

Wisconsin TAX BULLETIN

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October 2003

Update on New Tax Laws

Since the last issue of the *Wisconsin Tax Bulletin*, a new law concerning sales and use taxes was enacted by the Wisconsin Legislature. This new law is summarized below. Also, the date of publication of 2003 Act 37, which adopted a single sales factor for apportionment, was August 14, 2003. See *Wisconsin Tax Bulletin* 135 (July 2003), pages 23 through 25, for a summary of 2003 Act 37.

Exempt Wireless Surcharge (2003 Act 48, create sec. 77.51(4)(b)8 and (15)(b)7, effective September 3, 2003.)

“Gross receipts” and “sales price” subject to Wisconsin sales or use tax on sales of wireless services do not include the surcharge imposed by a wireless service provider that is to be deposited into the 911 wireless fund. [☞](#)

Tax Return Volunteers Needed

Would you like to become a volunteer for Volunteer Income Tax Assistance (“VITA”), or for the Tax Counseling for the Elderly (“TCE”) program of the American Association of Retired Persons (“AARP”)? VITA and TCE/AARP volunteers help persons with low to moderate income prepare federal and state income tax returns and Wisconsin homestead credit claims. Volunteers can choose to work during the day, at night, or on weekends.

Last year VITA and TCE/AARP volunteers, operating 416 Wisconsin sites, helped prepare over 45,000 federal and Wisconsin returns for low and moderate-income persons.

(continued on page 3)

Form Changes for 2003

Listed below are brief descriptions of the major changes to the Wisconsin individual income tax forms (Forms 1, 1A, WI-Z, and 1NPR) for 2003. There are no major changes to the homestead credit claim (Schedule H), and

the farmland preservation credit claim (Schedule FC) for 2003.

Preliminary copies of the 2003 Forms 1, 1A, WI-Z, and 1NPR, and Schedules H and FC, are reproduced on pages 27 to 44 of this Bulletin. Draft copies of these and other Wisconsin tax forms are also available on the department’s web site, www.dor.state.wi.us.

- The percentage rate for computing farmland tax relief credit on Forms 1 and 1NPR is changed from 30% to 16%. The maximum allowable credit is \$1,500.
- The amount that may be designated to the state election campaign fund on Forms 1, 1A, WI-Z, and 1NPR is \$1.
- The line on Form 1NPR for entering the Archer MSA deduction is eliminated to conform with changes made to federal Form 1040.
- The words “Not deductible for Wisconsin” are deleted from line 17 of Form 1NPR. Educator expenses are now deductible in the same manner as for federal tax purposes.
- A box is added to the filing status area of Forms 1, 1A, and 1NPR to be checked by married persons filing as head of household.
- A line is added to Form 1A to allow a deduction for educator expenses. [☞](#)

**2003
Tax
Filing**

Season at a Glance

Number of returns
2,879,073 - down .08%

Number of refunds
2.3 million - no change

Electronic filing

Fed/State E-file

Preparer 934,472 - up 33%

Taxpayer 209,296 - up 28%

TeleFile 74,052 - down 19%

FreeFile 65,251 - first year

Total* 1,283,071 - up 34%

* 45% of all returns filed [☞](#)

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Taxpayer Outreach Committee Formed

To improve communication with and education of taxpayers, the Wisconsin Department of Revenue has formed a Taxpayer Outreach Committee. This committee will provide the department with advice on ways to assist low-income taxpayers, non or limited English speaking taxpayers, taxpayers unfamiliar with Wisconsin income tax requirements, elderly taxpayers and taxpayers that may be eligible for Wisconsin tax credits.

The department wants the committee to help increase participation by taxpayers in tax credit programs, educate taxpayers on how to file Wisconsin tax returns and reduce problems taxpayers encounter when they file their taxes.

The individuals on the committee are:

- **Edith Blancas**, a Family Services Coordinator for Council for the Spanish Speaking, Inc.;
- **Kristin Schultz**, whose background includes associations with the Milwaukee Asset Building Coalition, VITA (Volunteer Income Tax Assistance), as well as strong relationships with the Hispanic and Hmong communities;
- **Frank and Jane Schouten**, who are associated with AARP (American Association of Retired Persons), the Internal Revenue Service Tax Advisory Panel, the Regional Coordinated Great Lakes Tax Aid organization and have spent 16 years working with the VITA program;
- **Marie Crockett**, the director of the Milwaukee Office of the Governor, who is on the Board of Directors of St. Catherine Residence, a founding board member of Wisconsin's Charter School

Association and a founding board member of and past president of the Milwaukee Chapter of the Black Child Development Institute;

- **Christine Bauman**, Ph.D., CPA, who is an Assistant Professor at the UW Milwaukee, School of Business;
- **James Daniels**, an Internal Revenue Service Disclosure Officer who has worked with the VITA program and Milwaukee central city churches on tax filing outreach;
- **Leo Peavey**, a Wisconsin Department of Revenue employee who has successfully led the department's efforts to develop the VITA program in Milwaukee;
- **Julie Nunlist**, a territory manager with the Internal Revenue Service.

The first meeting of the Taxpayer Outreach Committee was on August 28, 2003 in Milwaukee. The committee will meet about every other month. [☞](#)

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Tax Return Volunteers Needed

(Continued from page 1)

Both the Internal Revenue Service and Wisconsin Department of Revenue provide training to VITA volunteers and TCE/AARP instructors. As a volunteer, you will be trained to prepare federal Forms 1040-EZ, 1040A, and 1040 (1040 training is limited to Schedules A, Itemized Deductions; B, Interest and Dividend Income; and D, Capital Gains and Losses), and Wisconsin Forms WI-Z, 1A, and 1, and Schedule H, Homestead Credit. TCE/AARP volunteers will also be trained to help persons prepare federal and Wisconsin estimated tax vouchers.

Enrolled agents participating in these programs may earn up to half of their required **CPE credits**. Other income tax practitioners may also earn CPE credits.

These practitioners should check with their professional associations. **Note:** If you are a CPA, you may be eligible for CPE credits if you conduct classes for volunteers.

With the tax season fast approaching, VITA and TCE/AARP programs are in need of volunteers. If you would you like to volunteer, please call or e-mail either:

John Lulay 1-414-297-1766 John.F.Lulay@IRS.gov

or

Rick Dilley 1-608-266-2606 Rdilley@dor.state.wi.us



Preparers Help Bolster Electronic Filing

In the 2003 tax season, nearly 1,300,000 income tax returns were electronically filed with the Wisconsin Department of Revenue (“DOR”), through one of the four accepted e-file methods. This is a 26% increase from the 948,000 e-filed returns in the previous season. The success of the Wisconsin e-file program is due in large part to the participation and cooperation of tax practitioners who are approved Electronic Return Originators (“EROs”).

The BENEFITS of e-file for an ERO’s clients are:


- Return less likely to be adjusted, because the data on e-filed returns are more accurate; the software performs mathematical calculations.
- Direct deposit is available only for e-filed Wisconsin returns.
- Refunds will be issued within one week for returns that need no additional review.
- Taxpayers receive acknowledgements of their returns being filed, from both DOR and the Internal Revenue Service.
- Balance due returns can be filed early in the season, but can be paid on April 15th.
- 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) 267-1030 or mailed to:

Wisconsin Department of Revenue
Electronic Filing Office
Mail Stop 5-77
P.O. Box 8949
Madison, WI 53708-8949

For more information on electronic filing, visit the department’s web site at www.dor.state.wi.us, send an e-mail message to the Electronic Filing Office at efiling@dor.state.wi.us, or call (608) 264-9959. 



