

4. Increase Credit for Farmland Covered by Town Exclusive Agricultural Zoning From 90% to 95% of Potential Credit (1991 Act 39, amend sec. 71.60(1)(c)6, effective for taxable years beginning on or after January 1, 1991.)

Farmland located in an agricultural district which is under a certified county agricultural preservation plan, and in an area zoned for exclusive agricultural use under a certified town ordinance, is eligible for 95% of the credit.

Under prior law, such farmland was eligible for only 90% of the credit.

D. SALES AND USE TAXES

1. Exempt Natural Gas and Other Fuels Used in Farming (1991 Act 39, amend sec. 77.54(3)(a) and create sec. 77.54(30)(a)5, effective October 1, 1991.)

Fuel sold for use in farming, including but not limited to agriculture, dairy farming, floriculture, and horticulture, is exempt from Wisconsin sales and use tax.

Example: Natural gas and other fuels for furnaces and boilers in buildings used in farming are exempt from sales and use tax.

2. Limit Exemption for Meals Sold by Hospitals, Etc., to Meals Served on the Premises (1991 Act 39, amend sec. 77.54(20)(c)4, effective October 1, 1991.)

Sales of meals, food, food products, or beverages (other than "mobile meals on wheels") sold by hospitals, sanatoriums, nursing homes, retirement homes, or day care centers registered under ch. 48, Wis. Stats., that are served at a location other than these facilities are subject to Wisconsin sales and use tax. Sales of "mobile meals on wheels" to elderly or handicapped persons remain exempt from Wisconsin sales and use tax.

Example: A hospital operates a catering business. The hospital contracts with a customer to provide a luncheon meal at the customer's business location away from the hospital. The sales of these meals are subject to Wisconsin sales and use tax.

Previously, all sales of meals, food, food products, and beverages by hospitals, sanatoriums, nursing homes, retirement homes or day care centers registered under ch. 48, Wis. Stats., were exempt from Wisconsin sales or use tax, regardless of where they were served.

3. Impose Tax on Materials Removed From Wisconsin for Use Out-of-State (Except Advertising Materials) (1991 Act 39, repeal sec. 77.51(19) and amend sec. 77.51(18), effective October 1, 1991.)

The definitions of "storage" and "use" are revised to provide that purchases of tangible personal property (except advertising materials) from a retailer are subject to Wisconsin use tax if the tangible personal property is stored or used in Wisconsin, regardless of whether the property is subsequently used outside Wisconsin.

Example 1: A Wisconsin corporation with branch offices in neighboring states purchases computer hardware for use in its branch offices from a supplier located outside Wisconsin. The supplier does not have nexus in Wisconsin and is not registered to collect Wisconsin use tax. The supplier has the hardware shipped to Wisconsin by common carrier. The computer hardware is stored in Wisconsin by the Wisconsin corporation and subsequently shipped to its branch offices for installation and set up when needed.

New Law: The Wisconsin corporation is required to report Wisconsin use tax on the purchase price of the computer hardware.

Old Law: The Wisconsin corporation is not required to report Wisconsin use tax on the purchase price of the computer hardware.

Note: For purposes of this example and the following examples, new law means the 1989-90 Wisconsin Statutes as revised by 1991 Act 39. Old law means the 1989-90 Wisconsin Statutes.

Example 2: Assume the same facts as in Example 1 except that the supplier delivers the computer hardware into Wisconsin using its own trucks (rather than by common carrier). As a result, the supplier has nexus in Wisconsin and is registered to collect Wisconsin use tax.

New Law: The supplier is required to collect Wisconsin use tax on the sales price of the computer hardware.

Old Law: The supplier is not required to collect Wisconsin use tax on the sale of the computer hardware if the Wisconsin corporation gives the supplier a properly completed exemption certificate indicating that the property is to be stored in Wisconsin for subsequent use outside Wisconsin.

Example 3: A construction contractor located in Wisconsin purchases lumber from a supplier located outside Wisconsin. The supplier does not have nexus in Wisconsin and is not registered to collect Wisconsin use tax. The lumber is shipped to the contractor in Wisconsin by common carrier. The lumber is subsequently incorporated into real property in Iowa.

New Law: The contractor is required to report Wisconsin use tax on the purchase price of the lumber.

Old Law: The contractor is not required to report Wisconsin use tax on the purchase price of the lumber.

