

WISCONSIN TAX NEWS

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The conversion to the metric sized containers presents a problem with regard to the Wisconsin excise tax statutes for distilled spirits. The liter (33.8 ounces), which is eventually expected to replace the quart as the most popular size of container for this product, currently exceeds the legal maximum size (32 ounces) permitted to be sold in Wisconsin. The Department intends to propose legislation to the 1977 Legislature which will permit the sale of liter sized bottles of distilled spirits in Wisconsin.

EXCISE TAX BUREAU

Although it is already a little over one year old, the Department's Excise Tax Bureau is still new to many people. It was formed in July, 1975 when the responsibility for enforcing Wisconsin alcohol and tobacco laws (at the retail level) was transferred to this Department from the Department of Justice.

In forming this Bureau, personnel transferred from the Justice Department and personnel already located in this Department were consolidated into a single bureau. By combining the personnel charged with enforcement of alcohol and tobacco laws at the wholesale level, with those involved with enforcement at the retail level, better direction and coordination of related responsibilities is obtained.

The Excise Tax Bureau is headed by J. Kilian Leidiger, Director. Its headquarters are at 505 North Segoe Road, Madison, Wisconsin 53705.

'76 FEDERAL LAW CHANGES DO NOT APPLY

For the taxable year 1976, the Wisconsin individual income tax law conforms with the Internal Revenue Code only as it was amended through December 31, 1975. In other words, federal income tax law changes enacted in 1976 do not apply for purposes of computing 1976 Wisconsin taxable income.

As of the date of this printing, only two federal laws were enacted in 1976 which will affect the computation of Wisconsin taxable income. These are:

1. Public Law 94-253 (enacted March 31, 1976). This law provides that exchanges of stock and securities of certain insolvent eastern railroads for stock or other securities of ConRail will qualify as tax-free exchanges.
2. Public Law 94-267 (enacted April 15, 1976). This law provides tax-free rollover (reinvestment) provisions for distributions that employees receive as a result of an employer discontinuing their retirement plans. If the employee reinvests the entire premature distribution into a new retirement plan, the distribution is not taxed for federal purposes.

NOTE: The Federal Congress just passed a major "tax reform" bill which is expected to be signed into law by the President. It is likely that many of the provisions of that act will affect the preparation of a 1976 Wisconsin tax return. A list of the differences between Wisconsin and federal law for 1976 and an explanation of the adjustments required will appear in the January issue of Wisconsin Tax News.

REPORT ON LITIGATION

(This portion of the WTN summarizes recent significant Tax Appeals Commission and Wisconsin court decisions. In cases which decisions adverse to the Department's position are rendered, it will be noted whether or not the Department acquiesces or will appeal.)

1. Midwestern Gas Transmission Co. v. Department of Revenue, Dane County Circuit Court (NO. 147-343, June 1, 1976). The taxpayer operates an interstate natural gas pipeline. It uses gas taken from the pipeline to operate its two compressor stations located in Wisconsin. The Court held that the use tax should not apply to natural gas used as a fuel in the engines powering the compressors nor to heat and air-condition the stations because it would violate the interstate commerce clause of the U.S. Constitution. The Department has appealed the decision.

2. Gilomen Trailer Sales, Inc. v. Department of Revenue, Wis. Tax Appeals Commission (Docket NO. S-4911, February 18, 1976). The Commission held that a Wisconsin corporation selling semitrailers is not required to impose the 4% tax on a sale of two semitrailers to an Iowa company for use outside Wisconsin. The Commission held that semitrailers are "motor vehicles" under s. 77.54 (5) (a), Wis. Stats. The Department has appealed the decision.

NEW LEGISLATION

(The following is a brief description of several changes which the Legislature made in Wisconsin tax laws during 1976.)

SENATE BILL 379—CHAPTER 186, LAWS OF 1975 (Date Published: March 31, 1976)

1. Statute of Limitations for Sales and Use Tax Determinations and Refunds. [Amended ss. 77.59 (3) & (4), effective April 1, 1976]

Sections 77.59 (3) and (4) are amended to clarify that the statute of limitations for issuing sales and use tax determinations and filing claims for refund depends upon the due date and the filing date of the annual information return. This bill does not change the Department's interpretation of ss. 77.59 (3) and (4).

2. Claims for Refund of Sales and Use Tax Within Two Years of Office Audit Determinations. [Amended ss. 77.59 (4) & (6), effective April 1, 1976]

A claim for refund of sales and use tax may be made within two years of a determination assessed by office audit on or after January 1, 1975, provided such determination was not appealed and the reporting period was not closed by field audit.

3. Retailers 1% Discount Does Not Apply to Consumer's Use Tax. [Amended s. 77.61 (4) (b), effective April 1, 1976]

The discount of 1% allowed to retailers is limited to 1% of the sales and use tax paid or payable on retail sales. The 1% discount may not be claimed on consumer's use tax.

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