

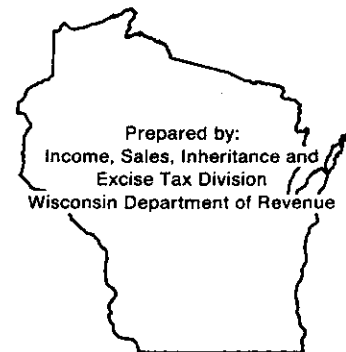
WISCONSIN TAX BULLETIN

Subscriptions available from:

October 1985
NUMBER 44

**Wisconsin Department of
Administration
Document Sales**

P.O. Box 7840
Madison, WI 53707
Annual cost - \$5.25



TAX AMNESTY IN EFFECT

As reported in *Wisconsin Tax Bulletin* Number 43, a tax amnesty program was enacted by the legislature and is effective for the period September 15, 1985 through November 22, 1985. Listed below is a brief description of which taxpayers are eligible for amnesty and what obligations are ineligible for amnesty. On pages 25 through 28 are copies of the Amnesty Brochure and Application for Amnesty, which provide additional information about the tax amnesty program. You may obtain additional copies of the brochure and application from any Department of Revenue office. You may write to the Wisconsin Department of Revenue, P.O. Box 7887, Madison, WI 53708, or call (toll-free) 1-800-IOU-WISC.

1. Eligible Taxpayers and Benefits of Amnesty.

Amnesty applies to all taxes administered by the Department under Chapters 71, 72, 77 (Subchapter III), 78 and 139 of the Wisconsin Statutes. This includes income, franchise, withholding, gift, inheritance, sales and use, motor fuel, cigarette, tobacco, liquor, wine and beer taxes.

Amnesty extends to the following taxpayers, including individuals, corporations, partnerships and fiduciaries. (See the exceptions in Part 2.)

- a. For a taxpayer who, during the amnesty period, has a tax liability that was delinquent on the Department's records as of May 15, 1985, 20% of the amount due as of the date of payment shall be forgiven. The maximum reduction allowable is \$5,000.
- b. For a taxpayer who, during the amnesty period, files late or amended returns, along with an application for amnesty, reporting a tax liability that had not been reported or established previously, the Department shall not impose civil penalties and late fil-

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ing fees or pursue criminal prosecution. In addition, the Department shall reduce delinquent interest due to 1% per month. The addition to the tax for underpayment of taxes may be assessed.

- c. For a taxpayer who, during the amnesty period, has a tax liability that was not delinquent on the Department's records as of May 15, 1985 and is based on an assessment, determination or notice of amount due issued by the Department before or during the amnesty period, the Department shall waive civil penalties (with the exceptions listed in the Application for Amnesty) and late filing fees. Also, the Department shall reduce delinquent interest due to 1% per month.

2. Ineligible Obligations.

The amnesty program is not available for any tax liability involved in

- a. A civil collection action.
- b. An appeal before the Appellate Bureau, the Tax Appeals Commission or any court unless that appeal is withdrawn by the taxpayer.
- c. An adverse decision of the taxpayer's appeal from the Tax Appeals Commission or any court during the amnesty period.
- d. A criminal tax investigation or pending criminal tax litigation provided the taxpayer has been notified by the date of application for amnesty that he or she is a party to such action.

TAXPAYERS TO RECEIVE FORMS 1099-G IN JANUARY 1986

An information return, Form 1099-G, will be mailed to taxpayers who received a Wisconsin income tax refund in 1985. Section 6050E of the Internal Revenue Code requires the

Department of Revenue to send this 1985 information return to taxpayers.

Only those taxpayers who claimed itemized deductions on their 1984 federal income tax returns should receive Forms 1099-G.

If a married person had offset part or all of his or her refund against tax owed by his or her spouse on a combined return, the full amount of the refund (amount before the offset) will be reported on Form 1099-G. For example, on their 1984 return spouse A had a refund of \$400 which was applied against spouse B's tax due of \$150. A refund check of \$250 ($\$400 - \$150 = \$250$) was issued to spouse A in 1985. The full amount of refund (\$400 in this example) will be reported on the 1985 Form 1099-G for spouse A.

If both a husband and wife receive a refund when filing a combined return, a separate Form 1099-G will be prepared for each spouse showing that spouse's refund. For example, on their 1984 combined return spouse A showed a refund of \$75 and spouse B a refund of \$125. One refund check of \$200 was sent to them in 1985. The Form 1099-G for spouse A will show a \$75 refund. The Form 1099-G for spouse B will show a \$125 refund.

