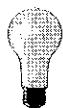




Wisconsin TAX BULLETIN

New Tax Laws Pending

The Governor's Budget Bill and other bills affecting Wisconsin taxes were still pending 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 later this summer, to provide information about the tax law changes. □



Do You Have Ideas or Suggestions for 1995 Tax Forms?

Do you have comments, ideas, or suggestions for improving Wisconsin's tax forms or instructions? Can you think of ways the forms or instructions could be made easier to understand? If so, the department would like to hear from you.

Please take a few moments to put your ideas in writing, and send them to Wisconsin Department of Revenue, Administration Technical Services, P.O. Box 8933, Madison, WI 53708-8933. Your suggestions could help make "tax time" easier for taxpayers and practitioners. □

Trempealeau County Adopts County Tax

Effective October 1, 1995, the county sales and use tax will be adopted by Trempealeau County. This brings to 48 the number of counties that have adopted the ½ % county tax.

The June 1995 *Sales and Use Tax Report*, a copy of which appears on pages 33 and 34 of this Bulletin, explains how the county tax applies to retailers and other persons. It includes a listing of the counties that have adopted the county tax. □

Wisconsin Tax Treatment of Foreign Sales Corporations

Under Wisconsin law, foreign sales corporations (FSCs), including small foreign sales corporations, are taxed like any other corporations. The net income of a FSC is subject to taxation as a separate corporation if it has nexus in Wisconsin and is a viable corporation with substance.

Section 71.26(3)(r), Wis. Stats. (1993-94), excludes the provisions of sections 921 to 927 of the Internal Revenue Code (IRC), relating to FSCs, in computing Wisconsin net income. Accordingly, Wisconsin law does not recognize the special pricing practices under the IRC, nor does it provide an exemption for foreign source income.

To qualify as a FSC, a corporation must meet the requirements of sec. 922(a)(1), IRC, and certain other conditions. A FSC subject to apportionment under sec. 71.25(6), Wis. Stats. (1993-94), will have a sales factor of zero if all of its sales have foreign countries as their destination. For such a FSC, the maximum FSC net income taxable by Wisconsin will be 50%. This percentage will be less

if the property and/or payroll factors are less than 100%.

See the tax release titled "Wisconsin Treatment of Foreign Sales Corporations" in *Wisconsin Tax Bulletin* 90 (January 1995), pages 26 and 27, for additional information. □

Wisconsin Tax Bulletin Annual Index Included

Once each year the *Wisconsin Tax Bulletin* includes an index of articles, tax releases, court cases, private letter rulings, and other materials that have appeared in past Bulletins. The index for issues 1 (October 1976) to 90 (January 1995) can be found on pages 35 to 61 of this Bulletin. □



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.

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- 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. ☐

Wanted: Your Comments About the Wisconsin Tax Bulletin

The *Wisconsin Tax Bulletin* (WTB) is published to provide tax information to YOU, the readers. To make the WTB more useful to you, the department is seeking suggestions for items that may be of interest to you, and ways to make the WTB more valuable to you.

How could the department improve on the information it publishes? What areas would you like to see covered or expanded? Do you have any par-

ticular likes or dislikes about the WTB? Do you have any other ideas, comments, or suggestions you'd like to share?

Please take a few moments to put your comments or ideas in writing, and be a part of improving *your* WTB. Send your comments or ideas to Wisconsin Department of Revenue, Administration Technical Services, P.O. Box 8933, Madison, WI 53708-8933. We'd like to hear from you! ☐



Automatic 4-Month Extension

Expires August 15

If your 1994 Wisconsin and federal individual income tax returns were due April 17, 1995, but you filed an application for an automatic 4-month extension for filing your federal return with the Internal Revenue Service (IRS), both your federal and Wisconsin returns are due August 15, 1995. When you file your Wisconsin return, be sure to attach to it a copy of the federal extension application, Form 4868.

Any filing extension available under federal law may be used for Wisconsin purposes, even if you are not using that extension of time to file your federal return. If you did not file a federal extension application but needed a 4-month extension for Wisconsin only, your 1994 Wisconsin return, ordinarily due April 17, 1995, must be filed by August 15, 1995. In this situation, you should attach a statement to the 1994 Wisconsin return you file, indicating that you are filing under the federal automatic 4-month extension provision, or attach a copy of federal Form 4868 with only the name, address, and signature areas completed.

(Note: You are not required to pay your 1994 taxes by April 17, 1995,

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as a condition for receiving an extension of time to file your Wisconsin tax return. However, even though you may have an extension of time to file your return, you will owe interest of 1% per month on any tax not paid by April 17, 1995.) ☐

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

☐

Self-Employed Health Insurance Deduction

On April 11, 1995 President Clinton signed into law a bill that reinstates the 25 percent deduction for health insurance premiums paid by self-employed individuals. This federal income tax deduction had expired on December 31, 1993. The reinstated deduction will be in effect for tax years beginning after December 31, 1993 (this includes 1994 returns).

