

Wisconsin TAX BULLETIN

Social Security Numbers Removed From Income Tax Labels

Due to taxpayer concerns about privacy, social security numbers (SSNs) are no longer printed on the labels that are on the individual income tax booklets. The Department of Revenue (DOR) has researched different alternatives and determined that the best solution is to put a different number on the label, which DOR can use to find the SSN.

The "DOR entity identification number" (EID) that is printed on the label is a randomly assigned nine-digit number, which is not derived from the SSN. It is only related to the SSN by a cross-reference table, to enable DOR to access the taxpayer's records. The EID is formatted with a space every 3 digits (i.e., 123 456 789), so that it will not look like an SSN.

There is only one EID on each label, regardless of whether it is for a single person or a married couple. The EID on the label is the number for the filing entity, not each individual. If the filing entity is the same next year, the taxpayer(s) will have the same EID on the label. If the filing entity is different next year (taxpayers divorce or get married), a new EID will be assigned.

DOR encourages taxpayers to use the label, file electronically, or use TeleFile. All three are pathways to

faster processing and a faster refund. Because the SSN is no longer on the label, it is imperative to put the SSN on the tax form, to ensure correct processing. □

Did You Know the Department of Revenue...

- ◆ provides free taxpayer assistance all around Wisconsin (see article on page 13)
- ◆ has a free Speakers Bureau available for speaking engagements (see article on page 14)
- ◆ has free publications on a wide variety of tax subjects (see article on page 14)
- ◆ has an index to make your research easier (see article on page 12)
- ◆ provides old and new tax forms via Internet (web site is <http://www.dor.state.wi.us>)
- ◆ offers recorded refund information 24 hours a day, seven days a week (phone 608-266-8100 or 414-227-4907) □

School Property Tax Credit Increased for 1998

The renter's and home owner's school property tax credit for 1998 is increased to 14% of the first \$2,500

of property tax (or rent constituting property tax) paid in 1998 on an individual's primary residence. The maximum credit allowable for 1998 is \$350. The credit is available to homeowners and renters on their Wisconsin income tax returns.

This increase in the school property tax credit applies only to the tax year 1998. For 1999 and future years, the credit will revert back to 10% of the first \$2,000 of property tax (or rent constituting property tax) paid on an individual's primary residence, with a maximum credit of \$200 allowable. □

Temporary Recycling Surcharge to Expire

The temporary recycling surcharge became effective for taxable years ending after April 1, 1991. The "temporary" part of that title will be realized effective for taxable years ending on or after April 1, 1999, when the surcharge is scheduled to expire.

For calendar-year taxpayers and fiscal filers with a taxable year ending on or before March 31, 1999, the temporary recycling surcharge will have to be computed on the 1998 franchise or income tax return. However, it will not be necessary to make estimated surcharge payments for 1999.

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Wisconsin Tax Bulletin

Published quarterly by
Wisconsin Department of Revenue
Income, Sales and Excise
Tax Division
P.O. Box 8933
Madison, WI 53708-8933

Subscriptions available from
Wisconsin Department of
Administration
Document Sales
P.O. Box 7840
Madison, WI 53707-7840
Annual cost \$7.00

For 1998 fiscal filers (or taxpayers filing a short-period return) with a taxable year ending April 1, 1999 or thereafter, a temporary recycling surcharge should not be computed on the 1998 franchise or income tax return.

The Wisconsin Legislature has been directed to consider methods to provide continuing funding to municipalities, so they can continue their recycling efforts. This will likely be done during the 1999-2000 biennial legislative session. □

Wisconsin Tax Bulletin Annual Index Included

This issue of the *Wisconsin Tax Bulletin* includes (on pages 71 to 98) the annual index of articles, tax releases, court case summaries, private letter rulings, and other materials that have appeared in past Bulletins. The index includes information for issues 1 to 111 (through 1998). □

Sales and Use Tax Report Mailed

The December 1998 *Sales and Use Tax Report* (4/98) contains a number of articles regarding sales and use tax issues. Included is a listing of counties that have adopted the county tax (including Eau Claire and Washington Counties effective January 1, 1999), and a reminder of an increase in the motor vehicle dealers' measure of use tax from \$102 to \$104, also effective January 1, 1999.

The *Sales and Use Tax Report* was sent in late December and early January to all persons registered for Wisconsin sales and use tax purposes. A copy of the Report appears on pages 39 to 42 of this Bulletin. □

Reminder: Income Tax Changes for 1998

Summarized below are the major changes to the individual income tax for 1998. Further details about the changes are provided in the individual income tax instruction booklets, as well as elsewhere in this Bulletin where indicated.

- **Tax rates** The individual income tax rates are reduced by about 2.5% (for example, the top rate is reduced from 6.93% to 6.77%).
- **Temporary recycling surcharge** The rate is reduced by 50%, from 0.4345% of net business income to 0.2173% (it remains at \$25 for farmers). The \$25 minimum and the \$9,800 maximum are not changed.
- **Renter's and home owner's school property tax credit** For 1998 only, the credit is increased from 10% of the first \$2,000 of property taxes (or rent constituting property taxes) to 14% of the first \$2,500. The maximum credit is increased from \$200 to \$350. (Also see the article on page 1 of this Bulletin.)
- **Working families tax credit** This new credit is available to taxpayers with taxable income of less than \$10,000 (\$19,000 for married persons filing a joint return). (Also see the article on page 7 of this Bulletin.)
- **Married couple credit** The maximum credit is increased over a four-year period, from \$300 to \$304 for 1998, and eventually to \$420 for 2001 and thereafter.
- **Manufacturer's sales tax credit** This credit, for the amount of sales and use tax paid on fuel and electricity consumed in manufacturing in Wisconsin, is now available to individuals, partners in a partnership, and tax-option (S) corporation shareholders, as well as to corporations.
- **Tuition expenses** A subtraction may be claimed on Wisconsin returns for up to \$3,000 paid for college tuition for taxpayers or

their dependents. (Also see the tax release beginning on page 30 of this Bulletin.)

- **Long-term care insurance** A subtraction may be claimed on Wisconsin returns for all or part of the cost of a long-term care insurance policy.
- **Sales of certain business or farm assets** A subtraction may be claimed on Wisconsin returns for capital gain from the sale of business assets or assets used in farming, if the sale is to a related party. □

Don't Forget Due Dates for Information Returns

Various information returns must be filed with the Wisconsin Department of Revenue by January 31. Others are due February 28 or March 15.

Information returns due February 1, 1999, (January 31 is a Sunday) include Form W-2 to report wages, tips, and other compensation, and Form W-2G to report gambling winnings.

Information returns due March 1, 1999 (February 28 is a Sunday) include Wisconsin Form 9b (or federal Form 1099-R or Form 1099-MISC) to report retirement plan distributions and other nonwage compensation, or for payers other than corporations to report rents or royalties.

Information returns due March 15, 1999 by **corporations** include Form 9b or federal Form 1099-MISC to report rents or royalties, and Form 8 to report capital stock transfers.

Regardless of the due date for filing the information returns with the department, copies of the information returns (except Form 8) must be

given to the recipients of the payments by February 1, 1999. Copies of Form 8 are not required to be given to individuals who transfer capital stock.

Additional information is available in Wisconsin Publication 117, *Guide to Wisconsin Information Returns*. See the article titled "Tax Publications Available" on page 14 of this Bulletin for information about how to obtain a copy of the publication. □

IRS Ruling Affects Wisconsin Credit

In Revenue Ruling 98-56 issued in November, 1998, the Internal Revenue Service (IRS) announced a change regarding the treatment of section 1231 gains for purposes of determining eligibility for the federal earned income tax credit. Section 1231 gains are gains from the sale of property used in a trade or business.

As a result of ruling 98-56, section 1231 gains that are taxed as capital gains will no longer be counted as disqualifying investment income for purposes of determining if an individual is eligible for the federal earned income tax credit. This change in treatment not only applies for 1998 and future tax years, it also applies retroactively to the 1996 and 1997 taxable years.

Before the change made by ruling 98-56, section 1231 gains taxed as long-term capital gains were counted as disqualifying investment income for purposes of determining eligibility for the federal earned income tax credit. This resulted in a number of taxpayers (including an estimated several thousand farmers in Wisconsin) being unable to qualify to claim a federal earned income tax credit when they filed their 1996 and 1997 income tax returns.

A taxpayer who qualifies for the federal earned income tax credit because of ruling 98-56 also qualifies to claim a Wisconsin earned income tax credit for the same taxable year, provided the taxpayer has at least one qualifying child and is a full-year resident of Wisconsin for the tax year. The Wisconsin earned income tax credit is a percentage of the taxpayer's federal earned income tax credit. To claim a Wisconsin refund for the 1996 or 1997 taxable year, an amended return must be filed using Wisconsin Form 1X. □



Tips to Speed Refund Processing

If you have a refund coming on your 1998 Wisconsin income tax return and want your return processed as quickly as possible, you can help by following the tips listed below.

File Early

The time it takes to issue a refund varies greatly, depending on when the return is received. Refunds for returns that are not adjusted are issued in an average of 2 weeks for returns received from January to mid-February, 4 weeks for returns received from mid-February to mid-March, 5 weeks for returns received from mid-March to mid-April, and 8 weeks for returns received mid-April and after.

File Electronically

There are many good reasons to file your Wisconsin return electronically.

- It's fast and safe. Most refund checks are sent within a week. Direct deposits are even faster, and there's no check to lose.
- It's documented. Your electronic return transmitter is notified that your Wisconsin return has been received and accepted.

- It's easy and accurate. Approved tax preparers and others can file electronically for you, and the electronic filing system checks the return for common errors.

Use the Quick Refund Program

Under the Quick Refund Program, refunds are issued in as little as two weeks. Returns are checked for accuracy later, and an adjustment notice is mailed at that time, if necessary. To qualify for a quick refund, you must:

- File a signed and complete 1998 Form WI-Z, 1A, or 1, by April 1, 1999.
- Use the department-printed mailing label with no changes.
- Be sure **your** correct name and address are on the label you are using.
- Have a Wisconsin address on the label.
- Enter the refund amount (including cents) in the quick refund box at the top of the return.
- Not claim homestead or farmland preservation credit, and owe no delinquent taxes or debts to other state agencies.
- Mail the return to Quick Refund, P.O. Box 38, Madison, WI 53787-0001.

Use Your Label

Apply the department-printed name and address label to the tax return you file. Here are some more tips:

- Use the label even if you are filing a computerized return or a return completed by a preparer.
- Fill in your social security number (and your spouse's, if

applicable) on the tax return, since it is no longer on the label.

- Draw a line through incorrect information and make corrections on the label.
- If you received a postcard with a label instead of forms, transfer that label to the return.
- Use the Wisconsin label, not the federal IRS label.
- Be sure the label is yours, not another taxpayer's.

File an Accurate and Complete Return

Avoid errors and delays in processing your tax return by following these tips:

- Make entries legible and on the correct lines.
- Attach the correct withholding statements.
- Claim only Wisconsin tax withheld, not federal tax, social security, or tax withheld for another state.
- Attach **all** necessary supporting schedules.
- Fill in **all** requested information when claiming the school property tax credit.
- Attach a **complete** copy of your federal return and schedules if you file on Form 1 or 1NPR.
- Attach a completed rent certificate or a copy of your 1998 property tax bill if you are claiming homestead credit (not necessary if you are claiming only the school property tax credit). □

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. A comprehensive listing of telephone numbers and addresses appears in *Wisconsin Tax Bulletin* 107 (April 1998), pages 35 to 38.

Madison — Main Office Area Code (608)

Appeals.....	266-0185
Audit of Returns: Corpora- tion, Individual, Homestead	266-2772
Beverage.....	266-6702
Cigarette, Tobacco Prod- ucts.....	266-8970
Copies of Returns	267-1266
Corporation Franchise and Income	266-1143
Delinquent Taxes.....	266-7879
Electronic Filing	264-9959
Estimated Taxes	266-9940
Fiduciary, Estate.....	266-2772
Forms Request:	
Taxpayers.....	266-1961
Practitioners	267-2025
Fax-A-Form	261-6229
Homestead Credit	266-8641
Individual Income.....	266-2486
Motor Vehicle Fuel.....	266-3223
Refunds.....	266-8100
Sales, Use, Withholding	266-2776
TTY	267-1049

District Offices

Appleton.....	(920) 832-2727
Eau Claire.....	(715) 836-2811
Milwaukee:	
General.....	(414) 227-4000
Refunds	(414) 227-4907
TTY	(414) 227-4147



How to Avoid Processing Delays

Each year thousands of tax returns and credit claims are sent back to taxpayers or letters are required, because of missing schedules or information. In the 1998 processing

season (1997 returns and claims) the department sent back nearly 100,000 tax returns and credit claims. Listed below are tips for avoiding correspondence or “sendbacks” of tax returns and credit claims.

Individual Income (Forms WI-Z, 1A, 1, and 1NPR)

- Fill in social security number on return (no longer on label).
- Attach copies of federal return and schedules to Form 1 or 1NPR.
- Attach withholding statements.
- Complete married couple credit schedule.
- Complete residence questionnaire on Form 1NPR.
- Complete resident status box(es) on Form 1NPR.
- Attach other state’s tax return to verify credit for tax paid to other states.
- Sign the tax return.

Corporation Franchise and Income (Forms 4, 5, 5S, 4T, and 4I)

- Fill in federal employer identification number.
- Attach copy of federal form.
- Attach schedules to support credits (e.g., manufacturer’s sales tax, research, development zone, farmland tax relief).
- Complete Schedule S (temporary recycling surcharge) on Form 5S.
- Fill in contact person, phone and fax numbers where indicated.
- Sign the tax return.

Homestead Credit (Schedule H)

- Include Wisconsin return, copy of federal return and schedules,

and wage statements with Schedule H.

- Attach complete copy of tax return (including wage statements and federal return with schedules if applicable) if Schedule H is filed separately from tax return.
- Attach explanation if low or no income is reported.
- Follow special instructions for persons married, separated, or divorced during the year.
- Attach rent certificate.
- Be sure rent certificate is complete, not altered, not a copy, and has an original signature.
- If more than one occupant on rent certificate and rent is not shared equally, attach statement of shared living expenses.
- Attach copy of 1998 property tax bill (not county tax receipt, installment stub, mortgage statement, canceled check, etc.).
- Attach ownership verification (copy of deed, land contract, divorce judgment, final judgment in an estate, trust instrument, etc.) if tax bill shows owners other than claimant and spouse.
- Attach explanation if claiming less than twelve months’ rent and/or property taxes.
- Sign the Schedule H.

Farmland Preservation Credit (Schedule FC)

- Attach clear and complete copies of all 1998 property tax bills (not tax receipts).
- Attach ownership verification (copy of deed, land contract, divorce judgment, final judgment in an estate, trust instrument, etc.) if tax bill shows owners other than claimant and spouse.

- Attach correct and complete zoning certificate.
- Attach copy of **executed** farmland preservation agreement.
- Attach closing agreement if property was sold or purchased during the year.
- Attach statement signed by county treasurer to verify payment of prior year's property tax when tax bill indicates delinquent taxes.
- Attach extension agreement if farmland preservation agreement is expired.

Partnership (Form 3)

- Fill in federal employer identification number.
- Attach copies of federal Form 1065 and Wisconsin Schedule 3K-1.
- Do not file federal Form 1065 and Schedule K-1 without Wisconsin Form 3 and Schedule 3K-1.

Withholding Tax Update Sent to Employers

The annual Withholding Tax Update was sent in December 1998, along with Forms WT-7, *Employer's Annual Reconciliation of Wisconsin Income Tax Withheld from Wages*, to employers registered to withhold Wisconsin taxes.

A copy of the Withholding Tax Update appears on pages 43 and 44 of this Bulletin.

Form 1099-Gs and 1099-INTs Mailed to Taxpayers

The Department of Revenue is mailing approximately 640,000

Form 1099-Gs and 1,000 Form 1099-INTs in January 1999. Federal law requires that the department provide 1998 Form 1099-Gs to persons who received a Wisconsin income tax refund in 1998 and claimed state income tax payments as an itemized deduction on the federal tax return for the year to which the refund applies. Form 1099-INTs must be provided to persons who received \$600 or more of interest on refunds issued by the Department of Revenue.

Regardless of whether a taxpayer is sent a Form 1099-INT, the taxpayer must report all interest received from the department in 1998 as income on his or her 1998 federal and Wisconsin tax returns.

All or a portion of a state income tax refund from Form 1099-G may be included in federal taxable income. However, **the refund should not be included** in Wisconsin taxable income.

Form 1099-G explains how the refund reported to the Internal Revenue Service (IRS) was determined. The first line shows the amount of the refund. Subsequent lines show adjustments for: amounts applied to next year's estimated taxes; endangered resources donations; late filing penalties and interest; homestead, farmland preservation, farmland tax relief, and earned income credits; retirement plan penalties; and other adjustments. The last line shows the refund reported to the IRS.

Schedule 3K-1s — File on Magnetic Media

Partnerships with 50 or more partners are encouraged to file their Wisconsin Schedule 3K-1s, "*Partner's Share of Income, Deductions, etc.*," on magnetic media. The types

of magnetic media allowed include magnetic tape, cartridge, CD, and diskette.

If your Schedule 3K-1s are prepared by software, ask your software company if they can provide these documents on magnetic media rather than on paper. Filing on magnetic media will save both preparers and the department valuable resources, such as paper, shipping costs, and processing time. It's another way the department is streamlining your process of filing tax returns.

To get information and specifications for filing your Form 3K-1s magnetically, contact:

Kris Jager
Wisconsin Department of Revenue
Corporation Processing Unit
P.O. Box 8908
Madison, WI 53708-8908

Phone: (608) 264-7765
Email: KJager@mail.state.wi.us

Focus on Publications: Homestead and Farmland Preservation Credits

How can a homestead credit or farmland preservation credit claim be processed without being returned, having a letter sent, or having the credit adjusted? Two new Wisconsin publications provide tips for getting claims processed without questions or adjustments.

Publication 127, *Wisconsin Homestead Credit Situations and Solutions*, and Publication 128, *Wisconsin Farmland Preservation Credit Situations and Solutions*, list common situations which require special attention and may require additional documentation or explanation when filing one of these claims. For each situation, solutions are given which

will help avoid sendbacks, letters, and adjustments.

