

# Wisconsin TAX BULLETIN

[www.dor.state.wi.us](http://www.dor.state.wi.us)

Number 123

January 2001



## FOCUS ON . . .

### Paying taxes with plastic

see article on page 4

## Streamlined Sales Tax System Gains Momentum

As reported in the July 2000 issue of the *Wisconsin Tax Bulletin* (#121), Wisconsin and 28 other states are involved in a project to simplify the nation's sales and use taxes. On December 22, 2000, these states voted to move model legislation to state legislatures, the National Conference of State Legislatures, and the National Governors' Association for their consideration.

The Model Act and Interstate Agreement can be found at the Streamlined Sales Tax Project's Internet web site at [www.streamlinedsalestax.org](http://www.streamlinedsalestax.org). Also, there is a link on the Department of Revenue's Internet web site at [www.dor.state.wi.us](http://www.dor.state.wi.us).

The Model Act and Interstate Agreement provide for improved sales and use tax administration systems for all sellers and for all types of commerce through the following features in the system:

- State level administration of sales and use tax collections
- Uniformity in state and local tax bases
- Central, electronic registration for all member states who enact the legislation
- Simplification of state and local tax rates
- Uniform sourcing rules for all transactions
- Uniform definitions within tax bases
- Simplified administration of exemptions
- Simplified tax returns

(continued on page 2)

## Federal Treasury Offset Program Begins

Failure to pay your Wisconsin individual income tax may result in certification of your unpaid liability to the federal government's Treasury Offset Program (TOP), beginning this month. Federal law authorizes the Financial Management Service, a branch of the U.S. Department of Treasury, to reduce or offset federal income tax refunds payable by the Internal Revenue Service, to satisfy unpaid state income tax debts that have been certified to TOP.

Prior to certifying unpaid Wisconsin income taxes to TOP, the Department of Revenue will notify delinquent taxpayers, via certified mail, that their liabilities are eligible for federal refund offset. To avoid being placed in this program, taxpayers will have 60 days from the notification to pay their debt in full.

Only income tax debts of \$25 or more, that are not more than 10 years old, may be certified to TOP. Debts for other types of tax (for example, sales tax) and debts owed to other Wisconsin state agencies, counties, or municipalities are not eligible for TOP. [☞](#)

## Did You Know the Department of Revenue...

- ♦ provides free taxpayer assistance all around Wisconsin (see article on page 8)
- ♦ has a free Speakers Bureau available for speaking engagements (see article on page 11)
- ♦ has free publications on a wide variety of tax subjects (see article on page 16)
- ♦ has an index to make your research easier (see article on page 18)
- ♦ provides old and new tax forms via the Internet (web site is [www.dor.state.wi.us](http://www.dor.state.wi.us)) and via Fax-A-Form (phone 608-261-6229 from a fax telephone)
- ♦ offers recorded refund information 24 hours a day, seven days a week (phone 608-266-8100, Madison, or 414-227-4907, Milwaukee) [☞](#)

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## Streamlined Sales Tax System Gains Momentum

(continued from page 1)

- Uniform rules for deductions for bad debts
- Simplification of tax remittances
- Protection of consumer privacy

The model legislation and agreement provide for uniform definitions of (1) clothing and related items, and (2) food and food ingredients. They also provide for uniform definitions of delivery charges, purchase price, retail sale, and sales price. State legislatures are expected to determine what is taxable and exempt in each state, but they will use the uniform definitions to achieve the simplification. The Project will continue to work on additional definitions throughout calendar 2001.

While the Project will continue its work into 2001, it is expected that at least six to eight states will enact the model legislation and agreement in 2001. State revenue departments and national and state business organizations will begin the education process immediately. A number of states, including Wisconsin, are now drafting the specific state legislation needed to implement the model.

There has been much discussion and debate on issues surrounding sales tax administration in recent months. Forrester Research, Inc., has followed this issue and reported in the November 2000 issue of *The Forrester Report* that the Streamlined Sales Tax Project “is the only viable effort with the ability to preserve the state sales taxes.” Also, “the Streamlined Sales Tax Project has momentum, wide buy-in, and timing on its side.”



### Wisconsin Tax Bulletin

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## Lafayette County Adopts County Tax

Effective April 1, 2001, the county sales and use tax will be in effect in Lafayette County. This brings to 54 the number of counties that have adopted the ½% county tax.

Retailers were notified about Lafayette County's adoption of the county tax in the December 2000 *Sales and Use Tax Report* (number 4/00). The Report was sent in late December and early January to all persons registered for Wisconsin sales and use tax purposes. A copy of the Report appears on pages 39 and 40 of this Bulletin.

For additional information about the county tax, see Publication 201, *Wisconsin Sales and Use Tax Informa-*

tion, Part XVIII, on pages 34 to 39. Publication 201 is available from any Department of Revenue office. See the article titled “Tax Publications Available” on page 16 of this Bulletin for information about how to obtain copies of Publication 201 by mail, e-mail, fax, or the Internet. [↗](#)

## Federal Laws Enacted in 2000 Do Not Apply for Wisconsin

Generally, Wisconsin law provides that the computation of taxable income on the 2000 Wisconsin income tax return is to be based on the provisions of the Internal Revenue Code (IRC) enacted as of December 31, 1999. Changes to the IRC enacted after December 31, 1999, do not apply for Wisconsin income tax purposes. Individuals must complete Wisconsin Schedule I to adjust for any differences that result in the amounts of income and expense items reportable for federal and Wisconsin purposes.

At the time the 2000 Schedule I was sent to the printer (November 30, 2000), no new federal laws affecting the IRC had been enacted during 2000.

However, the Community Renewal Tax Relief Act of 2000 (Public Law 106-554) was enacted on December 21, 2000. The changes made by P.L. 106-554 to the IRC do not apply for Wisconsin purposes for 2000.

Following are brief explanations of differences between federal and Wisconsin law that result from the enactment of P.L. 106-554. The “Federal” explanation indicates how an item is to be treated for federal income tax purposes for 2000. The “Wisconsin” explanation indicates how the item is to be treated for Wisconsin purposes under the IRC enacted as of December 31, 1999.

If you are affected by any of these differences, you must complete 2000 Schedule I. Schedule I is available from any Department of Revenue office or from the department’s Internet web site ([www.dor.state.wi.us](http://www.dor.state.wi.us)).

### 1. Expensing of Environmental Remediation Costs

- (a) Federal – Effective for expenditures paid or incurred after December 21, 2000, the expensing of environmental remediation costs is no longer limited to targeted areas.(CRTRA, sec. 162)

- (b) Wisconsin – The expensing of environmental remediation costs is limited to qualified expenses at a qualified contaminated site within a targeted area.

### 2. Loss Through Liability Assumption

- (a) Federal – The basis of stock received in a tax-free incorporation must be reduced (but not below the stock’s fair market value) by the amount of any liability that (1) is assumed in the exchange for such stock and (2) did not otherwise reduce the transferor’s basis of the stock by reason of the assumption.(CRTRA, sec. 309)
- (b) Wisconsin – The basis of stock received in a tax-free incorporation is determined under the provisions of the Internal Revenue Code as amended to December 31, 1999.

### 3. Treatment of Securities Futures Contracts

- (a) Federal – Effective December 21, 2000, gain or loss from a securities futures contract (except dealer securities futures contracts) is generally treated the same as gain or loss from transactions in the underlying security, and such gain or loss takes on the same character as the property to which the contract relates has, or would have, in the hands of the taxpayer. Any capital gain or loss resulting from the sale or exchange of a securities futures contract to sell property generally will be short-term capital gain or loss. A securities futures contract will not be treated as a commodities futures contract. Gain or loss from a “dealer securities futures contract” is considered a “section 1256 contract” which requires it to be marked to market on the last day of the year. (CRTRA, section 401)
- (b) Wisconsin – The treatment of securities futures contracts is determined under the provisions of the Internal Revenue Code as amended to December 31, 1999. [↗](#)

## Agencies Join Forces to Help Low-Income Families

Six public and private sector agencies have joined together to help low-income working families use state and federal tax programs to put more money in their pockets. Joining forces in this community outreach effort are the Wisconsin Departments of Revenue, Health &

Family Services, and Workforce Development, the Wisconsin Community Action Program Association, the Wisconsin Institute of Certified Public Accountants, and the Wisconsin Accountants Association.


Their message: A qualifying low-income household can collect as much as \$7,000 from three state and federal tax programs; earned income tax credit (EITC), homestead credit, and the working families tax credit. Last year, those three programs provided an average benefit of \$3,616 to families earning \$20,000 or less.

The six agencies are tapping into existing church, neighborhood, civic, and advocacy organizations, to train hundreds of citizen volunteers in communities throughout the state, on how to help deserving families apply for those funds. Six regional training sessions are being held during January, in Madison, Green Bay, Milwaukee, Eau Claire, Superior, and Wisconsin Rapids.

The programs –

**Earned Income Tax Credits** Families can qualify for EITC with income up to \$31,152. Although 185,442 families claimed EITC in 1999, many more may be eligible. EITC is a “refundable” credit. In fact, families who owe no tax whatsoever can receive checks for up to \$3,888 from the federal government and up to \$1,672 in state EITC benefits.

**Homestead Credit** Homestead credit claimants can qualify for this credit with household income up to \$24,500 (this includes both taxable income and many types of nontaxable income, such as gross pensions, social security, and child support). A benefit of up to \$1,160 is available from the program. As with the EITC program, potential homestead credit claimants also may not be aware that they are eligible for this program. Last year, 173,000 claimants received homestead credits averaging \$460 each. Persons receiving public assistance, however, including subsidized housing, may not be eligible for homestead credit, if they received the assistance during the entire year.

**Working Families Tax Credit** The third program, the working families tax credit, eliminates Wisconsin tax liability for joint income tax filers earning \$18,000 or less, and for single filers earning \$9,000 or less. Despite the program’s name, single persons, as well as persons retired or otherwise not working, may also qualify. This tax credit works to increase refund amounts by reducing net taxes to zero. 



## Credit Card Tax Payments Will Be Allowed

(Note: Information for this article was provided by Official Payments Corporation.)

*Beginning in the 2001 filing season (at press time the date had not been determined), the Wisconsin Department of Revenue will accept credit cards for paying individual income balance due, estimated, and extension taxes.*

There is a growing trend at the federal level and in other states toward taxpayers choosing to pay their taxes with a credit card. Tax professionals should be aware of the procedures, benefits, and cost associated with this payment option.

The IRS and Wisconsin Department of Administration have contracted with Official Payments Corp., an independent credit card service provider, to provide the credit card payment option to Wisconsin taxpayers. The payment option is available to both electronic and paper filers, either by telephone by calling **1-800-2PAY-TAX**, or on the Internet at the Official Payments Corp. web site, [www.officialpayments.com](http://www.officialpayments.com).

American Express, Discover Card, and MasterCard are accepted for tax payments. Taxpayers are charged a convenience fee of 2.5% over and above the taxes due for the cost of the credit card processing. The Department of Revenue does not charge this fee; it is charged by Official Payments Corp. and appears as a separate charge on the taxpayer’s credit card statement. You can find more information about Official Payments Corp. on their web site, or by calling 1-877-754-4420. Materials designed exclusively for tax professionals and their clients are available on the Official Payments Corp. web site at [www.officialpayments.com/taxpreparers](http://www.officialpayments.com/taxpreparers).

### *Flexibility, Convenience, and Rewards – Three Reasons for Paying Taxes by Credit Card*

#### 1) Payment Flexibility

Paying taxes by credit card can offer significant benefits to personal taxpayers. For example, a taxpayer starts a new job and miscalculates his W-4 exemptions. After completing his tax forms, he realizes that he didn’t withhold enough and faces a tax payment of nearly \$4,000. He decides to put his balance on his credit card. By paying a \$100 convenience fee (2.5% of \$4,000), he

gains the flexibility to pay his taxes over several months. He also gains 4,100 reward points (see reason 3), a 30-day grace period, and the option to pay off the entire balance due at any point.

## 2) Convenience

Many customers use the system purely for the convenience benefits. For example, a taxpayer waits until April 14 to complete his tax return and decides to use the system to save time. He finds he owes the government \$175. Faced with long lines at the post office, he pays by credit card. For use of the service, he pays a \$4.37 convenience fee ...cheaper than cab fare to the post office.

## 3) Credit Card Rewards

A customer using a credit card with a bonus rewards program may be able (depending on the rules of the card's program) to earn rewards, points, and cash-back or frequent flyer miles for paying his or her taxes. For example, a customer used his credit card to pay his income taxes, plus a convenience fee of 2.5%. He deferred the payment for 30 days, so he received use of the funds during that time. In addition, he also gained frequent flyer miles from his rewards program. The value of the frequent flyer miles far exceeded the 2.5% convenience fee. [✎](#)

## Wisconsin Tax Bulletin Annual Index Included



This issue of the *Wisconsin Tax Bulletin* includes (on pages 49 to 79) the annual index of articles, tax releases, court case summaries, private letter rulings, and other materials that have appeared in past Bulletins. The index includes information for issues 1 to 122 (through October 2000). [✎](#)

## Preparers - Don't Forget About Use Tax!

When preparing individual income tax returns this tax season, don't forget to ask your clients if they made any out-of-state purchases subject to Wisconsin use tax. A line is included on the individual income tax returns (Forms 1, 1A, WI-Z, and 1NPR) to make the reporting of use tax easier for individuals. This line, "Sales and use tax due on out-of-state purchases" should be mentioned to each of your clients.

The Department of Revenue has contacted thousands of individuals regarding use tax. A common complaint the department receives is "Why didn't my preparer tell me about use tax? My preparer is supposed to know about taxes, not me!"

Help your clients by informing them about taxes that apply to them, **including use tax**. [✎](#)



## Wisconsin Electronic Filing - Popularity Continues

In the 2000 tax season, over 617,000 income tax returns were electronically filed with the Wisconsin Department of Revenue (DOR), through one of the three accepted e-file methods. The overall number of e-filed returns increased by 33% over the previous season. During the same time period, the number of returns prepared and electronically filed by tax practitioners increased by 24%.

Once again, the success of the Wisconsin e-file program is due in large part to the participation and cooperation of tax practitioners. It is anticipated that the use of electronic filing will continue to grow in the practitioner community. In November, the IRS Ogden Service Center reported a record number of tax practitioners applying to become Electronic Return Originators.

### What is e-file?

Wisconsin promotes three electronic filing options:

- 1) Federal/State Professional Prepared,
- 2) TeleFile, and
- 3) Online.

- 1) The Federal/State program includes returns that are prepared and transmitted by Electronic Return Originators (EROs). EROs are tax professionals that are approved by the IRS and DOR to file returns electronically.

