

Wisconsin TAX BULLETIN

www.dor.state.wi.us

Number 121

July 2000

New Lower Withholding Rates in Effect

Wisconsin wage earners have begun or will soon begin taking home more of their pay, as a result of a reduction in withholding tax rates that became effective July 1, 2000.

The reduction in withholding is made possible by a number of changes to the income tax laws for 2000. Wisconsin income tax rates have been reduced for 2000. In addition, there is a new personal exemption deduction of \$600 for each taxpayer, spouse, and dependent, plus an additional \$200 personal exemption deduction for taxpayers and spouses age 65 or older. The standard deduction is also increased significantly. Changes that do not affect the withholding rates include an increase in the married couple credit (the maximum credit increases from \$350 to \$440), and the return of the school property tax/rent credit, with a credit of up to \$300.

The new withholding tables will increase take-home pay by an average of \$218 for a full year (equivalent to about \$18 per month or \$4 per week). Additional annual/weekly take-home pay for three hypothetical households is as follows:

Household	Dependents	Earnings	Added Take-Home	
			Annually	Weekly
Two-income family	two	\$70,000	\$502	\$9.65
One-income family	two	\$50,000	\$238	\$4.58
Single person	none	\$30,000	\$159	\$3.06

Employers have been sent the revised Wisconsin withholding tax tables, which are provided in Publication W-166, *Wisconsin Employer's Withholding Tax Guide*. See the article titled "Tax Publications Available," on page 8 of this Bulletin, for information on how to obtain a copy of Publication W-166. Also see the following article titled "Correction: Withholding Tax Guide," relating to a correction in Publication W-166. [🔗](#)

Correction: Withholding Tax Guide

The printed version of the new withholding tax guide (Publication W-166, revision date 6/00) contained an

error on page 41, alternate Method "A." The last line of **Procedure** 1(b) should have read "20% of annual gross earnings in excess of \$14,950, i.e. deduction amount = \$5,500 – 0.20 (Annual gross earnings - \$14,950)." The latter part of that line, the phrase beginning with "i.e.," and example 3 which appears on the following page, were correct in the original 6/00 version of the Publication W-166.

The correction has been made in the versions of the publication posted on the department's Internet web site, www.dor.state.wi.us, and on the department's Fax-A-Form retrieval system. [🔗](#)



Sales and Use Tax Report Mailed

The June 2000 *Sales and Use Tax Report* (2-00) was sent in late June and early July to all persons registered for Wisconsin sales and use tax purposes. The *Sales and Use Tax Report* contains summaries of the recent sales and use tax law changes, in addition to other pertinent sales and use tax information.

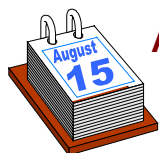
A copy of the Report appears on pages 21 and 22 of this Bulletin. [🔗](#)

Wisconsin Part of Streamlined Sales Tax Project

Electronic commerce ("E-commerce") is growing rapidly, with profound implications for our society and for state and local finances. E-commerce sales to Wisconsin consumers are expected to grow from between \$290 million and \$386 million in 1999 to between \$4.3 billion and \$5.8 billion in 2004.

A fundamental precept of sound tax policy is fairness. The department believes an item purchased downtown should not be taxed more than the same item purchased electronically. [\(continued on page 6\)](#)

In This Issue		
Articles –		
New Withholding Rates 1	Travelers Use Tax 3	Correction: Private Letter Ruling 12
Correction: Withholding Guide 1	Focus on Publications: Directory, E-File 4	School CEO Jailed 12
Sales Tax Report Mailed 1	Occupational License Holders..... 4	Administrative Rules..... 13
Streamlined Sales Tax Project 1	Wisconsin/Minnesota Seminars 5	Recently Adopted Rules 14
Automatic Extension Expires..... 2	Information or Inquiries?..... 5	Report on Litigation 16
Electronic Funds Transfer Program Expanding 2	Tax Publications Available 8	Tax Releases..... 18
Any Suggestions for Forms? 3	Question and Answer 10	Private Letter Rulings 19
Bulletin Index Available 3	Speakers Bureau..... 10	Attachments -
	Index of Reference Material 11	June Tax Report..... 21
	Don't Ignore Inquiries 11	Publication 140..... 23
		Publication 502..... 27
		Order Blank 35



Automatic 4-Month Extension Expires August 15

If your 1999 Wisconsin and federal individual income tax returns were due April 17, 2000, but you filed an application for an automatic 4-month extension for filing your federal return with the Internal Revenue Service (IRS), both your federal and Wisconsin returns are due August 15, 2000. When you file your Wisconsin return, be sure to attach to it a copy of the federal extension application, Form 4868.

Any filing extension available under federal law may be used for Wisconsin purposes, even if you are not using that extension to file your federal return. If you did not file a federal extension application but needed a 4-month

extension for Wisconsin only, your 1999 Wisconsin return, ordinarily due April 17, 2000, must be filed by August 15, 2000.

If you are extending the time to file your Wisconsin return only, attach one of the following items to the 1999 Wisconsin return you file:

- A statement indicating that you are filing under the federal automatic 4-month extension provision; or
- A copy of federal Form 4868 with only the name, address, and social security number completed.

Note: You were not required to pay your 1999 taxes by April 17, 2000, as a condition for receiving an extension of time to file your Wisconsin tax return. [☞](#)

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

Electronic Funds Transfer Program Expanding

More than 40,000 tax accounts are now registered in an electronic funds transfer (EFT) program that includes both the Department of Revenue and the Department of Workforce Development. This program allows customers to make EFT payments for both taxes and unemployment insurance.