Copies of Publications 127 and 128 appear on pages 49 to 70 of this Bulletin. For information about how to obtain these or other department publications, see the article titled "Tax Publications Available" on page 14 of this Bulletin. □

Wisconsin/Minnesota Sales Tax Seminars

The Wisconsin and Minnesota Departments of Revenue will again present a series of joint sales and use tax seminars in March and May. The seminars will include information on differences between the two states' laws. The March seminars apply to contractors, and the seminars in May are for general businesses.

You are invited to attend any of the following seminars, free of charge. All seminars are from 9:00 a.m. to 12:30 p.m. at the locations indicated. To register or for more information, call the Minnesota Department of Revenue at 1-800-888-6231.

March 2, 1999 – Duluth, MN
Minnesota Department of Revenue
Office
2711 West Superior Street

March 9, 1999 – Hudson, WI
Hudson House
1616 Crestview Drive

March 16, 1999 – Onalaska, WI
Onalaska Omni Center
255 Rider Club Street

May 4, 1999 – Duluth, MN
Minnesota Department of Revenue
Office
2711 West Superior Street

May 11, 1999 – Hudson, WI
Hudson House
1616 Crestview Drive

May 18, 1999 – Winona, MN
St. Mary's University
700 Terrace Heights Drive

□

New Exemption Certificate

A new exemption certificate, *Wisconsin Sales and Use Tax Exemption Certificate* (Form S-211), replaces the following exemption certificates.

- S-016 *Certificate of Exemption for Fuel Oil, Propane, Coal, Steam and Wood Used for Residential Purposes*
- S-017 *Certificate of Exemption for Electricity and Natural Gas Sold for Residential or Farm Use*
- S-205 *Wisconsin Resale Certificate*
- S-206 *Farmer's Sales and Use Tax Exemption Certificate*
- S-207 *Certificate of Exemption*
- S-207M *Manufacturer's Sales and Use Tax Exemption Certificate*
- S-209 *Government Sales and Use Tax Exemption Certificate*

Caution: Form S-211 does not replace the *Certificate of Exemption for Rental Vehicles* (Form RV-207), *Construction Contract Entered Into Before the Effective Date of County/Stadium Tax* (Form S-207CT), and the Wisconsin Direct Pay Permit.

While the Department of Revenue will fill all orders for exemption certificates with Form S-211, purchasers may use, and retailers may still accept, the exemption certificates listed above. Retailers are not

required to replace valid certificates they have on file with Form S-211.

A copy of Form S-211 and instructions appears on pages 45 to 48 of this Bulletin. In addition, Form S-211 is available from any Department of Revenue office, or by mail, fax, or the Internet. See the article titled "How to Obtain Wisconsin Tax Forms" on page 8 of this Bulletin for addresses or phone/fax numbers. □

Withholding Tables Not Changing For 1999

The Wisconsin individual income tax rates were lowered for taxable year 1998 and future years, in 1997 Wisconsin Acts 27 and 327. In 1997 Wisconsin Act 27, the Wisconsin Legislature also created a statutory provision indicating that the department is not to adjust the Wisconsin withholding tables to reflect the changes in the tax rates for any tax year that begins before January 1, 2000. As a result, the withholding rates and tables currently in effect will continue to apply for 1999. These rates and tables are found in Wisconsin Publication W-166, *Wisconsin Employer's Withholding Tax Guide*, effective for payroll periods beginning on or after May 1, 1988. □

Working Families Credit New For 1998

A new individual income tax credit named the Working Families Tax Credit is available for tax year 1998. This credit will reduce or totally eliminate the Wisconsin income tax liability of an estimated 182,000 single persons and married couples. It is a nonrefundable credit, and may only be used to offset Wisconsin income tax otherwise due. On 1998 returns, the credit will be claimed on line 5 of Form WI-Z, line 16 of

Form 1A, line 19 of Form 1, and line 41 of Form 1NPR.

Although named the “Working Families Tax Credit” by the Wisconsin Legislature, an individual does not actually have to work or have a family in order to qualify for the credit. The credit is available to any taxpayer who 1) is a full-year resident of Wisconsin for the tax year, 2) has Wisconsin adjusted gross income below a specified level, and 3) does not qualify to be claimed as a dependent on another person’s Wisconsin income tax return.

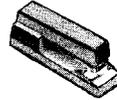
To be eligible for the credit, individuals who file their Wisconsin income tax return using a filing status of single, head of household, or married filing a separate return must have Wisconsin adjusted gross income of less than \$10,000. For married persons filing a joint return, the credit is available only when the combined income of both spouses is below \$19,000.

A full credit (which offsets the claimant’s total tax) is allowed to single, head of household, and married filing a separate return filers whose income is \$9,000 or less. The credit is phased out as income increases from \$9,000 to \$10,000. For married couples filing a joint return, a full credit is allowed when their income is \$18,000 or less, and the credit is phased out as income increases from \$18,000 to \$19,000.

(Note: Employees who expect to qualify for the full amount of Working Families Tax Credit on their 1999 Wisconsin income tax return can use Wisconsin Form WT-4B to claim exemption from having Wisconsin income tax withheld from the wages they receive during 1999. Form WT-4B (titled *Certificate of Exemption From Wisconsin With*

holding for 1999 Because of the Working Families Tax Credit) is available from any department office. Employees who expect to qualify for only a partial credit are not permitted to use Form WT-4B.) □

Attaching Copy of Federal Return



Individuals who file their Wisconsin income tax return on Form 1 or 1NPR are required to attach a copy of their federal income tax return to their Wisconsin return. Generally this will be a copy of federal Form 1040, 1040A, or 1040EZ. However, some Wisconsin filers are not required to file a federal return with the Internal Revenue Service (IRS), or they may use a Form 1040PC or TeleFile to report to the IRS.

Federal Form 1040PC or TeleFile Filers

Form 1040PC is the federal return prepared on a personal computer. The computer prints the return in a three-column “answer sheet” format. It prints line numbers and dollar amounts only for lines on which an entry is made. Federal Form 1040PC filers may attach a copy of the Form 1040PC to their Wisconsin Form 1 or 1NPR in lieu of federal Form 1040, 1040A, or 1040EZ.

Some taxpayers who file their Wisconsin return on Form 1 or 1NPR file their federal return by phone, using the federal TeleFile system. These taxpayers, who are not required to submit a paper tax return to the IRS, may attach a copy of their federal TeleFile Tax Record to their Wisconsin Form 1 or 1NPR in lieu of federal Form 1040, 1040A, or 1040EZ.

Taxpayers Not Required to File With the IRS

Some taxpayers who are required to file a Wisconsin income tax return are not required to file a federal income tax return with the IRS. For example, a single person under age 65, with gross income of at least \$5,200 but less than \$6,950 for 1998, must file a 1998 Wisconsin return but is not required to file a 1998 federal return.

In this situation, since the person would not have a copy of a federal return to attach to the Wisconsin return, a statement listing the sources and amounts of income must be attached to the Wisconsin Form 1 or 1NPR in lieu of a federal return.

Note: Because the Wisconsin tax forms refer to various lines on the federal return, a person may find it helpful to complete a federal income tax form to use as a reference when completing the Wisconsin return. This federal form, even though it will not be filed for federal tax purposes, may be attached to the Wisconsin return instead of the required statement of income. □

How to Obtain Wisconsin Tax Forms

Tax preparers and others requiring more than 6 of any one Wisconsin tax form or more than 29 total Wisconsin forms must use a forms order blank, Form P-744. The original of the completed order blank must be sent to the department. You can obtain a Form P-744 by writing, calling, or faxing your request to the department at the address or phone number listed below under “To Receive Forms in the Mail.”

You can obtain up to 6 of any one Wisconsin tax form or a total of 29 Wisconsin forms by visiting any

Department of Revenue office or by contacting the department by mail, by phone, or by fax. These limits are imposed in order to maintain a supply of forms for others. You can also receive forms via your fax machine or the Internet.

Some libraries, banks, and post offices have forms during the filing season. Most libraries have a copy of Wisconsin Package WI-X, from which most Wisconsin tax forms can be photocopied.

To Pick Up Forms at a Department of Revenue Office

If you want to pick up forms at a department office, you may visit any of the department's 35 offices (including two locations in Madison). The office locations and hours of service are listed in the article titled "Department Offers Taxpayer Assistance" on page 13 of this Bulletin (assistance is also available at these offices).

To Receive Forms in the Mail

You can request that forms be mailed to you (indicate which forms you want, the year, and how many) by:

- Writing to Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8903, Madison, WI 53708-8903;
- Calling the department in Madison at (608) 266-1961; or
- Faxing your request to the department at (608) 261-6913.

To Receive Forms Via Your Fax Machine

You can receive forms via your fax machine by using the department's Fax-A-Form system. Individual income tax, homestead credit, farmland preservation credit, corpo-

ration franchise and income tax, estate tax, fiduciary income tax, and partnership forms and instructions for 1995 through 1998 are available via Fax-A-Form. For sales/use, withholding, and alcohol beverage taxes, only 1998 forms and instructions are available. In addition, 1995 through 1998 amended individual income tax forms and instructions are available, as well as publications published by the department (see the article titled "Tax Publications Available" on page 14 of this Bulletin).

To use Fax-A-Form, call (608) 261-6229 from the handset of your fax machine or the touch-tone telephone of your fax modem (don't press "start" yet). If your fax machine does not have a handset, use the keypad if tones are transmitted, or connect a touch-tone telephone if tones aren't transmitted. Follow the voice prompts and enter the retrieval codes for the items you want, using the keypad. Press "start," "send," or "copy" (fax modem users click on "manual receive"). You must leave the handset of your telephone or fax machine off the hook the entire time the forms are being faxed to you.

Fax-A-Form is available 24 hours a day, 7 days a week. The department does not charge a fee for this service (though you will have to pay your normal telephone charges and fax machine operating costs). If you have questions, you may write to Cindy Breneman, Fax-A-Form Coordinator, Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903, or call (608) 267-2025.

To Receive Forms Via the Internet

Most forms and instructions are available on the Internet. If you have Internet access you can download and print the forms 24 hours a day, throughout the year.

The address to access the department's World Wide Web site to receive forms is

<http://www.dor.state.wi.us> □

Visit the Department of Revenue Internet Site!

You can receive updated Wisconsin tax information via the Internet, by accessing the Department of Revenue's World Wide Web site at <http://www.dor.state.wi.us>. This site contains several valuable areas of information, including the following:

What's New. Contains press releases, employment opportunities, statistical reports/data, *Wisconsin Tax Bulletins*, a search function, and other informational materials published by the department.

Forms & Publications. Includes links for electronic filing, downloadable tax forms and instructions, and publications relating to tax matters.

Agency Information. Describes the functions of each office or division, lists executives, administrators, and other managers, and gives information about how to contact various offices.

Frequently Asked Questions. Answers questions relating to various taxes, filing returns, obtaining forms, office locations, taxpayer assistance, and other tax-related matters. E-mail links are also available. New this year, the income tax refund status can be checked on the Internet.

Survey. Gives visitors an opportunity to give the department their opinion on what's good and not so good about the web page, and to suggest ideas for improving it.

Related Sites of Interest. Gives information about other Wisconsin agencies' sites, federal sites, and other sites of interest.

If you would like additional information about the department's web site, contact the department's Internet/Intranet coordinator, Mary Lou Clayton, at (608) 261-2272. □

Question and Answer

Q I received a 1998 Form 1A tax booklet in the mail from the Wisconsin Department of Revenue. Do I have to file my 1998 Wisconsin income tax return on Form 1A?

A No. The department generally sends a taxpayer the same form that he or she filed in the previous year. This may not necessarily be the right form for you. For example, if for 1998 you had income which may not be reported on Form 1A (such as self-employment income or income from the sale of stock), you must file Wisconsin Form 1. You should check the section "Which Form to File" in the income tax booklet to make sure that you have the form that is right for you.

Q I received a 1998 Form 1A tax booklet in the mail. This booklet has a mailing label which is to be used on my tax return. However, I will be filing Form 1 for 1998 instead of Form 1A. May I still use the mailing label on my Form 1?

A Yes. The mailing label should be used on the form which you file with the department. Make any corrections, if necessary, to the label and attach it to your Form 1. Use of the label will decrease the time it takes for the department to process your return. Be sure you fill in your social security

number on the tax return (and your spouse's, too, if applicable), since the social security number is no longer printed on the label. □

Apportionment Emergency Rule Adopted

As a result of legislation enacted in 1998, corporations may request, and the department may approve, an alternative method of apportionment of income in the event of a corporate restructuring that would result in an unfair representation of the degree of business activity in Wisconsin. The allowance of an alternative apportionment method is effective for taxable years beginning on January 1, 1998. Corporations that wish to request an alternative method must do so on or before January 1, 2000.

Before granting a request for alternative apportionment, the department was required to promulgate administrative rules relating to alternative apportionment methods. Since rules could not be in effect in time using the normal promulgation process, the department adopted an emergency rule effective September 29, 1998. The text of the emergency rule is as follows:

Tax 2.39(3)(a)(intro.) For the reporting of income for the purposes of franchise or income taxation, all businesses except financial organizations and public utilities as defined in ss. 71.04(8) and 71.25(10), Stats., and corporations that are authorized to use an alternative method of apportionment under s. 71.25(14), Stats., shall use an apportionment fraction composed of a sales factor representing 50% of the fraction, a property factor representing 25% of the fraction and a payroll factor representing 25% of the fraction. Property, payroll or sales related to the production of nonapportionable income described in s. 71.04(1) and (4) or 71.25(5)(b), Stats., may not be included in either the numerator or the denominator of any of

the apportionment factors. If one of these factors is omitted pursuant to s. 71.04(10) or 71.25(11), Stats., the percentages of the fraction represented by the remaining factors shall be adjusted as follows:

[Insert this note following the first note at the end of Tax 2.39(3):]

Note: See s. Tax 2.395 for an alternative method of apportioning the income of certain corporations.

Tax 2.395 ALTERNATIVE METHOD OF APPORTIONMENT. (1) DEFINITIONS. In this section:

(a) "Corporate restructuring" means the transfer by a corporation of all or part of its operations to one or more newly organized or existing subsidiaries in exchange for 100% of the subsidiary's stock. The corporation shall retain direct or indirect ownership of 100% of the subsidiary's stock. An existing subsidiary shall be eligible to participate in a corporate restructuring only if the subsidiary has been completely inactive in and outside this state since the date of its incorporation.

(b) "Corporation" means a corporation for profit that files an application under this rule and that is incorporated under ch. 180, Stats., or under the law of another state, the District of Columbia or a foreign country and is subject to tax under s. 71.23(1) or (2), Stats.

(c) "Subsidiary" means a corporation that will file an application under this rule with a corporation that directly or indirectly owns 100 % of the total value or share of all classes of its stock outstanding.

(d) "Unfair representation of the degree of business activity in this state" means that the sum of the Wisconsin tax liability of the corporation and its subsidiaries calculated under s. 71.25(6), Stats., exceeds 200% of the Wisconsin tax liability that the corporation would have computed if the corporation did not contribute business operations to one or more subsidiaries and results in at least \$2 million of additional Wisconsin tax liability.

Note: This definition applies only for purposes of s. 71.25(14), Stats.

(e) “Wisconsin tax liability” means the gross tax computed under s. 71.23(1) or (2), Stats.

(2) WHO MAY FILE AN APPLICATION. A corporation may file an application on or before January 1, 2000 to use an alternative method of apportionment if all of the following conditions are met:

(a) The corporation is not a financial organization as defined in s. 71.25(10)(a), Stats., a public utility as defined in s. 71.25(10)(b), Stats., or a tax-option corporation as defined in s. 71.34(2), Stats.

(b) The corporation is a party to a corporate restructuring that occurs after June 30, 1998 and before January 1, 2000.

(c) As a result of the corporate restructuring, the use of the allocation and separate accounting method or the apportionment method prescribed under s. 71.25(6), Stats., would result in an unfair representation of the degree of business activity in this state, given the same level of sales, payroll and property for the corporation and its subsidiaries.

(3) CONTENT OF THE APPLICATION. The application shall set forth a complete statement of the facts and reasons relating to the request to use an alternative method of apportioning income to Wisconsin, including the following:

(a) The full name, address and federal employer identification number of the corporation applying for the change in apportionment method.

(b) The full name, address and federal employer identification number of the subsidiaries that are a party to the corporate restructuring. If this information is not available when the application is filed, it shall be provided to the department as an amendment to the application at least 60 days before a return using an alternative apportionment method is filed.

(c) The corporation’s and the subsidiaries’ taxable year. The subsidiaries shall have the same taxable year as the corporation.

(d) The taxable year for which the corporation wishes the change to become effective.

(e) A detailed description of the corporate structure and business operations before the corporate restructuring.

(f) A detailed description of the corporate structure and business operations after the corporate restructuring.

(g) The present allocation or apportionment method used in Wisconsin.

(h) A description of the alternative apportionment method requested.

(i) A complete and precise statement of the reasons for the modification requested, including why the present method does not fairly represent the activities of the corporation and its subsidiaries in Wisconsin.

(j) Calculations using data from the most recently filed tax return prior to enactment of s. 71.25(14), Stats., showing that the Wisconsin tax liability of the corporation and its subsidiaries using the current method of allocation or apportionment would result in an unfair representation of the degree of business activity in this state.

(k) Calculations using data from the most recently filed tax return prior to enactment of s. 71.25(14), Stats., showing that the Wisconsin tax liability of the corporation and its subsidiaries using the proposed alternative method of apportionment does not result in less Wisconsin franchise or income tax than the corporation would be liable for without restructuring.

(L) Any other information relevant to the application the department requires or the corporation believes may have a bearing on the department’s decision about whether to grant the apportionment method requested.

(m) Whether the corporation is currently being audited by the department.

Note: The application shall be mailed to the following address: Administrator of the Division of Income, Sales and Excise Taxes, Wisconsin Department of Revenue, P.O. Box 8933, Madison, WI 53708-8933.

(4) ALTERNATIVE METHODS OF APPORTIONMENT. The department may authorize any one or a combination

of the following alternative methods of apportionment:

(a) Excluding any one or more of the property, payroll and sales factors.

(b) Weighting the factors other than 50% sales, 25% property and 25% payroll.

(c) Allocating sales, other than sales of tangible personal property, to the state in which the corporation’s customers are located for purposes of computing the numerator of the sales factor. For purposes of this paragraph:

1. A sale is allocated to the location where the customer receives the benefit of the service.

2. If the customer receives the benefit of the service in more than one state, the gross receipts are includable in the numerator of the apportionment factor in proportion to the extent the recipient receives the benefit of the service in each state.

