

earned income credit schedule, Schedule EICW, has been added.

Some of the forms you order will be accompanied by additional information. For example, your order will include instructions for the forms you request; Schedules 2K-1 and 2 WD will be included with fiduciary Form 2 orders; and Schedules 3K-1 will be included with partnership Form 3 orders.

The department is also mailing order blanks (Forms P-744b and P-744L) to banks, post offices, and libraries for their use in requesting bulk orders of 1994 Wisconsin income tax forms. No charge is made for forms used for distribution to the general public (for example, in a bank, library, or post office).

If you do not receive an order blank by October 31, 1994, you may request one by contacting any department office; by writing to Wisconsin Department of Revenue, Shipping and Mailing Section, P.O. Box 8903, Madison, WI 53708-8903; or by calling (608) 267-2025.

You should place your order as early as possible after receiving the order blank. Orders are expected to be filled in late December and early January.

Package WI-X will be mailed separately in late January. Most forms in Package WI-X may be reproduced. ☐

Tax Publications Available

The Department of Revenue publishes over 35 publications that are available, free of charge, to taxpayers or practitioners. To order any of the publications, write or call Wisconsin Department of Revenue, Shipping and

Mailing Section, P.O. Box 8903, Madison, WI 53708-8903 (telephone (608) 266-1961).

Number	Title of Publication (and last revision date)		
102	Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (12/93)	202	Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs (7/94)
103	Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts (11/93)	203	Sales and Use Tax Information for Manufacturers (9/93)
104	Wisconsin Taxation of Military Personnel (8/94)	205	Do You Owe Wisconsin Use Tax? (Individuals) (5/94)
109	Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 1994 (10/94)	206	Sales Tax Exemption for Nonprofit Organizations (9/90)
111	How to Get a Private Letter Ruling From the Wisconsin Department of Revenue (3/94)	207	Sales and Use Tax Information for Contractors (7/94)
112	Wisconsin Estimated Tax for Individual, Estates, Trusts, Corporations, Partnerships (12/92)	210	Sales and Use Tax Treatment of Landscaping (5/94)
113	Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (11/93)	211	Sales and Use Tax Information for Cemetery Monument Dealers (10/91)
114	Wisconsin Taxpayer Bill of Rights (2/94)	212	Businesses: Don't Forget About Use Tax (9/94)
117	Guide to Wisconsin Information Returns (9/94)	213	Travelers: Don't Forget About Use Tax (3/94)
200	Sales and Use Tax Information for Electrical Contractors (7/94)	214	Do You Owe Wisconsin Use Tax? (Businesses) (9/93)
201	Wisconsin State and County Sales and Use Tax Information (9/94)	400	Wisconsin's Temporary Recycling Surcharge (12/93)
		500	Tax Guide for Wisconsin Political Organizations and Candidates (12/92)
		501	Field Audit of Wisconsin Tax Returns (12/92)
		502	Directory of Free Publications (12/93)
		503	Wisconsin Farmland Preservation Credit (12/93)
		504	Directory for Wisconsin Department of Revenue (12/93)

- 505 Taxpayers' Appeal Rights of Office Audit Adjustments (6/92)
- 506 Taxpayers' Appeal Rights of Field Audit Adjustments (11/91)
- 507 How to Appeal to the Tax Appeals Commission (8/92)
- 508 Wisconsin Tax Requirements Relating to Nonresident Entertainers (8/94)
- 509 Filing Wage Statements and Information Returns on Magnetic Media (3/94)
- 600 Wisconsin Taxation of Lottery Winnings (11/93)
- 601 Wisconsin Taxation of Pari-Mutuel Wager Winnings (3/94)
- 700 Speakers Bureau presenting ... (2/93)
- W-166 Wisconsin Employer's Withholding Tax Guide (9/90) ☐

Topical and Court Case Index Available

Are you looking for an easy way to locate reference material to research a Wisconsin tax question? The *Wisconsin Topical and Court Case Index* will help you find reference material to research your Wisconsin tax questions. This index references Wisconsin statutes, administrative rules, *Wisconsin Tax Bulletin* articles, tax releases, publications, Attorney General opinions, and court decisions.

