

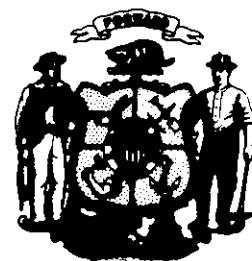
WISCONSIN TAX BULLETIN

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This special issue of the Wisconsin Tax Bulletin contains information which will assist taxpayers in determining whether the 1978 special property tax/rent credit and separate check which Wisconsin residents received during 1979 must be reported as income on the 1979 Wisconsin return. It also contains information about the new 1979 property tax/rent credit, including a number of questions and answers pertaining to this new credit.

ERRORS ON 1979 RETURNS FILED

A review of 1979 Wisconsin returns filed with the Department, indicates problems are arising in two particular areas. On both the long form (Form 1) and short form (Form 1A) a number of errors are occurring in the personal exemption credit area (lines 9a through 9e). Special care should be taken to enter the dollar amounts in the proper spaces and to check the appropriate boxes to indicate the ages of the taxpayer and spouse.

Taxpayers are reminded that taxes are no longer deductible as an itemized deduction for Wisconsin purposes. Persons claiming itemized deductions for Wisconsin must complete lines 63, 64 and 65 on page 2 of Form 1 to arrive at Wisconsin itemized deductions. On line 63 there is a reference to line 16, which is line 16 of federal Schedule A. Some persons are incorrectly interpreting this to be line 16 of Form 1.

After itemized deductions are computed for Wisconsin, on line 65 of Form 1, a person should determine which deduction is larger - Wisconsin itemized deductions or the standard deduction/low-income allowance. For 1979 the standard deduction is \$2300 for single persons and \$3400 for married persons.

TAX TREATMENT OF 1978 SPECIAL PROPERTY TAX/RENT CREDIT AND SEPARATE CHECK

A. What is the 1978 Property Tax/Rent Credit?

The Wisconsin law relating to the 1978 property tax/rent credit provided that homeowners could claim a refundable credit of 10% of their property taxes accrued for 1978, with a minimum credit of \$40 and a maximum of \$100. Renters could claim a credit of \$40. The credit was claimed on a 1978 Form 1 or 1A, Schedule H or Schedule PC. The last day for filing a claim was December 31, 1979.

Persons who claimed the credit automatically received a separate check equal to the amount of the initial credit. The majority of persons received this check in 1979, however, those persons who filed for the initial credit in late 1979 could receive the check in 1980.

B. What is the Tax Treatment of the Credit and Separate Check Received by Taxpayers in 1979?

The determination of whether the credit and check are income on a 1979 Wisconsin return is made under the provisions of the federal Internal Revenue Code. In accordance with an opinion the ISI&E Division received from the IRS, the Wisconsin tax treatment of the credit and check received in 1979 is as follows:

1. Rent Credit and Separate Check Received in 1979: Not reportable as income on a 1979 Wisconsin return.
2. Property Tax Credit and Separate Check Received in 1979:
 - a. If 1978 property taxes accrued were paid in total in 1979, the credit and check are not reportable as income on a 1979 Wisconsin return. (If these taxes are claimed as an itemized deduction on a 1979 federal return, the amount deducted must be reduced by the property tax credit and separate check received in 1979.)
 - b. If 1978 property taxes accrued were paid in total in 1978 and the Wisconsin standard deduction or low-income allowance was claimed on a 1978 Wisconsin return (or the person itemized deductions but did not claim a deduction for such property taxes paid in 1978), the credit and check are not reportable as income on a 1979 Wisconsin return.
 - c. If 1978 property taxes accrued were paid in total in 1978 and such taxes were claimed as an itemized deduction on the person's 1978 Wisconsin return, the credit and check are reportable as income on a 1979 Wisconsin return, but only to the extent of any "tax benefit" (see Part C for computing the tax benefit).
 - d. If 1978 property taxes accrued were paid partly in 1978 and the remaining part in 1979, the amount paid in 1978 is treated the same as in 2b or 2c above, whichever is applicable. The amount paid in 1979 is treated as in 2a.

Example: Taxpayer's 1978 property taxes accrued were \$1200. Taxpayer paid \$900 of such taxes in 1978 and the remaining balance of \$300 in 1979. Taxpayer claimed the \$100 property tax credit on a 1978 Wisconsin return filed in 1979 and received a separate check for \$100 in July, 1979.

If the taxpayer claimed the Wisconsin standard deduction or low-income allowance on the 1978 Wisconsin return (or claimed itemized deductions but did not claim a deduction for the \$900 property taxes paid in 1978), the \$100 credit and \$100 check are not reportable as income on the 1979 Wisconsin return.

