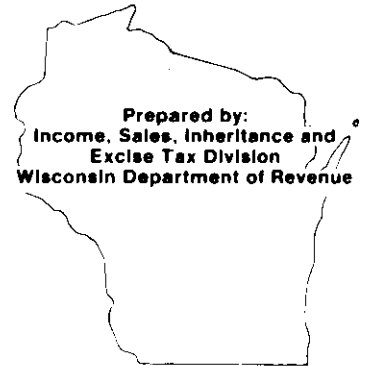


# WISCONSIN TAX BULLETIN

July 1987  
NUMBER 51

Subscriptions available from:

Wisconsin Department of  
Administration  
Document Sales  
P.O. Box 7840  
Madison, WI 53707  
Annual cost \$5.00



Prepared by:  
Income, Sales, Inheritance and  
Excise Tax Division  
Wisconsin Department of Revenue

## NEW TAX LAWS

The Governor's Revenue Bill and Budget Bill were still pending before the Wisconsin Legislature at the time this issue went to press. As soon as these bills become law, a special issue of the Wisconsin Tax Bulletin will be published to provide information about the tax law changes.

## 6-MONTH EXTENSION OF TIME TO FILE AVAILABLE TO CORPORATIONS

Federal law provides that corporations can receive from the IRS a 6-month extension of time to file their federal corporate income tax returns (federal Form 1120 series) by filing Form 7004, "Application for Automatic Extension of Time to File Corporate Income Tax Return."

Wisconsin law provides that any extension of time granted by the IRS for filing a federal return will also extend the time for filing the corresponding Wisconsin return (Section 71.10(5)(a), Wis. Stats.). Therefore, corporations allowed a 6-month extension by the IRS will also be allowed a 6-month extension to file their Wisconsin income/franchise tax return. A copy of the federal extension must be attached to the Wisconsin return when it is filed.

## CONVICTION FOR SALES TAX EVASION

The former wife of former Posse Comitatus leader James P. Wickstrom was found guilty in Shawano County Circuit Court on tax evasion charges and was ordered to

### IN THIS ISSUE

	Page
New Tax Laws .....	1
6-Month Extension of Time to File Available to Corporations .....	1
Conviction for Tax Evasion .....	1
Violation of State Income Tax Law .....	1
Eight Charged for Filing False MV-1's .....	2
New ISI&E Division Rules and Rule Amendments in Process .....	2
Report on Litigation .....	3
Tax Releases	
Individual Income Taxes .....	9
Corporation	
Franchise/Income Taxes .....	13
Sales/Use Taxes .....	17
County Sales/Use Taxes .....	18

pay \$4,170 in unpaid sales tax. She was also ordered to pay a fine and costs of \$830.

Judge Thomas Grover found Mrs. Wickstrom guilty of six counts of selling merchandise without a state permit.

## VIOLATION OF STATE INCOME TAX LAW

A Fontana man has been ordered to serve two years probation and pay a \$500 fine for criminal violation of the Wisconsin state income tax law.

James A. Begg, III, Fontana, was convicted in Walworth County Circuit Court, Branch 2, Elkhorn after he entered a no contest plea to one count of failing to file a state income tax return for 1985. Circuit Judge James L. Carlson withheld sen-

tence, placed Begg on probation for two years and ordered him to pay a \$500 fine as a condition of probation. Begg must also pay back taxes and interest in excess of \$500 and file state income tax returns on time during the probationary period.

Criminal charges were filed against Begg by the Walworth County District Attorney's office after an investigation by the Intelligence Section of the Department of Revenue. Begg was charged with failing to file state income tax returns for each of the years 1983, 1984 and 1985. Charges for 1983 and 1984 were dismissed in accord with a plea agreement.

Wallace W. Radke, 713 - 21st Avenue, Monroe, Wisconsin was convicted in Green County Circuit Court, Monroe, after he entered no contest pleas to three counts of failing to file individual state income tax returns and one count of failing to file a corporation franchise tax return. Circuit Judge Franz W. Brand ordered Radke to pay a \$400 fine on each of the first two counts, \$300 on the third count, and \$400 on the fourth count within 60 days. If the fines are not paid, Radke must serve 30 days in jail on each of the 4 counts, to be served consecutively.

Failure to file a Wisconsin state income tax return is a crime punishable by a fine of not more than \$500 or imprisonment not to exceed 6 months or both for income tax returns due prior to July 20, 1985. Beginning July 20, 1985, the criminal penalty is a \$10,000 fine or imprisonment not to exceed 9 months or both. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability.