The first part of the index, the "Topical Index," gives references to alphabetized subjects for the various taxes, including individual income, corporation franchise and income, withhold-

ing, sales and use, gift, inheritance and estate, cigarette, tobacco products, beer, intoxicating liquor and wine, and motor vehicle fuel, alternate 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, subscribe to the *Wisconsin Topical and Court Case Index*. The annual cost is \$18, plus sales tax. The \$18 fee includes a volume published in December, and an addendum published in May.

To order your copy, complete the order blank on page 39 of this Bulletin. The order blank may also be used for subscribing to the *Wisconsin Tax Bulletin* and for ordering the Wisconsin Administrative Code. ☐

Wisconsin Tax Bulletin Annual Index Available

Once each year the *Wisconsin Tax Bulletin* includes an index of materials that have appeared in past Bulletins. The latest index available appears in *Wisconsin Tax Bulletin* 88 (July 1994), pages 37 to 61, and includes information for issues 1 (October 1976) to 85 (January 1994). ☐



Need a Speaker?

Are you planning a meeting or training program? The Wisconsin Department of Revenue provides speakers to business, community, and educational organizations.

Department representatives are available to speak on a variety of topics that can be targeted toward your group's particular areas of interest, including:

- New income and corporate tax laws.
- How sales tax affects contractors, landscapers, manufacturers, non-profit organizations, or businesses in general.
- What to expect in an audit.
- Common errors discovered in audits.
- Homestead credit.
- Farmland preservation credit.

To arrange for a speaker, please write to Wisconsin Department of Revenue, Speakers Bureau, P.O. Box 8933, Madison, WI 53708-8933, or call (608) 266-1911. ☐

Direct Pay Allowed for Eligible Businesses

The direct pay method for reporting and paying Wisconsin sales and use taxes will be allowed, starting with taxable years beginning on or after January 1, 1995.

What is direct pay?

Under direct pay, a buyer who has a direct pay permit may buy tangible personal property or taxable services without sales or use tax, with certain exceptions, even though no exemption applies. The buyer is liable for use tax when it stores, uses, or consumes the property or service in a taxable manner.

The amount subject to use tax is the purchase price of the tangible personal property or taxable services. Use tax is reported on the direct pay holder's sales and use tax return.

Who is eligible?

The Department of Revenue will issue a direct pay permit to an applicant, at the beginning of the applicant's taxable year, if the following seven requirements are fulfilled:

1. because of the nature of the applicant's business, issuing the permit will significantly reduce the work of administering the sales and use taxes;
2. the applicant's accounting system will clearly indicate the amount of tax the applicant owes;
3. the applicant makes enough taxable purchases to justify the expense of regular audits by the Department of Revenue;
4. the applicant is not liable under ch. 71, 72, 76, 77, 78, or 139, Wis. Stats., for delinquent taxes (including costs, penalties, surcharges, and interest) of \$400 or more if any part of the tax is delinquent for at least 5 months;
5. it is in the state's best interests to issue the permit;
6. the applicant purchases enough tangible personal property under circumstances that make it difficult to determine whether the property will be subject to sales or use tax; and
7. the applicant holds a seller's permit under sec. 77.52(7), Wis. Stats., or a use tax registration certificate under sec. 77.53(9), Wis. Stats.

A person may apply for a direct pay permit by submitting to the Department of Revenue at the address listed in the next paragraph, a completed application form, along with an application fee of \$5.

Questions?

If you have any questions, please write to Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902, or call (608) 266-2776. □

Claims for Refund of Sales Tax

When a buyer pays Wisconsin sales or use taxes in error to a seller, the buyer may, under certain conditions, file a claim for refund of the taxes with the Department of Revenue. This provision is a result of a new law enacted by the Wisconsin Legislature for 1994. It became effective for claims filed on or after September 1, 1994.

