconsin income or franchise tax return in the case of sales tax refunds if the refund will be passed on to your customers pursuant to their valid refund claims.

In the case of a refund notice, the refund check will be mailed automatically. Accepting and depositing this check will not prevent you from appealing the notice if you believe you should receive a larger refund.

## REQUEST FOR INSTALLMENT PAYMENTS

If you do not appeal and you do not pay the full amount due, any remaining amount not paid by the due date will be subject to interest at 1 1/2% per month. In addition, a delinquent tax collection fee will be imposed equal to the greater of \$35 or 6 1/2% of the amount not paid by the original due date and a tax warrant may be issued. After the assessment has gone delinquent, a revenue agent will contact you. At that time, you may request a formal installment payment agreement. However, a formal installment payment agreement cannot be entered into before an assessment has gone delinquent.

## REPRESENTATION

You may act on your own behalf or you may have someone represent you or accompany you during the audit and any subsequent appeal. If your representative desires to receive confidential information or a copy of the notice of assessment or refund and audit report, he or she may do so **only** if authorized by you in writing in a document filed with the department. Form A-222, Power of Attorney, or any other properly written power of attorney or authorization may be used for this purpose. Copies of Form A-222 may be obtained from any Department of Revenue office, from the auditor, or from [www.revenue.wi.gov](http://www.revenue.wi.gov).