ADVANCE NOTICE: JOINT RETURNS AND JOINT DECLARATIONS OF ESTIMATED TAX FOR 1986 TAXABLE YEAR

As reported in *Wisconsin Tax Bulletin* Number 37, 1983 Wisconsin Act 186 created a marital property system for Wisconsin. As part of the new marital property system, married persons will be permitted to file joint Wisconsin income tax returns, beginning with the 1986 taxable year. Income tax returns for the 1986 taxable year would be filed in 1987.

Beginning with the 1986 taxable year, married persons may file a joint declaration of estimated tax. To be considered a joint declaration, both the husband's and the wife's name and social security number must be entered on the declaration voucher, and both spouses must sign the voucher. If only one spouse's name, social security number or signature appears on the declaration voucher, the payment will be treated as that

spouse's separate estimated tax payment.

The 1986 declaration of Wisconsin estimated tax (Form 1-ES) will be available in January 1986.

FEDERAL TAX LAWS ENACTED IN 1985 DO NOT APPLY FOR WISCONSIN

Federal tax laws enacted during 1985 may not be used in determining Wisconsin taxable income for 1985. This will result in certain income and deduction items being different on 1985 Wisconsin and federal income tax returns. As in prior years, Wisconsin Schedule I should be used to adjust for these differences. The only federal law enacted during 1985 (as of October 1, 1985) which may result in a difference between Wisconsin and federal income for 1985 is Public Law 99-44. This law limits depreciation deductions for luxury automobiles placed in service or leased after April 2, 1985 in taxable years ending after that date. Depreciation in the first taxable year the automobile is placed in service is limited to \$3,200. Depreciation in any subsequent taxable year is limited to \$4,800. This change will not apply for Wisconsin for 1985.

The 1985 Wisconsin Schedule I will contain more information about federal tax laws which do not apply for Wisconsin for 1985. Schedule I will be available at Department offices in January 1986.

TAX RETURN STATISTICS FOR 1984

During the past year 2,220,000 Wisconsin income tax returns were filed for 1984. In addition, 275,000 Homestead Credit claims for 1984 and 16,000 Farmland Preservation Credit claims were filed for the year.

The 2,220,000 income tax returns for 1984 were filed by 3,130,000 individuals. (The combined return of a husband and wife is considered one return.) Itemized deductions were claimed by 25% of the individuals, and the standard deduction was claimed by 75%.

Taxpayers were issued a total of 1,800,000 income tax refunds on 1984 returns, averaging \$267 each. The average refund for 1983 returns was \$216.

Homestead Credit refunds averaged \$360 per claimant, an increase from the average refund of \$325 issued last year. About 43% of the claimants were age 65 or older. Of the individuals claiming Homestead Credit, 40% were renters and 60% were homeowners.

An average payment of \$1,666 was issued to each Farmland Preservation Credit claimant. The average payment for 1983 claims was \$1,575.

As a result of Wisconsin's 5% minimum tax, 13,300 persons made an average payment of \$1,490 each.

REMINDER: FILING DEADLINES FOR 1984 HOMESTEAD AND FARMLAND PRESERVATION CREDIT CLAIMS

December 31, 1985 is the deadline for filing a 1984 Homestead Credit claim. Farmland Preservation Credit claims for 1984 must be filed no later than 12 months after the farmland owner's 1984 taxable year ends. December 31, 1985 is the deadline for filing a 1984 Farmland Preservation Credit claim for farmland owners who are calendar year taxpayers.

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

REMINDER: EMPLOYERS MUST SUBMIT COPIES OF CERTAIN EMPLOYEE WITHHOLDING EXEMPTION CERTIFICATES TO THE DEPARTMENT

Wisconsin law requires employers to submit copies of employee withholding exemption certificates to the Department whenever they are required to provide such information to the Internal Revenue Service (IRS). The copies must be submitted to the Department 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 number of exemptions claimed is more than 14 or (2) the employee is claiming complete exemption from withholding and he or she earns more than \$200 per week.

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.

Wisconsin Administrative Code section 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 the Wisconsin Department of Revenue, Audit Bureau, P.O. Box 8906, Madison, WI 53708.

