

Wisconsin TAX BULLETIN


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Tax Bills Pending in the Legislature


Several bills containing provisions that affect Wisconsin taxes have been introduced in the Wisconsin Legislature. None of these bills have been enacted into law as of the date this *Wisconsin Tax Bulletin* went to press.

The Wisconsin Legislature was scheduled to conclude its current session by the end of March. Later sessions may also be scheduled. New laws which affect Wisconsin taxes will be explained in a future issue of the *Wisconsin Tax Bulletin*. 




Sales and Use Tax Report Mailed

The March 2000 *Sales and Use Tax Report* (1-00) was sent in late March and early April to all persons registered for Wisconsin sales and use tax purposes. The *Sales and Use Tax Report* contains articles about the taxability of food and beverage sales for on-premises consumption, entering use tax information on Form ST-12, new federal government bankcards, and new or revised sales and use tax informational publications.

A copy of the Report appears on pages 31 and 32 of this Bulletin. 

Information or Inquiries?

This issue of the *Wisconsin Tax Bulletin* includes a comprehensive listing of addresses and telephone numbers to use if you wish to contact the Department of Revenue about any of the taxes administered by the Income, Sales, and Excise Tax Division.

The listing appears on pages 33 to 36 of this Bulletin. It is arranged alphabetically, by the type of tax or credit involved. 




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 May. The seminars will include information on differences between the two states' laws. The seminars in May are for general businesses (seminars for contractors were held in February and March).

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.

May 2, 2000 – Duluth, Minnesota
Minnesota Department of Revenue Office
2711 West Superior Street

May 9, 2000 – Hudson, Wisconsin
Hudson House
1616 Crestview Drive

May 16, 2000 – Onalaska, Wisconsin
Onalaska Omni Center
225 Rider Club Street 


Electronic Filing – It's Not Just a Fad Any More

Well into the 2000 tax filing season, it is clear that the popularity of electronic filing (“e-filing”) continues to grow. The numbers speak for themselves. All three types of e-filing – Federal/State filing (where returns are prepared by a tax professional), online filing (using web-based or “off-the-shelf” software), and TeleFile (where tax returns are filed by telephone) – show marked increases. Last year as of late March, about 364,000 Wisconsin taxpayers had chosen to e-file. This year, nearly 466,000 had e-filed by that time. That represents a 27.9% increase in volume. At that rate, the number of Wisconsin taxpayers electronically filing could reach

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one million in tax season 2000 or 2001. That's roughly one third of all the individual income taxpayers in Wisconsin!

TeleFile is an e-file option that is available only to taxpayers invited by the Department of Revenue to file in that manner. However, the other two programs, Federal/State filing and online filing, have very few limitations for the filer. Both the department and the IRS currently have a few exclusions to their e-filing program, and both are dedicated to finding ways of including all forms and schedules in the e-filing process.

More and more taxpayers want the convenience that e-filing offers. To learn more about all the electronic filing options available to Wisconsin taxpayers, visit the department's Internet web site at www.dor.state.wi.us/html/efiling.html. For information about becoming an Electronic Return Originator, tax practitioners should visit the department's Internet web site at www.dor.state.wi.us/html/e-pro.html. 

Report on the Sales Tax Rebate

After much discussion and debate over how to manage Wisconsin's billion-dollar surplus, by the Wisconsin Legislature and citizens alike, the sales tax rebate was enacted into law on November 16, 1999. On that date 1999 Wisconsin Act 10 was signed by the Governor. It was to be the largest tax rebate in Wisconsin history: 2.5 million checks totaling \$700 million.

The sales tax rebate program was crafted so most recipients would get their rebates automatically, though others could receive a rebate by filing an application. Application forms were created for both residents and nonresidents, and the forms were posted on the Internet, distributed to senior citizens, and made available everywhere tax forms are available.

The amount of the sales tax rebate ranged from \$184 to \$267 for single Wisconsin residents and from \$360 to \$534 for Wisconsin couples. Rebates for nonresidents - were 30.4% of non-business Wisconsin state sales tax they paid in 1998 and were able to verify.

Full-year and part-year Wisconsin residents who filed a 1998 Wisconsin income tax return or homestead credit claim by October 15, 1999, were to receive their sales tax rebates automatically. The rebate amount was calculated by the Department of Revenue, based on information on the tax return or homestead credit claim.

Nonresidents could also receive a sales tax rebate, but only by filing an application, Form NSTR. Their application had to be filed by December 20, 1999, and their rebate was based on non-business Wisconsin state sales tax paid in 1998. About 1200 Form NSTR applications were received, but only 933 filers were eligible for a sales tax rebate. Nonresidents' rebates averaged about \$100.