(d) Including one or more additional factors which will fairly represent the corporation’s or the subsidiaries’ business activity in this state.

(e) Allowing one method for apportioning the business income of the corporation and another method for apportioning the business income of a subsidiary.

(f) Allowing the corporation and one or more subsidiaries to compute their Wisconsin tax liability by adding together their apportionable income and apportionment factors, eliminating any intercompany transactions, computing the Wisconsin tax liability as though the group were one taxpayer and dividing the combined Wisconsin tax liability among the corporations based on their share of the group’s Wisconsin business income.

(g) Allowing any other apportionment method that will fairly represent the corporation’s and the subsidiaries’ business activity in this state.

(5) REVIEW OF THE APPLICATION. The department shall review the information submitted and follow the procedure specified in s. 71.25(14)(c), Stats., before issuing a written decision regarding the use of an

alternative method of apportionment. The corporation shall receive written approval before using the alternative method.

(6) **YEARS FOR WHICH USE OF ALTERNATIVE METHOD OF APPORTIONMENT APPLIES.** Once an alternative method of apportionment has been approved for a taxable year, the corporation shall use it for that taxable year and all subsequent taxable years, unless the department finds the use of the apportionment method prescribed in s. 71.25(6), Stats., no longer results in an unfair representation of the degree of business activity in this state as determined under par. (7)(b).

(7) **REVOCATION OF USE OF ALTERNATIVE METHOD OF APPORTIONMENT.** (a) If the department upon audit or review finds that the use of the apportionment method prescribed in s. 71.25 (6), Stats., no longer results in an unfair representation of the degree of business activity in this state as determined under par. (b), the corporation and its subsidiaries shall recalculate their Wisconsin tax liabilities under s. 71.25(6), Stats., for each taxable year in which an alternative apportionment method was used and an unfair representation was not found to exist.

(b) In determining whether an unfair representation of the degree of business activity continues to exist, the department will look for a continued substantial amount of difference between the tax liability calculated pursuant to s. 71.25(6), Stats., and the tax liability had the restructuring not taken place. The department shall also consider any additional information the corporation has submitted pursuant to sub.(8).

(c) If the department finds for a period of at least three consecutive taxable years that a substantial difference in tax liability as determined in par. (b) no longer exists, the corporation may no longer use the approved alternative apportionment method.

(d) If the department terminates the approved alternative apportionment method, the corporation may request and the department shall resubmit the proposed alternative method of apportionment to the co-chairpersons of the joint committee for review of administrative rules pursuant to s. 71.25(14)(c), Stats.

(8) **FILING OF RETURN.** For each taxable year, the corporation and its subsidiaries shall file with their Wisconsin corporate franchise or income tax returns schedules setting forth the calculations required under sub.(6), as well as a calculation of the tax liability of the corporation and its subsidiaries under s. 71.25(6), Stats. The corporation and its subsidiaries shall attach a copy of the department's approval to use an alternative apportionment method to the front of each return filed. The corporation may also include additional explanatory material relative to its business activity. The returns shall be filed with the audit bureau of the department of revenue.

Note: The address for mailing the returns is: Audit Bureau, Wisconsin Department of Revenue, P.O. Box 8906, Madison, WI 53708-8906.

(9) **CONFIDENTIALITY.** All documents related to a request for an alternative method of apportionment shall be subject to the confidentiality provisions of s. 71.78, Stats.

Note: Section Tax 2.395 interprets s. 71.25(14), Stats. □

Amnesty Update

The application period for the tax amnesty program ended on August 14, 1998, with over 24,000 applications. As in 1985, the majority of the applications came in during the last few days of the application period. Unlike 1985, taxpayers had a choice of how to submit their application - paper, telephone, or the Internet.

Approximately one third of the applications have been denied due to failure to pay the required down payment. The department has been focusing its resources on generating the final amnesty bills as quickly as possible.

Amnesty bills are being mailed daily. Department personnel have been working overtime hours to get all billings out as soon as possible. The goal is to have the last bill out by the end of January 1999.

A future *Wisconsin Tax Bulletin* article will contain final figures relating to collections, applications, etc., once the information becomes available. If you have questions regarding this program, please call the department's Amnesty Unit at (608) 261-7760. □

Make Your Research Easier

Are you looking for an easy way to locate reference material to research a Wisconsin tax question? The *Wisconsin Topical and Court Case Index* may be just what you need.

This two-part index will help you find reference material relating to income, franchise, withholding, sales/use, estate, and excise taxes.

The "Topical Index" portion lists by tax type, alphabetically by subject, references to Wisconsin statutes, administrative rules, tax releases, private letter rulings, publications, *Sales and Use Tax Reports*, Attorney General opinions, and *Wisconsin Tax Bulletin* articles.

The "Court Case Index" lists by tax type, alphabetically by subject, decisions of the Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court.

The *Wisconsin Topical and Court Case Index* is available by subscription for \$18 per year, plus sales tax. This includes a volume published in January and an addendum published in June. To order your copy, complete the order blank on page 99 of this Bulletin. □

Department Offers Taxpayer Assistance

Department personnel will be available through April 15, 1999, to provide taxpayer telephone and walk-in assistance. Assistance is provided Monday through Friday in the larger offices, and Mondays only in other offices (except as noted in the chart below).

In addition, assistance hours will be extended in five offices during March and April, 1999. Offices will be open from 9:00 a.m. to 3:00 p.m. on Saturdays, from March 13 through April 10, in Madison (University Ave. only), Milwaukee, Appleton, Green Bay, and Eau Claire. The Madison office will also be open evenings on Monday through Thursday, until 6:00 p.m. from March 1 through April 8, and until 7:00 p.m. from April 12 through April 15.

Offices Providing Daily Assistance

Location	Address	Telephone No.	Hours
* Appleton	265 W. Northland Ave.	(920) 832-2727	7:45-4:30
* Eau Claire	718 W. Clairemont Ave.	(715) 836-2811	7:45-4:30
* Green Bay	200 N. Jefferson St., Rm. 526	(920) 448-5179	7:45-4:30
* Kenosha	4003 80th St., Ste. 102	(414) 697-5860	7:45-4:30
* Madison	125 S. Webster St.	NONE	8:00-4:30
* Madison	4638 University Ave.	(608) 266-2772	7:45-4:30
* Milwaukee	819 N. Sixth St., Rm. 408	(414) 227-4000	7:45-4:30
* Racine	616 Lake Ave.	(414) 638-7500	7:45-4:30
* Waukesha	141 N.W. Barstow St.	(414) 521-5310	7:45-4:30

*Offices Providing Assistance on Mondays Only
(unless otherwise noted)*

	Baraboo	1000 Log Lodge Ct.	(608) 356-8973	7:45-4:30
	Beaver Dam	211 S. Spring St.	(920) 887-8108	7:45-4:30
	Elkhorn	715 W. Walworth St.	(414) 723-4098	7:45-4:30
	Fond du Lac	845 S. Main, Ste. 150	(920) 929-3985	7:45-4:30
	Grafton	1930 Wisconsin Ave.	(414) 376-7300	7:45-4:30
	Hayward	100 Ranch Rd.	(715) 634-8478	7:45-1:00
	Hudson	1810 Crestview Dr., Ste. 1B	(715) 381-5060	7:45-4:30
	Janesville	101 E. Milwaukee, Rm. 525	(608) 758-6190	7:45-4:30 †
*	La Crosse	620 Main St., Rm. 213	(608) 785-9720	7:45-4:30 †
	Lancaster	130 W. Elm St.	(608) 723-2641	7:45-4:30
	Manitowoc	914 Quay St.	(920) 683-4152	7:45-4:30
	Marinette	Courthouse, 1926 Hall Ave.	(715) 732-7565	9:00-1:00
	Marshfield	300 S. Peach Ave., Ste. 4	(715) 387-6346	7:45-4:30
	Monroe	1518 11th St., Ste. 1-7	(608) 325-3013	7:45-1:00
	Oshkosh	515 S. Washburn, Ste. 105	(920) 424-2100	7:45-4:30
	Rhineland	203 Schiek Plaza	(715) 365-2666	7:45-4:30
	Rice Lake	11 E. Eau Claire St., Ste. 4	(715) 234-7889	7:45-4:30
	Shawano	1340 E. Green Bay St., Ste. 2	(715) 526-5647	7:45-4:30
	Sheboygan	807 Center Ave.	(920) 459-3101	7:45-4:30
	Superior	1225 Tower Ave., Ste. 315	(715) 392-7985	7:45-4:30
	Tomah	203 E. Clifton	(608) 372-3256	7:45-1:00
	Watertown	600 E. Main St.	(920) 262-2700	7:45-1:00
	Waupaca	644 Hillcrest Dr., Ste. 2	(715) 258-9564	7:45-1:00
	Wausau	710 Third St.	(715) 842-8665	7:45-4:30
	West Bend	120 N. Main St., Ste. 170	(414) 335-5380	7:45-4:30
	Wisconsin Rapids	830 Airport Ave.	(715) 421-0500	9:00-4:30

* Open During noon hour

† Open Monday, Tuesday, and Wednesday



Do You Need a Speaker?

Are you planning a meeting or training program? The Department of Revenue's Speakers Bureau 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, manufacturers, nonprofit organizations, or businesses in general.
- What to expect in an audit.
- Common errors discovered in audits.
- Manufacturing property assessment.
- Homestead credit.

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

Tax Publications Available

Listed below are more than 60 publications which are available, free of charge, from the Department of Revenue. Copies are available at any department office, or by mail, fax, or (in many cases) the Internet.

By Mail

Write to Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8903, Madison, WI 53708-

8903; call (608) 266-1961; or fax a request to (608) 261-6239.

Via Your Fax Machine

Use the department's Fax-A-Form system by calling (608) 261-6229 from a fax telephone and entering the retrieval code "10" plus the publication number.

Via the Internet

Access the department's World Wide Website at <http://www.dor.state.wi.us>, and click on "Forms and Publications."

Income and Franchise Taxes

- 102 Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (12/98)
- 103 Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts (11/98)
- 104 Wisconsin Taxation of Military Personnel (10/98)
- 106 Wisconsin Tax Information for Retirees (10/98)
- 109 Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 1998 (10/98)
- 112 Wisconsin Estimated Tax and Estimated Surcharge for Individual, Estates, Trusts, Corporations, Partnerships (11/97)
- 113 Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (10/97)
- 116 Income Tax Payments Are Due Throughout the Year (12/95)
- 119 Limited Liability Companies (LLCs) (12/98)
- 120 Net Operating Losses for Individuals, Estates, and Trusts (11/98)

- 121 Reciprocity (12/97)
- 122 Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 1998 (10/98)
- 123 Business Tax Credits for 1998 (12/98)
- 125 Credit for Tax Paid to Another State (11/98)
- 126 How Your Retirement Benefits Are Taxed (9/98)
- 600 Wisconsin Taxation of Lottery Winnings (10/97)
- 601 Wisconsin Taxation of Pari-Mutuel Wager Winnings (10/97)

Sales and Use Taxes

- 200 Electrical Contractors - How Do Wisconsin Sales and Use Taxes Affect Your Business? (3/98)
- 201 Wisconsin Sales and Use Tax Information (10/98)
- 202 Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs (9/98)
- 203 Sales and Use Tax Information for Manufacturers (12/94)
- 205 Use Tax Information for Individuals (2/97)
- 206 Sales Tax Exemption for Non-profit Organizations (9/90)
- 207 Sales and Use Tax Information for Contractors (9/98)
- 210 Sales and Use Tax Treatment of Landscaping (5/94)
- 211 Cemetery Monument Dealers - How Do Wisconsin Sales and Use Taxes Affect You? (11/98)
- 212 Businesses: Do You Owe Use Tax on Imported Goods? (2/97)
- 213 Travelers: Don't Forget About Use Tax (2/97)

- 214 Businesses: Do You Owe Use Tax? (2/97)
- 216 Filing Claims for Refund of Sales or Use Tax (9/95)
- 217 Auctioneers - How Do Wisconsin Sales and Use Taxes Affect Your Operations? (3/96)
- 219 Hotels, Motels, and Other Lodging Providers - How Do Wisconsin Sales and Use Taxes Affect Your Operations? (6/96)
- 220 Grocers - How Do Wisconsin Sales and Use Taxes Affect Your Operations? (10/98)
- 221 Farm Suppliers and Farmers - How Do Wisconsin Sales and Use Taxes Affect Sales to Farmers? (4/97)
- 222 Motor Vehicle Fuel Users: Do You Owe Use Tax? (4/98)
- 223 Bakeries – How Do Wisconsin Sales and Use Taxes Affect Your Business? (2/98)

Other Taxes and Credits

- 127 Wisconsin Homestead Credit Situations and Solutions (11/98)
- 128 Wisconsin Farmland Preservation Credit Situations and Solutions (11/98)
- 400 Wisconsin’s Temporary Recycling Surcharge (12/98)
- 403 Premier Resort Area Tax (2/98)
- 410 Local Exposition Taxes (11/94)
- 503 Wisconsin Farmland Preservation Credit (11/98)
- 508 Wisconsin Tax Requirements Relating to Nonresident Entertainers (8/94)
- W-166 Wisconsin Employer’s Withholding Tax Guide (3/96)

Audits and Appeals

- 501 Field Audit of Wisconsin Tax Returns (2/96)
- 505 Taxpayers’ Appeal Rights of Office Audit Adjustments (6/96)
- 506 Taxpayers’ Appeal Rights of Field Audit Adjustments (3/98)
- 507 How to Appeal to the Tax Appeals Commission (7/98)

Other Topics

- 111 How to Get a Private Letter Ruling From the Wisconsin Department of Revenue (10/97)
- 114 Wisconsin Taxpayer Bill of Rights (11/97)
- 115 Handbook for Federal/State Electronic Filing (12/98)
- 117 Guide to Wisconsin Information Returns (10/98)
- 118 Electronic Funds Transfer Guide (4/96)
- 124 Petition for Compromise of Delinquent Taxes (7/98)
- 130 Fax A Form (12/98)
- 401 Extensions of Time to File (11/97)
- 500 Tax Guide for Wisconsin Political Organizations and Candidates (1/97)
- 502 Directory of Wisconsin Tax Publications (6/98)
- 504 Directory for Wisconsin Department of Revenue (11/98)
- 509 Filing Wage Statements and Information Returns on Magnetic Media (3/94)
- 700 Speakers Bureau presenting . . . (12/98) □

How to Obtain Copies of Your Tax Returns

What Is Available

Upon request, the Department of Revenue will provide taxpayers with copies of their previously filed tax returns (or information regarding them). Copies of returns or information are generally mailed within 10 days after a request is received.

The chart at the end of this article lists returns and information that are available, and the number of prior years for which they are available.

When a copy is requested, a copy of the federal return will also be provided if it is a part of the Wisconsin return. Wage statement copies are not always available with Forms 1A and WI-Z.

Copies of tax returns are generally available within four months after the returns are filed.

Who May Request Copies

Taxpayers, partners in a partnership, or corporation officers may request copies of their own tax returns. Other persons may also request copies, if they provide a power of attorney form or other written authorization, signed by the taxpayer, partner, or corporation officer, and specifying the type of tax return and periods requested. A photocopy or fax copy of an authorization is not acceptable unless the authorization specifically states that copies have the same force as the original.

Requests for copies of a deceased taxpayer’s tax returns must include a certified domiciliary letter and be signed by the personal representative of the estate. If there is no estate, a certified copy of the death certificate and a statement of the reason for the request are required.

Fees

The fee is \$5.00 for each return or information request. There is an additional fee of \$1.00 per return for a certified copy. **Payment must be sent with the request.** Checks or money orders should be made payable to "Wisconsin Department of Revenue."

How to Request

All requests for copies of returns or information must be made in writing or in person. Requests by telephone or fax machine will not be accepted.

Requests must include the following:

1. Name on the requested tax return.
2. Social security number (including spouse's social security number, if applicable), or other identification number of the taxpayer.
3. Type of return and year(s) or period(s) of the tax return being requested.
4. Name and address to which the copies are to be mailed.
5. Signature of the taxpayer, partner, corporation officer, or authorized representative.
6. Payment of appropriate fees for requested information.

Where to Direct Requests

Written Requests: Mail your request to Wisconsin Department of Revenue, Central Files Section, P.O. Box 8903, Madison, WI 53708-8903.

In-Person Requests: Make your request at the Department of Revenue, Audit Bureau, 4638 University Avenue, Room 132, Madison, Wisconsin. Office hours are 7:45 a.m. to 4:30 p.m. Proper identification (for example, a driver's license) is required.

Questions

If you have questions, you may call the Department of Revenue in Madison, at (608) 267-1266.

Returns/Information Available	# of Years
corporation or insurance tax returns	6
gift tax reports	5
homestead credit claims	10
individual income tax returns	4
(electronically filed individual returns)	10
(microfilmed individual returns)	10
microfiche tax roll worksheets	26
partnership tax returns	4
sales/use tax returns	10
trust fiduciary returns	4
withholding statements	5
(microfilmed withholding tax returns)	10

□

Jail Time Ordered for Tax Crimes

Suburpia sandwich shop founder William J. Foley, 55, of Milwaukee, was sentenced in October 1998, to 18 months in jail for state tax violations. Milwaukee County Circuit Court Judge Bonnie L. Gordon also ordered Foley to make full restitution for unpaid sales taxes of \$13,237, to serve the jail time without Huber privileges or electronic monitoring, and to serve 16 years of probation. Conditions of probation include filing sales tax returns for July 1990 to July 1993 and filing withholding tax returns for 1990 to the present.

In an August 1998 plea agreement, Foley had pled guilty to seven counts of theft of state taxes. He collected the sales taxes from three

Suburpia locations between November 1991 and May 1992 and failed to remit them to the department.

Foley had several Suburpia shops beginning in the late 1960s. The business went bankrupt in 1985, was resurrected in 1990, and went bankrupt again in 1993. Foley opened another Suburpia in 1996. His seller's permit was revoked in 1997 after he stopped filing sales tax returns. Further legal action is pending in that case.

