



# Wisconsin TAX BULLETIN

## New Tax Laws to Be Addressed in Special Issue

The Governor introduced his Budget Bill for the 1995-97 biennium on February 14, 1995. This bill includes several provisions affecting Wisconsin taxes. Additional bills which affect Wisconsin taxes have also been introduced.

The Wisconsin Legislature is scheduled to complete work on the 1995-97 Budget Bill by June 29, 1995. If any provisions of the Budget Bill (or other bills) affecting Wisconsin taxes become law, a special issue of the *Wisconsin Tax Bulletin* explaining the new laws will be published later this summer. □

## Department to Host Tax Administrators Conference

The Department of Revenue will host the Midwestern States' Association of Tax Administrators (MSATA) Conference on August 20-22, 1995. The conference will be held at The Pfister Hotel in Milwaukee.

MSATA is an association of 13 midwestern states, affiliated with the Federation of Tax Administrators (FTA), organized to promote understanding and cooperation in the administration of revenue laws and to identify solutions to problems encountered in tax administration.

An annual conference is held to encourage training and sharing of information among the revenue employees in the participating states. Tax professionals from the private sector are also invited to participate.

If you're interested in receiving conference materials, please call the Department at (608) 266-1607 to be placed on the mailing list. Conference materials will be mailed in June. □

## Focus on Publications: Wisconsin's LLC Act

Beginning January 1, 1994, Wisconsin law authorizes the organization and operation of limited liability companies (LLCs) in Wisconsin. The new Wisconsin Publication 119, *Limited Liability Companies (LLCs)*, provides information about the formation, operation, and Wisconsin tax treatment of LLCs. A copy of Publication 119 is reproduced on pages 49 to 60 of this Bulletin. □



## Electronic Funds Transfers Available

The Department of Revenue now offers Electronic Funds Transfer (EFT) as a payment option for state withholding tax and estimated tax for corporations, individuals, estates, trusts, and temporary recycling surcharge for partnerships. In addition, the department **requires** EFTs for motor vehicle fuel tax. Later in 1995, the department plans to accept EFT

payments for other fuel taxes and excise taxes.

Electronic Funds Transfer is a safe and efficient automated payment method, eliminating the need for paper checks and payment vouchers. It can be as simple as making a toll free telephone call. The funds and tax payment information are transferred electronically through the Automated Clearing House (ACH) network, utilizing either the ACH Debit method or the ACH Credit method, with the funds getting deposited into the state treasury.

For more information, an "*Electronic Funds Transfer Guide*," Publication 118, is available by writing to:

Revenue Accounting — EFT Unit  
Wisconsin Department of Revenue  
P.O. Box 8912  
Madison, WI 53708-8912

or by calling the Wisconsin Department of Revenue EFT Information Line at (608) 264-9918. □

## Reminder: Local Exposition Taxes in Milwaukee County Effective 1/1/95

Effective January 1, 1995, three new taxes went into effect for persons making sales of lodging, food, and beverages and renting automobiles in cities and villages located wholly or partially in Milwaukee County.

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## Tax Auditors Discover Over \$25 Million in Unpaid Use Tax

As part of its efforts to obtain compliance with Wisconsin use tax laws, Department of Revenue auditors assessed over \$25 million of use tax, penalties, and interest in the fiscal year ending June 30, 1994.

Auditors found that many businesses, while properly accounting for tax on sales, fail to have a system to keep track of purchases subject to use tax. Following are examples of purchases made without a sales or use tax being paid ... until the businesses were audited:

1. Purchases from unregistered, out-of-state sellers.
2. Purchases for which exemption certificates were issued to the seller but the item purchased was ultimately used in a taxable manner.

Purchasers should carefully review their accounting methods to ensure that use tax is properly reported. □

Numerous questions have been raised regarding the 2% and 7% room taxes, the 0.25% food and beverage tax, and the 3% rental car tax. Many of these questions are answered in Wisconsin Publication 410, *Local Exposition District Taxes*, which is

available from Department of Revenue offices in Madison and the Milwaukee area. In addition, this Bulletin contains six tax releases on the local exposition taxes (see pages 28 to 32).

If you have questions regarding the local exposition taxes, you can obtain assistance by writing to Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902. You may also call or visit the following Wisconsin Department of Revenue offices for assistance.

