

TAXPAYERS DESIGNATE \$426,309 TO STATE ELECTION CAMPAIGN FUND

The 1989 Wisconsin income tax returns, Forms 1, 1A, 1NPR, and WI-Z, included a box for taxpayers to designate \$1 to the State Election Campaign Fund. If the election box was checked, there was no increase in tax liability or reduction in refund for making the designation.

During the period July 1, 1989, to June 30, 1990, taxpayers designated \$426,309 to the election campaign fund on their Wisconsin tax returns. This compares to \$439,821 for the prior 12 months ending June 30, 1989.

CONTRIBUTIONS TO ENDANGERED RESOURCES PROGRAM INCREASE

The 1989 Wisconsin income tax returns, Forms 1, 1A, 1NPR, and WI-Z, included a line for taxpayers to contribute to the Wisconsin Endangered Resources Fund. These donations either reduce a taxpayer's income tax refund or increase the amount of income tax owed. Amounts contributed go to the Wisconsin Department of Natural Resources to help protect and care for Wisconsin's endangered species, nongame wildlife, and rare plant and animal habitats.

On 1989 Wisconsin income tax returns filed, 62,494 taxpayers contributed \$630,521 to the Endangered Resources Fund. This compares with 1988 income tax returns, where 56,893 taxpayers contributed \$612,380.

TAX FRAUD PROVES UNSUCCESSFUL IN WISCONSIN

Income Taxes

A Manitowoc attorney has been ordered to serve probation and pay fines totaling \$15,000 for criminal violations of the Wisconsin state income tax law.

John P. Dewane, 1030 North 16th Street, Manitowoc, was sentenced in Manitowoc County Circuit Court, Branch 1, by Judge William Crane on three counts of failing to file state income tax returns for the years 1986, 1987, and 1988. He had earlier pled no contest to the charges.

Judge Crane sentenced Dewane to 120 days in the county jail on each count, to run concurrently, stayed execution of the sentence, and ordered him to serve two years probation. Under the conditions of probation, Dewane must pay a \$5,000 fine on each of the three counts, make restitution of state income taxes, penalties, and interest, pay the cost of prosecution, file state and federal income tax returns on time during the probationary period, and perform 750 hours of community service.

Riley D. Davis, 2616 North 27th Street, Milwaukee, was sentenced in Milwaukee County Circuit Court, Branch A-F, on one count of preparing a false income tax return and two counts of preparing false home-stead credit claims for other taxpayers in 1987 and 1988. Circuit Judge Robert Landry ordered Davis to serve two years probation. Under the conditions of probation, Davis must serve two weeks in the Milwaukee County House of Corrections and pay a fine of \$1,000.

Sales and Use Taxes

Four men have been charged in Dane County Circuit Court, Madison, with criminal violations of Wisconsin sales and use tax laws. Stanley J. Barton, 9448 45th Street, Milwaukee and Walter W. Hollenberger, 3805 West Glenwood Drive, Franklin, were each charged with filing false tax reports when they registered boats that they purchased from private parties. Timothy P. Hahn, Route 1, Clinton and Dennis W. Larson, 816 N. 32nd Place, Wausau, were each charged with filing false tax reports when they registered automobiles purchased from private parties. All four men understated the values of the property purchased and paid less use tax than was legally due the state.

Failure to file a Wisconsin state income tax return or aiding in the preparation of a false return is a crime punishable by a fine of not more than \$10,000 or imprisonment for not more than nine months or both. Assisting in the preparation of a false Wisconsin home-stead credit claim is a felony punishable by a fine of up to \$10,000 or imprisonment for up to five years or both. Filing a false state sales or use tax report is a crime punishable by a fine not to exceed \$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 civil tax liability follows conviction for criminal violation of the tax laws.

FORMS 1099-G AND 1099-INT MAILED TO TAXPAYERS

Federal law requires that the Department of Revenue provide 1990 information returns (Forms 1099-G) to persons who received a Wisconsin income tax refund in 1990 and claimed state income tax payments as an itemized deduction on the federal tax return for the year to which the refund applies. Federal law also requires that information returns (Forms 1099-INT) be provided to persons who received \$10 or more of interest on refunds issued by the Department of Revenue.

