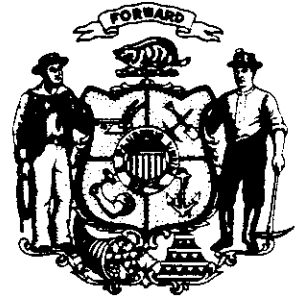


WISCONSIN TAX BULLETIN

Published by:

Wisconsin Department of Revenue
Income, Sales, Inheritance and
Excise Tax Division
P.O. Box 8910
Madison, Wisconsin 53708

APRIL 1982
NUMBER 28



NEW TAX LAWS

The Wisconsin Legislature has enacted 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, inheritance, excise and sales and use tax provisions.

FILING DEADLINES FOR 1981 HOMESTEAD AND FARMLAND PRESERVATION CREDIT CLAIMS

December 31, 1982 is the deadline for filing a 1981 Wisconsin Homestead Credit claim. Farmland Preservation Credit claims for 1981 must be filed no later than 12 months after the farmland owner's 1981 taxable year ends (e.g., December 31, 1982 for calendar year taxpayers).

No extensions of time are available for filing claims for these two credits.

JAIL SENTENCE AND FINE FOR TAXPAYER

A Sheboygan man has been ordered to serve a jail sentence and pay \$1,000 in fines for criminal violations of Wisconsin state tax laws.

Chester E. Karstaedt, 2306 Erie Avenue, Sheboygan, Wisconsin, president and treasurer of Shegan Sales, Ltd., a corporation, was sentenced in December, 1981 in Sheboygan County Circuit Court, Branch 4, on one count of failing to file a state corporation franchise tax return and one count of filing a false and fraudulent state sales tax return. Judge Anderson ordered Karstaedt to pay a \$500 fine and sentenced him to 20 days in the Sheboygan County Jail on each of the two counts. The jail terms are to run concurrently.

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Criminal charges were filed against Karstaedt by the Sheboygan County District Attorney's Office after an investigation by the Intelligence Section. Karstaedt was charged with failure to file a state corporation franchise tax return for Shegan Sales, Ltd. on income of more than \$24,000 for the year 1977. He was also charged with failing to report more than \$59,000 in taxable sales on the corporation

sales tax return for the year 1976. He pled no contest to the charges on October 1, 1981.

PRISON TERMS FOR TAX EVASION

Criminal charges were filed against Patrick J. Flanigan and Rick F. Heber following investigations by the Intelligence Section of the Wisconsin Department of Revenue, the Wisconsin Department of Justice, and the University of Wisconsin Protection and Security Department.

Patrick J. Flanigan, 1136 Shorewood Boulevard, Madison, a former University of Wisconsin professor, was sentenced on December 30, 1981 on two counts of state income tax evasion and two counts of theft.

Flanigan was charged on December 11, 1981 with failing to report more than \$41,000 in taxable income for 1978 and \$36,000 for 1979 and evading more than \$4,600 in state income taxes for 1978 and \$2,900 for 1979. He was found guilty after pleading no contest to the charges in Dane County Circuit Court, Branch 7, before Dane County Judge William L. Buenzli. Judge Buenzli sentenced Flanigan to serve five years at the Waupun State Prison on each of the four counts. Judge Buenzli ordered that the sentences be served concurrently with each other.

Rick F. Heber, who formerly resided at Route 1, Merrimac, Wisconsin, was convicted on February 25, 1982 on two counts of state income tax evasion and two counts of theft, ordered to pay \$10,000 in fines, serve four years in prison and make restitution of taxes owed and funds embezzled.

Heber, the former director of the University of Wisconsin Madison

Waisman Center on Mental Retardation, was charged with failing to report more than \$19,000 in taxable income for 1978 and \$46,000 for 1979. He was found guilty after pleading no contest to the charges in Dane County Circuit Court, Branch 12, before Judge Mark A. Frankel. Judge Frankel ordered Heber to pay a \$5,000 fine on each of the two counts for state income tax evasion and sentenced him to four years imprisonment, to be served concurrently, on each of the two counts of theft. Heber was also ordered to serve probation for one year. Under the conditions of probation, Heber must make restitution of the state income taxes due and funds embezzled.

Filing a false state income tax return is a crime punishable by a maximum fine of \$10,000 or imprisonment for five years or both. In addition to the criminal penalties provided by statute, Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collection of the additional taxes, penalties and interest due follows conviction for criminal violation.