### *New for the 2000 Filing Season!*

If you file your returns electronically using the Federal/State Professional Prepared option –

- **DO NOT MAIL** Wisconsin Form **8453W**
  - Retain the **SIGNED** Form 8453W and attached wage statements for **FOUR YEARS**
- 2) TeleFile is a method of filing simple tax returns using a touch-tone phone. In order to use the TeleFile option, a taxpayer must be selected by DOR's computer system and must receive a Personal Identification Number (PIN).
  - 3) Online filing actually includes two methods:
    - a) software stored on your hard drive; and b) web-based filing.
    - a) Off-the-shelf software or software downloaded from a web site is installed on an individual's computer, and all information entered by that individual is stored on his/her computer.
    - b) Web-based filing is accessed over the Internet. The tax preparation software and the information entered by the taxpayer are stored on the web site.

### The **BENEFITS** of e-file include:

- Data on e-filed returns are more accurate, because the software performs mathematical calculations
- Direct deposit is available only for e-filed returns
- Refunds will be issued within one week
- Taxpayers receive acknowledgements from DOR and IRS, of their returns being filed
- Adjustment rates on electronic returns are lower than paper returns

- Balance due returns can be filed early in the season, but can be paid on April 16th
- Electronic filing reduces processing costs for DOR, which benefits all taxpayers
- Wisconsin allows electronic filing through October 15th for returns with extensions.

### How do tax practitioners become EROs with DOR?

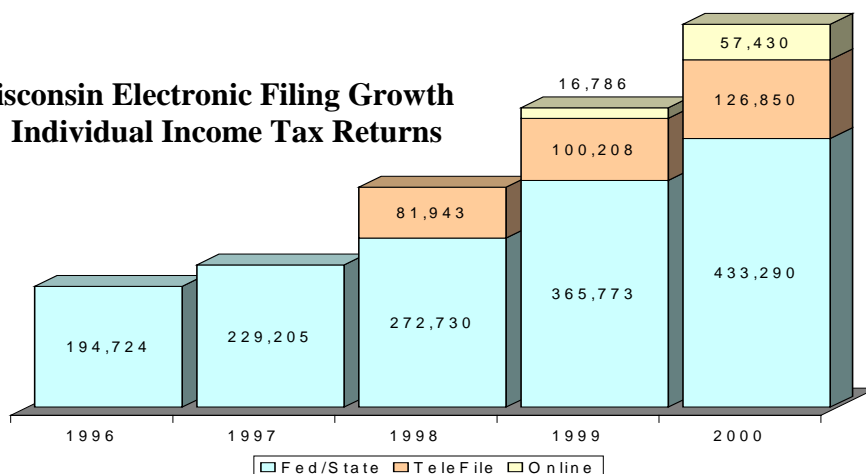
- 1) Complete an Electronic Return Originator application (Federal Form 8633), and submit it to the IRS.
- 2) Send DOR a copy of the federal application, (Form 8633), and a copy of the IRS acceptance letter with your EFIN (Electronic Filing Identification Number) on it. Participants who are not sole proprietors must also provide a list of the full names, addresses, and social security numbers of all partners or officers.
- 3) IRS-approved EROs will automatically be accepted into the Wisconsin e-file program, but applicants will be reviewed for delinquent tax liabilities and non-filing status.

These documents can be faxed to (608) 264-6884 or mailed to

Wisconsin Department of Revenue  
Electronic Filing Office  
PO Box 8977  
Madison WI 53708-8977

For more information on electronic filing, visit the department's Internet web site at [www.dor.state.wi.us](http://www.dor.state.wi.us), send an e-mail message to the Electronic Filing Office at [efiling@dor.state.wi.us](mailto:efiling@dor.state.wi.us), or call (608) 264-6886.

**Wisconsin Electronic Filing Growth  
Individual Income Tax Returns**





## Tips to Speed Refund Processing

If you have a refund coming on your 2000 Wisconsin income tax return, you want your return processed quickly. You can help by following the tips listed below.



### File Early

The time it takes to issue a refund varies greatly, depending on when the return is received. Refunds for returns that are not adjusted are issued in an average of 2 weeks for returns received by mid-February, 4 weeks for returns received from mid-February to mid-March, 6 weeks for returns received from mid-March to mid-April, and 8 weeks for returns received mid-April and after.



### File Electronically

There are many good reasons to file your Wisconsin return electronically. It's fast, safe, documented, easy, and accurate. For more information, see the article titled "Wisconsin Electronic Filing – Popularity Continues" on page 5 of this Bulletin.



### Use the Quick Refund Program

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

- File a signed and complete 2000 Form WI-Z, 1A, or 1, by April 1, 2001.
- Use the department-printed mailing label with no changes – be sure your name and address are correct.
- Have a Wisconsin address on the label.
- Enter the refund amount (including cents) in the quick refund box at the top of the return.
- Not claim homestead credit.
- Owe no delinquent taxes or debts to other state agencies.
- Mail the return to Quick Refund, PO Box 38, Madison WI 53787-0001.



### Use Your Label

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

- Use the label even if you are filing a computerized return or a return completed by a preparer.
- Fill in your social security number (and your spouse's, if applicable) on the tax return, since it is not on the label.
- Draw a line through incorrect information and make corrections on the label.
- If you received a postcard with a label instead of forms, transfer that label to the return.
- Use the Wisconsin label, not the federal IRS label.
- Be sure the label is yours, not another taxpayer's.



### File an Accurate and Complete Return

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

- Make entries legible and on the correct lines.
- Attach the correct withholding statements.
- Claim only Wisconsin tax withheld, not federal tax, social security, or tax withheld for another state.
- Attach **all** necessary supporting schedules.
- Attach a **complete** copy of your federal return and schedules if you file on Form 1 or 1NPR.
- Attach a completed rent certificate or a copy of your 2000 property tax bill if you are claiming homestead credit.
- Assemble your return in the proper order (see page 27 of the Form 1 instruction booklet or page 28 of the Form 1NPR booklet).



### More Tips

For more tips, see "Individual income tax returns" in the attachment "Avoid Errors on Tax Returns and Credit Claims," on page 43 of this Bulletin.



## Department Offers Taxpayer Assistance

Department personnel will be available through April 16, 2001, to provide taxpayer telephone and walk-in assistance. Assistance is provided Monday through Friday in the larger offices, and Mondays only in other offices (except as noted in the chart below).

In addition, assistance hours will be extended in five offices during March and April, 2001. Offices will be open from 9:00 a.m. to 3:00 p.m. on Saturdays, from March 10 through April 14, in Madison (Rimrock Rd. only), Milwaukee, Appleton, Green Bay, and Eau Claire. The Madison office will be open evenings on Monday through Thursday, until 7:00 p.m. from March 5 through April 12. The five offices will be open until 7:00 p.m. on Monday, April 16, and all other offices will be open that day until 4:30 p.m.

### Offices Providing Daily Assistance

Location	Address	Telephone No.	Hours
* Appleton	265 W. Northland Ave.	(920) 832-2727	7:45-4:30
* Eau Claire	718 W. Clairemont Ave.	(715) 836-2811	7:45-4:30
* Green Bay	200 N. Jefferson St., Rm. 526	(920) 448-5179	7:45-4:30
* Kenosha	4003 80th St., Ste. 102	(262) 697-5860	7:45-4:30
* Madison	2135 Rimrock Rd..	(608) 266-2772	7:45-4:30
* Madison	5005 University Ave., Ste 110	NONE	7:45-4:30
* Milwaukee	819 N. Sixth St., Rm. 408	(414) 227-4000	7:45-4:30
* Racine	616 Lake Ave.	(262) 638-7500	7:45-4:30
* Waukesha	141 N.W. Barstow St.	(262) 521-5310	7:45-4:30

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

Location	Address	Telephone No.	Hours
Baraboo	1000 Log Lodge Ct.	(608) 356-8973	7:45-4:30
Beaver Dam	220 Seippel Blvd.	(920) 356-6090	7:45-4:30
Elkhorn	715 W. Walworth St.	(414) 723-4098	7:45-4:30
Fond du Lac	845 S. Main, Ste. 150	(920) 929-3985	7:45-4:30
Grafton	1930 Wisconsin Ave.	(262) 375-7948	7:45-4:30
Hayward	100 Ranch Rd.	(715) 634-8478	7:45-1:00
Hudson	1810 Crestview Dr., Ste. 1B	(715) 381-5060	7:45-4:30
Janesville	101 E. Milwaukee, Rm. 525	(608) 758-6190	7:45-4:30 †
* La Crosse	620 Main St., Rm. 213	(608) 785-9720	7:45-4:30 †
Lancaster	130 W. Elm St.	(608) 723-2641	7:45-4:30
Manitowoc	914 Quay St.	(920) 683-4152	7:45-4:30
Marinette	Courthouse, 1926 Hall Ave.	(715) 732-7565	9:00-1:00
Marshfield	300 S. Peach Ave., Ste. 4	(715) 387-6346	7:45-4:30
Monroe	1015 18th Ave., Ste. B111	(608) 325-3013	7:45-1:00
Oshkosh	515 S. Washburn, Ste. 105	(920) 424-2100	7:45-4:30
Rhineland	203 Schiek Plaza	(715) 365-2666	7:45-4:30
Rice Lake	11 E. Eau Claire St., Ste. 4	(715) 234-7889	7:45-4:30
Shawano	1340 E. Green Bay St., Ste. 2	(715) 526-5647	7:45-4:30
Sheboygan	807 Center Ave.	(920) 459-3101	7:45-4:30
Superior	1225 Tower Ave., Ste. 315	(715) 392-7985	7:45-4:30
Tomah	203 E. Clifton	(608) 372-3256	7:45-1:00
Watertown	600 E. Main St.	(920) 262-2700	7:45-1:00
Waupaca	644 Hillcrest Dr., Ste. 2	(715) 258-9564	7:45-1:00
Wausau	710 Third St.	(715) 842-8665	7:45-4:30
West Bend	120 N. Main St., Ste. 170	(262) 335-5380	7:45-4:30
Wisconsin Rapids	830 Airport Ave.	(715) 421-0500	9:00-4:30

\* Open During noon hour

† Open Monday, Tuesday, and Wednesday



## How to Obtain Wisconsin Tax Forms

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

You can obtain up to 6 of any one Wisconsin tax form or a total of 29 Wisconsin forms by visiting any Department of Revenue office or by contacting the department by mail, by phone, or by fax. These limits are imposed in order to maintain a supply of forms for others. You can also receive forms via your fax machine or the Internet.

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



### To Pick Up Forms at a Department of Revenue Office

If you want to pick up forms at a department office, you may visit any of the department’s 35 offices (including two locations in Madison). The office locations and hours of service are listed in the article titled “Department Offers Taxpayer Assistance” on page 8 of this Bulletin (assistance is also available at these offices).



### To Receive Forms in the Mail

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

- Writing to Wisconsin Department of Revenue, Forms Request Office, PO Box 8951, Madison WI 53708-8951;
- Calling the department in Madison at (608) 266-1961; or
- Faxing your request to the department at (608) 261-6913.



## To Receive Forms Via Your Fax Machine

You can receive forms via your fax machine by using the department’s Fax-A-Form system. Individual income tax, homestead credit, farmland preservation credit, corporation franchise and income tax, estate tax, fiduciary income tax, and partnership forms and instructions for 1996 through 2000 are available via Fax-A-Form. For sales/use, withholding, and alcohol beverage taxes, only 2000 forms and instructions are available. In addition, 1996 through 2000 amended individual income tax forms and instructions are available, as well as publications published by the department (see the article titled “Tax Publications Available” on page 16 of this Bulletin).

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

Fax-A-Form is available 24 hours a day, 7 days a week. The department does not charge a fee for this service (though you will have to pay your normal telephone charges and fax machine operating costs). If you have questions, you may write to Cindy Breneman Fax-A-Form Coordinator, Wisconsin Department of Revenue, PO Box 8951, Madison WI 53708-8951, or call (608) 267-2025.



## To Receive Forms Via the Internet

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

To download forms, access the department’s Internet web site at [www.dor.state.wi.us](http://www.dor.state.wi.us), and click on “Forms.”



## How to Obtain Copies of Your Tax Returns

### What Is Available

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

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

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

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

### Who May Request Copies

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

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

### Fees

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

### How to Request

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

Requests must include the following:

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

### Where to Direct Requests

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

*In-Person Requests:* Make your request at the Department of Revenue, Customer Service, 2135 Rimrock Road, Madison, Wisconsin. Office hours are 7:45 a.m. to 4:30 p.m. Proper identification (for example, a driver's license) is required.

### Questions

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

Returns/Information Available	# of Years
corporation tax returns	6
gift tax reports	5
homestead credit claims	10
individual income tax returns	4
insurance tax returns	6
partnership tax returns	4
sales/use tax returns	10
trust fiduciary returns	4
withholding statements	5





## 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 February and April. The seminars will include information on differences between the two states' laws. The February seminars apply to contractors, and the seminars in April are for general businesses.

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

\*\*\*\*\*

February 6, 2001 – Duluth, MN  
Minnesota Department of Revenue Office  
2711 West Superior Street

\*\*\*\*\*

February 13, 2001 – Hudson, WI  
Hudson House  
1616 Crestview Drive

\*\*\*\*\*

February 20, 2001 – LaCrosse, WI  
Western Wisconsin Technical College  
Kumm Center – Room 102  
400 6<sup>th</sup> Street North

\*\*\*\*\*

April 2, 2001 – Duluth, MN  
Minnesota Department of Revenue Office  
2711 West Superior Street

\*\*\*\*\*

April 10, 2001 – Hudson, WI  
Hudson House  
1616 Crestview Drive

\*\*\*\*\*

April 17, 2001 – Onalaska, WI  
Onalaska OmniCenter  
225 Rider Club Street




## 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.
- Electronic filing of individual income tax returns.

To arrange for a speaker, you may write to Wisconsin Department of Revenue, Speakers Bureau, PO 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](http://www.dor.state.wi.us), and clicking on "Events/Training." 


## Power of Attorney Form Required

If your tax representative assists you in complying with Wisconsin tax laws and the tax representative performs various functions on your behalf, you are required to have a power of attorney on file with the Wisconsin Department of Revenue. These functions include:

- Receiving tax forms, notices, billings, refunds, determinations, redeterminations, communications, and correspondence relating to your tax account.
- Inspecting confidential information (e.g., tax returns and audit reports).
- Representing you at conferences.
- Executing a waiver to extend the statutory period for assessment or collection of tax.
- Executing any other waivers or agreements.

The department will accept an original, photocopy, or facsimile (fax) transmission of a power of attorney.


Form A-222, the Department of Revenue's Power of Attorney form, may be used but is not required. A substitute power of attorney must reflect the information that would be provided on the Form A-222.

A copy of Form A-222 appears on pages 41 and 42 of this Bulletin. Copies are also available from any Department of Revenue office, or via the department's Internet web site, [www.dor.state.wi.us](http://www.dor.state.wi.us). 



### Focus on Publications: Non-Statistical Sampling

What is "sampling"? Why is it used? Answers to these and many other questions are provided in a new Department of Revenue publication, Publication 515, *Non-Statistical Sampling*. The publication provides information about non-statistical sampling used in field audits by the department. It explains when and why sampling is used, the factors considered in determining if sampling will be used, how sampling results are calculated, and special situations that can affect sampling results.

