

additional time is required to obtain the net tax information and when that information may be available.

A fee of \$4 must be paid for each return from which the net tax paid or payable is requested. The fee must be paid before the net tax paid or payable is provided or mailed. The fee will be charged even if the net tax paid or payable is zero.

#### **What Information Is Disclosed?**

If the requester complies with all provisions of the Wisconsin Statutes, the net income tax, franchise tax, or gift tax reported as paid or payable may be disclosed to the requester. If a return has not been filed by the person or corporation subject to disclosure, the requester will be so advised.

Information will not be disclosed over the telephone. Also, the requester is not permitted to examine the return or receive a photocopy of the return.

#### **Is There Notice to a Taxpayer of the Disclosure?**

Within 24 hours of furnishing the net tax reported as paid or payable, the department's Custodian of Files will notify in writing the person or corporation whose return was subject to disclosure. The requester's name, address, and reason given for the request will be provided.

#### **Additional Information**

For additional information about the Application To Ascertain Net Income Tax Paid or Payable, contact the Department of Revenue Custodian of Files, Ms. Terri Wilke, at (608)266-2892.

### **REFUND QUESTIONS**

Do you have a question about your income tax or homestead credit refund check? First, wait at least 10 weeks (6 weeks if you filed for a "quick refund") after filing your tax return or homestead claim. Then, call or write to: Wisconsin Department of Revenue, Post Office Box 8903, Madison, Wisconsin 53708, telephone (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.

### **1990 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 (except trusts subject to tax on unrelated business income) is required to pay 1990 Wisconsin estimated tax if they expect to owe \$200 or more on their 1990 Wisconsin income tax return. Form 1-ES, "1990 Wisconsin Estimated Tax Voucher," is filed with each estimated tax payment.

For calendar year taxpayers, the first estimated tax payment is due on April 16, 1990. Installment payments are also due on June 15, 1990, September 17, 1990, and January 15, 1991. 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 1990. 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, interest may be assessed.

### **EXTENSIONS OF TIME TO FILE FOR INDIVIDUALS**

Any extension of time granted by the Internal Revenue Service (IRS) for filing a federal return also extends the time for filing the corresponding Wisconsin return, provided a copy of the federal extension is attached to the Wisconsin return at the time it is filed. Taxpayers are allowed the same 10-day grace period to file a return for Wisconsin as for the IRS when a federal extension request is denied. The denial must be attached to the Wisconsin return when filed in order to be recognized.

In lieu of the federal extension, a taxpayer may request from the Wisconsin Department of Revenue a 30-day extension of time to file a Wisconsin return. If a federal extension is requested, it is not necessary to request this separate Wisconsin extension. Neither is it necessary to submit a copy of the federal extension request to Wisconsin at the time the federal request is made.

#### **Reminders**

DO NOT submit copies of federal extension requests to the Department of Revenue.

DO NOT request a Wisconsin extension when a federal extension is requested.

Attach a copy of all approved extensions to the corresponding Wisconsin tax return at the time the Wisconsin return is filed.

Use Wisconsin estimated tax vouchers (Form 1-ES) to submit Wisconsin extension payments. Be sure the Form 1-ES is for the proper year.

### **GIFT TAX REPORTS DUE APRIL 16**

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).

1989 Wisconsin gift tax reports must be filed if the total value of taxable gifts given in 1989 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 1989 must be filed by April 16, 1990. A return does not have to be filed if the value of the gift is \$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 1989 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.

## INFORMATION OR INQUIRIES?

**Madison - Main Office**  
Area Code (608)

Beverage, Motor Fuel,

Cigarette, Tobacco Products . 266-6701  
Corporation Franchise/Income . 266-3645  
Estimated Taxes . . . . . 266-9940  
Fiduciary, Inheritance, Gift . . 266-1231  
Homestead Credit . . . . . 266-8641  
Individual Income . . . . . 266-2486  
Property Tax Deferral Loan . . 266-1983

Sales, Use, Withholding . . . . . 266-2776  
Audit of Returns: Corporation,  
Individual, Homestead, Sales 266-2772  
Appeals . . . . . 266-0185  
Refunds . . . . . 266-8100  
Delinquent Taxes . . . . . 266-7879  
Copies of Returns:  
Homestead, Individual . . . . . 266-2890  
All Others . . . . . 266-0678  
Forms Request:  
Taxpayers . . . . . 266-1961  
Practitioners . . . . . 267-2025

### District Offices

Appleton . . . . . (414) 832-2727  
Eau Claire . . . . . (715) 836-2811  
Milwaukee . . . . . (414) 227-4000

## WE ARE FREQUENTLY ASKED . . .

**Question:** If I make a gift of property to my spouse, will she owe a Wisconsin gift tax?

**Answer:** No. A gift made to your spouse is an exempt transfer of property not subject to Wisconsin gift tax.

**Question:** What is the maximum amount of gifts I can make before I have to file a Wisconsin gift tax return?

**Answer:** You may make a gift of any amount to a spouse and not have to file a gift tax return. Also, you may make a gift up to \$10,000 to each donee before you are required to file a gift tax return. (Note: Exempt transfers are not included for purposes of determining the \$10,000 limit.)