Also in October, Bruce R. Verdone, 39, a former resident of Medford and Hudson, pled guilty, as part of a plea agreement, to failure to file a Wisconsin tax return, filing a false claim for the earned income credit, and concealing property to evade collection of tax. Taylor County Judge Douglas T. Fox found Verdone guilty on the three charges. Additional charges of failure to file tax returns and concealing property were dismissed but were to be read into the record for purposes of sentencing and restitution.

According to the criminal complaint that was the basis for the charges:

- Verdone did not file a 1992 Wisconsin income tax return, despite numerous contacts from the Department of Revenue. The department sent Verdone an assessment for 1992 income tax, and he returned the assessment to the department with tax protester materials.
- The false claim for earned income credit involved a 1996 tax return filed in Verdone's name but with the social security number of his son. The return claimed an earned income credit based on three other qualifying children. The mother of the children stated that Verdone has

had no contact with any of the four children since the court terminated his parental rights in 1995, at his request.

- Evasion was charged because the State found that Verdone was involved with \$55,829 that had been negotiated through an account at a Hudson bank in the name of Overland Christian Association. Included were payroll checks Verdone received in 1995 and 1996. Verdone and his girlfriend, Lori Krueger, were the only signatories on the account. The social security number identifier on the account was that of Krueger's daughter.

Verdone faces a maximum penalty of up to 8 years and 9 months imprisonment, fines of up to \$25,000, or both, together with the costs of prosecution. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collection of the taxes, penalty, and interest due follows a conviction for criminal violations.

Verdone's girlfriend, Lori A. Krueger, 28, of Phillips, was sentenced in December 1998 on two counts of filing a fraudulent claim for earned income credit. Dane County Judge Daniel R. Moeser ordered Krueger to serve 30 days in jail and five years probation, and to make restitution.

Krueger pled no contest to the charges in October. Additional charges were read into the record for purposes of sentencing and restitution. According to the criminal complaint, Krueger filed five fraudulent claims for earned income credit on original 1994, 1995, and 1996 Wisconsin income tax returns and amended 1995 and 1996 returns.

The complaint stated that Krueger filed a 1994 claim for earned income credit using false names and a false W-2. She also filed fraudulent 1995 and 1996 claims based on false W-2 documents. She then filed amended 1995 and 1996 returns which still claimed earned income credits based on amended W-2s supposedly from the same fictitious employer.

Joseph T. Rabideau, of Madison, was sentenced in October 1998, for two counts of filing a false return to evade sales tax. Dane County Circuit Court Judge Rober A. DeChambeau ordered Rabideau to pay fines and court costs totaling \$1,370. Rabideau had pled no contest to the charges in September 1998.

According to the criminal complaint, Rabideau filed two false Applications for Title/Registration in July 1995 that listed the purchase price of a 1991 Chevrolet pickup truck as \$4,000, with state and county sales tax due of \$220, and the purchase price of a 1978 Chevrolet truck as \$100, with sales tax due of \$5.50. The complaint alleges that Rabideau paid \$14,000 for the 1991 truck and \$1,000 for the 1978 truck.

Jeanine A. Boehlke, of Onalaska, was charged in October 1998 by the LaCrosse County District Attorney's Office, with one count of filing a false return to evade sales tax. The criminal charges resulted from an investigation by the Fraud Unit of the Wisconsin Department of Revenue.

According to the criminal complaint, Boehlke filed a false application for Title/Registration in November 1995 which listed the purchase price of a 1991 Buick Century as \$1,000 with state and county sales tax due of \$55. The complaint alleges Boehlke actually paid \$7,500 for the vehicle.

If convicted, Boehlke faces up to 30 days in jail and up to \$500 in fines.

In September 1998 Louis S. Beauchamp, 56, of Milwaukee, was sentenced for failure to file Wisconsin income tax returns. Milwaukee County Circuit Court Judge Clare L. Fiorenza placed Beauchamp on probation for three years. As a condition of his probation, Beauchamp must serve 30 days in jail with Huber privileges followed by 30 days home detention, and serve 50 hours of community service.

Beauchamp, a self-employed headhunter, operated a Milwaukee employment agency known as Techtronic Technical Employment. He was charged with failure to file Wisconsin income tax returns when he had income of \$36,552 in 1993, \$59,307 in 1994, and \$67,171 in 1995. His tax liability for the three years was more than \$10,000.

In 1977, Beauchamp was charged with embezzling over \$42,000 from the Social Development Commission and with failure to pay over \$50,000 in federal income taxes for 1974 to 1976.

Also in September, Green Bay used car dealer William J. Brown was sentenced for felony theft of state sales taxes. Brown County Circuit Court Judge William Atkinson placed Brown on probation for five years. As a condition of his probation, Brown must serve 36 days in jail, make restitution to the State of Wisconsin for \$78,546, and pay court costs.

According to the criminal complaint, Brown collected \$115,107 in sales tax monies from September 1989 through September 1994, which he failed to pay over to the State. The taxes were paid to Brown by his

customers, who purchased motor vehicles from him through his business, Quality Plus Auto Sales in Green Bay. □

Avoid Errors on Income or Franchise Tax Returns

Are your tax returns and credit claims filed without errors? Many errors are discovered each year, either in processing or in subsequent audits by the department. The information below may be helpful in preparing error-free Wisconsin tax returns or credit claims.

Errors Discovered in Processing Individual Income Tax Returns

Math Errors —
250,000 returns (10% of returns processed) were adjusted for math errors.

School Property Tax Credit —
33,000 returns were adjusted for errors in claiming this credit; 80% of the errors included looking up the wrong amount of credit.

Itemized Deduction Credit —
31,000 returns were adjusted; two-thirds of the errors included looking up the incorrect amount of standard deduction.

Incomplete Returns —
Processing of many returns was delayed because of missing information, such as school district, school property tax credit, earned income credit, itemized deduction credit, or taxes paid to other states.

Estimated Tax Underpayment —
34,000 returns were adjusted for underpayment interest because taxes were underpaid.

Temporary Recycling Surcharge —
Most errors included checking the special worksheet box or listing net

income or loss when not subject to the surcharge.

Tax Withholding —
Most errors included claiming social security or another state's withholding as Wisconsin tax withheld.

Errors Discovered in Processing or Auditing Credit Claims

Homestead credit claims and farmland preservation credit claims are screened during processing. The common errors described below are discovered either during the screening or in subsequent audits of credit claims.

HOMESTEAD CREDIT

Household Income Omitted —

- AFDC/Wisconsin Works
- IRA/deferred compensation deductions
- gross pension
- depreciation
- standard mileage depreciation
- Wisconsin income from tax return
- nontaxable capital gains

Property Taxes —

- taxes not reduced for months AFDC/Wisconsin Works received
- special assessments incorrectly claimed
- more than one acre claimed for nonfarm property
- taxes not properly prorated for co-ownership or for occupancy only part of year
- wrong year's taxes claimed

Rent —

- rent not reduced for months AFDC/Wisconsin Works received
- rent not reduced for joint occupancy
- percentage of rent constituting property taxes computed incorrectly
- rent for more than twelve months claimed

Credit —

- amount looked up incorrectly in computation table

FARMLAND PRESERVATION CREDIT

Household Income Omitted —

- gross pension
- depreciation
- deferred compensation
- capital gain exclusion
- capital loss carryover
- gross social security

Property Taxes —

- special assessments incorrectly claimed
- taxes not properly prorated for co-ownership
- taxes incorrectly claimed for land not covered by zoning certificate or farmland preservation agreement
- incorrect computation

Credit Percentage —

- incorrect percentage claimed.

Amended Returns —

- Adjustments to original return not reflected
- Additional taxable income not reflected on Schedule FC

Errors Discovered in Auditing

Errors discovered in auditing Wisconsin individual and fiduciary income, corporate, and sales and use tax returns and credit claims resulted in the collection of \$147.6 million in taxes, excess credits, penalties, and interest in the fiscal year ending June 30, 1998. This includes individual and fiduciary income taxes of \$26.5 million, sales and use taxes of \$69.5 million, and corporation taxes of \$51.6 million. The most common errors discovered in auditing individual and fiduciary income tax returns are described below.

Income Computed Incorrectly —

- unemployment compensation or social security income (federal/Wisconsin differences calculated incorrectly)
- tax-option (S) corporation income (wrong amount entered from Schedule K-1)
- math errors (errors on federal return carried over to Wisconsin form)
- capital gain exclusion

Income Omitted —

- IRA distributions
- total gross receipts
- municipal interest
- interest and dividends
- gambling winnings that are not reported on a Form 1099-G
- income earned in another state

Credits Computed Incorrectly —

- school property tax (incorrectly claimed on business portion, or claimed in year taxes not paid)
- dependent (incorrectly claimed for self or spouse)
- earned income (claimed in error or computed incorrectly)
- itemized deduction (percentage of income not subtracted from medical or miscellaneous deductions)
- farmland tax relief (claimed for taxes on improvements)

Incorrect Deductions or Expenses —

- IRA deduction (omitted or claimed incorrectly)
- personal travel or entertainment (incorrectly claimed as business expenses)
- gambling losses in excess of winnings claimed

Other Errors —

- IRA penalty omitted
- Wisconsin return not amended for IRS adjustments
- incorrect filing status used
- farm loss limitation not properly computed
- capital loss carryover not claimed in subsequent year
- return filed on incorrect form. □

Common Mistakes Regarding Wisconsin Estate Taxes

Listed below are errors that are commonly made regarding Wisconsin estate taxes, and the filing of a Wisconsin Estate Tax Return, Form W706. This information may be

helpful in preparing proper and timely estate tax returns and related documents.

- Failing to file a Wisconsin Form W706. Wisconsin does have an estate tax. Estates that are required to file a federal United States Estate Tax Return (Form 706) are also required to file Wisconsin Form W706.
- Filing a return when none is required (not required if income is under \$600,000 for deaths in 1997, or \$625,000 for deaths in 1998).
- Failing to file a **complete** return with the required attachments. Missing attachments commonly include:
 - Complete copy of the federal estate tax return, Form 706, including all schedules.
 - Copy of the decedent's last will, and any codicils.
 - Trust instruments, and amendments if applicable.
 - Complete listing of assets from the federal return.
 - Copy of an approved federal Form 4768, the extension to file the federal Form 706.
- Failing to file by the due date (nine months after the date of death, not twelve months as under the repealed inheritance tax law).
- Failing to timely pay the Wisconsin estate tax. The tax is due nine months after the date of death, even if an extension of time to file has been requested (an extension to file does not extend the time to pay).
- Making an estate tax payment on an estimated income tax voucher. Pay the tax on Form 401T. Include a letter stating that a federal extension to file

has been requested, if that is the case.

- Incorrectly computing the interest due on a late-paid estate tax (interest must be computed from the date of death, not from the due date of the return).
- Failing to pay the late-filing penalty, 5% of the Wisconsin estate tax. It is due on returns filed more than nine months after the date of death, unless a federal extension has been granted and the return is filed within the extension period. The late-filing penalty may be imposed even if the estate tax is paid timely.
- Failing to notify the department within 30 days of Internal Revenue Service (IRS) adjustments to federal Form 706. Include a copy of IRS Form 1273, 3228, or 886A, and a cover letter.
- Failing to notify the department that more than one certificate will be requested. Certificate requests for both the fiduciary and the estate tax returns should be made at the same time. If this is not possible, inform the department with the first request that the other certificate will also be requested. This will help expedite the requests, and you will only need to send one set of documents for the estate. □

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 January 1, 1999, or at the stage in which action occurred during the period from October 2, 1998, to January 1, 1999.

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).

To receive up-to-date administrative rules of the Department of Revenue, you can use the order blank on page 99 of this Bulletin to order the Tax section of the Wisconsin Administrative Code.

Scope Statement Published (10/31/98)

- 2.39 Apportionment method—A
- 2.395 Alternative method of apportionment – NR
- 11.14 Exemption certificates, including resale certificates—A
- 11.53 Temporary events—A

Rules Sent to Legislative Council Rules Clearinghouse

- 2.39 Apportionment method—A
- 2.395 Alternative method of apportionment – NR
- 11.68 Construction contractors—A

Rules Sent to Revisor for Publication of Notice

- 2.39 Apportionment method—A (published 12/15/98)
- 2.395 Alternative method of apportionment – NR (published 12/15/98)
- 11.09 Medicines—A (published 10/31/98)
- 11.19 Printed material exemptions—A (published 11/30/98)
- 11.28 Gifts and other advertising specialties—A (published 10/31/98)
- 11.68 Construction contractors—A (published 12/31/98)

- 11.70 Advertising agencies—A (published 11/30/98)

Rules Being Reviewed Following Publication of Various Notices

- 1.12 Electronic funds transfer – NR
- 1.13 Power of attorney—A
- 11.03 Elementary and secondary schools and related organizations—A
- 11.11 Industrial or governmental waste treatment facilities—A
- 11.12 Farming, agriculture, horticulture and floriculture—A
- 11.26 Other taxes in taxable gross receipts and sales price—A
- 11.32 “Gross receipts” and “sales price” –A
- 11.33 Occasional sales—A
- 11.41 Exemption of property consumed or destroyed in manufacturing—A
- 11.83 Motor vehicles—A

Public Hearing Held (12/28/98)

- 2.39 Apportionment method—A
- 2.395 Alternative method of apportionment – NR

Rules Sent for Legislative Committee Review

- 11.56 Printing industry—A

Rules Adopted but Not Yet Effective (anticipated effective date 2/1/99)

- 11.56 Printing industry—A

Emergency Rules in Effect (effective date 9/29/98)

- 2.39 Apportionment method—A
- 2.395 Alternative method of apportionment – NR □



Report on Litigation

Summarized below are recent significant Wisconsin Tax Appeals Commission (WTAC) and Wisconsin

each decision indicates whether the case has been appealed to a higher Court.

two children, Samantha and Theodore Heilman, both born on November 18, 1981.

Individual Income Taxes

Alimony

Sally A. Heilman, David W. Heilman, and David W. and Susan F. Heilman (p. 21)

Farm loss limitation

David G. Stauffacher, et al. (p. 22)

Individual Income Taxes and Sales and Use Taxes

Motor vehicles and trailers

David L. Benson d/b/a Eau Claire Auto Exchange West, and David L. and Cheri K. Benson (p. 22)

Sales and Use Taxes

Boats, vessels and barges - nonresident purchases

Charles K. Harder (p. 23)

Containers, packaging and shipping materials - delivery of newspapers

Madison Newspapers, Inc (p. 24)

Penalties – negligence

Wimmer Construction, Inc. (p. 24)

Printing - advertising materials sent out-of-state

Sax Arts & Crafts, Inc. (p. 25)

Retailer – defined

American Baptist Assembly, Inc. (p. 26)

Services subject to the tax - producing, fabricating, and processing

Hammersley Stone Company, Inc. (p. 27)

Use tax – storage

Glenn Rieder, Inc (p. 27)

Sales and Use Taxes, and Withholding of Taxes

Officer liability

Michael A. Pharo (p. 28)

Withholding of Taxes

Officer liability

Garry L. Matz (p. 28)

Officer liability

Michael A. Pharo (p. 28)

Susan F. Heilman (“Susan”) is petitioner with David with regard to an assessment for 1992. Susan and David were married from October 1986 to February 1995, when they were divorced.

On January 23, 1984, Sally and David were granted a Judgment of Divorce. The Final Stipulation, incorporated into the Judgment of Divorce, stated that David shall pay \$250.00 per month to Sally as and for family support. The Stipulation also stated that for tax purposes the family support payments shall be taxable to the recipient and deductible by the payor.

On May 9, 1989, the amount of monthly family support was raised to \$375.00. The Judgment of Divorce was again amended on March 4, 1992, by the Family Court Commissioner, to set child support at 25% of gross income but not less than \$57.50 per week. Other than those two amendments, no changes to the divorce judgment have been filed with any court.

David claimed an alimony deduction for 1992, 1993, and 1994. Sally did not report the receipt of alimony income in any of those years.

In October 1996, the department sent Sally an assessment notice, which asserted that she had failed to report alimony payments for 1992, 1993, and 1994. Sally timely petitioned for redetermination, the petition was denied, and she timely appealed to the Commission.

INDIVIDUAL INCOME TAXES

Alimony. *Sally A. Heilman, David W. Heilman, and David W. and Susan F. Heilman vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, September 8, 1998). The principal issue in this case is whether payments made by David Heilman to Sally Heilman in 1992, 1993, and 1994 were “family support payments” – deductible each

year as alimony by David and includable each year as income by Sally, under Sections 71 and 215 of the Internal Revenue Code – or whether the payments were “child support” – not deductible as alimony or includable as income, under the same sections.

Sally A. Heilman (“Sally”) and David W. Heilman (“David”) were married from October 1974 to January 1984. They are the parents of

In November 1996, the department sent David an assessment for 1993 and 1994, which added back his alimony deductions for those two years. The notice explained in part that since there was a disagreement between him and his former spouse concerning the taxability of the income/expense, an assessment in the alternative was being issued, in order to resolve the disagreement. The assessment found several other problems with David's returns, including his filing as a single person when he was still married.

David timely petitioned for redetermination, his petition was denied, and he timely appealed to the Commission.

In October 1996, the department sent to David and Susan an assessment notice for 1992. The assessment related to their deduction of alimony payments made to Sally for that year. David timely petitioned for redetermination, his petition was denied, and he timely appealed to the Commission. Susan was also listed as a petitioner because the assessment involved a jointly filed return.

The Commission concluded that the Family Court Commissioner's 1992 modification of the 1984 divorce judgment did not convert David Heilman's periodic "family support" payments to his former wife Sally (which were tax deductible) into "child support" payments (which were not deductible), because the modification did not expressly provide that David Heilman's tax status was being changed and that his payments would be affected by revised Sections 71 and 215 of the Internal Revenue Code, as required by Section 422(e)(2) of Public Law 98-369.

The Commission reversed the portion of the assessments against

David and Susan Heilman relating to the disallowance of the alimony deductions. It affirmed the portion of the assessments against David Heilman relating to other issues, including his filing as a single person while he was still married. The Commission also affirmed the assessment against Sally Heilman, which added previously omitted alimony income.

Neither the department nor the taxpayers have appealed this decision. □

 **Farm loss limitation.** *David G. Stauffacher, et al. vs. Wisconsin Department of Revenue, et al.* (Circuit Court for Dane County, August 19, 1998). The Wisconsin Tax Appeals Commission ("Commission") issued a decision in this case on March 4, 1998. See *Wisconsin Tax Bulletin* 110 (July 1998), page 13, for a summary of that decision.