Section Tax 1.12, Wisconsin Administrative Code, (titled "Electronic Funds Transfer") became effective October 1, 1999. This new administrative rule authorizes the Department of Revenue to mandate the use of EFT payments for taxpayers whose tax payments exceed certain amounts. The rule also provides that taxpayers not required to pay by EFT may elect to do so. Mandatory EFT is being phased in by tax type. Mandate notices have been sent to taxpayers mandated for the following tax types: withholding, cigarette, tobacco, alternative

fuels, general aviation fuel, liquor or distilled spirits and wine, and fermented malt beverages.

Taxpayers that meet the criteria to be mandated for EFT payments of sales tax, individual estimated tax, and corporation estimated tax will receive an invitation to register for EFT during June and July, 2000. Mandate notices will be mailed about sixty days after the invitation letters. Many retailers who received mandate notices for withholding tax have already registered for both withholding and sales taxes.

If you have questions regarding the department's EFT program, you may call the EFT information line at (608)

264-9918 or write to Wisconsin Department of Revenue, EFT Unit, PO Box 8912, Madison, WI 53708-8912. You may also visit the department's Internet web site for general EFT information and EFT information for financial institutions. The web site address is www.dor.state.wi.us. Click on the "electronic filing" tab to access EFT information.

To request EFT registration forms and instructions, write to Wisconsin Department of Revenue, Forms Request Office, PO Box 8951, Madison, WI 53708-8951, or call (608) 266-1961. [✉](#)

Any Suggestions for 2000 Tax Forms?

Do you have suggestions for improving Wisconsin's tax forms or instructions? Can you think of ways the forms or instructions could be made easier to understand? If so, the department would like to hear from you.

Please take a few moments to put your ideas in writing, and mail them to Wisconsin Department of Revenue, Administration Technical Services, P.O. Box 8933, Madison, WI 53708-8933, or fax them to (608) 261-6240, or e-mail them to treid@dor.state.wi.us. Your suggestions could help make "tax time" easier for taxpayers and practitioners. [✉](#)

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). [✉](#)

Travelers May Be Subject to Use Tax

Travelers who have purchased merchandise in foreign countries and brought the items into Wisconsin may be subject to Wisconsin use tax on their purchases.

All merchandise stored, used, or consumed in Wisconsin, that is taxable under Wisconsin's sales tax law, is subject to Wisconsin use tax if Wisconsin sales tax has been not paid. Examples of taxable merchandise include:

Antiques	Furs
Art works	Glassware
Books	Jewelry
Cameras	Musical instruments
Carpeting, rugs	Paintings
Chinaware	Precious metals, gemstones
Clothing	Silverware
Computers	Stereo equipment
Crystal	Tapes
Furniture	

Wisconsin allows a credit for sales tax paid to another state, up to the 5% use tax charged by Wisconsin. Wisconsin also allows a credit for a similar local tax paid to another state, up to the 0.5% Wisconsin county tax and/or the 0.1% Wisconsin stadium tax. However, a credit is not allowed for foreign sales taxes or custom duty charges that may have been paid.

The department regularly audits U.S. Customs records and exchanges information with other states to ensure that use tax owed on out-of-state purchases is remitted to the department.

For more information about use tax on items purchased in foreign countries, refer to Wisconsin Publication 213, *Travelers - Don't Forget About Use Tax*. See the article titled "Tax Publications Available" on page 8 of this Bulletin, for information about how to obtain publications. [✉](#)



Focus on Publications: Directory, E-File

What publications does the Department of Revenue have available? What is in the publications? All of the department's publications are listed and described in one place – Publication 502, *Directory of Wisconsin Tax Publications*. Publication 502 provides a listing of more than 60 department publications that are available free of charge. The listing is arranged by tax type or other topic and includes a brief description of each publication.

Where can a tax practitioner get a brief but informative overview about electronic filing (“e-filing”)? Answers to questions about a practitioner’s use of e-file to file cli-

ents’ tax returns can be found in the department’s new publication, Publication 140, *Wisconsin E-File – A Tax Practitioner’s Guide*. Publication 140 provides information about how e-filing works, benefits to practitioners and their clients, how to participate, and how to contact the department for more information.

Copies of Publications 140 and 502 appear on pages 23 to 34 of this Bulletin. Additional copies of these two publications, as well as copies of any of the 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 8 of this Bulletin for details.



Delinquent Occupational License Holders in Jeopardy

Occupational license or credential holders that have Wisconsin tax delinquencies may have their licenses or credentials suspended or revoked. Initial or renewal applications may be denied if the applicant has a Wisconsin tax delinquency.

The Wisconsin Department of Revenue (“DOR”) is authorized to certify tax delinquencies to 13 Wisconsin agencies. Once certified, these agencies must deny initial or renewal applications or suspend or revoke current licenses or credentials.

The current list of agencies participating in the “Occupational License Revocation Program” is as follows:

Administration

Board of Commissioners of Public Lands*

Commerce

Commissioner of Insurance

Ethics Board

Financial Institutions

Health and Family Services

Natural Resources

Public Instruction

Regulation and Licensing

Revenue (SLF Division)

Transportation

Workforce Development

*New to the program April 2000

The above-listed agencies, examining boards, and affiliated credentialing boards issue certain professional and occupational licenses or credentials. Most licenses or

credentials renew on a periodic basis, either yearly or every two years. License/credential holders go through a screening process, at initial issuance, upon renewal, or by a periodic match program, to identify individuals and businesses with Wisconsin tax delinquencies. Individuals or businesses with delinquent tax liabilities are notified and allowed ten days to pay their delinquent accounts.