## EIGHT CHARGED FOR FILING FALSE MV-1'S

The following is taken from an article in the Milwaukee Sentinel dated April 14, 1987.

"The state Department of Revenue tax intelligence section is cracking down on car buyers for cheating on sales taxes paid in private purchases.

"Complaints against eight individuals who allegedly understated the purchase price of automobiles and trucks have been filed by the Dane County district attorney's office.

"The eight are scheduled for court appearances in May.

"The eight are charged with making false statements on a Motor Vehicles Division form on car purchases, according to Assistant District Attorney Douglas L. McClean.

"By underreporting the purchase price, the sales tax liability was reduced, he said.

"According to separate complaints:

"Curtis R. Greaves, of DePere, paid \$150 tax on the purchase of a 1984 Ford Bronco for \$3,000. Tax investigators believe the price was \$10,000, with tax owed of \$500.

"Peter A. Stark, of Oconto, bought a 1984 Pontiac Fiero, allegedly for \$7,000, but reported at \$1,600, with a tax of \$80, instead of \$350.

"Eugene A. Brossard, of Racine, bought a 1984 Ford truck for \$8,300, but reported it at \$3,000, paying \$150 in tax, instead of \$415.

"William T. Lee, of Burlington, bought a 1983 Chevrolet Z-28 for \$7,000, but reported it at \$2,000, with tax liability of \$100, instead of \$350.

"Craig A. Lapp, of Kenosha, bought a 1983 Oldsmobile for \$10,000, but reported it at \$4,000. The tax reported was \$200, instead of \$500.

"Dwayne A. Braun, of Beaver Dam, bought a 1984 GMC vehicle for \$9,500, but reported at \$5,000, carrying a sales tax of \$250 when it should have been \$425.

"Richard Lorentsen, of Racine, bought a 1983 Datsun truck for \$5,800, but reported at \$1,400 with a sales tax of \$70, while it should have been \$290.

"Kevin R. Krautkramer, of Mosinee, was also named, but details of that transaction were not available."

A purchaser of a motor vehicle must file a sales tax report (Form MV-1) prior to registering or titling the motor vehicle in Wisconsin if the motor vehicle was purchased from someone who is not a motor vehicle dealer.

## 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 state in the process as of June 15, 1987. Part C lists new rules and amendments which are adopted. ("A" means amendment, "NR" means new rule, "R" means repealed and "R&R" means repealed and recreated.)

### A. Rules at Legislative Council Rules Clearinghouse

- 2.16 Change in method of accounting for corporations-A
- 2.19 Installment method of accounting for corporations-A
- 2.20 Accounting for acceptance corporations, dealers in commercial paper, mortgage discount companies and small loan companies-A
- 2.21 Accounting for incorporated contractors-A
- 2.22 Accounting for incorporated dealers in securities-R&R
- 2.24 Accounting for incorporated retail merchants-A
- 2.25 Corporation accounting generally-A
- 2.26 "Last in, first out" method of inventorying for corporations-A
- 2.395 Sales factor option-NR
- 2.45 Apportionment in special cases-A
- 2.50 Apportionment of net business income of interstate public utilities-A
- 2.505 Apportionment of net business income of interstate professional sports clubs-A
- 2.53 Stock dividends and stock rights received by corporations-A
- 2.56 Insurance proceeds received by corporations-A
- 2.65 Interest received by corporations-A
- 2.72 Exchanges of property by corporations generally-A
- 2.721 Exchanges of property held for productive use or investment by corporations-A
- 2.83 Requirements for written elections as to recognition of gain in certain corporation liquidations-A
- 2.88 Interest rates-A
- 3.44 Organization and financing expenses—corporations-R&R
- 3.45 Bond premium, discount and expense—corporations-A

### B. Rules at Legislative Standing Committees

- 11.10 Occasional sales-A

### C. Rules Adopted in 1987 (effective 8/1/87)

- 1.06 Application of federal income tax regulations for persons other than corporations-A
- 1.10 Depository bank requirements for withholding, motor fuel, general aviation fuel and special fuel tax deposit reports-A
- 1.13 Power of attorney-A
- 2.01 Residence-A
- 2.03 Corporation returns-A
- 2.05 Information returns, forms 8 for corporations-A
- 2.08 Returns of persons other than corporations-A
- 3.07 Bonuses and retroactive wage adjustments paid by corporations-A
- 11.05 Governmental units-A
- 11.08 Medical appliances, prosthetic devices and aids-A
- 11.09 Medicines-A
- 11.10 Occasional sales-A
- 11.12 Farming, agriculture, horticulture and floriculture-A