Additional information about claims for refund of sales or use taxes, by both sellers and buyers, will be included in a new publication, Wisconsin Publication 216, titled "*Filing Claims for Refund of Sales or Use Tax*." This publication will be available in December 1994. It will explain who may file claims for refund, how and when to file, which forms to use, and other information. □

Tax Evasion Is Costly

In July 1994, Patricia G. Hass, 46, 2091 Joy Lane, LaCrosse, was found guilty by a LaCrosse County Circuit Court jury, on three counts of income tax evasion. Hass had been charged in August 1992, with three counts of filing false and fraudulent income tax returns, including original 1988 and 1989 returns and an amended 1988 return. Hass failed to report income of nearly \$100,000 which she embezzled during 1988 and 1989, from Olsten Temporary Services, a temporary employment agency she operated. Hass was convicted of the embez-

zlement and sentenced on that charge in March 1993, to three years in prison.

In addition to the embezzlement sentence, Hass faces up to 15 years in prison and \$30,000 in fines for the tax evasion conviction. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability; assessment and collection of the taxes, penalties, and interest due follows convictions for criminal violations.

Also in LaCrosse County Circuit Court, dentist Frederick G. Kriemelmeyer, 45, 1120 Caledonia St., LaCrosse, was sentenced in September 1994, to two years in jail for failing to file Wisconsin income tax returns for 1990, 1991, and 1992. Circuit Judge Dennis Montabon then stayed the sentence, placed Kriemelmeyer on three years probation, and ordered him to pay a \$7,500 fine, court costs, and \$6,640 prosecution costs. He was also ordered to file 1987 through 1993 Wisconsin income tax returns and pay all Wisconsin taxes, penalties, and interest within one year, and to make a full disclosure of his assets within six months. The two year jail sentence will be reinstated if he does not abide by all conditions of the probation. □

LaCrosse County Tax Extended

The LaCrosse County ½% sales and use tax will not expire on December 31, 1994. Although it was scheduled to expire on that date, the LaCrosse County Board passed an ordinance in July 1994, to repeal the expiration date of December 31, 1994. As a result of this ordinance, there no longer is an expiration date for the LaCrosse County tax. □

Question and Answer

Q My company has software maintenance agreements with several vendors who provide technical support for their licensed computer software. Some of the vendors collect sales tax on the cost of the maintenance agreements, but others don't. When are maintenance agreement contracts subject to Wisconsin sales tax?

A Charges for providing maintenance for computer equipment and prewritten or "canned" programs are subject to Wisconsin sales tax. Charges for providing maintenance for custom programs are not taxable. Note: For more information about "custom" vs. "canned" computer programs, refer to the tax release titled "Taxability of Computer Programs (Software)" in *Wisconsin Tax Bulletin 79* (October 1992), page 23.

Q I am going to be in charge of organizing an antique fair at a mall. Each participant will be responsible for sales or use tax on the items they sell at the antique fair. Do I have any sales tax responsibilities as a result of organizing the antique fair?

A Yes. You are required to provide to the Department of Revenue, within 10 days following the close of the event, a report which includes the name of the event, the location and date or dates of the event, and the real

name, business name, address, social security number, and seller's permit number (if available) of each vendor at the event. Failure to provide this information could result in a penalty of \$200 (\$500 for each subsequent failure).

Form S-240 may be used to obtain the information from vendors. Copies of this form are available by calling or writing to Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902 (telephone (608)266-2776).

Q I am a Wisconsin retailer, and when I buy items for resale I don't pay sales tax. Sometimes I use some of these items rather than selling them. How do I report and pay the sales or use tax on the items I use?

A For the items you use, report the purchase price on line 17 of your sales and use tax return. Report the items and pay the tax on the sales and use tax return for the period the items are first used.