Copies of Publication 515, as well as copies of any of the other department publications, can be obtained at any Department of Revenue office, or by mail, e-mail, fax, or the Internet. See the article titled "Tax Publications Available" on page 16 of this Bulletin for details. 

### IRS Mileage Rates for 2001 Apply for Wisconsin




The optional standard mileage rates provided by the Internal Revenue Service (IRS) for 2001, for computing automobile expenses for business, charitable, medical, and moving expense purposes, also apply for Wisconsin.

For 2001 the IRS has increased the business standard mileage rate from 32.5¢ per mile to 34.5¢ per mile for all business miles driven. The 34.5¢ per mile rate is allowed without regard to whether the automobile was previously considered fully depreciated.

If the standard mileage rate of 34.5¢ per mile is used, depreciation is considered to be allowed at 15¢ per mile for 2001, an increase from 14¢ per mile for 2000. However, no portion is considered to be depreciation after the adjusted basis of the automobile reaches zero.

For 2001 the allowable standard mileage rate for charitable deduction purposes remains at 14¢ per mile. The

rate for medical expense and moving expense deductions has increased from 10¢ per mile to 12¢ per mile. 

### 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 Tax .....	266-6702
Cigarette, Tobacco Products Taxes .....	266-8970
Copies of Returns .....	267-1266
Corporation Franchise and Income Taxes.....	266-1143
Delinquent Taxes .....	266-7879
Electronic Filing:	
Individual Income Tax.....	264-9959
Sales Tax.....	261-6261
Electronic Funds Transfer.....	264-9918
Estimated Taxes.....	266-9940
Fiduciary, Estate Taxes.....	266-2772
Forms Request:	
Taxpayers.....	266-1961
Practitioners.....	267-2025
Fax-A-Form .....	261-6229
Homestead Credit .....	266-8641
Individual Income Tax.....	266-2486
Motor Vehicle Fuel Tax .....	266-3223
Refunds.....	266-8100
Sales, Use, Withholding Taxes.....	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



## Don't Forget Due Dates for Information Returns

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

Information returns due January 31, 2001, include Form W-2 to report wages, tips, and other compensation, and Form W-2G to report gambling winnings.

Information returns due February 28, 2001, include Wisconsin Form 9b (or federal Form 1099-R or 1099-MISC) to report retirement plan distributions and other nonwage compensation, and for payers other than corporations to report rents or royalties.

Information returns due March 15, 2001, by **corporations** include Form 9b or federal Form 1099-MISC to report rents or royalties, and Form 8 to report capital stock transfers.

Regardless of the due date for filing the information returns with the department, copies of the information returns (except Form 8) must be given to the recipients of the payments by January 31, 2001. Copies of Form 8 are not required to be given to individuals who transfer capital stock.

Additional information is available in Wisconsin Publication 117, *Guide to Wisconsin Information Returns*. See the article titled "Tax Publications Available" on page 16 of this Bulletin for information about how to obtain a copy of the publication. [🔗](#)



## Avoid Errors on Tax Returns and Credit Claims

Are your tax returns and credit claims filed without errors, and do they include all the schedules and information necessary for the department to accurately process them? Many errors are discovered each year, either in processing or in subsequent audits by the department.

In the 2000 processing season (1999 returns and claims), the department sent back over 35,000 tax returns and credit claims. Processing was delayed on another 79,000 forms, to obtain additional information from taxpayers or claimants. Nearly half a million tax returns and credit claims were adjusted during the processing of those forms.

Errors discovered in auditing tax returns and homestead credit claims resulted in the collection of nearly \$131 million in the fiscal year ending June 30, 2000. This includes taxes, excess credits, penalties, and interest. (Note: Included in this total is approximately \$52.5 million of sales and use taxes.)

Listed in an attachment on pages 43 to 45 of this Bulletin are dozens of tips for preparing error-free tax returns and credit claims. Following these tips will help avoid annoying processing delays, as well as letters from the department's auditors. [🔗](#)

## Schedule 3K-1s — File on Magnetic/Electronic Media

Partnerships with 50 or more partners are encouraged to file their Wisconsin Schedule 3K-1s, "*Partner's Share of Income, Deductions, etc.*," on magnetic/electronic media. The types of magnetic/electronic media allowed include magnetic tape, cartridge, CD, and diskette.

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

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

Carol Albright  
Wisconsin Department of Revenue  
Tax Processing Bureau  
PO Box 8908  
Madison WI 53708-8908

Phone: (608) 266-2179

E-mail: [calbrigh@dor.state.wi.us](mailto:calbrigh@dor.state.wi.us) [🔗](#)

## Form 1099-Gs and 1099-INTs Mailed to Taxpayers

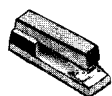
The Department of Revenue is mailing approximately 640,000 federal Form 1099-Gs and 500 Form 1099-INTs in January 2001. Federal law requires that the department provide 2000 Form 1099-Gs to persons who received a Wisconsin income tax refund in 2000 and claimed state income tax payments as an itemized deduction on the federal tax return for the year to which the refund applies. Form 1099-INTs must be provided to persons who received \$600 or more of interest on refunds issued by the Department of Revenue.

Regardless of whether a Form 1099-INT is sent to a taxpayer, the taxpayer must report all interest received from

the department in 2000 as income on his or her 2000 federal and Wisconsin tax returns.

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

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



## Attaching Copy of Federal Return

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

### Federal TeleFile Filers

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

### Taxpayers Not Required to File With the IRS

Some taxpayers who are required to file a Wisconsin income tax return are not required to file a federal income tax return with the IRS. For example, a person filing as head of household who is age 65 or over, with gross income of at least \$10,100 but less than \$10,350 for 2000, must file a 2000 Wisconsin return but is not required to file a 2000 federal return.

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

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



## New Web Pages for Tax Professionals

Visit the new **Tax Professionals** pages on the Department of Revenue's web site for the latest news and links to items that are helpful to tax return preparers and software developers. The address is [www.dor.state.wi.us/taxpro/taxpro.html](http://www.dor.state.wi.us/taxpro/taxpro.html).

In addition, the department's web site contains the following types of information:

**Contact Us:** Agency information, organizational charts, office locations, hours, and telephone and FAX numbers. Also, e-mail addresses for questions about specific tax types.

**E-Services:** E-filing options for either personal or professional preparers, TeleFile, Electronic Funds Transfer (EFT), Sales Internet Process (SIP) for direct filing of sales and use tax returns, and the Tax Refund Intercept Program (TRIP).

**Employment:** Available positions, exam schedules, seasonal jobs, internship opportunities, and applications.

**Events/Training:** Information about contacting the Speakers Bureau for a speaker, plus information on assessor training and other training opportunities.

**FAQS:** Answers to a wide variety of tax questions with e-mail links available for additional questions. You can also check on the status of a refund.

**Forms:** Income tax, sales and use tax, withholding, and other tax forms, draft copies of tax forms, and local government forms. Links to the IRS and other state revenue departments.

**Links:** Links for other state agencies, federal agencies, and tax-related organizations.

**Newsroom:** The latest news occurring in the department.

**Publications:** Wisconsin Tax Bulletins (WTBs), Sales and Use Tax Reports, Withholding Tax Update, Tax Publications, Local Government Publications, and Real Estate Transfer information.

**Reports/Data:** A variety of reports on sales and use tax collections, economic forecasts, state and federal spending of income tax, tax exemptions, equalized values, shared revenues, use-value guidelines, and more.

**Search:** Search the department's entire web site with keywords of your choice.

**Survey:** Gives visitors an opportunity to voice their opinion on the web site, and to suggest ideas for improving it.

If you would like additional information about the department's web site, contact the Department of Revenue Webmaster, Mary Lou Clayton, at (608) 261-2272. [☞](#)

## Withholding Tax Update Sent to Employers

The annual Withholding Tax Update was sent in December 2000, along with Forms WT-7, *Employer's Annual Reconciliation of Wisconsin Income Tax Withheld from Wages*, to employers registered to withhold Wisconsin taxes.

A copy of the Withholding Tax Update appears on pages 47 and 48 of this Bulletin. [☞](#)

## Congress Preempts State Taxation of Nonresident Interstate Waterway Workers

Effective November 9, 2000, federal Public Law 106-489 preempts state taxation of certain wages earned by interstate waterway workers.

This law provides that wages paid to a licensed pilot or other worker on a vessel operating on the navigable waters of more than one State are subject to the income tax laws only of the State in which the individual resides.

Therefore, wages paid to a licensed pilot or other worker on a vessel operating on the navigable waters of more than one State are subject to Wisconsin income tax as follows:

1. *Employees who are legal residents of Wisconsin for the entire taxable year* – all such wages are subject to Wisconsin income tax.
2. *Employees who are not legal residents of Wisconsin for any portion of the taxable year (that is, nonresidents for the entire year)* – such wages are not subject to Wisconsin income tax.
3. *Employees who are legal residents of Wisconsin for a portion of the taxable year (that is, part-year residents of Wisconsin)* –
  - (a) During the period in which the employee is a legal resident of Wisconsin, all such wages are subject to Wisconsin income tax.
  - (b) During the period in which the employee is a nonresident of Wisconsin, the wages are not subject to Wisconsin income tax. [☞](#)

## 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 the Internet.

### *By Mail*

Write to Wisconsin Department of Revenue, Forms Request Office, PO 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](mailto: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](http://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 (12/00)
- 103\* Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts (11/00)
- 104 Wisconsin Taxation of Military Personnel (9/00)
- 106\* Wisconsin Tax Information for Retirees (1/01)
- 109\* Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 2000 (11/00)
- 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) (11/00)

- 120\* Net Operating Losses for Individuals, Estates, and Trusts (11/00)

- 121 Reciprocity (5/99)

- 122\* Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 2000 (11/00)

- 123\* Business Tax Credits for 2000 (11/00)

- 125\* Credit for Tax Paid to Another State (11/00)

- 126\* How Your Retirement Benefits Are Taxed (10/00)

- 600\* Wisconsin Taxation of Lottery Winnings (1/01)

- 601\* Wisconsin Taxation of Pari-Mutuel Wager Winnings (1-01)

### 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 (11/00)

- 203 Sales and Use Tax Information for Manufacturers (7/00)

- 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 (10/00)

- 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 (11/00)

- 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 (11/00)
- 128\* Wisconsin Farmland Preservation Credit Situations and Solutions (11/00)
- 400\* Wisconsin's Recycling Surcharge (10/00)
- 403 Premier Resort Area Tax (2/98)
- 410 Local Exposition Taxes (2/99)
- 503\* Wisconsin Farmland Preservation Credit (1/01)
- 508 Wisconsin Tax Requirements Relating to Nonresident Entertainers (6/00)
- 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)
- 515\* Non-Statistical Sampling (1/01)

#### 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 (12/00)
- 117 Guide to Wisconsin Information Returns (10/99)
- 124 Petition for Compromise of Delinquent Taxes (5/00)
- 130 Fax A Form (9/99)
- 140 A Tax Practitioner's Guide to Electronic Filing (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) [!\[\]\(f59a2964dfebd06f30127560e4ba2bad\_img.jpg\)](#)

## Question and Answer



**Q** Are hearing aid batteries subject to Wisconsin sales and use tax?

**A** No. Wisconsin sales and use tax law provides an exemption for "...hearing aids and other equipment worn as a correction or substitute for any functioning portion of the body." This exemption includes parts and accessories, such as hearing aid batteries.

**Q** If I am unable to pay my income taxes in full when my tax return is due can I make arrangements to pay them in installments?

**A** In most cases you can. File your completed Wisconsin income tax return on time and pay as much as you can. By filing on time, you will avoid penalties.

When you receive a bill for the balance of taxes due, you may contact the Department of Revenue office closest to you or call (608) 266-7879 in Madison, to request an installment agreement. If an installment payment plan is approved by the department, you will be charged a \$20 installment agreement fee, and interest charged at 18% per year will apply to the unpaid balance.

**Q** I am single and my dependent daughter lives with me. It appears I can file my income tax return using either the “single” or “head of household” filing status. Which filing status should I use?

**A** When more than one filing status applies, choose the one that will give you the lowest tax. Usually the “head of household” filing status will result in a lower tax than the “single” filing status.

**Q** Does Wisconsin allow a deduction on the income tax return for the cost of long-term care insurance?

**A** Yes. You may be able to deduct all or a portion of the amount paid during the year for long-term

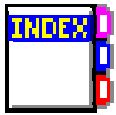
care insurance. You must file your Wisconsin income tax return on Form 1 (long form) to claim the deduction.

**Q** I rented an apartment for five months and on June 1 I purchased a new home and moved into it. May I claim both the property taxes from the property tax bill and the rent when I fill out my homestead credit claim?

**A** You may claim the rent for the apartment for the first five months, but you may claim only 7/12ths of the net property taxes shown on your property tax bill. The property taxes must be prorated for the time you owned and lived in your new homestead.

**Q** Must child support and foster care payments be included in income on the homestead credit claim, Schedule H?

**A** Court ordered child support payments and taxable foster care payments must be included. Voluntary support payments and nontaxable foster care payments do not have to be included. [☞](#)



## 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 81 of this Bulletin. [☞](#)

## Former UW Researcher Jailed

Rhonda Lagoni, 50, of Madison, was sentenced in October 2000, for embezzlement of \$604,000 from UW-Madison, and tax fraud. Dane County Circuit Judge Moria Krueger sentenced Lagoni to five years in prison, and in addition she was placed on probation for 19 years and ordered to pay restitution.

Lagoni was charged in October 1999 with 53 counts of theft and four counts of tax fraud. In June 2000 she pled no contest to 12 counts of theft and faced up to 120 years in prison.

Lagoni had managed the Office of Clinical Trials at the UW-Madison since it was established in 1989, to coordinate research funded by private companies and to pay patients participating in experiments. On 180 occasions

between 1992 and 1998, she took money that drug companies had given to the university and spent it mainly on high-priced women's fashions. She did not report any of the \$604,000 of embezzled funds on her tax returns.

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In September 2000, Paula L. Wernick, 29, of Oregon, a former Wisconsin Department of Revenue worker, was charged in Dane County Circuit Court, with unlawfully examining tax returns. She was charged under a statute called prohibited browsing, which restricts Department of Revenue workers from making computer searches into tax returns unless they have a job-related basis for doing so.

The criminal complaint against Wernick states that she examined the tax returns of her ex-fiance because he owed her money for child support, which should have been deducted from any tax refunds due him. A computer check showed she examined his tax returns 38 times, and she also examined the returns of his current girlfriend.

If convicted, Wernick faces a minimum penalty of one month in jail and a \$100 fine, and a maximum of six months in jail and a \$500 fine.

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In January 2001, Thomas Swanson Sr., 56, and his son Thomas Swanson Jr., 34, were each charged with criminal offenses relating to fraudulent homestead credit claims. The charges were initiated by the Wisconsin Department of Justice after an investigation by the Department of Revenue's Fraud Unit.