The department will mail approximately 15,000 Forms 1099-INT and 2.3 million Forms 1099-G during January 1991. This represents a substantial increase from last year, resulting principally from the Internal Revenue Service's determination that Wisconsin's one-time additional school property tax credits for 1987 and 1988 which were distributed in April 1990 represent a recovery of 1987 and 1988 Wisconsin income taxes. Of the 2.3 million Forms 1099-G, approximately 887,000 will be for tax year 1987, 799,000 for tax year 1988, and 644,000 for tax year 1989. Most taxpayers receiving 1099-G's for more than one year (for example, one each for 1987, 1988, and 1989) will receive them all in a single envelope.

A taxpayer must report all interest from Form 1099-INT as income on his or her 1990 federal tax return. All or a portion of a state income tax refund from Form 1099-G may also be includible in federal taxable income. Interest must also be reported as income on a Wisconsin tax return, but the state income tax refund should not be included in Wisconsin taxable income.

The Form 1099-G has an explanation area on the right side showing how the refund reported to the IRS was determined. The first line shows the amount of the refund, and subsequent lines show plus or minus adjustments for amounts applied to next year's estimated taxes; endangered resources donations; late filing penalties and interest; homestead, farmland preservation, farmland tax relief, and earned income credits; retirement penalties; and any other adjustments. The last line shows the amount of refund reported to the IRS.

EXTENSIONS OF TIME TO FILE TAX RETURNS

Extensions Allowed for Some Wisconsin Returns

Due dates for filing various Wisconsin tax returns and reports are determined by Wisconsin Statute and by administrative rule. The Wisconsin Statutes also authorize extensions of time for filing certain (but not all) Wisconsin returns and reports. The time for filing some Wisconsin tax returns and reports cannot be extended, as no extension is authorized by the Wisconsin Statutes.

Extensions To File Do Not Extend Time To Pay

An extension of time to file a Wisconsin tax return or report does not extend the time to pay any tax due. Income, franchise, or sales/use taxes not paid by the original due date are subject to interest at the rate of 12% per year during the extension period and 18% per year from the end of the extension period until paid. For corporations, however, the amount of any required estimated tax not paid by the original due date is subject to interest at the rate of 18% during the extension period, rather than 12%.

Any additional withholding tax paid with an employer's annual reconciliation return is subject to delinquent interest of 18% per year from the original due date of the tax until paid, regardless of whether an extension of time to file the return has been granted.

Tax Payments With Extensions

A taxpayer who wishes to make an income or franchise tax payment with an extension request should submit the payment with an estimated tax payment voucher, Form 1-ES for individuals or Form 4-ES for corporations. A taxpayer wishing to make a sales/use or withholding tax payment with an extension request may do so. The letter requesting the extension should include the taxpayer's real name, address, seller's permit or use tax number or withholding account number, and the reporting period to which the payment should be applied.

Obtaining Extensions

An extension of time for filing a Wisconsin tax return or report may be obtained by timely filing either the proper Wisconsin Extension Form (Form I-101 or Form IC-830) or a written request with the Wisconsin Department of Revenue, and receiving written approval from the department.

An extension is also allowed if a taxpayer receives in writing an approved extension from the Internal Revenue Service (IRS) for filing the corresponding federal return, or if a taxpayer qualifies for an automatic federal extension, as explained below.

An automatic federal extension of 4 months for individuals or 6 months for corporations is allowed for individuals who file federal Form 4868 or for corporations that file federal Form 7004 by the original due date of their federal tax returns. A copy of the application for an automatic federal extension should *not* be sent to the Department of Revenue at the time the application is made.

A U.S. citizen or resident whose abode and main place of business or post of duty are outside the United States and Puerto Rico on the due date of a tax return is allowed an automatic 2-month extension of time to file the federal return.

Military personnel who are assigned to Operation Desert Shield in the Mideast on the normal April 15 tax filing deadline will be allowed an automatic extension of at least 2 months to file the 1990 federal return. If conditions warrant, the IRS will automatically extend the filing deadline beyond June 15, 1991.

