

VITA AND TCE PROGRAMS COMPLETE SUCCESSFUL TAX YEAR

The Wisconsin Department of Revenue expresses its appreciation to the 1,200 volunteers of the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs, who helped make this another successful tax year for many of Wisconsin's taxpayers. Working at sites throughout the state, volunteers completed over 30,000 state income tax returns.

The Wisconsin Department of Revenue works closely with the Internal Revenue Service in providing both training and resources to the VITA and TCE programs. This year the department conducted 40 training sessions for volunteers. The department also provides tax forms and other support items.

REMINDER: FILING DEADLINES FOR 1989 HOMESTEAD AND FARMLAND PRESERVATION CREDIT CLAIMS

December 31, 1990, is the deadline for filing a 1989 homestead credit claim. Farmland preservation credit claims for 1989 must be filed no later than 12 months after the farmland owner's 1989 taxable year ends. December 31, 1990, is the deadline for filing a 1989 farmland preservation credit claim for farmland owners who are calendar year taxpayers.

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

REMINDER: EFFECT OF 1989 LAW CHANGE WHICH FEDERALIZED WISCONSIN'S DEFINITION OF "TAXABLE YEAR"

For taxable years beginning on or after August 1, 1988, the "taxable year" for Wisconsin is the taxable period upon the basis of which the taxable income of the taxpayer is computed for federal income tax purposes. Sec. 71.01(12), Wis. Stats. (1987-88), as amended by 1989 Wisconsin Act 31.

For federal purposes, the "taxable year" is the calendar year or any fiscal year *ending* during such calendar year. Sec. 7701(a)(23), Internal Revenue Code. However, for administrative purposes, a particular year's tax return is filed for the calendar year and any fiscal year *beginning* during that calendar year.

For example, a taxpayer who files income tax returns on the basis of a September 30 year-end will report his or her income for the fiscal year beginning October 1, 1989, and ending September 30, 1990 (a 1990 taxable year), on a 1989 form.

For taxable years beginning after December 31, 1987, changes have also occurred in the Wisconsin Statutes in the annual updating of the references to the Internal Revenue Code. When the definition of "Internal Revenue Code" is updated in the Wisconsin Statutes, it applies for taxable years beginning after a particular date rather than for a particular taxable year.

For example, the Internal Revenue Code as amended to December 31, 1989, applies for taxable years that begin after December 31, 1989.

Very few differences currently exist between the Internal Revenue Code in effect for federal and Wisconsin purposes because most of the federal law changes enacted in 1987, 1988, and 1989 apply at the same time for both federal and Wisconsin purposes.

Please note that differences in the Wisconsin Statutes between the taxable year definitions and the Internal Revenue Code updates

have produced some overlapping for certain short taxable years. For example, both sec. 71.01(6)(b) and sec. 71.01(6)(c) apply to a taxable year that begins August 1, 1988, and ends November 30, 1988. However, since federal law changes enacted in 1987, 1988, and 1989 apply for Wisconsin at the same time as federally, this overlapping does not cause a problem.

CRIMINAL ENFORCEMENT ACTIVITIES

Income Taxes

A Wisconsin Rapids businessman and his wife have been found guilty of failure to file state income tax returns. Ida Lee and John Siewert Sr., 1771 Riverwood Lane, were found guilty and sentenced by Dane County Judge Jack Aulik.

The Siewerts were each charged with three misdemeanor counts. He pleaded no contest to two counts of failure to file state income tax returns, was fined \$1,600, and was ordered to spend 5 days in jail. A third charge against him was dismissed.

Mrs. Siewert pleaded no contest to one count and was fined \$660. Two additional counts against her were dismissed. All fines were paid.

Siewert is a longtime Wood County Board of Supervisors member and a corporate shareholder in Siewert-Mogg Insurance Services and Coldwell Banker-Siewert Realtors. Mrs. Siewert is a teacher.