Motor Vehicle Dealers' Measure of Use Tax Increased to \$118

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

Effective January 1, 2004, the amount subject to use tax is increased from \$116 to \$118 per plate per month. (Note: The use tax per plate per month is not \$118. Rather, \$118 is multiplied by the use tax rate (5%,

5.1%, 5.5%, or 5.6%) to arrive at the use tax due per plate per month.)

The reason for the increase to \$118 per plate is that sec. 77.53(1m)(a), Wis. Stats. (2001-02), requires that the Department of Revenue annually adjust the amount subject to use tax to reflect the annual percentage change in the U.S. Consumer Price Index for All Urban Consumers, U.S. City Average, as determined by the U.S. Department of Labor for the 12 month period ending June 30. The percentage change for the period July 2002 to June 2003 was 2.11% ($\$116 \times 1.0211 = \118 rounded to the nearest whole dollar). [🔗](#)

Wood County Adopts County Tax

Effective January 1, 2004, the county sales and use tax will be in effect in Wood County. This brings to 58 the number of counties that have adopted the 1/2% county tax.

Retailers were notified about Wood County's adoption of the county tax in the September 2003 *Sales and Use Tax Report* (number 1-03). The Report was sent in late September and early October to all persons registered

for Wisconsin sales and use tax purposes. A copy of the Report appears on pages 45 to 48 of this Bulletin.

For additional information about the county tax, see Publication 201, *Wisconsin Sales and Use Tax Information*, Part XVIII, on pages 39 to 45. Publication 201 is available from any Department of Revenue office. See the article titled "Tax Publications Available" on page 12 of this Bulletin for information about how to obtain copies of Publication 201 by mail, e-mail, fax, or the Internet. [🔗](#)



Guidelines for Reproduced and Substitute Tax Forms

Tax returns may generally be filed on forms that have been reproduced or on substitute forms that have been approved by the department. However, certain guidelines must be followed to ensure that the reproduced or substitute

forms are compatible with the department's processing system.

A copy of the "Guidelines for Reproduced and Substitute Tax Forms" appears on pages 49 and 50 of this Bulletin. The guidelines are also on the department's web site at www.dor.state.wi.us. Click on "Forms" and then see "Tax Return Guidelines." [🔗](#)

2003 Package WI-X Available in January

Wisconsin's Package WI-X will be available by January 31, 2004. Package WI-X will contain actual size copies of most 2003 Wisconsin individual and fiduciary income tax, corporation franchise and income tax, partnership, estate tax, motor vehicle fuel tax, sales and use tax, and withholding tax forms.

The cost of the 2003 Package WI-X is \$7.00, plus sales tax. It may be ordered on the tax form order blank (Form P-744). This order blank was mailed in

September. See the article titled "Tax Form Order Blanks Mailed" on page 9 of this Bulletin, for more information.

If you want to purchase copies of the 2003 Package WI-X and did not receive an order blank, you may mail a request, indicating the number of copies you require, along with your remittance for the amount due. Send it to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 1-151, P.O. Box 8949, Madison, WI 53708-8949. [🔗](#)

Electronically Filed Homestead Credit Information

The second year for filing homestead credit claims electronically (“e-filing”) saw a 140% increase over the amount of electronically filed claims for 2001. To date, 62,417 claimants filed their 2002 homestead credit claims electronically, which is more than 27% of the total number of homestead credit claims that have been filed for 2002.

Approximately 55,597 (89%) of the claims filed electronically were filed through a preparer, 3,490 (6%) were filed using vendor software, and 3,330 (5%) were filed using the “Wisconsin Free-File” fill-in-the-form web site application.

Of the 62,417 e-filed homestead credit claims, 48,066 (77%) finished processing **within five business days**. The remaining 14,351 (23%) were selected for review. Of the claims selected for review, 1,616 (11%) needed letters for additional information, 1,776 (12%) needed letters to obtain missing Form W-RAs with required attachments, and 5,046 (35%) were adjusted. The balance were resolved within one to four weeks based on the information submitted.

Avoid delays - Many of the claims selected could have avoided review if the property tax bill information, rent certificate information, and/or household income information had been entered completely and correctly before transmitting the claim. For more information on providing the necessary information, see www.dor.state.wi.us/eserv/hcfiling.html.

Follow the tips below to avoid some of the errors and delays experienced this year. (Note: Schedule H line references are to the 2003 Schedule H.)

Property Tax Bill Information Sheet Tips

- Enter the information **exactly** as it is shown on the property tax bill (year, name of owner, type of owner, address of property, assessed land valuation, assessed improvement valuation, number of acres [if shown], taxes before lottery/gaming credit, and lottery/gaming credit [if shown]). (Hint: By not providing all of this information, a claim is more likely to be selected for review because information needed to calculate allowable taxes is missing.)
- Don’t reduce the taxes for ownership percentage, personal use percentage, or acreage adjustment when entering the taxes on the property tax bill information sheet. (Hints: The property tax

reductions for acreage and personal use percentage should be done on Schedules 1 and 2 on page 3 of the Schedule H and then entered on line 13 of Schedule H. The reduction for ownership percentage should be done when allowable taxes are entered on line 13 of Schedule H.)

- Indicate “Self and/or spouse” as the ownership type if the claimant or spouse has a life estate ownership interest in the homestead property.
- Enter the address of the property exactly as shown on the property tax bill. (Hints: Enter N, S, E, or W as shown on the property tax bill, and don’t enter a rural route address when the property tax bill shows a street address; for example, use W4459 Center Road rather than RR 2.)
- Use the “Adjoining Property Tax Bill Information” section (there are data fields for up to five additional property tax bills) when there is more than one property tax bill. (Hint: Be sure to enter number of acres, assessed valuation of land, assessed valuation of improvements [if any], and the property tax amount.)
- Only enter dates of occupancy when a home was purchased or sold during the year.
- When a home was sold during the year, enter the date of sale, allocated property taxes, selling price, selling expenses from the closing statement, and adjusted basis of the home sold in the correct data fields.
- Don’t enter property tax bill information when line 10b of the rent certificate has an amount that should be entered on line 13 of Schedule H. If software requires you to enter property tax bill information when line 10b of the rent certificate has an amount, contact the software company. The software should allow for this situation.

Rent Certificate Information Tips

- Claim only the claimant’s share of rent on lines 14a and 14c of Schedule H.
- Only claim rent that is properly documented by a signed rent certificate or, if the rent certificate is not signed, by copies of money orders or cancelled checks.
- Don’t indicate that the landlord will not sign the rent certificate when you have a landlord signed rent certificate. (Hints: Don’t enter rent certificate information without an original landlord signed rent certificate. If a landlord signed rent certificate is not

provided when you are preparing the claim, obtain one from the claimant before proceeding with the claim.)

