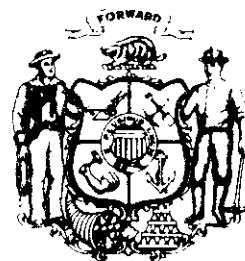


WISCONSIN TAX BULLETIN



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Income, Sales, Inheritance and
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DO YOU HAVE SUGGESTIONS FOR 1978 TAX FORMS?

Each year the Department receives some helpful suggestions from the public regarding changes or improvements which can be made on the various Wisconsin income tax reporting forms. Because many of the suggestions submitted have been useful in evaluating and updating these forms, the Department is seeking additional comments this year.

You may wish to communicate your suggestions as to how the Department might improve Forms 1 (individual long form) or 1A (individual short form) or Schedules H (Homestead) or FC (Farmland Preservation Credit) or their instructions. You may send them to the Wisconsin Department of Revenue, Division of Income, Sales, Inheritance and Excise Taxes, Director of Technical Services, 201 E. Washington Avenue, Madison, Wisconsin 53702. Because of production and printing deadlines which must be met, to receive consideration for the 1978 forms, your suggestions must be received by August 1, 1978.

THE DEPARTMENT'S INTELLIGENCE SECTION

Although it is 17 years old, the Department's Intelligence Section may not be well known to many taxpayers and practitioners. The Intelligence Section was established in 1961 after it was determined that investigators were needed to enforce the criminal statutes of the income and sales tax laws.

The Section is composed of a staff of 6 special agents under a section chief. Agents are located in Madison, Milwaukee, Appleton and Eau Claire. These special agents are specially trained in auditing, tax fraud, criminal law and criminal court procedures.

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The principal statutes which the Intelligence Section enforces are ss. 71.11(41) (failure to file individual income or corporation franchise tax returns or failure to pay over withholding tax; a misdemeanor), 77.60(7) (fraudulent filing or failure to file sales tax returns; a misdemeanor), 71.11(42) (individuals' false or fraudulent filing of an individual income tax return; a felony), and 71.11(43) (corporate officers' false or fraudulent filing of a corporate franchise or income tax return; a felony).

An investigation may result from a referral by a Department of Revenue auditor, from a tip (anonymous or otherwise) or from information the Special Agent has obtained. An investigation by a Special Agent usually involved the gathering and reporting of all facts having a bearing on the innocence or guilt of the suspected person. When the facts evidence a violation of the law, the case is turned over to the Department of Justice or to the appropriate county district attorney for prosecution.

After a taxpayer has been convicted of a criminal violation, the appropriate civil penalty will be added to the person's tax liability for the years involved. A civil penalty of 50% of the tax may be imposed for income and sales tax fraud and a 100% penalty may be imposed on a withholding tax violation.

During 1977, 10 prosecutions resulted in convictions. The convictions produced \$18,600 in fines, 2 years and 7 months of imprisonment and 7 years of probation.

COMMON ERRORS TO AVOID ON SALES TAX RETURNS

Each year the processing of many sales tax returns is delayed because the returns are either incomplete or incorrectly prepared.

To help speed up the handling of sales tax returns (the monthly or quarterly Form ST-12 and the annual information return, Form ST-12A) and avoid unnecessary correspondence, the Department offers the following suggestions:

1. Do not use a sales and use tax return previously issued to another person. Obtain your own return by writing to the Department at P.O. Box 8902, Madison, Wisconsin 53708.
2. Do not change the period covered or the due date on your return. If you are reporting for more than one period, use a facsimile return for other periods.
3. Taxable receipts (line 3) should be completed by subtracting deductions (line 2) from gross receipts (line 1), rather than by determining the amount from the sales tax remitted.
4. Be sure to itemize the deductions on the back side of each return and to correctly carry the total deductions amount to line 2 on the front of the return.
5. Do not enter sales tax amounts on the use tax line (line 7).
6. Do not take a credit for a previous overpayment on a current return. An amended return must be filed to claim a prior overpayment.
7. If there has been an ownership, name or address change, enter the information on the back of the return.
8. Be sure to sign and date your return.

9. When mailing your return, allow sufficient time for it to be postmarked on or before the due date.

10. Be sure that the period covered by the annual information return (Form ST-12A) is the same period as your income or corporate tax return.

If you wish to contact the Department about preparing your sales tax return, write to the Wisconsin Department of Revenue, P.O. Box 8902, Madison, Wisconsin 53708 or telephone (608) 266-2776.