REMINDER: NONRESIDENT ENTERTAINERS REQUIRED TO FILE SURETY BOND OR CASH DEPOSIT

A "nonresident" entertainer who performs in Wisconsin for a contract price that exceeds \$3,200 is required to file a surety bond or cash deposit with the Department of Revenue in an amount of 6% of his or her total contract price.

If the bond or deposit is not filed, the "employer" at the event is required to withhold the 6% from the nonresident entertainer's payment. If the employer fails to withhold the required amount, the employer will be held liable for the amount that should have been withheld.

A "nonresident entertainer" is a nonresident person who furnishes amusement, entertainment or public speaking services, or performs in one or more sporting events, and includes a foreign corporation (one not organized under the laws of Wisconsin) not regularly engaged in business in Wisconsin which derives income from any of these activities or from these services performed by a nonresident person.

An "employer" is any Wisconsin resident person or firm which contracts for the services of a nonresident entertainer. In the absence of such resident contracting person, the employer is the last resident person or firm to have receipt, custody or control of the proceeds of the event. If there is neither a resident contracting person nor a resident with control of the proceeds, the employer is any nonresident person or firm who contracts for or has control of the proceeds of the event.

Amounts of cash deposited with the Department of Revenue with Form WT-10 and amounts withheld by employers and reported on Form WT-11 may be claimed as a credit by the nonresident entertainer on his or her Wisconsin income tax return for the year in which his or her appearance was made. Any amounts deposited or withheld that are in excess of the nonresident entertainer's Wisconsin tax liability will be refunded without interest.

Surety bonds filed with the Department of Revenue with Form WT-10 will be released when the nonresident entertainer's tax liability for the year involved has been satisfied.

Additional information may be obtained by requesting Publication 508, entitled *Wisconsin Tax Requirements Relating to Nonresident Entertainers*.

Copies of Publication 508, Form WT-10, Form WT-11 and the Nonresident Entertainer's Surety Bond may be obtained from the Wisconsin Department of Revenue, Central Services Section, P.O. Box 8903, Madison, WI 53708.

Any questions about the requirements of this law may be directed to Edward Pelner, Wisconsin Department of Revenue, P.O. Box 8906, Madison, WI 53708, telephone (608) 266-3627.

FARMLAND SELLERS MAY CLAIM FARMLAND CREDIT

Beginning with the 1984 taxable year, the seller of farmland may claim farmland preservation credit as well as the buyer of the farmland. Prior to 1984, only the owner at the end of the taxable year was eligible to claim the credit. The seller and buyer must prorate the farmland real estate taxes between them based on the closing agreement pertaining to

the sale of the farmland or, if the closing agreement does not specify a proration, according to their periods of ownership.

Sellers and buyers must each attach the following documents to their farmland preservation credit claims:

1. Attach a copy of your farmland preservation agreement or a 1984 zoning certificate showing the farmland is covered by a qualified farmland preservation program.
2. Attach a copy of the closing statement from the sale of the farmland showing the prorated real estate taxes. If the closing statement does not show the prorated real estate taxes, submit a schedule showing an equitable proration of the 1984 real estate taxes based on your period of ownership.
3. Attach copies of the 1984 real estate tax bills showing the total taxes eligible for farmland preservation credit. The seller of the farmland can obtain copies of the real estate tax bills from the township treasurer or the county treasurer.

1985 INCOME AND FRANCHISE TAX FORMS

For tax practitioners and others who wish to print their own supplies of Wisconsin tax forms, camera copy of the 1985 Wisconsin income and franchise tax forms and the 1986 declaration of estimated tax forms may be purchased from the WISCOMP Center. The cost is \$15 per side of a page which includes the 5% Wisconsin sales tax, handling and shipping. The camera copy of 1985 corporation forms is available immediately. Camera copy for most of the other tax forms is expected to be available about November 1, 1985. A clip out order form is located on the last page of this Bulletin. Address orders to WISCOMP, One West Wilson Street, Room B345, Madison, WI 53702. Make your remittance payable to WISCOMP. Your remittance must accompany your order. Orders are processed on a 24 hour basis.

BULK ORDERS OF TAX FORMS

In 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 1985 Wisconsin income tax forms. As in past years, professional tax preparers are subject to a handling charge on their orders. No charge is made for forms used for distribution to the general public (for example, in a bank, library or post office).

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 1984 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.