STATUS OF REPEAL OF RULES 2.30 AND 2.97

In the January, 1982 issue of the WTB it was reported that the department was in the process of repealing Administrative Rules Tax 2.30 and 2.97. Both of these rules relate to the determination of gain on assets acquired prior to becoming a Wisconsin resident. The repeal of these rules is being proposed so that the principles established by the Wisconsin Supreme Court's decision in the Romain A. Howick case relating to losses will also apply for determining gains when property acquired before becoming a Wisconsin resident is sold by an individual while he or she is a Wisconsin resident.

On February 26, 1982 the department held a public hearing to receive testimony on the proposed repeal of Tax 2.30 and 2.97. As required by the rule making process, the proposed repeal of these rules has now been referred to the presiding officers of the two houses of the Legislature for consideration by their respective standing committees.

The status of these two rules will also be reported in the July, 1982 issue of the WTB.

DUE DATES OF 1982 ESTIMATED TAX PAYMENTS

Every individual, whether or not a resident of Wisconsin, is required to file a 1982 declaration of Wisconsin estimated tax (Form 1-ES) if the individual expects his or her Wisconsin income tax liability to exceed withholding upon wages, if any, by \$100 or more.

Individuals required to file a 1982 declaration during the first quarter of 1982 must do so on or before April 15, 1982. Installment payments are also due on June 15, 1982, September 15, 1982, and January 17, 1983 for calendar year taxpayers.

Every corporation subject to Wisconsin income/franchise taxes is required to file a 1982 declaration of estimated corporation franchise or income tax (Form 4-ES) if it expects to have a tax liability of \$2,000 or more. Installment payments are due on the fifteenth day of the third month, sixth month, and ninth month of the taxable year and the fifteenth day of the first month after the close of the taxable year.

Corporations should keep in mind the change in Wisconsin law (Chapter 20, Laws of 1981) concerning exceptions 1 (s. 71.22(10)(a)) and 2 (s. 71.22(10)(b)) to avoid an addition to the tax penalty. To qualify for exception 1 or 2, a corporation's installment payments of 1982 taxes must be the larger of (a) the amounts required under exceptions 1 or 2, or (b) 60% of the actual tax liability for 1982.

A trust or estate is not required to file a declaration.

GIFT TAX RETURNS DUE APRIL 15

With the exception of gifts of real estate and tangible personal property located outside of Wisconsin, all gifts made by Wisconsin residents are taxable. It does not matter whether the donee lives in Wisconsin or in another state; a gift received from a Wisconsin resident is still taxable.

Also taxable are gifts made by non-residents of Wisconsin of property (both real estate and tangible personal property) located in Wiscon-

sin. Such gifts are taxable regardless of where the donee resides.

Wisconsin gift tax reports must be filed for any calendar year in which the total value of taxable gifts made by one donor (person giving the gift) to one donee (person receiving the gift) in that year exceeds \$3,000. Gift tax reports of the donee and donor for 1981 must be filed by April 15, 1982.

The donor reports gifts made on Form 7. On this form the donor enters the description and value of the gifts made to each donee.

The donee reports the gifts he or she received on Form 6, and includes the description and value of the gifts received from one donor. If the donee received gifts from more than one donor during that year, the donee must file a separate report of gifts received from each donor.

The computation of the gift tax due must be made on Form 6. In determining the gift tax due, an annual exemption of \$3,000 is allowed for all gifts made during a calendar year by one donor to one donee. Until June 30, 1982 there is a lifetime exemption of \$100,000 for gifts between spouses. Gifts made between spouses on or after July 1, 1982 will be completely exempt from Wisconsin gift tax. A lifetime personal exemption of \$10,000 is allowed for gifts between donors and their lineal issue (children, grandchildren), lineal ancestor (parents, grandparents), wife or widow of a son, husband or widower of a daughter, adopted or mutually acknowledged child, and mutually acknowledged parent. There is no lifetime exemption allowed to other donees.

REMINDER! TAXPAYERS MUST NOTIFY DEPARTMENT OF FEDERAL ADJUSTMENTS AND AMENDED RETURNS

If a taxpayer's federal income tax return is adjusted by the Internal Revenue Service (IRS), and the adjustments affect the amount of Wisconsin income reportable or tax payable, such adjustments must be reported to the Wisconsin Department of Revenue within 90 days after they become final. In addition, taxpayers filing an amended return with the IRS or another state must also notify the department within 90 days of filing if information in the amended return affects the amount

of Wisconsin income reportable or tax payable.

Administrative Rule Tax 2.105 provides additional information regarding this reporting requirement and indicates when adjustments made by the IRS are considered to become final.