If the taxpayer claimed an itemized deduction on the 1978 Wisconsin return for the property taxes of \$900 paid in 1978, \$150 of the credit and check must be reported as income on the 1979 Wisconsin return, assuming a tax benefit was received for the total \$900 deducted on the 1978 return. The \$150 is computed as follows:

$$\frac{\$900 \text{ (taxes paid in 1978)}}{\$1200 \text{ (total 1978 taxes accrued)}} \times \$200 \text{ (credit and check)} = \$150$$

The remaining \$50 (\$200 less \$150) is not reportable as income on the 1979 return, regardless of whether the taxpayer itemizes deductions or claimed the standard deduction/low-income allowance on the 1979 Wisconsin return. (On a 1979 federal return, a taxpayer itemizing deductions must reduce his deduction for property taxes by \$50.)

3. Both a Renter and Homeowner: If a person paid both rent in 1978 and also had 1978 property taxes accrued and claimed a \$40 credit (regardless of whether the \$40 was entered on the rent credit or property tax credit line on the form), the \$40 credit and \$40 check are not reportable as income on a 1979 Wisconsin return.

If a person was both a renter and homeowner in 1978 and claimed more than \$40 as a credit, the person is treated as having claimed a credit equal to 10% of 1978 property taxes accrued and is treated the same as a person in 2a, b, c, or d, whichever is applicable.

C. How to Determine if a Tax Benefit was Realized From Claiming Property and/or Income Taxes as an Itemized Deduction.

1. Basis for Computing Tax Benefit

The Internal Revenue Code is the basis for determining whether any portion of a refund of taxes previously claimed as an itemized deduction for Wisconsin must be included in Wisconsin income.

Section 111 of the Internal Revenue Code provides that recoveries (refunds) of taxes which were previously claimed as an itemized deduction may be excluded from federal adjusted gross income to the extent a taxpayer determines a "recovery exclusion". If the amount of tax recovered exceeds the "recovery exclusion" determined, the excess amount must be included in income. This procedure is commonly known as the "tax benefit" rule.

Revenue Ruling 79-15 issued by the IRS sets forth the method used to determine if any amount of "recovery exclusion" is available with respect to refunds of taxes received in tax years 1978 and thereafter.

2. Computation Required When Taxpayer Received a Refund of Wisconsin Income Tax in 1979, But Did Not Claim a 1978 Deduction for 1978 Property Taxes Accrued.

IRS Revenue Ruling 79-15 uses an example similar to the following to illustrate the calculations required to determine the "recovery exclusion".

Example: C and D filed a joint federal income tax return for 1978. Their adjusted gross income was \$30,000, state income tax deduction was \$3,000, and other itemized deductions were \$2,500. No deduction was claimed on the 1978 return for 1978 property taxes accrued. In 1979, C received a refund of \$900 of state income taxes for an overpayment on his 1978 Wisconsin return.

	Tax Table Income for 1978	Tax Table Income for 1978 without deduction for state income tax
Adjusted gross income.....	\$30,000	\$30,000
Itemized deductions.....	\$5,500	\$ 2,500
Zero bracket amount.....	(3,200)	(3,200)
Excess itemized deductions.....	(2,300)	(0)
Tax Table Income.....	<u>\$27,700</u>	<u>\$30,000</u>
State income tax deduction for 1978....		\$ 3,000
Tax Table Income for 1978 with- out deduction for state income tax...		\$30,000
Tax Table Income for 1978.....		<u>(27,700)</u>
Tax benefit (amount of state in- come tax deduction that resulted in a reduction of 1978 tax).....		(2,300)
Recovery exclusion (portion of refund not reportable as income).....		<u>\$ 700</u>
Taxable portion of refund (total refund less \$700).....		<u>\$ 200</u>

In this example, C may exclude \$700 of the \$900 state income tax refund received in 1979; the remaining \$200 is includible in C's gross income for 1979.

An easier method of determining the "recovery exclusion" for refunds of 1978 income tax received in 1979 is as follows: Compare line 41 (total itemized deductions after reduction by the zero bracket amount) of 1978

federal Schedule A with the amount of tax included on line 11 (state and local income taxes) of the 1978 Schedule A -

- if line 41 is equal to or larger than the tax on line 11, the recovery exclusion is "0" and the total refund of 1978 income tax is reportable as income;
- if line 41 is smaller than line 11, subtract line 41 from line 11, and the difference represents the "recovery exclusion".

