



# Wisconsin TAX BULLETIN

**F**OCUS ON . . .  
**Electronic funds transfer (EFT)**

see articles on pages 1 and 11

### New Tax Laws to Be Described in Special Issue

What Wisconsin tax laws will be enacted in 1999? Because of delays in passing the 1999-2001 Budget Bill, this was unknown at the time this Bulletin went to press. New tax laws enacted in 1999 will be described in a special issue of the *Wisconsin Tax Bulletin* later this year.

The *Sales and Use Tax Report* ("Report") will also explain the major changes to the sales and use tax laws. The Report is sent to active sales and use tax registrants. In addition, a copy of the Report will likely be included in the January 2000 issue of the *Wisconsin Tax Bulletin*. □

### Form Changes for 1999

Following are brief descriptions of the major changes to the Wisconsin individual income tax forms (including Schedules H and FC, the

homestead credit and farmland preservation credit forms) for 1999.

- Boxes are added to entry areas of Form 1 to facilitate electronic processing of the form.
- The space for entering information on wages earned in Illinois is removed from all income tax forms.
- The area for entering tax district and school district information is moved to page 1 of Form 1.
- The line for the temporary recycling surcharge is removed from Forms 1 and 1NPR. The surcharge expired for taxable years that end after April 1, 1999.

(See "Form Changes" page 4)

### Electronic Funds Transfer Mandated for Some Tax Payments

#### *Mandatory and Voluntary EFT Payments*

Section Tax 1.12, Wisconsin Administrative Code, (titled "Electronic Funds Transfer") became effective October 1, 1999. This new rule authorizes the Department of Revenue to mandate the use of electronic funds transfer (EFT) for taxpayers whose tax payments exceed certain amounts.

The following taxes and fees will be required to be paid by EFT:

- Withholding taxes when required deposits in the prior calendar year were \$10,000 or more.

**1999  
Tax  
Filing**

Season at a Glance

#### Number of returns

2,776,779 - up 1.2%

#### Number of refunds

1.9 million - up 11%

#### Average refund

\$425 - up 28%

#### Electronic filing

Preparer 346,392 - up 28%

TeleFile 100,208 - up 22%

Internet 16,786 - (new)

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- State, county, and special district or stadium sales and use tax when the aggregate amount due in the prior calendar year was \$10,000 or more.
- Corporation tax due with the tax return and estimated tax payments when the net tax less refundable credits on the prior year's tax return was \$40,000 or more.
- Individual and fiduciary income estimated tax payments when the estimated tax payments required in the prior taxable year were \$40,000 or more.
- Cigarette tax when the tax due in the prior calendar year was \$40,000 or more.
- Tobacco products tax when the net tax due before printing and shipping costs in the prior calendar year was \$40,000 or more.
- Motor vehicle fuel tax and petroleum inspection fee when the aggregate amount due in the prior calendar year was \$40,000 or more.
- Alternative fuels tax when the total tax due in the prior calendar year was \$40,000 or more.

- General aviation fuel tax when the tax due in the prior calendar year was \$40,000 or more.
- Liquor or distilled spirits and wine tax and administrative fee when the aggregate amount due in the prior calendar year was \$40,000 or more.
- Fermented malt beverages tax when the tax due after adjustments in the prior calendar year was \$40,000 or more.

The rule also provides that taxpayers not required to pay by EFT may elect to do so.

Payers that will be mandated to pay by EFT will be notified by the department and will have 90 days to register for the EFT program. Payers of withholding tax will begin receiving notification in December 1999. Payers of other types of taxes and fees will begin receiving notification in February 2000.

The mandatory EFT payment requirement applies to the first payment due date following the end of the 90-day registration period. For example, an employer required to make semi-monthly deposits of withholding tax is notified of mandatory EFT payments on January 10, 2000. The first EFT payment is due April 15, 2000, which is the first deposit due date following the end of the 90-day registration period.

Many employers have already received a registration packet containing an "invitation" to voluntarily register for EFT payments of withholding tax. A similar "invitation" will be sent to payers of sales and use taxes and other taxes in December 1999.

### *Advantages of using EFT*

EFT eliminates the need for writing and processing paper checks and filling out payment vouchers. Funds and payment information are transferred electronically through the Automated Clearing House (ACH) network. Making a tax payment using EFT is as easy as a toll-free telephone call.

The payer has more control over the payment when EFT is used. There is no need to rely on the post office for timely delivery of the payment. When the transaction is initiated by 4:00 p.m. Central Time at least one business day before the due date, it will be received on time. On the other hand, payers can elect to phone in their payments up to 30 days before the due date and not have the payments deducted from their bank account and paid to the state until the actual due date.

EFT is secure and safe. All transactions are governed by strict, nationally established security procedures. EFT payments occur between financial institutions and only at the payer's request. A confirmation number is available immediately as proof of payment.

### *Additional information available*

The text of the new EFT administrative rule, sec. Tax 1.12, is reproduced in this Bulletin, beginning on page 11. See the article titled "Recently Adopted Rules Summarized."

For more information about EFT, contact your financial institution, write to Wisconsin Automated Clearing House Association (WACHA), 16655 W. Bluemound Road, Suite 370, Brookfield, WI 53005, or call or e-mail WACHA at (414) 796-0252 or [WACHA@execpc.com](mailto:WACHA@execpc.com).

If you have questions specific to the department's EFT program, call the department's EFT information line in Madison at (608) 264-9918 or write to Wisconsin Department of Revenue, EFT Unit, P.O. Box 8912, Madison, WI 53708-8912.

To request EFT registration forms and instructions, write to Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8951, Madison, WI 53708-8951, or call (608) 266-1961. □

### **Final Amnesty Report Issued**

The Department of Revenue issued the final tax amnesty report in September 1999. The report is available at the department's Internet web site at [www.dor.state.wi.us](http://www.dor.state.wi.us).

The department collected \$30.9 million under the amnesty program. This exceeded the department's projection of \$27 million but fell short of the \$40 million projected by the Legislative Fiscal Bureau. About \$26.8 million was collected in the 1985 amnesty program.

A total of 23,074 applicants filed for amnesty (compared to 25,700 in 1985). Only 6,271 completely satisfied the terms. Many did not file the required returns or pay the amnesty balance due in 45 days as required.

Amnesty "uncovered" 323 persons who were completely unknown to the department (compared to 235 in 1985). This group paid \$1.79 million. Although 88% of the amnesty applicants were individual taxpayers, taxes from businesses accounted for 62 percent of the dollars collected. Sales tax delinquencies represented 41% of the collections, with income tax delinquencies close behind at 38%. Withholding tax collections made up 9%, corporation

franchise and income tax contributed 5%, and the remaining 7% came from all the other taxes collected by the department.