An individual or business whose initial or renewal application has been denied, or whose license or credential has been either suspended or revoked, is entitled to a hearing before DOR, provided the hearing request is made in a timely manner as specified by Wisconsin Statutes. This hearing is limited to questions of: a) mistaken identity of the license/credential holder; and b) whether the license/credential holder has paid the delinquent taxes for which the person or the business is liable.

If, after the hearing, DOR affirms its certification that the license/credential holder is liable for delinquent taxes, the agency issuing the license or credential must affirm its denial, suspension, or revocation of the holder’s license or credential. The license/credential holder or applicant may then seek judicial review in the Dane County Circuit Court.

If a license/credential holder’s license or credential is denied, revoked, or suspended because of delinquent taxes and the license/credential holder reapplies for the license or credential, the issuing agency must deny the reapplication until DOR sends the agency a clearance certificate, indicating the delinquent tax issue is resolved. If a license/credential holder or applicant owes delinquent tax and cannot pay the balance in full, DOR

may accept installment payments on the balance. Before the license or credential will be released, the license/credential holder must provide financial information, have ALL outstanding tax returns filed up-to-date, and make a down payment.

Individuals or businesses that have delinquent tax accounts and have questions relating to applying for or renewing an occupational license or credential, or to resolving the delinquent accounts, should contact DOR as follows:

1. Those that wish to resolve their delinquent accounts before applying for or renewing a license or credential, and that have not yet received a notice of denial, suspension, or revocation of the license or credential, may either contact their nearest DOR office or call the Madison Central Collection office at (608) 266-7879, extension 16249 or 68028.
2. Those that have received a notice that their license or credential will be denied, suspended, or revoked should contact the Madison Central Collection office at the telephone number listed above. 



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 October. The seminars will include information on differences between the two states' laws. All of the October seminars are for general businesses. Seminars for contractors will likely be held in the spring.

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.

October 10, 2000 – Duluth, Minnesota
Minnesota Department of Revenue Office
2711 West Superior Street

October 17, 2000 – Hudson, Wisconsin
Hudson House
1616 Crestview Drive

October 24, 2000 – Onalaska, Wisconsin
Onalaska Omni Center
225 Rider Club Street



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* 119 (April 2000), pages 33 to 36.

Madison — Main Office Area Code (608)

Appeals	266-0185
Audit of Returns: Corporation, Individual, Homestead	266-2772
Beverage	266-6702
Cigarette, Tobacco Products.....	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



Streamlined Sales Tax Project (Continued from page 1)

Recognizing the need to simplify the state sales and use tax system, states have begun a project called the "Streamlined Sales Tax System for the 21st Century." The project - comprised of state governments with input from local governments and the private sector - is intended to overhaul the existing sales and use tax system to better accommodate interstate commerce, especially the changes presented by the growth of electronic commerce. The project is aimed at developing a substantially simplified sales and use tax system that employs emerging technologies to remove or reduce the burden on sellers for collecting the taxes, with the states contributing substantially to the financing of the streamlined system. The project is an outgrowth of a proposal made by the National Governors' Association, the National Conference of State Legislatures, and other state and local organizations in December 1999.

Project Meetings and Participants. The project has held several meetings, and monthly meetings are planned throughout the summer. It is pursuing two immediate goals; (1) To develop a package of structural and legal simplifications by Fall 2000 which, after a substantial period for public comment, can be presented to state legislatures in 2001; and (2) To develop one or more pilot or test projects that can be deployed in Fall 2000 to evaluate various technological and related aspects of the system. Project meetings to this point have focused on organizing and developing rules for operation of the project, identifying the issues to be addressed and organizing work groups to address them, and beginning the analysis of the issues and development of alternative approaches to address them.

Project meetings are routinely attended by about 60-65 government representatives from roughly 30 states. The project is directed by a Steering Committee of state tax agency representatives. The Steering Committee is co-chaired by Diane Hardt of Wisconsin and Charles Collins of North Carolina. To address the issues identified, the project has formed four work groups: Tax Base and Exemption Administration; Tax Rates, Registration, Returns, and Remittances; Technology, Audit, and Privacy; and Sourcing and Other Simplification Issues.

Direct participation in the project is limited to states, broken down into two groups, "participating" states and "observer" states. Participating states, now numbering approximately fifteen, are those whose legislatures have enacted legislation enabling the states to participate in the project or whose governors have issued an executive

order or similar authorization for commitment to the project. Observer states, now at about fifteen also, are those that wish to participate in the work done by the project, but have not made the formal commitment to the project indicated by the participating states. Representatives of observer states may participate in the working groups, but voting is limited to participating states.

The project has encouraged input from the private sector. Each meeting of the project (i.e., those portions involving all participants) has a period for public comment, during which anyone is free to comment on the workings of the project. The private sector has also been used as a resource for deliberations of the work groups, even though work group meetings themselves are not public, open meetings. And, the private sector has been invited to provide demonstrations of technologies that might assist in reducing the burden on sellers for collecting and remitting sales and use tax. In coming weeks, the project will develop a roster of resource persons for the work groups to consult with on an ongoing basis.