On April 2, 1998, the taxpayers filed a petition for review of the Commission decision, in Dane County Circuit Court. On April 8, 1998, they personally delivered a copy of the summons and petition for judicial review to the Commission, and a copy was also received by the Department of Revenue on April 8, 1998.

A motion to dismiss was filed by the department, on the basis that the taxpayers did not file and serve upon the department a copy of the summons and petition within 30 days of service of the decision of the Commission. The department argues that because the taxpayers failed to serve the appropriate agencies within thirty days, the Circuit Court has lost subject matter jurisdiction.

The Circuit Court concluded that because the taxpayers failed to file the petition for review and serve it upon the Department of Revenue

within 30 days after the decision of the Commission was issued, the Circuit Court has no competency to proceed. The action was therefore dismissed.

The taxpayer has not appealed this decision. □

INDIVIDUAL INCOME TAXES AND SALES AND USE TAXES

 **Motor vehicles and trailers.** *David L. Benson d/b/a Eau Claire Auto Exchange West, and David L. and Cheri K. Benson vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, August 13, 1998). The issues in this case are:

- A. Whether sales and use tax adjustments made by the department on the taxpayers' purchases and sales of motor vehicles are correct.
- B. Whether income tax adjustments made by the department on the taxpayers' purchases and sales of motor vehicles are correct.
- C. Whether certain expenses, including expenses for office, travel, parts, repairs, insurance, utilities, property tax, buy backs, attorney fees, and property taxes, were correctly disallowed by the department.
- D. Whether the taxpayer received unreported income from warranty work.
- E. Whether the taxpayer's non-asset purchases are subject to use tax.
- F. Whether the department correctly assessed use tax on dealer plates.
- G. Whether the department correctly assessed use tax on the taxpayer's purchase of a boat.

The taxpayers operate a used automobile dealership. The department made sales, use, and income tax assessments, many of which related to the taxpayers' sales and purchases of numerous motor vehicles, for periods covering 1989-1992. In December of 1996, the parties resolved the amounts owed to the department for 1991-1992 with regard to income tax.

The department made sales tax adjustments on motor vehicles relating to purchase and sales prices, trade-in amounts, and collecting, reporting, and remitting sales tax. Income tax adjustments on motor vehicles were made for purchase and sales prices, trade-in amounts, adjustments to the basis of vehicles, and claiming a loss for a junked vehicle that was never owned by the taxpayer.

The department assessed the taxpayers income tax on certain expenses claimed. The department also assessed the taxpayers income tax on warranty work, assuming an annual income of \$1,000 from such work. In settling years 1991-92, the taxpayers agreed to the \$1,000 adjustments for each year for warranty work.

The department assessed use tax on the taxpayers' non-asset purchases, dealer plates, and purchase of a boat.

The Commission concluded the following:

A and B. Upon review of each adjustment on the sales and purchases of vehicles on an individual basis, and, with slight modifications, the Commission affirmed the department's adjustments for sales and use taxes and income taxes.

C. The Commission affirmed the department's disallowance of the taxpayers' expenses. The tax-

payers were not able to demonstrate that the expenses claimed had not already been claimed on their income tax returns. For some expenses, the taxpayers were unable to show that the expenses were business related rather than personal.

D. The Commission reversed the department's adjustment to income for warranty repair work. The taxpayers' concession to this adjustment for 1991-1992 in the context of a settlement cannot be considered an admission that this adjustment is correct for 1989-1990.

E. The taxpayers failed to substantiate any objection to the department's imposition of use tax on non-asset purchases; therefore, the Commission affirmed the department's action.

F. The Commission affirmed the department's adjustments for use tax on dealer plates. The taxpayers failed to provide any records concerning the retention, demonstration, or display of cars with dealer plates.

G. The Commission affirmed the department's imposition of use tax on the boat. The taxpayers presented no evidence or theory why they should not be liable for use tax on the boat, nor did they present evidence that they paid sales tax when they purchased the boat.

Neither the taxpayer nor the department has appealed this decision. □

SALES AND USE TAXES

Boats, vessels and barges - non-resident purchases. *Charles K. Harder vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, August

19, 1998). The issue in this case is whether the taxpayer's purchase of a sailboat qualifies for exemption from use tax under sec. 77.53(17m), Wis. Stats.

On March 17, 1994, the taxpayer, a Minnesota resident, purchased a sailboat. The taxpayer and the sellers met in Minnesota to close on the sale. At closing, the taxpayer and the sellers executed a Bill of Sale that transferred the sellers' "right, title, and interest" in the sailboat to the taxpayer.

From before the date of closing until the taxpayer took physical possession of the sailboat several weeks later, the sailboat was berthed in Lake Superior, at Port Superior in Wisconsin. The sailboat continued to be berthed at Port Superior and used in the boundary waters of Wisconsin in the years following the taxpayer's purchase of the sailboat. The taxpayer's purchase of the sailboat was an exempt occasional sale under the laws of Minnesota.

The department assessed the taxpayer use tax and interest based upon the sales price of the sailboat.

Section 77.51(14r), Wis. Stats., provides that "A sale or purchase involving transfer of ownership of property shall be deemed to have been completed at the time and place when and where possession is transferred by the seller . . . to the purchaser . . ." The department contends that the taxpayer took possession of the sailboat in Wisconsin, for purposes of sec. 77.51(14r), Wis. Stats., when he physically visited the sailboat several weeks after closing.

The taxpayer argues that the purchase of the sailboat qualifies for exemption under sec. 77.53(17m), Wis. Stats., which provides a use tax exemption for ". . . a boat purchased

in a state contiguous to this state by a person domiciled in that state if the boat is berthed in this state's boundary waters adjacent to the state of the domicile of the purchaser and if the transaction was an exempt occasional sale under the laws of the state in which the purchase was made."

The Commission concluded that the taxpayer qualifies for exemption under sec. 77.53(17m), Wis. Stats., because *constructive possession* of the sailboat transferred at the closing in Minnesota. The taxpayer met the other elements of this exemption: the taxpayer is a resident of Minnesota, the sailboat was berthed in Wisconsin's boundary waters adjacent to Minnesota, and the purchase of the sailboat was an exempt occasional sale under the laws of Minnesota.

The department has appealed this decision to the Circuit Court. □

Containers, packaging and shipping materials - delivery of newspapers. *Madison Newspapers, Inc., v. Wisconsin Department of Revenue* (Circuit Court for Dane County, September 1, 1998). The Wisconsin Tax Appeals Commission issued a decision on January 28, 1998, which was appealed to the Circuit Court. See *Wisconsin Tax Bulletin* 107, page 16, for a summary of the January 28, 1998 decision. The issue is whether the Commission was correct in determining that the taxpayer's carriers are *not* its "customers" for purposes of the exemption from sales tax for packaging materials in sec. 77.54(6)(b), Wis. Stats.

The taxpayer produces and distributes two newspapers. It seeks a use tax exemption on its purchases of string, strap, and other wrapping and packaging materials that it used to bind bundles of newspapers which

were then delivered to route carriers under contract directly with the taxpayer for subsequent delivery to home subscribers.

Section 77.54(6)(b), Wis. Stats., provides an exemption for the gross receipts from the sale of and the storage, use or consumption of "Containers, labels, sacks, cans, boxes, drums, bags or other packaging and shipping materials for use in packing, packaging or shipping tangible personal property, *if such items are used by the purchaser to transfer merchandise to customers...*" (Emphasis added.)

The Court affirmed the decision of the Commission that the carriers were not the taxpayer's customers. The Court concluded that the Commission's decision was free from material legal errors and supported by substantial evidence. The taxpayer's purchases of string, strap, and other wrapping and packaging materials that it used to bind bundles of newspapers which were then delivered to route carriers, do not qualify for exemption under sec. 77.54(6)(b), Wis. Stats.

The taxpayer has appealed this decision to the Court of Appeals. □

Penalties - negligence. *Wimmer Construction, Inc., vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, October 22, 1998). The issue in this case is whether the department properly imposed the negligence penalty pursuant to sec. 77.60(4), Wis. Stats.

Ronald C. and Joan Wimmer ("the owners") are the owners and officers of Wimmer Construction, Inc. ("the corporation"), which is a construction business incorporated in 1971. The owners also own, together or individually, three other corporations. These corporations all held

Wisconsin seller's permits and filed monthly sales tax returns.

The corporation was previously audited by the department for the years 1982 - 1984, at which time the corporation was assessed unpaid taxes, interest, and late filing fees, primarily for failure to pay use tax on purchases of tangible personal property.

Sales and use tax was assessed against the taxpayer as a result of a department field audit covering years 1989 - 1992. During the course of this audit, the corporation, at the request of the department, obtained a Wisconsin seller's permit for the first time. The department imposed the negligence penalty in sec. 77.60(4), Wis. Stats., for the following reasons: 1) the failure of the corporation to obtain a seller's permit; 2) procedures to collect the sales and use tax were established during the audit period; 3) the owners were aware of sales and use tax law because they owned other entities which held sellers' permits; 4) no effort was made prior to the audit to find out applicable law; 5) the additional measure of sales and use tax uncovered by the audit was "considerable;" and 6) no reasonable reason for the failure to report the tax was presented by the corporation.

The corporation contended that the department had not asked the corporation to obtain a seller's permit and file sales tax returns after the earlier audit. The corporation also argued that the owners have no educational background in tax, finance, accounting, or auditing, and that its financial statements were fully audited by certified public accountants.

The Commission concluded that the department properly assessed the negligence penalty. It was not reasonable for the owners and officers

to rely on the determination of the prior audit as a clean bill of health for all future transactions. Nor was it reasonable to ignore the law concerning obtaining a seller's permit and filing returns where the corporation engaged in taxable transactions.

The Commission also concluded that it was neglect for the corporation's owners and officers to fail to inform themselves concerning the sales and use tax law pertaining to the taxable purchases and sales transactions involved in the assessment; and it was neglect for them to fail to pay sales and use tax on those transactions. The corporation argued that it relied on its accountant for advice; however, such reliance does not constitute "reasonable cause" under sec. 77.60(4), Wis. Stats.

The taxpayer has not appealed this decision.

Printing - advertising materials sent out-of-state.

Sax Arts & Crafts, Inc. vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, August 12, 1998). The issues in this case are:

- A. Whether the department properly imposed a tax upon the purchase in Wisconsin of unprinted paper to be used in catalogs printed in Wisconsin by third parties and mailed free of charge to addresses outside the state.
 - B. Whether a tax was properly imposed upon unprinted paper purchased outside Wisconsin to be used in advertising catalogs printed in Wisconsin and subsequently mailed by the printers to addresses in Wisconsin.
 - C. Whether a tax was properly imposed upon 2% of printing services purchased by the taxpayer in Wisconsin from printers for catalogs mailed to Wisconsin addresses.
 - D. Whether a tax was properly imposed upon 100% of certain purchases of tangible personal property, such as consumer commercial labels, spill-x neutralizers, flammable labels, ink rollers, bogan adapter, and lamps that were used or consumed in printing the taxpayer's catalogs.
 - E. Whether a tax was properly imposed upon 2% of the envelopes used to contain finished catalogs mailed out by the taxpayer's printers to Wisconsin addresses.
 - F. Whether a tax was properly imposed upon 100% of the purchases of envelopes used for ordering merchandise by recipients of the taxpayer's catalogs.
 - G. Whether a tax was properly imposed upon 100% of the purchases of finished art that were consumed or used in the production, manufacturing, and printing of the taxpayer's catalogs.
- The facts of this case are as follows:
- The taxpayer is a Delaware corporation that maintains its principal place of business in Wisconsin.
 - The taxpayer is a direct seller of school supplies, arts and crafts supplies, and other related items.
 - The taxpayer distributed catalogs that advertised its merchandise to customers and potential customers on a nationwide basis.
 - The taxpayer did not charge the overwhelming majority of its customers for the catalogs.
 - The taxpayer purchased the unprinted paper used to print its catalogs from Wisconsin and out-of-state merchants who, at the direction of the taxpayer, had the unprinted paper shipped directly from the paper manufacturers to the Wisconsin printers.
 - The paper manufacturers did not collect sales or use tax from the taxpayer on the paper at issue.
 - The taxpayer paid for all the paper at issue after the paper was delivered to the Wisconsin printers.
 - The taxpayer chose the printers to whom it directed shipment of unprinted paper from the paper manufacturers.
 - The paper manufacturers shipped the unprinted paper at issue to the Wisconsin printers via common carrier or via delivery vehicles operated by the paper manufacturers.
 - The taxpayer had arrangements with each printer that the printer would accept delivery of the unprinted paper that the taxpayer purchased.
 - The Wisconsin printers to whom the taxpayer had the unprinted paper delivered notified the taxpayer that the paper was delivered.
 - The Wisconsin printers did not take title to and did not give the taxpayer valuable consideration for the paper. The printers took possession of the paper, but the paper remained the property of the taxpayer while in the hands of the printer.
 - After printing the catalogs, the printers distributed the catalogs. Approximately 98% of the taxpayer's catalogs were distributed outside Wisconsin.

- In 1969 and 1976, the taxpayer issued blanket resale certificates to its Wisconsin paper merchant. The taxpayer did not revoke or alter these certificates prior the purchase of the paper at issue.
- The taxpayer:
 - a) purchased finished photography and photographic processing services from a Wisconsin retailer,
 - b) purchased Linotronic typesetting services from a Wisconsin retailer, and
 - c) provided finished artwork to Wisconsin printers.

The services or finished art detailed in a), b), and c) were used or consumed by the Wisconsin printers to produce the taxpayer's catalogs.

The Commission concluded that the department properly imposed Wisconsin sales and use taxes, with the exception of a portion of the use tax imposed on finished art purchased outside Wisconsin and used for the production of catalogs that do not remain in Wisconsin for free distribution (Issue G).

- A. The department correctly assessed the taxpayer on the unprinted paper purchased for use in its advertising catalogs printed by others in Wisconsin and distributed outside the state without charge. Although the paper became an ingredient or component part of the manufactured catalogs, the catalogs were not resold.
- B. Wisconsin use tax applies to the storage, use, or other consumption of tangible personal property that remains in this state and is not resold. The department correctly assessed use

tax on the taxpayer's purchase of unprinted paper to be used in catalogs mailed to addresses in Wisconsin.

- C. The 98% of the printing done for the taxpayer to be transported outside the state for use outside the state is tax exempt. The department's assessment of 2% of the printing of tangible personal property which will be mailed to Wisconsin addresses is correct.
- D. The taxpayer and the department stipulated that the taxability of certain purchases for use or consumption in printing the catalogs was to be consistent with Issue A, unprinted paper to be used in catalogs, which was determined by the Commission to be taxable.
- E. The use tax was properly imposed on the 2% of the envelopes that remained in Wisconsin without resale.
- F. The envelopes were purchased for use in Wisconsin and are subject to Wisconsin use tax. The envelopes were purchased from a Wisconsin vendor and were inserted by the printers into the catalogs for use by catalog recipients.
- G. The catalogs were not resold. Hence, 100% of the finished art purchased in Wisconsin is subject to tax. The 2% of finished art purchased outside Wisconsin that is shipped to Wisconsin addresses is also subject to tax.

The taxpayer has appealed this decision to the Circuit Court. □

 **Retailer - defined.** *American Baptist Assembly, Inc. vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, July 27, 1998). The

issue in this case is whether the gross receipts from the taxpayer's sales of meals are subject to Wisconsin sales tax.

The facts in the case are as follows:

1. The taxpayer is a non-stock, non-profit corporation which qualifies for tax exempt status under Internal Revenue Code sec. 501(c)(3).
2. The taxpayer's purpose, as stated in its Articles of Incorporation, is:

“ . . . to provide, for American Baptists and others, a comprehensive program of Christian education, training, and inspiration by means of conferences, institutes, research projects, classes, schools, college extension courses, camps, assemblies, and all other appropriate means for the nurture and training of leadership for the cause of evangelical Christianity and of the world mission of the churches.”

3. The taxpayer held and was required to hold a Wisconsin seller's permit in conjunction with its facilities at Green Lake Conference Center (the “center”) and Lawsonia Golf Course (the “golf course”). **Note:** Subsequent to the period under review, the golf course was conveyed to a for-profit subsidiary of the taxpayer and has since operated as a separate business entity.

The taxpayer filed a claim for refund with the department for sales taxes previously collected and paid on guest meals. These meals were catered by an outside catering service and provided by the taxpayer to con-

ference participants and others at the conference center.

In *Kollasch v. Adamany*, 104 Wis. 2d 552, 562 (1981), the Wisconsin Supreme Court ruled that a nonprofit organization can be a “retailer” when engaging in “profit seeking” transactions but not necessarily so when engaging in “fundamentally nonmercantile” transactions. The Sisters in *Kollasch* were determined to be outside the definition of “retailer” because serving meals was “an integral part of their ministry.”

The Commission concluded that the taxpayer was a “retailer” within the meaning of sec. 77.51(13), Wis. Stats., with respect to meals served to conference participants and others for purposes of the imposition of sales tax. The Commission determined that the taxpayer’s sales of meals was a fundamentally mercantile activity. The provision of meals was not an integral part of the taxpayer’s charitable mission, but a means of supporting it. The meals were commercially catered and were an on-site amenity for the convenience of conference participants and to the calculated financial advantage of the taxpayer.

The taxpayer has not appealed this decision. □

Services subject to the tax - producing, fabricating, and and processing. *Hammersley Stone Company, Inc. vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, August 17, 1998). The issue in this case is whether the department properly assessed use tax for stone crushing services that the taxpayer purchased from independent contractors who performed the services on stone furnished by the taxpayer, when the stone was later used or consumed by the taxpayer in real property construction.

The taxpayer was in the business of construction contracting involving excavation work. The taxpayer also operated two quarries from which it extracted stone, some of which it sold and the majority of which it used in real property construction activities.

After extracting stone from the quarries, the taxpayer hired and paid independent contractors to crush the stone into smaller particles of many types, including gravel, sand, pea gravel, and limestone. The crushed stone was used and consumed by the taxpayer in real property construction activities.

The Commission concluded that the taxpayer was properly assessed use tax on its purchase from independent contractors of stone crushing services on stone furnished by the taxpayer which was later used and consumed by the taxpayer in real property construction activities.

Section 77.52(2)(a)10, Wis. Stats., provides that the alteration of tangible personal property by a third party is a taxable service when it is separate and distinct from the services of installing or applying the same tangible personal property as an addition or capital improvement of real property.

