

WISCONSIN TAX BULLETIN

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NEW TAX LAWS TO BE ADDRESSED IN SPECIAL ISSUE

Various tax bills were still pending before the Wisconsin Legislature at the time this Bulletin went to press. If any of these bills become law, a special issue of the *Wisconsin Tax Bulletin* will be published to provide information about the tax law changes.

DELINQUENT TAX COLLECTION FEE BEGINS JULY 1, 1992

A new *Delinquent Tax Collection Fee* (DTC fee) becomes effective July 1, 1992. This fee, which was enacted into law by the Wisconsin Legislature, places the burden of delinquent tax collection on the delinquent taxpayer rather than all citizens of the state.

For each account that is delinquent on June 30, 1992, the DTC fee is the greater of \$25 or 4 1/2% of the amount of tax, interest, penalty, or fee remaining unpaid on that date. The DTC fee will be added to existing fees.

For each account that becomes delinquent on or after July 1, 1992, the DTC fee is the greater of \$25 or 4 1/2% of the amount of tax, interest, penalty, or fee remaining unpaid as of the due date of an assessment, notice of amount due, or notice of redetermination. An assessment, etc., becomes a delinquent account if it is not paid by the due date.

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TOPICAL/COURT CASE INDEX AVAILABLE

The Wisconsin Department of Revenue's Topical and Court Case Index is designed to help you find reference material for use in researching Wisconsin tax questions. This index will help you find a particular Wisconsin statute, administrative rule, Wisconsin Tax Bulletin article, tax release, publication, Attorney General opinion, or court decision that deals with your particular Wisconsin tax question.

The index is divided into two parts. The first part, the "Topical Index," gives references to alphabetized subjects for the various taxes. The taxes include individual income, corporation franchise or income, withholding, sales/use, gift, inheritance and estate, cigarette, tobacco products, beer, intoxicating liquor and wine, and motor fuel, special fuel, and general aviation fuel.

The second part, the "Court Case Index," lists Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court decisions by alphabetized subjects for the various taxes.

If you need an easy way to research Wisconsin tax questions, you should consider subscribing to the Topical/Court Case Index. The annual cost is \$14, plus sales tax. To order your copy, complete the order blank that appears on page 27 of this Bulletin. The order blank may also be used for subscribing to the Wisconsin Tax Bulletin and for ordering the Wisconsin Administrative Code.

TWO MORE COUNTIES ADOPT SALES TAX

On April 1, 1992, Juneau and Sauk Counties adopted the county sales and use tax, joining 40 other counties that had previously adopted the 1/2% county tax. The December 1991 Tax Report, a copy of which appeared in *Wisconsin Tax Bulletin* 75 (January 1992), explains how this county tax applies to retailers and other persons, and it includes a listing of all 42 counties with the county sales and use tax.

A review of the county sales and use tax and a listing of the counties with the tax can also be found in the March 1992 issue of the Tax Report. A copy appears on pages 24 and 25 of this Bulletin.

SPEAKERS BUREAU

The department's Speakers Bureau provides speakers to business, community, and other organizations throughout Wisconsin. If you would like a speaker to address your group, please call the Speakers Bureau at (608) 266-8640.

Subjects that may be discussed include updates on income, corporate, sales, and withholding tax laws, audit procedures, common taxpayer errors, how tax laws apply to exempt organizations, sales tax problems of contractors or manufacturers, homestead credit, etc.

1992 ESTIMATED TAX REQUIREMENTS FOR INDIVIDUALS, ESTATES, AND TRUSTS

Estimated income tax payments are tax deposits made during the year to prepay the income tax and minimum tax that will be due when an income tax return is filed. Every individual, married couple filing jointly, estate, or trust (except grantor trusts and trusts subject to tax on unrelated business income, as explained below), is required to pay 1992 Wisconsin estimated tax if they expect to owe \$200 or more on a 1992 Wisconsin income tax return. Form 1-ES, "1992 Wisconsin Estimated Tax Voucher," is filed with each estimated tax payment.

For calendar year taxpayers, the first estimated tax payment is due on April 15, 1992. Installment payments are also due on June 15, 1992, September 15, 1992, and January 19, 1993. For fiscal year taxpayers, installment payments are due on the 15th day of the 4th, 6th, and 9th months of the fiscal year and the 1st month of the following fiscal year.

Full-year residents, part-year residents, estates, and trusts are subject to the estimated tax requirements for 1992. However, an estate is not required to pay estimated tax during the first two years of its existence.

Grantor trusts which are funded on account of a decedent's death are only required to make estimated tax payments for taxable years which end two or more years after the decedent's death. For example, an individual died on April 25, 1992. A grantor trust which was funded on account of the individual's death is not required to make estimated tax payments for any taxable year ending before April 25, 1994.