- 11.14 Exemption certificates (including resale certificates)-A
- 11.16 Common or contract carriers-A
- 11.27 Warranties-A
- 11.28 Gifts, advertising specialties, coupons, premiums and trading stamps-A
- 11.39 Manufacturing-A
- 11.41 Exemption of property consumed or destroyed in manufacturing-A
- 11.45 Sales by pharmacies and drug stores-A
- 11.49 Service stations and fuel oil dealers-A
- 11.65 Admissions-A
- 11.66 Communication and CATV services-A
- 11.80 Sales of ice-A
- 11.84 Aircraft-A
- 11.85 Boats, vessels and barges-A
- 11.88 Mobile homes-A
- 11.94 Wisconsin sales and taxable transportation charges-A
- 11.96 Interest rates-A

ITT Life Insurance Corporation (p. 4)  
Privileged documents

Kohler Company, Kohler Company—  
Successor to Kohler International Ltd.,  
Kohlerco DISC, Inc. and KIL DISC, Inc.  
(p. 4)

Domestic International Sales  
Corporation

Project Systems, Inc. (p. 5)  
Apportionment—nexus

Savings League of Wisconsin, Ltd., Equi-  
table Savings & Loan Association,  
Liberty Savings & Loan Association, and  
Marathon County Savings & Loan  
Association (p. 6)  
Dividends and interest—taxable

#### Sales/Use Taxes

Artex Corporation (p. 6)  
Construction contractors—grain bins

International Business Machines  
Corporation (p. 7)  
Computer and data processing—pro-  
grams

Irvin Kozlovsky (p. 8)  
Water conditioners

#### Homestead Credit

Myrtle Berglin (p. 9)  
Property taxes accrued—joint owner-  
ship

#### INDIVIDUAL INCOME TAXES

**Sale of Residence.** *Erwin D. Russell vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, January 30, 1987). The issue pending before the Tax Appeals Commission is whether the taxpayer is required to report 100% of the gain realized from the sale of the real estate located at 8725 North Greenvale Road, in Bayside, Wisconsin.

Erwin D. Russell filed with the department his 1981 Wisconsin resident individual income tax return and reported on Schedule D \$30,381 as proceeds received from the sale of real estate located at 8725 North Greenvale Road in the Village of Bayside.

The taxpayer and Flo Ann Russell, a/k/a Flo Ann O'Rourke, were divorced in Milwaukee County on November 10, 1970, and their judgment of divorce was dated November 30, 1970. Flo Ann Russell occupied the house located at 8725 North Greenvale Road until approximately January 20, 1981. On January 20, 1981, the property was sold to Richard W. and Margaret A. Render. Flo Ann O'Rourke, f/n/a Flo Ann Russell, and her then husband, Leslie E. O'Rourke, executed on January 18, 1981 a quit claim deed to the property. In the quit claim deed, the property was represented to be homestead property. The quit claim deed was duly recorded in the Milwaukee County Register of Deeds office on January 22, 1981.

The total amount of net proceeds from the sale of the real estate located at 8725 North Greenvale Road was \$84,532.65. A check for the net proceeds was issued jointly to the taxpayer and Flo Ann Russell, dated January 21, 1985.

Flo Ann Russell received \$54,944.90 of the total amount of the proceeds from the sale of the real estate in question, which represents 75% of the gain realized less an adjustment of \$8,454.59 which was made in order to reimburse the taxpayer for various expenses he incurred during the period from December 1, 1970 to January 20, 1981. The expenses were for payments of principal on the mortgage, sewer assessments, water assessments, and repairs and improvements to the property. The taxpayer received \$29,587.75 of the net proceeds from the sale of the real estate, which represents 25% of the gain realized from the sale plus an adjustment of \$8,454.59 which was made in order to reimburse the taxpayer for various expenses he incurred during the period from December 1, 1970 to January 20, 1981.

The Commission concluded that income realized on the sale of real estate in Wisconsin is properly assessable to the record title holder of the property. The taxpayer realized 100% of the capital gain on the 1981 sale of the real property and the department acted properly in assessing an income tax on 100% of the gain realized on the sale of the property.

The taxpayer has not appealed this decision.



## 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 non-acquiescence" or (3) "the department has not appealed" (in this case the department has acquiesced to Commission's decision).*

The following decisions are included:

#### Individual Income Taxes

Erwin D. Russell (p. 3)  
Sale of residence

Annette L. Turner (p. 4)  
Taxation of Indians

#### Corporation Franchise/Income Taxes

Avon Products, Inc. (p. 4)  
Petition for review