- If the landlord will not sign a rent certificate, indicate this and complete all of the required information for both the claimant and landlord. Mail copies of each cancelled check or money order receipt to verify the rent paid along with Form W-RA, *Required Attachments for Electronic Filing*.
- Enter the month and day when entering the dates of occupancy on line 4 of the rent certificate. Don't enter the month and year. (Hint: By incorrectly entering the month and year, the days of occupancy and allowable rent cannot be correctly computed.)
- Enter the information exactly as it is shown on the rent certificate. (Hint: If software automatically computes and enters the rent for lines 11c, 11e, and 13a of the rent certificate, verify that the amounts are the same as shown on the original rent certificate. If they are not, you must override the amounts so they match the amounts on the original rent certificate.)
- When the box for line 9c of the original rent certificate is checked, be sure to check it on the rent certificate information sheet.
- Each column for line 11b of the electronic rent certificate has 2-byte data fields for months and 2-byte fields for days. (Hint: Only use the "days" data fields when the rent certificate shows a fraction of a month or a number of days on line 11b; for example, enter 10 1/2 months as "10" months and "15" days.)
- Complete the "Allowable Rent for Shared Living Expenses" section of the electronic rent certificate when the original rent certificate has that information.

Tax and Rent Information Tips

- Check the boxes above line 13 of Schedule H when applicable. The check boxes are to indicate more than one acre and not part of a farm, more than one acre and part of a farm, non-homestead use of property, and if Wisconsin Works (W2) or county relief was received during the year.

Household Income Information Tips

- Include the distributive share of partnership, limited liability company (LLC), and tax-option (S)

corporation depreciation, Section 179 expense, depletion, amortization, and intangible drilling costs on line 11g of Schedule H. (Hint: Don't include it on line 11h or 11i.)

- Include depreciation from federal Schedules C, C-EZ, E, F, and federal Form 8829 on line 11i of Schedule H.
- Include mileage depreciation for car and truck expenses (when the standard mileage rate was used to compute the expense) on line 11h of Schedule H. (Hints: Use Homestead Credit Note #4 to indicate the number of miles that were used in computing the expense. Use Homestead Credit Note #6 to indicate the car and truck expenses were computed using actual expenses.)
- Include nontaxable pension and annuity income on line 9d of Schedule H.
- Include deferred compensation labeled with D, E, F, G, H, or S (from box 12 on a wage statement) on line 9e of Schedule H.
- Include the gain from the sale of a home that is excluded under I.R.C. Section 121 on line 11c of Schedule H (even though this is not taxable income, it is includable in household income).
- Include child support, maintenance payments, and other support money on line 9i of Schedule H.
- If "other" subtractions are listed on line 11 of Form 1 and are not specifically identified, include a note to indicate the source(s) of the subtraction with Form W-RA, *Required Attachments for Electronic Filing*. (Hint: "Contact Preparer" and "Other Subtractions" are not sufficient identification.)
- Use the Homestead Credit Notes when needed. (Hint: "Needed" includes situations per the Schedule H instructions such as, (a) relating to low income, (b) either claimant and/or spouse is age 65 or over and did not receive social security, (c) distributive share of tax-option (S) corporation, partnership, and LLC depreciation, Section 179 expense, depletion, amortization, and intangible drilling costs is "None", (d) less than 12 months of property taxes/rent, (e) IRA/pension/annuity rollovers, (f) married, divorced, or separated during year, (g) lottery/gaming credit not claimed or allowed separately from tax bill, moved during the year, etc.)

Form W-RA Information Tips

- The Form W-RA, *Required Attachments for Electronic Filing*, must be mailed to the Wisconsin Department of Revenue with the required homestead credit documentation **within 48 hours of Wisconsin acknowledgment**. Not receiving the Form W-RA is the main reason delays occur.
- Put Form W-RA as the front document, with attachments stapled behind. (Hint: Attachments include wage statements [Form W-2s] and Form 1099-Rs, original rent certificate(s), copy of 2003 property tax bill(s) and/or closing statement, and any other document or note needed per the homestead credit instructions.)
- Don't mail a paper copy of the electronically transmitted income tax return or homestead credit claim. This will cause delays.
- Don't staple two or more claimants' Form W-RAs and attachments together.
- Don't mail Form W-RA before receiving the Wisconsin acknowledgment. (Hint: Be sure you mail it to the correct address, listed below.)
- Send Form W-RA and ALL of the required attachments to:

Using U.S. Postal Service

Wisconsin Department of Revenue
P.O. Box 34
Madison, WI 53786-0001

Using another service

Wisconsin Department of Revenue
Mail Opening Mail Drop 1-151
2135 Rimrock Road
Madison, WI 53713



Tips to Speed Processing of Corporation Tax Returns



Processing corporation tax returns takes longer when the returns are incomplete or assembled improperly. Avoid errors and delays in processing your tax return by following these tips:

1. **File your return using the correct year's form.** If you do not, it may be sent back to you. The year of the return should correspond to the first date of the tax period covered. For example, if you file a return for the period covering June 1, 2002 through May 31, 2003, you would file a 2002 Corporation franchise or income tax return because the first date in the period covered is in 2002.
2. **If the address or name of your corporation has changed** from the information on the label from the tax booklet, enter your new name/address and check the appropriate box indicating there is a change. If you do not have a label to compare to and you have had a name or address change in the last two years, check the box to ensure that the new information is correctly entered.
3. Check the appropriate box on the return if you are filing a **first or final return** for the corporation. This information is important in determining past and future filing requirements.
4. Check the appropriate box on the return if you are filing an **amended return** or write "Amended" on the top of the return.
5. Enter the correct **Federal Employer Identification Number ("FEIN")**. The FEIN should be nine digits long. Some printers/software only print eight digits, so check your return before you mail it in.
6. Fill in the **gross receipts and total company assets** lines on the tax return.
7. **DO NOT staple checks to the return** or put checks inside or on the back of the return. They may be overlooked, and you could receive a bill. Paperclip all checks to the front page of the return.
8. **Only use one staple** or clip, in the upper left corner of the return. Staples placed in other areas of the return must be removed to key the information from the return.
9. **Attach the federal return and ALL schedules** that apply.
10. **Assemble the return in the correct order:**
 - Wisconsin tax return
 - Federal tax return
 - Any attachments
 - Any extensions (place as the BACK page)



Making Corporation Estimated Tax Payments

If a corporation's franchise or income tax due (including the recycling surcharge) is \$500 or more, it generally must make quarterly estimated tax payments. The quarterly payments may be made either with a Wisconsin Form 4-ES or by Electronic Funds Transfer ("EFT").

Corporations that made an estimated tax payment with a Form 4-ES in the current year will automatically receive estimated tax vouchers (Form 4-ES) before the next year's tax is due. Taxpayers that receive the Form 4-ES in the mail but have no estimated tax payment obligation

for the next year **should not** complete and return the form. (Some taxpayers think that because the department sends them the pre-printed vouchers they are obligated to complete and return them, even though they are not making estimated payments.)

Estimated tax payments can be made by EFT. Taxpayers that make estimated tax payments by EFT do not need to complete the Form 4-ES. For more information about EFT payments, call (608) 264-9918; write to Wisconsin Department of Revenue, P.O. Box 8912, Madison, WI 53708-8912; or visit the department's web site, www.dor.state.wi.us. This site also provides information about forms and filing requirements. [☞](#)

Magnetic Media Filing Required for Some Forms

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

- Comparable wage statements or information returns are required to be filed on magnetic media with the Internal Revenue Service or Social Security Administration.

- The income on the form is required to be reported to Wisconsin.
- The Combined Federal/State Filing Program is not being used.
- No waiver has been granted by the department.