Full-year and part-year Wisconsin residents who did not file a 1998 Wisconsin income tax return or homestead credit claim (or filed after October 15) can receive a

Wisconsin Tax Bulletin *Published quarterly by:*

Wisconsin Department of Revenue
Income Sales and Excise Tax Division
PO Box 8933
Madison WI 53708-8933

Subscriptions available from:

Wisconsin Department of Administration
Document Sales
PO Box 7840
Madison WI 53707-7840

Annual cost \$7.00

sales tax rebate by filing an application, Form STR, unless they are not eligible. By March 1, 2000, about 120,000 Form STR applications had been filed. Persons who have not yet submitted an application may file one any time on or before June 30, 2000 (see the following article titled “Sales Tax Rebate – It’s Not Too Late,” regarding eligibility and other information).

In December 1999 the department received about 15,000 phone calls regarding the sales tax rebate. A call center with a toll-free number opened on January 4, 2000. On January 6, after media announcements that the first checks had been mailed, 18,734 calls were received. On January 31, the day taxpayers had been advised to contact the department if they hadn’t received their rebate, 13,442 calls were received. As of March 1 the call center had logged more than a quarter-million calls inquiring about the sales tax rebate!

Rebate checks began appearing in mailboxes on January 6, 2000, and before the end of the month nearly all of the “automatic” rebates had been delivered. Additional checks have been mailed since then, including rebates for those who filed applications. Rebates will continue to be processed until after the last of the applications have been filed on June 30.

As of March 1, 2000, sales tax rebate amounts have averaged \$277. Over 2.4 million recipients have received sales tax rebates totaling over \$682 million. About \$17 million of that amount was used to satisfy delinquent tax obligations and debts to other state agencies, such as child support and unemployment insurance overpayments. By the time all sales tax rebates have been processed, the original target of \$700 million and 2.5 million recipients will be very close to being realized. [↗](#)

Sales Tax Rebate – It’s Not Too Late

If you “missed out” on the sales tax rebate, you can still get one, if you qualify. The rebate amount is \$184 for persons who were single as of the end of 1998, and \$360 for couples who were married as of the end of 1998.

To receive a rebate you must file an application form with the Department of Revenue. The form, Form STR, *Application for Sales Tax Rebate*, must be filed with the department by June 30, 2000 (if it is mailed it must be postmarked by June 30, 2000).

Qualifications

To qualify for a sales tax rebate:

- ❖ You must have been a full-year or a part-year resident of Wisconsin for 1998 (nonresidents qualified but had to file an application by December 20, 1999);
- ❖ You cannot have been claimed as a dependent on someone else’s 1998 federal income tax return **unless** you had \$5,000 or more of Wisconsin adjusted gross income **and** you paid 1998 Wisconsin income tax (any amount); and
- ❖ You cannot have been incarcerated in a state or federal prison at any time during 1998.

Questions?

To obtain a copy of the application Form STR, or for more information about the sales tax rebate, you can contact the department by stopping in at any of the department’s offices, or by mail, phone, fax, e-mail, or Internet.

- ❖ Mail –
Wisconsin Department of Revenue, Sales Tax Rebate, P.O. Box 8937, Madison, WI 53708-8937
- ❖ Phone –
(608) 266-2772 or (608) 267-9420, or TTY at (608) 267-1049 in Madison or (414) 227-4147 in Milwaukee
- ❖ Fax –
(608) 267-0834
- ❖ E-Mail –
rebate@dor.state.wi.us
- ❖ Internet –
www.dor.state.wi.us, and click on “Sales Tax Rebate”

The Internet web site includes the application form, Form STR, a fill-in form, additional information about the sales tax rebate, and a list of frequently asked questions, and the answers. [↗](#)

2000 Estimated Tax Requirements for Individuals, Estates, and Trusts

Individuals and fiduciaries that expect to owe \$200 or more of tax (including recycling surcharge) with their 2000 Wisconsin income tax return are required to pay 2000 Wisconsin estimated tax. There are exceptions for certain estates and trusts, as explained below. A 2000 Form 1-ES, Wisconsin Estimated Tax Voucher, is filed with each estimated tax payment.

For calendar year taxpayers, the first estimated tax payment is due on April 17, 2000 (April 15 and 16 are weekend dates). Installment payments are also due on June 15, 2000, September 15, 2000, and January 16, 2001 (January 15 is a holiday). For fiscal year taxpayers, installment payments are due on the 15th day of the 4th, 6th, and 9th months of the fiscal year and the 1st month of the following fiscal year.

Estates and grantor trusts which are funded on account of a decedent's death are only required to make esti-

mated tax payments for taxable years which end two or more years after the decedent's death. For example, an individual died on March 28, 1999. A grantor trust which was funded on account of the individual's death is not required to make estimated tax payments for any taxable year ending before March 28, 2001.

A trust which is subject to tax on unrelated business income is generally required to pay 2000 Wisconsin estimated tax if it expects to owe \$500 or more (including recycling surcharge) on a 2000 Wisconsin franchise or income tax return (Form 4T). A 2000 Form 4-ES, Wisconsin Corporation Estimated Tax Voucher, is filed with each estimated tax payment. Installment payments for such trusts are due on the 15th day of the 3rd, 6th, 9th, and 12th months of the taxable year.

