

WISCONSIN TAX BULLETIN

(Cont. from p. 2)

CHANGE IN CORPORATE EXTENSION LAW

A corporation may now file its Wisconsin franchise/income tax return within the same extension period allowed for filing its corresponding federal income tax return. Chapter 214, Laws of 1975, which is effective for returns due on and after April 24, 1976, provides that the automatic three month extension and additional extensions available under the Internal Revenue Code for federal purposes will also be recognized for Wisconsin purposes.

The following two requirements must be met by a corporation using federal extensions:

1. If an automatic three month federal extension has been granted, a copy of the federal extension (Form 7004) must be filed with the Wisconsin franchise/income tax return.
2. If an additional extension has been granted by the Internal Revenue Service, a copy of such additional extension (Form 7005) must be submitted to the Department of Revenue within ten days of its receipt. A copy of Form 7005 should also be submitted with the tax return when it is filed.

Should the IRS, for any reason, refuse to grant an extension or terminate one previously granted, the Wisconsin franchise/income tax return will be due on the same date as the federal return.

Extensions of up to thirty days will continue to be granted by the Department if requested prior to the original due date of a return.

A Domestic International Sales Corporation (DISC) is required to file a federal annual information return (Form 1120 DISC). Under the Internal Revenue Code, this federal return is due on or before the 15th day of the 9th month following the end of the taxable year.

The DISC's Wisconsin return (Form 4 or 5) is due on or before the 15th day of the third month following the end of the taxable year. To extend the due date for filing the Wisconsin return, a DISC taxpayer must request a thirty day extension from the Department under s. 71.10 (5) (a). If a complete return cannot be filed by the due date, a tentative return must be filed by

such date or a thirty day extension may be requested and a tentative return then must be filed before the end of the extension period to avoid the imposition of late filing penalties.

Extensions and related correspondence, documents or remittances should be mailed to:

Wisconsin Department of Revenue
Post Office Box 98
Madison, Wisconsin 53701

TIM I-32, entitled, "Extension of Time to File Corporation Franchise/Income Tax Returns" and dated December 3, 1976, contains further information on corporate extensions.

REPORT ON LITIGATION

(This portion of the WTB 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.)

Estate of Samuel Mavrogenis, Wisconsin Supreme Court (No. 75-80, Oct. 19, 1976). The decedent, Samuel Mavrogenis (who provided all the consideration) and his wife acquired 3 parcels of realty between 1945 and 1966 which they held in joint tenancy. In June 1973, when Mr. Mavrogenis was terminally ill, the properties were converted from joint tenancy with right of survivorship to tenancy in common. He then died on October 31, 1973.

Mrs. Mavrogenis, as the estate's personal representative, filed an inheritance tax return reporting the 3 parcels at one-half value. The Department subsequently assessed the parcels at full value contending that the conversions from joint tenancy to tenancy in common were transfers in contemplation of death under s. 72.12 (4) (a), Wis. Stats.

Following property law, the court found that the land was to be taxed at one-half value. It held that the husband owned an undivided one-half interest in the parcels both before and after the ownership change. Because with the change of title, the decedent did not divest himself of anything, there was no taxable transfer in contemplation of death. The Department will not appeal this decision.

TAX RELEASES

("Tax Releases" are designed to provide answers to the specific tax questions covered, based on the facts indicated. However, the answers may not apply to all questions of a similar nature. In situations where the facts vary from those given herein, it is recommended that advice be sought from the Department. Unless otherwise indicated, Tax Releases apply for all periods open to adjustment. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.)

NOTE: Many of these were formerly distributed to Department personnel as sales tax memos or reports. It is thought that these positions would be of help to taxpayers and tax practitioners.)

INCOME TAX

Wage Continuation Payments—Section 16.31, Wis. Stats., provides for the payment of full salary to certain State of Wisconsin employees who are injured in the course of performing their official duties. The types of employees which are eligible for such benefit are enumerated in the statute. They can generally be described as those involving some hazardous duties. Examples include conservation wardens, state forest rangers, state patrol members, special tax agents and state probation and parole officers.

Upon request of the Department, the Internal Revenue Service has reviewed the status of payments made under s. 16.31. The IRS concluded the payments to be "in the nature of workers' compensation" and, therefore, excludable from gross income under Section 104 (a) (1) of the Internal Revenue Code. Since that section of the Internal Revenue Code applies in determining Wisconsin taxable income, the s. 16.31 payments are also not taxable for Wisconsin tax purposes.

SALES TAX

I. Gifts and Advertising Specialties

Persons who make gifts of personal property to others are the consumers of the property and the tax applies to the sale of the property to such persons. This includes

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