Further information on the project is available at its Internet web site, www.streamlinedsalestax.org.

Project Principles and Activities. The guiding principles of the project are substantial simplification of the state sales and use tax system, deployment of new technologies to ease the burden on sellers for collecting and remitting the taxes, and substantial state financing of the system. Other principles integral to the project are that the privacy of consumers be protected and that participation by sellers be voluntary.

Simplification. The project has committed itself to the simplification of all aspects of the states' sales and use tax systems, including, but not limited to, the following major areas:

- *Tax base.* The project is focusing on developing definitions for key parts of a sales tax (e.g., sales price and tangible personal property) as well as for certain commonly exempted items (e.g., food and clothing).
- *Exemption administration.* The project is attempting to reduce the burden of exemption administration by examining the ability to provide sellers with access to a data base of exempt purchasers (where available) to verify an exemption certificate, and shifting responsibility for policing exemptions to the states where the seller accepts a properly completed certificate.

- *Tax rate administration.* The project is examining various methods for simplifying local sales and use tax rate structures, as well as easing the burden for sellers when varying local option use tax rates are utilized. It is particularly examining the ability of various software systems to deal with the complexity of local rates and the use of safe harbors to protect sellers making a good faith effort to determine applicable local tax rates.
- *Centralized registration and simplified returns and remittances.* The project is analyzing various means of simplifying the registration process, through a uniform registration form or a centralized approach that would meet the needs of all states. The project is also examining the potential for developing a uniform sales and use tax return and standardized remittance procedures. It is also examining the appropriate structure of due dates for returns and remittances.
- *Sourcing and other simplifications.* The project intends to develop uniform rules by which all participating states would source sales, i.e., assign transactions to particular taxing jurisdictions for tax purposes. The project is also examining such issues as a uniform bad debt rule and uniform rounding rules.

Employment of technologies to be certified by the states. A second principle of the project is the use of emerging technologies to reduce the burden on sellers. A key component will be certification of the services provided by software and service providers by the states involved in the project. The project intends to develop a mechanism for evaluating and certifying that a tax calculation service or software functions at a level adequate to be relied upon by sellers. If a seller employs a certified tax calculation service, it would be held harmless for - i.e., not subject to audit and assessment - tax due as a result of mistakes made by that certified service. The level of "safe harbor" will vary with the type of certified service employed by a seller.

Paying for the system. While it is currently too early in the process to know with any certainty what kind of costs participation in this streamlined system might require of sellers or, for that matter, states, the project is committed to financing as much of the system as it reasonably can. It is anticipated that the primary method of financing sellers' participation in the system will be through vendors' compensation - i.e., allowing sellers, or their tax service providers, to retain a portion of the sales

and use tax collected - as is currently employed in many states - but other mechanisms are also being considered.

Privacy concerns. Provisions will be included in all aspects of the project's work to ensure that personal information is not unnecessarily gathered and is not improperly used by persons acting on behalf of the states. Tax administration agencies will not come into possession of personal identifying information for an individual paying tax at the time of a transaction. All that will be necessary to source a transaction will be an indication of the lowest level of taxing jurisdiction applicable - e.g., county, municipality, etc. - and tax calculation service providers will be prohibited from using personal information for any non-tax-administration purpose.

Voluntary participation of sellers. The Streamlined Sales Tax Project is being developed under a framework that neither requires nor anticipates any change from the current constitutional nexus requirement of a physical presence in a state. A seller's participation in the project would be entirely voluntary - which leads to the question of why a seller that is not currently collecting sales and use taxes on its sales into a state might now voluntarily take on that responsibility. The project believes that such sellers would have a variety of incentives to join the project, including the following:

- *Impact on business decisions.* As electronic commerce expands, sellers appear to be moving toward a combination of electronic and "bricks and mortar" operations. Reducing the burden of use tax collection should reduce the influence of tax factors in locating facilities and other business decisions.
- *Tax amnesty.* The project is currently considering a variety of options of incentives beyond vendor compensation, such as an amnesty from potential assessments resulting from the assertion of nexus by the project states.
- *No nexus for other taxes.* Any legislation produced by the project will stipulate that a seller's registration, collection, and remittance of tax as part of the project will have no impact on a determination of nexus for the purposes of any other tax.

Next Steps

The project anticipates continuing its monthly meetings throughout the summer, to continue developing approaches to simplification. The schedule calls for the release of a package of recommended simplifications for

public and state comment by Fall 2000. Following comment and refinement, model legislation will be developed for the 2001 legislative sessions. In addition, several states anticipate entering into one or more pilot

or test projects with interested software providers and retailers in Fall 2000. Results of the tests will educate future decisions and deployment of the project. [↗](#)

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."

Note: 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 Nonresidents 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 (6/00)
- 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? (6/00)

- 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 (4/00)

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)
- 140* Wisconsin E-File – A Tax Practitioner's Guide (6/00)
- 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 (4/00)
- 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 . . . (6/00)



Question and Answer ?

Q I own an appliance business as a sole proprietor. My gross receipts for 2000 will be between \$1 million and \$2 million. Am I liable for the new recycling surcharge that began January 1, 2000?

A No. For sole proprietors operating a nonfarm trade or business, the recycling surcharge applies only if they have \$4 million or more of gross receipts in a taxable year. If your gross receipts for 2000 do not equal or exceed that threshold, you will not be liable for the recycling surcharge for 2000.

