

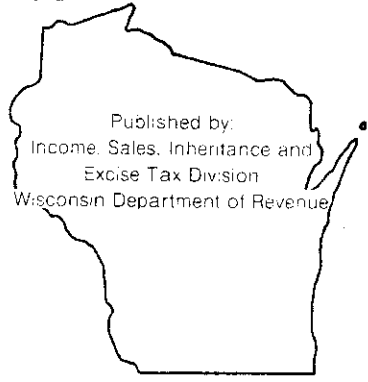
WISCONSIN TAX BULLETIN

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NEW LAW - CURRENT SALES TAX AND CIGARETTE TAX RATES CONTINUED

As of March 15, 1983 the only new tax law enacted this year was Wisconsin Act 1. This new law continues the Wisconsin sales and use tax rate of 5% and the cigarette tax of 25¢ per pack. Without enactment of this new law, the sales and use tax rate would have reverted to 4% on July 1, 1983, the cigarette tax to 20¢ per pack on October 1, 1983.

Other new tax laws enacted into law in 1983 will be explained in future issues of the Wisconsin Tax Bulletin.

NEW SECRETARY OF REVENUE

On January 3, 1983 Michael Ley became Secretary of the Department of Revenue, succeeding Mark E. Musolf. Prior to his appointment to this cabinet level post, Ley served as Deputy Secretary of the Department of Development from 1980 to 1982. Before that he spent two years as Executive Assistant to the Secretary in the Department of Natural Resources. Ley is a past member of the Madison City Council (1972-77).

Eileen D. Mershart has been appointed as Deputy Secretary of Revenue. From 1979 to 1982 she was Director of ENCORE (Adult Education) and Assistant Professor in the Department of Sociology and Social Work at the College of St. Scholastica in Duluth, Minnesota.

John M. Laabs was appointed Executive Assistant to Michael Ley. Laabs most recently served as Acting Director of the Wisconsin Counties Association, having also served there as Assistant Executive Director and Transportation Director.

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NEW BUREAU CREATED

On January 10, 1983 the Excise Tax Bureau and the Fiduciary, Inheritance and Gift Tax Bureau of the ISI&E Division were merged to form the Inheritance and Excise Tax Bureau.

The new Inheritance and Excise Tax Bureau has 80 employees. The bureau is responsible for administering the state's motor fuel, special fuel, general aviation fuel, inheritance, fiduciary, gift, cigarette, tobacco products and alcohol beverage taxes. In addition, employees of the bureau enforce the state's alcohol and tobacco laws and monitor and

approve local government retail alcohol beverage licensing activities.

Howard Lynch, previous Director of the Fiduciary, Inheritance and Gift Tax Bureau retired from state service on January 7, 1983. Lee Cheaney, previous Director of the Excise Tax Bureau, became director of the new bureau on January 10, 1983.

FILING DEADLINES FOR 1982 HOMESTEAD AND FARMLAND PRESERVATION CREDIT CLAIMS

December 31, 1983 is the deadline for filing a 1982 Wisconsin Homestead Credit claim. Farmland Preservation Credit claims for 1982 must be filed no later than 12 months after the farmland owner's 1982 taxable year ends (e.g., December 31, 1983 for calendar year taxpayers).

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

QUESTIONS CONCERNING REFUNDS

Persons who wish to inquire about their income tax or Homestead Credit refund should wait at least 10 weeks after the filing of their 1982 return. Questions about refunds for Schedule H, Form 1 and Form 1A may be directed to: Wisconsin Department of Revenue, P.O. Box 8903, Madison, Wisconsin 53708, (608) 266-8100.

DUE DATES OF 1983 ESTIMATED TAX PAYMENTS

Every individual, whether or not a resident of Wisconsin, is required to file a 1983 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 1983 declaration during the first quarter of

1983 must do so on or before April 15, 1983. Installment payments are also due on June 15, 1983, September 15, 1983, and January 16, 1984 for calendar year taxpayers.

Every corporation subject to Wisconsin income/franchise taxes is required to file a 1983 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.

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 Wisconsin. 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 1982 must be filed by April 15, 1983.

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.

COMMUNITY DEVELOPMENT FINANCE AUTHORITY DEDUCTION AND CREDIT

The Community Development Finance Authority, which was created by the Legislature in Chapter 371, Laws of 1981, is a nonprofit public corporation formed to develop or redevelop blighted or impoverished areas in Wisconsin. The program is under the direction of the Department of Development.

This law in Chapter 371 provides for a deduction for contributions which individuals and corporations make to the Authority (ss. 71.02(2)(f) and 71.04(5m), Wis. Stats.). The deduction is an itemized deduction for individuals. For corporations it is a deduction from gross income. A tax credit is also allowed for individuals and corporations making a contribution to the Community Development Finance Authority and, in the same year, purchasing common stock or a partnership interest in a Community Development Finance Company.

The Department of Development indicates they did not receive any contributions nor did they offer stock or partnership interests in Community Development Finance Companies in the calendar year 1982.

ATTORNEY CONVICTED FOR FAILURE TO FILE

A Princeton attorney has been ordered to pay \$500 in fines for criminal violations of the Wisconsin state income tax laws.

Spencer A. Markham, 102 West Water Street, Princeton, Wisconsin, was convicted in January, 1983 in Dane County Circuit Court, after he entered no contest pleas to two

counts of failing to file state income tax returns. He was ordered to pay a \$250 fine on each count or serve 30 days in jail.