Using this easier method and assuming the same facts as in the above example, line 41 on the taxpayer's 1978 Schedule A was \$2,300 (\$5,500 total deduction, less \$3,200 zero bracket amount). The taxes on line 11 were \$3,000. Comparing lines 41 (\$2,300) and 11 (\$3,000) of Schedule A indicates that line 11 is the larger amount. Line 41 (\$2,300) is then subtracted from line 11 (\$3,000) and a "recovery exclusion" of \$700 is determined.

3. Computation Required When Taxpayer Claimed a 1978 Deduction for 1978 Property Taxes Accrued, But Did Not Receive a Refund of Wisconsin Income Tax in 1979.

The computation in IRS Revenue Ruling 79-15 is also used in this situation.

Example: C and D filed a joint federal tax return for 1978. For 1978 their adjusted gross income was \$25,000, 1978 property taxes accrued of \$1300 were paid and deducted in 1978, and other itemized deductions were \$3,700. No refund of Wisconsin income taxes was received in 1979. C claimed a 1978 Wisconsin Property Tax Credit of \$100 on a 1978 Form 1 and received in July, 1979 a separate check for \$100.

	Tax Table Income for 1978	Tax Table Income for 1978 without deduction for 1978 property taxes
Adjusted gross income.....	\$25,000	\$25,000
Itemized deductions.....	\$5,000	\$ 3,700
Zero bracket amount.....	(3,200)	(3,200)
Excess itemized deductions.....	(1,800)	(500)
Tax Table Income.....	<u>\$23,200</u>	<u>\$24,500</u>
Deduction for 1978 property taxes		\$ 1,300
Tax Table Income for 1978 with- out deduction for property taxes		\$24,500
Tax Table Income for 1978.....		<u>(\$23,200)</u>
Tax benefit (amount of 1978 property tax deduction that resulted in a reduction of 1978 tax).....		<u>\$ 1,300</u>
Recovery exclusion (portion of 1978 property tax credit and check not reportable as income)		<u>-0-</u>
Taxable portion of 1978 credit and check (\$200 less recovery ex- clusion).....		<u>\$ 200</u>

In this example, the entire amount of 1978 Property Tax Credit of \$100 and separate check of \$100 received in 1979 is includible in C's gross income for 1979.

If the easier method of determining the recovery exclusion which is explained on page 4 is used, C would compare line 41 of 1978 federal Schedule A with the amount of 1978 property taxes included on line 12 of Schedule A. Line 41 (\$1,800) is total 1978 itemized deductions after reduction by the zero bracket amount (\$5,000 - \$3,200 = \$1,800). In this example the amount of 1978 property tax on line 12 of Schedule A is \$1,300.

Comparing lines 41 (\$1,800) and 12 (\$1,300) indicates that line 41 is larger. Therefore the recovery exclusion is zero and the total \$200 is reportable as income on the 1979 Wisconsin return.

4. Computation Required When Taxpayer Received a Refund of Wisconsin Income Tax in 1979 and Claimed a 1978 Deduction for 1978 Property Taxes Accrued.

The computation in IRS Revenue Ruling 79-15 is also used in this situation.

Example: C and D filed a joint federal tax return for 1978. For 1978 their adjusted gross income was \$30,000, state income tax deduction was \$3,000, 1978 property taxes accrued of \$1,000 were paid and deducted in 1978, and other itemized deductions were \$1,500. In 1979 C received cash refunds of \$1,100 (\$900 of state income taxes and \$200 of property tax rebates).

	Tax Table Income for 1978	Tax Table Income for 1978 without deduction for state income tax or property tax
Adjusted gross income-----	\$30,000	\$30,000
Itemized deductions-----	\$5,500	\$1,500
Zero bracket amount-----	(3,200)	(3,200)
Excess itemized deductions---	(2,300)	(0)
Tax Table Income-----	<u>\$27,700</u>	<u>\$30,000</u>
State income tax and property tax deduction for 1978-----		\$ 4,000
Tax Table Income for 1978 without deduction for state income tax or property tax-	\$30,000	
Tax Table income for 1978----	<u>(27,700)</u>	
Tax benefit (amount of state income tax and property tax deductions that resulted in a reduction of 1978 tax)---		(2,300)
Recovery exclusion-----		<u>\$ 1,700</u>

In this example, the entire amount of the refunds may be excluded from C's gross income for 1979.