Swanson Sr., of Salem, was charged in Kenosha County Court, with one count of filing a fraudulent 1997 homestead credit claim. The complaint states that in addition he filed a 1997 Wisconsin income tax return in which he claimed a false dependent, fraudulent earned income credit, and a false IRA deduction, and he underreported his income by \$10,000.

Swanson Jr., currently incarcerated in Racine, was charged in Racine County Court, with two counts of

filing fraudulent homestead credit claims and one count of assisting another person in filing a fraudulent homestead credit claim. The complaint further states that he prepared a 1996 Wisconsin income tax return for his father in which earned income credit and homestead credit were falsely claimed.

Although charged with only three counts, Swanson Jr. filed false Wisconsin income tax returns, including false earned income credit and homestead credit claims, for 1995 through 1998. While incarcerated, he filed three false 1998 returns and claims, claiming false income, dependents, and rent and included false rent certificates. He also prepared and filed false returns and claims for other inmates.

Filing a false homestead credit claim is a penalty punishable by up to five years imprisonment and up to \$10,000 in fines. In addition, Wisconsin law provides for substantial civil penalties, and assessment and collection of the taxes, penalties, and interest due follows a criminal conviction.

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Also in January, Michael J. Quinn, 37, of Altoona, and the former general manager of Grizzly's Grill N Saloon in Eau Claire, was sentenced to five years in prison for embezzling more than \$143,000 from Grizzly's over a five-year period. Quinn had pled guilty to the embezzlement charge, as well as one charge of filing false income tax returns and three related felony charges. Eau Claire County Circuit Judge Paul Lenz also sentenced Quinn to eight years of probation following the prison term and ordered him to pay \$58,000 in restitution to the saloon's owner and \$8,150 to the Wisconsin Department of Revenue.

According to the criminal complaint, Quinn embezzled the money between January 1997 and January 2000. He was charged in June 2000, with 31 felony charges, including three counts of filing false income tax returns for 1997, 1998, and 1999. He could have been sentenced to up to 165 years in prison. [!\[\]\(991b36aa5bd6fb38a409d6026b7522b3\_img.jpg\)](#)

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## Administrative Rules in Process

Listed below are proposed new administrative rules and changes to existing rules that are currently in the rule adoption process. The rules are shown at their stage in the process as of January 1, 2001, or at the stage in

which action occurred during the period from October 2, 2000, to January 1, 2001.

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 81 of this Bulletin to order the Tax section of the Wisconsin Administrative Code.

### Rules Being Reviewed Following Publication of Various Notices

- 1.13 Power of attorney–A
- 2.03 Corporation returns–A
- 2.04 Information returns and wage statements–A
- 2.08 Returns of persons other than corporations–A
- 2.12 Amended returns–A
- 2.82 Nexus–A
- 3.91 Petition for redetermination–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 and in Effect (effective 1/1/01)

- 9.69 Master settlement agreement with tobacco product manufacturers–NR. [!\[\]\(46ec1af95d23a3d83c74a9e3735e721c\_img.jpg\)](#)

## Recently Adopted Rules Summarized

Summarized below is information regarding a recently created rule, Tax 9.69, effective January 1, 2001. The rule relates to the Master Settlement Agreement between Wisconsin and tobacco product manufacturers.

Under the terms of the Master Settlement Agreement of November 23, 1998, between Wisconsin and other states and participating U.S. tobacco product manufacturers, each state, in order to receive funds under the agreement, was required to enact a “qualifying statute” that would prevent the participating manufacturers from losing market share. The Wisconsin Legislature enacted 1999 Wisconsin Act 122, a “qualifying statute,” effective May 23, 2000. Every tobacco product manufacturer that sells cigarettes in Wisconsin is required to either become a participating manufacturer under the terms of the Master Settlement Agreement or place funds into a qualified escrow fund.

An emergency rule was created effective August 17, 2000, but was applicable to sales of cigarettes on or after May 23, 2000. The permanent rule effective January 1, 2001, replaces the emergency rule.

The text of the permanent rule is as follows:

**Tax 9.69 Master settlement agreement with tobacco product manufacturers.** (1) **PURPOSE.** This section describes requirements and methods relating to collecting, maintaining and reporting data regarding the number of Wisconsin state cigarette excise tax stamps affixed to packages of

cigarettes, and the amount of “roll-your-own” cigarette tobacco, sold in Wisconsin each year.

**Note:** The data collected, maintained and reported under this section shall be used to ascertain the amount of Wisconsin excise tax paid on the cigarettes of each tobacco product manufacturer that elects to place funds in a qualified escrow fund under s. 895.10, Stats., for each year, or, if the department deems it appropriate, is a participating manufacturer under the master settlement agreement between the state and tobacco product manufacturers, pursuant to 1999 Wis. Act 122.

(2) **DEFINITIONS.** In this section:

- (a) “Cigarette” has the same meaning as in s. 895.10(1)(d), Stats., and includes “roll-your-own” cigarette tobacco.
- (b) “Master settlement agreement” has the same meaning as in s. 895.10(1)(e), Stats.
- (c) “Qualified escrow fund” has the same meaning as in s. 895.10(1)(f), Stats.
- (d) “Sell” or “sale” has the same meaning as in s. 139.30(12), Stats.
- (e) “Tobacco product manufacturer” has the same meaning as in s. 895.10(1)(i), Stats., and includes both a cigarette manufacturer under subch. II of ch. 139, Stats., and a tobacco products manufacturer under subch. III of ch. 139, Stats., that sells “roll-your-own” cigarette tobacco.

(f) “Wisconsin consumer” means a consumer within this state, including a direct consumer, distributor, retailer or intermediary similar to a distributor or a retailer.

(3) **REPORTING REQUIREMENT.** (a) Every tobacco product manufacturer that elects to sell cigarettes to Wisconsin consumers shall, by the 15<sup>th</sup> day of each month, file a schedule with the department that reconciles the number of Wisconsin state cigarette excise tax stamps affixed to packages of cigarettes sold to Wisconsin consumers and the amount of “roll-your-own” cigarette tobacco sold to Wisconsin consumers in the previous

calendar month.

(b) The schedule required under par. (a) shall contain all of the following information that is applicable:

1. A listing of each sale of cigarettes other than “roll-your-own” cigarette tobacco manufactured, or the name of the manufacturer of the cigarettes that were delivered to Wisconsin consumers, onto which state cigarette excise tax stamps were affixed.

2. A listing of each sale of “roll-your-own” cigarette tobacco manufactured, or the name of the manufacturer of the “roll-your-own” cigarette tobacco, that was delivered to Wisconsin consumers.

3. For each manufacturer listed pursuant to subd. 1., a listing of all brands of cigarettes sold and the number of Wisconsin state cigarette excise tax stamps affixed to cigarette packages with respect to each brand.

4. For each brand of cigarettes listed for each manufacturer pursuant to subd. 3., the following additional information, if known:

a. The name of the manufacturer of the cigarettes.

b. The name of the person or entity first responsible for the cigarettes being designated or identified for sale in the United States.

5. For each sale of “roll-your-own” cigarette tobacco listed for each manufacturer pursuant to subd. 2., the following additional information, if known:

a. The name of the manufacturer of the “roll-your-own” cigarette tobacco.

b. The name of the person or entity first responsible for the “roll-your-own” cigarette tobacco being designated or identified for sale in the United States, by brand.

6. Any other information the department may deem necessary to administer the provisions of this section.

#### (4) ESCROW FUND CERTIFICATION

**REQUIREMENTS.** (a) Every tobacco product manufacturer that is not a participating manufacturer under the master settlement agreement shall by April 15 of each year certify to the department and to the attorney general that the amounts required under s. 895.10(2)(b), Stats., have been placed into a qualified escrow fund that is designated for Wisconsin judgments or release payments.

(b) The certification required under par. (a) shall include all of the following:

1. The name of the qualified financial institution where the escrow fund is maintained.

2. The amount of funds placed into the escrow fund since the last reporting period, based on Wisconsin sales.

3. The amounts, if any, paid out of the escrow fund in judgments or release payments and the purpose of the disbursements.

4. The balance in the escrow fund as of March 31 of each year.

5. A copy of the escrow fund balance statement as of March 31 of each year.

(5) **RECORDKEEPING REQUIREMENTS.** Every tobacco product manufacturer required to file a schedule under sub. (3) shall maintain complete and accurate records to support the information reported on the required schedule. These records shall be maintained for a period of 4 years from the date of sale into Wisconsin and shall include all of the following:

(a) Purchase records indicating the tobacco product manufacturer of the cigarettes, the date of purchase and the number of cigarettes by brand or amount of “roll-your-own” cigarette tobacco purchased, by brand.

(b) Sales records indicating to whom the sale was made, the tobacco product manufacturer of the cigarettes, the date of sale and the number of cigarettes by brand or amount of “roll-your-own” cigarette tobacco sold.

(c) The number of Wisconsin cigarette tax stamps placed on packages of cigarettes for sale in the state of Wisconsin.

(d) Any additional records deemed necessary by the secretary.

(6) **REMEDIES FOR NONCOMPLIANCE.** The failure of a tobacco product manufacturer to either become a participating manufacturer under the terms of the master settlement agreement or place funds into a qualified escrow fund, as provided in s. 895.10(2)(b)1., Stats., shall be subject to civil action and penalties under s. 895.10(2)(b)3., Stats.

**Note:** Section Tax 9.69 interprets subchs. II and III of ch. 139, Stats., and s. 895.10, 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:

### Individual Income Taxes

#### Alimony

*Eric W. Miller and Teri L. Miller* ..... 22

#### Appeals - jurisdiction

*Judy Hagner* ..... 23

#### Estimated assessments

*George F. Reif* ..... 23

### Sales and Use Taxes

#### Amusement devices – leased or used by vendor?

*Amusement Devices, Inc.* ..... 24

#### Exemptions – waste reduction or recycling machinery and equipment

*Browning-Ferris Industries of Wisconsin, Inc.* ..... 25


#### Officer liability

*Barbara Bice* ..... 25

#### Officer liability

*Kurt T. Swartz* ..... 26

## INDIVIDUAL INCOME TAXES

 **Alimony.** *Eric W. Miller and Teri L. Miller vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, September 1, 2000). The issues in this case is whether payments made by Eric W. Miller (“Eric”) to Teri L. Miller (“Teri”) during 1996 and 1997 were alimony (“separate maintenance”) or child support payments, and what portion of any payments deemed separate maintenance are deductible from Eric’s income and taxable to Teri.

The taxpayers were married in 1991, and they have two minor children. Teri filed for divorce, and an Order was entered in 1995 and amended in 1996. The divorce did not become final until 1998.

The 1995 Order provided that Eric was to pay 36% of his gross income to Teri, as “support.” The 1996 Order directed Eric to pay Teri “family support” of 25% of his


gross income, plus \$150 per month. In accordance with the 1995 and 1996 Orders, Eric paid Teri \$11,330 in 1996 and \$10,087 in 1997.

Eric filed 1996 and 1997 Wisconsin income tax returns, and on both returns he deducted as alimony or separate maintenance the payments he had made to Teri. Teri filed 1996 and 1997 Wisconsin income tax returns, and the amounts she received from Eric were not reported on either return. In January 1999 the department issued assessments in the alternative against both taxpayers for 1996 and 1997. The department disallowed the deductions claimed by Eric and added the amounts to Teri’s taxable income.

The parties have stipulated that in the event the amounts Eric paid to Teri constitute alimony, only the portion that when added to Teri’s share of marital income, exceeds one-half of the total marital income, may be deducted. This stipulation is based on the Commission’s decision in *Knoblauch vs. Dep’t. of Revenue*, Wis. Tax Rep. (CCH) 400-192 (WTAC 1996).

The Commission concluded that a portion of the payments made by Eric W. Miller to Teri L. Miller – \$2,108 in 1996 and \$1,800 in 1997 – was separate maintenance under sec. 71 of the Internal Revenue Code. However, none of the payments are deductible by Eric or taxable to Teri because, when added to Teri’s share of the marital income, the resulting sum is less than one-half of their total marital income for each year. The Commission thus affirmed the assessment against Eric W. Miller and reversed the assessment against Teri L. Miller.

Neither Eric W. Miller nor the department has appealed this decision.

**CAUTION:** This is a small claims decision of the Wisconsin Tax Appeals Commission, with respect to the portion of the decision relating to Eric W. Miller. That portion of the decision is provided for informational purposes only and may not be used as a precedent. 

**Appeals – jurisdiction.** *Judy Hagner vs.*

*State of Wisconsin Appeals Commissioners – Miusolf, and Department of Revenue* (Circuit Court for Milwaukee County, July 26, 2000). This is a review of a Wisconsin Tax Appeals Commission decision dated February 4, 2000. See *Wisconsin Tax Bulletin* 119 (April 2000), page 17, for a summary of the Commission's decision. The issue in this case is whether the Circuit Court has subject matter jurisdiction over the case.

The taxpayer brought several claims before the Commission. First, she claimed that the STRJDS Trust, of which she was the trustee, is entitled to a tax refund of \$5,691,736 for 1998. Second, she claimed that she personally is entitled to a tax refund of \$5,691,736, as well as a \$6,000,000 judgment against the department and a department attorney, because their delay in handling the taxpayer's case violated her civil rights. Third, she claimed that she is entitled to a \$15,000 judgment against the department and the attorney as a penalty for their delay in handling her case.

The Commission granted summary judgment in the first two dockets because there was no basis in the record

demonstrating that the taxpayer or the Trust paid nearly \$6,000,000 in taxes.

The department's motion to dismiss the third docket was granted on the basis that the Commission lacked jurisdiction to hear the case, because the department had not yet issued a final determination. The taxpayer filed a petition for review with the Circuit Court and served a copy of the petition to the Commission on February 18, 2000.

The department argues that the Circuit Court lacks subject matter jurisdiction over this case because the taxpayer failed to serve the department with a copy of her petition for review. The taxpayer has submitted four affidavits of service, but none of them were directed to the department.

The Circuit Court concluded that it does not have subject matter jurisdiction over this matter. The Circuit Court dismissed the petition for review.

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

**Estimated assessments.** *George F. Reif vs.*

*Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, September 1, 2000). The issue in this case is whether the taxpayer's petition for review of the department's estimated assessments against him state a claim against which relief can be granted.

In July 1999 the department issued two estimated assessments against the taxpayer because he failed to file income tax returns for 1993 to 1997. The taxpayer filed timely petitions for redetermination, and the department denied them. The taxpayer then filed petitions for review with the Commission.

In the petitions for review, the taxpayer indicated that he did not give his consent "to be governed by any tyranny nor any depotism," and that "I simply do not owe any tax to any government that refuses to recognize me as its free and equal citizen." In response the Commission requested a clear and concise statement of the facts in the

case and the taxpayer's specific objections to the department's action. The taxpayer did not respond to the notice.

