

During 1987 to 1990 Dahm allegedly operated a trucking business, hauling grain, as well as a second business that sold grain. He hid the sales income from his accountant and failed to report the sales income on his tax returns. He had operated the grain selling business since 1981.

After failing to appear in court in May 1995, arrest warrants were issued for a Trevor couple, Richard J. and Marie A. Kamin, ages 57 and 41. They had been charged in April 1995, with two counts each of failure to file 1991 and 1992 Wisconsin income tax returns.

The criminal complaint alleges that the Kamins had joint income of \$47,810 in 1991 and \$23,560 in 1992. Their total state income tax liability for the two years is \$3,354.

In June 1995, David L. Comey, 48, Elm Grove, was ordered by Dane County Circuit Judge Robert A. DeChambeau, to serve 15 months in jail and to pay a \$6,000 fine. He was convicted in May 1993 of failure to file 1989 and 1990 income tax returns when he had interest and dividend income of over \$50,000, and evading sales taxes due by falsifying title applications from the purchase of two Mercedes Benz automobiles.

Comey appealed the May 1993 conviction to the Court of Appeals, which ruled against him in January 1995. Upon further appeal, the Wisconsin Supreme Court refused to hear the case and in March 1995 sent it back to Circuit Court for further sentencing. □

Tax Publications Available

The Department of Revenue publishes over 40 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 (12/94)	201	Wisconsin State and County Sales and Use Tax Information (9/94)
103	Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts (10/94)	202	Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs (7/94)
104	Wisconsin Taxation of Military Personnel (8/94)	203	Sales and Use Tax Information for Manufacturers (12/94)
109	Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 1994 (10/94)	205	Do You Owe Wisconsin Use Tax? (Individuals) (5/94)
111	How to Get a Private Letter Ruling From the Wisconsin Department of Revenue (3/94)	206	Sales Tax Exemption for Nonprofit Organizations (9/90)
112	Wisconsin Estimated Tax and Estimated Surcharge for Individual, Estates, Trusts, Corporations, Partnerships (8/94)	207	Sales and Use Tax Information for Contractors (7/94)
113	Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (11/94)	210	Sales and Use Tax Treatment of Landscaping (5/94)
114	Wisconsin Taxpayer Bill of Rights (11/94)	211	Sales and Use Tax Information for Cemetery Monument Dealers (10/91)
116	Income Tax Payments Are Due Throughout the Year (12/91)	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)
118	Electronic Funds Transfer Guide (12/94)	214	Do You Owe Wisconsin Use Tax? (Businesses) (9/93)
119	Limited Liability Companies (LLCs) (1/95)	216	Filing Claims for Refund of Sales or Use Tax (12/94)
120	Net Operating Losses for Individuals, Estates, and Trusts (11/94)	400	Wisconsin's Temporary Recycling Surcharge (12/94)
200	Sales and Use Tax Information for Electrical Contractors (7/94)	410	Local Exposition Taxes (11/94)
		500	Tax Guide for Wisconsin Political Organizations and Candidates (12/94)
		501	Field Audit of Wisconsin Tax Returns (12/92)
		502	Directory of Free Publications (12/94)
		503	Wisconsin Farmland Preservation Credit (12/94)
		504	Directory for Wisconsin Department of Revenue (12/94)
		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) ☐

IRS Visits Wisconsin Businesses to Determine Compliance With Currency Reporting Laws

Note: The following article was submitted by John T. Ader, Director, Milwaukee District, Internal Revenue Service.

In June, the Internal Revenue Service visited a total of about 400 Wisconsin insurance agents, check cashing centers, and credit unions. The purpose of the visits? To determine if these businesses were complying with the tax laws for reporting large cash transactions to the IRS.

During these visits, we learned that many businesses weren't aware that cash transaction reporting laws existed. They also weren't aware that they could owe as much as \$500,000 in fines for not knowing — and not complying — with these laws.

As a business owner or operator or a practitioner who has business clients, you may already be familiar with the requirement for reporting large cur-

rency transactions. You may also know that these reports help track money laundering. If you aren't aware of this requirement, or if you're unsure what these laws involve, you'll want to read on. Why? Because legitimate businesses are often used by people who want to hide illegally-obtained income. Before you or one of your clients becomes the victim of a money laundering scam — or faces scrutiny from the IRS — you should know the laws for reporting currency transactions.