Wisconsin Publication 509, *Filing Wage Statements and Information Returns on Magnetic Media*, provides more information about magnetic media filing. For information about how to obtain this publication, see the article titled "Tax Publications Available" on page 12 of this Bulletin. [☞](#)

Refund Interception Program Experiences Tremendous Growth

Recent changes in technology have led to explosive growth in the Wisconsin Department of Revenue's refund interception program for local governments. First authorized in 1995, the program was initiated to allow the department to intercept state tax refunds for debts owed to county and municipal governments. Information was exchanged between the department and local governments via a standard telephone modem. This system, while functional, was not very "user friendly".

In January, 2001 the department replaced the modem system with an Internet-based application that made data exchange considerably easier. Prior to the implementation of the new application, only 20 local governments were participating in the refund interception program and had collected approximately \$1.9 million since the program's inception. Since

January 2001, however, the number of participating agencies has grown to approximately 150 and collections have surpassed \$12.6 million. Obviously, this change in technology has resulted in tremendous growth in the refund interception program, and new agencies are enrolling at a steady pace.

More recently, participation in the program by county clerks of court was made easier still. Through a partnership with Circuit Court Automation Programs (CCAP), an interface was constructed that allows the clerks to exchange program information with the department directly from the financial management software they already use to track court-assigned fines, fees and forfeitures.

For more information about the refund interception program, please contact the department at (608) 266-8517, or via e-mail at trip@dor.state.wi.us. [☞](#)

Tax Form Order Blanks Mailed

During September, the department mailed order blanks (Form P-744) to tax preparers. Use these original order blanks (not copies) to request bulk orders of 2003 Wisconsin tax forms that require payment. Forms that do not require payment are not listed on the order blank.

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

If you have not received an order blank, you may request one by: contacting any department office; writing to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 1-151, P.O. Box 8949, Madison, WI 53708-8949; or calling (608) 266-1961.

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

As an alternative to ordering forms, most forms in Package WI-X may be reproduced. Package WI-X will be mailed separately in January. In addition, 2003 Wisconsin income tax forms will be available at some libraries. [☞](#)

Reminder: Fewer Form 1NPR and Corporation Tax Booklets Will Be Mailed

The department has discontinued mailing Form 1NPR income tax instruction booklets and corporation franchise or income tax booklets, Form 4, 5, or 5S, in the following situations:

- When a Form 1NPR was filed for the prior year as a part-year resident and a non-Wisconsin address was used.
- When a Form 4, 5, or 5S was filed for the prior year using a paid tax return preparer.

Eliminating the printing and mailing of these booklets will continue to save both resources and taxpayer dollars.

Form 1NPR booklets and corporation tax forms and instructions are available from a variety of sources:

- The department's web site at:
www.dor.state.wi.us/html/taxforms.html.
- The department's Fax-A-Form Retrieval System, accessed by calling (608) 261-6229 from a fax telephone.
- Wisconsin Package WI-X, which may be purchased or is available in many public libraries.
- Request that forms be mailed using the department's online request form at:

www.dor.state.wi.us/html/formsreq.html

or by calling (608) 266-1961. [☞](#)



Wanted: Your Comments About the *Wisconsin Tax Bulletin*

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

How could the department improve on the information it publishes? What topics do you want covered or

expanded? Do you have particular likes or dislikes about the WTB? Do you have ideas, comments, or suggestions you'd like to share?

Please take a few moments to give us your comments or ideas, and be a part of improving *your* WTB. Send your comments or ideas to Dale Kleven, Wisconsin Department of Revenue, Mail Stop 6-40, P.O. Box 8933, Madison WI 53708-8933. If you prefer, you may fax your comments to him at (608) 261-6240, or you may e-mail or call him at isetechsvc@dor.state.wi.us or (608) 266-8253. We'd like to hear from you! [☞](#)

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 and the Processing and Customer Services Division. A comprehensive listing of telephone numbers and addresses appears in *Wisconsin Tax Bulletin* 134 (April 2003), pages 31 to 34.

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	266-2890
Corporation Franchise and Income Taxes	266-2772
Delinquent Taxes	266-7879
Electronic Filing:	
Individual Income Tax	264-6886
Sales Tax	261-6261
Electronic Funds Transfer ("EFT")	264-9918
Estimated Taxes	266-2772
Fiduciary, Estate Taxes	266-2772
Forms Request:	
By mail	266-1961
Fax-A-Form	261-6229
Homestead Credit	266-8641
Individual Income Tax	266-2772
Motor Vehicle Fuel Tax	266-3223
Refunds	266-8100
Sales, Use, Withholding Taxes	266-2776
Sales Internet Process ("SIP")	261-6261
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



Reminder: IRS Mileage Rates for 2003 Apply for Wisconsin

The Internal Revenue Service ("IRS") optional standard mileage rates for 2003, for computing automobile expenses for business, charitable, medical, and moving expense purposes, also apply for Wisconsin.

For 2003 the business standard mileage rate is 36¢ per mile for all business miles driven, without regard to whether the automobile was previously considered fully depreciated. If the standard mileage rate of 36¢ per mile is used, depreciation is considered to be allowed at 16¢ per mile. However, no portion of the 36¢ per mile is considered to be depreciation after the adjusted basis of the automobile reaches zero.

For 2003 the mileage rate allowed for calculating automobile expenses for charitable deduction purposes is 14¢ per mile. The rate for medical expense and moving expense deductions is 12¢ per mile. 




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 issue, 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 61 of this Bulletin. The Index is also on the department's Internet web site at www.dor.state.wi.us. Just click on "Publications." 

Bankruptcy Filings on the Increase

According to the American Bankruptcy Institute, the total number of bankruptcy filings nationwide for the twelve-month period ending June 30, 2003 broke previous records. Filings increased 9.9 percent to 1,650,279, compared to the prior twelve-month period. In Wisconsin, bankruptcy filings for the first two quarters of 2003 totaled 15,132, an increase of 2,520 over the same time period in 2002.

Similarly, the Wisconsin Department of Revenue has experienced an increase in bankruptcy activity. For the fiscal year ending on June 30, 2003, the department received bankruptcy notices in 30,039 cases, compared to 28,258 bankruptcy notices for the prior twelve-month period. While the number of bankruptcy claims filed by

the department in the fiscal year ending on June 30, 2003 decreased by 14.93 percent from the prior twelve-month period, the amount of bankruptcy dividends received totaled \$4,456,605, an increase of 23 percent.

Bankruptcy filings received by the Wisconsin Department of Revenue are processed by the Compliance Bureau's Special Procedures Unit, which has three full time revenue agents dedicated to bankruptcy work. The Compliance Bureau's Collection Attorneys Unit handles the legal aspects of bankruptcy filings. The mailing address for new bankruptcy filings and related materials is Wisconsin Department of Revenue, Special Procedures Unit, P.O. Box 8901, Madison, WI 53708-8901. This is also the mailing address of the department's Collection Attorneys Unit. [☞](#)



Wisconsin Tax Bulletin Annual Index Available

Once each year the *Wisconsin Tax Bulletin* includes an index of materials that have appeared in past Bulletins. The index will help you locate reference materials including articles, court case

summaries, tax releases, and private letter rulings, to research questions about Wisconsin taxes.

The latest *Wisconsin Tax Bulletin* index available appears in *Wisconsin Tax Bulletin* 133 (January 2003), pages 48 to 80. It includes information for issues 1 to 132 (through October 2002). [☞](#)



Nearly 2.3 Million Refunds Issued

More than 2,271,000 income tax refunds were issued to taxpayers during the fiscal year ending June 30, 2003 (primarily 2002 returns), for an average refund of \$548. The average refund for 2001 returns was \$528. Nearly 485,000 refunds were directly deposited in taxpayers' accounts.