The reinstated federal 25 percent deduction for health insurance premiums paid by self-employed individuals does not apply for Wisconsin. Instead, for 1994 Wisconsin allows a deduction for 50 percent of health insurance premiums paid by a self-employed individual or by an employee whose employer did not contribute toward the cost of the employee's health insurance.

In anticipation of this change in federal law, IRS provided a line on the 1994 federal Form 1040 (line 26) for claiming the self-employed health insurance deduction. Individuals who have not yet filed their federal return (e.g., have an extension of time to file) will simply claim the deduction when completing their federal return.

For Wisconsin, such individuals must complete Schedule I, Adjustments to Convert 1994 Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable Under the December 31, 1993 Internal Revenue Code, before completing Form 1. By completing Schedule I, the individual will remove the self-employed health insurance deduction from federal adjusted gross income and adjust other items (e.g., certain itemized deductions) that are affected.

Individuals eligible for the federal deduction, but who filed their 1994 federal returns before the law change, may now file an amended federal

return (Form 1040X) to claim the self-employed health insurance deduction. Such individuals should not file an amended return for Wisconsin unless the individual was subject to the temporary recycling surcharge and the amount of the surcharge would be affected by the federal self-employed health insurance deduction. The federal self-employed health insurance deduction reduces net business income when computing the surcharge and net farm profit when determining whether a farmer is subject to the surcharge.

Example: An individual paid \$500 per month for health insurance in 1994. His federal self-employed health insurance deduction is \$1,500. The individual paid a temporary recycling surcharge of \$43.45 (\$10,000 net business income x .004345) with his original Wisconsin income tax return. The individual may file an amended return to reduce the temporary recycling surcharge to \$36.93 ((\$10,000 - \$1,500) x .004345), a difference of \$6.52.

For 1995 returns, the federal self-employed health insurance deduction will increase to 30% of health insurance premiums paid. If Wisconsin law does not change, Wisconsin will allow a deduction for 100% of health insurance premiums paid by a self-employed individual in 1995. ☐

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

Meals, Food, and Beverages Given Away — Sales and Use Tax

Questions have been received by the Department of Revenue as to how Wisconsin sales or use tax applies to meals, food, beverages, and other related items given to customers and employees by lodging providers, restaurants, taverns, and similar retailers.

A tax release on this subject appears on pages 24 to 27 of this Bulletin. □

Question and Answer

Q I am a resident of Minnesota but I drive to my job in Wisconsin daily. Do I owe income tax to Wisconsin on the wages I earn in Wisconsin?

A No. Wisconsin has a reciprocal agreement with Minnesota whereby Wisconsin will not tax the wages of Minnesota residents working in Wisconsin and Minnesota will not tax the wages of Wisconsin residents working in Minnesota. To prevent Wisconsin income tax from being withheld from wages earned in Wisconsin, the Minnesota resident should file Wisconsin Form W-222, Statement of Minnesota Residency, with his or her employer.

Q I have always clipped coupons and used them to get lower prices on everything from groceries to automobile batteries. Recently, I used a coupon to get 50¢ off the \$2.00 retail price of a product. This coupon was issued by the manufacturer of the product, who reimburses the retailer for the 50¢ value of the coupon, plus a 2¢ handling fee for each coupon.

The retailer charged me sales tax on the \$2.00 retail price of the product, rather than on \$1.50 — the price I actually paid. Was the retailer correct in taxing the full retail price?

A Yes. Because you used a coupon for which the manufacturer reimburses the retailer for the value of the coupon, the retailer was correct in taxing the full retail price. The retailer's taxable gross

receipts include the \$1.50 you paid, plus the 50¢ coupon value for which the retailer is paid by the manufacturer.

The 2¢ handling fee paid by the manufacturer to the retailer is not subject to tax.

Note: When you use a coupon issued by the retailer, and not the manufacturer, the retailer should charge sales tax on the discounted price of the product (retail price minus retailer's coupon value).

For example, in the above situation, if the 50¢ coupon had been issued by the retailer, not the manufacturer, with no reimbursement from the manufacturer to the retailer, the retailer should charge sales tax on its discounted price of \$1.50 (\$2.00 retail price minus 50¢ retailer's coupon value).

Q I am a contractor doing remodeling for a motel. The terms of the contract include the installation of carpeting which the motel owner purchased from a store. If I hire and pay a subcontractor to lay the carpeting (which is owned by the motel owner), is the labor charge by the subcontractor subject to sales or use tax?