If a taxpayer does not make the estimated tax payments when required or underpays any installment, interest may be assessed. [☞](#)



Focus on Publications: Golf Courses

How do Wisconsin sales and use taxes affect golf course operations? When must a golf course pay tax on purchases of golf carts and other items? What food sales are taxable and exempt?

Answers to these and other questions relating to golf courses can be found in a new publication, Publication 226, *Golf Courses – How Do Wisconsin Sales and Use*

Taxes Affect Your Operations? Publication 226 also includes other helpful information, such as recordkeeping tips.

A copy of Publication 226 appears on pages 37 to 53 of this Bulletin. Additional copies, as well as more than 60 other publications published by the department, can be obtained at any Department of Revenue office, by mail, e-mail, or fax, or via the Internet. See the article titled "Tax Publications Available" on page 5 of this Bulletin for details. [☞](#)

Do You Owe Use Tax on Internet Purchases?

If you buy items via the Internet from companies that do not charge Wisconsin sales or use tax, you may owe Wisconsin use tax.

Office supplies, computer equipment, computer software (except custom computer software), paper, and furniture are common examples of Internet purchases that result in the buyer owing use tax.

The "Internet Tax Freedom Act," signed by President Clinton in October 1998, does not prohibit Wisconsin from imposing a sales or use tax on sales of tangible personal property made via the Internet. The Internet Tax

Freedom Act does impose a moratorium on the imposition of sales or use tax on sales of Internet access for those states that were not taxing the access at the time the Act was passed. In addition, the Act prohibits imposition of sales or use tax on sales made via the Internet if there is multiple taxation or the tax is discriminatory.

The imposition of Wisconsin sales or use tax on tangible personal property or taxable services sold via the Internet is not considered to be discriminatory or to result in multiple taxation because:

- Tangible personal property and taxable services sold over the Internet in Wisconsin are taxed in the same manner as property or services sold by mail order or "over-the-counter."

- Wisconsin allows a credit against Wisconsin sales or use tax for taxes properly paid to another state.

Therefore, use tax applies on purchases made via the Internet. The use tax may be reported as follows:

- **Seller's permit, use tax certificate, and consumer's use tax certificate holders:**

Report use tax owed on your sales and use tax return, Form ST-12.

- **Others:**

Report use tax on a consumer use tax return, Form UT-5. Individuals may report use tax on their individual income tax return instead of Form UT-5.



Tax Publications Available

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

By Mail

Write to Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8951, Madison, WI 53708-8951; call (608) 266-1961; or fax a request to (608) 261-6239.

By E-Mail

You may e-mail your request to forms@dor.state.wi.us.

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 Internet web site at www.dor.state.wi.us, and click on "Publications."

New: The numbers of some publications are followed by an asterisk. These are publications that are new or have been revised since the last issue of the *Wisconsin Tax Bulletin*.

Income and Franchise Taxes

- 102 Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (12/99)
- 103 Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts (11/99)
- 104 Wisconsin Taxation of Military Personnel (11/99)
- 106 Wisconsin Tax Information for Retirees (10/99)
- 109 Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 1999 (11/99)

- 112 Wisconsin Estimated Tax and Estimated Surcharge for Individual, Estates, Trusts, Corporations, Partnerships (1/99)
- 113* Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (2/00)
- 116 Income Tax Payments Are Due Throughout the Year (12/95)
- 119 Limited Liability Companies (LLCs) (12/99)
- 120 Net Operating Losses for Individuals, Estates, and Trusts (11/99)
- 121 Reciprocity (5/99)
- 122 Tax Information for Part-Year Residents and Non-residents of Wisconsin for 1999 (11/99)
- 123 Business Tax Credits for 1999 (12/99)
- 125 Credit for Tax Paid to Another State (11/99)
- 126 How Your Retirement Benefits Are Taxed (11/99)
- 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 (12/99)
- 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 (1/99)
- 206 Sales Tax Exemption for Nonprofit Organizations (9/90)