Here are some more comparisons:

	2001 Returns	2002 Returns
Number of individual income tax returns	2,881,349	2,879,073
Itemized deduction credit		
% of taxpayers claiming	27%	27%
Average credit	\$599	\$590

Homestead credit		
# of claimants	211,963	226,041
Average credit	\$487	\$498
Age 65 or older	44%	43%
Renters*	57%	57%
Homeowners*	49%	49%

*some claimants were both

Farmland preservation credit		
# of claimants	21,387	21,003
Average credit	\$797	\$802
Earned income credit		
# of claimants	198,018	220,578
Average credit	\$318	\$328
Sales/use tax payments		
Amount collected	\$1,474,158	\$1,598,697
# of payers	25,611	26,140

[☞](#)

State Election Campaign Fund Checkoffs Decrease for 2003

Wisconsin income tax returns include checkboxes for taxpayers and spouses to designate \$1 to the State Election Campaign Fund.

During July 2002 through June 2003 (primarily 2002 tax returns), taxpayers designated \$205,599 to the election campaign fund on their Wisconsin tax returns. This compares to \$348,153 for the prior year. [☞](#)

Tax Publications Available

Listed below are 68 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, Mail Stop 1-151, P.O. Box 8949, Madison, WI 53708-8949; call (608) 266-1961; or fax a request to (608) 261-6913.

By E-Mail

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

Via Your Fax Machine

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

Via the Internet

Access the department's web site at www.dor.state.wi.us, and click on "Publications" and then "Tax Publications."

Note: The numbers of some publications may be 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

- | | |
|---|--|
| <p>102 Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (12/02)</p> <p>103 Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, and Trusts (11/02)</p> <p>104 Wisconsin Taxation of Military Personnel (10/02)</p> <p>106 Wisconsin Tax Information for Retirees (11/02)</p> <p>109 Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 2002 (11/02)</p> <p>112 Wisconsin Estimated Tax and Estimated Surcharge for Individual, Estates, Trusts, Corporations, Partnerships (11/02)</p> | <p>113 Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (10/02)</p> <p>116 Income Tax Payments are Due Throughout the Year (11/02)</p> <p>119 Limited Liability Companies (LLCs) (12/02)</p> <p>120 Net Operating Losses for Individuals, Estates, and Trusts (11/02)</p> <p>121 Reciprocity (12/01)</p> <p>122 Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 2002 (11/02)</p> <p>123 Business Tax Credits for 2002 (12/02)</p> <p>125 Credit for Tax Paid to Another State (11/02)</p> <p>126 How Your Retirement Benefits Are Taxed (11/02)</p> <p>600 Wisconsin Taxation of Lottery Winnings (1/02)</p> <p>601 Wisconsin Taxation of Pari-Mutuel Wager Winnings (1/02)</p> |
|---|--|
-
- | Sales and Use Taxes | |
|--|--|
| <p>200 Electrical Contractors – How Do Wisconsin Sales and Use Taxes Affect Your Business? (11/02)</p> <p>201 Wisconsin Sales and Use Tax Information (11/02)</p> <p>202 Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs (11/00)</p> <p>203 Sales and Use Tax Information for Manufacturers (7/00)</p> <p>205 Use Tax Information for Individuals (4/03)</p> <p>206 Sales Tax Exemption for Nonprofit Organizations (6/00)</p> <p>207 Sales and Use Tax Information for Contractors (10/00)</p> <p>210 Sales and Use Tax Treatment of Landscaping (4/01)</p> <p>211 Cemetery Monument Dealers – How Do Wisconsin Sales and Use Taxes Affect You? (6/00)</p> <p>212 Businesses: Do You Owe Use Tax on Imported Goods? (4/03)</p> <p>213 Travelers: Don't Forget About Use Tax (4/03)</p> <p>214 Businesses: Do You Owe Use Tax? (4/03)</p> | |

216 Filing Claims for Refund of Sales or Use Tax (2/03)

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? (2/03)

220 Grocers – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (10/01)

221 Farm Suppliers and Farmers – How Do Wisconsin Sales and Use Taxes Affect Sales to Farmers? (3/02)

222 Motor Vehicle Fuel Users: Do You Owe Use Tax? (3/00)

223 Bakeries – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (1/03)

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? (12/02)

226 Golf Courses – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (3/00)

227 E-file Sales Tax returns with S.I.P. (3/01)

229 Brackets for Collecting Wisconsin Sales or Use Tax on Retail Sales (11/01)

230 Sales and Use Tax Information for Sellers of Antiques, Crafts, and Artwork (12/02)

Other Taxes and Credits

127 Wisconsin Homestead Credit Situations and Solutions (11/02)

400 Wisconsin's Recycling Surcharge (12/02)

403 Premier Resort Area Tax (2/03)

410 Local Exposition Taxes (2/03)

503 Wisconsin Farmland Preservation Credit (11/02)

508 Wisconsin Tax Requirements Relating to Nonresident Entertainers (2/03)

W-166 Wisconsin Employer's Withholding Tax Guide (11/02)

Audits and Appeals

501 Field Audit of Wisconsin Tax Returns (3/02)

505 Taxpayers' Appeal Rights of Office Audit Adjustments (2/02)

506 Taxpayers' Appeal Rights of Field Audit Adjustments (9/99)

507 How to Appeal to the Tax Appeals Commission (6/03)

515 Non-Statistical Sampling (1/01)

Other Topics

111 How to Get a Private Letter Ruling From the Wisconsin Department of Revenue (2/01)

114 Your Wisconsin Taxpayer Bill of Rights (10/01)

115 2003 Handbook for Federal/State Electronic Filing (11/02)

117 Guide to Wisconsin Information Returns (11/02)

124 Petition for Compromise of Delinquent Taxes (4/03)

130 Fax A Form (12/02)

140 A Tax Practitioner's Guide to Electronic Filing (6/00)

401 Extensions of Time to File (11/02)

405 Wisconsin Taxation of Native Americans (12/01)

500 Tax Guide for Wisconsin Political Organizations and Candidates (11/02)

502 Directory of Wisconsin Tax Publications (1/02)

504 Directory for Wisconsin Department of Revenue (5/03)

509 Filing Wage Statements and Information Returns on Magnetic Media (2/01)

700 Speakers Bureau presenting . . . (6/00) [🔗](#)



Endangered Resources Contributions Decrease in 2003

The 2002 Wisconsin income tax returns included a line for taxpayers to designate a contribution to the Wisconsin Endangered Resources Fund. These contributions help protect and care for Wisconsin's endangered species, nongame wildlife, and rare plant and animal habitats.

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

During July 2002 through June 2003 (primarily 2002 returns), 41,855 taxpayers contributed \$647,689 to the Endangered Resources Fund. This compares with 2001 income tax returns, where 47,524 taxpayers contributed \$709,941. [↗](#)

Woman Charged with Fraud

Criminal charges were filed in July of 2003 against a former Indiana woman in connection with a multi-state fraudulent electronic income tax refund scheme.

Shana M. Cooper, 23, of Milwaukee, was charged with forgery and attempted theft by fraud by the Milwaukee County District Attorney's Office after a joint investigation by the Indiana and Wisconsin Department's of Revenue.

