

## Embezzler Guilty of Million Dollar Tax Theft

A Milwaukee area man was convicted in September 1996, of cheating the state out of over a million dollars in motor fuel tax money during 1990 and 1991. Paul C. Kramer, 55, East Troy, was found guilty of fifteen felony counts of theft of motor fuel taxes, after a four day trial.

In October 1994, Kramer and another man, Patrick S. Gedig, 49, of Franklin, were charged with participating in an invoicing scheme during 1990, when Gedig was president of United Petroleum Corporation. United has wholesale and retail operations in the Milwaukee area. At the time of the thefts, Kramer ran Ohio Fuel & Supply Co., Inc., of Big Bend, Wisconsin, with wholesale fuel operations throughout southeastern Wisconsin.

In February 1990, Gedig owed Kramer close to \$700,000 for past fuel purchases, and Kramer refused to supply Gedig with more fuel unless part of the bill was paid down. Kramer then devised a scheme to have Gedig issue phony invoices from United Petroleum Corporation to three companies owned by Kramer, to collect additional fuel taxes that were not paid over to the state. Kramer misappropriated \$935,297, operating the scheme from February 1990 to May 1990, when the state revoked United's motor fuel tax license. Gedig pled guilty to his involvement in the scheme on December 2, 1994, and later testified against Kramer during the trial. Gedig is awaiting sentencing.

In addition to the \$935,297, Kramer also stole \$197,097 in fuel tax monies between December 1990 and March 1991. These were taxes that

Ohio Fuel & Supply Co. collected from sales to retailers, but never remitted to the state. Ohio's fuel tax license was revoked by the state in March 1991.

The case was prosecuted by the State Attorney General's office after an investigation by the Fraud Unit of the Wisconsin Department of Revenue. Dane County Circuit Court Judge Robert A. DeChambeau presided. Kramer faces a maximum sentence of 75 years in prison and \$150,000 in fines.

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A Mequon businessman was found guilty in August 1996, of one count of tax evasion related to the purchase of a motorcycle. According to the charge, George S. Zabrycki, 53, purchased a 1992 motorcycle for \$15,000. However, he listed the purchase price as \$5,000 when he registered it with the Department of Transportation, evading \$550 in state sales taxes.

Milwaukee County Circuit Court Reserve Judge Raymond Gieringer fined Zabrycki \$500 and further ordered that he pay the fine within 60 days or face 20 days in the House of Corrections.

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A self employed Menomonee Falls bookkeeper was charged in August 1996, in Waukesha County Circuit Court, with one felony count of state income tax evasion. According to the criminal complaint, Donna L. Blaeske, 42, filed a fraudulent 1993 income tax return, reporting only \$15,750 as her wages for the year. However, she failed to report an additional \$17,058 that she received for work done at the North Hills Athletic Club. For that year, Blaeske was in charge of issuing the company's tax forms and omitted

issuing herself a W-2, to conceal the amount that she had received.

The complaint also noted that Blaeske had a history of filing late state tax returns and had not filed either her 1993 or 1994 return until April 1996. The complaint further noted that when Blaeske filed her 1993 and 1994 returns she told state investigators that she had actually prepared them timely, but had forgotten to mail them in. Investigators noted that in an attempt to conceal the late filings, Blaeske inadvertently had dated the 1993 return as April 15, 1993, and the 1994 return as April 10, 1994, each a full year before they were actually due.

If convicted, Blaeske could face up to five years in prison and a fine of up to \$10,000.

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Also in August, accountant and tax preparer Samuel J. Palzkill, 44, Mineral Point, was charged by the Iowa County District Attorney's office with two counts of failure to file Wisconsin income tax returns. The criminal complaint alleges that Palzkill failed to file Wisconsin income tax returns for 1992 and 1993, that for 1992 he had income of \$26,413 and owes Wisconsin income tax of \$1,766, and that for 1993 he owes tax of \$1,339 based on income of \$24,716. The State contends that Palzkill has not filed any income tax returns for seven consecutive years.

If convicted on both counts, Palzkill faces a maximum penalty of up to 18 months in jail and up to \$20,000 in fines. Failure to file a Wisconsin income tax return when due is a crime punishable by up to nine months imprisonment and up to \$10,000 in fines. □

## Endangered Resources Contributions

Total \$621,000



The 1995 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 1995 through June 1996 (primarily 1995 returns), 49,669 taxpayers contributed \$621,270 to the Endangered Resources Fund. This compares with 1994 income tax returns, where 50,585 taxpayers contributed \$599,760.