Criminal charges were filed against Markham by the Dane County District Attorney's Office after an investigation by the Intelligence Section of the Wisconsin Department of Revenue. Markham was charged with failing to file state income tax returns on gross income of more than \$23,000 for 1978 and \$28,000 for 1979.

REMINDER! 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 final.

An amended Wisconsin return or copy of the federal audit report should be sent to: Wisconsin Department of Revenue, Audit Bureau, P.O. Box 8906, Madison, Wisconsin 53708.

SUGGESTIONS FOR 1983 TAX FORMS

Do you have suggestions to improve the Wisconsin income tax forms? If so, send your suggestions to the Wisconsin Department of Revenue, Director of Technical Services, P.O. Box 8910, Madison, Wisconsin 53708. Please submit your suggestions by July 1, 1983.

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 1, 1983. Part D lists new rules and amendments which have been adopted in 1983.

("A" means amendment, "NR" means new rule, "R" means repealed and "R & R" means repealed and recreated.)

A. Rules at Legislative Council Rules Clearinghouse

- 2.82 Nexus-A
- 4.50 Assignment, use and reporting of Wisconsin state tax number-A
- 7.21 Labeling-A
- 7.22 Tied house law; volume and quantity discounts-R
- 7.23 Activities of brewers, bottlers and wholesalers-A
- 8.02 Revenue stamps-occupational tax-A
- 8.11 Reports-A
- 8.21 Purchases by the retailer-A
- 8.22 Purchases made outside of state-A
- 8.35 Interstate shipments-A
- 8.42 Wine containers-R
- 8.43 Empty containers-A
- 8.66 Merchandise on collateral-A
- 8.76 Salesperson-A
- 8.81 Transfer of retail liquor stocks-A
- 8.85 Procedure for apportionment of cost of administration of s. 176.05 (23), Stats.-A
- 8.86 Tied house law; volume and quantity discounts-R
- 9.12 Refunds-military-A
- 11.71 Automatic data processing-NR

B. Rules at Legislative Standing Committees

- 11.03 Elementary and secondary schools and related organizations-A
- 11.05(3) Governmental units-A
- 11.10 Occasional sales-A
- 11.12 Farming, agriculture, horticulture and floriculture-A
- 11.14 Exemption certificates (including resale certificates)-A
- 11.15 Containers and other packaging and shipping materials-A
- 11.16 Common or contract carriers-A

- 11.19 Printed material exemptions-A
- 11.26 Other taxes in taxable gross receipts and sales price-A
- 11.32(3) "Gross receipts" and "sales price"-A
- 11.39 Manufacturing-A
- 11.48 Landlords, hotels and motels-A
- 11.49 Service station and fuel oil dealers-A
- 11.50 Auctions-A
- 11.51 Grocers' guidelist-A
- 11.52 Coin-operated vending machines and amusement devices-A
- 11.57 Public utilities-A
- 11.65 Admissions-A
- 11.67 Service enterprises-A
- 11.68 Construction contractors-A
- 11.84 Aircraft-A
- 11.87 Meals, food, food products and beverages-A
- 11.96 Interest rates-A
- 11.98 Reduction of delinquent interest rate under s. 77.62(1), Stats.-A

C. Rule Approved by Legislature But Not Effective

- 11.56 Printing industry-NR

D. Rules Adopted in 1983 (in parentheses is the date the rule was adopted)

- 2.081(5) Indexed income tax rate schedule for 1982-NR, (1/1/83)
- 2.945 Spousal individual retirement contributions-NR, (1/1/83)
- 11.001 Definitions and use of terms-A, (2/1/83)
- 11.01 Sales and use tax return forms-A, (2/1/83)
- 11.05(2) Governmental units-A, and(3) (2/1/83)
- 11.08 Medical appliances, prosthetic devices and aids-A, (2/1/83)
- 11.10 Occasional sales-A, (2/1/83)
- 11.16 Common or contract carriers-A, (2/1/83)
- 11.17 Hospitals, clinics and medical professions-A, (2/1/83)
- 11.26 Other taxes in taxable gross receipts and sales price-A, (2/1/83)
- 11.32(4) "Gross receipts" and and(5) "sales price"-A, (2/1/83)
- 11.38 Fabricating and processing-A, (2/1/83)

- 11.49 Service station and fuel oil dealers-A, (2/1/83)
- 11.57 Public utilities-A, (2/1/83)
- 11.66 Communications and CATV services-A, (2/1/83)
- 11.69 Financial institutions-A, (2/1/83)
- 11.84 Aircraft-A, (2/1/83)
- 11.85 Boats, vessels and barges-A, (2/1/83)
- 11.87 Meals, food, food products and beverages-A, (2/1/83)
- 11.93 Annual filing of sales tax returns-A, (2/1/83)
- 11.97 "Engaged in business" in Wisconsin-A, (2/1/83)

NOTE: The proposed new rules tax 16.01, 16.02, 16.03 and 16.04 relating to the property tax deferral program and the proposed revisions to rules tax 2.39 and 2.40 have been withdrawn and will not be adopted.

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 department has acquiesced to Commission's decision).

The following decisions are included:

INCOME AND FRANCHISE TAXES

- Edwin F. Gordon vs. Wisconsin Department of Revenue
- John Kavalunas vs. Wisconsin Department of Revenue
- Ronald D. Stelson, et.al. vs. Wisconsin Department of Revenue
- Alfred L. Wenger and Laura E. Wenger vs. Wisconsin Department of Revenue

SALES/USE TAXES

- A.F. Gelhar Co., Inc. vs. Wisconsin Department of Revenue
- Security Savings and Loan Association vs. Wisconsin Department of Revenue