A trust which is subject to tax on unrelated business income is generally required to pay 1992 Wisconsin estimated tax if it expects to owe \$500 or more on a 1992 Wisconsin income tax return (Form 4T). A 1992 Form 4-ES, "Wisconsin Corporation Estimated Tax Voucher," is filed with each estimated tax payment. Installment payments for such trusts are due on the 15th day of the 3rd, 6th, 9th, and 12th months of the taxable year.

If an individual, married couple filing jointly, estate, or trust does not make the estimated tax payments when required or underpays any installment, interest may be assessed.

EXTENSIONS OF TIME TO FILE FOR INDIVIDUALS

Any extension of time granted by the Internal Revenue Service (IRS) for filing a federal return also extends the time for filing the corresponding Wisconsin return, provided a copy of the federal extension or an explanatory statement is attached to the Wisconsin return at the time it is filed.

Taxpayers are allowed the same 10-day grace period to file a return for Wisconsin as for the IRS when a federal extension request is denied. The denial must be attached to the Wisconsin return when filed in order to be recognized.

In lieu of the federal extension, a taxpayer may request from the Wisconsin Department of Revenue a 30-day extension of time to file a Wisconsin return.

See the article titled "Extensions of Time to File 1991 Tax Returns" in *Wisconsin Tax Bulletin* 75 (page 5) for more information about extensions.

Reminders

DO NOT submit copies of federal extension requests to the Department of Revenue at the time the federal request is made.

DO NOT request a Wisconsin extension when a federal extension is requested.

DO attach a copy of all approved extensions to the corresponding Wisconsin tax return at the time the Wisconsin return is filed.

DO use Wisconsin estimated tax vouchers (Form 1-ES) to submit Wisconsin extension payments. Be sure the Form 1-ES is for the proper year.

TAX KIT SENT TO WISCONSIN HIGH SCHOOLS

Wisconsin high schools were sent a tax kit in December 1991, to help teachers explain Wisconsin taxes to students.

The kit was developed by the Wisconsin Department of Revenue for use in conjunction with the IRS's Understanding Taxes Program.

The kit contains a student tax guide which explains various Wisconsin taxes and provides problems and instructions for completing Form 1A and Form WI-Z. It also includes a teacher's tax guide and an optional Form 1 problem.

PROGRAMS HELP FARMERS AND PROTECT WISCONSIN'S FARMLAND

Nearly \$42 million in direct benefits were distributed to Wisconsin farmers in 1991 through two state programs, the farmland preservation credit program and the farmland tax relief credit program. About 25,200 Wisconsin farmers claimed farmland preservation credits amounting to \$28 million in the fiscal year ending June 30, 1991, and more than 60,000 individual farmers received farmland tax relief credits totalling \$13.8 million for 1990.

In addition to providing benefits averaging \$1,116 per claimant, the farmland preservation credit program is helping to protect 8.1 million acres of farmland through local land use planning and soil conservation practices. To qualify for a benefit under this program, farmland must be zoned for exclusive agricultural use or be subject to a preservation agreement between the farmer and the state. About 78% of the claims for the fiscal year ending June 30, 1991, were for land under zoning and 22% were for land covered by agreements.

Participation in the farmland preservation credit program grew by 669 claimants (to 25,211), in part due to adoption of exclusive agricultural zoning in seven towns. The estimated statewide ratio of participation in the program was 39.3%, and farmland preservation credits for the year were equivalent to 8.2% of the total agricultural property taxes paid by farmland owners.

Farmland tax relief credits averaging \$229 were paid to individual farmers statewide for 1990 income tax returns. These credits equal 10% of the first \$10,000 of property taxes on qualifying farmland, exclusive of improvements. This program, which is in addition to the farmland preservation credit, provides direct benefits to virtually all farmers in the state. It responds to the heavy property tax burden that they bear.

In addition to the farmland tax relief credits claimed by farmers on their individual income tax returns, corporate farms claimed approximately \$400,000 in credits statewide for 1990. The credit is available to both individuals and corporations

GIFT TAX REPORTS DUE APRIL 15

For gifts occurring on or before December 31, 1991, a Wisconsin gift tax is imposed upon all taxable gifts from a donor who is a Wisconsin resident (regardless of the donee's residence) and gifts of Wisconsin real estate or tangible personal property located in Wisconsin (regardless of where the donor or donee resides).

Wisconsin 1991 gift tax reports must be filed if the total value of taxable gifts given in 1991 by one donor (person giving the gift) to one donee (person receiving the gift) exceeds \$10,000. Gift tax reports of the donee and donor for 1991 must be filed by April 15, 1992. A report does not have to be filed if the value of the gift is \$10,000 or less.

The donor reports gifts made on Wisconsin Form 7. On this form, the donor enters the description and value of the gifts made to each donee.

The donee reports gifts received on Wisconsin Form 6, and includes the description and value of the gifts received from one donor. If the donee received taxable gifts from more than one donor during that year, the donee must file a separate report of gifts received from each donor.