According to the criminal complaint, between March and April of 2003 Ms. Cooper filed ten fraudulent 2002 income tax returns electronically with the Wisconsin Department of Revenue in an attempt to obtain \$9,097 in income tax refunds. Each was in the name of a different person. She also filed four fraudulent electronic returns with the Indiana Department of Revenue as well as several fraudulent electronic returns with the Internal Revenue Service. She filed the returns from her home computer or from computers at the Milwaukee Public Library.

The complaint alleges that each of the electronically filed returns was accompanied by an electronically filed wage and tax statement, form W-2, which listed fictitious wages and fictitious amounts of income taxes withheld in attempts to fraudulently obtain income tax refunds. The actual state and federal tax identities of five different employers were used in the scheme.

The complaint further alleges that Ms. Cooper had directed the refunds to be electronically deposited in bank accounts in her name, utilizing four accounts in Wisconsin and one in Indiana. Although most of the refunds claimed on the fraudulent returns were not issued, \$2,394 was obtained from the Wisconsin Department of Revenue. An additional \$4,170 was obtained from fraudulent returns filed with the Indiana Department of Revenue and the Internal Revenue Service.

In addition to the tax refund scheme, Ms. Cooper was also criminally charged with filing a false 2002 homestead credit claim with the Wisconsin Department of Revenue. Ms. Cooper, who came to Milwaukee from Gary, Indiana in November 2002, falsified a rent certificate filed with the homestead claim, purporting that she had lived in Wisconsin for all twelve months of 2002, and had paid \$4,800 in rent to her landlord. According to the complaint, she had actually lived in Wisconsin for two months and had only paid \$300 in rent.

If convicted on all charges, Ms. Cooper faces up to 43 1/2 years imprisonment and fines up to \$55,000. She could also face additional criminal charges in Indiana. [↗](#)

Auditors Discover Over \$37 Million in Unpaid Use Tax

As part of its efforts to obtain compliance with Wisconsin use tax laws, Department of Revenue auditors assessed over \$37 million of use tax in the fiscal year ending June 30, 2003.

Field auditors found that many businesses, while properly accounting for tax on sales, do not have a

system to keep track of purchases subject to use tax. For example, purchases were made from unregistered out-of-state sellers (e.g., mail order or Internet companies) without a sales or use tax being paid . . . until the businesses were audited.

Office auditors found that many purchasers of motor vehicles, all-terrain vehicles, aircraft, boats, and snowmobiles failed to properly report use tax because they underreported the purchase price of the motor

vehicles, all-terrain vehicles, aircraft, boats, and snowmobiles paid to nondealers. In addition, discovery projects targeting particular industries and individuals resulted in use tax collections for purchases made from unregistered out-of-state sellers (e.g., mail order or Internet companies) without a sales or use tax being paid.

The \$37 million of use tax assessed does not include interest and penalties that were also imposed.

Purchasers should carefully review their accounting methods to ensure that use tax is properly reported. [✎](#)

Question and Answer ?

Caution: The answers in this article reflect interpretations by the Wisconsin Department of Revenue, of laws enacted by the Wisconsin Legislature as of the date of this Bulletin. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations.

(Individual Income Tax)

Q On my 2002 Wisconsin income tax return I was not allowed to take the federal deduction of \$250 for educator expenses. Will I be able to take a deduction on my 2003 Wisconsin income tax return for educator expenses that I pay in 2003?

A Yes, Wisconsin has adopted this federal provision for 2003. The adjustment to income for educator expenses allowed on a 2003 federal income tax return will also be allowed on a 2003 Wisconsin income tax return.

(Sales and Use Tax)

Q I am going to purchase a new refrigerator and stove for my home. I intend to purchase an extended service contract (warranty) for the appliances. I know that the appliances are subject to Wisconsin sales tax. Is the charge for the extended service contract subject to Wisconsin sales tax?

A Yes. The sale of a service contract is subject to Wisconsin sales tax if the sale of the property covered by the service contract is subject to Wisconsin sales tax. Similarly, if the covered property is not subject to Wisconsin sales tax when sold, the service contract is also not subject to Wisconsin sales tax. For example, you purchase a built-in dishwasher that the seller will install. The sale and installation of the dishwasher is not subject to Wisconsin sales tax because it is a real property improvement. Therefore, the sale of an extended service contract for that dishwasher is also not subject to Wisconsin sales tax. [✎](#)

Out-of-State Sellers Contacted to Register for Sales or Use Tax

In September, the Wisconsin Department of Revenue began contacting out-of-state sellers who are not registered for sales or use tax purposes and are selling to Wisconsin state agencies and authorities. A copy of the letter and attachments are located on pages 51 through 55 of this Bulletin.

These contacts are a result of a provision included in 2003 Wisconsin Act 33. This provision requires that, in order to do business with the State of Wisconsin, sellers who make sales of tangible personal property and

taxable services that are subject to Wisconsin sales or use tax must be registered to collect and remit such tax. The provision also requires that all affiliates of such sellers be registered. See *Wisconsin Tax Bulletin* 135 (July 2003), page 25, for additional information concerning this provision.

Sellers who fail to register and remit sales or use tax will be certified to the Department of Administration. Any affiliates of the seller who fail to register will also be certified. Upon certification of a seller, or any of its affiliates, Wisconsin state agencies and authorities may no longer purchase from the seller or its affiliates. [✎](#)

Buyer's Claim for Refund Form Revised

Form S-220, *Buyer's Claim for Refund of Wisconsin State, County and Stadium Sales Taxes*, has been revised. The form was changed from a single form measuring 17" x 11" (a 4-ply form printed on both

sides) to two separate forms; Form S 220 titled **Form BCR** (8 1/2" x 11" - printed on one side) and Form S-220a titled **Schedule P** (8 1/2" x 11" - printed on both sides). Copies of Form BCR and Schedule P are reproduced on pages 57 to 60 of this Bulletin. They are

also available on the department's web site at www.dor.state.wi.us/html/taxsales.html.

Form BCR (Buyer's Claim for Refund) is the actual refund claim form and Schedule P is its companion form. Schedule P forms the basis for the refund claim by detailing the purchases made for which the refund is claimed. A buyer may use Form BCR and Schedule P to request a refund from the department of state, county and stadium (baseball and football) sales tax paid in error to a seller, if the claim for refund of sales tax totals \$50 or more, or the claim for refund of sales tax totals less than \$50 and one or more of the following conditions apply:

- The seller has ceased business operations,
- The buyer is being field audited, or
- The periods covered in the claim for refund are within the statute of limitations for the buyer and are closed to the seller.

The buyer completes all of Form BCR and Sections 1 and 3 of Schedule P. Schedule P is then sent by the buyer to the seller who completes Section 2 and returns Schedule P to the buyer. The buyer then attaches Schedule P to Form BCR as documentation for the refund being claimed. [☞](#)

Administrative Rules in Process

Listed in the next column are administrative rules that are currently in the rule promulgation process. The rules are shown at their stage in the process as of October 1, 2003 and at each step where action occurred during the period from July 2, 2003, through October 1, 2003.

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 order up-to-date administrative rules of the Department of Revenue, you can use the order blank on page 61 of this Bulletin to order the Tax section of the Wisconsin Administrative Code.