Q Many of my customers pay by credit card. When I prepare my sales and use tax return, may I deduct the fees I pay to the credit card companies to arrive at state taxable receipts on line 11 of the return?

A No. These fees are a cost of doing business, but do not reduce state taxable receipts. ☐

Did You Correctly Report the County Tax?

In September 1994, the department began contacting sales and use tax registrants who are located in a county that has adopted the ½ % county tax but have not reported any county sales tax. Registrants are asked to review their records for the length of time they have been doing business in a county, and to verify or correct their previous reporting.

A ½ % county tax is imposed upon retailers that sell, lease, rent, store, or consume tangible personal property, or furnish taxable services in a county that has adopted the ½ % tax. On the sales and use tax return (Form ST-12), retailers are required to enter their taxable receipts subject to sales tax and purchases subject to use tax separately for each county. As of July 1, 1994, 46 counties have adopted the ½ % county sales tax.

If you have questions about the state and county sales and use tax, call or visit any Wisconsin Department of Revenue office or write to Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902. ☐

Over 1.7 Million Refunds Issued

Taxpayers were issued more than 1.7 million income tax refunds during January to July 1994 (primarily 1993 returns), for an average refund of \$320. The average refund for 1992 returns was \$309.

There were 2,593,000 Wisconsin individual income tax returns filed during the twelve months ending

June 30, 1994. This compares to 2,522,000 returns for the prior year. The 2,593,000 returns, which included joint tax returns, were filed by 3,718,000 individuals.

An itemized deduction credit was claimed by 25% of the taxpayers on their 1993 returns. The average credit was \$343, compared to \$322 on 1992 returns.

There were 235,000 homestead credit claims filed during the year, and the average credit was \$457. This compares to 239,000 homestead credit claims averaging \$439 for the prior year. About 46% of the claimants were age 65 or older, 47% were renters, and 53% were homeowners.

About 24,300 farmland preservation credit claims, averaging \$1,240 per claim, were filed during the year ending June 30, 1994. During the prior year 24,500 farmland preservation credit claims were filed, and the average payment was \$1,182. ☐

PartnerCare Enrollment Cards Mailed

In October 1994, the department is mailing PartnerCare enrollment cards and an explanatory flyer to approximately 25,000 individuals. The mailing is based on a listing of 1993 homestead credit claimants and their spouses age 65 or older, whose household income for 1993 did not exceed \$19,154, and who were not mailed a PartnerCare card by the department in 1992 or 1993.

PartnerCare is a program sponsored by the State Medical Society of Wisconsin and the Coalition of Wisconsin Aging Groups. Its purpose is to help low-income senior citizens get the

medical care they need. Participating doctors volunteer to charge PartnerCare cardholders no more than the amount Medicare approves, for Medicare-covered services.

Prior to 1992, PartnerCare cards mailed by the department were temporary or "annual" cards, with an expiration date (the cards mailed in October 1991, for example, expired December 31, 1992). The cards mailed out beginning October 1992, however, are "permanent" cards, with no expiration date. Individuals are no longer issued a new card each year; those who were mailed a permanent card in October 1992 or 1993 will not receive one this year.

To enable more eligible persons to receive a PartnerCare card, the homestead credit claim, Schedule H, includes a check box near the box for the claimant's age. By checking the box if the claimant has a spouse age 65 or older, the department is able to issue a PartnerCare card to the spouse if applicable, as well as to the claimant. ☐

Endangered Resources Contributions Increase to \$614,000

The 1993 Wisconsin income tax returns, Forms WI-Z, 1A, 1, and 1NPR, included a line for taxpayers to designate a contribution 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.

Donations to the Endangered Resources Fund can be made on both paper filed tax returns and electronically filed returns.