In April 2000 the department filed a motion to dismiss the petitions for review on any one of six bases, including failure of the taxpayer to state a claim upon which relief can be granted. In his reply brief the taxpayer requested that the department's assessments be reversed for various reasons, including constitutionality of Wisconsin's tax laws, and illegal "attainder."

The Commission concluded that the taxpayer failed to state a claim against which relief can be granted. The Commission also imposed an additional \$100 assessment against the taxpayer because he offered nothing but groundless and frivolous arguments to disprove the accuracy of the department's assessments.

The taxpayer has appealed this case to the Circuit Court.

## SALES AND USE TAXES



### **Amusement devices – leased or used by vendor?**

*Amusement Devices, Inc. vs. Wisconsin Department of Revenue* (Circuit Court for Dane County, September 14, 2000). This is a judicial review of a Wisconsin Tax Appeals Commission decision dated December 15, 1999. See *Wisconsin Tax Bulletin* 119 (April 2000), page 18, for a summary of the Commission's decision. The issues in this case are:

- A. Whether the taxpayer's purchases of amusement devices were subject to the Wisconsin sales or use tax.
- B. Whether the department properly imposed the negligence penalty for the taxpayer's filing of an incorrect return due to neglect.

The taxpayer is a Wisconsin corporation engaged in the business of placing various coin-operated amusement devices in business establishments such as hotels, motels, taverns, bowling alleys, restaurants, convenience stores, and schools. The devices provide amusement to the establishments' patrons, and the patrons are considered the taxpayer's customers.

The taxpayer paid sales tax on the majority of amusement devices and their related parts and accessories purchased from Wisconsin vendors, but did not pay sales or use tax on those purchased from out-of-state vendors. Although the taxpayer gave exemption certificates claiming resale to suppliers when it purchased items it intended to resell, it did not use exemption certificates claiming resale when purchasing the amusement devices from the out-of-state vendors.

The taxpayer negotiated oral or written agreements with the owners of the establishments where its devices were placed. The agreements designated the taxpayer as the "operator" of the devices and each establishment owner as "location owner." Each agreement specified which amusement devices were to be initially placed in the establishment by the taxpayer and what percentage of gross receipts from the devices was to be paid to the location owner "(f)or and in consideration of the use of the space in Location Owner's premises." The taxpayer

agreed to maintain the devices in good working condition and to provide the parts and supplies needed to play them. Under each agreement, title to the devices remained in the taxpayer's name at all times.

The taxpayer had exclusive keyed access to the devices' coin boxes. Receipts were routinely removed from the devices by the taxpayer, usually in the presence of an employee of the establishment. The receipts were then counted, sales taxes were calculated and subtracted, and the amount due to the location owner was calculated and paid, sometimes later by check. The taxpayer subsequently remitted the sales tax to the department.

The establishments exercised very limited control over the taxpayer's amusement devices, including where they were placed and when their patrons had access. The taxpayer ultimately controlled the type and number of devices and charges for playing them, except that the taxpayer would remove objectionable devices at the establishment's request.

Giving due weight to the Tax Appeals Commission's interpretation, the Circuit Court affirmed the Commission's decision and concluded as follows:

- A. The taxpayer's purchases of amusement devices were subject to the sales and use tax. The taxpayer sold its device-dispensed amusement services at retail to those who paid to play. The taxpayer did not transfer any tangible personal property to the establishments' patrons and did not lease the amusement devices to the establishments. The taxpayer's purchases of the amusement devices were taxable because they were used or consumed in the taxpayer's business of furnishing and selling amusement services.
- B. The taxpayer did not meet its burden to show its failure to file a correct return was "due to good cause and not due to neglect." The taxpayer "knew or should have known that sales or use taxes were payable on all disputed purchases..." The department properly imposed the negligence penalty.

The taxpayer has appealed this decision to the Court of Appeals. [Ⓜ](#)

**Exemptions – waste reduction or recycling machinery and equipment.**

*Browning-Ferris Industries of Wisconsin, Inc. vs. Wisconsin Department of Revenue* (Circuit Court for Dane County, September 28, 2000). This is a judicial review of a Wisconsin Tax Appeals Commission decision dated January 13, 2000. See *Wisconsin Tax Bulletin* 119 (April 2000), page 20, for a summary of the Commission's decision. The Commission affirmed the department's assessment of use tax in issues A., B., and D. below. The department adopted a position of nonacquiescence with regard to the Commission's conclusion that the intercompany transfers are not subject to Wisconsin use tax in issue C. below. The issues before the Commission were as follows:

- A. Whether the taxpayer's purchases of compactors, bins, and containers used by its customers to reduce the size of or to collect disposed items, and motor vehicles and related items used to transport recyclables to processing facilities, are subject to Wisconsin use tax.
- B. Whether the taxpayer's sales and rentals of compactors are subject to Wisconsin sales tax.
- C. Whether tangible personal property the taxpayer received by intercompany transfer from separately

organized affiliated entities is subject to Wisconsin use tax.

- D. Whether the refund of state motor fuel tax by the department to the taxpayer is subject to Wisconsin use tax.

The only issue the taxpayer asked the Circuit Court to review is the Commission's decision that the equipment and motor vehicles in issue A. above are subject to Wisconsin use tax.

Giving due weight to the Commission's interpretation, and based on the decisions in *Revenue Dept. v. Parks-Pioneer*, 170 Wis. 2d 44, and *Ruef's Sanitary Service, Inc. v. Wisconsin Department of Revenue*, WTAC, June 13, 1994 (CCH WI Rptr 400-064), the Circuit Court affirmed the Commission's decision that the items are not exempt as machinery and equipment used "exclusively and directly for waste reduction or recycling activities" under sec. 77.54(26m), Wis. Stats. The items are not used directly in the recycling process, are not related to an activity that reduces the amount of solid waste generated, and are not related to an activity that composites solid waste or reuses solid waste.

The taxpayer has appealed this decision to the Court of Appeals. [↗](#)

**Officer liability.** *Barbara Bice vs. Wisconsin*

*Department of Revenue* (Wisconsin Tax Appeals Commission, August 2, 2000). The issue in this case is whether the taxpayer is a responsible person who is liable for the unpaid sales taxes of Sheboygan Mattress Superstore, Inc., also known as Specialty Sleep Products Company ("the corporation"), under sec. 77.60(9), Wis. Stats., for the periods of February through July 1996 and September through December 1996.

The taxpayer incorporated the corporation, having drafted and filed its Articles of Incorporation with the Wisconsin Secretary of State in November 1995. On July 23, 1996, the taxpayer signed Articles of Amendment as president of the corporation and filed them with the Wisconsin Department of Financial Institutions, to change the name of the business to Specialty Sleep Products Company.

The corporation's sales tax returns were filed for each month except December 1996. Six of these returns were signed by the taxpayer as president. With five of the monthly returns, no money was paid. The taxpayer was

the only person authorized to sign checks on a corporate checking account opened in August 1996.


In August 1996 the taxpayer was informed by a revenue agent of the department that the corporation was delinquent in paying its sales tax, and that sales tax returns for May through July 1996 had not been filed. The revenue agent provided the taxpayer with returns to file for the period May through July 1996, after which she signed them as corporate president and filed them on December 18, 1996. The taxpayer signed and filed the August 1996 sales tax return on September 27, 1996, and paid the tax shown on that return with a check written on the corporation's account. During the months of October, November, and December 1996, tens of thousands of dollars were in the corporate account and used to pay creditors other than the department for the sales tax owed.

The Commission concluded the taxpayer is personally liable under sec. 77.60(9), Wis. Stats., for unpaid sales tax of the corporation for February through July 1996 and September through December 1996.

The taxpayer signed sales and use tax returns of the corporation for May and July through November 1996 as president of the corporation. By holding herself out as president, the taxpayer had the authority to pay the corporation's taxes or to direct their payment. The taxpayer was the only person with check signing authority on the corporation's checking account. As a person with authority, and having been advised by a revenue agent of

the department that the corporation was delinquent in its sales tax payments, the taxpayer had a duty to see that corporate funds were used to pay the sales tax liability. The taxpayer intentionally breached her duty when, during the months of October, November, and December 1996, while knowing that sales tax was due, she issued checks to the corporation's creditors.

The taxpayer has not appealed this decision. [!\[\]\(72b4cf351241b08691672e806c1604b7\_img.jpg\)](#)

 **Officer liability.** *Kurt T. Swartz vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, August 31, 2000). The issue in this case is whether the taxpayer is a responsible person who is liable for the unpaid sales taxes of the La Crosse HI Corporation ("the corporation"), under sec. 77.60(9), Wis. Stats., for the periods April through August 1994, May through August and October and November 1995, and February 1996 ("the period under review").

The corporation operated the Holiday Inn Resort and Conference Center in La Crosse, Wisconsin. The taxpayer, a Minnesota resident, was employed as the controller of the corporation from August 1990 to May 1997. As controller, the taxpayer supervised the clerks and auditors who maintained the corporation's books and records. The taxpayer signed monthly sales tax returns filed with the department and prepared local financial records for the corporation on a day-to-day basis. The taxpayer signed all of the corporation's sales tax returns filed during the period under review, and became aware of a sales tax delinquency in April 1994, when he did not file the return for that month until September 30, 1994. Further, the taxpayer signed the June, July, August, and October 1994 sales tax returns showing substantial amounts of tax due but filed them with no remittance.

In addition to signing the sales tax returns, the taxpayer held himself out as having authority over the corporation's Wisconsin state tax matters when he:

1. Signed the corporation's application for an employer identification number on February 21, 1991;
2. Executed a sales tax assessment settlement agreement with the department on June 30, 1991;
3. Signed a letter as controller of the corporation in response to a notice of delinquent tax warrant filed

against the corporation by the department in March 1991; and

4. Prepared and signed the proper forms on behalf of the corporation, when the Department informed the corporation in January and February 1996 that the sales tax returns filed for November and December 1995 were incomplete.

The taxpayer had authority to cosign checks on the corporate checking account from February 1991 until at least May 1996. The bank statements for the corporate checking account for the months of January, August, and November 1995 and February 1996 show substantial deposits. The taxpayer cosigned checks from the corporate checking account to pay other creditors, while substantial amounts were owed to the department.

The Commission concluded the taxpayer is personally liable under sec. 77.60(9), Wis. Stats., for the unpaid sales tax of the corporation for the periods April through August 1994, May through August and October and November 1995, and February 1996.

The taxpayer held himself out as having authority over the corporation's Wisconsin state tax matters by signing the corporation's sales tax returns, signing the application for an employer identification number, signing a settlement closing agreement to resolve a prior sales tax matter on the corporation's behalf, and signing a form to complete the corporation's incomplete sales tax returns. The taxpayer had a duty to pay the taxes due because he knew the taxes were unpaid and had the authority to see that corporate funds were used to pay them. The taxpayer intentionally breached his duty when he used corporate funds to pay other creditors with knowledge of taxes being due.

The taxpayer has appealed this decision to the Circuit Court. [!\[\]\(8259257197cab443c75179f9ad75467a\_img.jpg\)](#)



## Tax Releases

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

The following tax releases are included:

### Individual Income Taxes –

1. Deduction for Repayment of Income Previously Taxed ..... 27
2. Statute of Limitations for Claiming the Earned Income Credit ..... 29

### Sales and Use Taxes -

3. Motor Vehicles, Machinery, and Equipment Used in Waste Reduction or Recycling Activities ..... 30
4. Sales of Food and Beverages to Airlines ..... 36
5. Service Charges on Telephone Bills ..... 37

## INDIVIDUAL INCOME TAXES

### 1 Deduction for Repayment of Income Previously Taxed

**Statutes:** Section 71.05(6)(b)29, Wis. Stats. (1999-00)

**Note:** This tax release applies only with respect to taxable years beginning on or after January 1, 2000.

#### Background:

**Wisconsin Law:** You may claim a subtraction (deduction) from federal adjusted gross income when you compute Wisconsin adjusted gross income for the amount you claimed as a federal miscellaneous itemized deduction for repayment of an amount that you included in income in a previous year. You may claim the deduction to the extent that you previously included the repayment in your Wisconsin adjusted gross income. [Section 71.05(6)(b)29, Wis. Stats. (1999-00)]

**Note:** If the amount of the repayment is more than \$3,000, you may choose to claim either the deduction as described above or a tax credit for the year of repayment. This tax release discusses only the deduction.

**Federal Law:** If you had to repay an amount that you included in income in an earlier year, you may be able to deduct the amount repaid from your income in the year in which you repaid it. The type of deduction allowed in the year of repayment depends on the type of income you included in the earlier year. For instance, if you repay an amount that you previously reported as a capital gain, the repayment is deducted as a capital loss.

If you repay an amount that you previously reported as wages, unemployment compensation, or other nonbusiness ordinary income, the repayment is deducted as a miscellaneous deduction on Schedule A (Itemized Deductions). If the amount repaid was \$3,000 or less, you deduct it on line 22 of 2000 Schedule A (Form 1040). This deduction is subject to the 2% of federal adjusted gross income limit. If the amount repaid was more than \$3,000, you deduct it on line 27 of 2000 Schedule A (Form 1040). This deduction is *not* subject to the 2% of federal adjusted gross income limit.

**Facts and Question 1:** You reported wages of \$60,000 on both your federal and Wisconsin income tax returns for 1999. In 2000, you had to repay \$2,000 of the wages to your employer. You report the repayment on line 22 of Schedule A. You do not have any additional miscellaneous deductions. Your 2000 federal adjusted gross income is \$52,000. You may claim \$960 (\$2,000 less 2% of federal adjusted gross income) as a miscellaneous deduction on Schedule A.

What amount may you deduct as a repayment of income previously taxed on your 2000 Wisconsin income tax return?

**Answer 1:** You can deduct \$960 on your Wisconsin income tax return. Your deduction is limited to the amount that you claim as a miscellaneous deduction on Schedule A.

**Facts and Question 2:** You included \$3,000 of unemployment compensation in both your federal and Wisconsin taxable income for 1999. In 2000, you had to repay \$1,000 of the unemployment compensation. However, you do not claim itemized deductions on your federal income tax return for 2000 because the standard deduction is more than your total itemized deductions.

Can you claim the Wisconsin deduction for repayment of income previously taxed even though you did not itemize deductions for federal tax purposes?

**Answer 2:** Yes. However, your Wisconsin deduction is limited to the amount that would have been allowed if you had been able to itemize deductions.

In this instance, assume that your federal adjusted gross income for the tax year 2000 was \$20,000, and the only miscellaneous deduction on Schedule A would have been the \$1,000 repayment of unemployment compensation. Your Wisconsin deduction for repayment of the unemployment compensation is \$600 (\$1,000 repayment less 2% of federal adjusted gross income). This is the amount that would have been allowed as a miscellaneous deduction on federal Schedule A if you had been able to itemize deductions.