To avoid late filing fees or delinquent interest, a taxpayer should attach a copy of the federal automatic extension or the federal or Wisconsin approved extension to the Wisconsin tax return when it is filed (except a sales/use tax return). A taxpayer located outside the United States and Puerto Rico, or a military person assigned to Operation Desert Shield, who qualifies for an automatic federal extension should attach an explanatory statement to the Wisconsin tax return.

Where to Apply for Wisconsin Extensions

Applications for extensions and related correspondence should be mailed to Wisconsin Department of Revenue, Madison, WI 53708, at the following post office box numbers:

- individual, partnership, and fiduciary returns - P.O. Box 8903;
- corporate and information returns - P.O. Box 8908;
- sales/use and withholding returns - P.O. Box 8902.

Requests for Wisconsin extensions must be in writing; telephone or oral requests cannot be approved.

Lists of Wisconsin Tax Returns/Extensions

A list of various tax returns and reports for which the Wisconsin Statutes authorize an extension of time to file appears on pages 34 to 36 of this Bulletin. The list includes due dates, extension periods allowed, extension forms to use, and the statutes, administrative rules, or federal regulations prescribing the due dates or authorizing the extensions.

A list of various tax returns and reports for which no filing extension is authorized appears on pages 36 and 37 of this Bulletin.

This list includes due dates for each form, and the statutes prescribing the due date. The list is a guideline and is not all-inclusive.

DEPARTMENT PUBLICATIONS AVAILABLE

The Department of Revenue publishes a wide variety of publications that are available to taxpayers upon request. The following is a list of publications regarding taxes administered by the Income, Sales, Inheritance, and Excise Tax Division of the department. To order any of these publications, write or call: Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708 (telephone (608) 266-1961).

Number	Title
102	Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders
103	Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts
104	Wisconsin Taxation of Military Personnel
108	How Your Retirement Benefits Are Taxed
109	Tax Information for Married Persons Filing Separate Returns and Persons Divorced
111	How to Get a Private Letter Ruling From the Wisconsin Department of Revenue
112	Wisconsin's Individual Estimated Tax and Corporation Estimated Tax Programs
113	Federal and Wisconsin Income Tax Reporting Under the Marital Property Act
114	Wisconsin Taxpayer Bill of Rights
200	Sales and Use Tax Information for Electrical Contractors
201	Wisconsin State and County Sales and Use Tax Information
202	Sales and Use Tax Information: Motor Vehicle Sales, Leases and Repairs

203	Sales and Use Tax Information for Manufacturers
204	Sales and Use Tax Information for Colleges, Universities and Vocational Schools
206	Sales Tax Exemption for Nonprofit Organizations
207	Sales and Use Tax Information for Contractors
302	Wisconsin Alcohol Laws for Retailers Including Laws Relating to Underage Persons (This publication is only available from the Department of Administration, Document Sales, on a subscription basis)
500	Tax Guide for Wisconsin Political Organizations and Candidates
501	Field Audit of Wisconsin Tax Returns
503	Wisconsin Farmland Preservation Credit
504	Directory for Wisconsin Department of Revenue
505	A Taxpayer's Appeal Rights of an Office Audit Adjustment
506	Taxpayers' Appeal Rights of Field Audit Adjustments
507	How to Appeal to the Tax Appeals Commission
508	Wisconsin Tax Requirements Relating to Nonresident Entertainers
600	Wisconsin Taxation of Lottery Winnings
601	Wisconsin Taxation of Pari-Mutuel Wager Winnings
W-166	Wisconsin Employer's Withholding Tax Guide

TAX APPEALS COMMISSION PUBLISHES NEW VOLUME OF DECISIONS

The Wisconsin Tax Appeals Commission has recently published Volume 11, *Selected Decisions - Wisconsin Tax Appeals Commission*. This volume is available for purchase. It is a hardbound edition which contains over 1,400 pages of key selected decisions of the Wisconsin Tax Appeals Commission from July 1, 1978 to June 30, 1989.