The gift tax due is figured on Wisconsin Form 6. In determining the 1991 gift tax due, an annual exemption of \$10,000 is allowed for all gifts made during a calendar year by one donor to one donee. Gifts to a spouse are completely exempt from Wisconsin gift tax. A lifetime personal exemption of \$50,000 is allowed for gifts to lineal issue (children, grandchildren), lineal ancestors (parents, grandparents), the wife or widow of a son, the husband or widower of a daughter, an adopted or mutually acknowledged child, and a mutually acknowledged parent. There is no lifetime exemption allowed to other donees.

CRIMINAL ENFORCEMENT ACTIVITIES

Sales/Use Taxes

A Marinette businesswoman faces a \$300 fine for operating without a seller's permit.

Kym Pogrant, 37, owner of Kym's Jewelry, 1702 Main St., pled no contest in Marinette Circuit Court, admitting that she had sold jewelry after she was ordered to close her business.

According to the criminal complaint against her, she sold a silver ring to a person acting on behalf of the Department of Revenue despite the fact that she had not obtained a valid seller's permit.

Her permit had been revoked for failing to pay taxes to the Wisconsin Department of Revenue, and her shop was ordered closed after she was found guilty of operating without a permit at a hearing in October 1991. She was fined \$300 and ordered to close her business until she obtained a new permit and made restitution to the Department of Revenue.

A letter attached to the complaint stated that she had applied for a new permit, but on October 1 she was not issued that permit because of outstanding sales tax obligations. Since that time, she has paid the money she owed and was allowed to reopen her business.

Excise Taxes

In August 1991, agents of the Department of Revenue obtained evidence that Herbert J. Cavadini of Monroe County was operating a business without a seller's permit or liquor license. Agents seized 629 bottles of wine and liquor, 1,746 cans of beer, 109 bottles of beer, and 40 malt coolers.

In January 1992, Judge Michael J. Rosborough found Cavadini guilty of two counts of sale of beer without a license, one count of sale of an intoxicating liquor, and one count of operating as a seller without a permit.

In addition to the loss of the seized inventory, Cavadini was placed on probation for 18 months, fined \$1,000, and ordered to

pay fees of \$350. For operating without a seller's permit, Cavadini was sentenced to 10 days in jail.

DO YOU HAVE SUGGESTIONS FOR 1992 TAX FORMS?

Do you have suggestions for improving the Wisconsin tax forms or instructions? Send your suggestions to the Wisconsin Department of Revenue, Director of Technical Services, P. O. Box 8933, Madison, WI 53708. Please be specific and send your suggestions in early. The department appreciates hearing from you and has already begun preparing forms and instructions for next year's filing.

INFORMATION OR INQUIRIES?

Madison - Main Office Area Code (608)

Beverage, 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
Motor Fuel	266-3223
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 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 April 1, 1992. Part A lists rules which are being or have been reviewed by the Legislative Council Rules Clearinghouse. For the period from January 2, 1992 to April 1, 1992, Part B lists new rules and amendments which became effective, Part C lists emergency rules which became effective, and Part D lists rules which were withdrawn from promulgation. ("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

2.475	Apportionment of net business incomes of interstate railroads, sleeping car companies and car line companies-NR
11.08	Medical appliances, prosthetic devices and aids-A
11.17	Hospitals, clinics and medical professions-A
11.18	Dentists and their suppliers-A
11.45	Sales by pharmacies and drug stores-A
11.86	Utility transmission and distribution lines -A

B. Rules Adopted (including effective date)

11.01	Sales and use tax return forms-A (2/1/92)
11.47	Commercial photographers and photographic services-A (2/1/92)

C. Emergency Rules Adopted (including effective date)

2.475	Apportionment of net business incomes of interstate railroads, sleeping car companies and car line companies-NR (2/17/92)
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D. Rules Withdrawn From Promulgation (including date withdrawn)

11.05	Governmental units-A (2/20/92)
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11.33	Occasional sales-A (2/20/92)
11.34	Occasional sales exemption for sale of a business or business assets-A (2/20/92)
11.50	Auctions-A (2/20/92)
11.69	Financial institutions-A (2/20/92)
11.83	Motor vehicles-A (2/20/92)
11.84	Aircraft-A (2/20/92)
11.85	Boats, vessels and barges-A (2/20/92)
11.88	Mobile homes-A (2/20/92)

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:

Corporation Franchise or Income Taxes

Consolidated Freightways Corporation of Delaware (p.5)
Apportionment - motor carriers

NCR Corporation (p. 5)
Apportionment - factors
Dividends - deductible dividends
Foreign source income

Sales/Use Taxes

American Vending, Inc. (p.6)
Occasional sales - business assets

B. I. Moyle Associates, Inc. (p. 6)
Computer software - tangible vs. intangible
Nexus