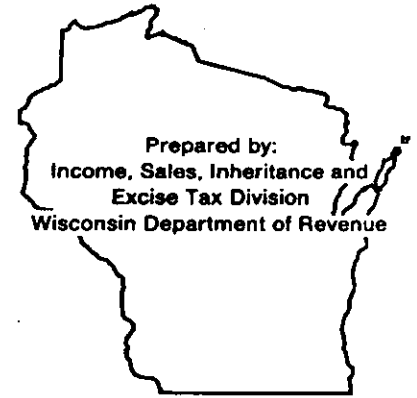


# WISCONSIN TAX BULLETIN

July 1990  
NUMBER 68



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## NEED AN EASY WAY TO RESEARCH WISCONSIN TAX QUESTIONS?

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The index is divided into two parts. The first part, called the "Topical Index", gives references to alphabetized subjects for the various taxes. The taxes include individual income, corporation franchise or income, sales/use, withholding, gift, estate and inheritance, cigarette, tobacco products, beer, intoxicating liquor and wine, and motor fuel. An excerpt from the individual income tax section of the topical index appears on page 37 of this Bulletin.

The second part, called the "Court Case Index", lists Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court decisions by alphabetized subjects for the various taxes. An excerpt from the corporation section of the court case index appears on page 38 of this Bulletin.

This index will be available in December, 1990. The annual cost is \$14 per copy, plus sales tax. Subscribers will receive the full index in December, 1990 and also an addendum providing updated information in

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May, 1991. To order your copy of the index, complete the order blank that appears on page 39 of this Bulletin. By ordering early, you can expect to receive your copy in December, 1990.

## EIGHT PERSONS CHARGED WITH CRIMINAL VIOLATIONS OF INCOME TAX LAWS

### Income Tax

John P. Dewane, 1030 North 16th Street, Manitowoc, an attorney, was charged in Manitowoc County Circuit Court on April 12 with 3 counts of failing to file state income tax returns for each of the years 1986, 1987, and 1988. James R. Pope, 314 Tower Court, Dodgeville, also an attorney, was charged in Dane County Circuit Court with 3 counts of failing to timely file state income tax returns for each of the years 1986, 1987, and 1988. Attorney James C. Cotter, 1619 Dee Ann Court, Wisconsin Dells, was charged on April 12 with failing to timely file a state income tax return for 1986.

James A. Sneed, 134 Wood Avenue, Nekoosa, also known as James A. Beckholt, was charged April 11 with failing to file state income tax returns for each of the years 1986, 1987, and 1988. Beckholt's court appearance has not been scheduled because he is being held in the Waupaca County Jail on a first-degree intentional-homicide charge.

Criminal charges have been initiated against Gerald W. Wenger and his wife, Karen R. Wenger, 1420 Church Avenue, Wisconsin Rapids. The Wengers were charged on April 6 with 3 counts of failing to file state income tax returns for each of the years 1986, 1987, and 1988. The Wengers did not appear in Wood County Circuit Court as scheduled, and a bench warrant was issued for their arrest.

The criminal complaint on file against the Wengers states he is a self-employed truck driver and she is a waitress and also a truck driver. It also states their combined gross income was \$34,646 in 1986, \$41,559 in 1987, and \$38,341 in 1988.

Wisconsin Rapids businessman and Wood County Board member John T. Siewert Sr., 70, and his wife, Ida Lee Siewert, 65, have been charged in Dane County Circuit Court with failing to file state income tax returns for each of the years 1986, 1987, and 1988.

According to the criminal complaint against them, the Siewerts earned in excess of \$300,000 for each of the calendar years 1986, 1987, and 1988, but filed no tax returns.

The bulk of the income in the three years for which they are charged came from John Siewert's share of the partnership gross of the Coldwell Banker-Siewert Realtors firm. The complaint states Siewert's share of the gross for the three years in question was \$250,855, \$286,611, and \$270,503.

In addition, John Siewert was paid \$24,000 in each of the three years by Siewert-Moog Inc., and earned a total of \$2,732 for the three years as a member of the Wood County Board. Siewert also collected \$7,433 during the three-year period from his share of ownership in the King Richards Courts health club in Wisconsin Rapids, the complaint states.