Rules Adopted and in Effect (and effective date)*

- | | |
|--------|--|
| 11.001 | Forward and definitions – A (August 1, 2003) |
| 11.13 | Direct pay – A (August 1, 2003) |
| 11.14 | Exemption certificates – A (August 1, 2003) |
| 11.84 | Aircraft – A (August 1, 2003). |

* See *Wisconsin Tax Bulletin* 135 (July 2003), pages 12 through 14, for a summary of the changes to these rules. [☞](#)



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

Assessments - issuance after a delinquent tax clearance	
Assessments – offset of a refund	
Assessments - timeliness	
Assessments – correctness	
<i>Allen G. Bedynek</i>	17

Sales and Use Taxes

Exemptions – manufacturing machinery and equipment	
<i>Hammersley Stone Company</i>	18
Use tax – transfer of tangible personal property from related corporation	
<i>River City Refuse Removal, Inc.</i>	19

Drug Tax

Drug tax, appeals - jurisdiction	
<i>Forest J. Morkin</i>	20

INDIVIDUAL INCOME TAXES

Assessments – issuance after a delinquent tax clearance; Assessments – offset of a refund; Assessments – timeliness; Assessments – correctness. *Allen G. Bedynek vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, June 11, 2003). The issues in this case are:

- A. Whether the department properly assessed the taxpayer for the years 1995 and 1996.
- B. Whether the department properly offset the taxpayer's refund for the years 1998 and 1999 against the amounts assessed for 1995 and 1996.
- C. Whether the department's assessment was made in a timely manner.
- D. Whether the issuance of a "clearance letter" by the department precluded the issuance of an assessment to the taxpayer.

In December of 2000, the taxpayer requested a "tax clearance certificate" or other written documentation that he had a zero balance owing to the department. In January, 2001 the department issued an "Occupation License Delinquent Tax Release" that provided, in part:

This is to certify that an examination of the delinquent tax roll of the Department of Revenue has been made and as of this date, the person named above is not liable for delinquent taxes.

Attached to the document was a "Statement of Delinquent Tax Account" that showed the taxpayer had a zero balance.

In February of 2001, the taxpayer filed homestead credit claims for the years 1998 and 1999. During the processing of these claims, the department discovered, based on documentation received from the Internal Revenue Service, that the taxpayer had received substantially more income than was reported on his 1995 and 1996 Wisconsin income tax returns.

The department determined that the taxpayer owed additional income tax on the unreported income that he received in 1995 and 1996, and that he was not entitled to the homestead credits he had received for those two years. The department also determined that the taxpayer was entitled to the homestead credits claimed for the years 1998 and 1999. In April of 2001, the department issued a notice of assessment to the taxpayer for the years 1995, 1996, 1998 and 1999, in which the refunds for 1998 and 1999 were offset against the amounts due for 1995 and 1996. The taxpayer filed a petition for redetermination with the department, the department denied it, and the taxpayer filed a timely petition for review with the Commission.

The taxpayer raised multiple arguments, most of which the Commission determined lacked any merit. Among the arguments raised that the Commission determined had some merit were:

- The department failed to demonstrate that the documentation received from the Internal Revenue Service justifies the assessment.

- The department improperly withheld the homestead credits for which he was eligible in 1998 and 1999. The taxpayer pointed to Secs. 71.89(1) and (3) Wis. Stats., which stay most of the department's collection efforts once a hearing has been requested or an appeal has been filed with the Commission.
- A Circuit Court action in 1998, which resulted in a refund being issued to the taxpayer that had been withheld by the department against an assessment that was the subject of an appeal, was still binding on the department.
- The assessment was issued more than four years after the returns for 1995 and 1996 were filed, thus it was not timely.
- As the department issued a tax clearance letter and Statement of Delinquent Tax Account in January 2001, they were precluded from subsequently issuing an assessment.

The Commission concluded as follows:

- A. The taxpayer failed to offer any credible or substantial evidence showing that the assessment issued by the department was incorrect. All he has done is to assert, without evidence or authority, that the documentation from the Internal Revenue Service is unreliable, erroneous, or incorrect.
- B. Prohibitions on collection activity during the pendency of an appeal before the Commission do not

apply to offsets withheld by the department as part of an assessment prior to appealing the department's action to the Commission. The Circuit Court action taken in 1998 on collection activity of the department at that time is an entirely different situation and is not binding on the department.

- C. The assessment with respect to the taxpayer's 1995 and 1996 income tax returns was timely. Ordinarily, the statute of limitations for income tax assessments is four years following the date the return was filed (Sec. 71.77(2) Wis. Stats.). However, if the taxpayer reported less than 75% of the income properly assessable, then the statute of limitations is six years following the date the return was filed (Sec. 71.77(7)(a) Wis. Stats.). The taxpayer did report less than 75% of the income properly assessable on his 1995 and 1996 income tax returns, and the department's assessment was issued within six years following the dates the returns were filed.
- D. The issuance, 95 days prior to the assessment, of a "clearance letter" by the department stating that the balance of the taxpayer's delinquent tax account was zero, did not preclude the department from issuing the assessment against him. The "clearance letter" pertained only to delinquencies on record at that time with the department. It cannot be read to mean that the taxpayer had no potential liability that would not emerge if he were assessed.

The taxpayer has appealed this decision to the Circuit Court. [☞](#)

SALES AND USE TAXES



Exemptions – manufacturing machinery and equipment.

Hammersley Stone Company, Inc. vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, August 13, 2003). The issue in this case is whether the furnishing of crushing equipment with operators, for crushing stone used in the taxpayer's construction activities, was a sale of a taxable service or a lease of equipment that qualifies for the exemption for manufacturing machinery and equipment.

The taxpayer was a Wisconsin corporation engaged in the business of real property construction contracting, in which it acted as a general contractor or a subcontractor on construction projects. The taxpayer also operated two quarries on leased property from which it extracted

stone which it crushed, and on which it performed additional services (i.e., screening, sorting) before applying most of the resulting crushed stone products in its construction activities. The taxpayer also sold a minor amount of stone to third parties.

The taxpayer separates rock from quarry walls by first removing the dirt from on top of the rock, then drilling holes into and setting off charges to break the rock loose from the quarry wall. The rock is then lifted from the quarry floor by end loader and dumped into a crusher.

During the calendar years 1994 through 1997, the taxpayer had oral lease agreements with several companies, the two at issue having been formalized in writing in 1998 and made retroactive to January, 1994, to use another company's (Company Y's) crushing equipment and operators at one of the taxpayer's quarries for

crushing the stone used in the taxpayer's construction activities.

Company Y's crushing equipment was portable and Company Y paid for its setup and dismantling. Company Y provided the taxpayer with a primary and secondary (and sometimes a third) stone crusher, one or two end loaders or wheeled loaders, a conveyor system, and two or three employees. Company Y's invoices did not itemize the cost of leasing the various pieces of equipment or the employees. The end loaders removed stone from the banks of the quarry and dumped it into the primary crusher, which did the initial crushing to the size of three to four inches. The secondary crusher crushed the stone to the size of one inch, and the third crusher, when used, crushed the stone into sand. The conveyor moved crushed stone from one crusher to another, and from the crushers to stockpiles.

The Commission concluded that the taxpayer was leasing stone crushing equipment with operators from

another company (Company Y), for crushing stone used in the taxpayer's construction activities, which qualified for the exemption for manufacturing machinery and equipment provided by sec. 77.54(6)(a), Wis. Stats.

Although the Commission previously ruled in the decision *Hammersley Stone Company, Inc. vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, August 17, 1998), as reported in *Wisconsin Tax Bulletin* 112, page 27, that the taxpayer was properly assessed use tax on its purchase of crushing "services" during the years 1990 through 1993, the Commission ruled that the taxpayer's "lease" of the equipment in the present case was different from the purchase of crushing services in the prior case, and that the leased equipment was used in manufacturing.

