

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%.

Temporary surcharge not paid by the original due date of a 1991 return is subject to interest at the rate of 18% per year, unless the required estimated surcharge payment has been made by the original due date of the return.

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 tax, franchise tax, or temporary surcharge 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, or Form 3S-ES for partnerships subject to the temporary surcharge. 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

A one-month 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. The extension form or written request must be filed by the original due date of the Wisconsin tax return.

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

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.

To avoid late filing fees or delinquent interest, a taxpayer must 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 Storm, who qualifies for an automatic federal extension, must 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.

HOW TO OBTAIN COPIES OF YOUR TAX RETURNS

What is Available

Upon request, the Department of Revenue will provide copies of taxpayers' previously filed tax returns. This includes individual income tax returns, homestead credit claims, corporation or insurance franchise or income tax returns, sales and use tax returns, withholding tax returns and statements, partnership tax returns, fiduciary tax returns, and gift tax reports.

All requests for copies of returns must be made in writing, in person, or by FAX. Requests made by telephone will not be honored. The department's response cannot be made by FAX.

Individual income tax returns and homestead credit claims are available for at least the 4 prior tax years. Form 1 and INPR income tax returns ordinarily include a copy of the federal tax return, which will be provided when a Form 1 or INPR copy is requested.

Copies of Forms 1A and WI-Z generally do not include copies of the federal tax return because federal copies are not required when filing those forms. Wage statement copies are not always available with Forms 1A and WI-Z.

Partnership tax returns and closed files of fiduciary returns filed by trusts are available for at least the 4 prior tax years. Gift tax reports and withholding statements are available for at least the 5 prior tax years. Corporation or insurance franchise or income tax returns are available for at least the 6 prior tax years. Microfilmed copies of sales, use, and withholding tax returns are available for at least the 10 prior tax years.

For most years prior to the retention periods indicated, limited information is available from department tax rolls, even though copies of complete tax returns are not available.

Copies of tax returns are generally not available until several months after they are filed. For example, an individual income tax return or homestead credit claim filed by April 15 of any year is normally not available for copying until November of that year.

Who May Request Copies

Taxpayers or corporation officers may request copies of their own tax returns.

Persons other than the taxpayer or corporation officer may also request copies of tax returns. However, a power of attorney form or other written authorization, signed by the taxpayer or corporation officer, is required as part of the request.

Requests for copies of a deceased taxpayer's tax returns must include a certified domiciliary letter and be signed by the personal representative of the estate. If there is no estate, a certified copy of the death certificate and a statement of the reason for the request is required.

Fees

The fee for obtaining copies of tax returns is \$4.50 for each return requested. There is an additional fee of 50¢ per return for a certified copy. Requests received without payment will be processed, and a bill will be included with the copy mailed to the requester.

How to Request

Written or FAX requests for copies must include the following:

1. Name(s) on the requested tax return.
2. Social security number or other identification number of the taxpayer, including spouse's name and social security number, if applicable.
3. Type of return and year(s) or period(s) of the tax return being requested.
4. Name and address to which the copies are to be mailed.
5. Signature of the taxpayer, partner, or corporation officer.

Where to Direct Requests

Written Requests: Mail your request to Wisconsin Department of Revenue, Central Files Section, P.O. Box 8903, Madison, WI 53708.

IS&E DIVISION OFFERS TAXPAYER ASSISTANCE

During the filing season of January through April 15, 1992, department personnel will be available to answer questions.

In the department's larger offices, assistance is provided on a daily basis (Monday through Friday). Assistance in other offices generally is available on Mondays only, although there are exceptions as noted below.

Offices Providing Daily Assistance

Location	Address	Telephone No.	Hours
*Appleton	265 W. Northland Ave.	(414) 832-2727	7:45-4:30
*Eau Claire	718 W. Clairemont Ave.	(715) 836-2811	7:45-4:30
*Green Bay	200 N. Jefferson St.	(414) 448-5179	7:45-4:30
*Kenosha	5906 10th Ave., Rm 106	(414) 653-7100	7:45-4:30
*Madison	4638 University Ave.	(608) 266-2772	7:45-4:30
Madison	212 E. Washington Ave.	NONE	8:00-4:15
*Milwaukee	819 N. Sixth St., Rm 408	(414) 227-4000	7:45-4:30
*Racine	616 Lake Ave.	(414) 636-3711	7:45-4:30
*Waukesha	141 N.W. Barstow St.	(414) 521-5310	7:45-4:30

Offices Providing Assistance on Mondays Only (unless otherwise noted)