Ida Siewert, a special education teacher in the Wisconsin Rapids School District, was paid \$21,464, \$21,298, and \$22,880 by the school for the three years, and was paid more than \$5,500 from her husband's firm in each of the three years.

The Siewerts were released on \$500 signature bonds following a brief court appear-

ance in which not guilty pleas were entered on their behalf.

Court appearances or actions were scheduled for each of the above-listed defendants. Failing to file a Wisconsin state income tax return at the time required by law is a crime punishable by a fine of not more than \$10,000 or imprisonment not to exceed nine months 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 taxes, penalties and interest due follows conviction for criminal violation.

#### Excise Tax

A former Waterford businessman has been charged with criminal violations of the Wisconsin state fuel tax laws. Charles R. Guschl, 3386 Highway 45 South, Conover, who formerly operated Dick's Towing in Waterford, was charged in Dane County Circuit Court, Madison, on April 30 with fraudulently withholding and appropriating special fuel taxes belonging to the state in excess of \$14,000 from May 20, 1984 until January 19, 1987.

Theft of state motor fuel or special fuel tax money is a felony punishable by a fine not to exceed \$10,000 or imprisonment not to exceed ten years or both when the amount of the misappropriation exceeds \$2,500.

### SELLER'S PERMIT RENEWAL INSERT, FORM S-801, SENT TO RETAILERS

#### Background

Seller's permits expire every two years on the last day of the original issuance month. Permits are automatically renewed unless the permittee has a liability of \$400 of delinquent taxes and any portion has been delinquent for five months or longer.

#### New Process

The department has recently implemented a new form to be inserted with a renewed seller's permit sent to a registered seller. The new form provides basic information regard-

ing the requirement to timely file sales and use tax returns, the need to post the renewed seller's permit at the place of business, and the necessity to keep the department updated on changes to the basic account information. Revisions to account information include changes in ownership and mailing/business address, or the discontinuance of the business.

The department currently inactivates approximately 21,000 permits each year as a result of notification from the discontinued seller. This amount may slightly increase as a result of the additional notification to sellers of their responsibility to keep the department informed of changes to the status of the account. This will save the department from maintaining and monitoring the compliance of sellers that have discontinued their business but have neglected to provide proper notification to the department. The new form also makes an attempt to have the registered seller provide the department with its related Wisconsin employer's account number and Federal Employer Identification Number.

Of the 159,000 active registered seller's locations, approximately half of the accounts receive renewed seller's permits each year. The renewed seller's permit is mailed early in the month that the old permit expires, unless nonrenewed because the permittee owes delinquent taxes.

The new form has been included with all renewed seller's permits printed and mailed after March 5, 1990. A copy of the Seller's Permit Renewal Insert, Form S-801, appears on pages 42 and 43 of this Bulletin.

### TAXPAYER COULD OWE ALTERNATIVE MINIMUM TAX BECAUSE OF SCHOOL PROPERTY TAX/RENT CREDIT

A flyer was sent to all persons receiving the additional school property tax/rent credit. The flyer is reproduced on pages 44 and 45 of this Bulletin. One of the questions and answers indicated that if a taxpayer had a Wisconsin alternative minimum tax (WAMT) liability in 1987 or 1988, the taxpayer's additional school property tax/rent credit for

that year would be zero. Because a taxpayer's regular tax is used to compute WAMT, as the amount of regular tax decreases (which it does as a result of the additional credit), the WAMT increases by the same amount.

*Example:* On line 18 of 1988 Schedule MT, Taxpayer A filled in a minimum tax of \$6,000. On line 19 of 1988 Schedule MT, Taxpayer A filled in regular tax of \$5,000 from his or her originally filed 1988 Wisconsin Form 1. Taxpayer A computed a WAMT liability of \$1,000 for 1988 (\$6,000 minimum tax less \$5,000 regular tax). Assuming Taxpayer A is entitled to an additional school property tax credit of \$130 for 1988, Taxpayer A's WAMT liability is recomputed to account for the reduced regular tax, resulting in a WAMT liability of \$1,130 (\$6,000 minimum tax less \$4,870 regular tax). The additional school property tax/rent credit (\$130) is used to offset the additional WAMT liability that results (\$130). Therefore, Taxpayer A receives no check for 1988 additional credit. The taxpayer will receive no notice stating that the additional credit has been offset against the increase in WAMT liability.