The taxpayer has appealed this decision to the Circuit Court. □

Use tax - storage. *Glenn Rieder, Inc. vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, September 4, 1998). The issue in this case is whether materials purchased by the taxpayer on or after October 1, 1991 and stored in Wisconsin for contracts entered into prior to October 1, 1991 are subject to Wisconsin use tax.

The taxpayer is a corporation based in Milwaukee that manufactures custom-order millwork such as door jams and frames, paneling, soffits, and other fixtures. The taxpayer also sells the millwork it produces, and it sometimes serves as a contractor incorporating its millwork into real property construction, both inside and outside Wisconsin. The period under review in this matter is the four-year period between July 1, 1991, and June 30, 1995.

The dispute in this case involves the effect of a change in the Wisconsin use tax law on October 1, 1991, upon three contracts for the manufacture of millwork as well as its subsequent delivery and installation out-of-state. The contracts were signed before the change in the law.

At the time each of the taxpayer’s three contracts was signed, Wisconsin use tax law provided in sec. 77.51(19), Wis. Stats., that “storage” and “use” did not include keeping or retaining of tangible personal property “for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into other property to be transported outside the state and thereafter used solely outside the state.”

Effective October 1, 1991, sec. 77.51(19), Wis. Stats. (1989-90), was repealed and “storage” was defined as “any keeping or retention in this state for any purpose except sales in the regular course of business of tangible personal property purchased from a retailer.” The department issued a tax release in April 1992, which provided that the Wisconsin use tax would not apply to the storage of tangible personal property purchased before October 1, 1991, unless the property was

purchased and storage occurred in another state prior to October 1, 1991, and then was transported to Wisconsin for additional storage and subsequent shipment outside Wisconsin after October 1, 1991.

The taxpayer based its bids and prices in the three contracts on the tax laws as they existed at the time it entered into the contracts.

The Commission concluded that the department properly assessed use tax for materials purchased and stored in Wisconsin after October 1, 1991, and later manufactured into property to be transported and used solely outside the state, because the repeal of the “storage” exception in sec. 77.51(19), Wis. Stats., by the 1991 legislature, which was effective beginning October 1, 1991, did not impair the obligations in three pre-existing contracts in violation of the contract clauses of the United States and Wisconsin constitutions.

The taxpayer has not appealed this decision. □

SALES AND USE TAXES, AND WITHHOLDING OF TAXES

 **Officer liability.** *Michael A. Pharo vs. Wisconsin Department of Revenue* (Circuit Court for Dane County, September 2, 1998). The Wisconsin Tax Appeals Commission issued a decision on December 11, 1997, which was appealed to the Circuit Court. See *Wisconsin Tax Bulletin* 107 (April 1998), page 20, for a summary of the Commission decision. The issue in this case is whether the Commission properly found that the taxpayer is a responsible person that could be personally assessed under sec. 71.83(1)(b)2, Wis. Stats., and sec. 77.60(9), Wis. Stats., for the unpaid corporate taxes of Town and Country Communications, Inc. (“the corporation”).

The taxpayer was the general manager of the corporation. Previously, the taxpayer was the sole proprietor of the business Town and Country Communications. Both the sole proprietorship and the corporation were engaged in the business of telephone sales, installation, and repair.

The taxpayer disputes the Commission’s finding that the taxpayer converted his sole proprietorship into the corporation. The taxpayer also claims that he was not a responsible party for the filing and payment of withholding and sales and use taxes of the corporation because he was neither an officer nor a major stockholder. He alleges that he had no authority and duty to account for and pay for the taxes, and that the Commission was erroneous in its finding that he intentionally breached that duty.

The Circuit Court affirmed the decision of the Commission that the taxpayer was a responsible person under sec. 71.83(1)(b)2, Wis. Stats., and sec. 77.60(9), Wis. Stats., with the **authority** and the **duty** to pay the corporation’s withholding and sales and use taxes, and the **intention to breach that duty**.

The taxpayer has not appealed this decision. □

WITHHOLDING OF TAXES

 **Officer liability.** *Garry L. Matz vs. Wisconsin Department of Revenue* (Circuit Court for Shawano County, July 13, 1998). The Wisconsin Tax Appeals Commission issued a decision on June 6, 1996, which was appealed to the Circuit Court. The issue in this case is whether the taxpayer is a responsible person under sec. 71.83(1)(b)2, Wis. Stats.

The taxpayer was the primary shareholder of Camtool (“the

corporation”) between 1987 and September 15, 1992, when the company went out of business. The taxpayer was an absent overseer of the corporation. The day-to-day operations were handled by a manager and office bookkeeper. The corporation was in poor financial shape in 1991 and 1992, finally terminating business in September, 1992.

The Circuit Court reviewed the decision by the Commission which held that the taxpayer was a responsible person under sec. 71.83(1)(b)2, Wis. Stats., with the **authority** and the **duty** to pay the corporation’s withholding taxes, and the **intention to breach that duty**. The taxpayer contends that the Commission failed to produce evidence to establish that he intentionally failed to pay withholding taxes of the corporation.

The Circuit Court concluded that the decision of the Commission was correct.

The taxpayer has not appealed this decision. □

 **Officer liability.** *Michael A. Pharo vs. Wisconsin Department of Revenue* (Circuit Court for Dane County, June 8, 1998). The Wisconsin Tax Appeals Commission issued a decision on October 9, 1997, which was appealed to the Circuit Court. See *Wisconsin Tax Bulletin* 106 (January 1998), page 23, for a summary of the October 9, 1997 decision. The issue in this case is whether the taxpayer is a responsible person under sec. 71.83(1)(b)2, Wis. Stats.

The taxpayer was the secretary of Protective Services, Inc. (“the corporation”) and a member of its board of directors, with authority to sign corporate checks. He signed payroll checks and other corporate checks to creditors during the period under review (1991-1993). The taxpayer was

also the corporation's registered agent. He supervised corporate employees in 1991, and he knew that the corporation was required to remit withholding taxes to the department during the period under review.

The Circuit Court reviewed the decision by the Commission, which held

that the taxpayer was a responsible person under sec. 71.83(1)(b)2, Wis. Stats., with the **authority** and the **duty** to pay the corporation's withholding taxes, and the **intention to breach that duty**. The taxpayer contends that the Commission failed to produce the required evidence to

establish that he was a responsible person.

The Circuit Court affirmed the decision of the Commission.

The taxpayer has not appealed this decision. □



Tax Releases

"Tax releases" are designed to provide answers to the specific tax questions covered, based on the facts indicated. In situations where the facts vary from those given herein, the answers may not apply. Unless otherwise indicated, tax releases apply for all

periods open to adjustment. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.

The following tax releases are included:

land contracts, mortgages, stocks, bonds, and securities, or from the sale of similar intangible personal property, shall follow the residence of the individual, estate, or trust.

Facts and Question 1: The taxpayer was a legal resident of Wisconsin for 1998 (i.e., the taxpayer was domiciled in Wisconsin). During 1998 the taxpayer rolled over a \$40,000 distribution from a regular IRA to a Roth IRA. The taxpayer will report the taxable distribution over a four-taxable year period (\$10,000 per year). The taxpayer filed a 1998 Wisconsin income tax return and included the \$10,000 on his return. In 1999, the taxpayer abandons his Wisconsin residency and establishes a new legal residence in Florida.

Is the remaining \$30,000 (that is, the \$10,000 portion of the distribution that is includable in the taxpayer's federal adjusted gross income in tax years 1999, 2000, and 2001) taxable by Wisconsin?

Answer 1: Yes. The remaining \$30,000 of the IRA distribution is taxable by Wisconsin even though the taxpayer is a nonresident of Wisconsin. The taxpayer must file a Wisconsin income tax return (Form 1NPR) for each year (1999, 2000, and 2001) and report \$10,000 as Wisconsin income each year.

Individual Income Taxes

1. Rollovers to Roth IRAs (p. 29)
2. Tuition Expense Subtraction: Eligible Institutions (p. 30)

Sales and Use Taxes

3. Meat Processors May Qualify as Manufacturers (p. 36)

INDIVIDUAL INCOME TAXES

1 Rollovers to Roth IRAs

Statutes: Sec. 71.04(1)(a), Wis. Stats. (1995-96)

Note: This tax release applies only with respect to taxable years beginning on or after January 1, 1998.

Background: Federal law (sec. 408A(d)(3)(A)(iii), Internal Revenue Code) provides that a taxpayer who rolls over a distribution from a regular IRA to a Roth IRA before January 1, 1999, is to include the taxable amount of the distribution from the regular IRA in income ratably over the four-taxable year period beginning with the taxable year in which the distribution is made, unless an election is

made to include the entire taxable amount in taxable income for 1998.

This federal provision also applies for Wisconsin tax purposes (sec. 71.01(6)(m), Wis. Stats., as amended by 1997 Wisconsin Act 237).

Section 71.04(1)(a), Wis. Stats. (1995-96), provides that all income or loss of resident individuals and resident estates and trusts shall follow the residence of the individual, estate, or trust. In the case of nonresident individuals and nonresident estates and trusts, income or loss from business, rents and royalties, sales of real property, and personal services shall follow the situs of the business, property, or services. Other income (except certain gambling winnings), including income or loss derived from

The entire IRA distribution is considered received by the taxpayer in the year of the rollover (1998) while the taxpayer was a resident of Wisconsin. Internal Revenue Code sec. 408A(d)(3)(A)(iii) affects only when the income is reported, not when the distribution creating the income takes place. Therefore, Wisconsin requires the taxpayer to pay tax on the distribution for each of the four years in which the income is reportable, even if the taxpayer becomes a nonresident of Wisconsin during the four-year period.

Facts and Question 2: The taxpayer was a resident of California for 1998. During 1998, the taxpayer rolled over a \$80,000 distribution from a regular IRA to a Roth IRA. The taxpayer will report the taxable distribution over a four-taxable year period (\$20,000 per year). In 1999, the taxpayer moves to Wisconsin and becomes a legal resident of Wisconsin. Is the \$20,000 which the taxpayer must report on his federal income tax return in each of the years, 1999, 2000, and 2001 taxable by Wisconsin?

Answer 2: No. When a person rolls over a distribution from a regular IRA to a Roth IRA during 1998 at a time the person is not a resident of Wisconsin and will report the income over a four-taxable year period, any amount remaining to be included in federal income is not taxable by Wisconsin if the person subsequently becomes a Wisconsin resident. Since federal law provides an election to report the entire taxable amount in the year of the distribution, the taxpayer will be deemed, for Wisconsin tax purposes, to have elected to report the entire amount of income in the year of the distribution when he was a nonresident. Therefore, no amount of the distribution will be taxable by Wisconsin.

Note Even if this taxpayer had moved to Wisconsin in 1998, as long as the

IRA distribution occurred before the taxpayer became a Wisconsin resident, no amount would be taxable by Wisconsin. □

2 Tuition Expense Subtraction: Eligible Institutions

Statutes: Section 71.05(6)(b)28, as created by 1997 Wisconsin Act 237

Note: This tax release applies only with respect to taxable years beginning on or after January 1, 1998.

Background: Section 71.05(6)(b)28, as created by 1997 Wisconsin Act 237, provides a subtraction from federal adjusted gross income when computing Wisconsin taxable income for up to \$3,000 of the amount paid for tuition expenses. The tuition must have been paid for a student who is the claimant, the claimant's spouse if married filing a joint return, or the claimant's child who is claimed as a dependent on the claimant's federal income tax return. Up to \$3,000 may be claimed for each student. For example, if you paid tuition for two dependents who are attending a university, you may claim up to \$3,000 for each.

The amount of the subtraction is reduced as shown in the following chart, based on federal adjusted gross income (FAGI):

Filing Status	Subtraction Reduced if FAGI is Between	No Subtraction Allowed if FAGI is
Single or Head of Household	\$50,000 and \$60,000	\$60,000 or more
Married Filing a Joint Return	\$80,000 and \$100,000	\$100,000 or more
Married Filing a Separate Return	\$40,000 and \$50,000	\$50,000 or more

The tuition must have been paid during the taxable year to attend any of the following:

- Classes in Wisconsin at a school which qualifies as a university, college, or technical college.
- Classes in Wisconsin at other post-secondary schools (post-high schools) that have been approved by the Wisconsin Educational Approval Board.
- Classes in Minnesota at a public vocational school or public institution of higher education in Minnesota under the Minnesota-Wisconsin tuition reciprocity agreement.

Question 1: Which institutions located in Minnesota participate in the Minnesota-Wisconsin tuition reciprocity agreement?

Answer 1: Following is a list of public institutions in Minnesota that participate in the Minnesota-Wisconsin tuition reciprocity agreement. Tuition paid for a student who is attending one of these institutions under the Minnesota-Wisconsin reciprocity agreement qualifies for the subtraction.

(**Note:** This list was provided by the Wisconsin Higher Education Board on November 13, 1998.)

ELIGIBLE INSTITUTIONS:

Universities and Colleges:

- Anoka Ramsey CC
- Central Lakes C & TC
- Century C & TC
- Fergus Falls CC
- Fond du Lac CC
- Hibbing C & TC
- Inver Hills CC
- Itasca CC
- Lake Superior C & TC
- Mesabi C & TC
- Minneapolis C & TC
- Normandale CC
- North Hennepin CC

Northland C & TC
 Rainy River CC
 Ridgewater C & TC
 Riverland C & TC
 Rochester C & TC
 Vermillion CC
 Worthington CC
 Bemidji State University
 Mankato State University
 Metropolitan State University
 Moorhead State University
 St. Cloud State University
 Southwest Minnesota State University
 Winona State University
 University of Minnesota - Twin Cities
 University of Minnesota - Crookston
 University of Minnesota - Duluth
 University of Minnesota - Morris

Technical Colleges:

Alexandria Technical College
 Anoka-Hennepin Technical College
 Dakota County Technical College
 Hennepin Technical College
 Northwest Technical College
 Pine Technical College
 Red Wing/Winona Technical College
 South Central Technical College
 St. Cloud Technical College
 St. Paul Technical College

Question 2: Which post-secondary schools have been approved by the Wisconsin Educational Approval Board?

Answer 2: Following is a list of schools which have been approved by the Wisconsin Educational Approval Board as of November 13, 1998. Tuition paid for classes taken in Wisconsin from one of these schools qualifies for the subtraction.

(**Note:** This list was provided by the Wisconsin Educational Approval Board on November 13, 1998.)

APPROVED SCHOOLS:

A SpiriTouch Institute, Inc. (ASI)
 6225 University Avenue
 Madison, WI 53705
Additional Teaching Locations
 None

ABC School of Real Estate
 650 Westhill Blvd.
 Appleton, WI 54914
Additional Teaching Locations
 Appleton: 1050 N. Lynndale

Niagara: Niagara Public High School,
 700 Jefferson Avenue

Academy of Travel.
 12700 West Bluemound Road
 Elm Grove, WI 53122
Additional Teaching Locations
 None

ACTION Employment and Training
 1800 Appleton Road
 Menasha, WI 54952
Additional Teaching Locations
 None

Allied Computer Group, Inc.
 600 West Virginia Street, 6th Floor
 Milwaukee, WI 53204
Additional Teaching Locations
 Appleton: 3011 E. Capitol Dr.

American Home Inspectors Training Institute, Ltd.
 212 Wisconsin Avenue
 Waukesha, WI 53186
Additional Teaching Locations
 None

American Institute for Paralegal Studies, Inc.
 17W705 Butterfield Road, Suite A
 Oakbrook Terrace, IL 60181
Additional Teaching Locations
 DePere: St. Norbert College, College Avenue
 Madison: Inntowner, Best Western,
 2424 University Ave.
 Milwaukee: Milwaukee Marriott Brookfield,
 375 S. Moorland Rd.

American Institute of Taxidermy
 4552 Hwy 51 North
 Boulder Junction, WI 54512
Additional Teaching Locations
 None

Art Instruction Schools - Palmer Writers School
 3309 Broadway, NE
 Minneapolis, MN 55413
Additional Teaching Locations
 None

Associated Institute of Travel
 2215 South Oneida Street
 Green Bay, WI 54304
Additional Teaching Locations
 Green Bay: 2050 Riverside Drive

Associated Training Services Corporation
 7190-C Elder Lane
 Sun Prairie, WI 53590
Additional Teaching Locations
 None

Astron, Inc.
 112 South Mountain Way Drive
 Orem, UT 84058
Additional Teaching Locations
 None

Aurora University
 Lake Geneva Campus
 P.O. Box 210
 Williams Bay, WI 53191-0210
Additional Teaching Locations
 New Berlin: Eisenhower High and Middle School,
 4333 Sunnyslope Rd.

Badger State Repair School
 204 W. Centralia
 Elkhorn, WI 53121
Additional Teaching Locations
 None

Balanced Touch Institute, Inc. (The)
 N7576 Timber Drive
 Rib Lake, WI 54470
Additional Teaching Locations
 Rib Lake: Rib Lake Health Care Center,
 650 Pearl St.
 Wausau: Northcentral Technical College,
 1000 Campus Dr.

Barbizon School of Modeling
 Time Life Building
 541 North Fairbanks
 Chicago, IL 60611
Additional Teaching Locations
 Schaumburg, IL: Barbizon School,
 1051 Perimeter Dr.