**Question:** Will there always be a Wisconsin gift tax?

**Answer:** No. The Wisconsin gift tax will be eliminated, effective for gifts made on or after January 1, 1992.

**Question:** Is money I receive as a gift taxable for income tax purposes?

**Answer:** No. Amounts received as a gift are not taxable for Wisconsin income tax purposes.

## 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. The index can be found on pages 22 to 49 of this Bulletin.

## DO YOU HAVE SUGGESTIONS FOR 1990 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.

## APPLETON ACCOUNTANT SENTENCED FOR VIOLATION OF STATE TAX LAWS

### Income Taxes

An Appleton accountant has been ordered to serve jail time for violations of Wisconsin state tax laws. Erwin J. Oenes, 728 Fernmeadow Drive, Appleton, was sentenced in Outagamie County Circuit Court, Branch 1, Appleton, on 5 counts of failing to comply with state income tax and withholding tax laws for 1985 and 1986. Circuit Judge James Bayorgian placed Oenes on probation and ordered him to serve 4 years on each count concurrently. Under the conditions of probation, Oenes must serve 90 days in jail, make restitution of taxes, penalties, and interest in excess of \$8,000, and file his state tax returns on time during the probationary period. The jail term must commence before April 30, 1990. Oenes will have Huber Law privileges.

**Excise Taxes**

On November 10, 1989, Jerry D. Martin, 4129 Lake Thompson Road, Rhinelander was found guilty of operating amusement devices without a permit. Martin was fined a total of \$360 and two poker machines which he operated were forfeited.

On October 13, 1989, Barts, Inc., d/b/a "The Roose," a tavern located in the Town of Beaver Dam, was fined a total of \$180 for failing to have a licensed bartender on duty while open for business.

## **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 state in the process as of March 15, 1990. Part D lists new rules and amendments which were adopted in 1990. Part E lists new rules adopted in 1990 but not yet effective. Part F 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**

- 2.41 Separate accounting method-A
- 2.46 Apportionment of business income of interstate air carriers-R&R
- 2.47 Apportionment of net business income of interstate motor carriers of property-A
- 2.49 Apportionment of net business incomes of interstate finance companies-R&R
- 4.54 Security requirements-NR
- 4.55 Ownership and name changes-NR
- 9.67 Cigarette tax credit-R&R
- 9.68 Ownership and name changes-NR

### **B. Rules at Revisor of Statutes Office for Publication of Hearing Notice**

- 7.01 Purchases and invoices-A

- 7.23 Activities of brewers, bottlers and wholesalers-A
- 14.03 Household income-A
- 14.06 Marriage, separation, or divorce during claim year-A

### **C. Rules at Legislative Standing Committee**

- 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
- 2.03 Corporation returns-A
- 2.04 Information returns and wage statements-R&R
- 2.06 Information returns required of partnerships and persons other than corporations-R
- 2.08 Returns of persons other than corporations-A
- 2.10 Copies of federal returns, statements, schedules, documents, etc., to be filed with Wisconsin returns-A
- 2.30 Property located outside Wisconsin - depreciation and sale-A
- 2.69 Income from Wisconsin business-R
- 2.89 Penalty for underpayment of estimated tax-R
- 2.955 Credit for income taxes paid to other states-A
- 3.03 Dividends received, deductibility of-R&R
- 3.08 Retirement and profit-sharing payments by corporations-A
- 3.085 Retirement plan distributions-A
- 3.096 Interest paid on money borrowed to purchase exempt government securities-A
- 3.10 Salesmen's and officers' commissions, travel and entertainment expense of corporations-R
- 3.12 Losses on account of wash sales by corporations-R&R
- 3.37 Depletion of timber by corporations-A
- 3.38 Depletion allowance to incorporated mines and mills producing or finishing ores of lead, zinc, copper, or other metals except iron-A

- 3.47 Legal expenses and fines—corporations-R
- 3.54 Miscellaneous expenses not deductible—corporations-R&R
- 3.81 Offset of occupational taxes paid against normal franchise or income taxes-A
- 3.91 Petition for redetermination-A
- 3.92 Informal conference-A
- 3.93 Closing stipulations-A
- 3.94 Claims for refund-A
- 8.01 Tax liability-NR
- 8.02 Revenue stamps—occupational tax-R&R
- 8.03 Affixing stamps-R
- 8.04 Refunds-R&R
- 8.05 Special tax on intoxicating liquor-R
- 8.06 Mixture of specially taxed and regularly taxed intoxicating liquors-R
- 8.11 Reports-A
- 8.12 Samples-NR
- 8.21 Purchases by the retailer-A
- 8.22 Purchases made outside of state-A
- 8.23 Sales to non-licensees-NR
- 8.31 Sales out of Wisconsin-A
- 8.51 Labels-R
- 8.61 Advertising-A
- 8.66 Merchandise on collateral-A
- 8.71 Bitters-R
- 8.76 Salesperson-R&R
- 8.81 Transfer of retail liquor stocks-A
- 8.87 Intoxicating liquor tied-house prohibitions-A
- 11.05 Government 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
- 11.535 Operators of a swap meet, flea market, craft fair or similar event-NR
- 11.61 Veterinarians and their suppliers-A