The flyer does not mention that some taxpayers who had no WAMT liability on their 1987 or 1988 returns may now incur a liability for WAMT because of the additional school property tax/rent credit. The taxpayer's additional credit was not adjusted for this liability before the check was sent, because the department's computer history file for the taxpayer does not contain information which can be used to compute WAMT liability. This liability can only be determined by examination of the taxpayer's Wisconsin income tax return. Therefore, an adjustment to the taxpayer's Wisconsin return may be necessary. This adjustment can be made either by the department in its audit of returns or it can be made on an amended return filed by the taxpayer.

*Example:* On line 18 of 1988 Schedule MT, Taxpayer B filled in a minimum tax of \$6,000. On line 19 of 1988 Schedule MT, Taxpayer B filled in a regular tax of \$6,100 from his originally filed Wisconsin 1988 Form 1. Taxpayer B computed no WAMT liability because the taxpayer's regular tax (\$6,100) was greater than the minimum tax (\$6,000). Assuming Taxpayer B is entitled to an ad-

ditional school property tax/rent credit of \$130 for 1988, Taxpayer B now has a WAMT liability of \$30 (\$6,000 minimum tax less \$5,970 regular tax) because of the reduction in the amount of regular tax. The taxpayer was sent the additional credit of \$130. The department may subsequently make an adjustment to the taxpayer's 1988 Wisconsin Form 1 to account for the \$30 WAMT liability still outstanding.

### HOMESTEAD AND FARMLAND PRESERVATION CREDITS ARE POPULAR

For the fiscal year ending June 30, 1989, homestead credits totaling almost \$100 million were issued to over 260,000 claimants, and farmland preservation credits totaling over \$28 million were issued to almost 24,000 claimants.

The average homestead credit was \$380, and the average farmland preservation credit was \$1,192. The schedule below shows additional data about homestead credit and farmland preservation credit for the past two fiscal years.

	1987-88	1988-89
<b>Homestead Credit</b>		
Total credit allowed	\$103,829,374	\$99,449,998
Number of claims filed	261,349	261,924
Average credit per claim	\$397	\$380
<b>Farmland Preservation Credit</b>		
Total credit allowed	\$29,414,590	\$28,342,642
Number of claims filed	23,373	23,776
Average credit per claim	\$1,258	\$1,192

### PROPERTY TAX DEFERRAL LOANS ARE BEING GRANTED

In 1989, loans totaling \$400,000 were granted by the Department of Revenue to over 300 persons, to help them pay the property taxes on their Wisconsin homestead.

Property tax loans are granted through the Property Tax Deferral Loan Program, which began in 1986. To obtain a loan, a participant must be age 65 or older, and total household

income cannot exceed \$20,000 for the year. Up to \$1,800 per year may be borrowed. The loan does not have to be repaid until the participant sells or moves out of the home, though all or any part of the loan may be repaid at any time.

The average loan in 1989 was for \$1,270. The schedule below shows additional data about property tax deferral loans for the past two calendar years.

	1988	1989
<b>Property Tax Deferral Loans</b>		
Number of loans allowed	314	311
Average amount of loan	\$ 1,246	\$ 1,270
Average household income	\$10,250	\$10,445
Average age of participant	75	76
Loans outstanding at year-end	763	967

### ESTIMATED TAX REQUIREMENTS FOR GRANTOR TRUSTS FUNDED ON ACCOUNT OF A DECEDENT'S DEATH

An article in *Wisconsin Tax Bulletin* 66 (page 5) reported that trusts are subject to Wisconsin's estimated tax requirements for 1990. It should be noted that grantor trusts which are funded on account of a decedent's death are only required to make estimated tax payments for tax years which end two or more years after the decedent's death.