**Facts and Question 3:** You included \$5,000 of unemployment compensation in both your federal and Wisconsin taxable income for 1999. In 2000, you had to repay \$1,400 of the unemployment compensation. You report the following miscellaneous deductions on your 2000 federal Schedule A:

Unreimbursed employee expenses	\$3,000
Tax preparation fee	100
Repayment of unemployment compensation	1,400
Investment expense	<u>500</u>
Total	\$5,000
Less 2% of federal adjusted gross income	1,200
Miscellaneous deductions	<u>\$3,800</u>

What amount may you deduct as a repayment of income previously taxed on your 2000 Wisconsin income tax return?

**Answer 3:** You can deduct \$1,064 on your 2000 Wisconsin income tax return. You must allocate the total miscellaneous deductions (\$3,800) that you claimed on Schedule A among the items that were included in the deduction. Use the following formula to allocate the deduction:

Amount of  
repayment

Total miscellaneous deductions before 2% of federal AGI limit	X	Miscellaneous deductions after reduction for 2% of federal AGI	=	Wisconsin deduction
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Using the formula, you compute the Wisconsin deduction as follows:

$$\frac{\$1,400}{\$5,000} \times \$3,800 = \$1,064$$

**Facts and Question 4:** You included \$7,000 of taxable unemployment compensation in your federal taxable income tax for 1999. You were taxed on only \$3,000 of the unemployment compensation on your Wisconsin income tax return for 1999.

In 2000, you had to repay \$2,000 of the unemployment compensation. You report the repayment on line 22 of your 2000 federal Schedule A. You do not have any additional miscellaneous deductions. Your federal adjusted gross income for 2000 is \$24,000. You may claim \$1,520 (\$2,000 less 2% of federal adjusted gross income) as a miscellaneous deduction on Schedule A.

What amount may you deduct as a repayment of income previously taxed on your 2000 Wisconsin income tax return?

**Answer 4:** \$651. Because only a portion of the unemployment compensation was taxable for Wisconsin, you may deduct only a portion of the amount allowed as a federal itemized deduction. Use the following formula to compute the allowable deduction for Wisconsin:

Unemployment compensation taxable by Wisconsin	X	Miscellaneous deduction allowed on Schedule A	=	Wisconsin deduction for repayment of income previously taxed
Unemployment compensation taxable on federal return				

Using the above formula, your Wisconsin deduction for repayment of the unemployment compensation is computed as follows:

$$\frac{\$3,000}{\$7,000} \times \$1,520 = \$651 \text{ (figure rounded)}$$

**Facts and Question 5:** You included \$8,000 of unemployment compensation in your federal taxable income for 1999. You were taxed on only \$3,000 of the unemployment compensation on your Wisconsin income tax return for 1999. In 2000, you had to repay \$3,000 of the unemployment compensation. You report the following

miscellaneous deductions on your 2000 federal Schedule A:

Unreimbursed employee expenses	\$4,000
Tax preparation fee	100
Repayment of unemployment compensation	<u>3,000</u>
Total	\$7,100
Less 2% of federal adjusted gross income	<u>800</u>
Miscellaneous deductions	\$6,300

What amount may you deduct as a repayment of income previously taxed on your 2000 Wisconsin income tax return?

**Answer 5:** You must complete two steps to compute the Wisconsin deduction. First, you must allocate the total miscellaneous deductions (\$6,300) among the items that are included in the deduction (see Question and Answer 3). The portion of the total miscellaneous deductions that is allocated to the repayment must then be prorated based on the ratio of the unemployment taxable to Wisconsin to the unemployment taxable for federal purposes.

Using the formula in Answer 3 above, the portion of the miscellaneous deductions allocated to the repayment of unemployment compensation is \$2,662 computed as follows:

$$\frac{\$3,000}{\$7,100} \times \$6,300 = \$2,662 \text{ (figure rounded)}$$

This amount is then prorated as follows:

$$\frac{\$3,000}{\$8,000} \times \$2,662 = \$998 \text{ (figure rounded)}$$

You can claim a deduction of \$998 on your 2000 Wisconsin income tax return for repayment of income previously taxed.

**Facts and Question 6:** You included \$8,000 of unemployment compensation in both your federal and Wisconsin taxable income for 1999. In 2000, you had to repay \$3,200 of the unemployment compensation. Because the repayment is more than \$3,000, you report it on line 27 of your Schedule A for 2000. This deduction is *not* subject to the 2% of federal adjusted gross income limit. What amount may you deduct as a repayment of income previously taxed on your 2000 Wisconsin income tax return?

**Answer 6:** \$3,200.

**Facts and Question 7:** Assume the same facts as in Facts and Question 6 except that only \$3,000 of the unemployment compensation was taxable on your 1999 Wisconsin income tax return. What amount may you deduct as a repayment of income previously taxed on your 2000 Wisconsin income tax return?

**Answer 7:** \$1,200. Because only a portion of the unemployment compensation was taxable for Wisconsin, you may deduct only a portion of the amount allowed as a federal itemized deduction (see Question and Answer 4). Using the formula in Answer 4, your Wisconsin deduction for repayment of the unemployment compensation is computed as follows:

$$\frac{\$3,000}{\$8,000} \times \$3,200 = \$1,200$$



## 2 Statute of Limitations for Claiming the Earned Income Credit

**Statutes:** Sections 71.07(9e)(af) and 71.75(2), Wis. Stats. (1999-00)

**Background:** Section 71.75(2), Wis. Stats. (1999-00), provides that a claim for refund may be filed within four years of the unextended due date of the tax return.

Section 71.07(9e)(af), Wis. Stats. (1999-00), provides for the Wisconsin earned income credit. This credit is equal to a certain percentage of the federal basic earned income credit for which the person is eligible for the taxable year under the Internal Revenue Code.

For federal purposes, a claim for refund must be filed within three years from the time the return was filed or two years from the time the tax was paid, whichever is later.

**Facts and Question:** You did not claim the earned income credit on either your Wisconsin or federal income tax returns for 1996 through 1999. In 2000, you learned that you were eligible to claim the credit for those years. You amend your 1997, 1998, and 1999 federal and Wisconsin income tax returns to claim the credit.

You met all the requirements to claim the earned income credit for federal tax purposes for 1996. However, you could not claim the credit because 1996 federal returns were closed to adjustment because of the three-year statute of limitations. Wisconsin, however, has a four-year statute of limitations. May you amend your 1996 Wisconsin re-

turn to claim the credit even though you could not claim it for federal tax purposes for the 1996 tax year?

**Answer:** Yes. Wisconsin law only requires that you are “eligible” to claim the federal credit for the taxable year; it does not require that a credit actually be claimed for federal purposes. As long as you meet all the qualifications to claim the federal credit, you may claim the earned income credit on an amended 1996 Wisconsin return, provided it is filed within the four-year statute of limitations under sec. 71.75(2), Wis. Stats. (1999-00). [§](#)

## SALES AND USE TAXES

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

### 3 Motor Vehicles, Machinery, and Equipment Used in Waste Reduction or Recycling Activities

**Statutes:** Section 77.54 (5)(c) and (26m), Wis. Stats. (1999-00)

This tax release supersedes the tax release previously published in *Wisconsin Tax Bulletin 42* (July 1985), titled “Waste Reduction and Recycling Exemptions” and the information previously published in the June 1986 *Tax Report* titled “The Recycling Exemption.”

Since this tax release contains some positions that are consistent with the positions taken in previously published information and other positions that are not consistent with the positions taken in previously published information, the effective date of each of the positions taken in this tax release follows each example.

**Background:** Section 77.54(5)(c), Wis. Stats. (1999-00), provides an exemption from Wisconsin sales and use tax for certain motor vehicles used exclusively and directly in conjunction with waste reduction and recycling activities. The waste reduction or recycling activity must either reduce the amount of solid waste generated, reuse

solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste.

Section 77.54(26m), Wis. Stats. (1999-00), provides an exemption from Wisconsin sales and use tax for machinery and equipment that is used exclusively and directly in waste reduction and recycling activities. The waste reduction or recycling activity must either reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste.

“Solid waste” is defined in sec. 77.54(5)(c) and (26m), Wis. Stats. (1999-00), to mean garbage, refuse, sludge, or other materials or articles, whether these materials or articles are discarded or purchased, including solid, semisolid, liquid, or contained gaseous materials or articles resulting from industrial, commercial, mining, or agricultural operations or from domestic use or from public service activities.

**(Note:** The examples in this tax release only address whether or not the items qualify for the exemptions from Wisconsin sales and use tax provided in sec. 77.54(5)(c) and (26m), Wis. Stats. It is possible that some of the items which do not qualify for the exemptions provided in sec. 77.54(5)(c) and (26m), Wis. Stats. (1999-00), may qualify for other exemptions.)

#### A. Motor Vehicles

**Facts and Question A1:** Company A purchases motor vehicles which are used exclusively to collect and transport recyclable materials to Company A’s recycling facility. The vehicles are required to be licensed for highway use.

Are Company A’s purchases of these motor vehicles subject to Wisconsin sales and use tax?

**Answer A1:** Yes. Company A is required to pay Wisconsin sales or use tax on its purchases of these motor vehicles.

**Analysis A1:** Section 77.54(5)(c), Wis. Stats., provides an exemption from Wisconsin sales and use tax for motor vehicles used exclusively and directly in conjunction with waste reduction or recycling activities that reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste, provided the motor vehicles are **not** required to be licensed for highway use. Since the motor vehicles Company A purchases are required to be

licensed for highway use, they do not qualify for the exemption provided under sec. 77.54(5)(c), Wis. Stats.

**Effective Date A1:** This position applies to all prior periods open to adjustment under the statute of limitations and current and subsequent periods.

**Facts and Question A2:** Company B purchases a motor vehicle which is used exclusively and directly in conjunction with waste reduction or recycling activities. The motor vehicle is not required to be licensed for highway use.

Is Company B's purchase of this motor vehicle subject to Wisconsin sales or use tax?

**Answer A2:** No. Company B's purchase of the motor vehicle which is used exclusively and directly in conjunction with waste reduction or recycling activities is not subject to Wisconsin sales or use tax.

**Analysis A2:** Section 77.54(5)(c), Wis. Stats., provides an exemption from Wisconsin sales and use tax for motor vehicles used exclusively and directly in conjunction with waste reduction or recycling activities that reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste, provided the motor vehicles are **not** required to be licensed for highway use. Since the motor vehicle Company B purchases is **not** required to be licensed for highway use and is used exclusively and directly in conjunction with qualifying waste reduction or recycling activities, it qualifies for the exemption provided under sec. 77.54(5)(c), Wis. Stats.

**Effective Date A2:** See Effective Date A1 above.

## **B. Collection Machinery and Equipment**

**Facts and Question B1:** Company C provides waste collection and disposal services. Company C purchases containers and dumpsters, which Company C provides to its customers without an additional charge. The customers place certain waste and recyclable materials into the containers and dumpsters. Company C requires that only certain types of items be placed in certain containers and dumpsters (i.e., only aluminum, tin, glass, and paper). Company C then picks up the materials in the containers or dumpsters and transports the materials to Company C's recycling facility.

Are Company C's purchases of these containers and dumpsters subject to Wisconsin sales and use tax?

**Answer B1:** Yes. Company C's purchases of the containers and dumpsters used by Company C's customers to collect or transport the customer's waste and recyclable materials are subject to Wisconsin sales and use tax. (**Note:** Containers and dumpsters used at a recycling facility to collect, hold or transport recyclable materials would also be subject to sales and use tax.)

**Analysis B1:** Section 77.54(26m), Wis. Stats., provides an exemption from Wisconsin sales and use tax for machinery and equipment used exclusively and directly in waste reduction and recycling activities that reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste.

The Wisconsin Court of Appeals, District IV, held in the case of *Wisconsin Department of Revenue v. Parks-Pioneer Corporation*, June 25, 1992, that lugger and roll-off boxes used to collect solid waste and transport it to Parks-Pioneer's facility for further processing did not perform an integral function in waste reduction or recycling activities because the actual recycling took place **after** the materials were collected and transported to Parks-Pioneer's facility.

In addition, the Wisconsin Tax Appeals Commission held in the case of *Browning-Ferris Industries of Wisconsin, Inc. v. Wisconsin Department of Revenue*, January 13, 2000, that bins and storage containers "...are simply receptacles into which recyclable and waste material is placed prior to petitioner's collecting and transporting it to a facility where the actual recycling occurs. These items do not perform an 'integral function' in recycling activities and are therefore not 'directly' used in recycling activities under the test articulated in *Parks-Pioneer*." This decision was also affirmed by the Dane County Circuit Court on September 28, 2000. In that decision, the Dane County Circuit Court held that although the bins and storage containers "...are related to an activity that recycles solid waste, they are not used *directly* in that activity...."

Based on the above court decisions, containers and dumpsters purchased by Company C, which it provided to its customers without additional charge, and into which Company C's customers placed waste and recyclable materials and which Company C uses in transporting waste and recyclable materials, are subject to Wisconsin sales and use tax.

(**Note:** At the time this tax release was published, the Dane County Circuit Court decision in *Browning-Ferris*

*Industries of Wisconsin, Inc. v. Wisconsin Department of Revenue* was on appeal to the Wisconsin Court of Appeals.)

**Effective Date B1:** This position applies to all prior periods open to adjustment under the statute of limitations and current and subsequent periods.

**Facts and Question B2:** Company D purchases a curb sorter which will be mounted on a truck chassis and used to collect, sort, and transport recyclable materials from various pick-up locations to a recycling facility. The curb sorter is a hydraulically operated machine that contains various compartments. Each compartment will hold a specific type of recyclable material (i.e., aluminum, green glass, brown glass, tin, etc.). The curb sorter is driven to Company D's facility and each of the curb sorter's hydraulically operated compartments dumps its contents into a specific roll-off or yard box.

Is Company D's purchase of the curb sorter subject to Wisconsin sales and use tax?

**Answer B2:** Yes. Company D's purchase of the curb sorter is subject to Wisconsin sales or use tax.

**Analysis B2:** See Analysis B1 above.

**Effective Date B2:** See Effective Date B1 above.

**Facts and Question B3:** Office Complex X purchases receptacles for each office area into which paper, aluminum, glass, plastics, and trash are placed. The receptacles are emptied into larger dumpsters and bins on a daily basis. Once the larger dumpsters and bins are full, Office Complex X contacts a recycling company who comes to Office Complex X's location and hauls away the materials that have been collected in the dumpsters and bins.

Are Office Complex X's purchases of the receptacles, dumpsters, and bins subject to Wisconsin sales and use tax?

**Answer B3:** Yes. Office Complex X's purchases of the receptacles, dumpsters, and bins are subject to Wisconsin sales and use tax.

**Analysis B3:** See Analysis B1 above.

**Effective Date B3:** See Effective Date B1 above.

**Facts and Question B4:** Company Z is in the business of providing waste collection and disposal services. Company Z purchases a crane which will be mounted on a truck and used to pick up and load bales of recyclable materials onto the truck for transportation to a recycling facility. The crane will also be used to unload the bales of recyclable material from the truck once the truck reaches the recycling facility.

Is Company Z's purchase of the crane subject to Wisconsin sales and use tax?