The program cost \$1.9 million to operate, including \$834,000 for the promotional campaign. □

### **Application for Business Tax Registration Delayed**

Development of the "Application for Business Tax Registration" (Form BTR-101) has been delayed, and use of that form will not be implemented this year as planned. Therefore, the Department of Revenue requests that the Form BTR-101 that appears in the **1998** Package WI-X not be used to register for seller's permits, use tax and consumer's use tax certificates, local exposition tax, or Wisconsin employer registration certificates. The Form BTR-101 was placed in the 1998 Package WI-X in anticipation of its implementation in 1999.

To register for these permits or certificates, please use the "Application for Permit/Certificate" (Form A-101) rather than the Form BTR-101. The current version of Form A-101 has a revision date of 8-99. A copy of the form and instructions appears on pages 49 to 52 of this Bulletin. Additional copies of Form A-101 may be obtained by any of the following methods:

- *In Person*

Visit any Wisconsin Department of Revenue office.

- *By Mail*

Write to  
Wisconsin Department of Revenue  
Forms Request Office  
PO Box 8951  
Madison WI 53708-8951

Telephone (608) 266-1961.

Fax a request to (608) 261-6239.

- *Via Your Fax Machine (Fax-A-Form)*

Call (608) 261-6229 from a fax telephone.

Enter retrieval code 701.

- *Via the Internet*

Access the department's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us).

Click on "1998 Tax Forms" (under "Forms and Publications"); "Sales and Use Tax"; "Form A-101." □

## Form Changes (continued from page 1)

- The amount of qualified earned income used to compute the married couple credit and the rate of credit have changed. A maximum credit of \$350 is available for 1999.
- The percentage rate for computing the farmland tax relief credit on Forms 1 and 1NPR is increased from 10% to 13%. The maximum credit is \$1,500.
- On Schedule 4 on the back of Schedule H, "caretaker of a newborn child" payments are moved to line 1 to reflect the law change requiring the one-twelfth reduction of property taxes or rent for months those payments were received. (**Note:** This change is tentative, contingent on whether it is enacted as part of the 1999-2001 Budget Bill, which was still pending at the time this Bulletin went to press.)

- On Schedule FC, line 17 is added. This line includes a checkbox to certify if all information on a previously submitted zoning certificate still applies. This is to reflect a 1998 law change which provides that it is no longer necessary to attach a zoning certificate if one was submitted with a previous year's claim and no changes have occurred.

Preliminary copies of the 1999 Forms 1, 1A, and WI-Z, and Schedules H and FC, the homestead credit and farmland preservation credit claim forms, are reproduced on pages 39 to 48 of this Bulletin. The copies are subject to further revision.

Preliminary copies of these and other Wisconsin income tax forms are available from the department's Internet web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). □

## Motor Vehicle Dealers' Measure of Use Tax Increased to \$106



Wisconsin licensed motor vehicle dealers are permitted to report use tax on a fixed dollar amount per plate per month for the use of motor vehicles assigned to certain employees.

**Effective January 1, 2000, the amount subject to use tax is increased from \$104 to \$106 per plate per month.** (Note: The use tax per plate per month is not \$106. Rather, \$106 is multiplied by the appropriate use tax rate [5%, 5.1%, 5.5%, or 5.6%] to arrive at the use tax due per plate per month.)

The reason for the increase to \$106 per plate is that sec. 77.53(1m)(a), Wis. Stats. (1997-98), requires that

the Department of Revenue annually adjust the amount subject to use tax to reflect the annual percentage change in the U.S. Consumer Price Index for All Urban Consumers, U.S. City Average, as determined by the U.S. Department of Labor for the 12-month period ending June 30. The percentage change for the period July 1998 to June 1999 was 1.96% ( $\$104 \times 1.0196 = \$106$ , rounded to the nearest whole dollar). □

## Forms and Publications Available by Fax

The Wisconsin Department of Revenue offers a Fax-A-Form document retrieval system. This retrieval system enables taxpayers and tax practitioners to obtain tax forms and publications via their facsimile machine or fax modem.

### *What is Available Via Fax-A-Form?*

Wisconsin individual income, homestead credit, farmland preservation credit, partnership, corporation, estate, fiduciary income, sales and use, withholding, and alcohol beverage tax forms are available, along with the instructions for the forms. In January 2000, tax forms for the years 1995, 1996, 1997, 1998, and 1999 will be available.

Publications published by the department are also available. See the article titled "Tax Publications Available" on page 8 of this Bulletin for a list of the publications.

The catalog of retrieval codes for the forms and publications is updated throughout the year as forms and publications are added and revised. For updated information, order the current catalog using Fax-A-Form.

**How Does it Work?**

- From the handset on your fax machine or the touch-tone keypad of your fax modem call the Fax-A-Form telephone number (608) 261-6229 (at this point do not enter “start” on your fax machine).
- If you have a newer model fax machine without a handset, you may use the keypad by pressing the “Hook Button,” if tones are transmitted; if tones are not transmitted you must connect a touch-tone telephone to your fax machine to retrieve a document.
- Follow the voice prompts, then use the touch-tone keypad on your fax machine or telephone to enter the proper retrieval codes for the items desired.
- Receive the items you select, via your fax machine, by pushing the “start,” “send,” or “copy” button of your fax machine (on most fax machines this is the “start” button). Fax modem users will need to click on manual receive for their software. The handset of your system must stay **off** the hook the entire time the forms are being faxed to you.

**When Can Fax-A-Form Be Used?**

The Fax-A-Form retrieval system is available 24 hours a day, 7 days a week.

**How Much Does it Cost?**

The Department of Revenue does not charge a fee for using the Fax-A-Form service. Your only costs are the normal telephone charges, plus fax machine operating costs, if applicable.

**Questions?**

If you have other questions about Fax-A-Form, you may call the department’s Fax-A-Form coordinator, at (608) 267-2025. □

**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* 113 (April 1999), pages 33 to 36.

**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
Electronic Funds Transfer	264-9918
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

**Guidelines for Reproduced and Substitute Tax Forms**

Tax returns may generally be filed on forms that have been reproduced or on substitute forms that have been approved by the department. However, certain guidelines must be followed to ensure that the reproduced or substitute forms are compatible with the department’s processing system.

A copy of the “Guidelines for Reproduced and Substitute Tax Forms” appears on pages 53 and 54 of this Bulletin. □

**1999 Package WI-X Available in January**

Wisconsin’s Package WI-X will be available by January 31, 2000. Package WI-X will contain actual size copies of most 1999 Wisconsin individual and fiduciary income tax, corporation franchise and income tax, partnership, estate tax, motor vehicle fuel tax, sales and use tax, and withholding tax forms.

The cost of the 1999 Package WI-X is \$7.00 plus sales tax. It may be ordered on the tax form order blank (Form P-744). This order blank is being mailed in October. See the following article titled “Tax Form Order Blanks Mailed,” for more information.