Becker CPA Review Corp.
 Devry Inc.
 One Tower Lane
 Oakbrook Terrace, IL 60181-4624
Additional Teaching Locations
 Madison: Madison College, 31 S Henry Street
 Milwaukee: Keller Graduate School of Management, 100 East Wisconsin Avenue Suite 2550
 Waukesha: Keller Graduate School of Management, 20935 Swenson Drive Suite 450
 Waukesha: Holiday Inn, 2417 Bluemound Rd.
 Whitewater: University of Wisconsin,
 5019 Carlson Hall

Brown Institute
 1440 Northland Drive
 Mendota Heights, MN 55120
Additional Teaching Locations
 None

Bryant & Stratton College
 1300 N Jackson St
 Milwaukee, WI 53202
Additional Teaching Locations
 None

Business and Banking Institute
 323 West Wells Street
 Milwaukee, WI 53203
Additional Teaching Locations
 None

Capri College
 6414 Odana Road
 Madison, WI 53719
Additional Teaching Locations
 None

Careers in Travel
 428A Division St.
 Stevens Point, WI 54481
Additional Teaching Locations
 None

Carlson Travel Academy
 9072 North Deerbrook Trail
 Brown Deer, WI 53233
Additional Teaching Locations
 None

Central Wisconsin School of Real Estate 3017 Church Street Stevens Point, WI 54481 <i>Additional Teaching Locations</i> Schofield: 1030 Grand Avenue	OH, Columbus: 1350 Alum Creek Dr. TX, Irving: 4800 Regent Blvd.	Graceland College Division of Health Care Professionals 700 College Avenue Lamoni, IA 50140 <i>Additional Teaching Locations</i> None
Century 21 Affiliated School of Real Estate 2800 Royal Avenue Madison, WI 53713 <i>Additional Teaching Locations</i> None	Diesel Truck Driver Training School, Inc. Hwy 151 & Hwy VV P.O. Box 560 Sun Prairie, WI 53590 <i>Additional Teaching Locations</i> None	Great Plains Educational Services 6318 Hartford Drive P. O. Box 44344 Madison, WI 53744 <i>Additional Teaching Locations</i> Madison: Radisson Hotel, 517 Grand Canyon Dr. Madison: Howard Johnson Downtown, 525 W. Johnson St. Madison: Cardinal Stritch College, 8017 Excelsior Dr.
Century 21 Savaglio School of Real Estate 1557 S. Green Bay Road Racine, WI 53406 <i>Additional Teaching Locations</i> None	Educational Center for Financial Services 11805 West Hampton Avenue Milwaukee, WI 53225 <i>Additional Teaching Locations</i> Appleton: Woodfield Suites, 3730 W. College Ave. Eau Claire: Howard Johnson, 809 W. Clairemont Ave. Green Bay: Holiday Inn, 2580 S. Ashland Ave. Madison: Howard Johnson Plaza Hotel, 525 West Johnson Street Madison: Herzog College of Technology, 1227 N. Sherman Ave. Madison: Radisson Inn, 517 Grand Canyon Wauwatosa: Holiday Inn Express Mayfair, 11111 W. North Ave.	H & R Block P. O. Box 25397 Milwaukee, WI 53225 <i>Additional Teaching Locations</i> Antigo: 531 Clermont Appleton: 339 W. Wisconsin Ave. Beaver Dam: 228 Front St. Beloit: 1731 Madison Rd. Beloit: 2632 Prairie Ave. Black River Falls: 13 N. First St. Burlington: 132 W. Chestnut Chippewa Falls: 337 E. Prairie View Rd. Delavan: 218 E. Walworth Eau Claire: 1035 N. Hastings Way Eau Claire: 2525 E. Clairemont Ave. Eau Claire: 2639 N. Clairemont Ave. Fond du Lac: 171 S. Main St. Fort Atkinson: 116 N. Main St. Friendship: 511A Main St. Green Bay: 601 S. Military Ave. Greenfield: 6015 W. Forest Home Ave. Hales Corners: 5300 S. 108th Street Hartford: 225 N. Main St., In Times Press Building Janesville: 2020 E. Milwaukee Janesville: 2511 Milton Ave. Jefferson: 130 E. Racine Jefferson: 109 N. Main Street, Suite 101 Kenosha: 3456 52nd St. Kenosha: 6124 - 22nd Avenue LaCrosse: 1527 Losey Blvd. LaCrosse: Bridgeview Plaza, 2344 Rose St. Madison: 1205 N. Sherman Ave. Madison: 1240 S. Park St. Madison: 2617 E. Washington Avenue Madison: 6754 Odana Rd. Manitowoc: Shopko Plaza Marshfield: 405 S. Central Medford: 201 S. Main St. Menomonee Falls: N85 W15768 Appleton Ave. Menomonie: 815 E. Sixth Ave. Middleton: 2530 Allen Blvd. Milwaukee: 1201 N. 35th St. Milwaukee: 1842 S. 15th Milwaukee: 3254 S. 27th St. Milwaukee: 4885 S. 27th St. Milwaukee: 5209 W. Fond du Lac Ave. Milwaukee: 6806 W. Brown Deer Rd. Milwaukee: 7600 W. Capitol Dr. Milwaukee: 809 E. Capitol Drive Monroe: 1821 6th St. Mukwonago: 101 Lake St. Neenah: 796 Winneconne Avenue Neillsville: 624 Hewitt New Berlin: 15429 W. National Ave. New Holstein: 2014C Wisconsin
Charles Training Institute 3417 Douglas Avenue Racine, WI 53402 <i>Additional Teaching Locations</i> None	English Language Center P.O. Box 5234 Madison, WI 53705 <i>Additional Teaching Locations</i> None	
CHI Energy Resource Center 4222 Milwaukee St., Suite 12 Madison, WI 53714 <i>Additional Teaching Locations</i> None	Entre Computer Center 13400 Bishops Lane, Suite 270 Brookfield, WI 53005 <i>Additional Teaching Locations</i> None	
College of St. Scholastica (The) 1200 Kenwood Avenue Duluth, MN 55811 <i>Additional Teaching Locations</i> DePere: Ministry and Life Retreat Center, St. Norbert Abbey, 1016 N. Broadway Marathon: St. Anthony's Retreat Center, 300 E. 4th St.	Executrain of Wisconsin 18650 West Corporate Drive, Suite 115 Brookfield, WI 53045 <i>Additional Teaching Locations</i> Appleton: 501 Nicolet Madison: 4600 American Pkwy., Suite 102 Milwaukee: 720 N. Water St.	
Dairyland Diesel Driving School Highway 12 and Plaza Dr P. O. Box 131 Wisconsin Dells, WI 53965 <i>Additional Teaching Locations</i> None	Focuscorp, Inc. 3201 Latham Drive Madison, WI 53713-4615 <i>Additional Teaching Locations</i> None	
Dearborn Financial Institute 11805 West Hampton Ave. Milwaukee, WI 53225 <i>Additional Teaching Locations</i> Madison: Quality Inn South, 4916 East Broadway Oshkosh: Hilton Inn, 1 North Main Street	Fox Valley School of Massage P.O. Box 615 Neenah, WI 54957-0615 <i>Additional Teaching Locations</i> Appleton: 2003 N. Meade St., Suites 211 & 212 Appleton: Appleton Medical Center, 1818 S. Merde St.	
Dental Assisting Careers Institute 9302 West Bluemound Road Milwaukee, WI 53226-4449 <i>Additional Teaching Locations</i> None	Fox Valley Travel School 2444 W. College Ave. Appleton, WI 54911 <i>Additional Teaching Locations</i> Appleton: Comfort Suites and Amora Villa De Pere: St. Norbert College, College Ave.	
DeVry Institutes One Tower Lane Oakbrook Terrace, IL 60181 <i>Additional Teaching Locations</i> AZ, Phoenix: 2149 W. Dunlap Ave. CA, Fremont: 6800 Dumbarton Circle CA, Long Beach: 3880 Kilroy Airport Way CA, Pomona: 901 Corporate Center Dr. GA, Alpharetta: 2555 Northwinds Parkway GA, Decatur: 250 North Arcadia Ave. IL, Chicago: 3300 N. Campbell Ave. IL, Addison: 1221 N. Swift Rd. MO, Kansas City: 11224 Holmes Rd. NY, Long Island City: 30-20 Thomson Ave.	Gered Models International, Ltd. 2702 Monroe Street Madison, WI 53711 <i>Additional Teaching Locations</i> None	

New Richmond: 340 S. Knowles	<i>Additional Teaching Locations</i>	CA, Long Beach: 3880 Kilroy Airport Way
Oconomowoc: 112 N. Main	None	CA, Pomona: Pomona Center, 901 Corporate Center Drive
Oshkosh: 937 N. Main St.		GA, Alpharetta: 2555 Northwinds Parkway
Oshkosh: 1092 S. Koeller Rd.	Insurance Agent Prelicensing School (The)	GA, Atlanta: Atlanta/Perimeter Center, Two Ravinia Dr.
Pewaukee: Silvernail Shopping Center, 2110 W. Silvernail	2033 South 104th Street	GA, Atlanta: Buckhead Center, 4 Piedmont Center, 3565 Piedmont Rd., NE, Suite 240
Platteville: 15 W. Main St.	West Allis, WI 53227	GA, Decatur: Decatur Center, 250 N. Arcadia Ave.
Plymouth: 2621 Eastern Avenue	<i>Additional Teaching Locations</i>	IL, Elgin: Elgin Ctr, 385 Airport Rd.
Prairie du Chien: 702 E. Blackhawk	Appleton: Woodfield Suites, 3730 West College Avenue	IL, Oakbrook Terrace: One Tower Lane
Racine: 2310A South Green Bay Rd.	Appleton: Paper Valley Hotel, 333 West College Avenue	IL, Orland Park: South Surburan Ctr, 15255 S. 94th Ave., Suite 400
Racine: 3701 Durand Ave., Elmwood Plaza	Brookfield: Midway Hotel, 1005 South Moorland Road	IL, Chicago: Chicago Loop Center, 225 W. Washington, Suite 100
Racine: 3900C Erie St.	Brookfield: Primerica Financial Services, 1335 S. Moorland Rd.	IL, Lisle: Lisle Center, 6200 Rt. 53, Suite G-11
Reedsburg: 1030 E. Main Street	Green Bay: Primerica Financial Services, 1066 Mather St.	IL, Schaumburg: Northwest Suburban Ctr, 1051 Perimeter Dr., 9th Fl., Woodfield Exec. Plaza
Rhineland: 76 S. Brown	La Crosse: Primerica Financial Services, 200 Main St., Ste. 210	IL, Lincolnshire: North Suburban Ctr, Tri-State Int'l, Bldg 25, Suite 130
Rice Lake: 800 South Main Street	La Crosse: Primerica Financial Services, 205 5th Ave.	IN, Merrillville: Merrillville Center, Twin Towers, 1000 East 80th Place, Suite 609
River Falls: 107 W. Walnut	Madison: Primerica Financial Services, 2317 International Lane, Ste. 216	MO, St. Louis: St. Louis Center, Suite 260, 1801 Park 270 Drive
St. Francis: 4698 S. Whitnall Ave.	Madison: Quality Inn South, 4916 E. Broadway	MO, St. Louis: St. Louis !! Center, 1010 Market St., Suite 550
Salem: 2763 6 - 75th St.	Marshfield: Marshfield Innkeeper, 2700 South Roddis Avenue	MO, Kansas City: South Ctr, 11224 Holmes Rd.
Sauk City: 205 Phillips Blvd.	Milwaukee: Quality Inn-Airport, 5311 S. Howell Ave.	MO, Kansas City: Downtown Ctr, City Ctr Sq, 1100 Main St.
Sheboygan: 2821 N. 15th	Tomah: Holiday Inn, Hwy 21 & Jct I-94	VA, McLean, Tysons Corner Center, 1751 Pinnacle Dr.
Sheboygan: 2233 Calumet Drive		WI, Milwaukee: Milwaukee Center, 100 E. Wisconsin Ave., Suite 2550
Sheboygan: 2613 S. Business Drive	ITT Technical Institute	WI, Waukesha: Waukesha Center, 20935 Swenson Drive, Suite 450
South Milwaukee: 2901 S. Chicago	6300 West Layton Avenue	
Stevens Point: 2607 Post Rd	Greenfield, WI 53220-4612	Kenosha School of Real Estate 4721 75th Street Kenosha, WI 53142
Stoughton: 1060 W. Main St., #4, Stoughton Plaza Shopping Center	<i>Additional Teaching Locations</i>	<i>Additional Teaching Locations</i>
Tomah: 115 East Clifton	None	None
Two Rivers: 1608 Washington St.	Jackson Hewitt Tax School of Wisconsin	Lakeside School of Massage Therapy 1726 N. 1st Street, 1st Floor Milwaukee, WI 53212
Viroqua: 101 S. Rock	4575 Bonney Road	<i>Additional Teaching Locations</i>
Waterloo: 112 E. Madison Street	Virginia Beach, VA 23462	None
Watertown: 409 E. Main St.	<i>Additional Teaching Locations</i>	LAN Masters Technical Education Services 1218 South Military Avenue Green Bay, WI 53404
Waukesha: 121 W. Sunset Drive	None	<i>Additional Teaching Locations</i>
Waukesha: 21505 Hwy 18	John Casablancas Modeling and Career Center	None
Waupun: 310 E. Main St.	Brookfield Lakes Corporation Center IV	LAN Masters Technical Education Services 1218 South Military Avenue Green Bay, WI 53404
Wautoma: Hwy. 21E	200 North Patrick Boulevard, # 700	<i>Additional Teaching Locations</i>
West Allis: 2261 S. 108th St.	Brookfield, WI 53045	None
West Allis: 6755 W. Greenfield Ave.	<i>Additional Teaching Locations</i>	LAN Masters Technical Education Services 1218 South Military Avenue Green Bay, WI 53404
West Bend: 703 Cedar St.	None	None
Whitewater: 135 W. Center St.	John Rinehart Taxidermy School	Lesley College 29 Everett Street Cambridge, MA 02138-2790
Wisconsin Rapids: 641 8th Street, South.	3032 McCormick Drive	<i>Additional Teaching Locations</i>
	P.O. Box 5010	Green Bay: Northeast Wisconsin Technical College, 2340 Mason St.
Herzing College	Janesville, WI 53547-5010	Green Bay: Lombardi Middle School, 1520 South Pointe Road
1227 North Sherman Ave.	<i>Additional Teaching Locations</i>	Kenosha: Lakeview Technology Academy, 9449 88th Ave.
Madison, WI 53704	None	Milwaukee: Maple Dale School, 8377 N. Port Washington Rd.
<i>Additional Teaching Locations</i>	Johns Hopkins University	Verona: Verona Senior High School, 300 Richard St.
None	3400 North Charles Street	West Allis: Nathan Hale High School, 11601 W. Lincoln Ave.
High-Tech Institute	Baltimore, MD 21218	Lincoln Technical Institute 7320 W. Agatite Norridge, IL 60656
1515 E. Indian School Road	<i>Additional Teaching Locations</i>	
Phoenix, AZ 85014	Milwaukee: Plankinton Center, 161 W. Wisconsin Ave.	
<i>Additional Teaching Locations</i>		
None	Keller Graduate School of Management	
Howard Academy for the Metal Arts	100 East Wisconsin Ave., Suite 2550	
188-194 West Main Street	Milwaukee, WI 53202	
Stoughton, WI 53589	<i>Additional Teaching Locations</i>	
<i>Additional Teaching Locations</i>	AZ, Mesa: Mesa Center, Suite 5450, 1201 South Alma School Road	
None	AZ, Phoenix: Phoenix/Northwest Ctr, 2149 W. Dunlap Ave.	
Hypnosis Wellness & Training Center	CA, Irvine: 3333 Michelson Drive	
20 South Main St., Suite 24		
Janesville, WI 53545		
<i>Additional Teaching Locations</i>		
None		
IKON Technology Services		
11425 West Lake Park Drive		
Milwaukee, WI 53224		
<i>Additional Teaching Locations</i>		
None		
Institute of Dental Assisting		
6641 University Ave.		
Middleton, WI 53562		

Additional Teaching Locations

None

Loyola University Chicago

820 N. Michigan Avenue

Chicago, IL 60611

Additional Teaching Locations

None

Madison English as a Second Language School,

LLC

3009 University Avenue

Madison, WI 53705

Additional Teaching Locations

Madison: 3009 University Ave., Room 103

Madison Media Institute

One Point Place

Office Building, Suite 1

Madison, WI 53719

Additional Teaching Locations

None

MBTI Business Training Institute

606 W. Wisconsin Ave.

Milwaukee, WI 53203

Additional Teaching Locations

None

McConnell School, Inc. (The)

1201 Marquette Avenue, Suite 100

Minneapolis, MN 55403

Additional Teaching Locations

None

Midwest Center for Career Education

408 Archery Road

Manitowish Waters, WI 54545

Additional Teaching Locations

None

Midwest Center for the Study of Oriental

Medicine

6226 Bankers Road, Suites 5 & 6

Racine, WI 53403

Additional Teaching Locations

Racine: 6233 Bankers Rd., Suite 15

Milwaukee School of Massage

1661 North Water Street, Suite 301

Milwaukee, WI 53202

Additional Teaching Locations

None

Minneapolis Business College

1711 West County Rd. B

Roseville, MN 55113

Additional Teaching Locations

None

Motorcycle and Marine Mechanics Institute

Division of Clinton Technical Institute

9751 Delegates Drive

Orlando, FL 32837

Additional Teaching Locations

AZ, Phoenix: Motorcycle Mechanics Institute,

2844 W. Deer Valley Rd.

Nashville Auto Diesel College

1524 Gallatin Road

Nashville, TN 37206

Additional Teaching Locations

None

National-Louis University

Milwaukee/Beloit Campus

325 North Corporate Drive, Suite 200

Brookfield, WI 53045-5861

Additional Teaching Locations

Beloit: Beloit Memorial High School,

1225 Fourth St.

Brookfield: Brookfield Academy,

3460 N. Brookfield Rd.

Brown Deer: Brown Deer Methodist Church,

5736 W. Brown Deer Rd.

Dousman: Kettle Moraine Middle School,

301 E. Ottawa Ave.

Glendale: Nicolet High School,

6701 N. Jean Nicolet Rd.

Grafton: Grafton High School,

1950 Washington Street

Kenosha: Bradford High School,

3700 Washington Rd.

Kenosha: Bullen Junior High School,

2804 39th Ave.

Madison: Cherokee Middle School,

4301 Cherokee Drive

Madison: LaFollette High School, 702 Pflaum Rd.

Madison: Quality Inn South, 4916 E. Broadway

Mequon: Homestead High School,

5000 W. Mequon Rd.

Milwaukee: Grand Avenue Middle School,

2340 W. Wisconsin Ave.

Milwaukee: Lady Pitts School,

4920 Capitol Dr., #232

Milwaukee: Marshall High School,

4141 N. 64th St.

Milwaukee: Sheraton Inn Mayfair,

2303 N. Mayfair Rd.

Milwaukee: St. Catherine's High School,

2647 N. 51st St.

Milwaukee: War Memorial Center,

750 N. Lincoln Memorial Dr.

Oak Creek: Oak Creek High School,

340 Puetz Rd.

Racine: Case High School, 7345 Washington Ave.

Salem: Central High School, P.O. Box 38,

24617 75th St.

Sheboygan: South High School, 3128 S. 12th St.