## Taxpayers Designate \$306,955 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 1995 to June 1996 (primarily 1995 tax returns), taxpayers designated \$306,955 to the election campaign fund on their Wisconsin tax returns. This compares to \$315,133 for the prior year.



## Over 1.8 Million Refunds Issued

Taxpayers were issued more than 1.8 million income tax refunds during January through July 1996 (primarily 1995 returns), for an average refund of \$342. The average refund for 1994 returns was \$327.

There were 2,692,000 Wisconsin individual income tax returns filed during the twelve months ending June 30, 1996. This compares to 2,608,000 returns for the prior year. The 2,692,000 returns, which included joint tax returns, were filed by 3,830,000 individuals.

An itemized deduction credit was claimed by 27% of the taxpayers on their 1995 returns. The average credit was \$377, compared to \$360 on 1994 returns.

There were 213,000 homestead credit claims filed during the year, and the average credit was \$452. This compares to 222,000 homestead credit claims averaging \$456 for the prior year. About 49% of the claimants were age 65 or older, 49% were renters, and 51% were homeowners.

About 23,200 farmland preservation credit claims, averaging \$1,226 per claim, were filed during the year ending June 30, 1996. During the prior year 25,500 farmland preservation credit claims were filed, and the average payment was \$1,288.

## 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, 1996, or at

the stage in which action occurred during the period from July 2 to October 1, 1996.

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).

### Proposed Rules Being Drafted

- 11.002 Permits, application, department determination-A
- 11.01 Sales and use tax return forms-A
- 11.35 Occasional sales by non-profit organizations on or after January 1, 1989-A
- 11.66 Telecommunications and CATV services-A
- 11.97 "Engaged in business" in Wisconsin-A

### Rules Sent to Revisor for Publication of Notice

- 11.28 Gifts, advertising specialties, coupons, premiums and trading stamps-A
- 11.46 Summer camps-A
- 11.51 Grocers' guidelist-A
- 11.83 Motor vehicles-A
- 11.87 Meals, food, food products and beverages-A
- 11.95 Retailer's discount-R&R

### Rules Sent for Legislative Committee Review

- 11.28 Gifts, advertising specialties, coupons, premiums and trading stamps-A

11.46	Summer camps-A	9.31	Sales out of Wisconsin-A
11.51	Grocers' guidelist-A	9.36	Displaying of cigarettes-A
11.69	Financial institutions-A	9.41	Vending machines-A
11.87	Meals, food, food products and beverages-A	9.46	Purchases by the retailer-A
11.95	Retailer's discount-R&R	9.47	Invoicing of sales, including exchanges of cigarettes-A

#### Rules Adopted But Not Yet Effective

2.47	Apportionment of net business income of interstate motor carriers of property-R&R (anticipated effective date 1/1/97)	9.51	Samples-A
		9.61	Warehousing of cigarettes-A
11.69	Financial institutions-A (anticipated effective date 11/1/96)	9.68	Ownership and name changes-A

#### Rules Repealed (September 1, 1996)

9.12	Refunds — military
9.16	Meter machines
9.17	Meter machine settings

#### Rule on Hold Pending Court Decision

9.01	Definitions-A	11.04	Constructing buildings for exempt entities-A <input type="checkbox"/>
9.06	Affixing of state revenue stamps-A		
9.08	Cigarette tax refunds to Indian tribes-A		
9.09	Cigarette sales to and by Indians on reservations of tribes that have not entered into a refund agreement with the department-A		

#### Recently Adopted Rules Summarized

Most of the administrative rules in Chapter Tax 9, relating to cigarette tax, have been revised or repealed, effective September 1, 1996. These changes are summarized below. In addition, the text of some of the amended rules is reproduced. In the amendments, material lined through (~~lined through~~) represents deleted text, and underscored (underscored) material represents new text.

To order up-to-date administrative rules of the Department of Revenue, you can use the order blank on page 55 of this Bulletin to obtain the Revenue section of the Wisconsin Administrative Code.

**Tax 9.01(5)** is amended to reflect proper punctuation and to reflect the name change from "Winnebago Indian Communities" to "Ho-Chunk Nation Communities."

**Tax 9.01(6) and (7)** are amended to delete "or meter imprints" and **Tax 9.06(2), 9.16, and 9.17** are repealed, to reflect the discontinuance of the use of cigarette meter machines.

**Tax 9.08(2)** is amended to correct quoted statutory language and to reflect correct style.

**Tax 9.08(3) and (4)(d)1** are amended to reflect that distributors (rather than permittees) are to perform various functions.