If you do not receive an order blank and want to purchase copies of 1999 Package WI-X, mail your request indicating the number of copies you require, along with your remittance for the amount due, to Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8951, Madison, WI 53708-8951. □

## Tax Form Order Blanks Mailed

During October, the department is mailing order blanks (Form P-744) to 9,000 tax preparers. Use these original order blanks (not copies) to request bulk orders of 1999 Wisconsin tax forms that require payment. Forms that do not require payment are not listed on the order blank.

Some of the forms you order will be accompanied by additional information. For example, your order will include instructions for the forms you request; Schedules 2K-1 and WD for Form 2 will be included with fiduciary Form 2 orders; and Schedules 3K-1 will be included with partnership Form 3 orders.

The department is also mailing order blanks (Forms P-744b and P-744L) to banks, post offices, and libraries for their use in requesting bulk orders of 1999 Wisconsin income tax forms. No charge is made for forms used for distribution to the general public (for example, in a bank, library, or post office).

If you do not receive an order blank by October 31, 1999, you may request one by: contacting any department office; writing to Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8951, Madison, WI 53708-8951; or calling (608) 267-2025.

Place your order as early as possible after receiving the order blank. Orders are expected to be filled in late December and early January.

As an alternative to ordering forms, most forms in Package WI-X may be reproduced. Package WI-X will be mailed separately in late January. □

## Magnetic Media Filing Required for Some Forms

Employers and payers may be required to file wage statements and information returns on magnetic media with the Wisconsin Department of Revenue. Wisconsin magnetic media filing is required if all of the following apply:

- Comparable wage statements or information returns are required to be filed on magnetic media with the Internal Revenue Service or Social Security Administration.
- The income on the form is required to be reported to Wisconsin.
- The number of any one type of form required to be filed with Wisconsin is 250 or more.
- The Combined Federal/State Filing Program is not being used.
- No waiver has been granted by the department.

Wisconsin Publication 509, *Filing Wage Statements and Information Returns on Magnetic Media*, provides more information about magnetic media filing. For information about how to obtain this publication, see the article titled "Tax Publications Available" on page 8 of this Bulletin. □

## IRS 1999 Mileage Rates Apply for Wisconsin

The 1999 optional standard mileage rates specified by the Internal Revenue Service (IRS) for computing automobile expenses for business, charitable, medical, and moving ex-

pense purposes also apply for Wisconsin.

For 1999 the IRS **decreased** the business standard mileage rate from 32.5¢ per mile to 31¢ per mile for all business miles driven, but the effective date was delayed to April 1, 1999. The 32.5¢ per mile rate still applies through March 31, 1999.

The 32.5¢/31¢ per mile rate is allowed without regard to whether the automobile was previously considered fully depreciated. If the standard mileage rate of 32.5¢/31¢ per mile is used, depreciation is considered to be allowed at 12¢ per mile for 1999, the same rate as for 1998. However, no portion is considered to be depreciation after the adjusted basis of the automobile reaches zero.

For 1999 the mileage rate allowed for calculating automobile expenses for charitable deduction purposes remains at 14¢ per mile. The rate for medical expense and moving expense deductions remains at 10¢ per mile. □

## 91 Fraudulent Claims

### Woman Charged with Homestead Credit Fraud

Susanna R. Kittleson, 29, Milwaukee, was charged in August 1999 with two counts each of misappropriation of identity and filing a fraudulent homestead credit claim, as a result of her attempt to steal \$88,756 from the Department of Revenue. She was charged with using the names and social security numbers of 30 different people to file 91 fraudulent homestead credit claims in 1997 and 1998. Even though 91 claims were involved, she was charged with only four counts, since four charges would expose her to an appropriate amount of prison time.

The criminal complaint alleges that Kittleson obtained the names and social security numbers of elderly or disabled persons who either resided in group homes or participated in daytime activities at three Milwaukee locations. She had been employed at these locations and had access to internal records. These persons were unaware of the homestead credit claim filings.

In filing the false claims, Kittleson made up rent certificates listing locations where the persons never lived and listing rent they never paid. She also forged the signatures of the “claimants” on the false homestead credit claims.

Filing a fraudulent claim for homestead credit is a felony punishable by up to five years imprisonment and up to \$10,000 in fines. If convicted on all four counts, Kittleson faces up to 20 years in prison and \$40,000 in fines. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties.

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In another homestead credit fraud case, Jerry L. Miller, 40, of Milwaukee, was sentenced in August, for filing false homestead credit claims for 1995, 1996, and 1997. Miller was given a suspended 90-month jail term and ordered to serve 3 months in the House of Correction, followed by four years of probation. He was also ordered by Circuit Judge Elsa C. Lamelas to pay restitution.

According to the felony charges against him, in each of Miller’s fraudulent acts, he prepared a false rent certificate claiming a false amount of rent. He then forged the signature of the landlord’s agent.

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In June 1999, Kym Pogrnt, d/b/a Jordan Cole Jewelers, Marinnette, pled no contest to operating and selling without a valid seller’s permit. She was ordered to serve five days in jail and pay fines/court costs.

This is the third time in the past 10 years that Pogrnt has been charged with operating without a permit, following revocation of her permit. She was not ordered to serve jail time following the previous charges.

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In July 1999, Ronald K. Key, age 62, Prairie du Chien, was found guilty in Crawford County Circuit Court on three counts of failure to file Wisconsin income tax returns for 1995, 1996, and 1997. Judge Robert P. Van de Hey pronounced Key guilty after he pled no contest to each count.

Key has also been charged with 11 other non-tax charges, including theft and extortion. Those charges are still pending. He faces up to 27 months imprisonment and fines of up to \$30,000 on the tax charges. In addition substantial civil penalties on the civil tax liability are possible, and assessment and collection of the taxes, interest, and penalties follows the conviction for criminal violations.

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The former operator of a state and county funded program for wayward youths was charged in August 1999 with three felony counts of filing false Wisconsin income tax returns for 1994, 1995, and 1996. James A. Mitchell Jr., 47, of Greenfield, was the founder of the now-defunct Fresh Start Center in 1992. He was charged in a criminal complaint that stated he owed over \$22,000 in state

withholding taxes for employees for five consecutive years ending in 1996, yet he filed forms indicating he had sent in the appropriate sums.

The complaint further states that as of 1994, when he owed state and federal withholding taxes of more than \$44,000, Mitchell vowed to begin paying the money in 1995, but since 1992 he has paid only \$400 in state income taxes. If convicted, he faces prison terms totaling 15 years.

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Susan M. Heffele, 49, the former office manager for an asbestos removal company in West Milwaukee, pled guilty in August to filing fraudulent state income tax returns and to stealing \$218,000 from the firm in 3 ½ years. By not reporting the stolen money as income on her income tax returns, she evaded state taxes of over \$13,000 during a three-year period.

Heffele pled guilty to one count of theft and three counts of filing fraudulent income tax returns. In exchange for her guilty pleas, one tax fraud charge and three theft charges were dismissed.