Example 4: Assume the same fact as Example 3 except that the supplier delivers the lumber to Wisconsin in its own trucks rather than by common carrier. As a result, the supplier has nexus in Wisconsin and is registered to collect Wisconsin use tax.

New Law: The supplier is required to collect Wisconsin use tax on the sales price of the lumber.

Old Law: The supplier is not required to collect Wisconsin use tax on the sale of the lumber if the contractor gives the supplier a properly completed exemption certificate indicating that the property is to be stored in Wisconsin for subsequent use outside Wisconsin.

4. Revise Imposition of Sales Tax on Telecommunication Services (1991 Act 39, repeal and recreate sec. 77.52(2)(a)5 and create sec. 77.51(17m) and (21m), effective October 1, 1991.)

I. New Provision

The sale of telecommunication services is subject to sales or use tax if both conditions in A and B listed below are met.

A. The service originates in Wisconsin.

B. The service is charged to a service address in Wisconsin. A "service address" is the location of telecommunication equipment from which telecommunication services are originated or at which telecommunication services are received by a buyer. If there is no defined location, the service address is where a buyer makes primary use of telecommunication equipment as defined by the telephone number, authorization code, or location where bills are sent.

"Telecommunications services" means sending messages and information transmitted through the use of local, toll and wide-area telephone service; channel services; telegraph services; teletypewriter; computer exchange services; cellular mobile telecommunications service; specialized mobile radio; stationary two-way radio; paging service; or any other form of mobile and portable one-way or two-way communications; or any other transmission of messages or information by electronic or similar means between or among points by wire, cable, fiber optics, laser, microwave, radio, satellite or similar facilities. "Telecommunications services" does not include sending collect telecommunications that are received outside of the state.

II. Prior Law

The sale of telecommunication services of whatever nature was subject to sales or use tax if both the conditions in A and B (1 or 2 of B) were met.

A. The service originated in Wisconsin, and

B. The service was charged to a:
1. Subscriber located in Wisconsin, or
2. Telephone located in Wisconsin

For information and examples of these conditions under prior law, refer to sec. Tax 11.66, Wis Adm. Code (March 1991 Register).

Note: Telecommunication services paid for by the insertion of coins in a coin-operated telephone are not subject to sales tax under either the new provision or prior law.

5. Exempt Motor Vehicles and Other Registered Items Transferred to In-Laws (1991 Act 39, repeal and recreate sec. 77.54(7), effective August 15, 1991.)

The transfer by an individual of a motor vehicle, snowmobile, mobile home not exceeding 45 feet in length, boat, trailer, semitrailer, all-terrain vehicle, or aircraft is exempt from Wisconsin sales or use tax as an occasional sale if:

- a. Transferred to a child, spouse, parent, father-in-law, mother-in-law, daughter-in-law, or son-in-law of the individual (transferor),
- b. The item has been registered or titled or is required to be registered or titled in Wisconsin in the name of the individual (transferor) (Note: A boat may be registered or titled in Wisconsin or under the laws of the United States.), and
- c. The individual (transferor) is not engaged in the business of selling the type of item that is transferred.

Previously, the occasional sales exemption did not apply to transfers of these items to in-laws (i.e. father-in-law, mother-in-law, daughter-in-law, or son-in-law) of the transferor.

6. Exempt Repair Parts and Accessories of Exempt Medical Equipment (1991 Act 39, amend sec. 77.54(22)(intro.), effective August 15, 1991.)

The sale of parts and accessories for the following property is exempt from sales and use tax:

- a. Artificial devices individually designed, constructed, or altered solely for the use of a particular physically disabled person so as to become a brace, support, supplement, correction, or substitute for the bodily structure, including the extremities of the individual.
- b. Artificial limbs, artificial eyes, hearing aids, and other equipment worn as a correction or substitute for any functioning portion of the body.
- c. Artificial teeth sold by a dentist.
- d. Eye glasses when especially designed or prescribed by an ophthalmologist, physician, oculist, or optometrist for the personal use of the owner or purchaser.
- e. Crutches and wheelchairs, including motorized wheelchairs and scooters for the use of persons who are ill or disabled.
- f. Antiembolism elastic hose and stockings that are prescribed by a physician and sold to the ultimate consumer.