**Answer B4:** Yes. Company Z's purchase of the crane is subject to Wisconsin sales and use tax.

**Analysis B4:** Section 77.54(26m), Wis. Stats., provides an exemption from Wisconsin sales and use tax for machinery and equipment used exclusively and directly in waste reduction and recycling activities that reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste.

The Wisconsin Court of Appeals, District IV, held in the case of *Wisconsin Department of Revenue v. Parks-Pioneer Corporation*, June 25, 1992, that lugger and roll-off boxes used to collect solid waste and transport it to Parks-Pioneer's facility for further processing did not perform an integral function in waste reduction or recycling activities because the actual recycling took place **after** the materials were collected and transported to Parks-Pioneer's facility.

A crane used to load a motor vehicle that is collecting and transporting recyclable materials to a recycling facility or used to unload the recyclable materials after they have arrived at a recycling facility is not used directly in a waste reduction or recycling activity and does not qualify for the exemption provided in sec. 77.54(26)(m), Wis. Stats. (1999-00).

**Effective Date B4:** See Effective Date B1 above.

**Note:** Other similar types of machinery or equipment used to collect and transport garbage and/or recyclable materials would also be subject to Wisconsin sales and use tax. Collection and transportation of solid waste occur prior to waste reduction or recycling activities and, therefore, machinery and equipment used for collection and transportation purposes do not qualify for the exemption provided in sec. 77.54(26m), Wis. Stats.

### C. Compactors and Balers

**Facts and Question C1:** Company E is engaged in the business of collecting and transporting discarded materials, including trash, garbage, and recyclable materials, from its customers' locations to landfills, recycling centers, or material recovery facilities. Company E purchased compactors and balers which it provided at no charge to certain customers, who hired Company E to haul away its trash and recyclable materials. The compactors are used by Company E's customers to compress the waste or recyclable materials into collection containers. The balers compress the waste or recyclable materials and put wire bands around the compressed materials to hold them together. Once the compactor bin is full or sufficient bales have accumulated, Company E will haul the materials away.

Are Company E's purchases of the compactors and balers subject to Wisconsin sales and use tax?

**Answer C1:** Yes. Company E's purchases of compactors and balers which Company E provides to its customers are subject to Wisconsin sales and use tax. (**Note:** Compactors and balers used at a recycling facility would also be subject to sales and use tax.)

**Analysis C1:** Section 77.54(26m), Wis. Stats., provides an exemption from Wisconsin sales and use tax for machinery and equipment used exclusively and directly in waste reduction and recycling activities that reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste.

The Wisconsin Tax Appeals Commission (WTAC) held in the case of *Browning-Ferris Industries of Wisconsin, Inc. v. Wisconsin Department of Revenue*, January 13, 2000, that "...compactors also fail the 'integral function' test and are not 'directly' used for recycling activities because the actual recycling occurred *after* (emphasis in original) the compressed items were hauled away." The WTAC went on to state that "Compressing solid waste does not reduce the amount of solid waste generated into the waste stream; it simply reduces the volume of solid waste already generated...Volume reduction of waste previously generated is not included in the statutory language." This decision was also affirmed by the Dane County Circuit Court on September 28, 2000.

Therefore, based on the above decision of the WTAC and the Dane County Circuit Court, Company E's pur-

chases of compactors and balers used as described above are subject to Wisconsin sales and use tax.

(**Note:** At the time this tax release was published, the Dane County Circuit Court decision in *Browning-Ferris Industries of Wisconsin, Inc. v. Wisconsin Department of Revenue* was on appeal to the Wisconsin Court of Appeals.)

**Effective Date C1:** This position applies to all prior periods open to adjustment under the statute of limitations and current and subsequent periods.

**Facts and Question C2:** Company F is a retail department store. Company F purchases a compactor and baler which it uses exclusively to compact and bale recyclable materials. When sufficient recyclable materials have accumulated, Company F contacts Recycler X to come and pick up the compacted and baled recyclable materials. Recycler X may or may not charge Company F for hauling the recyclable materials away. In addition, Recycler X may pay Company F for the recyclable materials.

Are Company F's purchases of the compactor and baler subject to Wisconsin sales and use tax?

**Answer C2:** Yes. Company F's purchases of the compactor and baler are subject to Wisconsin sales and use tax.

**Analysis C2:** See Analysis C1 above.

**Effective Date C2:** See Effective Date C1 above.

**Facts and Question C3:** Company Y purchases baling twine and baling wire which it uses to bale various recyclable materials. Once baled, the recyclable materials are picked up at Company Y's location by a recycling company who transports the baled materials to its recycling facilities.

Are Company Y's purchases of the baling twine and baling wire subject to Wisconsin sales and use tax?

**Answer C3:** Yes. Company Y's purchases of the baling twine and baling wire are subject to Wisconsin sales and use tax.

**Analysis C3:** Section 77.54(26m), Wis. Stats., provides an exemption from Wisconsin sales and use tax for machinery and equipment and parts therefor, used exclusively and directly in waste reduction and recycling activities that reduce the amount of solid waste gener-

ated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste.

Since the baling twine and baling wire are not machinery, equipment, or parts for the machinery or equipment, purchases of the baling twine and baling wire do not qualify for the exemption provided in sec. 77.54(26m), Wis. Stats. Baling twine and baling wire are “supplies,” and “supplies” are not included within the exemption provided in sec. 77.54(26m), Wis. Stats.

**Effective Date C3:** See Effective Date C1 above.

**Facts and Question C4:** Individual A purchases a trash compactor. The trash compactor is used to compact the trash and recyclable materials so that more trash or recyclable materials will fit into a particular bag. Once compacted, the recyclable materials are picked up by a recycling company and transported to the recycling company’s recycling facility. The compacted trash is also picked up by the recycling company, but is transported to a landfill rather than a recycling facility.

Is Individual A’s purchase of the trash compactor subject to Wisconsin sales and use tax?

**Answer C4:** Yes. Individual A’s purchase of the trash compactor is subject to Wisconsin sales and use tax.

**Analysis C4:** See Analysis C1 above.

**Effective Date C4:** See Effective Date C1 above.

#### **D. Road Reclaimers**

**Facts and Question D1:** Company G is a road builder. Company G purchases a machine which (1) cuts existing asphalt on roadways and grinds the asphalt up so that it can be used as a base material for a new road; and (2) adds and mixes cement, lime, and other stabilizing agents with the existing soil on roadways.

Is the purchase of this machine subject to Wisconsin sales and use tax?

**Answer D1:** No. Company G’s purchase of this machine is not subject to Wisconsin sales and use tax.

**Analysis D1:** Section 77.54(26m), Wis. Stats., provides an exemption from Wisconsin sales and use tax for machinery and equipment used exclusively and directly in waste reduction and recycling activities that reduce the amount of solid waste generated, reuse solid waste, re-

cycle solid waste, compost solid waste, or recover energy from solid waste.

“Solid waste” is defined to mean garbage, refuse, sludge, or other materials or articles, whether these materials or articles are discarded or purchased, including solid, semisolid, liquid, or contained gaseous materials or articles resulting from industrial, commercial, mining, or agricultural operations or from domestic use or from public service activities.

Since an existing roadway that is being torn up is solid waste, the machine used to mine up the roadway so that the resulting materials can be reused is engaged in a waste reduction or recycling activity. Therefore, Company G’s purchase of this machine qualifies for the sales and use tax exemption provided in sec. 77.54(26m), Wis. Stats.

**Effective Date D1:** This position applies to all prior periods open to adjustment under the statute of limitations and current and subsequent periods.

**Facts and Question D2:** Company H purchases a machine which is pulled behind a motor vehicle. The machine breaks up the concrete into a manageable size and dislodges the reinforcing steel from the concrete. Once the reinforcing steel is removed from the concrete, the remaining concrete is hauled to a site where it is crushed. The crushed concrete that results is used by a paver in replacing roadways.

Is Company H’s purchase of the machine used to break up the concrete subject to Wisconsin sales and use tax?

**Answer D2:** No. Company H’s purchase of the machine used to break up the concrete is not subject to Wisconsin sales and use tax.

**Analysis D2:** See Analysis D1 above.

**Effective Date D2:** See Effective Date D1 above.

#### **E. Cleaning and Reusing Solid Waste**

**Facts and Question E1:** Company I operates a metal cutting business. Throughout the metal cutting process, lubricating oil is used to facilitate the cutting process. Company I purchases a machine that will be used exclusively to clean the lubricating oil and remove impurities so that the oil can be reused. Without this machine, the lubricating oil would have a very limited useful life.

However, by using the cleaning machine, the oil may be reused and lasts twice as long before being discarded.

Is Company I's purchase of this oil-cleaning machine subject to Wisconsin sales or use tax?

**Answer E1:** No. Company I's purchase of this oil-cleaning machine is not subject to Wisconsin sales or use tax.

**Analysis E1:** Section 77.54(26m), Wis. Stats., provides an exemption from Wisconsin sales and use tax for machinery and equipment used exclusively and directly in waste reduction and recycling activities that reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste, or recover energy from solid waste.

The oil-cleaning machine reduces the amount of solid waste generated by cleaning the used oil and removing impurities so that the oil may be reused. Without this oil-cleaning machine, Company I would generate twice as much solid waste (i.e., discarded oil). Therefore, Company I may purchase the oil-cleaning machine without tax, based on the exemption provided in sec. 77.54(26m), Wis. Stats.

**Effective Date E1:** This position applies to all prior periods open to adjustment under the statute of limitations and current and subsequent periods.

#### **F. Other Items Which Qualify for Waste Reduction and Recycling Exemptions**

1. Equipment used exclusively to produce fuel cubes from solid waste. The equipment shreds wastepaper and cardboard, removes foreign objects, blends the materials with a binding agent, adds moisture if necessary, and compresses the materials into fuel cubes, which are burned by homeowners or others to replace wood. This equipment recycles solid waste.
2. Furnaces which are used exclusively to burn used motor oil and in turn use the resulting heat produced to heat a building or water.
3. A machine used exclusively to shred tires so that the resulting product may be resold to a third party who burns the shredded tires and uses the heat generated to produce electricity.
4. Vapor recovery systems at a service station which prevents the release of gaseous vapors into the air

and returns the vapors to gasoline through temperature changes.

5. Chippers which are used exclusively to chip branches that have previously been removed from trees into small pieces which will either be left on the ground to compost or blown into the back of a truck for use on future landscaping projects.
6. Machinery and equipment used exclusively to apply sludge to a field for fertilization of the soil.
7. Machinery and equipment used exclusively to burn and screen contaminated soil so that the soil can be reused.
8. Machinery and equipment used exclusively to recover refrigeration from air conditioning units **and** put the refrigerant back into the air conditioning units.
9. Machinery and equipment used exclusively to repair discarded pallets that are solid waste, so that they can be reused or resold. **Note:** Pallets that have not been discarded are not solid waste and therefore, machinery and equipment used to repair a pallet that has not been discarded do not qualify for this exemption.
10. Machinery and equipment used to pulverize standing trees and brush into small pieces which remain on the ground to compost.
11. Machinery and equipment used to grind tree stumps into small chips which are left on the ground to decompose.

**Effective Date F:** The positions in F.1 through 11 apply to all prior periods open to adjustment under the statute of limitations and current and subsequent periods.

#### **G. Other Items Which Do Not Qualify for the Waste Reduction and Recycling Exemptions**

1. Scales used to weigh incoming materials which will be recycled.
2. Crawlers and scrapers used at a landfill to move garbage and rubbish in the landfill.
3. Paper shredders used in an office to shred confidential papers.

4. Forklifts, cranes, end loaders, and similar machinery and equipment used to unload recyclable materials and place them in stockpiles at a recycler's facility.
5. Cranes used exclusively to move scrap metal from stockpiles at a scrap processor's plant to the machinery which processes the scrap.
6. Conveyors used to move solid waste to a storage area prior to processing.
7. Conveyors used to move solid waste from the storage area to the processing area, and conveyors used to move solid waste from the processing area to the shipping area.
8. Conveyors used to carry recyclable materials past a sorting station where the recyclable materials are sorted.
9. Chain saws used to cut down trees or remove branches from standing trees.
10. Shelving in a used book store or other location that sells used merchandise.
11. End loaders and other equipment used to remove contaminated soil from the earth.
12. Gauges installed in underground tanks which detect leaks and monitor the level of the materials in the tank.
13. Machinery and equipment used to remove sludge from a sludge pond, regardless of what happens to the sludge after it is removed from the sludge pond.
14. Lawnmowers which cut and mulch grass.
15. Vending machines which collect, sort, weigh, and crush aluminum cans. The machines pay persons depositing the cans based on the weight of the cans deposited. Since the same machine is used for collection and weighing of recyclable materials in addition to the sorting of the recyclable materials, the machine is not used exclusively and directly in a waste reduction or recycling activity and therefore does not qualify for exemption.

**Effective Date G:** The positions in G.1 through 14 apply to all prior periods open to adjustment under the statute of limitations and current and subsequent periods. The

position in G.15 applies to purchases made on or after March 1, 2001. [⬆](#)

## 4 Sales of Food and Beverages to Airlines

**Statutes:** Section 77.55(2), Wis. Stats. (1999-00)

**Wis. Adm. Code:** Section Tax 11.87(2)(j) (October 1999 Register)

**Background:** In the case *Bargo Foods North Inc. and Republic Airlines, v. Department of Revenue*, (CCH 202-902, September 24, 1987), the Court of Appeals held that food and beverage kits sold by Bargo Foods to a commercial airline at Mitchell Field in Milwaukee for in-flight use were subject to Wisconsin sales and use tax. Among the uncontested facts was the finding that, during the 1978-1981 audit period, the Civil Aeronautical Board required airlines to provide food and beverage service at no charge. The Court concluded that the meals were transferred by Republic to its customers without valuable consideration and, therefore, the retail sale occurred when Bargo Foods sold the meals to Republic. Republic was the consumer of meals which it provided to its passengers along with the transportation services.

**Question:** In light of the *Bargo Foods* decision, can sales of food and beverages to an airline in Wisconsin be exempt from Wisconsin sales or use tax under sec. 77.55(2), Wis. Stats. (1999-00)?

**Answer:** Under certain circumstances, food and beverages sold to an **airline** in Wisconsin are exempt from Wisconsin sales or use tax.

Since *Bargo Foods*, the airlines have been deregulated and no longer are required to provide meal services. However, that change does not necessarily mean that airlines are now selling meals and beverages to their passengers along with their transportation services and can purchase meals and beverages without tax for resale. Nonetheless, the *Bargo* court did not consider an exemption provided in Chapter 77 of the Wisconsin Statutes.

Section 77.55(2), Wis. Stats. (1999-00), provides a sales tax exemption for tangible personal property sold to a common or contract carrier (e.g., airline certified or licensed as a carrier of persons or property), shipped by the seller (supplier of food and beverages) via the purchasing carrier under a bill of lading whether the freight is paid in advance, or the shipment is made freight

charges collect, to a point outside Wisconsin and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a carrier.