The criminal complaint charged that Heffele regularly wrote illegal checks to herself to pay personal bills, and that she falsified checkbook records and a computerized accounting system to conceal payments of personal expenses. The complaint also alleges that Heffele padded the payroll for two other employees by drawing illegitimate checks for them. She faces prison terms up to 25 years on the four counts to which she pled guilty. □



## Wanted: Your Comments About the *Wisconsin Tax Bulletin*

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

How could the department improve on the information it publishes? What topics do you want covered or expanded? Do you have particular likes or dislikes about the WTB? Do you have ideas, comments, or suggestions you'd like to share?

Please take a few moments to give us your comments or ideas, and be a part of improving *your* WTB. Send your comments or ideas to Mark Wipperfurth, Wisconsin Department of Revenue, Administration Technical Services, P.O. Box 8933, Madison, WI 53708-8933. If you prefer, you may fax your comments to him at (608) 261-6240, or you may e-mail or call him at [mwipperf@dor.state.wi.us](mailto:mwipperf@dor.state.wi.us) or (608) 266-8253. We'd like to hear from you! □



## 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. □

## 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 sub-

scription 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 55 of this Bulletin. □

## Wisconsin Tax Bulletin Annual Index Available



Once each year the *Wisconsin Tax Bulletin* includes an index of materials that have appeared in past Bulletins. The latest index available appears in *Wisconsin Tax Bulletin* 112 (January 1999), pages 71 to 98. It includes information for issues 1 to 111 (through 1998). □

## 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 web site at [www.dor.state.wi.us](http://www.dor.state.wi.us), and click on "Forms and Publications."



Income and Franchise Taxes		Sales and Use Taxes	
102	Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (12/98)	200	Electrical Contractors - How Do Wisconsin Sales and Use Taxes Affect Your Business? (3/98)
103	Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts (11/98)	201	Wisconsin Sales and Use Tax Information (10/98)
104	Wisconsin Taxation of Military Personnel (10/98)	202	Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs (9/98)
106	Wisconsin Tax Information for Retirees (10/98)	203	Sales and Use Tax Information for Manufacturers (12/94)
109	Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 1998 (10/98)	205	Use Tax Information for Individuals (1/99)
112	Wisconsin Estimated Tax and Estimated Surcharge for Individual, Estates, Trusts, Corporations, Partnerships (1/99)	206	Sales Tax Exemption for Nonprofit Organizations (9/90)
113	Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (10/97)	207	Sales and Use Tax Information for Contractors (9/98)
116	Income Tax Payments Are Due Throughout the Year (12/95)	210	Sales and Use Tax Treatment of Landscaping (5/94)
119	Limited Liability Companies (LLCs) (12/98)	211	Cemetery Monument Dealers - How Do Wisconsin Sales and Use Taxes Affect You? (1/99)
120	Net Operating Losses for Individuals, Estates, and Trusts (11/98)	212	Businesses: Do You Owe Use Tax on Imported Goods? (1/99)
121	Reciprocity (5/99)	213	Travelers: Don't Forget About Use Tax (4/99)
122	Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 1998 (10/98)	214	Businesses: Do You Owe Use Tax? (4/99)
123	Business Tax Credits for 1998 (12/98)	216	Filing Claims for Refund of Sales or Use Tax (3/99)
125	Credit for Tax Paid to Another State (11/98)	217	Auctioneers - How Do Wisconsin Sales and Use Taxes Affect Your Operations? (3/96)
126	How Your Retirement Benefits Are Taxed (9/98)	219	Hotels, Motels, and Other Lodging Providers - How Do Wisconsin Sales and Use Taxes Affect Your Operations? (4/99)
600	Wisconsin Taxation of Lottery Winnings (10/97)	220	Grocers - How Do Wisconsin Sales and Use Taxes Affect Your Operations? (10/98)
601	Wisconsin Taxation of Pari-Mutuel Wager Winnings (10/97)		
		221	Farm Suppliers and Farmers - How Do Wisconsin Sales and Use Taxes Affect Sales to Farmers? (4/97)
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		223	Bakeries – How Do Wisconsin Sales and Use Taxes Affect Your Business? (2/98)
		224	Veterinarians - How Do Wisconsin Sales and Use Taxes Affect Your Business? (6/99)
		<b>Other Taxes and Credits</b>	
		127	Wisconsin Homestead Credit Situations and Solutions (11/98)
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		400	Wisconsin's Temporary Recycling Surcharge (12/98)
		403	Premier Resort Area Tax (2/98)
		410	Local Exposition Taxes (2/99)
		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)
		<b>Audits and Appeals</b>	
		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 (1/99)
- 500 Tax Guide for Wisconsin Political Organizations and Candidates (8/99)
- 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)



### Over 1.9 Million Refunds Issued

More than 1.9 million income tax refunds were issued to taxpayers during January through July 1999 (primarily 1998 returns), for an average refund of \$425. The average refund for 1997 returns was \$331.

There were 2,776,779 Wisconsin individual income tax returns filed during the twelve months ending June 30, 1999. This compares to

2,744,800 returns for the prior year. The 2,776,779 returns, which included joint tax returns, were filed by 3,913,642 individuals.

An itemized deduction credit was claimed by 23% of the taxpayers on their 1998 returns. The average credit was \$465, compared to \$431 on 1997 returns.

There were 165,367 homestead credit claims filed during the year, and the average credit was \$500. This compares to 179,600 homestead credit claims averaging \$448 for the prior year. About 47% of the claimants were age 65 or older, 52% were renters, and 48% were homeowners.

About 21,900 farmland preservation credit claims, averaging \$827 per claim, were filed during the year ending June 30, 1999. During the prior year, 22,600 farmland preservation credit claims were filed, and the average payment was \$936.

### Taxpayers Designate \$329,000 to State Election Campaign Fund

Wisconsin income tax returns include a box for taxpayers to designate \$1 to the State Election Campaign Fund.

During July 1998 to June 1999 (primarily 1998 tax returns), taxpayers designated \$329,014 to the election campaign fund on their Wisconsin tax returns. This compares to \$311,954 for the prior year.

### Endangered Resources Contributions Total \$639,000



The 1998 Wisconsin income tax returns included a line for taxpayers to designate a contribution to the Wis-

consin Endangered Resources Fund. These contributions help protect and care for Wisconsin's endangered species, nongame wildlife, and rare plant and animal habitats.

Donations to the Endangered Resources Fund can be made on both paper filed tax returns and electronically filed returns.

During July 1998 through June 1999 (primarily 1998 returns), 44,304 taxpayers contributed \$639,530 to the Endangered Resources Fund. This compares with 1997 income tax returns, where 42,424 taxpayers contributed \$547,462.

### Administrative Rules in Process

Listed below are proposed new administrative rules and changes to existing rules that are currently in the rule adoption process. The rules are shown at their stage in the process as of October 1, 1999, or at the stage in which action occurred during the period from July 2 to October 1, 1999.

The listing includes rule numbers and names, and whether a rule is amended (A), repealed and recreated (R&R), or a new rule (NR). Rules followed by an asterisk list anticipated actions.