- g. Adaptive equipment that makes it possible for handicapped persons to enter, operate, or leave a vehicle, as defined in sec. 27.01(7)(a)2, Wis. Stats., if that equipment is purchased by the individual who will use it, a person acting directly on behalf of that individual, or a nonprofit organization.

The items described in a. through g. above have been and continue to be exempt from tax. However, under prior law, parts and accessories for the types of personal property described in a. through g., above, were subject to Wisconsin sales or use tax.

- 7. Clarify Which Taxes Are Included in Gross Receipts (1991 Act 39, amend sec. 77.51(4)(a)4 and (15)(a)4, effective August 15, 1991.)

This provision clarifies that federal, state, and municipal taxes are included in gross receipts and sales price for purposes of imposing Wisconsin sales or use taxes, except if they are measured by a stated percentage of the gross receipts or sales price.

- 8. Delete Obsolete Language Imposing Sales Tax on Access Charges (1991 Act 39, repeal sec. 77.51(13)(p) and (14)(m), effective August 15, 1991.)

The statutory language which imposes sales tax on access charges paid by telecommunications companies that provide service between local access and transport areas is repealed. This statutory language is obsolete because of the Wisconsin Supreme Court decision in U.S. Sprint Communications vs. Wisconsin Bell, dated May 15, 1990, which held that this tax on access charges violates the Equal Protection Clause of the U.S. Constitution because it does not provide similar treatment for resellers or intra-LATA carriers.

- 9. Change Effective Date for County Tax (1991 Act 39, amend sec. 77.70, effective August 15, 1991.)

If a county adopts the county sales and use tax by county ordinance, the county sales and use tax becomes effective either January 1, April 1, July 1, or October 1 as chosen by the county, provided the Secretary of Revenue receives the ordinance at least 120 days prior to the effective date chosen.

Previously, the county sales and use tax could only become effective on April 1, with the condition that the ordinance be received by the Secretary of Revenue at least 120 days prior to such April 1.

- 10. Expand Exemption for Sales of New Mobile Homes (1991 Act 39, amend sec. 77.51(4)(b)6, effective October 1, 1991.)

A sales and use tax exemption is provided for 35% of the sales price of a new mobile home that is transported in two unattached sections if the total size of the combined sections, not including additions and attachments, is at least 984 square feet measured when the sections are ready for transportation.

Previously, the 35% exemption for new mobile homes applied only to those that were primary housing units under sec. 340.01(29), Wis. Stats. This exemption continues to apply.

11. Conform Terminology in Sales Tax Law for Snowmobile and All-Terrain Vehicle Dealers (1991 Act 39, amend sec. 77.61(1)(c), effective August 15, 1991.)

Wording is revised to reflect the Department of Natural Resources' requirements of snowmobile dealers and all-terrain vehicle dealers. No substantive changes are intended.

12. Theft of Sales and Use Tax Moneys (1991 Act 39, create sec. 77.60(11), effective August 15, 1991.)

A person who collects state and county sales and use tax moneys from a consumer, user, or purchaser and who intentionally fails or refuses to pay these tax moneys to the department by the due date for payment, or who fraudulently withholds, appropriates, or uses these tax moneys, is guilty of theft under sec. 943.20, Wis. Stats., which is a felony if the amount involved is more than \$1,000. This applies regardless of the person's interest in these tax moneys.

Payment to creditors in preference to the payment of the tax moneys to the department by any person is prima facie evidence of an intent to fraudulently use these tax moneys.

13. Clarify Real Property Construction Includes Fabrication of Modular Units Affixed to Realty (1991 Act 39, amend sec. 77.51(2), effective August 15, 1991.)

Real property construction activities include the fabrication of modular units designed and fabricated for a specific prefabricated building to be affixed to land at a particular location designated by the purchaser before the fabrication of the modular units. The modular units must have a realty function and must become a permanent accession to the realty.

Persons performing such fabrication activities are the consumers of tangible personal property used in the fabrication, and Wisconsin sales or use tax applies to the sale of tangible personal property to them.

Example: Mr. and Mrs. John Doe want to build a vacation home on their lake front property. Mr. and Mrs. Doe contract with Builder B, who specializes in erection and finishing of prefabricated custom homes.

Builder B and Mr. and Mrs. Doe decide on plans and specifications of the home. Builder B contracts with Company C to prefabricate the home, at the Wisconsin plant of Company C, pursuant to plans and specifications submitted by Builder B.