Ashland	Courthouse	NONE	10:00-2:00(a)
Baraboo	1007 Washington	(608) 356-8973	7:45-4:30
Beaver Dam	211 S. Spring St.	(414) 887-8108	7:45-4:30
Elkhorn	300 S. Lincoln St.	(414) 723-4098	7:45-4:30
Fond du Lac	160 S. Macy St.	(414) 929-3985	7:45-4:30
Grafton	220 Oak St.	(414) 377-6700	7:45-4:30
Hayward	221 Kansas Ave.	(715) 634-8478	7:45-11:45
Hudson	1810 Crestview Dr. Ste.1B	(715) 386-8224	7:45-4:30
Janesville	101 E. Milwaukee	(608) 755-2750	7:45-4:30(b)
*La Crosse	620 Main St.	(608) 785-9720	7:45-4:30(b)
Lancaster	130 W. Elm St.	(608) 723-2641	7:45-4:30
Manitowoc	1314 Memorial Dr.	(414) 683-4152	7:45-4:30
Marinette	Courthouse, 1926 Hall Ave.	(715) 732-7565	9:00-12:00
Marshfield	300 S. Peach Ave., Ste. 4	(715) 387-6346	7:45-4:30
Monroe	1518 11th St.	(608) 325-3013	7:45-4:30
Oshkosh	404 N. Main St.	(414) 424-2100	7:45-4:30
Rhineland	203 Schiek Plaza	(715) 362-6749	7:45-4:30
Rice Lake	101 N. Wilson Ave.	(715) 234-7889	7:45-4:30
Shawano	420 E. Green Bay St.	(715) 526-5647	7:45-4:30
Sheboygan	504 S. 14th St.	(414) 459-3101	7:45-4:30
Superior	1418 Tower Ave., Ste. 5	(715) 392-7985	8:00-4:30
Tomah	1200 McLean Ave.	(608) 372-3256	8:00-12:00
Watertown	600 E. Main St.	(414) 261-7700	7:45-4:30
Waupaca	201 1/2 S. Main St.	(715) 258-9564	7:45-11:45
Wausau	710 Third St.	(715) 842-8665	7:45-4:30
West Bend	120 N. Main St.	(414) 335-5380	7:45-4:30
Wisconsin Rapids	2811 8th St. S.	(715) 421-0500	7:45-4:30

* Open during noon hour

(a) Open Tuesday only, January only

(b) Open Monday, Tuesday, and Wednesday

continued on next page

In-Person Requests: Make your request at the Department of Revenue, Audit Bureau, 4638 University Avenue, Room 132, Madison, Wisconsin. Office hours are 7:45 a.m. to 4:30 p.m. Proper identification (for example, a driver's license) is required.

FAX Requests: The Department of Revenue's telephone number in Madison for FAX requests is (608) 267-0834. The department's response, however, cannot be made by FAX.

Questions

If you have questions about obtaining copies of tax returns, you may call the Department of Revenue in Madison, at (608) 267-1266.

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, 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
- 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
- 205 Do You Owe Wisconsin Use Tax?
- 206 Sales Tax Exemption for Non-profit Organizations
- 207 Sales and Use Tax Information for Contractors
- 211 Sales and Use Tax Information for Cemetery Monument Dealers
- 400 Wisconsin's Temporary Surcharge
- 500 Tax Guide for Wisconsin Political Organizations and Candidates
- 501 Field Audit of Wisconsin Tax Returns
- 502 Directory of Free Publications
- 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
- 509 Filing Wage Statements and Information Returns on Magnetic Media
- 600 Wisconsin Taxation of Lottery Winnings
- 601 Wisconsin Taxation of Pari-Mutuel Wager Winnings
- 700 Speakers Bureau Presenting ...
- W-166 Wisconsin Employer's Withholding Tax Guide

TAX REPORT AND WITHHOLDING UPDATE SENT TO BUSINESSES

The December 1991 issue of the Tax Report, reporting on sales and use tax issues, was

sent in December to monthly and quarterly sales and use tax filers. The annual Withholding Tax Update was also sent in December, along with Forms WT-7 (Employer's Annual Reconciliation of Wisconsin Income Tax Withheld from Wages), to employers registered to withhold Wisconsin taxes.

Copies of the December Tax Report and the Withholding Tax Update are found on pages 23 to 28 of this Bulletin.

CRIMINAL ENFORCEMENT ACTIVITIES

Income Taxes

Two men have been ordered to serve jail time for failing to file state income tax returns on time.