If the easier method of determining the recovery exclusion which is explained on page 4 is used when there has been a recovery of both Wisconsin income taxes and 1978 property taxes, line 41 of 1978 federal Schedule A must be compared to the sum of line 11 and the amount of 1978 property taxes included on line 12. Using the facts in the above example, line 41 on C's 1978 Schedule A would be \$2,300 (\$5,500 total deduction less \$3,200 zero bracket amount). The sum of Wisconsin income taxes on line 11 and 1978 property taxes on line 12 would be \$4,000 (\$3,000 + \$1,000 = \$4,000). Comparing line 41 (\$2,300) to the total of the taxes (\$4,000) indicates that the taxes are larger amount. By subtracting line 41 (\$2,300) from the total of the taxes (\$4,000), a "recovery exclusion" of \$1,700 is determined.

D. CAUTION: Refund Check Received in 1979 Is Not Always a Refund of Wisconsin Income Taxes

For persons who claimed the 1978 property tax/rent credit, homestead credit, farmland preservation credit or alternative energy credit on their 1978 Wisconsin Form 1 and received a check in 1979 for the amount of "Overpayment To Be Refunded" as shown on line 21 of their 1978 Form 1, the total amount of the check is not a refund of Wisconsin income taxes. Rather, the portion of the check (if any) received in 1979 which is a refund of Wisconsin income taxes is determined as follows:

1. Check received in 1979 (amount per line 21 of 1978 Form 1)	XXX
Less: Credits claimed on 1978 Form 1 for:	
2. Rent Credit (line 11)	(X)
3. Property Tax Credit (line 12)	(X)
4. Farmland Preservation Credit (line 16a)	(X)
5. Alternative Energy Credit (line 16b)	(X)
6. Homestead Credit (line 17)	(X)
7. Total Credits	(XX)
8. Amount of check that represents a refund of Wisconsin income taxes (line 1 less line 7)	(X)

Example:

	Example 1	Example 2
Check received in 1979 (from line 21 of 1978 Form 1)	\$500	\$500
Less: Rent Credit		(\$ 40)
Property Credit	(\$100)	
Farmland Preservation Credit		(\$400)
Alternative Energy Credit		(\$360)
Homestead Credit	(\$250)	
Total of Credits	(\$350)	(\$800)
Amount of check representing a refund of Wisconsin Income Taxes	\$150	-0-

WISCONSIN'S NEW 1979 PROPERTY TAX/RENT CREDIT

A new property tax rent credit may be claimed on 1979 Wisconsin income tax returns. Renters may claim a credit based on rent paid in 1979 for living quarters used as their primary residence. The credit for property owners is based on property taxes paid in 1979 for their home and other property not used in a business.

A. WHO MAY CLAIM THE 1979 PROPERTY TAX/RENT CREDIT?

To qualify for the credit, a person must meet the following conditions:

- a. Must have paid rent in 1979 for living quarters used as the person's primary residence or must have paid property taxes in 1979 on the person's home and other property not used in a business, and
- b. Must have been a legal resident of Wisconsin for at least 15 days during any month in 1979. (Caution: Persons who were residents of Wisconsin for all of 1979 will qualify for the credit. Persons who were residents of Wisconsin for only part of 1979 will qualify if they were a resident for at least 15 days during any month of 1979. Nonresidents, i.e., persons who were not residents of Wisconsin during any part of 1979, will not qualify for the credit. Corporations, partnerships, trusts, estates and fiduciaries also do not qualify.)

B. WHAT FORM IS USED TO CLAIM THE CREDIT?

The property tax/rent credit may only be claimed on a person's 1979 Wisconsin income tax return, Form 1 or Form 1A. The property tax credit is claimed on line 11 and the rent credit on line 10 of a 1979 Form 1 or 1A. This credit may not be claimed on any other form.

The credit reduces a person's Wisconsin income tax. If the credit is larger than the tax due, the excess is not refundable.

A 1979 Wisconsin income tax return must be filed with the Department of Revenue by April 15, 1980. If a person forgets to claim the 1979 property tax/rent credit on his or her 1979 Wisconsin return (or claims the wrong amount of credit), an amended return, 1979 Form 1X, may be filed on or before April 15, 1984 to claim this credit.

C. RENTERS-HOW TO DETERMINE THE RENT CREDIT

The formula for computing the rent credit is: 25% (or 20% if landlord furnishes heat) x rent paid in 1979 for living quarters x 12% = rent credit. To simplify the computation of the rent credit, the instructions for Wisconsin Form 1 and 1A contain a table which may be used to determine the rent credit. For example, a person who paid rent in 1979 totalling \$2,550 (and the landlord furnished the heat) would find a rent credit of \$61 in the table. (If the renter paid the heat rather than the landlord, the credit would be \$77.)