Company C delivers, on its own trucks, the sections or components of the home to be erected on the foundation at the building site which was constructed by Builder B to the exact specifications of the plan submitted to Company C by Builder B. The driver, employed by Company C, stays at the job site until the erection is completed and the truck is unloaded.

Company C is a subcontractor performing real property construction activity. The amount charged by Company C to Builder B is for real estate construction activities not subject to Wisconsin sales tax. Company C is the consumer of all materials used by Company C in the construction of the home and must pay Wisconsin sales or use tax on the purchase or use of the materials.

Builder B is a contractor performing real property construction activities. The amount charged by Builder B to Mr. and Mrs. Doe is for real estate construction activities not subject to Wisconsin sales tax. The amounts charged by suppliers to Builder B for tangible personal property used by Builder B in the construction of the home (such as additional nails and lumber Builder B purchased from a lumber yard) are subject to Wisconsin sales or use tax.

14. Exempt Materials, Supplies, and Equipment Used in Construction, Renovation, or Development of Professional Sports and Entertainment Home Stadiums (1991 Act 37, create sec. 77.54(41), effective October 1, 1991.)

A sales and use tax exemption is created for "the sale of building materials, supplies and equipment to; and the storage, use or other consumption of those kinds of property by; owners, contractors, subcontractors or builders if that property is acquired solely for or used solely in, the construction, renovation or development of property that would be exempt under s. 70.11(36)."

Section 70.11(36), Wis. Stats., exempts "Property consisting of or contained in a sports and entertainment home stadium; including but not limited to parking lots, garages, restaurants, parks, concession facilities, entertainment facilities, transportation facilities, and other functionally related or auxiliary facilities and structures; including those facilities and structures while they are being built; constructed by, leased to or primarily used by a professional athletic team that is a member of a league that includes teams that have home stadiums in other states, and the land on which that stadium and those structures and facilities are located."

15. Clarify Exemptions for Certain Electricity and Natural Gas Sold (1991 Act 39, amend sec. 77.54(30)(a)2 and 3, effective August 15, 1991.)

Section 77.54(30)(a)2 and 3, Wis. Stats., is amended to clarify wording. No substantive changes are intended.

16. Amount of County Tax Distributed to Counties Changed (1991 Act 37, amend sec. 77.76(3) and (4), effective for distributions of county sales tax revenues to counties on or after February 22, 1992.)

Ninety-eight and one-half percent (previously 97%) of county tax reported for each enacting county, less the county portion of the retailer's discount, will be distributed to the county.

17. Claims for Refund of Sales and Use Taxes Must Be Made by Persons Who Remitted the Tax to the Department (1991 Act 39, amend sec. 77.59(4) (intro.), effective for claims for refund filed on or after October 1, 1991.)

Claims for refund of sales and use taxes may be made only by the person who remitted the sales and use taxes to the department. This provision reverses the Wisconsin Court of Appeals, District IV, decision in Dairyland Harvestore, Inc., vs. Wisconsin Department of Revenue; Badgerland Harvestore Systems, Inc., f.k.a. Badgerland Harvestore Products vs. Wisconsin Department of Revenue, dated August 17, 1989, which held that all persons who paid excess sales or use taxes, whether to retailers or the department, could file claims for refund with the department.

Example: Customer A purchases computer software from Company B for \$2,000. Company B charges sales tax of \$100 on this sale of software and remits the \$100 of tax to the department on its monthly sales tax return. Customer A later determines it should not have paid sales tax on the software.

Under this new provision, Customer A may not file with the department a claim for refund of the \$100 sales tax it paid to Company B. Company B is the only person that may file a claim for refund regarding this sale because it is the person that remitted the \$100 tax to the department.

E. ESTATE, INHERITANCE AND GIFT TAXES

1. Penalty if Wisconsin Estate Tax is Not Timely Filed; Establish Due Date and Require Copy of Federal Estate Tax Return for Wisconsin Estate Tax (1991 Act 39, repeal sec. 72.33(1) and amend sec. 72.30(1) as affected by 1987 Act 27; and create sec. 72.235, effective for estates of persons dying on or after January 1, 1992.)

The Wisconsin estate tax return is due on or before the due date of the federal estate return and a complete copy of the federal estate tax return must be attached to the Wisconsin return. If the return is not timely filed, the penalty is 5% of the tax due but not less than \$25 nor more than \$500.