William W. Fugate, 38 County Highway N, Edgerton, was sentenced in Dane County Circuit Court, Branch V, Madison, by Judge Robert R. Pekowsky, after he pled no contest to one count of failing to file his 1989 income tax return at the time required by law. Judge Pekowsky ordered Fugate to serve 60 days in the Dane County jail and suspended the sentence except for eight days, with the balance to be served on electronic monitor. He was also fined \$500, ordered to pay \$160 in court costs and must make restitution to the Wisconsin Department of Revenue in an amount to be determined within 45 days.

Fugate had been charged with failing to timely file state income tax returns for 1988 and 1989. The charge for 1988 was dismissed after Fugate pled no contest to the violation for 1989.

Alvord J. Ellingboe, Jr., 1130 Edgehill Drive, Madison, was sentenced by Judge George Northrup in Dane County Circuit Court, Branch XIV, Madison, after he pled no contest to two counts of failing to file Wisconsin state income tax returns for 1988 and 1989, at the time required by law. Judge Northrup ordered Ellingboe to serve four months jail time, fourteen days in the Dane County jail, with the balance to be served on electronic monitor on the first count and ordered two years probation on the second count. Under the conditions of probation, Ellingboe must make restitution to the Wis-

consin Department of Revenue in an amount to be determined within 45 days and pay court costs.

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.

Motor Fuel Taxes

Ajit Walia, 31, a former motor fuel distributor who operated in the Milwaukee area, has been sentenced to 5 years in prison for state motor fuel tax theft by Judge George Northrup in Dane County Circuit Court, Branch XIV. Walia was also ordered to pay over \$230,000 in restitution to the state for unpaid taxes and serve 7 years probation. In addition, he was ordered to concurrently serve one year in prison for filing false articles of incorporation and 3 30-day prison terms for failing to file motor fuel tax reports.

The case stems from the fact that during 1988 Walia, operating through various Wisconsin corporations, sold motor fuel on which he collected in excess of \$80,000 of state motor fuel taxes, which he failed to turn over to the state. In addition, the complaint alleges that Walia filed false motor fuel reports and failed to report motor fuel sales, and that he participated in the fraudulent incorporation of B7 Petroleum, Inc. He did this in order to obtain the motor fuel license that was necessary to enable him to continue operating as a motor fuel wholesaler, after the license of another corporation he operated, S.K. Oil, Inc., was revoked as a result of his failure to pay motor fuel taxes.

Walia was extradited from federal prison in Duluth, Minnesota, where he is serving a three-year sentence for federal tax evasion, to appear in Dane County Circuit Court.

M&E PROPERTY TAX EXEMPTION LAW REVISED

Caution: This article pertains to the property tax exemption for manufacturing; it does not apply to sales and use tax.

The property tax exemption for manufacturers' machinery and equipment (M&E) had been expanded by court decisions since the law was enacted in 1974. As a result, the Legislature chose to clarify the scope and meaning of the M&E exemption. Provisions were inserted in the 1991-93 biennial Budget Act to specifically define terms pertaining to the exemption. It is anticipated that the effect of these changes, which are summarized below, will be to curb the expansion of the M&E exemption by the courts.

1. A very restrictive definition of "exclusive use" has been established. Case law used the terms "principally" and "primarily" to define "exclusive use" and allowed up to 50% nonmanufacturing use. The new standard is that the M&E is used to the exclusion of all other uses except for other use not exceeding 5% of total use.
2. "Transformers" are now expressly excluded from the definition of "power wiring" and therefore are taxable.
3. "Storage" is expressly excluded from the exemption but is defined to exclude the "holding for 3 days or less of work in process."
4. The definition of "production process" expressly excludes "plant engineering." By this exclusion, engineering equipment performing the computer-assisted design of manufactured products will continue to remain taxable. Therefore, the potential extension of the M&E tax exemption to this kind of equipment is precluded.
5. The phrase "used directly" is now defined in the statutes without reference to the integrated plant test. Moreover, the statute governing the M&E exemption was amended in 1989 by the addition of the strict construction amendment which provides: "The exemption under this paragraph shall be strictly construed."

The combination of the revised definition of the phrase "used directly" and the application of the strict construction amendment would suggest that the process of contributing to or being integrated in the manufacturing process would not necessarily constitute direct use in manufacturing for purposes of the M&E property tax exemption.

PROPERTY TAX CLASSIFICATION LAW FOR MANUFACTURING REVISED

Caution: This article pertains to property tax; it does not apply to sales and use tax.