What is money laundering? Money laundering involves concealing funds — or their illegal source — so that they appear legitimate. Most often, people think of drug "lords" laundering money so it can't be traced to their crimes. They do this by purchasing large-ticket items with money gained through some illegal activity. However, even money earned in otherwise legitimate activities can be laundered to hide its existence. Legitimate businessmen also purchase large-ticket items in cash to hide income. Either way, the outcome is the same. The cash goes unreported and untaxed.

Since 1970, laws have existed to curtail money laundering activity. One of the more recent laws requires that large cash transactions be reported to the IRS. The law says that anyone engaged in a trade or business that receives more than \$10,000 in cash from one customer must report this information to the Internal Revenue Service. They do this by filing Form 8300, *Report of Cash Payments Over \$10,000 Received in a Trade or Business*. This form must be sent to the IRS within 15 days of the receipt of the payment(s) totalling \$10,000. "Cash" can include not only U.S. coins and currency, but also certain cashier's checks, bank drafts, traveler's checks, and money orders. The cash may be received in one payment or in a series of payments

related to the same sale or contract. Businesses, especially, should be aware of this staggered-payment stipulation. It isn't unusual for businesses to receive smaller payments that, when added to other cash payments made by the same customer, total more than \$10,000. While this may be a common purchasing practice of consumers, it's also a tactic used by money launderers to avoid reporting requirements. It's called "structuring."

Businesses should also file Form 8300 if they feel a cash payment of less than \$10,000 is suspicious.

While businesses are required to report large cash transactions on Form 8300, banks, credit unions and other financial institutions are required to report their large cash transactions of more than \$10,000 on Form 4789, *Currency Transaction Report*. Alternative banking institutions, such as check-cashing centers and currency exchanges, are also required to complete Form 4789. Alternative banking institutions are also required to keep certain records when they receive smaller cash payments. They are required to maintain a chronological log of all transactions greater than \$3,000 but less than \$10,000. This log must be kept for five years from the date the transaction occurred.

What can happen to businesses that don't follow these requirements? They could face civil and criminal penalties.

The civil penalty for intentionally disregarding the law is the greater of \$25,000 or the amount of the cash received in the transaction, not to exceed \$100,000.

Civil penalties can also be assessed for failing to file a Form 8300 or 4789 or for filing a false form. Similar penalties also exist for not keeping the required cash transaction records.

Criminal penalties can include a fine of up to \$250,000. For corporations, that fine could be as much as \$500,000. Criminal penalties can also include a prison sentence of up to five years.

The IRS takes a "Triple E" approach to money laundering: Educate, Enhance, and Enforce. We educate taxpayers with our information publications, such as Publication 1544, *Reporting Cash Payments of Over \$10,000 Received in a Trade or Business*. We also educate taxpayers through our outreach seminars and the information we share with the public through the media and organizational newsletters. Through our compliance checks, like the ones we conducted in June, we enhance awareness of the laws for reporting currency transactions. Although enforcement isn't the sole purpose of these visits, we will not hesitate to begin a criminal investigation if we suspect that a business has intentionally ignored the laws.

Through these and other efforts, we hope to send a message to anyone involved in money laundering and to those businesses that are unfamiliar with the laws for reporting large currency transactions. For both groups, our message is clear: Know and comply with the laws for reporting large cash transactions. Because money laundering is a crime. □

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 July 1, 1995, or at the stage in which action occurred during the period from April 2, 1995 to July 1, 1995.

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 Sent to Revisor for Publication of Notice

- 2.89 Estimated tax requirements for short taxable years-NR
- 2.96 Extensions of time to file corporation franchise or income tax returns-R&R
- 3.03 Dividends received deduction — corporations-R&R
- 11.04 Constructing buildings for exempt entities-A

Rules Adopted But Not Yet Effective

- 11.13 Direct pay-NR
- 11.14 Exemption certificates, including resale certificates-A

Rules Adopted and in Effect (adoption date June 1, 1995)

- 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

Emergency Rule in Effect

- 11.13 Direct pay-NR

Recently Adopted Rules Summarized

Recent revisions to administrative rules are summarized below. Included is information regarding secs. Tax 2.03, 2.04, 2.08, and 2.10, all repealed and recreated, and sec. Tax 2.39, amended. The effective date for all of the revisions is June 1, 1995.