Copies are available at a cost of \$70.00, plus Wisconsin sales tax of 5% or 5 1/2%, as appropriate. To purchase a copy, send your order and remittance to:

Document Sales
202 S. Thornton Avenue
P.O. Box 7840
Madison, WI 53707

FORM 1A NOW AVAILABLE TO MANY RETIRED PERSONS

Three new lines have been added to the Wisconsin Form 1A for 1990. The new lines are for reporting IRA distributions, pensions and annuities, taxable social security, and payments of estimated tax.

In prior years, persons with these types of income were required to complete Wisconsin Form 1. The additional lines on Form 1A will enable more people to use this form, which is easier to complete than Form 1.

Wisconsin Form 1A has usually been available for individuals who file federal Form 1040A. Because the 1990 federal Form 1040A has been revised to allow reporting of IRA distributions, pensions and annuities, taxable social security, and estimated tax payments, the Wisconsin Form 1A has also been revised to include these items.

HOMESTEAD CREDIT/ INCOME TAX FILERS

Was your homestead credit delayed this past year? Did you also file for a quick income tax refund and then file your homestead credit claim separately? If you answer yes to the second question you have explained the delay in processing your homestead credit claim.

Many homestead credit claimants are also entitled to income tax refunds, and in order to receive the income tax refund under the Quick Refund Program, the income tax return is filed separately from the home-

stead credit claim. This works fine for the income tax refund but causes substantial delays in processing the homestead refund.

The homestead credit claim received under these circumstances requires special handling and is separated from the normal processing system. The claim must be held up until all of the necessary information can be verified from the income tax return previously filed. This adds several additional weeks to the processing time for the homestead refund.

The suggested procedure, therefore, is to attach the homestead credit claim to the income tax return and mail them both to the homestead address: Wisconsin Department of Revenue, P.O. Box 34, Madison, WI 53786. This will assure the fastest processing for both refunds.

FEES INCREASE FOR TAX RETURN COPIES AND CERTIFICATION

Effective January 1, 1991, the charge for obtaining copies of income, franchise, sales, and withholding tax returns has increased from \$1.50 to \$4.50 per return. The certification fee has increased for \$.25 to \$.50.

The fee will be charged even if no paper return is on file, to offset the costs involved in researching microfiche, completing worksheets, and preparing letters.

See the article titled "How to Obtain Copies of Your Tax Returns" on page 4 of this Bulletin for further information about requesting copies.

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 December 15, 1990. Part D lists new rules and amendments which were adopted in the period from September 16, 1990, through December 15, 1990. Part E lists rules adopted in 1990 but not yet effective. Part F lists rules withdrawn from promulgation. ("A" means amendment, "NR" means new rule, "R" means repealed, and "R&R" means repealed and recreated.)

A. Rules at Legislative Council Rules Clearinghouse

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

- 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
- 8.24 Reciprocal shipments of wine-NR
- 11.001 Forward and definitions-A
- 11.05 Governmental units-A
- 11.10 Occasional sales-R
- 11.12 Farming, agriculture, horticulture and floriculture-A
- 11.13 Sale of business or business assets-R
- 11.16 Common or contract carriers-A
- 11.26 Other taxes in taxable gross receipts and sales price-A
- 11.30 Credit sales, bad debts and repossessions-A
- 11.32 "Gross receipts" and "sales price"-A
- 11.33 Occasional sales - general-NR
- 11.34 Sales of business or business assets-NR
- 11.35 Occasional sales exemption for nonprofit organizations-NR
- 11.50 Auctions-A
- 11.51 Grocers' guidelist-A
- 11.52 Coin-operated wending machines and amusement devises-A
- 11.57 Public utilities-A
- 11.63 Radio and television-A
- 11.65 Admissions-A
- 11.80 Sales of ice-A
- 11.81 Industrial gases, welding rods and fluxing materials-A

- 11.83 Motor vehicles-A
- 11.85 Boats, vessels and barges-A
- 11.86 Utility transmission and distribution lines-R&R
- 11.87 Meals, food, food products and beverages-A
- 11.91 Successor's liability-A
- 11.92 Records and record keeping-A
- 11.93 Annual filing of sales tax returns-A
- 11.96 Interest rates-A