The criminal complaint originally filed against them by the Dane County district attorney's office stated they had a gross income of \$312,194 for 1986, \$341,509 for 1987, and \$326,593 for 1988, but they did not file income tax returns for those years.

A jail sentence and fine have been ordered for a Dodgeville attorney, for violation of the Wisconsin state income tax law. James R. Pope, 314 Tower Court, Dodgeville, was sentenced in Dane County Circuit Court, Branch 14, Madison, on one count of fail-

ing to timely file a 1988 state income tax return.

Circuit Judge George Northrup ordered Pope to serve 5 days in jail and pay a fine of \$500 plus \$160 costs after he pleaded no contest to the charge. Pope was charged with failing to timely file a 1988 state income tax return when he had gross income in excess of \$94,000.

Portage County businessman Richard D. Boldt, 555 West Clark Street, Stevens Point, has been ordered to serve jail time and pay fines and court costs totaling \$10,000 for criminal violation of the Wisconsin state income tax law. Boldt was sentenced in Dane County Circuit Court, Branch 6, Madison, after he pleaded guilty to one count of filing a false and fraudulent state income tax return for the year 1987.

Judge Richard Callaway withheld sentence and ordered Boldt to serve 3 years probation. Under the conditions of probation, Boldt must serve 30 days in jail and make restitution of state income taxes, penalties, and interest due for the years 1984, 1985, 1986, and 1987 as determined by the Wisconsin Department of Revenue. Boldt paid \$10,000 as a fine and court costs when he was sentenced.

Boldt was charged with failing to report more than \$11,000 in taxable income on his 1987 state income tax return. He owns and operates Bill's Pizza Shop in Stevens Point.

Sales and Use Taxes

Eight Waukesha County residents have been charged with criminal violations of the Wisconsin sales and use tax laws. Paul H. Dickson, 619 Main Street, Eagle; Lisa and Mark Groose, W383 N9049 Mill Street, Oconomowoc; Troy M. Heil, 3542 South 158th Street, New Berlin; Peter K. Kim, 14850 Westover Road, Elm Grove; Thomas N. Landgraf, 14105 West Fieldpoint Drive, New Berlin; Harvey Metzger, W224 N7740 Wooded Hills Drive, Sussex; and Richard M. Schaefer, 14405 Ridgemoor Drive, Elm Grove were each charged in Waukesha County Circuit Court, Waukesha, with fil-

ing false reports and evading sales or use taxes due when registering motor vehicles.

Each of the defendants is charged with understating the purchase price of the vehicles they purchased from private parties to evade the correct tax due.

Filing a false sales or use tax report (Form MV-1) is a crime punishable by a \$500 fine or 30 days in jail or both. In addition to the criminal penalty, Wisconsin law provides for substantial civil penalties on the civil tax liability.

Fuel Taxes

A former Waterford businessman has been ordered to serve jail time and probation for 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 sentenced in Dane County Circuit Court, Branch 11, Madison, after he pleaded guilty to fraudulently withholding and appropriating special fuel taxes belonging to the state in excess of \$14,000 from May 20, 1984, until January 19, 1987.

Judge Daniel R. Moeser sentenced Guschl to 3 years imprisonment, stayed execution of the sentence, and ordered him to serve 3 years probation. Under the conditions of probation, Guschl must serve 60 days in jail and make restitution of \$14,057.18 in state special fuel tax.

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.

A Wood County businessman has been charged with criminal violations of the Wisconsin state fuel tax laws. Delbert H. Weiler, owner and operator of Weiler Oil Company, 11601 Stadt Road, Marshfield, was charged in Dane County Circuit Court, Madison, with intentionally withholding and appropriating special fuel taxes belonging to the state in excess of \$100,000 from July 20, 1984 until November 20, 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.