### **D. Rules Adopted During Period of January 1, 1990 through March 15, 1990 (effective date is given in parentheses)**

- 1.13 Power of attorney-A (3/1/90)
- 2.01 Residence-A (3/1/90)

- 2.05 Information returns, forms 8 for corporations-R&R (3/1/90)
- 2.07 Income tax returns of liquidated or dissolved corporations-R (3/1/90)
- 2.081 Indexed income tax rate schedule-R (3/1/90)
- 2.085 Claim for refund on behalf of a deceased taxpayer-A (3/1/90)
- 2.105 Notice by taxpayer of federal audit adjustments and amended returns-A (3/1/90)
- 2.11 Credit for sales and use tax paid on fuel and electricity-A (3/1/90)
- 2.12 Amended income and franchise tax returns-A (3/1/90)
- 2.13 Moving expenses-A (3/1/90)
- 2.15 Methods of accounting for corporations-A (3/1/90)
- 2.17 Cash method of accounting for corporations-R (3/1/90)
- 2.18 Accrual method of accounting for corporations-R (3/1/90)
- 2.31 Taxation of personal service income of nonresident professional athletes-A (3/1/90)
- 2.50 Apportionment of net business income of interstate public utilities-A (3/1/90)
- 2.51 Rent received by corporations from Wisconsin real estate-A (3/1/90)
- 2.73 Involuntary conversion by corporations-A (3/1/90)
- 2.74 Gain or loss on disposition of property by corporations; adjustment to basis-R (3/1/90)
- 2.75 Recoveries by corporations-A (3/1/90)
- 2.76 Refunds of taxes to corporations-A (3/1/90)
- 2.80 Improvements of leased real estate, income to corporate lessor-A (3/1/90)
- 2.81 Damages received by corporations-A (3/1/90)
- 2.86 Income to corporations from cancellation of government contracts-A (3/1/90)
- 2.945 Spousal individual retirement contributions-R (3/1/90)
- 2.96 Extension of time to file corporation franchise or income tax returns-A (3/1/90)
- 2.98 Disaster area losses-A (3/1/90)
- 3.24 Corporation taxes, miscellaneous-R (3/1/90)

- 3.55 Donations and contributions - corporations—R (3/1/90)
- 14.01 Administrative provisions-R&R (3/1/90)
- 14.02 Qualification for credit-R&R (3/1/90)
- 14.03 Household income-R&R (3/1/90)
- 14.04 Property taxes accrued-R&R (3/1/90)
- 14.05 Rent constituting property taxes accrued-R&R (3/1/90)
- 14.06 Marriage, separation, or divorce during claim year-NR (3/1/90)

#### E. Rules Adopted in 1990 But Not Yet Effective

- 11.10 Occasional sales-A
- 11.16 Common or contract carriers-A
- 11.18 Dentists and their suppliers-A
- 11.26 Other taxes in taxable gross receipts and sales price-A
- 11.32 "Gross receipts" and "sales price"-A
- 11.41 Exemption of property consumed or destroyed in manufacturing-A
- 11.57 Public utilities-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

#### F. Emergency Rules

- 11.66 Communications and CATV services (effective 10/1/89)

### 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

Jerry and Lori Albright (p. 8)  
Employee vs. independent contractor

Joyce A. Bennett (p. 9)  
Marital property—notification

Laird C. Cleaver (p. 9)  
Gain or loss—property transferred by gift

Marilyn L. Jenness (p. 10)  
Interest—assessments

#### Corporation Franchise or Income Taxes

Journal Communications, Inc. (p. 10)  
Deductions—accrued expenses

William Wrigley, Jr., Co. (p. 11)  
Nexus

#### Sales/Use Taxes

Irvin Kozlovsky (p. 11)  
Water conditioners

### INDIVIDUAL INCOME TAXES

**Employee vs. independent contractor.** *Jerry and Lori Albright and Jerry M. Albright vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, October 27, 1989). The issue in this case is whether the taxpayer, a highly-skilled woodcraftsman, who had nearly complete independence as to his working hours and manner of completing his work, who had the right to quit work on any project at will, who conducted his trade out of his own shop, using his own tools and equipment, and whose almost exclusive source of income was a company that commissioned him continuously to build articles, that paid him by the hour on a regular 40-hour week basis, that treated his commission income as wages, that withheld from his pay amounts for social security, federal and state income taxes, and vacation pay, that