An amended Wisconsin return or copy of the federal audit report should be sent to:

Wisconsin Department of Revenue
Audit Bureau
Post Office Box 8906
Madison, Wisconsin 53708

SPECIAL NOTICE SENT TO FARMLAND OWNERS

Under the provisions of ss. 71.09(11)(b)2 and 91.13(8)(e) of the Wisconsin Statutes, a claimant filing for a farmland preservation credit on the basis of a farmland preservation agreement may compute a credit either (a) on the basis of the law in effect for the year for which the claim is filed or (b) the provisions of law which were in effect at the time the farmland preservation agreement was executed. The greater of the two amounts may be claimed as the credit for the year. This optional computation provision applies only to farmland covered by a farmland preservation agreement; it does not apply to farmland covered by exclusive agricultural zoning.

Changes in the farmland preservation law which were effective for the year 1981 require the add back of non-farm business losses and certain depreciation expenses. Also a \$7,500 exclusion previously allowed for non-farm wages was repealed for 1981. Because of these changes, it is possible that some claimants may determine a greater amount of credit for 1981 by using prior law (option "b" above). Since the instructions for the 1981 farmland filing form (Schedule FC) do not explain the optional method of computing a credit, during the week of February 1, 1982 a special informational notice concerning the optional method was sent to approximately 2,000 farmland owners who have entered into farmland preservation agreements with the state.

The notice explained that to compute the amount of farmland credit available under the provisions of

prior law, the amount of household income determined on a 1981 farmland credit claim (Schedule FC) should be used as the starting point and then adjusted as follows:

- Subtract the amount of any depreciation in excess of \$20,000 (amount entered on line 6 of 1981 Schedule FC)
- Subtract the amount of any non-farm business loss (amount entered on line 7 of the 1981 Schedule FC)
- Subtract the first \$7,500 of non-farm wages included in Household Income (non-farm wages would have been included on line 4 of the 1981 Schedule FC) - Corporations may subtract up to \$7,500 of non-farm wages received by the household of each corporate shareholder

Using the adjusted household income, the farmland computation tables for the appropriate prior year are then used to determine the amount of credit under the prior law method. Farmland owners with farmland preservation agreements which were executed before July 29, 1979 must calculate their prior law credit by using the farmland tables which were in effect for 1978. Farmland owners having contracts executed between July 29, 1979 and July 30, 1981 must use the farmland tables from either 1979 or 1980 (the tables were the same for both years). Owners whose contracts were executed after July 30, 1981 may use only current law to compute their credit; thus, no optional computation is available to them. The "execution" date is shown on the front page of the farmland preservation agreement. Copies of the appropriate farmland tables were provided to each farmland owner along with the informational notice he or she received.

The amount of credit computed under the prior law method is then to be compared to the credit computed under current law, with the larger of the two amounts being claimed as a farmland credit for 1981.

If the credit claimed on the 1981 Schedule FC is based on prior law, the form must be marked "CREDIT DETERMINED BY USING _____LAW". The appropriate year should be inserted. Also, a

schedule showing the computation of adjusted household income should be attached to the Schedule FC which is filed.

EMPLOYERS REQUIRED TO SUBMIT EXCESS WITHHOLDING EXEMPTION CERTIFICATES

Wisconsin law provides that when an employer is required to furnish a copy of an employee's exemption certificate (federal Form W-4) to the Internal Revenue Service (IRS), a copy must also be furnished to the Wisconsin Department of Revenue. The copies must be submitted to the Department of Revenue, Compliance Bureau, P.O. Box 8902, Madison, Wisconsin 53708, within 15 days after they are filed with the IRS.

For both federal and Wisconsin purposes, employers are required to submit copies of any employee's withholding exemption certificate if:

- (1) the employee claims more than 14 withholding exemptions, or
- (2) the employee claims complete exemption from withholding and he or she earns more than \$200 per week.

Prior to February 25, 1982, federal regulations required that copies of Form W-4 be submitted to the IRS when more than 9 exemptions were claimed, instead of 14 exemptions as stated in (1) above.

A federal Form W-4 which claims complete exemption from federal withholding does not serve to exempt the employee from withholding of Wisconsin income taxes. A Wisconsin Form WT-4 (Employee's Wisconsin Withholding Exemption Certificate) must be completed for an employee to be exempt from Wisconsin withholding. Employees may claim exemption from withholding of Wisconsin income tax for 1982 if they had no liability for income tax for 1981, and they anticipate that they will incur no liability for income tax for 1982. Employees may not claim exemption from withholding if their return shows a tax liability before the allowance of any credit for income tax withheld.