WHO MUST REGISTER FOR A SALES TAX SELLER'S PERMIT OR OBTAIN A CONSUMER'S USE TAX REGISTRATION CERTIFICATE

Every person engaged in the business of selling tangible personal property or taxable services at retail is required to obtain a sales tax seller's permit and report the sales tax on all taxable receipts. A permit may be obtained by completing an "Application for Permit" and forwarding the application and the \$2 fee to the Department of Revenue.

However, a seller's permit is not required by a person whose sales are isolated and sporadic and when the infrequency of the sales in relation to other circumstances (including the sales price and gross profit) support the inference that the seller is not pursuing a vocation, occupation or business, or a partial vocation or occupation or part-time business. Such transactions are called "occasional sales" and the gross receipts from them generally are not subject to the sales tax.

Persons with a seller's permit, who incur use tax liability, must report and remit the use tax on the sales and use tax return they file. Every person (other than a registered seller) who regularly leases or rents tangible personal property or purchases items without payment of the tax, which results in use tax liability, should apply for a Consumer Use Tax Registration Certificate (Form S-201U). Such persons file quarterly consumer's use tax returns (Form S-050U) and pay the tax due by the last day of the month following the calendar quarter in which the use tax liability accrued.

Any person with an infrequent use tax liability (whether in business or not) who purchases, leases or rents tangible personal property or taxable services for storage, use or other consumption in Wisconsin is subject to a use tax liability. Such person also must file quarterly consumer's use tax returns and pay the tax directly to the Department by the last day of the month following the calendar quarter in which the tax accrued.

For a copy of a booklet entitled "Wisconsin General Sales and Use Tax Instruction Bulletin" or an "Application For Permit" form (used for sales or use tax registration), or any related information regarding registering for sales or use tax purposes, write:

Wisconsin Department of Revenue
Compliance Bureau
Post Office Box 8902
Madison, WI 53708

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.)

Family Hospital, Inc. vs. Department of Revenue (Wisconsin Tax Appeals Commission, January 12, 1978.) The sole issue in this case was whether gross receipts from parking received by a non-profit hospital, operated exclusively for charitable, scientific and educational purposes, are subject to the sales tax under s. 77.52 (2) (a) 9, Wis. Stats.. The parking lot adjoined the hospital and was used substantially by patients, employees and guests of the hospital. The Commission held that such gross receipts from parking are not taxable.

The Department has appealed this decision.

State ex rel. Gerald D. Kleczka and John C. Shabaz vs. Dennis J. Conta, Secretary, Department of Revenue and others (Wis. 2d , Wisconsin Supreme Court, April 5, 1978.) Plaintiff

was contesting the validity of the partial vetoes to Assembly Bill 664 (Chapter 107, Laws of 1977, published October 20, 1977).

As originally enacted, Assembly Bill 664 would have allowed taxpayers to add on to their tax liabilities the sum of \$1, with the \$1 going to the Election Campaign Fund created by the bill. Acting Governor Schreiber exercised his partial veto so that beginning with the 1977 income tax return, each individual filing a return would be permitted to designate \$1 of the individual's net tax liability for placement in the fund without increasing an individual's tax or reducing an individual's refund.

The Court upheld the partial vetoes of the bill. Beginning in the 1977 taxable year, amounts properly designated on Wisconsin Forms 1 (long form) and 1A (short form) for the Election Campaign Fund will be tabulated and transferred to the fund.

Kansas City Star Company vs. Department of Revenue (Wisconsin Tax Appeals Commission, April 20, 1978.) The petitioner owned and operated the Flambeau Paper Mill in Park Falls, Wisconsin as a separate division from its only other division which published a daily newspaper in Kansas City, Missouri. The only business carried on in Wisconsin by the petitioner was its paper mill. The newspaper division and the paper mill division were entirely separate with separate operations, management, employees and properties. The books, records and accounts were entirely separate both for financial accounting and for Wisconsin tax purposes.

During the years just prior to 1969, petitioner's management decided to expand its paper mill operations. Petitioner decided that it could provide the necessary financing within the corporation at lower cost than borrowing from outside sources. The Wisconsin division provided about \$2 million and the Missouri division transferred \$7,842,000 of its funds in Missouri to the Wisconsin division's Wisconsin bank. The transferred funds were secured by bona fide notes signed by the Wisconsin division's management which bore interest at 5½% per year.