- 207 Sales and Use Tax Information for Contractors (9/98)
- 210 Sales and Use Tax Treatment of Landscaping (12/99)
- 211 Cemetery Monument Dealers - How Do Wisconsin Sales and Use Taxes Affect You? (1/99)
- 212 Businesses: Do You Owe Use Tax on Imported Goods? (1/99)
- 213 Travelers: Don't Forget About Use Tax (4/99)
- 214 Businesses: Do You Owe Use Tax? (4/99)
- 216 Filing Claims for Refund of Sales or Use Tax (3/99)
- 217 Auctioneers - How Do Wisconsin Sales and Use Taxes Affect Your Operations? (1/00)
- 219 Hotels, Motels, and Other Lodging Providers - How Do Wisconsin Sales and Use Taxes Affect Your Operations? (4/99)
- 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? (3/00)
- 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)
- 225 Barber and Beauty Shops – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (12/99)
- 226* Golf Courses - How Do Wisconsin Sales and Use Taxes Affect Your Operations? (3/00)
- Other Taxes and Credits**
- 127 Wisconsin Homestead Credit Situations and Solutions (11/99)
- 128 Wisconsin Farmland Preservation Credit Situations and Solutions (11/99)
- 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 (11/99)
- 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 (9/99)
- 505 Taxpayers' Appeal Rights of Office Audit Adjustments (12/99)
- 506 Taxpayers' Appeal Rights of Field Audit Adjustments (9/99)
- 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 (2/00)
- 114* Your Wisconsin Taxpayer Bill of Rights (2/00)
- 115 Handbook for Federal/State Electronic Filing (12/99)
- 117 Guide to Wisconsin Information Returns (10/99)
- 118 Electronic Funds Transfer Guide (4/96)
- 124 Petition for Compromise of Delinquent Taxes (7/98)
- 130 Fax A Form (9/99)
- 401 Extensions of Time to File (1/99)
- 500* Tax Guide for Wisconsin Political Organizations and Candidates (2/00)
- 502 Directory of Wisconsin Tax Publications (6/98)
- 504* Directory for Wisconsin Department of Revenue (2/00)
- 509* Filing Wage Statements and Information Returns on Magnetic Media (3/00)
- 700 Speakers Bureau presenting . . . (12/98) [🔗](#)

Electronic Commerce Proposals Abound

Note: This article appeared in the November 1999 issue of "Tax Administrators News," the newsletter of the Federation of Tax Administrators. Bracketed material has been added for this Bulletin.

Since its inception earlier in the year [1999], the Advisory Commission on Electronic Commerce has held two meetings (in June and September) and has been flooded with proposals to advise the Commission on its mission to study various aspects of the taxation of electronic commerce as well as other comparable intrastate, interstate and international sales activities. The Commission is to issue a report to Congress by April 2000, and its recommendations (which must receive two-thirds approval of the membership) are to promote "tax and technological neutrality among all forms of remote commerce."

In advance of its December 14-15 [1999] meeting in San Francisco, the Commission has received some 35 proposals examining various aspects of electronic commerce. A synopsis and link to each major proposal is available on Tax Exchange. The proposals represent a wide range of options and are broken down here into several categories. They include:

- **Restrictive proposals** that would impose greater restrictions than current law on the ability of state and local governments to impose tax or tax collection duties on electronic commerce and other businesses. These include proposals that would prohibit state and local governments from imposing sales and use tax on goods and services sold using electronic commerce; would prohibit imposition of sales and use tax on business-to-consumer sales that use electronic commerce; would provide "4-R-like" protections for inter-state telecommunications property; and would establish in federal law a nexus standard of "substantial physical presence" for imposition of a business activity tax or a use tax collection duty.
- **Simplification proposals** that generally suggest or require that state and local governments adopt certain simplifications of the state and local sales tax—e.g., single tax rate per state, uniform tax base or uniform definitions, central or single-point filing, single audits—before consideration would be given to requiring remote sellers to collect tax. Certain proposals specify that the simplification would be part of a package that would include an expanded duty to collect tax. Others either explicitly reject a

mandatory collection obligation or are vague about whether the proposal envisions a collection duty on the part of sellers.

- **Technology solutions** that generally propose that advanced software be applied to the determination of taxability and tax rates and would use current credit card and electronic payment processes to facilitate tax collection and routing of tax funds directly to state and local governments. Among the proposals in this category are the NGA [National Governors' Association] "zero burden" proposal supported by other state and local governments (discussed later in this piece), a state tax clearinghouse, "adaptive technology," a "zip code tax," and several others. Some of the proposals are more comprehensive (i.e., address all areas of sales tax administration) than others.
- **Origin state proposals** that would source sales to the state of the seller, thus simplifying sales tax administration for the remote seller. One proposal suggests this approach for all remote sales, while another suggests using this method only for sales of digital products.
- **Telecommunications proposals**, submitted primarily by various telecommunications companies, that call for a concerted government-industry effort to simplify state and local telecommunications taxes and remove certain discriminatory features from the current system.
- **Other proposals** that suggest doing away with all sales taxes and converting the system to an add-on to the income tax based on consumption (i.e., total income less additions to savings) or that propose a method for subsidizing access to the Internet.

Chairman's Proposal. Commission Chairman Gov. Gilmore of Virginia submitted his own proposal that would establish federal law restrictions on state and local taxation of electronic commerce. His "no Internet tax" proposal would:

- Prohibit imposition of state and local sales and use taxes on "business-to-consumer" sales of goods and services facilitated by the Internet, regardless of nexus;
- Establish a federal law nexus standard for all taxes consisting of "substantial physical presence";
- Prohibit state and local taxes on Internet access;

- Eliminate the federal telecommunications excise tax and use part of it temporarily to offset certain state and local revenue losses;
- Oppose international taxes and tariffs on U.S. electronic commerce; and
- Permit states to use federal welfare dollars to purchase computers and Internet access for needy families to abolish the “digital divide.”