Milwaukee —  
819 N. 6th St. (414) 227-4600  
TDD (414) 227-4147

Madison —  
4638 University Ave. (608) 266-2776  
TDD (608) 266-1612

### Wisconsin Tax Bulletin

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Madison, WI 53707-7840  
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### 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 sales/use, 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. □

### **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). □

### **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, withholding, 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 61 of this Bulletin. The order blank may also be used for subscribing to the *Wisconsin Tax Bulletin* and for ordering the Wisconsin Administrative Code. □

### **1995 Estimated Tax Requirements for Individuals, Estates, and Trusts**

Estimated income tax payments are tax deposits made during the year to prepay the income tax (including alternative minimum tax) and temporary recycling surcharge that will be due when an income tax return is filed. Taxpayers who expect to owe \$200 or more of tax on a 1995 Wisconsin income tax return are required to pay 1995 Wisconsin estimated tax. There are exceptions for certain estates and trusts, as explained below. A 1995 Form 1-ES, Wisconsin Estimated Tax Voucher, is filed with each estimated tax payment.

For calendar year taxpayers, the first estimated tax payment is due on April 17, 1995. Installment payments are also due on June 15, 1995, September 15, 1995, and January 16, 1996. 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.

Estates and 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 March 25, 1995. 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 March 25, 1997.

A trust which is subject to tax on unrelated business income is generally required to pay 1995 Wisconsin estimated tax if it expects to owe \$500 or more on a 1995 Wisconsin franchise or income tax return (Form 4T). A 1995 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.

Taxpayers may file their 1995 estimated tax by Electronic Funds Transfer (EFT). See the related article titled "Electronic Funds Transfers Available" on page 1 of this Bulletin.

If a taxpayer does not make the estimated tax payments when required or underpays any installment, interest may be assessed. □

### **Filing Wisconsin Fiduciary and Estate Tax Returns**

#### **Wisconsin Fiduciary Returns**

##### *Who Must File*

Every personal representative or special administrator of the estate of a Wisconsin decedent must file a Wisconsin fiduciary income tax return (Form 2) if the gross income of the estate is \$600 or more. Nonresident estates must file Wisconsin fiduciary returns if they have gross income of

\$600 or more from Wisconsin sources.

Every trustee of a Wisconsin trust must file a Wisconsin fiduciary income tax return (Form 2) if the trust has:

1. any taxable income for the tax year, or
2. gross income of \$600 or more, regardless of the amount of taxable income.

A nonresident trust must file a Wisconsin fiduciary income tax return if the trust has:

1. any Wisconsin taxable income for the year, or
2. gross Wisconsin income of \$600 or more, regardless of the amount of taxable income.

Trusts must file on a calendar-year basis, and the due date is the following April 15. (Exception: a limited number of charitable trusts may file on a fiscal-year basis.) Estates may choose any fiscal year, but the first return may not cover more than a 12-month period, and the taxable year must end on the last day of a month. The due date for fiduciary returns for estates is 3½ months after the close of the fiscal year.

#### *Closing Certificates*

Every executor, administrator, personal representative, or trustee applying to a court in Wisconsin having jurisdiction for discharge must obtain a Closing Certificate for Fiduciaries from the department. Before the certificate will be issued, all required income, gift, sales, use, and withholding tax returns and reports, with the exception of the final income tax return of the estate or trust, must be filed.

With the next-to-final fiduciary return, estates must submit a copy of

the probate inventory and a copy of the decedent's will. Trustees must submit a statement as to why the trust is closing, a schedule of assets held by the trust, and a copy of the trust agreement (or will creating such trust) if not submitted with a prior return.

If an estate does not have enough income to require filing and needs a Closing Certificate for Fiduciaries, or if the estate will be filing only one fiduciary return when the estate is closed and needs the closing certificate before filing that return, use the following procedures:

1. Complete the top third of page 1 of Form 2.
2. Insert the appropriate statement at line 1:
  - a. "Gross income is less than \$600 and no 1041 is required." or
  - b. "A first and final return will be filed upon closing the estate."
3. Complete the "Information Required" section of page 2 of Form 2.
4. Sign and date the Form 2.
5. Attach copies of the inventory and will.

The department shall determine that all income, withholding, sales, use, gift, and delinquent taxes are paid. A Closing Certificate for Fiduciaries will then be issued. This does not relieve the executor, administrator, personal representative, or trustee from filing the final fiduciary income tax return. If a probate final account is filed with the court, a copy must be attached to the final return.

For the fiscal year ending June 30, 1994, the department issued nearly 11,500 Closing Certificates for Fiduciaries.

## Wisconsin Estate Tax Returns

### *Filing Requirement*

An estate is required to file a Wisconsin estate tax return (Form W706) if it is required to file a federal estate tax return. An estate is required to file a federal estate tax return (Form 706) if the gross estate at date of death plus gifts in excess of \$10,000 made to each donee per calendar year since December 31, 1976, exceeds \$600,000.

The Wisconsin estate tax is equal to the credit for state death taxes allowed on the federal estate tax return (line 15 of federal Form 706). This credit is computed under section 2011 of the Internal Revenue Code. Estates owning property both within and outside Wisconsin owe a percentage of the credit to Wisconsin based on gross Wisconsin property divided by gross total property.