Q I am a sole proprietor with a retail business. I expect that my gross receipts for 2000 will exceed \$4 million. What will my recycling surcharge liability be for 2000?

A If your gross receipts for 2000 do equal or exceed \$4 million, your recycling surcharge liability will be 0.2% of your Wisconsin net business income, with a minimum surcharge of \$25 and a maximum surcharge of \$9,800.

Q I used a \$1.00 manufacturer's coupon at a store to purchase a \$3.00 item. Although the store reduced the price of the item by \$1.00, I was still charged sales tax on the full amount of \$3.00. Should I have been charged sales tax on \$2.00 or \$3.00?

A The store correctly charged you sales tax on \$3.00. Since the store received \$2.00 from you and will receive \$1.00 from the manufacturer, the store is liable for sales tax on the full \$3.00 that it receives. The law allows the store to collect this tax from the customer.

Q I hold a Wisconsin seller's permit and receive returns to file on a quarterly basis. I had no sales this past quarter. Must I still file a sales and use tax return?

A Yes. Because you hold a seller's permit, you must file a sales and use tax return for each reporting period (each quarter, in your case), even though you may not have any sales during the quarter.

Q I noticed that the Department of Revenue has a new sales and use tax exemption certificate available on its Internet web site – Form S-211. I have older versions of Wisconsin exemption certificates marked "continuous" that I keep on file as proof that sales to certain customers are exempt from sales or use tax. Do I have to contact my customers and have them complete the new exemption certificate?

A No. Sellers are not required to replace valid certificates that they have on file with Form S-211.




Take Advantage of the Speakers Bureau

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

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." 

Index of Reference Material Available

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,

Wisconsin tax 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 35 of this Bulletin. [☞](#)

Don't Ignore Department of Revenue Inquiries

If a client receives a letter or notice from the Department of Revenue asking that they file a tax return or estimating the client's tax liability, don't ignore that letter or notice. It is important to respond timely in order to avoid an estimated assessment and the possibility of a collection fee (minimum of \$35) and other collection actions.

If the Department of Revenue believes that a required tax return has not been filed, the department may either send a letter to the taxpayer, requesting the missing return, or issue an estimated tax assessment. If no return is required, the taxpayer should send a response to the department, explaining why no return is required. In the case of a business, the business should notify the department when a Wisconsin seller's permit or Wisconsin employer identification number is no longer needed. As long as a seller's permit or employer identification number is considered active, sales tax returns or withholding tax deposit reports are required to be filed, even if there are no sales to report or withholding deposits to be made.

If a timely response to a request for a return is not received, an estimated assessment is issued. Estimated assessments are generally much higher than the taxpayer's actual liability, because the estimates are based on incomplete information, and credits are not allowed. For example, in cases involving individual income tax, the estimate may not take into account Wisconsin tax withheld from wages.

If there is no response to an estimated assessment, the amount of the assessment is subject to delinquent inter-

est of 1.5% per month, as well as a minimum \$35 collection fee. The \$35 fee will be cancelled if a tax return or information is subsequently furnished, and the tax return or information indicates that there is no filing requirement.

After a delinquent account has been established, collection action will be initiated, including, but not limited to, filing a tax lien, requiring an employer to withhold additional money from an employee's pay, and seizing assets such as bank accounts. The tax lien is public information, which creates a potential for credit agencies to obtain access to the information. This could adversely affect a taxpayer's credit rating.

These types of actions are the reason it is vital to respond to letters and notices from the Department of Revenue. There may not be a need for a tax return, and even if a return is due, the taxpayer may not owe Wisconsin tax. But the department will never know unless a response is received.

Each letter or notice requesting that a return be filed includes a telephone number to call with questions. Also, employees located in any of the department's offices throughout the state are available to provide assistance.

For a list of department office locations and hours, or for further information regarding delinquent tax collection, you may access the department's Internet web site at www.dor.state.wi.us and click on “FAQs” (frequently asked questions). [☞](#)

Correction: Private Letter Ruling

Private letter ruling number W0009001 was published in *Wisconsin Tax Bulletin* 119 (April 2000), beginning on

page 26. The date of the ruling, **December 8, 1999**, was inadvertently omitted from the ruling. [✎](#)

School CEO Jailed for Tax Fraud

James A. Mitchell, 48, the chief executive officer of Milwaukee choice school Alex's Academic of Excellence, was sentenced in May 2000, to six months in jail for tax fraud. At the sentencing, Circuit Judge Elsa Lamelas also questioned the management of the school and discussed at length a presentence report prepared by a state probation agent. In imposing the jail sentence, the judge considered prior convictions for crimes committed by Mitchell, including rape, burglary, and telecommunications fraud.

The tax charges, which predate the school's founding, concerned a failed venture that Mitchell started in 1991. According to the criminal complaint, the Fresh Start Center, a treatment center for juveniles that received state and county funding, closed in 1993 because Mitchell was unable to make a profit. Mitchell was accused, in the words of Judge Lamelas, of putting \$4,500 of taxpayers' money in his pocket.

The complaint stated that Fresh Start's records were not organized or complete, and that Mitchell wrote checks for thousands of dollars in cash with little explanation. Mitchell owed state withholding taxes for five consecutive years ending in 1996, yet he filed forms indicating the taxes had been remitted. The state and federal governments wrote off over \$200,000 in unpaid taxes for which Mitchell could not be held personally liable.