**Tax 9.09(6)** is amended to reflect correct recordkeeping requirements for retailers. The text of Tax 9.09(6) is as follows:

9.09(6) **Records for Sales by Indians.** The Indian retailer shall keep detailed records of both taxable and nontaxable transactions and shall record the number and dollar ~~volume~~ amounts of taxable sales to nonmembers of the tribe. With respect to nontaxable sales, the retailer shall record and retain for state inspection the names of all Indian purchasers, their tribal affiliations, the Indian reservation within which sales are made, and the number, dollar amounts and dates of sales. In addition, unless the Indian purchaser is personally known to the retailer, he or she shall present a tribal identification card.

9.11	Refunds-A
9.19	Fuson machines and stamps-A
9.21	Shipments to retailers-A
9.22	Drop shipments-A
9.26	Trade or transfer of unstamped cigarettes-A

**Tax 9.11(1)** is amended to reflect current department practice. The text of Tax 9.11(1) is as follows:

9.11(1) A refund shall be granted to any cigarette distributor for stamps which were applied to packages of cigarettes when the distributor supplies documentation to the department that the packages of cigarettes to which stamps have been affixed were damaged or otherwise unsalable and have been returned to the manufacturer thereof. A distributor who has possession of unsalable cigarettes in his or her possession must file a written notice to the department of intent to return such cigarettes to the manufacturer thereof at least 10 days prior to shipping such cigarettes. If the department, upon receipt of this notice of intent, desires to exercise its right to inspect such cigarettes prior to shipment, it must so notify the distributor prior to the expiration of the 10 day period. If the department does not notify the distributor of its intent to inspect before the end of the 10 day period, the distributor may ship the cigarettes to the manufacturer and make application for refund. The distributor shall make application for such refund on a form to be furnished by the department. The application for refund must shall be accompanied by a copy of the signed bill of lading for said the shipment. A copy of the credit memo for each shipment from the manufacturer must shall be forwarded to this the department prior to processing the refund. The department may also require requires an affidavit from the manufacturer attesting to the number of cigarettes received in each shipment.

**Tax 9.11(3)**, relating to deducting processing costs from refunds, is repealed because it is not current department practice.

**Tax 9.12**, relating to refunds to the military, is repealed because it is obsolete.

**Tax 9.19(4)** is amended to reflect proper style and to more properly describe methods of stamping cigarette packages. The text of Tax 9.19(4) is as follows:

9.19(4) To be considered properly stamped an identifying code number must shall also be clearly affixed to the cigarette package by the distributor or in a method approved by the secretary of revenue.

**Tax 9.22(4)**, relating to distributors servicing drop shipments, is repealed because it describes an incorrect procedure.

**Tax 9.31** is amended to change "occupational" to "excise" tax, to properly identify the cigarette tax.

**Tax 9.36** is amended to reflect the discontinuance of the use of cigarette meter machines and to revise the procedure regarding verification of tax stamps. The text of Tax 9.36 is as follows:

**9.36 DISPLAYING OF CIGARETTES.** (ss. 139.32(1) and 139.39, Stats.) All cigarette retail outlets in the state of Wisconsin shall display all cigarettes, offered for sale at retail, in such a manner that the tax stamp or meter imprint is clearly and conveniently visible permitting verification that they are stamped cigarettes.

**Tax 9.47(3)** is amended to give a revised procedure regarding verification that cigarettes are stamped. The text of Tax 9.47(3) is as follows:

9.47(3) When a seller, acting as a representative of a cigarette manufacturer, or when a permittee exchanges returns dried or damaged cigarettes to a distributor for return to the manufacturer and receives fresh cigarettes in exchange therefor, he or she, the seller or permittee shall prepare a true and correct invoice as set forth in sub. (1). Each carton of such dried or damaged cigarettes shall contain only cigarettes of one brand and pack. Such cartons shall be packed so that the tax stamps on the dried or damaged cigarettes are exposed for inspection and the distributor shall refuse to receive or accept any cigarettes not so packed. The distributor shall verify that all of the cigarettes are stamped cigarettes.

In addition, the following rules are amended to reflect proper language, grammar, punctuation, and style: Tax 9.01(1); 9.06(1) (renumbered 9.06); 9.08(4)(a), (4)(c), and (4)(i); 9.09(2)(b) and (7); 9.11(2); 9.19(1), (2), and (3); 9.21; 9.22(1), (2), and (3); 9.26; 9.41; 9.46; 9.47(1)(intro.), (1)(d), and (1)(e), and (4); 9.51; 9.61; and 9.68(2)(title), (2)(b), and (3)(b). □