### *Due Date*

The personal representative, special administrator, trustee, or distributee must file the Wisconsin estate tax return by the due date, which is 9 months after the date of death or the extended due date allowed by the Internal Revenue Service (IRS).

If the return is filed after the due date, there is a penalty equal to 5% of the tax, with a minimum of \$25 and a maximum of \$500.

### *Payment of Tax*

The tax is due 9 months after the decedent's date of death, even if an extension has been obtained to file the return.

If the tax is not paid within 9 months of the decedent's death, interest is imposed at 1% per month from the date of death.

Examples:

1. The decedent died February 15, 1994. An extension of time to file the federal estate tax return was obtained from the IRS. The Wisconsin estate tax return and payment of the tax were submitted on November 30, 1994, which was within the extension period. Tax of \$1,200 was due. The total amount due is \$1,314, computed as follows:

Tax	\$1,200
Interest (1% x 9½ months)	<u>114</u>
Total amount due	<u>\$1,314</u>

2. The decedent died February 15, 1994 and did not obtain an extension to file from the IRS. The Wisconsin estate tax return was filed November 30, 1994, and showed no tax due. This estate owes the minimum penalty of \$25.

*Certificate Determining Estate Tax*

Upon receipt of the Wisconsin estate tax return and review for correctness, the department will issue a Certificate Determining Estate Tax. If the IRS increases or decreases the federal estate tax, the person entitled to the refund or liable for the additional tax is required to notify the department within 30 days.

**Education Programs Target Businesses, Students, Elderly**

For the 1995 tax filing season (1994 tax returns), the Department of Revenue once again participated with the Internal Revenue Service (IRS) in several joint taxpayer education projects. The department provided materials and conducted workshops designed to help businesses, high school students, and elderly, disabled, or low-income taxpayers better understand Wisconsin taxes or credits.

**Small Business Workshops**

Department personnel developed the "Wisconsin Small Business Tax Workshop" workbook and conducted 20 workshops in the state. The workshops targeted persons just going into business in Wisconsin. The IRS works with the department to coordinate the workshops, and typically the Wisconsin workshop follows the federal presentation.

The IRS sponsored a statewide Small Business Workshop event, in which 5 or more workshops were held simultaneously around the state. More than 500 persons attended this event in 1994.

**High School Project**

An "Understanding Wisconsin Taxes" packet was mailed to high school teachers and school media centers in the state. Teachers use the Wisconsin packet as well as the federal "Understanding Taxes" packet to introduce students to Wisconsin and federal income tax return filing requirements, and to assist students in filing their own state and federal returns. For the 1995 tax season, over 1,700 Wisconsin packets were mailed.

**VITA/TCE Program**

The federal VITA (Volunteer Income Tax Assistance) and TCE (Tax Counseling for the Elderly) programs also include participation by department representatives. Through these programs, free help is available in preparing basic tax returns and homestead credit claims for elderly, disabled, and low-income persons.

The department developed a "1994 Wisconsin VITA/TCE Manual" and distributed over 2,000 copies of the manual and other training materials to VITA and TCE sites. In addition, department personnel trained VITA and TCE volunteers, conducting 50 training sessions.

The IRS works with the department to coordinate the training sessions, with most sessions being held between December 15 and March 15. It is estimated that over 30,000 state returns are prepared by VITA and TCE volunteers who are trained using the Wisconsin VITA/TCE manual.

**Information or Inquiries?**

Listed below are telephone numbers to call if you wish to contact the Department of Revenue about any of the taxes administered by the Income, Sales, and Excise Tax Division.

**Madison — Main Office**  
Area Code (608)

Appeals . . . . .	266-0185
Audit of Returns: Corporation, Individual, Homestead . . . . .	266-2772
Beverage . . . . .	266-6701
Cigarette, Tobacco Products . . . . .	266-8970
Copies of Returns:	
Homestead . . . . .	266-2890
Individual . . . . .	266-1266
All Others . . . . .	266-0678
Corporation Franchise and Income . . . . .	266-1143
Delinquent Taxes . . . . .	266-7879
Estimated Taxes . . . . .	266-9940
Fiduciary, Estate . . . . .	266-2772
Forms Request:	
Taxpayers . . . . .	266-1961
Practitioners . . . . .	267-2025
Homestead Credit . . . . .	266-8641
Individual Income . . . . .	266-2486
Motor Vehicle Fuel . . . . .	266-3223
Refunds . . . . .	266-8100
Sales, Use, Withholding . . . . .	266-2776
TDD . . . . .	267-1049

**District Offices**

Appleton . . . . .	(414) 832-2727
Eau Claire . . . . .	(715) 836-2811
Milwaukee:	
General . . . . .	(414) 227-4000
Refunds . . . . .	(414) 227-4907
TDD . . . . .	(414) 227-4147