Shorewood: Lake Bluff Elementary School,

1600 East Lake Bluff Boulevard

Shorewood: Shorewood High School,

1701 E. Capitol Dr.

Somers: Shoreland Lutheran High School,

9026 12th St.

Waterford: Waterford High School,

110 S. Center St.

New Horizons Computer Learning Center, Inc.

5315 Wall Street, Suite 140

Madison, WI 53718

Additional Teaching Locations

Green Bay: 840 S. Military Ave.

New Horizons Computer Learning

Center - Milwaukee

2100 North Mayfair Road

Wauwatosa, WI 53226

Additional Teaching Locations

None

Neway Directions, Inc.

6400 Gisholt Drive, #102

Madison, WI 53713

Additional Teaching Locations

None

Nova Southeastern University

3301 College Avenue

Fort Lauderdale, FL 33314

Additional Teaching Locations

Milwaukee: The Grand Milwaukee Hotel,

4747 S. Howell Ave.

Wausau: Best Western Midway Motel,

2901 Martin Ave.

Ottawa University - Milwaukee

300 N. Corporate Drive, Suite 110

Brookfield, WI 53045-5865

Additional Teaching Locations

None

Professional Bartending School of Wisconsin

739 S. 108th Street

West Allis, WI 53214

Additional Teaching Locations

None

Professional CDL Training Institute, Inc.

3865 West Wells Street

Milwaukee, WI 53208

Additional Teaching Locations

None

Professional Dental Assistant Training (PDAT)

510 Hartbrook Drive

Hartland, WI 53029

Additional Teaching Locations

None

Professional Institute of Dental Assisting, Inc.

1714 N. Randall Ave.

Janesville, WI 53545

Additional Teaching Locations

None

ProStaff Training Plus

1033 North Mayfair Road, Suite 304

Wauwatosa, WI 53226-3240

Additional Teaching Locations

None

Rasmussen College

3500 Federal Drive

Eagan, MN 55122

Additional Teaching Locations

None

Real Estate School (The)

928 Grand Avenue

Schofield, WI 54476

Additional Teaching Locations

None

Robbins & Lloyd Career Training Institute

Monterrey Park

5309 N. 118th Ct.

Milwaukee, WI 53225

Additional Teaching Locations

Kenosha: Bear Realty, 4011 80th St.

Milwaukee: 5309 N. 118th Ct.

Saint Croix Center for the Healing Arts

3121 St. Croix Trail South

P.O. Box 354

Afton, MN 55001

Additional Teaching Locations

None

Saint Mary's University of Minnesota

2500 Park Avenue South

Minneapolis, MN 55404

Additional Teaching Locations

Minocqua: Minocqua Elementary School,
7450 Titus Dr.
Mukwonago: Mukwonago High School,
605 W. School Rd.
Oconomowoc: 641 E. Forest St.
Pewaukee: Waukesha County Technical College,
800 Main St.
Platteville: Gray Elementary School,
110 W. Adams Street
Stevens Point: UW - Stevens Point,
900 Reserve St.
Sun Prairie: St. Albert House, 2420 St. Albert Dr.
Superior: Superior High School, 2600 Catlin Ave.
Wisconsin Rapids: Wisconsin Rapids School
District - District Office, 510 Peach St
MN, Lindstrom: Chisago Lakes High School,
13750 Lakes Blvd.

Securities Training Corporation
309 W. Washington Street, Suite 450
Chicago, IL 60606

Additional Teaching Locations
None

Security Travel School
605 North 8th Street
Sheboygan, WI 53081
Additional Teaching Locations
None

Shorewest Real Estate Institute
11622 West North Avenue
Wauwatosa, WI 53226
Additional Teaching Locations
Brookfield: 17450 West North Avenue
Brookfield: Unitarian Universalist Church West,
13001 W. North Ave.
Menasha: Wauwatosa United Realty,
1486 Kenwood Center-Midway Rd.
Mequon: Wauwatosa Realty Co.,
1407 W. Mequon Road
Mequon: Homestead High School,
5000 W. Mequon Road
Sheboygan: Wauwatosa United Realty,
2500 Kohler Memorial Dr.
Waukesha: 121 W. Sunset Dr.
Wauwatosa: Wauwatosa Realty Co.,
11622 W. North Ave.
West Bend: UW-Washington County,
400 University Ave.
West Bend: 2419 West Washington Avenue
West Bend: West Bend High School,
1305 E. Decorah Road

Southeastern Academy
233 Academy Drive
P. O. Box 421768
Kissimmee, FL 32742-1768
Additional Teaching Locations
None

Stark Company School of Real Estate
717 John Nolen Drive
Madison, WI 53713
Additional Teaching Locations
Madison: 702 North High Point Road

Summit Schools, Inc.
117 Oakridge Court
P. O. Box 497
Watertown, WI 53094-0497

Additional Teaching Locations

Appleton: Paper Valley Hotel & Conference
Center, 333 W. College Ave
Watertown: ISC.INC, 117 Oakridge Ct.

TAI Travel Academy
4279 S. 76th St.
Greenfield, WI 53220
Additional Teaching Locations
None

TAI Travel Academy-Kenosha
4653 75th Street
Kenosha, WI 53142
Additional Teaching Locations
None

Travel Institute, Inc.
5801 Washington Avenue
Racine, WI 53406
Additional Teaching Locations
None

Travel Learn, LTD
2701-C University Avenue
Madison, WI 53705
Additional Teaching Locations
None

Trinity College of Vermont
208 Colchester Avenue
Burlington, VT 05401
Additional Teaching Locations
Milwaukee: Milw. Co. Mental Health C Building,
9501 Watertown Plank Rd.

Trinity International University
2065 Half Day Road
Deerfield, IL 60015-1284
Additional Teaching Locations
Brookfield: 777 S. Barker Road,
Elmbrook Church
Madison: 7702 Old Sauk Road,
High Point Church

Underwater Career Center
S5780, Highway 123
Baraboo, WI 53913
Additional Teaching Locations
None

Universal Technical Institute
3002 North 27th Avenue
Phoenix, AZ 85017-4599
Additional Teaching Locations
TX, Houston: 721 Lockhaven Dr.

University of Maryland University College
University Boulevard at Adelphi Road
College Park, MD 20742
Additional Teaching Locations
Green Bay: Wisconsin Public Service
Corporation, 600 N. Adams St.
Two Rivers: Wisconsin Electric Power Company,
6610 Nuclear Rd

University of St. Francis
500 North Wilcox Street
Joliet, IL 60435
Additional Teaching Locations
Brookfield: 16900 W. Gebhardt Rd.,
Brookfield Central High School
Elkhorn: W3985 County Rd.,
Lakeland Medical Center

Madison: 1010 Mound Ave., Meriter Hospital,
McConnell Hall
Milwaukee: 2900 W. Oklahoma Ave.,
St. Luke's Hospital
Milwaukee: 3237 S. 16th St., St. Francis Hospital

Upper Iowa University
605 Washington Street
P. O. Box 1857
Fayette, IA 52142
Additional Teaching Locations
Janesville: Blackhawk Technical College,
6004 Prairie Road
Lancaster: Lancaster Middle School,
802 E. Elm Street
Madison: 4601 Hammersley Road
Menomonee Falls: N88 W17658 Christmann
Road
Oak Creek: 8580 S. Howell Avenue
Pewaukee: 800 W. Main Street
Prairie du Chien: 520 East Blackhawk Avenue
Rhineland: Nicolet Technical College,
Tamarack Center, Trunk Hwy G
Richland Center: Brewer Public Library,
325 N. Central Avenue
Tomahawk: Tenneco Packaging Training Center,
N9090 County Road East
Wausau: Northcentral Technical College,
1000 W. Campus Drive, Room 114
West Allis: 6610 West Greenfield Avenue

ValCom Education
3113 W Beltline Hwy., Floor 2
Madison, WI 53713
Additional Teaching Locations
None

WESLI, LLC Wisconsin English Second
Language Institute
19 North Pinckney Street
Madison, WI 53703
Additional Teaching Locations
None

Wisconsin Institute of Natural Wellness
6921 Mariner Drive, Suite G
Racine, WI 53406
Additional Teaching Locations
None

Wisconsin Madison English Language Institute
LLC (Inactive)
1885 Essex Drive
Sun Prairie, WI 53590
Additional Teaching Locations
None

Wisconsin Real Estate Academy
7601 Pershing Blvd., Suite 4
Kenosha, WI 53142
Additional Teaching Locations
Kenosha: Harbor View Office Center, Suite 120

Wisconsin School of Professional
Pet Grooming, Inc.
N51 W34917 Wisconsin Ave.
P. O. Box 175
Okauchee, WI 53069
Additional Teaching Locations
None

Wisconsin Technology Training Institute, Ltd.
2201 S. Oneida Street, Suite 7
Green Bay, WI 53404

Additional Teaching Locations
None

Wyoming Technical Institute
4373 North 3rd Street
Laramie, WY 82070
Additional Teaching Locations
WY, Laramie: 1557 North Third St.

Question 3: An individual pays tuition to attend a post-secondary school (post-high school) in Wisconsin, but this school does not appear in the listing in the answer for Question 2 above. May the tuition paid by this individual be claimed as a subtraction from federal adjusted gross income in computing his or her Wisconsin taxable income?

Answer 3: Yes, the tuition may be claimed as a subtraction, but only if the school which the individual attends qualifies as a university, college, or technical college. To qualify as a university, college, or technical college, the school must have a curriculum which leads to a diploma, degree, or occupational or vocational objective. If you have any questions about whether a school qualifies, you may write to: Wisconsin Department of Revenue, Technical Services, P.O. Box 8933, Madison, WI 53708-8933.

SALES AND USE TAXES

Note: The following tax release interprets the Wisconsin sales and use tax law as it applies to the 5% state sales and use tax. The 0.5% county and 0.1% stadium sales and use taxes may also apply. For information on sales or purchases that are subject to the county or stadium sales and use tax, refer to Wisconsin Publication 201, *Wisconsin Sales and Use Tax Information*.

3 Meat Processors May Qualify as Manufacturers

Statutes: Section 77.54(2), (6)(a), and (6m), Wis. Stats. (1995-96)

Wis. Adm. Code: Section Tax 11.39(3)(s) and (4)(b) and (n)10., Wis. Adm. Code (October 1997 Register)

Background:

Law:

Section 77.54(2), Wis. Stats. (1995-96), provides a sales and use tax exemption for:

“The gross receipts from sales of and the storage, use or other consumption of tangible personal property becoming an ingredient or component part of an article of tangible personal property or which is consumed or destroyed or loses its identity in the manufacture of tangible personal property in any form destined for sale, but this exemption shall not include fuel or electricity.”

Section 77.54(6)(a), Wis. Stats. (1995-96), provides a sales and use tax exemption for the gross receipts from the sale of and the storage, use or other consumption of:

“Machines and specific processing equipment and repair parts or replacements thereof, exclusively and directly used by a manufacturer in manufacturing tangible personal property and safety attachments for those machines and equipment.”

Section 77.54(6m), Wis. Stats. (1995-96), provides, in part:

“For purposes of sub. (6)(a) ‘manufacturing’ is the production by machinery of a new article with a different form, use and name from existing materials by a process popularly regarded as manufacturing...”

Wisconsin Administrative Code:

Section Tax 11.39(3)(s), Wis. Adm. Code (October 1997 Register), provides that manufacturers ordinarily

include meat packing and processing plants.

Section Tax 11.39(4)(b) and (n)10., Wis. Adm. Code (October 1997 Register), provides that nonmanufacturers include butcher shops and persons engaged in custom slaughtering of animals. **Note:** Since the processes performed by some butcher shops may qualify as manufacturing, sec. Tax 11.39(4), Wis. Adm. Code (October 1997 Register), is being revised to remove butcher shops from the list of nonmanufacturers.

Court Decisions:

- A. In *H. Samuels Company Inc. vs. Department of Revenue*, Supreme Court of Wisconsin, December 19, 1975 (CCH 201-195), the Supreme Court affirmed the judgement of the trial court, finding that the taxpayer, who used heavy machinery to process scrap metal into prepared grades, met the statutory definition of manufacturing. The requirement that the article of tangible personal property produced must be the result of a “process popularly regarded as manufacturing” applied with reference to those conversant with the subject matter involved, not the “man on the street.”
- B. In *Clarence W. Knebel d.b.a. Knebel’s Processing Plant, Inc. and Knebel Processing Plant, Inc. vs. Wisconsin Department of Revenue*, Wisconsin Tax Appeals Commission, October 20, 1978 (CCH 201-528), the Commission concluded that the taxpayer was not entitled to the manufacturing exemption provided in sec. 77.54(6)(a), Wis. Stats., on machinery and equipment used in its slaughtering operations.

The taxpayer was in the business of slaughtering and processing

beef, lamb, and hogs for wholesale and retail trade.

The taxpayer also slaughtered animals for others (custom slaughtering). The taxpayer cut, wrapped, and froze the animals and made cube steaks, hamburger steaks, and sausages for its customers. The ownership of the animals remained with the customer.

The taxpayer used the same facilities for both custom slaughtering and slaughtering of animals purchased. The taxpayer's custom slaughtering operations were not popularly regarded as manufacturing by those conversant with the industry.

- C. In *Peck Meat Packing Corporation vs. Wisconsin Department of Revenue*, Wisconsin Tax Appeals Commission, August 13, 1980 (CCH 201-735), the Commission concluded that there was ample testimony that the taxpayer was popularly regarded as a manufacturer by persons familiar with the industry.

The taxpayer started with live cattle and cow and beef carcasses. The taxpayer "deboned" carcasses by separating the carcasses into several boneless cuts of beef. The beef was removed from carcasses and had bones, muscles, and fat removed to make it suitable for processing by other manufacturers, such as sausage makers, hamburger makers, chili makers, and others.

Facts:

Meat Processor A uses the following step-by-step processes to produce fresh bratwurst, smoked wieners, and steaks and roasts.

Fresh Bratwurst

Step 1 – Large chunks of raw meat are delivered in boxes. The meat is frozen when it arrives and it is put into a cooler to maintain the proper temperature, to prevent spoiling.

Step 2 - The meat is transported from the holding cooler, where it was placed upon arrival, to the grinder. The grinder is used to grind the meat into the desired texture.

Step 3 - After the meat is ground, it is weighed. Weighing is necessary to determine the proper amount of spices to be added, to obtain the desired flavor.

Step 4 - After being weighed, the meat is placed in a mixer. Spices are added and the mixer mixes the meat and spices together.

Step 5 - After the product is mixed, it is moved to the stuffer. The stuffer is used to "force" the meat into the desired casings.

Step 6 - Once the stuffing process is completed, the product is placed into the package for which it will be offered for sale to the customer. The product is vacuum packed, which assures the product is in an air tight container.

Step 7 - The finished product is placed in a cooler until such time as it is needed for retail or wholesale sale to customers.

Smoked Wieners

Steps 1 through 5 are the same as for the fresh bratwurst, explained above.

Step 6 - After the product is stuffed into the desired casings, it is placed on a rack. When the rack is full, the rack is placed in the smoker. The smoker adds the desired "smoked" flavor to the product.

Step 7 - After the product is smoked, it is placed in a cooler until the temperature of the product reaches the desired level.

Step 8 - Once the temperature of the product reaches the desired level, it is taken out of the cooler and packaged into the package in which it will be offered for sale to the customer. The product is vacuum packed, which assures the product is in an air tight container.

Step 9 - The finished product is placed in a cooler until such time as it is needed for retail or wholesale sale to customers.

Steaks and Roasts

Step 1 – Large chunks of raw meat are delivered in boxes. The meat is frozen when it arrives, and it is put into a cooler to maintain the proper temperature, to prevent spoiling.

For example, a box may contain a "short loin" cut. The "short loin" cut is then cut into various products such as top sirloin, T-bone, porterhouse, and tenderloin steaks. If the box contains a "chuck" cut, the "chuck" cut is then cut into various products such as chuck eye roasts, top blade steaks, pot roasts, etc.

Step 2 - The needed box of meat (depending on the end product desired), is transported from the holding cooler, where it was placed upon arrival, to the saw. The saw is used to cut the large chunks of meat that arrived at the store into the smaller individual products.

Step 3 - After being cut, the smaller cuts of meat are placed on trim tables. At the trim tables, excess fat and unwanted portions of the meat are removed, to get the product into the condition for sale to the customer.

Step 4 - Once the product has been trimmed, it is placed onto a packaging tray.

Step 5 - After the product is on the packaging tray, it is sent through the “auto wrapper,” which is a machine that wraps plastic around the product, to seal it.

Step 6 - Once the product is wrapped, it is placed on a metal tray. Once the metal tray is full, the product is transported to a cooler, where it will be held until needed for retail or wholesale sale to customers.

Question 1: Does the process used by Meat Processor A, as described in the Facts above, meet the definition of “manufacturing” for purposes of the exemptions provided in sec. 77.54(2) and (6)(a), Wis. Stats. (1995-96)?

Answer 1: Yes. The process used by Meat Processor A meets the definition of “manufacturing” in sec. 77.54(6m), Wis. Stats. (1995-96).

Question 2: Does it make a difference if the process is done in a grocery store or butcher shop?

Answer 2: No. If the process qualifies as manufacturing, it does not matter where the process is performed.

Question 3: Does it make a difference if the process involves the **custom** slaughtering of animals (i.e., slaughtering of animals owned by persons other than the person or entity performing the process)?

Answer 3: Yes. Custom slaughtering of animals is not manufacturing. In *Clarence W. Knebel, d.b.a. Knebel's Processing Plant, Inc. and Knebel Processing Plant, Inc. vs. Wisconsin Department of Revenue*, Wisconsin Tax Appeals Commission, October 20, 1978, the Commission determined that the taxpayer's custom slaughtering operations were not popularly regarded as manufacturing.

Notes:

- (a) For machines and specific processing equipment and repair parts or replacements to qualify for exemption under sec. 77.54(6)(a), Wis. Stats. (1995-96), the machines, etc., must be used *exclusively and directly* by a manufacturer in a manufacturing process.
- (b) There are other processes which may be different but somewhat similar to the process described in the Facts that may also qualify as manufacturing. If you have a question as to whether a similar process qualifies as manufacturing, you may request a written determination by writing to: Wisconsin Department of Revenue, Administration Technical Services, P.O. Box 8933, Madison, WI 53708-8933.