C. Rules at Legislative Standing Committee

- 11.03 Elementary and secondary schools and related organizations-A
- 11.11 Waste treatment facilities-A
- 11.15 Containers and other packaging and shipping materials-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
- 11.46 Summer camps-A
- 11.68 Construction contractors-A
- 11.72 Laundries, drycleaners, and linen and clothing suppliers-A
- 11.79 Leases of highway vehicles and equipment-A
- 11.84 Aircraft-A
- 11.88 Mobile homes-A
- 11.94 Wisconsin sales and taxable transportation charges-A

D. Rules Adopted in Period from to September 16, 1990 to December 15, 1990 (effective date is given in parentheses)

- 7.01 Purchases and invoices-A (10/1/90)
- 7.23 Activities of brewers, bottlers and wholesalers-A (10/1/90)
- 17.01 Administrative provisions-A (12/1/90)
- 17.02 Eligibility-A (12/1/90)
- 17.03 Application and review-A (12/1/90)

E. Rules Adopted in 1990 But Not Yet Effective

- 1.11 Requirements for examination of returns-R&R
- 2.02 Reciprocity-R&R
- 2.95 Reporting of instalment sales by natural persons and fiduciaries-A
- 11.002 Permits, application, department determination-A
- 11.01 Sales and use tax return forms-R&R
- 11.08 Medical appliances, prosthetic devices and aids-A
- 11.09 Medicines-A
- 11.14 Exemption certificates (including resale certificates)-A
- 11.17 Hospitals, clinics and medical professions-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
- 11.62 Barbers and beauty shop operators-R&R
- 11.66 Telecommunication and CATV services-A
- 11.78 Stamps, coins and bullion-A
- 11.925 Sales and use tax security deposits-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

F. Rules Withdrawn from Promulgation

- 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
- 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
- 11.04 Constructing buildings for exempt entities-A

WE ARE FREQUENTLY ASKED ...

Question: If I purchase a business from an established retailer, can I use the seller's permit of that retailer?

Answer: No. A seller's permit is not transferable. You must apply for a new seller's permit using Wisconsin Form A-101, Application for Permit.

Question: If a restaurant automatically adds a gratuity to a bill, is the entire amount of the bill subject to sales tax?

Answer: Yes. If a gratuity is added automatically to your bill, the entire amount, including the gratuity, is subject to sales tax. This also applies to country clubs that automatically add a tip to a member's monthly food and beverage bill.

Question: Are fees received for auctioneering subject to sales tax?

Answer: No. Auctioneering is not a taxable service. However, the sales of items at an auction may be taxable. Refer to sec. Tax 11.50, Wis. Adm. Code, for more information.

Question: Are containers used for food or beverages, such as paper cups and lids, wrapping paper, styrofoam containers, paper and plastic bags, tape, and similar items purchased by restaurants subject to sales tax?

Answer: No. The sale of these items to restaurants is not taxable if the items are used to hold other items which are sold by restaurants and which are subject to sales tax, such as coffee, sandwiches, french fries,

or soft drinks. The container must be supplied free of charge and as a convenience to the customer.

INFORMATION OR INQUIRIES?

Madison - Main Office
Area Code (608)

- Beverage, Motor Fuel,
- Cigarette, Tobacco Products266-6701
- Corporation Franchise/Income ..266-3645
- Estimated Taxes266-9940
- Fiduciary, Inheritance, Gift266-1231
- Homestead Credit266-8641
- Individual Income266-2486
- Property Tax Deferral Loan266-1983
- Sales, Use, Withholding266-2776
- Audit of Returns: Corporation,
- Individual, Homestead266-2772
- Appeals266-0185
- Refunds266-8100
- Delinquent Taxes266-7879
- Copies of Returns:
- Homestead, Individual266-2890
- All Others266-0678
- Forms Request:
- Taxpayers266-1961
- Practitioners267-2025

District Offices

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

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