During July 1993 through June 1994 (primarily 1993 returns), 54,052 taxpayers contributed \$613,548 to the Endangered Resources Fund. This compares with 1992 income tax returns, where 56,574 taxpayers contributed \$609,549. ☐

Taxpayers Designate \$359,662 to State Election Campaign Fund

Wisconsin income tax returns, Forms WI-Z, 1A, 1, and 1NPR, include a box for taxpayers to designate \$1 to the State Election Campaign Fund. Checking the election box does not increase the tax liability or reduce a taxpayer's refund.

During July 1993 to June 1994 (primarily 1993 tax returns), taxpayers designated \$359,662 to the election campaign fund on their Wisconsin tax returns. This compares to \$378,824 for the prior year. ☐

New York State Tax Amnesty Program

Note: Information in this article is from a press release submitted by the New York State Department of Taxation and Finance. This amnesty program expires November 30, 1994.

Starting September 1, 1994, New York State began a limited three-month amnesty program aimed at specific taxpayers during particular years. Those who qualify must pay any taxes owed, plus interest, but will be protected from any related criminal prosecution or administrative penalty.

The *income tax* component applies only to nonresidents of New York who have failed to file any required income tax returns for tax years beginning on and after January 1, 1986 and ending before December 31, 1993. Thus, 1992 would be the last calendar year for which participants can file for amnesty. Excluded is anyone currently under criminal investigation, anyone who has already been contacted by the Tax Department, and anyone who participated in New York's 1985 general Amnesty Program.

Similarly, the *business tax* component applies only to out-of-state businesses that have been doing business in New York and who should have filed returns between 1986 and December 1, 1993. Thus, 1992 would be the last calendar year, and November 1993 the last month for which participants can file for amnesty. Once again, any business under criminal investigation or already contacted by the Tax Department is ineligible.

A *use tax* component of the New York amnesty program applies only to New York resident individuals and smaller businesses with a New York payroll.

Additional information and amnesty forms can be obtained by writing: Amnesty, New York State Department of Taxation and Finance, Building 8, W.A. Harriman Campus, Albany, New York 12227. From outside New York you may call 1-518-438-8581. ☐

Administrative Rules in Process

Listed below are proposed new administrative rules and changes to existing rules that are currently in the rule adoption process. The rules are shown at their stage in the process as of October 1, 1994, or at the stage in which action occurred during the period from July 2, 1994, to October 1, 1994.

Each affected rule lists the rule number and name, and whether it is amended (A), repealed (R), repealed and recreated (R&R), or a new rule (NR).

Rules at or Reviewed by Legislative Council Rules Clearinghouse

- 2.03 Corporation returns-R&R
- 2.04 Information returns and wage statements-R&R
- 2.08 Returns of persons other than corporations-R&R
- 2.10 Copies of federal returns, statements, schedules, documents, etc. to be filed with Wisconsin returns-R&R
- 2.39 Apportionment method-A

Rules Sent to Revisor for Publication of Hearing Notice

- 2.97 Earned income credit eligibility-NR
- 11.04 Constructing buildings for exempt entities-A

Rules Sent to Legislative Committees

- ch. 4 (title) MOTOR VEHICLE AND GENERAL AVIATION FUEL TAXATION-A
- 4.01 Portable motor equipment-A
- 4.02 Resellers' personal claims for refund-A
- 4.03 Public highways closed to public travel-A
- 4.04 No printing on back of original invoice-R
- 4.05 Taxicabs-A
- 4.10 Motor vehicle fuel tax liability-NR
- 4.11 Tax exemption for dyed diesel fuel-NR
- 4.12 Uncollected motor vehicle fuel taxes and repossessions-NR
- 4.50 Assignment, use and reporting of document number-A
- 4.51 Measuring withdrawals-A
- 4.52 Separate schedules-A
- 4.53 Certificate of authorization-A
- 4.54 Security requirements-A
- 4.55 Ownership and name changes-A
- 4.65 Motor vehicle fuel tax refunds to vendors and tax deductions for suppliers-NR
- 4.75 Payment of motor vehicle fuel tax-NR ☐