In April 2000, Michael H. Fritz, Stevens Point, a former chiropractor, was sentenced for two counts of failure to file Wisconsin income tax returns. Fritz had been found guilty after a jury trial in February.

Dane County Judge Steven D. Ebert ordered Fritz to serve 30 months probation, with several conditions. Fritz was ordered to file tax returns for the years 1991 to the present in a manner acceptable to the state, to pay restitution to the state, and to pay prosecution costs of \$10,228. These were the costs incurred by the Department of Revenue's Fraud Unit to investigate the case. The judge also imposed statutory costs of \$74 for each count. A jail sentence of six months was stayed, conditional on Fritz' successful completion of probation.

In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collection of the taxes, penalty, and interest due follows the criminal conviction.

Ronald E. Campbell, 42, of Walworth, was charged in May 2000, with filing false income tax returns for 1993 to 1996 and failure to file an income tax return for 1997. He appeared in Walworth County Circuit Court before Judge Michael Gibbs.

According to the criminal complaint, in December 1995 the Department of Revenue requested Campbell to file income tax returns for 1990 to 1994. After he failed to respond to the request, the department issued an estimated assessment for those years. The assessment later resulted in a lien against Campbell, after he failed to respond to the assessment.

In October 1997, Campbell filed income tax returns for 1993 to 1996. In each return he listed his income as zero. When a department agent asked Campbell how he could live on zero income, he stated that income tax was illegal under federal law. Upon the department's request to file accurate returns, Campbell contended that the tax returns were correct and only debated the constitutionality of tax returns.

The Department of Revenue's Fraud Unit determined that Campbell actually received payments of \$13,506 in 1993, \$29,738 in 1994, \$34,308 in 1995, \$73,866 in 1996, and \$63,972 in 1997. During that time Campbell worked for various trucking companies. In 1995 he also received unemployment compensation benefits.

If convicted on all counts, Campbell could face up to 45 months in jail and \$50,000 in fines.

In June 2000, Rhonda K. Lagoni, 50, of Madison, was found guilty on eight counts of theft by bailee and four counts of tax evasion. Dane County Circuit Court Judge Moria Krueger pronounced Lagoni guilty after she pled no contest to each felony count.

Lagoni, the former director of the University of Wisconsin-Madison Medical School's Office of Clinical Trials,

was charged in October 1999 with embezzling \$602,800 from the University between 1992 and 1999. According to the criminal complaint, she diverted money from pharmaceutical companies that was to be used by University of Wisconsin researchers in conducting clinical drug trials. Lagoni did not report any of the receipts from the drug companies on her tax returns, thus understating her income by \$592,500 and evading Wisconsin

income taxes of \$39,806 during 1995, 1996, 1997, and 1998.

Lagoni faces a maximum penalty of up to 100 years in prison, fines of up to \$120,000, or both, together with the cost of prosecution. [§](#)

Administrative Rules in Process

Listed below are proposed new administrative rules and changes to existing rules that are currently in the rule adoption process. The rules are shown at their stage in the process as of July 1, 2000, or at the stage in which action occurred during the period from April 2 to July 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 35 of this Bulletin to order the Tax section of the Wisconsin Administrative Code.

Rules Sent for Legislative Committee Review

- 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 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

- 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 Adopted but Not Yet Effective

- 2.32 Recycling surcharge - gross receipts defined-NR (anticipated effective date 9/1/00)
- 14.01 Administrative provisions-A (anticipated effective date 8/1/00)
- 14.02 Qualification for credit-A (anticipated effective date 8/1/00)
- 14.03 Household income and income-A (anticipated effective date 8/1/00)
- 14.04 Property taxes accrued-A (anticipated effective date 8/1/00)
- 14.05 Gross rent and rent constituting property taxes accrued-A (anticipated effective date 8/1/00)
- 14.06 Marriage, separation or divorce during a claim year-A (anticipated effective date 8/1/00)

Rules Adopted and in Effect (5/1/00)

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

Recently Adopted Rules Summarized

Summarized below is information regarding two recently revised or created sales and use tax rules. Included is information relating to Tax 11.67, amended effective May 1, 2000, and Tax 11.96, created effective May 1, 2000.

In addition to the summary of changes, some of the text of the revised rule and all of the text of the created rule is reproduced. In the amendments, material lined through (~~lined through~~) represents deleted text, and underscored (underscored) material represents new text.

To order up-to-date administrative rules of the department, you can use the order blank on page 35 of this Bulletin to obtain the Tax section of the Wisconsin Administrative Code.

Tax 11.67 Service enterprises. Subsection (2)(a) is revised, to update language and to remove examples from the text of the rule and set them forth separately, per Legislative Council Rules Clearinghouse (“Clearinghouse”) standards.

Subsection (3)(e)2 is revised and sub. (3)(e)3 is repealed, to clarify that the taxability of materials used in constructing a prototype depends on the primary objective of the customer, and that determining whether a transaction is a purchase and sale of a prototype, or a research and development service with the prototype being incidental, is done on a case-by-case basis.

Subsections (3)(f), (3)(h), and (3)(j) are revised, to conform language and punctuation to Clearinghouse standards.

Subsections (3)(L) to (3)(n) are renumbered (3)(k) to (3)(m), to conform numbering to Clearinghouse standards. As renumbered, sub. (3)(L) is revised, to conform punctuation to Clearinghouse standards.