In addition to the summaries, the text of the recreated rules is reproduced. Notes appearing in the rules and the lists of forms in secs. Tax 2.03 and 2.08 are not reproduced here. See the order blank on page __ of this Bulletin for information about obtaining the Revenue section of the Wisconsin Administrative Code.

Tax 2.03 Corporation returns. Additional statutory references and new forms are included; titles of other forms are updated; and the address for delivering forms is listed. The text of Tax 2.03 is as follows:

Tax 2.03 CORPORATION RETURNS. (ss. 71.24(1), (1m) and (3), 71.365(4) and (5) and 71.44(1)(a) and (c) and (1m), Stats.) (1) FORMS. For the purpose of filing franchise or income tax returns, the secretary of revenue has designated the following forms for the use of corporations, as defined in s. 71.22(1), Stats.:

[Paragraphs (a) through (x) list forms used by corporations.]

(2) INFORMATION RETURNS. Information returns required of corporations are specified in s. Tax 2.04.

(3) SIGNATURES. An officer of the corporation shall sign all returns required to be filed. If a return is prepared by someone other than an employee or officer of the corporation, the person preparing the return shall also sign as preparer.

(4) FILING RETURNS. All forms and information required to be filed or furnished by corporations shall be delivered to the department or mailed to the address specified by the department on the form or in the instructions.

Tax 2.04 Information returns and wage statements. Statutory referenc-

es are updated; the definition of "person" is expanded to include limited liability companies; references to obsolete federal Form W-2P are deleted; rent and royalty reporting requirements for persons other than corporations are clarified; magnetic media requirements are addressed; the requirement to report gambling winnings is addressed; and language and style are updated. The text of Tax 2.04 is as follows:

Tax 2.04 INFORMATION RETURNS AND WAGE STATEMENTS.

(ss. 71.26(3)(e), 71.65(2), 71.67(4) and (5), 71.70, 71.71(2), 71.72, 71.74(4) and 71.80(20), Stats.) (1) DEFINITION. In this section, "person" means an individual, trust, estate, partnership, limited liability company, association or corporation.

(2) COMPENSATION FOR SERVICES. Under ss. 71.65(2), 71.71(2), 71.72 and 71.80(20), Stats., all persons carrying on activities within this state, whether taxable or not under ch. 71, Stats., are required to file with the department, on federal form W-2 or 1099-R, on Wisconsin form 9b or other forms approved by the department, or on magnetic media or in other machine-readable form, a statement of certain payments made within the preceding calendar year. For individuals who are residents of Wisconsin, the statement shall set forth the salaries, wages, bonuses, commissions, annuities, pensions, retirement pay, fees or other remuneration paid for services whether subject to withholding or not. For individuals who are nonresidents, the statement shall include all payments for the performance of personal services in Wisconsin, whether subject to withholding or not, except retirement plan distributions identified in s. Tax 3.085 as being exempt from Wisconsin income tax. A copy of federal form 1099 may be filed in lieu of Wisconsin form 9b. The following shall also apply with respect to compensation for services:

(a) All payments which are wages within the definition under s. 71.63(6), Stats., regardless of amount, shall be reported on federal form W-2 or on magnetic media or in other machine-readable form.

(b) All payments which are not wages within the definition under s. 71.63(6), Stats., but from which Wisconsin income tax has been withheld, shall be reported on federal form W-2 or 1099-R, as appropriate, or on magnetic media or in other machine-readable form.

(c) Payments of \$600 or more which are not wages within the definition under s. 71.63(6), Stats., and from which no Wisconsin income tax has been withheld, shall be reported on Wisconsin form 9b or federal form 1099, or on magnetic media or in other machine-readable form. However, if the payment was to an employee for whom a form W-2 is required under par. (a) or (b), the payment, regardless of amount, shall be included on form W-2.