Zero Burden Proposal. As noted, the National Governors’ Association, with support from most other state and local government organizations, has put forth a proposal commonly referred to as the “Zero Burden Proposal.” Much of this proposal was developed at two meetings that included tax administrators from more than 30 states [including Wisconsin]. The general approach of the streamlined sales tax system is to reduce the costs and burden of sales tax compliance for participating sellers to as close as possible to zero through a combination of:

- Shifting sales tax administration to a technology-oriented business model in which primary responsibility for calculating, collecting, reporting, and

paying the tax is lodged with “trusted third parties” (TTPs) instead of the seller.

- Simplifying sales and use tax laws and administrative practices in key areas to enable the technology and new business model to operate properly.
- Having states assume responsibility for the costs of the system by reimbursing TTPs for the costs of integrating their systems with those of participating sellers sufficiently to allow the seller to participate in the system. A participating seller would not be charged for participation in the streamlined collection system.

Availability of Information. Appropriately enough, the Commission readily makes its material available through the Internet. Commission meetings have been “webcast” and some subcommittee meetings have been “audio-cast.” In addition, transcripts of subcommittee meetings are generally posted within 24 hours of the session. Access to the webcasts and transcripts can be obtained through the Commission web site at www.ecommercecommission.org. All proposals submitted to the Commission can be downloaded from this site. The Commission has recently added a “library” to its site that contains downloadable or viewable versions of many documents submitted. [↗](#)

Question and Answer



Q I know the state tax rates went down for 2000, but my state withholding didn’t change. Should I file a new “Withholding Exemption Certificate”?

A No. New withholding tax rates will go into effect on July 1, 2000. Employers will be receiving new withholding tax tables several weeks prior to the July 1 effective date.

Q I filed my tax return electronically via the Internet this year. Now I need to file an amended return because there are additional business expenses to deduct. How do I electronically file my amended Wisconsin tax return?

A You may not electronically file an amended income tax return. Complete a Form 1X and mail it to the address shown at the bottom of the Form 1X. [↗](#)

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 55 of this Bulletin. [↗](#)




Do You Need a Speaker?

Are you planning a meeting, workshop, conference, or training program? The Department of Revenue's Speakers Bureau provides speakers to business, community, and educational organizations, free of charge.

Department representatives are available to speak on a variety of topics that can be targeted to 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.


- Homestead credit.
- Audit and appeal procedures.
- Common errors discovered in audits.
- Recordkeeping requirements.
- Tax delinquencies and petitions for compromise.
- Manufacturing property assessment.

To arrange for a speaker, you may write to Wisconsin Department of Revenue, Speakers Bureau, P.O. Box 8933, Madison, WI 53708-8933, fax your request to (608) 261-6240, call (608) 266-1911, or fill out the on-line request form by accessing the department's Internet web site at www.dor.state.wi.us, and clicking on "Events/Training." 

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* 118 (January 2000), pages 51 to 79. It includes information for issues 1 to 115 (through October 1999). 

Four Years in Prison for Filing 91 Fraudulent Homestead Claims

Susanna R. Kittleson, of Milwaukee, was sentenced in February 2000, to four years in state prison for misappropriation of identity and filing fraudulent homestead credit claims. Milwaukee County Circuit Court Judge Elsa C. Lamelas also imposed an additional ten years of prison time but stayed that time and ordered Kittleson to serve five years of probation. In addition, she was ordered to pay \$4,220 to the Department of Revenue as restitution for its costs in investigating her.

Kittleson used the identities of 30 elderly, mentally infirm people to file 91 fraudulent homestead credit claims between January 1997 and June 1998. The claims requested homestead credits totaling \$88,756. Controls in place at the Department of Revenue, along with information provided by a tipster, prevented the department from issuing checks for 87 of the bogus claims. Kittleson was also prevented from cashing any of the four checks she did obtain.

Kittleson obtained information about her victims through her work as a home caregiver and as a supervisor for three organizations that worked with the elderly and infirm. She filed false homestead credit claims using these persons' names and addresses where they had never lived, and based on rent paid to fictitious landlords. In some cases Kittleson even responded to Department of

Revenue inquiries, posing as a landlord and falsely claiming that rent had been paid by the elderly victims.

Filing a fraudulent homestead credit claim is a felony punishable by up to five years' imprisonment and up to \$10,000 in fines. Wisconsin law also provides for substantial civil penalties on the civil tax liability.