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

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 September 15, 1990. Part D lists new rules and amendments which were adopted in the period from June 26, through Sep-

tember 15, 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

- 2.165 Change in taxable year-A
- 2.39 Apportionment method-R&R
- 2.40 Nonapportionable income-R
- 2.48 Apportionment of net business incomes of interstate pipeline companies-A
- 2.94 Tax sheltered annuities-A
- 3.095 Income tax status of interest and dividends from municipal, state and federal obligations received by individuals and fiduciaries-A
- 11.04 Constructing buildings for exempt entities-A
- 11.05 Governmental units-A
- 11.12 Farming, agriculture, horticulture and floriculture-A
- 11.16 Common or contract carriers-A
- 11.26 Other taxes in taxable gross receipts and sales price-A
- 11.32 "Gross receipts" and "sales price"-A
- 11.50 Auctions-A
- 11.86 Utility transmission and distribution lines-R&R
- 11.92 Records and record keeping-A
- 11.96 Interest rates-A

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

- 1.11 Requirements for examination of returns-R&R
- 2.02 Reciprocity-R&R
- 2.41 Separate accounting method-A
- 2.46 Apportionment of business income of interstate air carriers-R&R
- 2.49 Apportionment of net business incomes of interstate finance companies-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
- 11.11 Waste treatment facilities-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
- 11.29 Leases and rentals of tangible personal property-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
- 11.46 Summer camps-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
- 11.68 Construction contractors-A
- 11.72 Laundries, drycleaners, and linen and clothing suppliers-A
- 11.78 Stamps, coins and bullion-A
- 11.79 Leases of highway vehicles and equipment-A
- 11.83 Motor vehicles-A
- 11.84 Aircraft-A
- 11.85 Boats, vessels and barges-A
- 11.88 Mobile homes-A
- 11.925 Sales and use tax security deposits-A
- 11.94 Wisconsin sales and taxable transportation charges-A
- 11.95 Retailer's discount-A

- 11.97 "Engaged in business" in Wisconsin-A
- 11.98 Reduction of delinquent interest rate under s. 77.62(1), Stats.-A
- 14.01 Administrative provisions-A
- 14.04 Property taxes accrued-A
- 14.05 Gross rent and rent constituting property taxes accrued-A

C. Rules at Legislative Standing Committee

- 17.01 Administrative provisions-A
- 17.02 Eligibility-A
- 17.03 Application and review-A

D. Rules Adopted in Period from June 26, 1990, to September 15, 1990 (effective date is given in parentheses)

- 1.06 Application of federal income tax regulations-A (7/1/90)
- 1.10 Depository bank requirements for estimated tax vouchers, sales and use tax returns, and withholding, motor fuel, general aviation fuel and special fuel tax deposit reports-A (7/1/90)
- 2.03 Corporation returns-A (7/1/90)
- 2.04 Information returns and wage statements-R&R (7/1/90)
- 2.06 Information returns required of partnerships and persons other than corporations-R (7/1/90)
- 2.08 Returns of persons other than corporations-A (7/1/90)
- 2.10 Copies of federal returns, statements, schedules, documents, etc., to be filed with Wisconsin returns-A (7/1/90)
- 2.30 Property located outside Wisconsin - depreciation and sale-A (7/1/90)
- 2.69 Income from Wisconsin business-R (7/1/90)
- 2.89 Penalty for underpayment of estimated tax-R (7/1/90)
- 2.955 Credit for income taxes paid to other states-A (7/1/90)
- 3.03 Dividends received, deductibility of-R&R (7/1/90)
- 3.08 Retirement and profit-sharing payments by corporations-A (7/1/90)
- 3.085 Retirement plan distributions-A (7/1/90)

