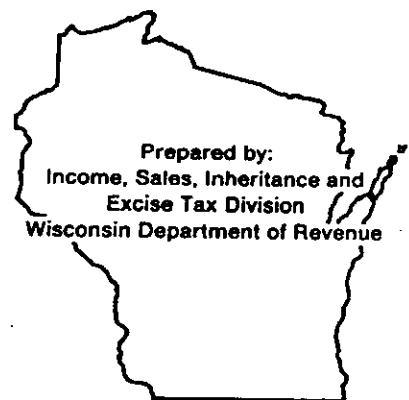


# WISCONSIN TAX BULLETIN

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## DEPARTMENT TO ISSUE PRIVATE LETTER RULINGS

The department has begun issuing private letter rulings with respect to income, franchise, withholding, sales/use, gift, inheritance, cigarette, tobacco, alcoholic beverage, and motor/special fuel tax matters, as well as homestead and farmland preservation credit matters.

To inform taxpayers of the new private letter ruling system and how to request a ruling, the department has developed a publication titled "How to Get a Private Letter Ruling From the Wisconsin Department of Revenue." A copy of this publication appears on pages 25 to 35 of this bulletin.

## NEW TAX ON NONPROFIT ORGANIZATIONS REQUIRES NEW FORM

There is a new franchise or income tax on certain nonprofit organizations. Beginning with their 1988 taxable years, corporations, partnerships, and associations exempt from Wisconsin franchise or income taxation under s. 71.01(3), Wis. Stats., trusts exempt under IRC section 501(a), and individual retirement arrangements (IRAs), which are subject to tax on unrelated business income for federal tax purposes under section 511 of the Internal Revenue Code and file federal Form

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990-T, are also subject to tax on unrelated business income for Wisconsin tax purposes.

Organizations subject to the Wisconsin tax on unrelated business income will report such income on Wisconsin Form 4T, Exempt Organization Business Franchise or Income Tax Return. This new form, which may be used by organizations taxed as corporations and organizations

taxed as trusts, uses federal unrelated business taxable income from federal Form 990-T as the starting point in determining any Wisconsin tax liability. Form 4T will be available in October, 1988.

## LIMITED PARTNERS TAXED AS GENERAL PARTNERS

Prior to the 1988 taxable year, limited partners who, while they were nonresidents of Wisconsin, received distributions from a partnership where items of income, loss, or deduction were attributable to a business in, services performed in, or rental of property in Wisconsin, were not required to report the income or loss from the partnership for Wisconsin income tax purposes. General partners under the same circumstances were required to report such income or loss for Wisconsin income tax purposes.

Beginning with a partner's 1988 taxable year, both limited partners and general partners receiving distributions while nonresidents of Wisconsin from a partnership that has a business in Wisconsin, performs services in Wisconsin, or rents property in Wisconsin, must report that income or loss from the partnership for Wisconsin income tax purposes. This change results from an amendment to s. 71.07, Wis. Stats., by 1987 Wisconsin Act 399.

## STATE OPENS NEW HOT-LINE IN CIGARETTE TAX FRAUD CRACKDOWN

The Michigan Department of Treasury in cooperation with Wisconsin and 12 other states has opened a new toll-free telephone hotline, 1-800-292-2824, to receive tips from the public on illegal interstate cigarette trafficking.

The Michigan Treasury Department estimates revenue losses could total more than \$10 million per year for all the states involved in the hotline due to illegal cigarette trafficking. The loss in cigarette tax revenues results from distributors who buy cigarettes in low tax states, and then illegally transport and sell them in higher tax states at below market prices.

The National Association of Tax Administrators in the central region states cooperated to establish the hotline. The telephone number, 1-800-292-2824, can be dialed from any of the participating states, and will be answered by an agent in the Michigan Department of Treasury's tax fraud division who will process the tip information.

The states cooperating in the hotline effort with Wisconsin are: Ohio, Indiana, Michigan, Illinois, Minnesota, Kentucky, Iowa, Nebraska, Kansas, Missouri, North Dakota, South Dakota, and North Carolina.

"We hope the public will help us stop the illegal shipment of cigarettes across state lines by calling the hotline," Michigan State Treasurer Robert A. Bowman said. "We want to treat these tax cheaters like criminals, and promise to prosecute anyone caught dealing in illegal cigarettes to the fullest extent of the law on behalf of all the honest taxpayers in this State."

Penalties for possessing non-Wisconsin taxed cigarettes include fines of up to \$10,000, imprisonment for up to 2 years, or both.

## CRIMINAL ENFORCEMENT ACTIVITIES

### Income or Franchise Taxes

A former Stoughton businessman has been ordered to pay \$5,000 in fines and serve 7 years in prison for state income tax evasion and theft. He must also serve 8 years probation, make restitution of state income taxes that were evaded on funds he embezzled, and make restitution of the embezzled funds.