Thomas B. Brufach, 48, a Waukesha businessman from Wales, Wisconsin, was ordered in January 2000, to serve jail time for failure to file Wisconsin income tax returns. Waukesha County Circuit Court Judge Mac Davis imposed a six-month jail term but stayed the time and placed Brufach on probation for two years, provided he spend 60 days in jail. Another condition was that Brufach could be released to electronic monitoring after serving 15 days in jail if he complies with all the conditions of his sentence.

The sentence was imposed after Brufach pled no contest to failure to file a 1995 income tax return. As part of a plea agreement, a second count, for failure to file a 1996 return, was dismissed.

The criminal complaint stated that Brufach owed \$5,838 in state income taxes for 1995 and 1996, and that he had a history of filing income tax returns late or not filing returns at all. After he was charged with failure to file

the returns, he paid the state income taxes for 1995 and 1996. He also filed his 1997 and 1998 income tax returns and paid the taxes for those years.

Failure to timely file Wisconsin income tax returns is a crime punishable by up to nine months' imprisonment and up to \$10,000 in fines on each count. In addition to the criminal penalties Wisconsin law provides for substantial civil penalties on the tax liability. Assessment and collection of the taxes, penalties, and interest due follows a conviction for criminal violations.

In February 2000, Michael H. Fritz, 43, of Stevens Point, was found guilty in Dane County Circuit Court, of two counts of failure to file Wisconsin income tax returns for 1995 and 1997. Circuit Court Judge Steven D. Ebert presided over the trial in which the jury reached a guilty verdict after less than 30 minutes of deliberation. The trial followed an investigation by the Wisconsin Department of Revenue's Fraud Unit.

Fritz practiced as a licensed chiropractor under the name "The Healing Arts Center" until March 1997. He was charged with failing to file 1995 and 1997 Wisconsin income tax returns. The business had checking account deposits of over \$99,000 in 1995, and in 1997 Fritz reported receipts on his sales tax return for the first quarter of 1997, and he received wages from three employers.

The department testified that Fritz filed legitimate Wisconsin income tax returns for 1987 through 1990. Beginning with the 1991 tax return and continuing through the 1997 tax year, he altered the signature oath and reported no tax liability. He also attached materials claiming he was not subject to the tax laws.

As a result of the conviction, Fritz faces a maximum penalty of 18 months' imprisonment and fines of \$20,000. Assessment and collection of the taxes and interest due, as well as substantial civil penalties, follows the criminal conviction. In addition, the Wisconsin Department of Regulation and Licensing is required to deny renewal of occupational licenses to persons liable for delinquent taxes. [☞](#)

Filing Wisconsin Fiduciary Income Tax Returns (Form 2) - Estates and Trusts

Who Must File

Estates:

Every personal representative or special administrator of the estate of a Wisconsin decedent must file a Wisconsin fiduciary income tax return (Form 2) if the gross income of the estate is \$600 or more. Nonresident estates must file Wisconsin fiduciary returns if they have gross income of \$600 or more from Wisconsin sources.

Estates may choose any fiscal year, but the first return may not cover more than a 12-month period, and the taxable year must end on the last day of a month. The due date for fiduciary returns for estates is 3 1/2 months after the close of the fiscal year.

Trusts:

Every trustee of a Wisconsin trust must file a Wisconsin fiduciary income tax return (Form 2) if the trust has:

1. any taxable income for the tax year, or

2. gross income of \$600 or more, regardless of the amount of taxable income.

A nonresident trust must file a Wisconsin fiduciary income tax return if the trust has:

1. any Wisconsin taxable income for the year, or
2. gross Wisconsin income of \$600 or more, regardless of the amount of taxable income.

Trusts must file on a calendar-year basis, and the due date is the following April 15 (April 17 in 2000, since April 15 and 16 are weekend dates). (Exception: a limited number of charitable trusts may file on a fiscal-year basis.)

Qualified Funeral Trust (QFT)

For taxable years beginning after August 5, 1997, if a qualified funeral trust (QFT) makes the election under sec. 685 of the Internal Revenue Code (IRC) for federal income tax purposes, that election also applies for Wisconsin income tax purposes. A QFT must treat each beneficiary's interest as a separate trust. A copy of the federal Form 1041-QFT must be attached to the Form 2.

Electing Small Business Trust (ESBT)

For taxable years beginning on or after January 1, 1997, electing small business trusts (ESBTs) may be S corporation shareholders. The portion of an ESBT that consists of stock of one or more S corporations is treated as a separate trust. The separate trust is subject to Wisconsin income tax at the highest rate under sec. 71.06(1) or (1m), Wis. Stats. (1997-98), or sec. 71.06(1n) or (1p), Wis. Stats., as created by 1999 Wisconsin Act 9, as applicable.

Closing Certificates

Every executor, administrator, personal representative, or trustee applying to a court in Wisconsin having jurisdiction for discharge may be required by the Court to obtain a Closing Certificate for Fiduciaries from the department. Before the department will issue the certificate, all required income, gift, sales, use, and withholding tax returns and reports, with the exception of the final income tax return of the estate or trust, must be filed.