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

### Scope Statement Published (7/15/99)

- 14.01 Administrative provisions-A
- 14.02 Qualification for credit-A

14.03	Household income and income-A	<b>Rules Sent for Legislative Committee Review</b>	11.26	Other taxes in taxable gross receipts and sales price-A (effective 9/1/99)	
14.04	Property taxes accrued-A	1.12	Electronic funds transfer-NR	11.32	“Gross receipts” and “sales price”-A (effective 9/1/99)
14.05	Gross rent and rent constituting property taxes accrued-A	11.03	Elementary and secondary schools and related organizations-A	11.33	Occasional sales-A (effective 9/1/99)
14.06	Marriage, separation, or divorce during a claim year-A	11.05	Governmental units-A	11.41	Exemption of property consumed or destroyed in manufacturing-A (effective 9/1/99)
<b>Rules Sent to Legislative Council Rules Clearinghouse</b>		11.11	Industrial or governmental waste treatment facilities-A	11.53	Temporary events-A (effective 9/1/99)
11.34	Occasional sales exemption for sale of a business or business assets-A	11.51	Grocers’ guidelist-A	11.83	Motor vehicles-A (effective 9/1/99)
11.35	Occasional sales by non-profit organizations-A	11.87	Meals, food, food products and beverages-A	<b>Emergency Rules in Effect</b> (extended to 10/23/99)	
11.39	Manufacturing-A	11.94	Wisconsin sales and taxable transportation charges-A	11.20	Waste reduction and recycling-NR <input type="checkbox"/>
11.535	Operators of a swap meet, flea market, craft fair or similar event-A	<b>Rules Being Reviewed Following Publication of Various Notices</b>		<b>Recently Adopted Rules Summarized</b>	
11.67	Service enterprises-A	1.13	Power of attorney-A	Summarized below is information regarding a recently adopted administrative rule relating to electronic funds transfer (EFT), as well as seven recently revised sales and use tax rules. Included is information relating to Tax 1.12, created effective October 1, 1999, and Tax 11.14, 11.26, 11.32, 11.33, 11.41, 11.53, and 11.83, all amended effective September 1, 1999. See page 1 of this Bulletin for further information about the EFT rule.	
11.79	Leases of highway vehicles and equipment-A	11.20	Waste reduction and recycling-NR	In addition to the summary of changes, the text of the newly created rule and some of the text of the revised rules is reproduced. In the amendments, material lined through ( <del>lined through</del> ) represents deleted text, and underscored ( <u>underscored</u> ) material represents new text.	
11.96	Delivery of ordinance; county and premier resort area taxes-NR	11.64	Background music-R&R	To order up-to-date administrative rules of the department, you can use the order blank on page 55 of this	
14.01	Administrative provisions-A*	<b>Rules Adopted but Not Yet Effective</b> (anticipated effective date 11/1/99)			
14.02	Qualification for credit-A*	11.03	Elementary and secondary schools and related organizations-A		
14.03	Household income and income-A*	11.05	Governmental units-A		
14.04	Property taxes accrued-A*	11.11	Industrial or governmental waste treatment facilities-A		
14.05	Gross rent and rent constituting property taxes accrued-A*	11.51	Grocers’ guidelist-A		
14.06	Marriage, separation, or divorce during a claim year-A*	11.87	Meals, food, food products and beverages-A		
<b>Rules Sent to Revisor for Publication of Notice</b>		11.94	Wisconsin sales and taxable transportation charges-A		
11.66	Telecommunications and CATV services-A	<b>Rules Adopted and in Effect</b>			
11.67	Service enterprises-A	1.12	Electronic funds transfer-NR (effective 10/1/99)		
		11.14	Exemption certificates-A (effective 9/1/99)		

Bulletin to obtain the Tax section of the Wisconsin Administrative Code.

**Tax 1.12 Electronic funds transfer.** This rule is created, to permit the department to require the use of electronic funds transfer or “EFT” to pay or deposit certain taxes and fees, when the amounts due in the prior year exceed a specified amount. The rule also provides information for taxpayers who wish to use EFT even though not required to do so. The text of Tax 1.12 is as follows:

**Tax 1.12 Electronic funds transfer.**

(1) SCOPE. This section applies to any person who is required to or elects to pay or deposit taxes or fees by electronic funds transfer, or “EFT.”

(2) PURPOSE. The purpose of this section is to specify which taxes and fees are required to be paid or deposited using the EFT payment method, to provide that certain persons not required to use the EFT payment method may elect to do so and to explain the procedures for using EFT.

(3) DEFINITIONS. In this section:

(a) “ACH” means automated clearing house, a central clearing facility operated by a federal reserve bank or a private sector organization on behalf of depository financial institutions in which depository financial institutions transmit or receive ACH entries.

(b) “ACH credit” means the EFT payment option in which the payer initiates the transfer of funds by authorizing the payer’s financial institution to transfer the payment amount to the department’s depository bank.

(c) “ACH debit” means the EFT payment option in which the payer initiates the transfer of funds by authorizing the department’s depository bank to transfer the payment amount from the payer’s account.

(d) “Electronic funds transfer” or “EFT” means any transfer of funds initiated through a terminal, telephone, computer or magnetic tape authorizing a financial institution to debit or credit an account for next day settlement.

**Note:** The EFT payment method allows funds to be transferred electronically from the payer’s financial

institution to the department’s depository bank eliminating the need to prepare and process a paper check.

(e) “Entry” means an electronic item representing the transfer of funds in the ACH system.

(f) “Financial institution” means any bank, savings and loan, credit union, industrial bank or other institution organized under either national or state banking laws capable of both accepting deposits and making loans.

(g) “Payer” means any person who is required to or elects to pay or deposit taxes or fees by electronic funds transfer.

(h) “Settle” or “settlement” means to transfer funds, or a transfer of funds, between two parties in cash or negotiable items or on the books of a mutual depository to complete one or more prior transactions and made subject to a final accounting.

(i) “Settlement date” means the date on which an exchange of funds with respect to an entry or entries is reflected on the books of the department’s depository bank.

(j) “Trace number” means a character code uniquely identifying each ACH entry.

(4) REQUIREMENT OR ELECTION TO USE EFT. (a) Except as provided in sub. (11), the department requires a person who owes taxes and fees as described in subs. 1. to 11. to pay or deposit the taxes and fees using the EFT payment method. The following taxes and fees are included in the EFT payment requirement:

1. Corporate income and franchise tax estimated tax payments and tax due with the tax return when the net tax less refundable credits on the prior year’s tax return was \$40,000 or more.

2. Income tax withholding payments when the required deposits were \$10,000 or more in the prior calendar year.

3. General, county and stadium sales and use tax when the aggregate amount due in the prior calendar year was \$10,000 or more.