The text of Tax 11.67(3)(e)2 is as follows:

Tax 11.67(3)(e)2. In certain instances under a research and development contract, the information cannot be developed without the production of a prototype. In this situation, ~~the researcher owes tax on the materials used to construct the prototype since it is used to compile the data, designs, drawings and whatever else is provided to the customer. The measure of the tax is the cost of the materials going into the production of the prototype as well as all other materials consumed in performing the contract. The transfer of the~~

~~prototype is incidental to the transfer of information, and for sales tax purposes, is deemed not a sale of tangible personal property. However, if the prototype is transferred to a customer for use in its business or for the purpose of reselling it, the researcher may purchase the materials used to construct the prototype without tax as property for resale if the primary objective of the customer in the transaction is to obtain tangible personal property, such as a prototype, the researcher may purchase the material used to construct the prototype without tax as property for resale. The subsequent sale of the prototype by the researcher to the customer is subject to tax unless an exemption applies. If the primary objective of the customer is to obtain the information resulting from production of the prototype, the prototype is considered transferred to the customer incidental to the research and development services. The researcher is subject to tax on the material purchased and used to construct the prototype. Determinations shall be made on a case-by-case basis.~~

Note: For a ruling on whether a specific transaction is a sale of a prototype or a research and development service with the prototype transferred incidental to the research and development service, write to Wisconsin Department of Revenue, Administration Technical Services, P.O. Box 8933, Madison, WI 53708-8933. The transaction should be described in detail.

Tax 11.96 Delivery of ordinance; county and premier resort area tax. Tax 11.96 is created, to set forth Department policy relating to what constitutes timely delivery to the Secretary of Revenue, of an ordinance to adopt or repeal a county sales and use tax or a premier resort area tax.

The text of Tax 11.96 is as follows:

Tax 11.96 **Delivery of ordinance; county and premier resort area tax.** (1) **PURPOSE.** This section clarifies requirements for the timely delivery of county sales and use tax and premier resort area tax ordinances to the secretary of revenue.

(2) **TIME REQUIREMENT FOR DELIVERY.** (a) *Adoption ordinance.* Any Wisconsin county may impose county sales and use taxes and any Wisconsin municipality or county wholly within a premier resort area under s. 66.307, Stats., may impose a premier resort area tax, by adopting an ordinance. Under ss. 77.70 and 77.9941(1), Stats., a certified copy of that ordinance shall be delivered to the secretary of revenue at least 120 days prior to its effective date.

(b) *Repeal ordinance.* Under ss. 77.70 and 77.9941(3), Stats., a county or municipality described in par (a) may repeal a county sales and use tax or a premier resort area tax by delivering a certified copy of the repeal ordinance to the secretary of revenue at least 60 days before the effective date of the repeal.

Note: An ordinance to adopt or repeal a county sales and use tax or a premier resort area tax should be mailed to Wisconsin Department of Revenue, Office of the Secretary, P.O. Box 8933, Madison, WI 53708-8933 or delivered to 125 South Webster Street, Madison, Wisconsin.

(3) DELIVERY OF ORDINANCE. An ordinance referred to in s. 77.70 or 77.9941(1) or (3), Stats., is timely delivered to the secretary of revenue if, by the prescribed number of days before the effective date, any of the following occur:

(a) The ordinance is hand delivered to and received by the secretary of revenue.

(b) The ordinance is mailed in a properly addressed envelope with the postage duly prepaid, if the envelope is postmarked before midnight and the ordinance is received by the secretary of revenue within 5 days after the prescribed date.

(c) The ordinance is delivered by a carrier other than the U.S. postal service and the ordinance is received by the secretary of revenue.

Note: Section Tax 11.96 interprets ss. 77.70 and 77.9941(1) and (3), Stats. [§](#)



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:

Sales and Use Taxes, and Withholding of Taxes

Officer liability

Mark J. Kuzniewski 16

Officer liability

Danny R. Senf 16

SALES AND USE TAXES, AND WITHHOLDING OF TAXES

Officer liability. *Mark J. Kuzniewski vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, February 28, 2000). The issues in this case are:

- A. Whether the taxpayer is a responsible person who is liable for the unpaid withholding taxes of Grill, Inc. (“the company”) under sec. 71.83(1)(b)2, Wis. Stats., for 1995 and January through May 1996.
- B. Whether the taxpayer is a responsible person who is liable for the unpaid sales taxes of the company under sec. 77.60(9), Wis. Stats., for the period of March through June 1996.

From January 7, 1996 through June 1996, the taxpayer was the general manager and “the person on the premises” in charge of the day-to-day operations of the company. In late January 1996, the taxpayer personally paid sales taxes owed by the company for November and

December 1995. The taxpayer was listed as president of the company on a checking account signature card at the company’s bank, and he signed checks to pay other creditors and the company payroll but not to pay the department for withholding taxes or sales and use taxes owed. The taxpayer was made aware of the company’s financial problems by the company’s owner, and the company’s accountant informed the taxpayer to file sales and withholding tax returns without payment if there was not enough money to make the payment. The taxpayer forwarded a seller’s permit revocation notice he received April 17, 1996, to the company’s owner rather than opening the notice.

The Commission concluded:

- A. The taxpayer is a responsible person who is liable for the company’s unpaid withholding taxes under sec. 71.83(1)(b)2, Wis. Stats., for 1995 and January through May 1996.
- B. The taxpayer is a responsible person who is liable for the company’s unpaid sales and use taxes under sec. 77.60(9), Wis. Stats., for the period of March through June 1996.