A No. The installation of carpeting in a building is a real property construction activity, and gross receipts from this activity are not subject to sales or use tax. (**Note:** The motel owner is responsible for paying sales or use tax on the purchase price of the carpeting.) □

5 Charged With Failure to File Tax Returns

Five Wisconsin men were charged in April 1995, with one or more counts each of failure to file Wisconsin income tax returns.

Daniel J. Welch, 40, Beloit, was charged with three counts of failing to file 1991, 1992, and 1993 returns, while allegedly his income for those years exceeded \$105,000 and his tax liability was \$6,976.

David L. Comey, 48, Elm Grove, was charged with eleven counts, including failure to file 1991 and 1992 personal income tax returns when he allegedly had over \$55,000 of interest and dividend income, and nine counts of failing to file corporate tax returns for five corporations he operated during 1992 and 1993. The complaint also accused Comey of habitual criminality, because he had been convicted in 1993 of failure to file 1989 and 1990 income tax returns and evading sales taxes on two automobile purchases.

Two Cedarburg men, Jay S. Helnore, 30, and Michael P. Strege, 33, were both charged with failure to file 1991 income tax returns. In 1991 they allegedly operated a business which grossed over \$400,000, from which Helnore made \$135,990 and Strege made \$98,475. The complaint also stated that both men failed to file 1992 and 1993 income tax returns.

Chiropractor Don C. Loeffler, 43, Onalaska, was charged with three counts of failure to file 1991, 1992, and 1993 income tax returns. The complaint alleges that in 1993 Loeffler began requesting that checks paid to him for chiropractic services be made payable to Circle of Light Trust, and that during 1991 to 1993 more than \$448,000 was deposited in bank accounts maintained by him and the trust.

Each charge of failure to file a Wisconsin tax return can result in up to nine months imprisonment and up to \$10,000 in fines. Wisconsin law also provides for substantial civil penalties on the civil tax liability. Assessment and collection of the taxes, penalties, and interest due follows a conviction. □

Tax Crimes Result in Arrests, Jail Time

Julie L. Zorn, 34, a self-employed Milwaukee area bookkeeper, was sentenced in April 1995, to six years in prison for theft, forgery, and income tax evasion. She was also given ten years of probation and was ordered to make restitution of over \$27,000 in state taxes, interest, and penalties, pay more than \$150,000 in restitution to the Rheumatic Disease Center, and serve 200 hours of community service.

Between 1991 and 1993, Zorn allegedly operated a service through which she did bookkeeping for Rheumatic Disease Center. She inflated the hours she put in there and forged doctors' signatures on checks she wrote to herself, embezzling over \$157,000.

Zorn also allegedly altered her payroll records and falsified her 1991 to 1993 income tax returns. During those years she understated her income by over \$136,000 and evaded almost \$11,000 in state income taxes.

Also in April, police raids of eleven grocery stores in Milwaukee resulted in the arrests of 19 people suspected of accepting stolen property and reselling it. Confiscated items valued at an estimated \$75,000 included cigarettes, and some of those arrested were expected to be charged with cigarette tax related crimes. The Department of Revenue's Alcohol and Tobacco Enforcement Unit was in-

volved in the four-month investigation which culminated with the 19 arrests.

Former Appleton businessman Leo Wanta was found guilty in May 1995, of six counts of tax evasion for the years 1988 and 1989. A jury trial was held before Dane County Judge Michael Torphy, in Madison.

Wanta was accused of filing false income tax returns for 1988 and 1989 and in four instances hiding taxable income that he spent on purchases and loan repayments. He allegedly set up several dummy corporations to launder \$500,000 through banks in Switzerland, Beijing, and several U.S. cities.

Wanta was arrested in New York in November 1993 after being deported from Switzerland, and was extradited to Wisconsin to face the tax evasion charges. He was also previously arrested for fraud in Singapore and in Geneva, Switzerland. Among Wanta's many claims are that he has diplomatic immunity from tax charges because he is a CIA undercover agent, and that he was a U.S. Treasury agent and a Somalian ambassador.

Also in May, West Bend trucker Roger R. Dahm, 49, was sentenced to three months in jail and fined \$10,000, for filing fraudulent state income tax returns. He had been charged with four counts of understating his income for 1987 to 1990 by over \$100,000 and evading over \$40,000 in state and federal taxes. He pled guilty to the two charges for 1987 and 1988, in March 1995.

Dahm was also ordered to pay \$12,120 in prosecution and court costs and penalties, and to pay an additional \$21,098 to the Department of Revenue for restitution and back taxes, interest, and penalties. In addition, he was placed on four years of probation and ordered to perform 100 hours of community service.