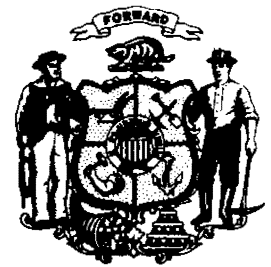


WISCONSIN TAX BULLETIN



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SPECIAL BULLETIN

MAJOR TAX CHANGES IN BUDGET BILL

The 1979-1981 budget bill (Chapter 34, Laws of 1979) signed into law by Governor Dreyfus contains a number of changes to the Wisconsin tax laws. Attached to this issue of the Wisconsin Tax Bulletin is a supplement containing brief descriptions of the new income, corporation, homestead credit, farmland preservation credit, inheritance, excise and sales and use tax provisions.

WHEN ARE EXEMPTION CERTIFICATES REQUIRED FOR FUEL EXEMPTION

Beginning November 1, 1979, sales of electricity and natural gas for residential use, and electricity for use in farming, are exempt if sold during the months of November through April each year. Sales during the remaining six months of the year (May through October) are subject to the tax. For purposes of this exemption, electricity or natural gas is considered sold at the time of the billing. If the billing is mailed, the date of the mailing is considered the time of billing.

Sales of fuel oil, propane, coal, steam and wood used for fuel in a person's permanent residence are exempt from the sales tax. The sales of these fuels are exempt all twelve months of the year, beginning July 1, 1979. For purposes of this exemption, fuel oil, propane, coal, steam and wood sold for fuel are considered sold at the time they are transferred from the seller to the purchaser.

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What is residential use? The phrase "residential use" means use in a structure or portion of a structure which is a person's permanent residence. For example, electricity, natural gas, fuel oil, propane, coal, steam or wood used in a person's home (which is used as his or her permanent residence) for hot water heaters, stoves, lights, appliances and heat (including wood for fireplaces) are exempt from the sales and use tax.

However, gross receipts from sales of electricity, natural gas, fuel oil, propane, coal, steam and wood which is sold for the following purposes are not exempt from the sales and use tax if used as follows:

- For commercial or business purposes.
- In "transient accommodations" (i.e., rooms or lodging available to the public for a fee for a continuous period of less than one

month) or other places that are not a person's permanent residence. Common examples of such taxable use are use in buildings such as hotels, motels, inns, tourist homes, tourist houses or courts, lodging houses, summer camps, resort lodges and cabins.

- In motor homes, travel trailers or other recreational vehicles.

When Exemption Certificates Are Not Required

A seller of electricity or natural gas is not required to obtain an exemption certificate from a purchaser for the sale of electricity or natural gas if the sale is (1) 100% for exempt use; and (2) to an account which is properly classified as residential or farm pursuant to schedules which are filed for rate tariff purposes with the Wisconsin Public Service Commission and which are in force at the time of the sales, or to an account which is properly classified as residential or farm for classification purposes as directed by the federal Rural Electrification Administration.

A seller of fuel oil, propane, coal, steam and wood is not required to obtain an exemption certificate from a purchaser if 100% of the fuel sold to such purchaser is for residential use and if the seller maintains adequate records to identify which such sales are exempt.

When Certificates Are Required

If the sale of fuel or electricity is partially exempt, the seller must obtain an exemption certificate. The purchaser should indicate on the certificate the percentage of the fuel or electricity sold which is for an exempt use. The seller will then not be liable

for the sales tax on the exempt portion. The purchaser should either calculate or reasonably estimate the percentage which is attributable to exempt use. Any reasonable method of estimating exempt use is acceptable.

For example, fuel is sold to the owner of a building, the lower level of which is used to conduct a business and the upper level of which is used as a person's permanent residence. An allocation between exempt and taxable use must be made. In this situation, the purchaser must estimate the percentage of fuel for exempt (residential) use. If the heat produced is evenly used throughout the building, the fuel for residential use may be calculated by comparing total number of square feet comprising the residential portion of the building to the total number of square feet in the building, or by using any reasonable method of estimate.

To obtain copies of the exemption certificates or if you have questions about this exemption, write to: Wisconsin Department of Revenue, Compliance Bureau, P.O. Box 8902, Madison, WI 53708 or call (608) 266-2776.

SIMPLIFY PAYMENT OF SPECIAL FUEL TAXES

Payment of special fuel taxes (e.g., diesel fuel) will be simplified for many users of special fuel under a new law (Chapter 11, Laws of 1979) which becomes effective October 1, 1979.