(d) All statements required shall be filed by January 31, by delivering or mailing them to the department. Form WT-7, "Employer's Annual Reconciliation of Wisconsin Income Tax Withheld From Wages," shall accompany the statements submitted, either on paper or on magnetic media or in other machine-readable form, if the employer is required to be registered to withhold Wisconsin income taxes from employees' wages.

(e) Sections 71.65(5) and 71.73(2), Stats., permit a thirty-day extension of time to file the statements described in this subsection. A written request may be sent to the department and to be effective shall be postmarked on or before the due date of the statements. The department's approval of the extension shall be attached to the statements when they are filed with the department.

(3) RENTS AND ROYALTIES. Under ss. 71.70 and 71.80(20), Stats., except as provided in par. (d), all persons making payments of rents and royalties of \$600 or more to individuals who are residents of Wisconsin, regardless of where the property is located, and to nonresident individuals if the property is located in Wisconsin, shall file with the department, on form 9b or an approved substitute form, or on magnetic media or in other machine-readable form, a statement of payments made in the preceding calendar year. The following shall also apply with respect to rents and royalties:

(a) A copy of federal form 1099-MISC may be filed in lieu of Wisconsin form 9b.

(b) Corporations shall file by March 15 and payers other than corporations shall file by April 15, by delivering or mailing the statements to the department.

(c) No extension of time for filing forms 9b or substitute forms to report payments of rents or royalties may be allowed.

(d) The requirement to file form 9b or a substitute form does not apply to persons other than corporations who do not deduct the payments in determining Wisconsin taxable income.

(4) GAMBLING WINNINGS. (a) Under s. 71.67(4)(c), Stats., the administrator of the gaming commission's lottery division shall file with the department a statement of winnings for each lottery prize of \$2,000 or more paid in the preceding calendar year.

(b) Under s. 71.67(5)(d), Stats., all persons licensed to sponsor and manage races under s. 562.05(1)(b) or (c), Stats., shall file with the department a statement of winnings for each pari-mutuel wager payment of more than \$1,000 paid in the preceding calendar year.

(c) The winnings required to be reported in pars. (a) and (b) shall be reported on federal form W-2G or on an approved substitute form.

(d) The statements required in pars. (a) and (b) shall be filed by January 31, by delivering or mailing them to the department.

(e) No extension of time for filing forms W-2G or substitute forms to report payments of lottery prize winnings or pari-mutuel wager winnings may be allowed.

(5) DISALLOWANCE OF DEDUCTIONS. Items to be reported on forms W-2, 1099-R, 9b or substitute forms may be disallowed as deductions from gross income if not properly reported.

(6) MAGNETIC MEDIA REQUIREMENT. (a) Under s. 71.80(20), Stats., if the internal revenue service requires a person to file wage statements or information returns on magnetic media or in other machine-readable form, comparable wage statements or information returns shall also be filed on magnetic media or in other machine-readable form with the department of revenue.

(b) A person shall be required to file wage statements or information returns on magnetic media or in other machine-readable form with the depart-

ment of revenue only if both of the following conditions apply:

1. Wage statements or information returns comparable to those required to be filed on magnetic media or in other machine-readable form with the internal revenue service are also required to be filed with the department of revenue.

2. The wages or income reported on the wage statements or information returns are required to be reported to Wisconsin.

(c) 1. If fewer than 250 of any one type of wage statement or information return are required to be filed with the department, the department shall waive the requirement to file that type of wage statement or information return on magnetic media or in other machine-readable form.

2. If a payer participates in the combined federal/state filing program for forms 1099, the department shall waive the requirement to file those forms 1099 or comparable information returns on magnetic media or in other machine-readable form.

3. If a payer receives a waiver from the department, the payer is not required to file wage statements or information returns on magnetic media or in other machine-readable form with the department.

(7) **COMBINED FILING PROGRAM.** Payers who participate in the combined federal/state filing program with the internal revenue service and report to the internal revenue service items which are required to be filed on Wisconsin form 9b or a substitute form, are not required to file separate information returns for those items with the department of revenue.