With the next-to-final fiduciary return, estates must submit a copy of the probate inventory and a copy of the decedent’s will. Trustees must submit a statement as to why the trust is closing, copies of annual court accountings for the past three years, and a copy of the trust agreement (or will creating such trust) if not submitted with a prior return.

If an estate does not have enough income to require filing and needs a Closing Certificate for Fiduciaries, or if the estate will be filing only one fiduciary return when the estate is closed and needs the closing certificate before filing that return, use the following procedures:

1. Complete the top third of page 1 of Form 2.
2. Insert the appropriate statement at line 1:
 - a. “Gross income is less than \$600 and no 1041 is required.” or
 - b. “A first and final return will be filed upon closing the estate.”
3. Complete the “Information Required” section on page 2 of Form 2.
4. Sign and date the Form 2.
5. Attach copies of the inventory and will.

Only after department determines that all income, withholding, sales, use, gift, and delinquent taxes are paid will a Closing Certificate for Fiduciaries be issued.

Receipt of the Closing Certificate for Fiduciaries does not relieve the executor, administrator, personal representative, or trustee from filing the final fiduciary income tax return. If a probate final account is filed with the court, a copy must be attached to the final return.

For the fiscal year ending June 30, 1999, the department issued 10,675 Closing Certificates for Fiduciaries. [☞](#)

Filing Wisconsin Estate Tax Returns (Form W706)

Filing Requirement

A Wisconsin estate is required to file a Wisconsin estate tax return (Form W706) if it is required to file a federal estate tax return. An estate is required to file a federal estate tax return (Form 706) if the gross estate at date of death plus gifts in excess of \$10,000 made to each donee per calendar year since December 31, 1976, exceeds:

\$ 600,000	1987 through 1997
625,000	1998
650,000	1999
675,000	2000 and 2001
700,000	2002 and 2003
850,000	2004
950,000	2005
1,000,000	2006

The Wisconsin estate tax is equal to the credit for state death taxes allowed on the federal estate tax return (Form 706). This credit is computed under sec. 2011 of the Internal Revenue Code (IRC). Estates owning property both within and outside Wisconsin owe a percentage of the credit to Wisconsin based on gross Wisconsin property divided by gross total property.

Due Date

The personal representative, special administrator, trustee, or distributee must file the Wisconsin estate tax return by the due date, which is 9 months after the date of death or the extended due date allowed by the Internal Revenue Service (IRS).

If the return is filed after the due date, there is a penalty equal to 5% of the tax, with a minimum of \$25 and a maximum of \$500.

Payment of Tax

The tax is due 9 months after the decedent's date of death, even if an extension has been obtained to file the return.

If the tax is not paid within 9 months of the decedent's death, interest is imposed at 1% per month from the date of death.

Examples:

1. The decedent died February 15, 1999. An extension of time to file the federal estate tax return was obtained from the IRS. The Wisconsin estate tax return and payment of the tax were submitted on December 31, 1999, which was within the extension period. Tax of \$1,200 was due. The total amount due is \$1,326, computed as follows:

Tax	\$1,200
Interest (1% x 10½ months)	<u>126</u>
Total amount due	<u>\$1,326</u>

2. The decedent died February 15, 1999 and did not obtain an extension to file from the IRS. The Wisconsin estate tax return was filed December 31, 1999, and showed no tax due. This estate owes the minimum penalty of \$25.

Installment Payments

Effective for deaths occurring on or after July 29, 1995, some estates may qualify to pay the Wisconsin estate tax in installments. If a percentage of the federal estate tax may be paid in installments under IRC sec. 6166, the same percentage of Wisconsin estate tax may be paid under the same installment schedule.

An election to pay in installments for federal estate tax purposes does not automatically constitute an election for Wisconsin purposes. **Written notice of the election to pay the Wisconsin estate tax in installments must be filed with the Wisconsin Department of Revenue within nine months after the decedent's death.** The provisions on acceleration of installment payments under IRC sec. 6166(g) also apply for Wisconsin purposes.

If an estate fails to make an installment payment of tax or interest under sec. 72.225, Wis. Stats. (1997-98), when it is due, the entire remaining balance of tax and

interest due must be paid upon notice by the Department of Revenue.

Interest is computed at the rate of 12 percent per year from date of death.


Effective for deaths occurring after December 31, 1997, no estate tax or income tax deduction is allowed for interest paid on tax deferred under IRC sec. 6166. No estate tax administration expense deduction is allowed for any interest payable on any unpaid portion of the estate tax for the period during which an extension of time for payment of the tax is in effect under IRC sec. 6166. This provision eliminates the need to file supplemental estate tax returns and make complex computations to claim an estate tax deduction for interest paid. In addition, no income tax deduction is allowed for any interest payable on any unpaid portion of the estate tax for the period during which an extension of time for a payment of the tax is in effect under IRC sec. 6166.