*Example:* An individual died on April 25, 1990. A grantor trust which was funded on account of her death is not required to make estimated tax payments for any tax year ending before April 25, 1992.

### 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 ...

1. *Question:* Can I obtain an extension of time to file an appeal with the Department of Revenue's Appellate Bureau?

*Answer:* No. An appeal must be filed within 60 days from the receipt of a notice of assessment, refund, refund denial, or credit adjustment. The 60-day period cannot be extended, but once an initial appeal is filed a taxpayer may subsequently amend or expand upon the appeal or object to additional items, as long as the appeal is still pending with the Appellate Bureau.

2. *Question:* Must I pay the assessment in order to appeal to the Appellate Bureau?

*Answer:* No. You do not have to pay any amount until the appeal process is completely ended. However, to stop the further accumulation of interest you would have to deposit the full amount of the assessment; the Appellate Bureau cannot accept partial deposits. If, however, you agree to a portion of the assessment, you may recompute and pay the tax and interest on the agreed portion.

3. *Question:* When will a conference be scheduled for my appeal?

*Answer:* Appeals are handled in the order they are received by the conferee. Depending on the conferee's backlog, it may take 3 or 4 months before a conference can be scheduled.

4. *Question:* Can I obtain a Private Letter Ruling from the department regarding an issue that is under appeal?

*Answer:* No, unless unique and compelling reasons justify a ruling. Based on Wisconsin Publication 111, "How to Get a Private Letter Ruling From the Wisconsin Department of Revenue," the department ordinarily will not provide a ruling on an issue involved in an audit which has been completed. This would include an issue which has been appealed to the Appellate Bureau.

5. *Question:* If I disagree with a decision from the Appellate Bureau, how can I appeal the decision?

*Answer:* You may file a "petition for review" with the Wisconsin Tax Appeals Commission at 217 S. Hamilton St., Suite 501, Madison, WI 53702. The petition for review must be in writing and must be filed within 60 days of your receipt of the notice of action from the Appellate Bureau.

## 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 June 25, 1990. Part D lists new rules and amendments which were adopted in the period from March 16, 1990 through June 25, 1990. Part E lists Rules adopted in 1990 but not yet effective. ("A" means amendment, "NR" means new rule, "R" means repealed and "R&R" means repealed and recreated.)

### A. Rules at Legislative Council Rules Clearinghouse

1.11	Requirements for examination of returns-R&R
2.02	Reciprocity-R&R
2.39	Apportionment method-R&R
2.95	Reporting of instalment sales by natural persons and fiduciaries-A
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
11.002	Permits, application, department determination-A
11.01	Sales and use tax return forms-R&R
11.03	Elementary and secondary schools and related organizations-A
11.08	Medical appliances, prosthetic devices and aids-A
11.09	Medicines-A
11.14	Exemption certificates (including resale certificates)-A
11.15	Containers and other packaging and shipping materials-A
11.17	Hospitals, clinics and medical professions-A
11.19	Printed material exemption-A
11.28	Gifts, advertising specialties, coupons, premiums and trading stamps-A
11.40	Exemption of machines and processing equipment-A
11.41	Exemption of property consumed or destroyed in manufacturing-A
11.45	Sales by pharmacies and drug stores-A
11.47	Commercial photographers and photographic services-A
11.48	Landlords, hotels and motels-A
11.49	Service stations and fuel oil dealers-A
11.53	Temporary events-A
11.54	Temporary amusement, entertainment, or recreational events or places-A
11.57	Public utilities-A
11.62	Barbers and beauty shop operators-R&R
11.65	Admissions-A
11.66	Telecommunication and CATV services-A
11.78	Stamps, coins and bullion-A
11.83	Motor vehicles-A
11.85	Boats, vessels and barges-A