If an employee earning more than \$200 per week claims complete exemption from Wisconsin withholding, employers should submit a copy

of the Wisconsin Form WT-4 to the department.

DO YOU HAVE SUGGESTIONS FOR 1982 TAX FORMS?

Each year the department receives helpful suggestions from the public regarding improvements to the Wisconsin income tax forms.

You may wish to communicate your suggestions for improving Forms 1 (individual long form) and 1A (individual short form), Forms 4 and 5 (corporation franchise/income tax returns) and Schedule H (Homestead). Send your suggestions to the Wisconsin Department of Revenue, Director of Technical Services, P.O. 8910, Madison, WI 53708. Please submit your suggestions by July 1, 1982.

NO SALES AND USE TAX NEWSLETTER FOR MARCH

The department's sales and use tax newsletter entitled "Tax Report" is generally published three times each year in March, June and September. Beginning with the October, 1980 WTB, the "Tax Report" has been included as a part of the WTB.

A "Tax Report" will not be published for March. Future issues of the "Tax Report" will be published "as needed" rather than on a March, June and September basis.

NEW ISI & E DIVISION RULES AND RULE AMENDMENTS IN PROCESS

Listed below, under parts A, B and C, are proposed new administrative rules and amendments to existing rules that are currently in the rule adoption process. The rules are shown at their stage in the process as of March 30, 1982. Part D lists new rules and amendments which have been adopted in 1982.

A. Rules At Legislative Council Rules Clearinghouse

- 2.39 Apportionment method (amendment)
- 2.40 Nonapportionable income (repealed and recreated)
- 11.01 Sales and use tax return forms (amendment)
- 11.05 Governmental units (amendment)

- 11.08 Medical appliances, prosthetic devices and aids (amendment)
- 11.10 Occasional sales (amendment)
- 11.11 Waste treatment facilities (amendment)
- 11.16 Common or contract carriers (amendment)
- 11.17 Hospitals, clinics and medical professions (amendment)
- 11.26 Other taxes in taxable gross receipts and sales price (amendment)
- 11.38 Fabricating and processing (amendment)
- 11.49 Service station and fuel oil dealers (amendment)
- 11.57 Public utilities (amendment)
- 11.66 Communication and CATV services (amendment)
- 11.69 Financial institutions (amendment)
- 11.71 Automatic data processing (new rule)
- 11.84 Aircraft (amendment)
- 11.85 Boats, vessels and barges (amendment)
- 11.87 Meals, food, food products and beverages (amendment)
- 11.93 Annual filing of sales tax returns (amendment)
- 11.97 "Engaged in business" in Wisconsin (amendment)

B. Rules At Legislative Standing Committees

- 2.30 Property located outside Wisconsin—depreciation and sale (amendment)
- 2.97 Sale of constant basis assets acquired prior to becoming a Wisconsin resident (amendment)
- 10.14 Valuation of United States treasury bonds (new rule)
- 11.56 Printing industry (new rule)

C. Rules Approved By Legislature But Not Effective

- 5.01 Filing reports (amendment)
- 10.10 Taxation of savings, mortgage and credit life insurance (amendment)
- 10.11 Federal estate tax deduction (amendment)
- 10.12 Deductibility of income taxes (amendment)
- 10.13 Apportionment of property qualifying for exception (new rule)

D. Rules Adopted in 1982 (In parentheses is the date the rule was adopted.)

- 2.081 (3) Indexed income tax rate schedule for taxable year 1981 (1/1/82, new rule)
- 11.12 Farming, agriculture, horticulture and floriculture (1/1/82, amendment)
- 11.16 Common or contract carriers (1/1/82, amendment)
- 11.40 Exemption of machines and processing equipment (1/1/82, amendment)
- 11.53 Temporary events (2/1/82, new rule)

NOTE: In Wisconsin Tax Bulletin #26 it was indicated that Wis. Adm. rule Tax 2.081 (3) and the amendments to Wis. Adm. rules Tax 11.12, 11.16 and 11.40 were adopted on December 1, 1981. However, these rules were not adopted until January 1, 1982.

REPORT ON LITIGATION

This portion of the WTB summarizes recent significant Tax Appeals Commission and Wisconsin court decisions. The last paragraph of each decision indicates whether the case has been appealed to a higher court.

The last paragraph of each WTAC decision in which the department's determination has been reversed will indicate one of the following: 1) "the department appealed", 2) "the department has not appealed but has filed a notice of nonacquiescence" or 3) "the department has not appealed" (in this case the de-