MOTOR FUEL AND SPECIAL FUEL TAX REFUNDS

Refunds of Wisconsin motor fuel or special fuel tax may be obtained for purchases of fuel consumed for the purposes other than operating a motor vehicle on the public highways. Examples of allowable refunds include taxes paid on fuel used in non-highway equipment for recreation, farming, construction, logging or lawn work. Taxes paid on fuel used in snowmobiles is not refundable. Refunds will not be available on purchases made on or after January 1, 1986 for fuel consumed in motorboats. Also, no refund will be allowed for purchases made after July 1, 1986 for fuel consumed in all-terrain vehicles unless the all-terrain vehicle is registered for private use under section 23.33(2)(d).

Refund claims must be filed with the Department of Revenue within 12 months from the date gasoline is purchased and consumed. For example, if gasoline is purchased for use in a farm tractor on June 4, 1985, a refund claim must be filed on or before June 4, 1986. Extensions of time for filing refund claims are not available.

There are no limitations as to the number of refund claims that may be filed within a year. If a claimant

makes numerous purchases throughout the year, he or she may wish to file a claim every 3 or 4 months or at any convenient interval.

A claim must be filed on Form 3 "Claim for Motor Fuel Tax Refund". Form 3 is available at any Wisconsin Department of Revenue office and each county clerk's office, or it may be obtained by contacting the Department as follows: Wisconsin Department of Revenue, P.O. Box 8900, Madison, WI 53708, telephone (608) 266-1231.

Claims require a listing of the vehicles or equipment that qualify for refund, the number of gallons of fuel used in each vehicle and a description of the work performed. In addition, claims must be supported by original purchase invoices reflecting the fuel purchase and payment of the Wisconsin motor fuel or special fuel tax.

TAXPAYER CONVICTED FOR FAILURE TO FILE RETURNS

A Dodge County man has been ordered to serve probation and pay court costs for criminal violations of the Wisconsin state income tax law. Loyal H. Evans of Horicon, Wisconsin was convicted in Dodge County Circuit Court, Branch 3, after he pleaded no contest to three counts of failing to file state income tax returns. Circuit Judge Thomas W. Wells withheld sentence and ordered Evans to serve three years probation on each of the three counts, to run concurrently. Under the conditions of probation, Evans must file Wisconsin income tax returns for 1980, 1981, 1982, 1983 and 1984 and pay the back taxes, penalties and interest for 1981, 1982 and 1983.

NEW ISI&E DIVISION RULES AND RULE AMENDMENTS IN PROCESS

Listed below, under Parts A and B, 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 October 1, 1985. Part C lists new rules and amendments which have been adopted in 1985.

("A" means amendment, "NR" means new rule, "R" means repealed

and "R&R" means repealed and recreated.)

A. Rules at Legislative Council Rules Clearinghouse

- 11.03 Elementary and secondary schools-A
- 11.05 Governmental units-A
- 11.65 Admissions-A
- 11.71 Computer industry-NR
- 11.83 Motor vehicles-A

B. Rules at Legislative Standing Committees

- 2.045 Information returns; form 9c for employers of nonresident entertainers, entertainment corporations or athletes-R
- 3.22 Real estate and personal property taxes of corporations-R
- 3.30 Depreciation and amortization, leasehold improvements: corporations-R
- 3.31 Depreciation of personal property of corporations-R
- 3.61 Mobile home monthly parking permit fees-R

C. Rules Adopted in 1985 (in parentheses is the date the rule became effective)

- 8.51 Labels-A (9/1/85)
- 8.61 Advertising-A (9/1/85)
- 8.76 Salesperson-A (9/1/85)
- 8.81 Transfer of retail liquor stocks-A (9/1/85)
- 11.002 Permits, application, department determination-NR (9/1/85)
- 11.10 Occasional sales-A (5/1/85, 9/1/85)
- 11.16 Common or contract carriers-A (9/1/85)
- 11.17 Hospitals, clinics and medical professions-A (9/1/85)
- 11.50 Auctions-A (5/1/85)
- 11.52 Coin-operated vending machines and amusement devices-A (9/1/85)
- 11.53 Temporary events-A (9/1/85)
- 11.54 Temporary amusement, entertainment, or recreational events or places-A (9/1/85)
- 11.62 Barbers and beauty shop operators-A (9/1/85)
- 11.67 Service enterprises-A (9/1/85)
- 11.68 Construction contractors-A (9/1/85)
- 11.69 Financial institutions-A (9/1/85)
- 11.97 "Engaged in business" in Wisconsin-A (9/1/85)