Prior to the new law, each person who delivered special fuel (e.g., diesel fuel) into the supply tank of a highway vehicle had to be licensed with the Department of Revenue, file monthly reports and remit the tax monthly to the department. For example, if distributor A delivered diesel fuel into the fuel tank on individual B's truck, A was liable for remitting the tax to the department. However, if A delivered special fuel into a storage facility of B, and B later put such fuel into the fuel tank on B's truck, B was liable for the tax rather than A. B had to be licensed, file monthly reports and pay the tax.

Under the new law suppliers of special fuel are permitted to report and pay to the department the tax on special fuel delivered into the storage facility of a special fuel user, rather

than requiring each user to be licensed, file monthly reports and pay the tax.

In the above example, A is still liable for the tax on special fuel delivered into the fuel tank on B's truck (new law does not affect this situation). However, if A delivers special fuel into B's storage facility and B then places such fuel into the fuel tank on B's truck, the new law permits B to pay the tax to A. If this is done, B does not have to be licensed, file monthly reports or remit the tax directly to the department.

BULK ORDERS OF TAX FORMS

In early October, the Department will mail out the order blank (Form P-744) which practitioners and other persons or organizations should use to request bulk orders of 1979 Wisconsin income tax forms. As in past years, professional tax preparers are subject to a minimal handling charge on orders which they submit. No charge is made for forms which will be used for distribution to the general public (for example, in a bank, library or post office).

In view of increasing paper and printing costs, every person ordering forms is urged to determine their needs as accurately as possible. Orders should be placed as early as possible after you receive the order blank. By receiving the orders early, the Department can better identify possible shortages of specific forms.

This year's mailing list for bulk order blanks contains the names of all persons and organizations who placed orders for 1978 forms. If you are not on this mailing list and do not receive a form P-744, you may request the bulk order blank by contacting any Department office or by writing to the Wisconsin Department of Revenue, Central Services Section, P.O. Box 8903, Madison, WI 53708.

SELLER'S PERMIT RENEWED EVERY TWO YEARS

Persons holding a sales and use tax seller's permit will now have their permit renewed every 2 years. (s. 77.52(10), Wis. Stats.) This new procedure begins with those permits originally issued in August of 1977 or August of other odd-numbered years prior to 1977. (ex., August of 1975, 1973, 1971, 1969, etc.) For example, a seller's permit issued in August,

1975 will be renewed in August, 1979.

The taxpayer will receive in the mail a renewal permit to replace the original permit. The original permit does not have to be returned to the department, or retained by the taxpayer.

The department will automatically renew permits without any action required by the taxpayer, with one exception. Permits will *not* be automatically renewed if the taxpayer has a sales and use tax delinquency (including tax, interest, penalties and costs) of \$400 or more, any part of which has been delinquent for 5 months or longer. Such delinquent taxpayers are notified 30 days prior to the date their seller's permit expires that the department intends not to renew the permit. The taxpayer then has 30 days to reduce the delinquency below \$400 or 10 days to appeal the Department's determination not to renew the permit.

If the taxpayer appeals, a hearing will be held at which the taxpayer may present testimony, evidence and arguments as to why the permit should be renewed. After its consideration of the information, the department will issue a decision. During the course of an appeal, a seller's permit remains valid.

A taxpayer who has been refused renewal of a seller's permit will not be issued another permit until all delinquent sales and use taxes (including costs, penalties and interest) have been paid. An application for a new seller's permit and the \$2 fee must be submitted and any security which may be required must be deposited before a new seller's permit will be issued.

A taxpayer who continues to operate as a seller of tangible personal property or taxable services after a permit has expired is subject to criminal prosecution.

If a renewed permit is received which contains incorrect information, the taxpayer should notify the department of the error by writing to: Wisconsin Department of Revenue, Compliance Bureau, P.O. Box 8902, Madison, Wisconsin 53708. Information about the renewal procedure may also be obtained by writing to this address.

SUMMARY OF 1978 INDIVIDUAL RETURNS FILED

During the first six months of 1979, 2,153,000 Wisconsin income tax returns, 251,000 Homestead Credit claims, and 2,400 Farmland Preservation Credit claims were filed for 1978. This compares to 2,034,000 Wisconsin income tax returns, 250,000 Homestead Credit claims, and 700 Farmland Preservation Credit claims filed for 1977. In total, 240,000 more returns and claims were filed for 1978 than 1977.