2. "Timely Filed" Defined for Estate Tax Purposes (1991 Act 39, create sec. 72.045, effective for documents related to transfers because of deaths occurring on or after January 1, 1992.)

Estate tax returns, documents and payments will be considered timely filed or made on time if mailed in a properly addressed envelope with sufficient postage, postmarked before midnight of the due date, and received by the department no later than 5 days after the due date.

3. Update Reference to Internal Revenue Code for Power of Appointment, Qualified Retirement Plans, and Installment Payments (1991 Act 39, amend secs. 72.01(17), 72.12(4)(c)1 and 72.22(4)(a), effective for transfers because of deaths occurring on or after January 1, 1991.)

The Wisconsin Statutes relating to powers of appointment, employee death benefits, and installment payment of inheritance taxes are updated to the Internal Revenue Code as of December 31, 1990. This change first applies to transfers because of deaths occurring on January 1, 1991.

4. Update Internal Revenue Code Reference for Gift Tax Exemption (1991 Act 39, amend sec. 72.76(4), effective for gifts made on or after August 15, 1991.)

No gift tax is imposed on the transfer of amounts by an employer to a former employee's distributee or estate if the amounts qualify as an employee death benefit taxable as income under the Internal Revenue Code as amended to December 31, 1990, or excluded from gross income under IRC sec. 101(b) as amended to December 31, 1990.

F. EXCISE TAXES

1. Adopt Income Tax Administration Provisions for Excise Tax Appeals and Record Retention (1991 Act 39, repeal secs. 139.12, 139.33(5) and 139.78(5); amend secs. 20.913(1)(b), 73.01(4)(a), 78.18, 78.66(3), 78.70(1)(intro.) and (a), 78.77(5), 139.11(1), 139.36(title), 139.38(1), 139.82(1) and 139.83; repeal and recreate secs. 73.01(4)(a) as affected by 1987 Acts 27, 312 and 399 and 1989 Act 335, 78.69, 139.092 and 139.094; create secs. 78.68(10), 78.70(7), 78.80(1m), 139.115, 139.355, 139.365 and 139.39(6), effective August 15, 1991; and repeal and recreate sec. 73.01(4)(a), effective January 1, 1992.)

Provisions in the administration of income tax law concerning taxpayer appeal rights, record retention and statute of limitations also apply to the administration of the following taxes: motor vehicle fuel, general aviation fuel, beer, liquor, wine, cigarettes and other tobacco products.

2. Allow Permanent Motor Fuel Exemption Certificate (1991 Act 39, amend sec. 78.01(2)(e) and repeal and recreate sec. 78.12(3m), effective on July 1, 1992.)

Persons who buy motor fuel for nonhighway use are allowed to obtain a permanent exemption certificate rather than an annual renewal certificate.

3. Change the Highway Maintenance Cost Index Source Used in Computing the Annual Adjustment for the Motor Fuel and Special Fuel Tax Rates. (1991 Act 39, amend secs. 78.015(1) and 78.405 and repeal and recreate sec. 78.015(2), effective April 1, 1992.)

The annual adjustment of the motor fuel and special fuel tax rates effective April 1, 1992 will be calculated using the U.S. consumer price index for all urban consumers, U.S. city average as determined by the U.S. Department of Labor. The Federal Highway Administration will no longer publish an index based on the National Highway Maintenance and Operations Cost Index previously used as the cost factor in computing the annual adjustment.

4. Penalty Imposed Against Person Who Continues to Purchase Tax-Exempt Motor Fuel After Exemption Certificate has Expired (1991 Act 39, amend sec. 78.12(3m), effective August 15, 1991.)

Any person who continues to buy motor fuel without paying tax after his or her exemption certificate expires, may be subjected to a penalty of \$25 for each month that the person does so.

5. Eliminate Obsolete Language Concerning Motor Fuel and Special Fuel Tax Rates (1991 Act 39, amend secs. 78.01(1), 78.14 and 78.40(1) and repeal secs. 78.017 and 78.407, effective April 1, 1992.)

References to obsolete motor fuel and special fuel tax rates effective prior to August 1987 are deleted.

6. Expand Arrest Powers to Alcohol and Tobacco Enforcement Agents (1991 Act 39, create sec. 73.031, effective August 15, 1991.)

Employees of the Department of Revenue may enforce the alcohol beverage laws, the controlled substances laws and the excise tax laws. They may make arrests for violations of those laws. This provision expands the arrest authority for Alcohol and Tobacco Enforcement Agents to include the arrest of persons for whom a felony warrant has been issued in another state, persons for whom an arrest warrant has been issued in this state and persons who commit a crime in the agent's presence.

7. Changes Made to Chapter 125 Alcohol Beverage Law Provisions (1991 Act 39, repeal sec. 125.085(3)(a)(title), 125.085(3)(b)(title), 125.085(3)(b)5 and 125.085(3)(c)(title); amend sec. 125.085(2), 125.085(3)(b)(intro.) and 125.52(4); and create sec. 125.04(5)(d)3, 125.085(3)(bd), 125.085(3)(bh), 125.085(3)(bp), 125.085(3)(bt) and 343.30(6)(bm), see effective dates below.)

The following changes are made to Chapter 125 provisions:

- a. Applicants for operators' or managers' licenses and applicants for temporary licenses for the sale of beer or wine at picnics or similar gatherings are not required to submit proof that the applicant has been issued a sales and use tax seller's permit by the Department of Revenue or has applied for a sellers' permit. (This provision is effective August 15, 1991.)
- b. The graduated penalty structure for underage violations is eliminated. For each violation of one of the offenses that apply only to underage persons, the underage person is subject to a forfeiture of not less than \$100 nor more than \$500, a suspension of his or her driver's license for 30 to 90 days, and required participation in a supervised work program, or any combination of these penalties. (This change applies to violations committed on or after August 15, 1991.)
- c. Limited manufacturers' permits will expire on August 1 of each even-numbered year. A limited manufacturer's permit authorizes the use or sale of alcohol that is unfit for use as a beverage and that is used or sold for use as fuel. (This change applies to permits issued on or after August 15, 1991.)

8. Clarify and Delete Obsolete Language Concerning Primary Source of Supply for Intoxicating Liquor Manufacturers, Rectifiers and Wholesalers. (1991 Act 39, amend secs. 125.02(15), 125.58(1) and 125.69(5), effective August 15, 1991.)

An out-of-state person may sell intoxicating liquor to a Wisconsin wholesaler if that person is a holder of an out-of-state shipper's permit issued by the department and that out-of-state shipper is the primary source of supply for that intoxicating liquor.

9. Allow Fermented Malt Beverage Taxpayers to Furnish Other Types of Security (1991 Act 39, amend sec. 139.05(4), effective August 15, 1991.)

Under current law, persons who are liable for fermented malt beverage tax are required to file surety bonds with the department. Under this provision, persons liable for fermented malt beverage tax payments to the department are now allowed to submit certificates of deposit, cash, and other types of security acceptable to the department.

10. Change the Payment of Liquor Tax From a Quarterly Estimated Basis to a Monthly Basis (1991 Act 39, repeal sec. 139.06(1)(d) and amend sec. 20.002(2) and 139.06(1)(a), effective October 1, 1991.)

Under prior law, liquor tax payments were made on an estimated basis in the middle of each calendar quarter. Under this provision, monthly payments of the tax will be due 15 days after the close of the month in which the sales took place.

11. Deletes the Cigarette Inventory Tax Exemption for Retailers (1991 Act 39, amend sec. 139.315(1), effective August 15, 1991.)

Under prior law, when the rates for the cigarette tax increased an inventory tax was imposed on all persons who handle cigarettes for resale, except for retailers. This provision eliminates the exemption for retailers from the inventory tax.

12. Coordinate Issuance of Cigarette Permits with Registration for Sales and Use Taxes (1991 Act 39, amend sec. 139.34(1)(c); and create sec. 139.34(1)(c) 7, effective August 15, 1991.)

Retailers are required to hold a seller's permit for sales tax as a condition for obtaining a cigarette permit.

13. Create Penalties for the Late Filing of Tobacco Products Tax Returns (1991 Act 39, renumber sec. 139.85 to 139.85(1); amend sec. 139.77(7); and create sec. 139.85(2), effective August 15, 1991.)

A penalty similar to the late filing penalties imposed for the late filing of motor vehicle fuel tax returns and beverage tax returns of 5% of the amount of tax due for each month that the return is overdue, up to a maximum of 25% of the tax, is imposed on the late filing of tobacco products tax returns.