Gary W. Homberg was sentenced in Dane County Circuit Court, Branch 5, Madison, on two counts of state income tax evasion and two counts of theft. Judge Pekowsky sentenced Homberg to serve 2 years in Waupun State Prison on the first of the two tax evasion counts and 5 years in prison on the first of the two theft counts, to be served consecutively. He ordered Homberg to serve 8 years probation on the second count of theft and 3 years probation on the second count of tax evasion, to be served concurrently.

A Whitefish Bay man has been ordered to serve 6 months probation for violation of the Wisconsin state income tax law. Richard J. Schulhof, 4627 North Ardmore Avenue, Whitefish Bay, was sentenced Friday, April 22, in Milwaukee County Circuit Court, Branch 27, on one count of failing to file a state income tax return for the year 1985. He pled guilty to the charge January 7, 1988. Judge Doherty sentenced Schulhof to 30 days in jail, stayed execution of the sentence, and ordered him to serve 6 months probation. Under the conditions of probation, Schulhof must make restitution of tax, penalties, and interest in excess of \$2,400 for the year 1985.

### Sales/Use Taxes

A Sturgeon Bay man has been ordered to pay a fine of \$200 and court costs for criminal violation of Wisconsin's sales and use tax law. Donald J. Boll, 3947 Riley Point Road, Sturgeon Bay, was

sentenced March 21, 1988, in Door County Circuit Court after he entered a guilty plea to one count of filing a false sales and use tax report relative to registration of a boat in February 1987. Judge Keppler fined Boll \$200 and ordered him to pay \$116 in court costs and penalty assessments.

Filing a false sales and use tax return is a crime punishable by a fine of not more than \$500 or imprisonment not to exceed 30 days or both. In addition to the criminal penalties, 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.

A Crawford County man has been ordered to serve 2 years probation and 90 days in jail for criminal violations of the Wisconsin state sales tax law. Roger L. Mills, Route 1, Soldiers Grove, Wisconsin, was found guilty on each of 11 counts of filing false and fraudulent sales tax returns by a Richland County jury after a trial in Richland Center. Judge Houck withheld sentence and ordered Mills to serve 2 years probation concurrently on each of the 11 counts. Under the conditions of probation, Mills must pay the sales tax which has been evaded and serve 90 days in the Crawford County jail.

### Excise Taxes

John Simonson, agent for His & Hers Show Lounge, Inc., 215 Main Street, Menasha, plead "no contest" to violations of the state's liquor credit laws and possession of liquor from an unauthorized source on March 7, 1988. Simonson was fined \$715 or given 50 days in jail in lieu of the fine.

Wizzard of Ozzies, Inc., a tavern located at 126-128 South 3rd Street, LaCrosse, was found guilty of purchasing liquor from other than a Wisconsin wholesaler on

February 1, 1988. The corporation was fined \$155.

T. A. Young, Inc., a tavern at 229 North 3rd Street, LaCrosse, was found guilty of wholesaling liquor without a permit. The corporation was fined \$327.50 on March 7, 1988.

General Beverage Sales Co., a beer wholesaler located at 2855 Oregon Street, Oshkosh, Wisconsin, was found guilty of 3 counts of commercial bribery on April 18, 1988, in Winnebago County. The charges included giving of free half-barrels of beer to local retailers. General Beverage was fined \$897.

## NEW ISI&E DIVISION RULES AND RULE AMENDMENTS IN PROCESS

Listed below, under Part A 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 30, 1988. Part B 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
- 2.45 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
- 11.10 Occasional sales-A
- 11.12 Farming, agriculture, horticulture and floriculture-A
- 11.16 Common or contract carriers-A
- 11.18 Dentists and their supplies-A
- 11.19 Printed material exemptions-A
- 11.26 Other taxes in taxable gross receipts and sales price-A
- 11.32 "Gross receipts" and "sales price"-A
- 11.40 Exemption of machines and processing equipment-A
- 11.41 Exemption of property consumed or destroyed in manufacturing-A
- 11.51 Grocers' guidelist-A
- 11.57 Public utilities-A

- 11.61 Veterinarians and their suppliers-A
- 11.66 Communications and CATV services-A
- 11.67 Service enterprises-A
- 11.68 Construction contractors-A
- 11.84 Aircraft-A
- 11.85 Boats, vessels and barges-A

### B. Rules Adopted in 1988

- 3.095 Interest income from federal obligations-R&R (effective 5/1/88)
- 11.10 Occasional sales-A (effective 1/1/88)

## 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:*

### Corporation Franchise or Income Taxes

American Telephone & Telegraph Co. (p. 4)

Interest and dividends—taxable

Fort Howard Paper Company (p. 4)  
Apportionment—property factor

Savings League of Wisconsin Ltd., et al. (p. 5)

Franchise tax—imposition

76th and Good Hope, Inc. (p. 5)  
Deferred income