3.096 Interest paid on money borrowed to purchase exempt government securities-A (7/1/90)
 3.10 Salesmen's and officers' commissions, travel and entertainment expense of corporations-R (7/1/90)
 3.12 Losses on account of wash sales by corporations-R&R (7/1/90)
 3.37 Depletion of timber by corporations-A (7/1/90)
 3.38 Depletion allowance to incorporated mines and mills producing or finishing ores of lead, zinc, copper, or other metals except iron-A (7/1/90)
 3.47 Legal expenses and fines - corporations-R (7/1/90)
 3.54 Miscellaneous expenses - corporations-R&R (7/1/90)
 3.81 Offset of occupational taxes paid against normal franchise or income taxes-A (7/1/90)
 3.91 Petition for redetermination-A (7/1/90)
 3.92 Informal conference-A (7/1/90)
 3.93 Closing stipulations-A (7/1/90)
 3.94 Claims for refund-A (7/1/90)
 8.01 Tax liability-NR (8/1/90)
 8.02 Revenue stamps - occupational tax-R&R (8/1/90)
 8.03 Affixing stamps-R (8/1/90)
 8.04 Refunds-R&R (8/1/90)
 8.05 Special tax on intoxicating liquor-R (8/1/90)
 8.06 Mixture of specially taxed and regularly taxed intoxicating liquors-R (8/1/90)
 8.11 Reports-A (8/1/90)
 8.12 Samples-NR (8/1/90)
 8.21 Purchases by the retailer-A (8/1/90)
 8.22 Purchases made outside of state-A (8/1/90)
 8.23 Sales to non-licensees-NR (8/1/90)
 8.31 Sales out of Wisconsin-A (8/1/90)
 8.51 Labels-R (8/1/90)
 8.61 Advertising-A (8/1/90)
 8.66 Merchandise on collateral-A (8/1/90)
 8.71 Bitters-R (8/1/90)
 8.76 Salesperson-R&R (8/1/90)
 8.81 Transfer of retail liquor stocks-A (8/1/90)

8.87 Intoxicating liquor tied-house prohibitions-A (8/1/90)
 11.05 Governmental units-A (7/1/90)
 11.09 Medicines-A (7/1/90)
 11.12 Farming, agriculture, horticulture and floriculture-A (7/1/90)
 11.19 Printed material exemption-A (7/1/90)
 11.40 Exemption of machines and processing equipment-A (7/1/90)
 11.51 Grocers' guidelist-A (7/1/90)
 11.535 Operators of a swap meet, flea market, craft fair or similar event-NR (7/1/90)
 11.57 Public utilities-A (7/1/90)
 11.61 Veterinarians and their suppliers-A (7/1/90)
 14.03 Household income and income-A (9/1/90)
 14.06 Marriage, separation, or divorce during a claim year-A (9/1/90)

E. Rules Adopted in 1990 But Not Yet Effective

7.01 Purchases and invoices-A
 7.23 Activities of brewers, bottlers and wholesalers-A

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

Keith Breyer (p. 7)
 Corporate Liquidations — sec. 333

Franklin F. Koehler (p. 8)
 Partnerships — partner's share of income (loss)

Klaus Wacker (p. 8)
 Foreign taxes paid

Thomas Wall (p. 8)
 Losses — allocation

Corporation Franchise or Income Taxes

Appleton Papers, Inc. (p. 9)
 Business loss carryforward — merger

Consolidated Freightways Corporation of Delaware (p. 9)
 Apportionment — motor carriers

The Hearst Corporation (p. 10)
 Apportionment — property factor, rented property; sales factor

Presto Products, Incorporated (p. 12)
 Interest expense - loans between related parties

Sta-Rite Industries, Inc. (p. 13)
 Waivers — statute of limitations

U.S. Oil Co., Inc. (p. 13)
 Leases-1986 and prior — safe harbor rules

Inheritance Taxes

Estate of Emily Pierron, et al (p. 14)
 Residuary bequests

Sales/Use Taxes

Alton Cable Corporation (p. 14)
 Cable TV — installations

GTE Sprint Communications Corporation, now known as U.S. Sprint Communications Company (p. 15)
 Telecommunication services — access charges

INDIVIDUAL INCOME TAXES

Corporate liquidations — sec. 333. *Keith Breyer vs. Wisconsin Department of Revenue* (Circuit Court of Outagamie County,