The statute that defines which businesses and which property qualifies to be classified as manufacturing for property tax purposes has been revised to be more restrictive. The more restrictive statute will prevent expansion of the manufacturers' machinery and equipment (M&E) property tax exemption.

Prior to this change, the statute listed 26 types of businesses that were specifically identified as non-manufacturers. That listing has been replaced with the following sentence: "Except for the activities under sub. (2), activities not classified as manufacturing in the standard industrial classification manual, 1987 edition, published by the U.S. office of management and budget are not manufacturing for this section." Because the Standard Industrial Classification (SIC) Manual lists hundreds of businesses that do not qualify as manufacturing, this change should result in reduction of litigation and therefore expansion of the M&E property tax exemption to nonmanufacturing businesses.

INFORMATION OR INQUIRIES?

Madison - Main Office
Area Code (608)

- Beverage, Motor Fuel,
- Cigarette, Tobacco Products ... 266-6701
- Corporation Franchise/Income 266-1143
- Estimated Taxes 266-9940
- Fiduciary, Inheritance, Gift,
- Estate 266-2772

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	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 IS&E DIVISION RULES AND RULE AMENDMENTS IN PROCESS

Listed below, under Part A, 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 January 1, 1992. Part B lists Rules adopted in 1991 but not yet effective. ("A" means amendment, "NR" means new rule, "R" means repealed, and "R&R" means repealed and recreated.)

A. Rules at or Reviewed by Legislative Council Rules Clearinghouse

11.05	Governmental units-A
11.33	Occasional sales-A
11.34	Occasional sales exemption for sale of a business or business assets-A
11.50	Auctions-A
11.69	Financial institutions-A
11.83	Motor vehicles-A
11.84	Aircraft-A
11.85	Boats, vessels and barges-A
11.86	Utility transmission and distribution lines-A
11.88	Mobile homes-A

B. Rules Adopted in 1991 But Not Yet Effective

11.01	Sales and use tax return forms-A
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11.47	Commercial photographers and photographic services-A
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REPORT ON LITIGATION

Summarized below are recent significant Wisconsin Tax Appeals Commission (WTAC) 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 has 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 WTAC's decision).

The following decisions are included:

Individual Income Taxes

George J. and Pauline T. Edler (p. 10)
Itemized deductions—credit - investment interest limitation

Corporation Franchise or Income Taxes

Consolidated Freightways Corporation of Delaware (p. 11)
Apportionment—motor carriers

Fort Howard Corporation (p. 12)
Pollution abatement equipment—1986 and prior

Ins. Serv. Liquidating, Inc. et al. (p. 12)
Liquidating corporations

Sales/Use Taxes

Grant, Iowa, Lafayette Shopping News, Inc. (p. 12)
Use tax—sale, destined for

Luetzow Industries (p. 13)
Parking and storage—aircraft Containers, packaging and shipping materials—plastic garment bags

MRC Industries, Inc. (p. 14)
Use tax—collection by retailers

Wisconsin Bell, Inc. et al. (p. 14)
Telecommunication services—billing and collection services

Other

J. Gerard Hogan, et al. (p. 15)
Administrative remedies—declaratory and injunctive relief

INDIVIDUAL INCOME TAXES

Itemized deductions — credit — investment interest limitation. *George J. and Pauline T. Edler vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, July 25, 1991). The issue in this case is whether interest paid by the taxpayer during the years 1986, 1987, and 1988 is deductible in full or subject to the \$1,200 investment interest limitation.

In 1971, the taxpayers purchased commercial real estate property in Lake Delton, Wisconsin. The taxpayers operated the property themselves and leased them out to other operators prior to 1984. The taxpayers sold portions of their commercial real estate on land contract in 1983 and 1984, reporting certain gains from these transactions on their tax returns for the relevant periods. Subsequent to the sale by land contract in 1984, the taxpayers did not operate any business on the subject property.

The interest payments in question were paid on notices to purchase and improve the realty which was sold on land contract in the years 1983 and 1984. The interest expenses involved were not paid on a loan to purchase or refinance a residence and were not paid on a land contract.

On October 23, 1989, the department issued an income tax assessment against the taxpayers, disallowing the claimed interest expenses for three years based on its allegation that interest expense on investment income is limited to \$1,200 for purposes of the Wisconsin itemized deduction credit for 1986, 1987, and 1988.

The Commission concluded that the interest incurred and paid by the taxpayers constituted investment, not business, expense, and the department properly applied the \$1,200 interest limitation.