Distributees of real estate must provide to the department a certified copy of a lien for unpaid taxes and interest on the property to secure payment, and record the lien in the office of the register of deeds of the county in which the property is located. Distributees of personal property must provide either a lien or a financial guarantee bond equal to the estimated tax and interest, if the tax has not been determined. Upon determination of the tax, distributees of personal property must either provide a lien or a financial guarantee bond sufficient to secure payment of the tax and interest, or pay the excess over the amount of tax and interest secured by the bond.

Any distributee who fails to provide the security required or disposes of one-third or more of the property on which the tax is secured must pay the tax in full.

Certificate Determining Estate Tax

Upon receipt of the Wisconsin estate tax return and review for correctness, the department will issue a Certificate Determining Estate Tax. If the IRS increases or decreases the federal estate tax, the person entitled to the refund or liable for the additional tax is required to notify the department within 30 days.

(**Note:** Effective for deaths occurring on or after January 1, 1992, there is no longer a Wisconsin inheritance tax. It is replaced with the Wisconsin estate tax.) 

Farmers Receive \$29 Million in Farmland Credits

Direct benefits of approximately \$29 million were distributed to Wisconsin farmers in 1999, for the 1998 tax year, through the farmland preservation credit program and the farmland tax relief credit program. These credits are paid as a reduction in Wisconsin income tax or as a cash refund if no income tax is due.

Farmland Preservation Credit Program

About 22,000 farmers, including about 500 corporations, claimed farmland preservation credits totaling \$17.8 million for the 1998 tax year. The credit averaged \$810 per claimant, and about 38% of farm owners with 35 or more acres claimed the credit.

The goals of the farmland preservation credit program are twofold –

- To preserve Wisconsin farmland by means of local land use planning and soil conservation practices. To qualify for the credit, farmland must either be zoned for exclusive agricultural use or be subject to a

farmland preservation agreement between the farmland owner and the state.

- To provide property tax relief to farmland owners. Farmland preservation credits equaled about 22% of claimants' average 1998 property tax bills.

Farmland Tax Relief Credit Program

About 57,600 farmers, including about 800 corporations, claimed farmland tax relief credits totaling \$11.2 million for the 1998 tax year, for an average credit of \$194. The credit for 1998 equaled 10% of the first \$10,000 of property taxes on farmland. Farmland owners were required to have at least 35 acres of farmland to qualify for farmland tax relief credit.

Beginning with the 1999 tax year, the Department of Revenue is required to determine the percentage of the first \$10,000 of property taxes on farmland necessary to distribute \$15 million annually through the program. For the 1999 tax year (credits claimed in 2000), the credit is equal to 13% of the first \$10,000 of property taxes. [↗](#)

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 April 1, 2000, or at the stage in which action occurred during the period from January 2 to April 1, 2000.

The listing includes rule numbers and names, and whether a rule is amended (A), 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 55 of this Bulletin to order the Tax section of the Wisconsin Administrative Code.

Scope Statement Published (1/15/00)

2.32 Recycling surcharge - gross receipts defined-NR

Rules Sent to Legislative Council Rules Clearinghouse

- 2.32 Recycling surcharge - gross receipts defined-NR
- 14.01 Administrative provisions-A
- 14.02 Qualification for credit-A
- 14.03 Household income and income-A
- 14.04 Property taxes accrued-A
- 14.05 Gross rent and rent constituting property taxes accrued-A
- 14.06 Marriage, separation, or divorce during a claim year-A

Rules Sent to Revisor for Publication of Notice (including Notice publication date)

- 2.32 Recycling surcharge - gross receipts defined-NR (3/31/00)
- 14.01 Administrative provisions-A (3/15/00)
- 14.02 Qualification for credit-A (3/15/00)

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| <ul style="list-style-type: none"> 14.03 Household income and income-A (3/15/00) 14.04 Property taxes accrued-A (3/15/00) 14.05 Gross rent and rent constituting property taxes accrued-A (3/15/00) 14.06 Marriage, separation, or divorce during a claim year-A (3/15/00) | <ul style="list-style-type: none"> 11.35 Occasional sales by nonprofit organizations–A 11.39 Manufacturing–A 11.535 Operators of a swap meet, flea market, craft fair or similar event–A 11.64 Background music–R&R 11.66 Telecommunications and CATV services-A 11.79 Leases of highway vehicles and equipment–A |
|--|---|

Rules Being Reviewed Following Publication of Various Notices

- 1.13 Power of attorney–A
- 11.20 Waste reduction and recycling-NR
- 11.34 Occasional sales exemption for sale of a business or business assets–A

Rules Adopted but Not Yet Effective (anticipated effective date 5/1/00)

- 11.67 Service enterprises-A
- 11.96 Delivery of ordinance; county and premier resort area taxes-NR. [🔗](#)