Tax 2.08 Returns of persons other than corporations. For clarity, titles are created for each subsection; new forms are included, and titles of other forms are updated; instructions for who may file various tax forms is updated; the lists of forms are grouped by type of entity; and the address for mailing forms is updated. The text of Tax 2.08 is as follows:

Tax 2.08 RETURNS OF PERSONS OTHER THAN CORPORATIONS. (ss. 71.03(2), 71.20(1) and

71.55(3), Stats.) (1) **FORMS.** For the purpose of filing income tax returns and credit claims, the secretary of revenue has designated the following forms for the use of persons other than corporations:

(a) *Individuals and fiduciaries.* [Subdivisions 1 through 28 list forms used by individuals and fiduciaries.]

(b) *Partnerships and limited liability companies treated as partnerships.* [Subdivisions 1 through 6 list forms used by partnerships and limited liability companies treated as partnerships.]

(2) **INFORMATION RETURNS.** Information returns required of persons other than corporations are specified in s. Tax 2.04.

(3) **FILING RETURNS.** All forms and information required to be filed or furnished by persons other than corporations shall be filed or furnished by providing the information requested on the appropriate forms, signing the returns or forms as appropriate, and delivering them to the department or mailing them to the address specified by the department on the form or in the instructions.

Tax 2.10 Copies of federal returns, statements, schedules, documents, etc. to be filed with Wisconsin returns. Additional statutory references are included; the treatment of limited liability companies treated as partnerships is explained; and the department's policy regarding the filing of federal forms with partnership returns is explained. The text of Tax 2.10 is as follows:

Tax 2.10 COPIES OF FEDERAL RETURNS, STATEMENTS, SCHEDULES, DOCUMENTS, ETC. TO BE FILED WITH WISCONSIN RETURNS. (ss. 71.03(5) and 71.20(1), Stats.) (1) **INDIVIDUALS AND FIDUCIARIES.** At the time of filing Wisconsin income tax returns by individuals and fiduciaries, a complete copy of the federal income tax return for the same taxable year, including all schedules, statements, documents and computations which affect the computation of Wisconsin income, credits or penalties, shall be included and filed with the Wisconsin return. Copies of the short form federal returns 1040A and 1040EZ are not required to be filed

if a Wisconsin form 1A or WI-Z is being filed for the same taxable year. If the federal form is filed electronically, a copy of the electronic material as contained in replicas of the official forms or on forms designated by the electronic filer shall be included and filed with the Wisconsin return.

(2) **PARTNERSHIPS AND LIMITED LIABILITY COMPANIES TREATED AS PARTNERSHIPS.** (a) Except as provided in par. (b), at the time of filing Wisconsin income tax returns by partnerships and limited liability companies treated as partnerships under s. 71.20(1), Stats., a complete copy of the federal income tax return for the same taxable year, including all schedules, statements, documents and computations which affect the computation of Wisconsin income, deductions and credits, shall be included and filed with the Wisconsin return. If the federal form is filed electronically, a copy of the electronic material as contained in replicas of the official forms or on forms designated by the electronic filer shall be included and filed with the Wisconsin return.

(b) Copies of the federal schedules K-1 are not required to be filed for those partners or members for whom a Wisconsin schedule 3K-1 is being filed for the same taxable year. A Wisconsin schedule 3K-1 shall be filed in lieu of federal schedule K-1 for a partner or member if any of the following applies:

1. The computation of the Wisconsin income or deductions differs from the federal amount.

2. The partner or member is a non-resident of Wisconsin and the partnership or limited liability company has activities within and without Wisconsin.

3. The partnership or limited liability company calculates any Wisconsin income tax credits.

Tax 2.39 Apportionment method. Tax 2.39(2)(f), (4)(c), (4)(cm)2.a., and (4)(f) are amended to reflect proper grammar, punctuation, and style. Tax 2.39(6)(b)2.b, relating to throwback sales and the requirement to follow other states' nexus standards, is repealed, and Tax 2.39(6)(b)2.c is renumbered Tax 2.39(6)(b)2.b. □