**Note:** See s. Tax 11.001(4) for the definition of stadium tax.

4. Fermented malt beverages tax when the tax due after the adjustment for any overpayment or additional amount due for a previous period was

\$40,000 or more in the prior calendar year.

5. Liquor or “distilled spirits and wine” tax and administrative fee when the aggregate net amount of tax and fee due in the prior calendar year was \$40,000 or more.

6. Cigarette tax when the net tax due before printing and shipping costs was \$40,000 or more in the prior calendar year.

7. Tobacco products tax when the tax due in the prior calendar year was \$40,000 or more.

8. Alternate fuels tax when the total tax due in the prior calendar year was \$40,000 or more.

9. General aviation fuel tax when the tax due in the prior calendar year was \$40,000 or more.

10. Motor vehicle fuel tax and petroleum inspection fee when the aggregate amount due in the prior calendar year was \$40,000 or more.

11. Individual and fiduciary income tax estimated tax payments when the estimated tax payments as required under s. 71.09, Stats., were \$40,000 or more in the prior taxable year.

(b) Any person not required to use the EFT payment method under par. (a) may elect to use the EFT payment method to pay or deposit the taxes or fees specified in par. (a).

(5) DATE FIRST EFT PAYMENT REQUIRED. The department shall notify a person when EFT payments or deposits are required. A 90-day EFT registration period shall follow the notification. The first required EFT payment or deposit shall be due on the first payment or deposit due date following the end of the registration period.

**Example:** An employer required to make semi-monthly deposits of withholding tax is notified of the EFT requirement on November 10, 1999. The first EFT deposit is due February 15, 2000, which is the first deposit due date following the end of the 90-day registration period.

(6) REGISTRATION FOR EFT. (a) Payers shall register with the department to use the EFT payment method before making EFT payments or deposits. Payers required to pay or deposit by EFT shall be notified by the department as provided in sub. (5) and given registration instructions. Persons who elect

to pay or deposit by EFT may request an EFT registration packet from the department.

**Note:** A request for an EFT registration packet may be made by calling the department's forms request line at (608)266-1961, or by writing to Forms Request Office, Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903.

(b) As part of the registration process, the payer shall provide a signed authorization statement to the department authorizing the department to make ACH debit transfers through its depository bank or to receive ACH credit transfers from the payer's financial institution.

(7) **EFT PAYMENT PROCEDURES.** EFT payments or deposits shall be credited by the department directly to the payer's tax account. The payer may use the ACH debit or ACH credit transfer option, or both, as follows:

(a) **ACH debit transfers.** 1. ACH debit transfers shall be made using a touch tone telephone, a computer with a modem or another department approved method. A toll free telephone number and voice instructions shall be provided by the department for the payer to use when initiating an ACH debit transfer via telephone. Required payment information includes the tax type code for the tax being paid, the tax period date to which the payment should be applied, the amount of the payment and the effective date of the payment.

**Note:** written requests for department approval of another ACH debit transfer method should be addressed to Electronic Funds Transfer, Wisconsin Department of Revenue, P.O. Box 8912, Madison, WI 53708-8912.

2. The payer shall initiate ACH debit transfers before 4:00 p.m. central standard time or central daylight savings time, as applicable, at least one business day before the prescribed due date of the payment in order for the payment to have a settlement date on or before the prescribed due date.

(b) **ACH credit transfers.** 1. A payer shall initiate ACH credit transfers through the payer's financial institution following directions specific to that financial institution.

2. In order for the payment to have a settlement date on or before the prescribed due date, ACH credit transfers shall be initiated in time for the payer's financial institution to settle the funds transfer on or before the due date of the payment.

(8) **COSTS TO INITIATE EFT.** (a) ACH debit transfers shall occur at no cost to the payer.

(b) Payers using ACH credit transfers are liable for any fees charged by the payer's financial institution.

(9) **EVIDENCE OF EFT PAYMENT.** A payer receives a trace number for each EFT transaction. The trace number given to the payer during the EFT transaction and included as part of the ACH entry is the payer's confirmation of payment or deposit and shall provide proof of the date and amount of the payment or deposit.

(10) **DUE DATE OF EFT PAYMENT.** (a) In order for EFT payments and deposits to be considered received on or before the prescribed due date, EFT payments or deposits shall have a settlement date on or before the prescribed due date, or the revised due date as provided in par. (c), of the payment or deposit.

(b) Payments or deposits made by EFT with a settlement date later than the prescribed due date or revised due date of the payment or deposit shall be considered late and shall be subject to all applicable late fees, penalties and interest.

(c) When the prescribed due date falls on a weekend or legal holiday, the payment due date is revised to be the first business day immediately following the weekend or holiday.

**Example:** If the prescribed due date falls on a Monday which is also memorial day, an ACH debit transfer must be initiated on or before the preceding Friday so that it has a settlement date on or before the following Tuesday, when the payment is due. A payer using an ACH credit transfer must work with the financial institution to initiate the transfer in time to settle on or before the revised payment due date.

(11) **EXCEPTION TO EFT REQUIREMENT.** (a) The secretary of revenue may waive the requirement to use the EFT payment method when the secretary determines that the require-

ment causes an undue hardship, if the person otherwise required to use EFT does all of the following:

1. Requests the waiver in writing.

**Note:** Written waiver requests should be addressed to Electronic Funds Transfer, Wisconsin Department of Revenue, P.O. Box 8912, Madison, WI 53708-8912.

2. Clearly indicates why the requirement causes an undue hardship.

3. Is current in all return and report filings and tax payments.

(b) In determining whether the EFT requirement causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances which may prevent the payer from using the EFT method.

**Examples:** Examples of unusual circumstances include:

1) The person does not have access to a touch tone telephone.

2) The person is physically unable to use a touch tone telephone.

3) The telephone system available to the person is incompatible with the department's telephone system used for EFT registration or payments, or both.

2. Any other factor which the secretary determines is pertinent.

**Note:** Section Tax 1.12 interprets ss. 71.01(8r), 71.42(3m), 71.63(1m) and (5m), 71.65(3)(a), 73.029, 77.58(1m), 77.61(14), 77.96(5m), 78.12(5), 78.55(5m), 139.01(5m), 139.30(8m) and 139.75(5m), Stats.

#### **Tax 11.14 Exemption certificates.**

The title, subs. (1), (2)(a) and (c), (3)(a) and (b), (5)(b), (6)(title), (a)(title) and 2., and (b)(title), (intro.), and 3., and (7) to (12), the example following sub. (6), and the second note at the end of the rule are revised, to reflect a policy to replace various exemption certificates with Form S-211, a multipurpose exemption certificate.

Subsection (1) is further revised and the first note at the end of the rule is revised, to reference all of the subsections of secs. 77.52 and 77.53, Wis. Stats., which relate to exemption certificates.

Subsection (3)(b) is further revised, to place a nonsubstantive statement in a note rather than in the text of the rule.

Subsection (5)(b) is further revised, to clarify that a seller is not liable for tax on transactions covered by a valid exemption certificate.