The 2,153,000 income tax returns for 1978 were filed by 2,930,000 individuals. The combined return of a husband and wife is considered one return.

1,755,000 individuals received income tax refunds, which averaged \$139 each. The average refund individuals received for 1977 returns was \$118.

479,000 individuals owed additional tax with their 1978 returns. The average payment was \$291, an increase over the average payment of \$213 made with 1977 returns.

Homestead Credit refunds issued averaged \$261 per claimant, a decrease from the average refund of \$265 issued last year.

An average payment of \$1,205 was issued to each Farmland Preservation claimant. The average payment for the previous year was \$870.

\$184,000,000 was received by homeowners and renters as a result of the 1978 Special Property Tax/Rent Credit.

During the month of April 700,000 tax returns were received which represented 30% of all 1978 income tax returns received by the Department.

HOMESTEAD, FARMLAND PRESERVATION, AND SPECIAL PROPERTY TAX/RENT CREDIT FILING DEADLINES

Less than three months remain for Wisconsin residents to file claims for the 1978 Homestead Credit or 1978 Special Property Tax/Rent Credit, and for farmland owners to file a 1978 Farmland Preservation Credit claim.

December 31, 1979 is the last day allowed for filing a claim for 1978 Homestead Credit and the 1978 Special Property Tax/Rent Credit. It is also the last day for filing a 1978 Farmland Preservation Credit claim for farmland owners who are calendar year taxpayers.

Homestead Credit should be claimed on Schedule H and Farmland Preservation Credit on Schedule FC. The 1978 Special Property Tax/Rent Credit may be claimed on a Wisconsin income tax return (Form 1 or 1A), Schedule H or a special Schedule PC.

If you previously filed a 1978 Wisconsin income tax return and now wish to file either a homestead or farmland preservation claim, write the words "income tax return previously filed" at the top of your homestead or farmland preservation claim. Attach a complete copy of your income tax return to your claim and write "duplicate" at the top of your income tax return.

If you qualify for the 1978 Special Property Tax/Rent Credit, but did not claim it on your Wisconsin income tax return, you may still claim the credit by filing either Schedule PC or an amended return. If no other changes are to be made to your income tax return as originally filed, you may file Schedule PC. In filing Schedule PC, do not mark it "Amended" and do not submit a duplicate copy of your tax return with Schedule PC.

So far this year, 251,000 Homestead claims and 2,400 Farmland Preservation claims have been received. These claims have provided more than \$65 million in rent and property tax rebates. The 1978 Special Property Tax/Rent Credit has provided more than \$184 million in benefits to 1,500,000 claimants. Some of the requirements which must be met to qualify for benefits under these programs for 1978 are as follows:

Homestead Credit (available only to individuals). A claimant:

- Must have been a full-year Wisconsin resident.
- Must have been at least 18 years of age on December 31, 1978.
- Must have a household income of less than \$9,300 (\$9,900 if claimant, spouse, or dependent is 65 or older).
- Must have lived all or part of 1978 in property subject to real estate taxes.
- Must not have been claimed as a dependent on someone else's 1978 federal income tax return (does not apply to persons 62 or older).
- Must not be receiving general relief or Aid to Families with

Dependent Children (AFDC) at the time of filing the claim.

- Must not have claimed farmland preservation credit for 1978.

Farmland Preservation Credit (available to individuals and corporations owning farmland). A claimant:

- Must have been a full-year Wisconsin resident (corporations must have been organized under Wisconsin law and in existence for the entire 1978 taxable year).
- Must be the owner of at least 35 acres of farmland which is subject to agricultural use restrictions and which produced at least \$6,000 in gross farm profits (or \$18,000 in the last three years combined).
- Must have household income of less than \$38,429. (The first \$7,500 of nonfarm wages, tips and salaries earned by the household may be excluded from household income).

1978 Special Property Tax/Rent Credit (available only to individuals).

A claimant:

- Must have been a full-year Wisconsin resident during 1978.
- Must have paid rent or had property taxes accrue on a Wisconsin homestead for 1978.
- Must not have been claimed as a dependent on another person's 1978 federal income tax return (does not apply to persons 62 or older in 1978).

For additional information concerning the eligibility requirements for these programs, instructions on how to file and the necessary claim forms, contact any Wisconsin Department of Revenue office or write to the Department of Revenue, P.O. Box 8906, Madison, WI 53708.

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 Release: