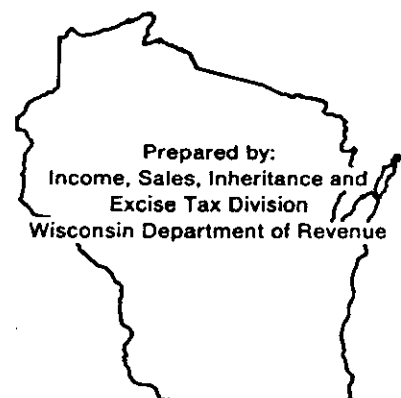


# WISCONSIN TAX BULLETIN

April 1988  
NUMBER 55

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## NEW TAX LAWS TO BE ADDRESSED IN SPECIAL ISSUE

The Governor's budget bills and other tax bills were still pending before the Wisconsin Legislature at the time this issue went to press. If any of these bills become law, a special issue of the Wisconsin Tax Bulletin will be published to provide information about the tax law changes.

## WITHHOLDING TAX TABLES WILL BE REVISED

Effective for payroll periods beginning on or after May 1, 1988, Wisconsin employers will be required to use new withholding tables in computing Wisconsin income taxes to be withheld from an employee's wages.

The tax tables have been adjusted primarily to reflect the reduction in Wisconsin income tax rates which became effective for 1987 Wisconsin income tax returns filed by taxpayers. In addition to the tables, several alternate methods of computing withholding are also provided.

The new withholding tables and alternate methods are included in the "Wisconsin Employer's Withholding Tax Guide." This publication will be mailed in early April to all employers registered with the Department of Revenue to withhold Wis-

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consin income taxes. Employers who do not receive copies of this publication may obtain copies by writing to: Wisconsin Department of Revenue, Post Office Box 8903, Madison, WI 53708, or calling (608) 266-1961.

## SIX NEW COUNTIES ADOPT COUNTY SALES/USE TAX

On April 1, 1988, the 1/2% county sales and use tax begins in six new counties: Ashland, Door, Langlade, Pierce, Polk, and Vilas. The counties of Barron, Buffalo, Dunn, Iowa, Jackson, Lincoln, Marathon, Oneida, Rusk, Sawyer, St. Croix, and Walworth had previously adopted the county tax. The Tax Report included with Tax Bulletin 54 (January 1988) explains how this new county tax applies to retailers and other persons.

On page 16 of this Bulletin is a copy of the March 1988 Tax Report which was sent in late March to all retailers who have a seller's permit.

## NEW TAX PROVISIONS IN LOTTERY LAW

The Wisconsin Legislature has enacted changes to the Wisconsin tax laws as a result of creating the state lottery. The

following are brief descriptions of each of the tax provisions. Sections of the statutes affected and the effective dates of the new provisions are indicated.

All of the provisions described are contained in 1987 Wisconsin Act 119, which was published December 7, 1987.

1. **Provide for Taxation of Lottery Winnings Received by Nonresidents** (1987 Act 119, amend s. 71.07(1), effective December 8, 1987).

Income of nonresident individuals from the Wisconsin lottery under Chapter 565 of the Wisconsin Statutes is taxable by Wisconsin.

2. **Expand Confidentiality Provisions** (1987 Act 119, create ss. 71.11(44)(c)12 and 77.61(5)(b)9, effective December 8, 1987).

The executive director of the Wisconsin Lottery Board is authorized to receive Wisconsin tax return information for the purpose of withholding delinquent Wisconsin taxes and child support from lottery winnings as required by s. 565.30(5), Wis. Stats.

3. **Provide for Withholding of Income Taxes from Lottery Winnings** (1987 Act 119, create s. 71.205, effective December 8, 1987).

The executive director of the lottery is required to withhold Wisconsin income tax from any lottery prize of \$2,000 or more. The amount withheld is to be determined by multiplying the amount of the prize by the highest tax rate applicable to individuals under s. 71.09(1g), Wis. Stats.

4. **Provide That Lottery Retailer Contracts May Not Be Entered Into With Persons Having Tax Delinquencies** (1987 Act 119, create s. 565.10(1)(3)(b) and (c), effective December 8, 1987).

No lottery retailer contract for the retail sale of lottery tickets or lottery shares may be entered into with a

person who has been finally adjudged to be delinquent in the payment of taxes under Chapters 71, 72, 76, 77, 78, or 139 of the Wisconsin Statutes if the person remains delinquent in the payment of those taxes at the time the person seeks to enter into the lottery retailer contract.

If the retailer is an association, partnership, or corporation, the above provision applies to the association, partnership, or corporation and to the officers or directors of the association, partners of the partnership, or officers, directors, and shareholders owning an interest of 5% or more of the corporation, unless the lottery board determines that the association, partnership, or corporation has terminated its relationship with the individual whose actions directly contributed to the association's, partnership's, or corporation's conviction or entry of plea.

5. **Provide for Withholding of Delinquent State Taxes, Child Support, or Debts Owed the State from Lottery Winnings** (1987 Act 119, create s. 535.30(5), effective December 8, 1987).

The executive director of the lottery board shall report the name, address, and social security number of each winner of a lottery prize equal to or greater than \$1,000 to the Department of Revenue to determine whether the payee of the prize is delinquent in the payment of state taxes under Chapters 71, 72, 76, 77, 78, or 139, or court-ordered payment of child support or has debt owing to the state.

Upon certification of a delinquency by the department or upon court order, the executive director shall withhold the certified amount for remittance to the appropriate agency or person. In instances where a payee of the prize is delinquent in one or both of these payments and has a debt owing to the state, the amount remitted to the appropriate agency or person shall be in proportion to the prize amount as is the delinquency or debt owed by the payee.

## WISCONSIN ACCOUNTING PERIODS FOR PARTNERSHIPS, S CORPORATIONS, AND PERSONAL SERVICE CORPORATIONS

Partnerships, S corporations, and personal service corporations that report their federal income on the basis of a calendar year or fiscal year must use that same accounting period for Wisconsin purposes.

The federal Revenue Act of 1987, enacted December 22, 1987, created section 444 of the Internal Revenue Code which provides an election for a partnership, S corporation, or personal service corporation that would otherwise have had to change its taxable year under the Tax Reform Act of 1986. The election permits these entities to retain the fiscal year used for their last taxable year beginning in 1986 or to adopt or change to a fiscal year which results in no more than a three-month deferral period. The election to retain the former fiscal year is available only if made for the entity's first taxable year beginning after December 31, 1986.

Section 71.02(1)(fm) and (2)(h), Wis. Stats., and section Tax 2.165, Wis. Adm. Code, provide that partnerships and corporations must adopt the same accounting period for Wisconsin as for federal income tax purposes. Therefore, if a partnership, S corporation, or personal service corporation makes a section 444 election for its first taxable year beginning after 1986, that election also applies for Wisconsin income or franchise tax purposes.

In IRS Notice 88-10, the Internal Revenue Service has indicated that the election will not be required to be made before the later of April 30, 1988, or 60 days after the publication of temporary regulations. Additionally, those regulations will extend the due date for filing an income tax return that results from making a section 444 election for the first taxable year after December 31, 1986, or from deciding not to make a section 444 election. In either case, the due date will be the later of (1) the original due date or (2) the due date of the section 444 election. A partnership, S corporation, or personal service corpora-

tion making a section 444 election must attach a copy of its federal election form to its Wisconsin income or franchise tax return. The Wisconsin return is due on the same date as the corresponding federal return.

To assist in the processing of returns filed after the normal due date, taxpayers should type or print "FILED UNDER IRS REGULATIONS" at the top of page 1 of the Wisconsin return filed.

For federal purposes, the partners or shareholders of a partnership or S corporation which makes a section 444 election must make "required payments" as provided in IRC section 7519. Such partners and shareholders are not required to make enhanced estimated tax payments for Wisconsin purposes in addition to the estimated tax payments required in ss. 71.21 or 71.22, Wis. Stats.

## EXTENSIONS TO FILE FOR INDIVIDUALS

### Forms WI-Z, 1A, 1, and 1NPR

Any extension of time allowed by the Internal Revenue Service for filing a federal return also extends the time for filing the corresponding Wisconsin individual income tax return. A copy of the federal extension (Form 4868 for a 4-month extension, or Form 2688 for an additional extension) must be filed with the Wisconsin return. If the Internal Revenue Service for any reason refuses to grant an extension or terminates one previously granted, the Wisconsin income tax return is due on the same date as the federal return.

If you are not applying for a federal extension, but need extra time to file a Wisconsin return, a 30-day extension of time to file may be requested on Wisconsin Form I-101, "Application for Extension of Time to File Wisconsin Income Tax Return." The application for extension must be submitted on or before April 15, 1988.

If an individual who has been granted an extension files a Wisconsin return and has a tax due, the amount due is subject to 12%

interest per year for the extension period (s. 71.10(5)(b), Wis. Stats.). To avoid interest charges, individuals may pay the tax due on or before the original due date of the return. A Form 1-ES, "1987 Wisconsin Estimated Tax Voucher," should be submitted with any payment. This will ensure that the payment is properly credited to the individual's account. Individuals using a federal extension can obtain a 1987 Form 1-ES from any Department of Revenue office. Individuals applying for a Wisconsin extension may use the 1987 Form 1-ES that is attached to the bottom of the application for the Wisconsin extension.

U.S. citizens who are not in the United States or Puerto Rico on April 15, 1988, are allowed an automatic extension until June 15, 1988, to file their returns. These persons do not have to request an extension, but should attach a statement to their returns indicating that they were outside of the United States or Puerto Rico on April 15, 1988.

An individual serving in the Armed Forces or serving in support of the Armed Forces in an area designated as a combat zone is allowed an extension of time for filing a return, payment of tax, filing refund claims, etc., for which a time limit is prescribed. The extension is for the period which a member of the Armed Forces is in a combat zone or is continuously hospitalized outside the United States as a result of injuries received in a combat zone and the next 180 days. These persons do not have to request an extension, but should attach a statement to their returns indicating they were serving in the Armed Forces in a combat zone or hospitalized outside the United States.

Applications for extensions and related correspondence should be sent to:

Wisconsin Department of Revenue  
Post Office Box 8903  
Madison, Wisconsin 53708

### Schedules H (Homestead Credit) and FC (Farmland Preservation Credit)

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

1987 Homestead Credit claims must normally be filed no later than December 31, 1988, Farmland Preservation Credit claims for 1987 must normally be filed no later than 12 months after the farmland owner's 1987 taxable year ends (e.g., December 31, 1988, for calendar year taxpayers). Because December 31, 1988, is a Saturday and the next business day (January 2, 1989) is a legal holiday, Homestead Credit claims and calendar year Farmland Preservation Credit claims must be filed no later than January 3, 1989.

## EFFECT OF IRS ANNOUNCEMENT 87-82 ON WISCONSIN EXTENSIONS OF TIME TO FILE

### Federal:

Section 806 of the Tax Reform Act of 1986 generally requires partnerships, S corporations, and personal service corporations (PSCs) to use the taxable year of their owners. Although Revenue Procedure 87-32 and Revenue Ruling 87-57 provide guidance to taxpayers affected by section 806 of the Tax Reform Act of 1986, there remain uncertainties surrounding the provision. IRS Announcement 87-82 describes the relief that will be provided to certain taxpayers affected by these uncertainties.

Announcement 87-82 provides that a partnership, S corporation, or PSC which is required to file a return for a short period beginning in 1987 in order to comply with section 806 of the 1986 Tax Reform Act may file its short period return on or before the latest of (1) the normal due date, (2) October 15, 1987, or (3) 30 days after the date federal Form 1128, "Application for Change in Accounting Period", is approved by the IRS. Such taxpayers should type or print "FILED UNDER ANNOUNCEMENT 87-82" at the top of page 1 of the federal return in order to assist in processing returns filed after the normal due date.

**Wisconsin:**

Wisconsin will recognize the automatic extension of time to file short period returns required under section 806 of the Tax Reform Act of 1986 provided by IRS Announcement 87-82. Taxpayers should attach a copy of federal Form 1128 or other explanation of change in taxable year to their Wisconsin income or franchise tax return.

To assist in the processing of returns filed after the normal due date, taxpayers should type or print "FILED UNDER ANNOUNCEMENT 87-82" at the top of page 1 of the Wisconsin return filed.

## **CHANGE IN OCCASIONAL SALES RULE FOR NON-PROFIT ORGANIZATIONS**

Effective January 1, 1988, section Tax 11.10(3)(d), Wis. Adm. Code, provides that nonprofit organizations with sales of tangible personal property and services (other than sales of admissions, tickets, meals, food, and beverages) exceeding \$7,000 annually are taxable on all gross receipts, unless the department determines that sales of property or services are isolated and sporadic and that the organizations are not engaged in a part-time business or a partial vocation or occupation.

For 1985, 1986 and 1987, the dollar amount of such sales was \$2,500 instead of \$7,000.

## **1988 ESTIMATED TAX REQUIREMENTS FOR INDIVIDUALS, ESTATES, AND TRUSTS**

Estimated income tax payments are tax deposits made during the year to prepay the income tax and minimum tax that will

be due when an income tax return is filed. Every individual, married couple filing jointly, estate, or trust is required to pay 1988 Wisconsin estimated tax if they expect to owe \$200 or more on their 1988 Wisconsin income tax return. Form 1-ES, "1988 Wisconsin Estimated Tax Voucher," is filed with each estimated tax payment.

For calendar year taxpayers, the first estimated tax payment is due on April 15, 1988. Installment payments are also due on June 15, 1988, September 15, 1988, and January 17, 1989. For fiscal year taxpayers, installment payments are due on the 15th day of the 4th, 6th, and 9th months of the fiscal year, and the 1st month of the following fiscal year.

Full-year residents, part-year residents, estates, and trusts are subject to the estimated tax requirements for 1988. However, an estate is not required to pay estimated tax during the first two years of its existence.

If an individual, married couple filing jointly, estate, or trust does not make the estimated tax payments when required, or underpays any installment, a penalty may be assessed.

## **REFUND QUESTIONS**

Do you have a question about your income tax or homestead credit refund check? First, wait at least 10 weeks after filing your tax return or homestead claim. Then, call or write to: Wisconsin Department of Revenue, Post Office Box 8903, Madison, Wisconsin 53708, (608) 266-8100.

In your inquiry, be sure to include your name and social security number, the name and social security number of your spouse if you are married, your address, the approximate date you filed your return, and your phone number where you can be reached during the day.

## **GIFT TAX REPORTS DUE APRIL 15**

A Wisconsin gift tax is imposed upon all gifts by a donor who is a Wisconsin resident (regardless of the donee's residence) and gifts of Wisconsin real estate or tangible personal property located in Wisconsin (regardless of where the donor or donee resides).

1987 Wisconsin gift tax reports must be filed if the total value of taxable gifts given in 1987 by one donor (person giving the gift) to one donee (person receiving the gift) exceeds \$10,000. Gift tax reports of the donee and donor for 1987 must be filed by April 15, 1988. A return need not be filed if the value of the gift is \$10,000 or less. Beginning in January 1988, the department no longer processes or keeps a permanent record of gift tax returns filed for gifts of \$10,000 or less.

The donor reports gifts made on Wisconsin 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 Wisconsin 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 gift tax due is figured on Wisconsin Form 6. In determining the 1987 gift tax due, an annual exemption of \$10,000 is allowed for all gifts made during a calendar year by one donor to one donee. Gifts to a spouse are completely exempt from Wisconsin gift tax. A lifetime personal exemption of \$50,000 is allowed for gifts to lineal issue (children, grandchildren), lineal ancestors (parents, grandparents), the wife or widow of a son, the husband or widower of a daughter, an adopted or mutually acknowledged child, and a mutually acknowledged parent. There is no lifetime exemption allowed to other donees.

## CHANGE IN SALES TAX REQUIREMENTS FOR ORGANIZATIONS CONDUCTING BINGO EVENTS

Effective October 1, 1987, organizations conducting bingo events were no longer required to file sales tax returns at the end of each event. Instead, these organizations are required to obtain a seller's permit from the Wisconsin Department of Revenue which will allow them to report and pay the sales tax either monthly, quarterly, or annually.

If an organization conducting bingo events already holds a seller's permit for other reasons, bingo receipts should be included on the sales tax returns already being filed with the department.

This new method of reporting sales tax on bingo receipts does not apply to the reporting of the 2% gross receipts tax. The Bingo Occasion Report (Form 242-B-3) must be filed and the 2% gross receipts tax must be paid to the Bingo Control Board within 15 days after the date of the bingo occasion.

An application for a Wisconsin seller's permit can be obtained by writing the Wisconsin Department of Revenue, Compliance Bureau, P.O. Box 8902, Madison, Wisconsin, 53708, or by calling (608)266-2776. There is a \$5.00 fee required.

## WISCONSIN TAX BULLETIN INCLUDES INDEX

Once each year the Wisconsin Tax Bulletin includes an index of articles, tax releases, and other attachments that have appeared in past Bulletins.

For the convenience of its users, the WTB index includes page numbers for each issue number listed. The index can be found on pages 18 to 41 of this Bulletin.

## DO YOU HAVE SUGGESTIONS FOR 1988 TAX FORMS?

Do you have suggestions for improving the Wisconsin tax forms and instructions? Send your suggestions to the Wisconsin Department of Revenue, Director of Technical Services, Post Office Box 8933, Madison, Wisconsin 53708. Please be specific and send your suggestions in early. The department appreciates hearing from you.

## CORRECTION TO WISCONSIN TAX BULLETIN 54

The Tax Release titled "Treatment of Capital Losses by Corporations for 1987" on page 14 of WTB 54 contains a Wisconsin statute reference of s. 71.02(2)(bg). This reference should be s. 71.02(1)(bg), 1987 Wis. Stats.

## HUDSON OFFICE HAS BEEN RELOCATED

The address for the Department of Revenue's Hudson office given on page 7 of WTB 54 has been changed to Suite 1B, 1810 Crestview Drive, Hudson, telephone (715) 386-8224.

## CRIMINAL ENFORCEMENT ACTIVITIES

### Individual Income Tax

A Beaver Dam man has been ordered to serve 3 years probation and pay a \$500 fine for criminal violations of the Wisconsin state income tax law.

Russell J. Warren, Route 1, Conventry Lane, Beaver Dam, Wisconsin was con-

victed in Dodge County Circuit Court, Branch 3, Juneau after he entered no contest pleas to 2 counts of failing to file state income tax returns. Circuit Judge Thomas W. Wells sentenced Warren to 6 months imprisonment on each count, stayed execution of the sentence, placed Warren on probation for 3 years and ordered him to pay a \$500 fine as a condition of probation. He must also pay the taxes, penalties, and interest due.

Warren was charged with failing to file state income tax returns for each of the years 1983 and 1984 on gross income in excess of \$33,000 for 1983 and \$38,000 for 1984.

A Milwaukee man has been ordered to serve 12 months in jail for criminal violations of the Wisconsin state income tax law.

Christopher L. Niesl, who formerly resided at 3864 South 92nd Street, Milwaukee, was sentenced in Milwaukee County Circuit Court, Branch 22 by Circuit Judge William J. Haese on 2 counts of failing to file state income tax returns. Judge Haese sentenced Niesl to 6 months in jail on each count to be served consecutively and ordered him to pay a \$500 fine on each count. If the fines are not paid, Niesl must serve an additional 30 days in jail on each count.

Niesl was charged with failing to file state income tax returns on gross income of \$36,320 for 1982 and \$15,281 for 1983. He was found guilty on both counts after trial by a jury on October 14, 1987.

### Excise Taxes

On November 10, 1987, BL's, Inc., a tavern doing business at 901-903 Rose Street, La Crosse, was found guilty of failing to maintain invoices for its liquor purchases. Judge Michael Mulroy fined the corporation \$200 plus court costs of \$70.

On December 21, 1987, Harold R. Bauer, a tavern operator in the Town of Dell Prairie, Adams County, was found guilty of purchasing liquor from an unauthorized source. Judge Raymond Gieringer ordered Bauer to pay a fine of \$179, including costs. Bauer had 60 days to pay the fine, or in default of payment, spend 18 days in the Adams County jail.

Fuel Service, Inc., 15 East Walnut Street, Chippewa Falls, was found guilty of jobbing cigarettes without a permit in Chippewa and Barron Counties. Fuel Service was fined a total of \$1,291 in December 1987.

## 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 March 15, 1988. Part C lists new rules and amendments which are adopted. Part D lists emergency rules. ("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
- 2.39 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 sport 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
- 11.05 Governmental units-A
- 11.09 Medicines-A
- 11.12 Farming agriculture, horticulture and floriculture-A
- 11.19 Printed material exemptions-A
- 11.40 Exemption of machines and processing equipment-A
- 11.51 Grocers' guidelist-A
- 11.57 Public utilities-A
- 11.61 Veterinarians and their suppliers - A

### B. Rules of Legislative Standing Committee

- 3.095 Interest income from federal obligations-R&R

### C. Rules Adopted in 1988

- 11.10 Occasional sales-A (effective 1/1/88)

### D. Emergency Rules

- 3.095 Interest income from federal obligations-A (extended to 3/31/88)

## 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 the Commission's decision).

The following decisions are included:

### Individual Income Taxes

Kenneth P. Jansen and Robert Thurow (p. 7)  
Entertainment expenses

### Corporation Franchise or Income Taxes

Castle Corporation (p. 7)  
Installment sales

The United States Shoe Corporation (p. 7)  
Business loss carryforward

William Wrigley, Jr., Co. (p. 8)  
Nexus

### Sales/Use Taxes

Badgerland Harvestore Systems, Inc. (p. 10)  
Refunds and remedies of taxpayer—claims for refund

Fiedler Foods, Inc. (p. 10)  
Sale of business or business assets

Montgomery Ward & Co., Inc. (p. 11)  
Interest—change in rate

YMCA of Beloit, et al. (p. 11)  
Appeals—must be timely