The taxpayer was the company president and had signature **authority** to sign checks and signed installment agreements with the department. The taxpayer was aware of the company’s tax problems and had a **duty** to address them. The taxpayer was directly involved in the payment of creditors and company payroll, and **intentionally breached his duty** to pay the company’s delinquent taxes.

The taxpayer has not appealed this decision. [⤴](#)

Officer liability. *Danny R. Senf vs. Wisconsin Department of Revenue* (Circuit Court for Dane County, February 23, 2000). This is a judicial review of a Wisconsin Tax Appeals Commission decision dated August 27, 1999. See *Wisconsin Tax Bulletin* 118 (January 2000), page 32, for a summary of the Commission’s decision. The issue in this case is whether the taxpayer is a responsible person who is liable for the delinquent withholding and sales and use taxes of Advanced Tem-

perature Technicians, Inc. (“the company”), during the period from February 1995 to May 1996, under sec. 71.83(1)(b)2, Wis. Stats. and sec. 77.60(9), Wis. Stats.

The Circuit Court affirmed the Commission’s decision and concluded that the taxpayer had the **authority** and the **duty** to pay the company’s withholding and sales and

use taxes, and the taxpayer **intentionally breached that duty**.

As a fifty percent shareholder, member of the Board of Directors, and president of the company, as one of two people with the ability to write checks drawn on two company accounts, and as the person who retained a CPA in December 1995 to attempt to resolve the financial woes of the company, the taxpayer clearly had the **authority** necessary to pay or direct payment of the unpaid taxes. Once the taxpayer became aware of the unpaid sales and use taxes and withholding taxes in December 1995, the taxpayer had a **duty** to see that the

taxes were paid as soon as possible. The taxpayer signed 192 checks during the period under review, and continued to write checks to numerous company creditors even after he became aware of the company's tax delinquency. Consequently, the taxpayer **intentionally breached his duty** to pay the delinquent withholding taxes and sales and use taxes when he paid other creditors while knowing the taxes were delinquent.

The taxpayer has appealed this decision. [⤴](#)



Tax Releases

“Tax Releases” are designed to provide answers to the specific tax questions covered, based on the facts indicated. In situations where the facts vary from those given herein, the answers may not apply. Unless otherwise indicated, tax releases apply for all periods open to adjustment. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.

The following tax release is included:

Individual Income Taxes –

1. Tuition Expense Deduction - Exchange Program..... 18

INDIVIDUAL INCOME TAXES

1 Tuition Expense Deduction - Exchange Program

Statutes: Section 71.05(6)(b)28, Wis. Stats. (1997-98)

Background: Section 71.05(6)(b)28, Wis. Stats. (1997-98), provides a subtraction from federal adjusted gross income when computing Wisconsin adjusted gross income for the amount paid for tuition expenses for a student who is the claimant or who is the claimant’s dependent child. The tuition must be paid to attend any university, college, technical college or a school approved under sec. 39.51, Wis. Stats. (1997-98), that is located in Wisconsin or to attend a public vocational school or public institution of higher education in Minnesota under the Minnesota - Wisconsin reciprocity agreement.

The maximum amount that may be subtracted for any one taxable year is \$3,000 per student. The subtraction is phased out for claimants who have federal adjusted gross income above certain levels.

Facts and Question: The parents paid tuition of \$1,941 for their dependent student to attend the spring 1999 semester at a university located in Wisconsin. For the fall 1999 semester, the student participated in an exchange program sponsored by the university. The parents paid \$7,320 (tuition, room, board, etc.) directly to the university located in Wisconsin. This enabled the student to attend classes abroad. The student received credit for the classes taken abroad from the Wisconsin university, and, during the time abroad, was enrolled as an active full-time student at the Wisconsin university.

Does the amount paid for tuition to the university located in Wisconsin to attend classes abroad under the exchange program qualify for the Wisconsin subtraction for tuition paid?

Answer: Yes. The parents may claim a subtraction for the amount paid for tuition only for both semesters (up to the maximum subtraction of \$3,000). Although the courses for the fall semester were held outside Wisconsin, the student was enrolled as a full-time student at the university located in Wisconsin, received credit for the courses from the university located in Wisconsin, and the exchange program was sponsored by the university located in Wisconsin. The tuition is considered to have been paid to attend the university located in Wisconsin.





Private Letter Rulings

“Private letter rulings” are written statements issued to a taxpayer by the department, that interpret Wisconsin tax laws based on the taxpayer’s specific set of facts. Any taxpayer may rely upon the ruling to the extent the facts are the same as those in the ruling.

The ruling number is interpreted as follows: The “W” is for “Wisconsin”; the first four digits are the year and week the ruling becomes available for publication (80 days after it is issued to the taxpayer); the last three digits are the number in the series of rulings issued that year. The date is the date the ruling was issued.

Certain information that could identify the taxpayer has been deleted. Additional information is available in Wisconsin Publication 111, “How to Get a Private Letter Ruling From the Wisconsin Department of Revenue.”

A correction relating to the following private letter ruling is included:

Sales and Use Taxes

Service enterprises - testing services
Incidental - testing services
W0009001

✱ **W0009001** ✱

Note: This private letter ruling was published in *Wisconsin Tax Bulletin* 119 (April 2000), page 26. The date of the ruling, **December 8, 1999**, was inadvertently omitted. [⬆](#)