- |   |   |  |        |   |
|---|---|--|--------|---|
| 11.925  | Sales and use tax security deposits-A                                     | E. Rules Adopted in 1990 But Not Yet Effective | 8.01   | Tax liability-NR  |
| 11.95   | Retailer's discount-A   |  | 8.02   | Revenue stamps—occupational tax-R&R                                   |
| 11.97   | "Engaged in business" in Wisconsin-A                                      | 1.06   | 8.03   | Affixing stamps-R   |
| 11.98   | Reduction of delinquent interest rate under s. 77.62(1), Stats.-A         |  | 8.04   | Refunds-R&R   |
| 14.01   | Administrative provisions-A   | 1.10   | 8.05   | Special tax on intoxicating liquor-R                                  |
| 14.04   | Property taxes accrued-A  |  | 8.06   | Mixture of specially taxed and regularly taxed intoxicating liquors-R |
| 14.05   | Gross rent and rent constituting property taxes accrued-A                 |  | 8.11   | Reports-A   |
| <b>B. Rules at Revisor of Statutes Office for Publication of Hearing Notice</b>                                 |   | 2.03   | 8.12   | Samples-NR  |
| 2.41  | Separate accounting method-A  | 2.04   | 8.21   | Purchases by the retailer-A   |
| 2.46  | Apportionment of business income of interstate air carriers-R&R           | 2.06   | 8.22   | Purchases made outside of state-A                                     |
| 2.49  | Apportionment of net business incomes of interstate finance companies-R&R | 2.08   | 8.23   | Sales to non-licensees-NR   |
| 17.01   | Administrative provisions-A   | 2.10   | 8.31   | Sales out of Wisconsin-A  |
| 17.02   | Eligibility-A   | 2.30   | 8.51   | Labels-R  |
| 17.03   | Application and review-A  | 2.08   | 8.61   | Advertising-A   |
| <b>C. Rules at Legislative Standing Committee</b>   |   | 2.10   | 8.66   | Merchandise on collateral-A   |
| 7.01  | Purchases and invoices-A  | 2.30   | 8.71   | Bitters-R   |
| 7.23  | Activities of brewers, bottlers and wholesalers-A                         | 2.69   | 8.76   | Salesperson-R&R   |
| <b>D. Rules Adopted in Period from March 16, 1990 to June 25, 1990 (effective date is given in parentheses)</b> |   | 2.89   | 8.81   | Transfer of retail liquor stocks-A                                    |
| 11.10   | Occasional sales-A (5/1/90)   | 2.955  | 8.87   | Intoxicating liquor tied-house prohibitions-A                         |
| 11.16   | Common or contract carriers-A (5/1/90)                                    | 3.03   | 11.05  | Governmental units-A  |
| 11.18   | Dentists and their suppliers-A (5/1/90)                                   | 3.08   | 11.09  | Medicines-A   |
| 11.26   | Other taxes in taxable gross receipts and sales price-A (5/1/90)          | 3.085  | 11.12  | Farming, agriculture, horticulture and floriculture-A                 |
| 11.32   | "Gross receipts" and "sales price"-A (5/1/90)                             | 3.096  | 11.19  | Printed material exemption-A  |
| 11.41   | Exemption of property consumed or destroyed in manufacturing-A (5/1/90)   | 3.10   | 11.40  | Exemption of machines and processing equipment-A                      |
| 11.57   | Public utilities-A (5/1/90)   | 3.12   | 11.51  | Grocers' guidelist-A  |
| 11.66   | Communications and CATV services-R&R (5/1/90)                             | 3.37   | 11.535 | Operators of a swap meet, flea market, craft fair or similar event-NR |
| 11.67   | Service enterprises-A (5/1/90)  | 3.38   | 11.57  | Public utilities-A  |
| 11.68   | Construction contractors-A (5/1/90)                                       | 3.47   | 11.61  | Veterinarians and their suppliers-A                                   |
| 11.84   | Aircraft-A (5/1/90)   | 3.54   | 14.03  | Household income and income-A   |
| 11.85   | Boats, vessels and barges-A (5/1/90)                                      | 3.81   | 14.06  | Marriage, separation, or divorce during a claim year-A                |
|   |   | 3.91   |        |   |
|   |   | 3.92   |        |   |
|   |   | 3.93   |        |   |
|   |   | 3.94   |        |   |

## 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).*