"Rent paid in 1979 for living quarters" is the rent a person paid in 1979 for living quarters which were used as his or her primary residence. The primary residence does not have to be located in Wisconsin. For purposes of the rent credit, a person can only have one primary residence at a time. For example, if a person pays rent for two apartments in May, 1979, only the rent paid for the apartment the person occupied as his or her primary residence may be used in computing the rent credit. "Rent paid in 1979 for living quarters" does not include amounts paid for domestic, food, medical or other services unrelated to use of the dwelling as housing. It also does not include amounts paid for housing that is exempt from property taxes, unless the exempt housing is owned and operated by a Wisconsin public housing authority which makes payments in lieu of real estate taxes to the municipality in which the property is located.

If a person shared living quarters with one or more persons (other than a person's spouse or dependents), "rent paid in 1979 for living quarters" includes only the portion of the total rent which that person actually paid in 1979. For example, three persons rented an apartment for \$300 per month, paying total rent of \$3,600 in 1979. If each person paid \$1,200 of such rent, each would claim a credit based on \$1,200 of rent. If one person wrote a check for \$300 to the landlord each month and then received \$100 cash or other kind of payment from each of the other two persons as their contribution to the rent, each person is considered to have paid rent of \$100 for each month.

If one person paid the total rent of \$3,600, with no reimbursement from the other two persons, that person who paid the rent would claim a rent credit based on \$3,600 rent paid in 1979. The other two persons did not pay any rent and therefore cannot claim the rent credit.

D. PROPERTY OWNERS-HOW TO DETERMINE PROPERTY TAX CREDIT

The property tax credit is computed as follows: Property taxes paid in 1979 on a person's home and other property not used in a business x 12% = property tax credit. The instructions for Form 1 and 1A contain a table which makes it easy to determine the credit.

"Property taxes paid in 1979" includes the total amount of property taxes a person paid in 1979 on property not used for business purposes. It may include taxes on a person's home, cottage, land, or other property, provided such property is not used for business purposes. Such taxes paid in 1979 are not limited to 1979 taxes, but may include taxes for any year, including delinquent taxes. The property does not have to be located in Wisconsin.

If property taxes are deductible as a trade or business expense for federal tax purposes (under section 162 of federal Internal Revenue Code), such taxes may not be included in computing the credit (for example, taxes on a farm or rental property). "Property taxes paid in 1979" also does not

include any charges for special assessments, delinquent interest and services included on a property tax bill.

If a person owned a mobile home in 1979, "property taxes paid in 1979" includes parking permit fees paid to a municipality and any personal property taxes paid on the mobile home in 1979.

If a person owns property with another person (other than his or her spouse), each person's "property taxes paid in 1979" is based upon his or her ownership interest in the property. For example, if two brothers jointly own a house and each paid property taxes of \$1,000 on the house in 1979, each would claim a property tax credit based on \$1000 of property taxes.

If property was sold in 1979, the seller's "property taxes paid in 1979" are the property taxes set forth in the closing agreement pertaining to the sale. (Example: If the closing agreement indicated \$500 of property taxes were allocated to the seller, the seller is considered to have paid \$500 in 1979.) If the closing agreement does not specify a proration of property taxes, the 1979 taxes must be divided between the buyer and seller on the basis of the number of months each of them owned the property during 1979. The amount allocable to the seller is considered to have been paid during 1979.

Example: The property tax on a home for 1979 is \$1,200 and the home was sold on July 1, 1979. The seller's taxes are not set forth in the closing agreement. The seller is considered to have paid \$600 in 1979.

$$\$1,200 \times \frac{6 \text{ (months owned by seller)}}{12 \text{ (total months)}} = \$600$$

If a person purchased property in 1979, and paid the 1979 property taxes in 1979, the buyer's "property taxes paid in 1979" are the total property taxes paid in 1979 on such property less the taxes allocated to the seller in the closing agreement.

Example: Buyer purchased a house on April 1, 1979 and paid the total 1979 taxes of \$1,000 in December 1979. The closing agreement allocated \$250 of taxes to the seller. The buyer's "property taxes paid in 1979" are \$750 (\$1,000 less \$250).

If the buyer only paid \$600 of the \$1,000 to the city treasurer in 1979, the buyer's "property taxes paid in 1979" are \$450 computed as follows:

$$\frac{\$750 \text{ (buyer's share of 1979 taxes)}}{\$1,000 \text{ (total 1979 taxes)}} \times \$600 \text{ (taxes paid in 1979)} = \$450$$

If the closing agreement does not specify a proration of property taxes, the 1979 taxes must be divided between the buyer and the seller on the basis of the number of months each of them owned the property during 1979.

Example: Buyer purchased a home on July 1, 1979 and paid the total 1979 taxes of \$1,000 in 1979. For computing the property tax credit, the buyer is considered to have paid taxes of \$500 in 1979.