Subsection (6)(b)4.c. is created, to reflect department policy that a person who makes exempt sales only may use a certificate of exemption (Form S-211) to claim exemption on tangible personal property or taxable services the person resells.

Subsection (15) is renumbered (13) and revised, to place it in a more logical order and to add references to the stadium tax. Consequently, subs. (13) and (14) are renumbered (14) and (15).

Subsection (16) is created and the second note at the end of the rule is further revised, to reflect a change in exemption certificate requirements for sales of certain commodities, as a result of amendments to secs. 77.52(13) and 77.53(10), Wis. Stats., by 1997 Wisconsin Acts 27 and 237.

The text of Tax 11.14 (title), (2)(a), (6)(b)4.c., and (16) is as follows:

**Tax 11.14(title) Exemption certificates, including resale certificates.**

(2)(a) Exemption certificates are signed by purchasers or lessees and are given to sellers or lessors to verify that a transaction is exempt. Sellers and lessors shall exclude from taxable gross receipts transactions for which they have accepted a valid exemption certificate in good faith from a purchaser. The department has provided retailers with ~~7 types of the following 2 sales and use tax exemption certificates, each of which is designed for use in specific types of transactions. These certificates, discussed individually in this section, are the following:~~

1. Wisconsin sales and use tax exemption certificate, form S-211. This is

a multipurpose form which may be used for any sales and use tax exemption provided by law, except as provided in sub. (14). For direct pay, form S-211 may be used as the document described in s. Tax 11.13(5)(a)2. if all of the required information is included on the form S-211.

2. Construction contract entered into before the effective date of county/stadium tax, form S-207CT-1. This is a certificate which may be used by a contractor to purchase building materials without a county or stadium tax under the circumstances described in sub. (13).

(6)(b)4.c. A person who makes exempt sales only in the regular course of business may insert the words "exempt sales only" in the space for a seller's permit number.

(16) **CERTAIN COMMODITIES.** No exemption certificate is required for sales of commodities, as defined in 7 USC 2, that are consigned for sale in a warehouse in or from which the commodity is deliverable on a contract for future delivery subject to the rules of a commodity market regulated by the U.S. commodity futures trading commission if upon the sale the commodity is not removed from the warehouse.

**Tax 11.26 Other taxes in taxable gross receipts and sales price.** Subsection (2)(c) is amended and sub. (3)(c) is created, to reflect the amendment to sec. 77.51(4)(a)4. and (15)(a)4., Wis. Stats., by 1997 Wisconsin Act 27, which excludes from gross receipts and sales price motor fuel taxes refunded.

Subsection (2)(d) is amended, to reflect current terminology relating to alternate fuels tax.

Subsection (2)(h) is created, to add the federal gas guzzler tax not previously listed as being included as part of gross receipts and sales price.

**Tax 11.32 "Gross receipts" and "sales price."** Subsection (9) is created, to provide the tax treatment of sales of manufactured buildings, as a result of amendments to sec.

77.51(4)(b)3. and (15)(b)4., Wis. Stats., and the creation of sec. 77.51(4)(b)7. and (15)(b)6., Wis. Stats., by 1997 Wisconsin Act 27. The text of Tax 11.32(9) is as follows:

**Tax 11.32(9) MANUFACTURED BUILDINGS.** (a) Gross receipts and sales price from the sale of a "manufactured building," as defined in s. 101.71(6), Stats., that is tangible personal property when sold, may be reduced by one of the following:

1. 35% of the sales price.

2. An amount equal to the sales price minus the cost of the materials that become an ingredient or component part of the manufactured building.

(b) No credit is allowed for trade-ins if gross receipts or sales price are reduced under par. (a).

(c) Once a retailer reduces gross receipts or sales price by the amount in par. (a)1. or 2., the retailer shall continue to use that method of reduction for all sales of manufactured buildings, that are tangible personal property when sold, until such time as the department approves in writing the use of the other method.

**Tax 11.33 Occasional sales.** Subsection (4)(a) is amended, to include the condition that an auction sale must be held at other than regular intervals to qualify for exemption as an occasional sale.

Subsection (4)(g) is amended, to exclude nonprofit organizations from the provisions of that paragraph.

**Tax 11.41 Exemption of property consumed or destroyed in manufacturing.** Subsection (1)(b)2.b. is amended, to clarify that the property manufactured must be destined for sale as tangible personal property to qualify for the manufacturing exemption in sec. 77.54(2), Wis. Stats.

Subsections (3)(b) and (3)(h) are amended, to reflect proper punctuation per Legislative Council Rules Clearinghouse standards.

**Tax 11.53 Temporary events.** Subsections (1)(a), (1)(b), and (1)(e) are repealed, subs. (2) to (5) are revised, and a note is added at the end of sub. (3), to reflect a change in department policy, to no longer issue temporary seller's permits and concessionaire permits. As a result of the repeal of subs. (1)(a) and (1)(b), subs. (1)(c) and (1)(d) are renumbered (a) and (b). Subsection (1)(a) as renumbered is amended, to reflect a new policy to permit the use of a mobile seller's permit simultaneously at multiple locations.

Subsection (6) is amended, to clarify the conditions under which the permit violation provisions apply.

The text of Tax 11.53(1)(a) as renumbered, (2), (4), (5), and (6) is as follows:

Tax 11.53(1)(a) "Mobile seller's permit" means a permit issued under s. 77.52(7) and (19), Stats., which is valid at any temporary event conducted by the permittee within Wisconsin ~~but which is valid at only one event at a time.~~ A mobile seller's permit may be used simultaneously at multiple locations that are not the retailer's fixed business locations. Except for its use at more than one place of operations, all provisions of ~~s. ss.73.03(50) and~~ 77.52(7), (8), (9), (10), (11) and (12), Stats., apply to it.

(2) PERMITS FOR TEMPORARY EVENTS. Except as provided in sub. (3), a person conducting business as a retailer at a temporary event shall hold one of the following permits:

(a) A mobile seller's permit, if the event is not held at the retailer's fixed business location.

(b) A seller's permit, if the event is held at the retailer's fixed business location.

(4) SECURITY. Application for ~~permits referred to in this section a~~ seller's permit or mobile seller's permit shall be on ~~forms as a form~~ prescribed by the department. The applicant shall be subject to security requirements of s. 77.61(2), Stats., ~~except that for events of 7 consecutive days or less retailers holding concessionaire permits shall de-~~

~~posit security of \$25 per concession for each event and deposits for events which exceed 7 consecutive days shall be \$50 per concession for each event and may be required to deposit security in an amount determined by the department, but not in excess of \$15,000.~~

(5) RETURNS. Sales and use tax returns due from persons holding seller's permits and mobile seller's permits are subject to the provisions of s. 77.58, Stats. The returns shall report the tax due for the period of time or event covered by the returns and shall be due quarterly, on the last day of the next month following a calendar quarter unless notified by the department to file on some other basis under s. 77.52(19) or 77.58(1) and (2), Stats., and shall include on the return gross receipts from all temporary events and other taxable transactions of the permittee during the reporting period.