Sales to an airline of food, beverages, and related services in Wisconsin that are transferred by the airline to passengers and/or crew while on board an aircraft, transported to an out-of-state destination, and consumed by passengers outside Wisconsin, qualify for exemption. However, charges for so-called “bank” meals (meals that are prepared and set aside for passengers and/or crew in Wisconsin, but never loaded onto the aircraft) and food and beverages that are not actually transported to an out-of-state destination are subject to Wisconsin sales or use tax.


**Example 1:** Taxpayer A delivers food and beverage products to Airline B under a bill of lading as required by contract at an airport in Wisconsin. All of the airline’s flights are destined to points outside the boundaries of Wisconsin and proceed as scheduled.

Taxpayer A’s sales of food and beverages to Airline B are exempt from Wisconsin sales or use tax under sec. 77.55(2), Wis. Stats. (1999-00).

**Example 2:** Assume the same facts as in Example 1, except that Airline B’s flights are destined to another airport in Wisconsin.

Taxpayer A’s sales of food and beverages to the airline, to the extent that the food and beverages were served by the airline to passengers destined for locations within Wisconsin, are taxable as provided in the *Bargo Foods* decision. These sales are not exempt from Wisconsin sales or use tax under sec. 77.55(2), Wis. Stats.

**Example 3:** Assume the same facts as in Example 1, except that Airline B serves its passengers a meal and beverages while on the ground in Wisconsin due to delays in departure.

Taxpayer A’s sales of food and beverages to the airline, to the extent that the food and beverages were served by the airline to passengers within Wisconsin, are taxable as provided in the *Bargo Foods* decision. These sales are not exempt from Wisconsin sales or use tax under sec. 77.55(2), Wis. Stats. 

## 5 Service Charges on Telephone Bills

**Statutes:** Sections 77.51(4)(a)2 and 4 and 77.52(2)(a)5, Wis. Stats. (1999-00)

**Wis. Adm. Code:** Sections Tax 11.26(3)(a) (August 1999 Register) and 11.66(3) and (4) (September 1997 Register)

**Background:** Section 77.52(2)(a)5, Wis. Stats., (1999-00), imposes the Wisconsin sales tax on the gross receipts from “the sale of telecommunications services that either originate or terminate in this state; except services that are obtained by means of a toll-free number, that originate outside this state and that terminate in this state; and are charged to a service address in this state, regardless of the location where that charge is billed or paid, and the sale of the rights to purchase telecommunications services, including purchasing reauthorization numbers, by paying in advance and by using an access number and authorization code.”

Section 77.51(4)(a), Wis. Stats. (1999-00), provides in part that “‘gross receipts’ means the total amount of the sale, lease or rental price, as the case may be, from sales at retail of tangible personal property, or taxable services, valued in money, whether received in money or otherwise, without any deduction on account of the following:

...2. The cost of the materials used, labor or service cost, interest paid, losses or any other expense;

...4. Any tax included in or added to the purchase price,...but not including (emphasis added) any tax imposed by the United States, any other tax imposed by this state or any tax imposed by any municipality of this state upon or with respect to retail sales whether imposed upon the retailer or the consumer if that federal, state or municipal tax is measured by a stated percentage of sales price or gross receipts or the federal communications tax imposed upon the services set forth in s. 77.52(2)(a)5.... For the purpose of this subdivision, a tax shall be deemed ‘imposed upon or with respect to retail sales’ only if the retailer is the person who is required to make the payment of the tax to the government unit levying the tax.”

The Federal Telecommunications Act of 1996 authorizes local and long distance telephone companies to recover many of the costs of providing telephone services to their customers. Some telephone companies have recently added these costs to their telephone bills under

names such as: “number portability charges” (to enable customers to retain the same telephone number when changing telephone companies); “universal service charges” (to provide services to areas where the companies would not otherwise be able to provide services at prevailing rates); “subscriber line charges” (costs of local telephone lines), and “presubscribed interexchange carrier charges” (costs long distance companies pay for equipment to connect to local carriers). The charges may appear as a separate “tax” or “other charge” on the customers’ telephone bills.

**Question:** Are the cost recovery charges added to telephone bills under the above names subject to Wisconsin sales or use tax?

**Answer:** Yes, provided the telecommunications services to which they relate are subject to Wisconsin sales or use tax.

The charges are considered gross receipts from the sale of telecommunications services. These charges are not federal communications taxes that may be excluded from gross receipts subject to sales tax. The Telecommunications Act of 1996 merely authorizes telephone service providers to pass these costs on to their customers, and does not require the cost recovery charges to be paid to the federal government as taxes.


Additional information about these charges can be obtained by contacting the Federal Communications Commission’s Consumer Information Bureau at 1-888-225-5322, or by visiting their web site at [www.fcc.gov/cib/](http://www.fcc.gov/cib/).

**Example 1:** A church purchases telephone service from its local telephone company and gives the telephone company its Certificate of Exempt Status number claiming exemption from sales tax. The telephone company’s bill to the church includes an amount for “other charges” that is actually the recovery by the telephone company of a subscriber line charge it is passing on to the church.

Since the sale of the telephone service to the church is exempt from sales tax, the “other charges” added to the bill are also exempt.

**Example 2:** Company A provides a toll-free number for its employees to use when calling Company A’s home office in Wisconsin from outside the state. Each month a number of toll-free calls are made by employees of Company A to the home office from outside Wisconsin. The bill that Company A receives from its telephone service provider includes separate charges for local service, long distance service that originates or terminates in Wisconsin, toll-free services that all originate outside Wisconsin, and “universal service charges” which are 5% of Company A’s bill and are cost recovery charges the service provider is passing on to Company A.

Only those “universal service charges” that apply to the taxable local and long distance telephone services are subject to sales tax. Since the toll-free telephone services that originate outside Wisconsin are not subject to sales tax, the “universal service charges” that apply to such toll-free services are also not subject to sales tax. The telephone service provider must make a reasonable allocation of the “universal service charges” that apply to the local and long distance services, to determine the amount of the “universal service charges” subject to sales tax.

**Example 3:** Company B provides telephone credit (not prepaid) “calling” cards for its field staff to use in making calls to Company B’s home office in Wisconsin. All of the credit card calls originate or terminate in Wisconsin and are charged to Company B’s service address in Wisconsin. The separate bill that Company B receives from its credit card calling service provider includes an “interexchange carrier charge,” which is a cost recovery charge the service provider is passing on to Company B. Since the entire charge for the credit card calling service is subject to sales tax, the entire “interexchange carrier charge” is also subject to sales tax. 

## Avoid Errors on Tax Returns and Credit Claims

**Individual income tax returns** (Forms WI-Z, 1A, 1, 1NPR) (**Note:** Many of these tips also apply for fiduciary income tax returns.)

- Fill in social security number(s) (they are not on the label)
- (Form 1 or 1NPR) Attach copies of federal return and schedules
- Attach withholding statements (do not claim federal withholding, social security, or another state's withholding as Wisconsin withholding)
- Fill in the correct standard deduction from the table (use the worksheet if someone else claims you as a dependent)
- Correctly calculate the deduction for exemptions (don't include yourself or your spouse in the number of dependents)
- (School property tax/rent credit) Fill in rent and/or property taxes paid in 2000, and the credit amount from the tables
- Complete and attach married couple credit schedule
- Complete itemized deduction credit schedule (fill in the correct amount of standard deduction, and do not include miscellaneous itemized deductions)
- (Form 1NPR) Complete residence questionnaire
- (Form 1NPR) Complete resident status box(es)
- Attach other state's tax return to verify tax paid to that state
- Check and recheck math (10% of returns processed were adjusted for math errors)
- Correctly calculate earned income credit, and claim it if it is available to you
- Correctly calculate farmland tax relief credit (don't claim the credit for taxes on improvements)
- Compute underpayment of estimated tax interest if applicable, and fill in on the new line
- Correctly calculate federal/Wisconsin differences in taxable amounts of unemployment compensation, social security
- Correctly calculate capital gain exclusion
- Report correct tax-option (S) corporation income from Schedule 5K-1
- Correctly calculate IRA deduction and claim only if it is available to you
- Don't claim personal entertainment or travel expenses as a business expense
- Reduce tuition credit deduction when income exceeds certain levels
- Include all income, such as –
  - IRA distributions
  - interest and dividends
  - total gross receipts
  - income earned in another state
  - municipal interest
  - gambling winnings not on 1099-G
- Sign the tax return

### **Corporation franchise and income tax returns** (Forms 4, 5, 5S, 4T, and 4I)

- Fill in federal employer identification number
- Attach copy of federal form
- Attach schedules to support credits (e.g., manufacturer's sales tax, research, development zone, farmland tax relief)
- Fill in contact person, telephone number, and fax number where indicated
- Sign the tax return

### **Homestead credit claims** (Schedule H)

- Include Wisconsin tax return, copy of federal return and schedules, and wage statements (include copies if tax return and Schedule H are filed separately)
- (Little or no income is reported) Explain how living expenses were paid
- Include all household income, such as –
  - Wisconsin Works payments
  - standard mileage depreciation
  - IRA/deferred compensation deduction
  - Wisconsin income from tax return
  - gross pension and annuity payments

- nontaxable capital gains (e.g., capital gain exclusion)
- depreciation
- total of all income listed (check math)
- (Persons married, separated, or divorced during the year) Follow special instructions in the homestead credit booklet
- Attach a rent certificate(s) that is complete, unaltered, not a copy, and has an original landlord signature
- Properly prorate rent for joint occupancy (if rent certificate indicates more than one occupant and rent is not divided equally, attach a statement of shared living expenses)
- Attach copy of **2000** property tax bill, payable in 2001 (not a county tax receipt, installment stub, mortgage statement, canceled check, etc.)
- (Tax bill shows owners other than claimant or spouse) Attach ownership verification (copy of deed, land contract, divorce judgment, final judgment in an estate, trust instrument, etc.)
- (Less than twelve months of property taxes and/or rent are claimed) Explain where you lived for the rest of the year
- (Car/truck expense claimed) Write “actual” or number of miles next to the deduction on Schedule C, C-EZ, E, or F
- (Home not used solely for personal purposes) Complete Schedule 3 on the back of Schedule H
- Reduce property taxes/rent for months Wisconsin Works payments were received
- Don’t claim special assessments
- Don’t claim property taxes on more than one acre unless homestead is a farm
- Correctly prorate property taxes for a co-owned homestead or for occupancy during only part of the year
- Correctly calculate percentage of rent constituting property taxes (20% if heat is included, 25% if not)
- Don’t claim rent for more than twelve months
- Fill in the correct amount of homestead credit from the computation table
- Sign Schedule H

### **Farmland preservation credit claims**

(Schedule FC)

- Attach clear and complete copies of all **2000** property tax bills, payable in 2001 (not county tax receipts, installment stubs, mortgage statements, canceled checks, etc.)
- (Tax bill shows owners other than claimant or spouse) Attach ownership verification (copy of deed, land contract, divorce judgment, final judgment in an estate, trust instrument, etc.)
- Attach complete and correct zoning certificate, if required. If not required because one was submitted in a previous year, notify the county land conservation committee and check the box on Schedule FC, line 17
- Attach copy of **executed** farmland preservation agreement (if expired, attach copy of **executed** extension agreement)
- (Property sold or purchased during the year) Attach copy of closing agreement
- Correctly prorate property taxes for a co-owned homestead
- (Property tax bill indicates delinquent taxes) Attach statement signed by county treasurer to verify that the prior year’s property taxes have been paid
- Don’t claim special assessments
- Don’t claim property taxes for land not covered by a zoning certificate or a farmland preservation agreement
- Claim the correct percentage of farmland preservation credit
- Include all household income, such as –
  - gross pension and annuity payments
  - nontaxable capital gains (e.g., capital gain exclusion)
  - depreciation
  - capital loss carryover
  - deferred compensation
  - gross social security
- (Amended returns) Reflect any adjustments to the original tax return and farmland preservation credit claim on the amended return
- (Amended returns) If additional income is reported on the amended tax return, also include it on Schedule FC

**Partnership returns** (Form 3)

- Fill in federal employer identification number
- Attach copy of federal Form 1065
- Attach copy of Wisconsin Schedule 3K-1
- Don't file federal Form 1065 and Schedule K-1 without Wisconsin Form 3 and Schedule 3K-1

**Fiduciary income tax returns** (Form 2) (Note:

Many of the tips in the individual income tax section also apply for fiduciary income tax returns.)

***Trusts***

- Check only one "type of trust" box
- Answer the questions on page 1
- Request a closing certificate on page 1, if needed
- (Final Form 2) Report all income, expenses, and credits as distributable income
- Mail returns to the correct address
- Provide appropriate attachments as requested on page 2
- (Fiscal year returns) Indicate the beginning and ending dates on page 1
- Use the correct year's form (e.g., a tax year beginning 9/1/99 and ending 6/30/00 is a 1999 tax year)
- Make estimated tax payments for an electing small business trust (ESBT) on Form 1-ES, not on Form 4-ES
- Do not fill in line 6b if not an ESBT
- Provide name(s) and federal employer identification number(s) of corporation(s) for which trust is paying tax
- Provide worksheet used in computing tax for an ESBT

***Estates***

- (Fiscal year returns) Indicate the beginning and ending dates on page 1
- Use the correct year's form (e.g., a tax year beginning 9/1/99 and ending 6/30/00 is a 1999 tax year)
- Complete page 2, Schedule D, when requesting a closing certificate
- Include the decedent's social security number

- Request a closing certificate on page 1, if needed
- Provide appropriate attachments as requested on page 2

**Estate tax returns** (Form W706)

- (All estates required to file a federal Estate Tax Return, Form 706) File Wisconsin Form W706 – Wisconsin **does** have an estate tax
- Don't file a return if none is required (not required if gross estate is under \$650,000 for deaths in 1999 or \$675,000 for deaths in 2000)
- File by the due date (later of nine months after the date of death or due date of federal Form 706, as extended)
- Pay the estate tax timely (nine months after the date of death, even if an extension of time to **file** has been granted)
- Make estate tax payments with Form 401T, not with estimated tax voucher 1-ES or 4-ES (if a federal extension has been requested, indicate this in a letter)
- If estate tax is paid late, compute interest from the date of death, not from the due date of the return
- If estate tax return is filed after the due date, including extensions, pay the late-filing penalty of 5% of the Wisconsin estate tax, even if the tax was paid timely
- Notify the department within 30 days of Internal Revenue Service (IRS) adjustments to federal Form 706 (include copy of IRS Form 1273, 3228, or 886A, and a cover letter)
- Make closing certificate request for both the fiduciary and estate tax returns at the same time, if possible, or inform the department with the first request that the other certificate will also be requested
- File a **complete** return with all required attachments, including –
  - federal Form 706 and schedules
  - list of assets from federal return
  - copy of last will (and any codicils)
  - trust instruments (and any amendments)
  - (for extension) copy of approved federal Form 4768