(6) VIOLATION. Under s. 77.52(12), Stats., any person required to hold a seller's permit who operates without a permit is guilty of a misdemeanor and shall immediately cease selling when requested by a department representative.

**Tax 11.83 Motor vehicles.** Subsection (1) is renumbered (1)(b) and amended, and sub. (1)(title), (intro.), and (a) are created; subs. (8)(b)1., (8)(c)(intro.) and 2., and (8)(d) are amended, subs. (8)(b)2. and (8)(b)3. are renumbered 3. and 4., and new (8)(b)2. is created. These changes are made to reflect the amendment to sec. 77.53(1m)(a), Wis. Stats., by 1997 Wisconsin Act 27, allowing the use of an amount per plate per month as the measure of use tax for vehicles assigned to owners of a dealership, and to reflect the increase from \$96 to \$104 per plate per month as the measure of use tax. The text of Tax 11.83(1)(title), (intro.), and (a), (8)(b)1., (8)(b)2., (8)(b)3.(intro.) as renumbered, (8)(c)(intro.), and (8)(d) is as follows:

Tax 11.83(1)(title) DEFINITIONS.  
(intro.) In this section:

(a) "Actively participates" means the person performs services for the dealership, including selling, accounting, managing and consulting, for more than 500 hours in a taxable year for which the person receives compensation. "Actively participates" does not include services performed only in the capacity of an investor, including studying and reviewing financial statements or reports on the operation of the business, preparing or compiling summaries or analyses of the finances of the business for the investor's own use or monitoring the finances or operations of the activity in a nonmanagerial capacity.

(8)(b)1. Motor vehicles held for sale which are assigned to and used by a specific dealer employe subject to withholding from federal income tax on wages are subject to Wisconsin use tax on ~~\$96~~ \$104 per motor vehicle registration plate per month. The \$104 amount is effective January 1, 1999 and is subject to change annually as explained in the notes following sub. (8)(b).

**Note to Revisor:** Remove the note at the end of Tax 11.83(8)(b)1.

(8)(b)2. Motor vehicles held for sale which are assigned to and used by persons holding an ownership interest in Wisconsin licensed motor vehicle dealerships who are not subject to withholding for federal income tax purposes, but who actively participate in the day-to-day operation of the dealership, are subject to Wisconsin use tax on \$104 per motor vehicle registration plate per month. The \$104 amount is effective January 1, 1999 and is subject to change annually as explained in the notes below.

**Note:** As provided in s. 77.53(1m), Stats., the department will annually adjust the amount per plate to the nearest whole dollar to reflect the annual percentage change in the U.S. consumer price index for all urban customers, U.S. city average, as determined by the United States department of labor, for the 12 months ending on June 30 of the year before the change. The department will publicize any rate change in an issue of the *Wisconsin Tax Bulletin* prior to the January 1, that the change becomes effective.

**Note:** The amount per plate subject to use tax under par. (b)1. and 2. was \$96 for the period September 1, 1995

through December 31, 1996, \$99 for the period January 1, 1997 through December 31, 1997, and \$102 for the period January 1, 1998 through December 31, 1998.

(8)(b)3.(intro.) Motor vehicles held for sale and not assigned to and used by a specific dealer employe subject to federal withholding on wages are subject to Wisconsin use tax on the lease value of the motor vehicle computed on a calendar month basis. If a motor vehicle is used by the dealer for a period of less than one calendar month, the amount subject to use tax is the daily lease value calculated by multiplying the applicable monthly lease value by a fraction, the numerator of which is the number of days used by the dealer for a purpose in

addition to retention, demonstration or display and the denominator of which is the number of days in the calendar month. Lease value is computed using the internal revenue service lease value table contained in ~~internal revenue service regulation s. 26 CFR 1.61-21(d)(2)~~. In the lease value table, the "automobile fair market value" is one of the following:

(8)(c)(intro.) It is presumed that all dealer plates issued by the department of transportation to a licensed motor vehicle dealer are used each month on motor vehicles assigned to employes subject to withholding for federal income tax purposes or owners who actively participate in the day-to-day operations of the dealership for a pur-

pose in addition to retention, demonstration or display and are subject to use tax as provided in par. (b)1. and 2., unless one of the following applies:

(8)(d) Transitional provision. For motor vehicles, not assigned to employes or salespersons subject to federal withholding on wages or owners who actively participate in the day-to-day operations of the dealership, that are used by the dealer for a purpose in addition to retention, demonstration and display both prior to September 1, 1995, and on and after September 1, 1995, upon which a sales or use tax was paid on the purchase price of the motor vehicle by the dealer, the imposition of use tax as described in par.(b)2-3. does not apply. □



## Report on Litigation

Summarized below are recent significant Wisconsin Tax Appeals Commission (WTAC) and Wisconsin Court decisions. The last paragraph of each decision indicates whether the case has been appealed to a higher Court.

The following decisions are included:

### Individual Income Taxes

Allocation of income - compensation for services  
*Kenneth H. Paker* (p. 17)

Appeals - frivolous  
*Timothy Van Groll* (p. 17)

Assessments - correctness  
Appeal procedure - disclosure under oath  
Appeals - frivolous  
*Derick J. Norskog* (p. 17)

Claim for refund - statute of limitations  
*Keith and Ellen Bower* (p. 18)

Claim for refund - timely filed  
Claim for refund - proper filing  
*Ronald H. and Mary Ann Hummitsch* (p. 18)

Dependent credit  
*Cynthia M. de Werff* (p. 19)

Earned income credit  
*Deana M. Siemik* (p. 19)

Earned income credit  
Head of household  
Personal exemptions  
School property tax credit - renters  
*Sheila Edwards* (p. 20)

Farm loss - limitation  
*Thomas W. and Marilynne A. Maciejczak* (p. 21)

Issue preclusion  
*Arthur A. and Betty L. Van Aman* (p. 21)

Trade or business - engaged in for profit  
*Ivan Kevo* (p. 22)

### Corporation Franchise and Income Taxes

Accounting - change in method  
*Babcock and Wilcox Company (The)* (p. 23)

Deductions - taxes - single business taxes  
*Delco Electronics Corporation* (p. 24)

Dividends received deduction  
*Firststar Bank Wausau, N.A.* (p. 24)

**Sales and Use Taxes**  
Common or contract carriers  
*J & M Transportation Specialists, Inc.* (p. 25)

Containers, packaging, and shipping materials - delivery of newspapers  
*Madison Newspapers, Inc.* (p. 25)

Manufacturing  
*Parkview Sand and Gravel, Inc.* (p. 25)

Printing - advertising materials sent out-of-state  
*Sax Arts & Crafts, Inc.* (p. 26)

### Withholding of Taxes

Officer liability  
*Irvin L. Hougom* (p. 27)