The department has appealed this decision to the Circuit Court. [🔗](#)

🔑 Use tax – transfer of tangible personal property from related corporation. *River City Refuse Removal, Inc. vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, August 19, 2003). The issues in this case are:

- A. Whether tangible personal property the taxpayer received by intercompany transfer from separately organized affiliated entities is subject to Wisconsin use tax.
- B. Whether the taxpayer's failure to report use tax on its intercompany transfers and other purchases was subject to the negligence penalty under sec. 77.60(3), Wis. Stats.

During the period from October 1, 1993 through September 30, 1997, the taxpayer, a wholly-owned subsidiary of Browning-Ferris Industries, Inc. (BFI), was a Wisconsin corporation with its headquarters and principal place of business in Eau Claire, Wisconsin.

The taxpayer was primarily engaged in the business of hauling refuse and recyclables for Wisconsin residences and businesses.

Other subsidiaries of BFI (BFI subsidiaries) transferred to the taxpayer items of tangible personal property such as trucks, tractors, and tractor trailers. The taxpayer did not provide BFI subsidiaries with exemption certificates

claiming any exemption on these transfers. These "intercompany transfers" included all rights to, and ownership of, the transferred assets. The motor vehicles transferred were re-titled in the taxpayer's name with the Wisconsin Department of Transportation. The assets transferred were depreciated on the taxpayer's income or franchise tax returns. The taxpayer paid no sales or use tax on the intercompany transfers.

The BFI subsidiaries that transferred assets to the taxpayer were separate, legal, corporate entities from the taxpayer and were not divisions or units of the taxpayer. The taxpayer's bookkeeping entry for the receipt of the intercompany transfers was to debit the specific asset account and credit an intercompany account. No money was exchanged or expected between the BFI subsidiaries and the taxpayer for the intercompany transfers. The taxpayer received no invoice or other bill in connection with the receipt of intercompany assets.

The Commission concluded:

- A. The intercompany transfers of tangible personal property to the taxpayer from BFI subsidiaries had no mercantile intent and were not subject to Wisconsin use tax. There was no transfer for remuneration or consideration, no exchange of money or expectation of payment and the transfers resulted in the taxpayer's receiving no invoice or other bill. The taxpayer's recording of the trans

ferred property on its books as payables or liabilities, depreciation of the property, and reconciliation of the transfers on the records of BFI and its subsidiaries did not result in any promise of payment.

- B. The negligence penalty is cancelled because the taxpayer met its burden of showing its failure to re-

port the use tax was because the issue was under appeal in another case at the time of assessment, and thus "due to good cause and not due to neglect."

The department has appealed this decision to the Circuit Court. [!\[\]\(23d9fc146e83b5c3013cfa32c784f8d5_img.jpg\)](#)

DRUG TAX

Drug tax, appeals - jurisdiction. *Forest J. Morkin*
 *vs. Wisconsin Department of Revenue* (Circuit Court for Walworth County, January 10, 2003).

In the previous issue of the *Wisconsin Tax Bulletin*, it was reported that the taxpayer had not appealed the Circuit Court's decision to dismiss the petition for review. See *Wisconsin Tax Bulletin* 135 (July 2003), page 19, for a summary of the Circuit Court decision. The taxpayer, however, has appealed the Circuit Court decision to the Court of Appeals. [!\[\]\(05be7c7a8995decd503647c99211f7c2_img.jpg\)](#)



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 in a tax release, the answers may not apply. Unless otherwise indicated, tax releases apply for all periods open to adjustment, and all references to section numbers are to the Wisconsin Statutes. (Caution: Tax releases reflect interpretations by the Wisconsin Department of Revenue, of laws enacted by the Wisconsin Legislature as of the date published in this Bulletin. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations in a tax release.)

The following tax release is included:

Individual Income Taxes

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| 1. State Historic Rehabilitation Credit: Repayment if Recipient Dies | 21 |
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INDIVIDUAL INCOME TAXES

1 State Historic Rehabilitation Credit: Repayment if Recipient Dies

Statutes: Section 71.07(9r)(k), Wis. Stats. (2001-02)

Background: Individuals who meet the requirements specified in sec. 71.07(9r), Wis. Stats. (2001-02) may qualify for a tax credit for rehabilitating historic property used as their personal residence. Section 71.07(9r)(k), Wis. Stats. (2001-02), states, in part:

A natural person who receives a credit under this subsection shall add to his or her liability for taxes imposed under s. 71.02 one of the following percentages of the amount of the credits received under this subsection for rehabilitating or pre-

serving the property if, within 5 years after the date on which the preservation or rehabilitation work that was the basis of the credit is completed, the person either sells or conveys the property by deed or land contract...

Facts: Taxpayer A completed rehabilitation work on his solely owned personal residence in August 2000. The Wisconsin Historical Society certified the project for the state historic rehabilitation credit. Taxpayer A claimed the state historic rehabilitation credit on his 2000 Wisconsin individual income tax return. In June 2003, within 5 years after the rehabilitation work was completed, Taxpayer A dies. The personal residence is part of his estate, and his will provides that each of his three children will receive an equal interest in the property.

Question 1: If Taxpayer A's children sell the property, must the historic rehabilitation credit be repaid?

Answer 1: No, the historic rehabilitation credit for the personal residence does not have to be repaid.

Question 2: If one child decides to live in the property and purchases the interests of the other two children, must the historic rehabilitation credit be repaid?

Answer 2: No, the historic rehabilitation credit for the personal residence does not have to be repaid.

The law requires the natural person who receives the state historic rehabilitation credit to repay all or a portion of it if, within 5 years after the date on which the rehabilitation work is completed, that person either sells or conveys the property by deed or land contract. The law does not require repayment of the credit upon the death of the person who received it. Therefore, Taxpayer A's children who inherited the property are not required to repay the state historic rehabilitation credit.



Private Letter Rulings

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

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

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

The following private letter ruling is included:

Sales and Use Taxes

Bad debts

W 0318003 (p. 22)

✱ **W 0318003** ✱

February 10, 2003

Type Tax: Sales and Use Taxes

Issue: Bad debts

Statutes: Sections 77.51(4)(b)4, (10), and 77.58(3)(a),
Wis. Stats. (1999-00)

Wis. Adm. Code: Section Tax 11.30(2)(d)2 (June 1991
Register)

This letter responds to your request for a private letter ruling regarding the Wisconsin sales and use tax treatment of bad debts and the sale of receivables under sec. 77.51(4)(b)4, Wis. Stats. (1999-00), and sec. Tax 11.30(2)(d)2, Wis. Adm. Code (June 1991 Register).

Facts as stated in your request:

Company A is a used car dealer. At present, it is organized as a limited liability company and has elected for federal and Wisconsin income tax purposes to be taxed as a partnership. Company A sells used cars and provides installment financing for the cars to its customers.

Company A currently sells the installment contracts to Company B, a related entity. Company B is also a limited liability company treated as a partnership for income tax purposes. Both limited liability companies are under the common control of two related individuals for income tax purposes.

Company B purchases the auto contracts at a discount and agrees to bear the risk of loss for any bad debts realized on the underlying installment obligations. It claims a bad debt deduction for federal income tax purposes. Company B, on occasion, sells the installment contracts it purchases from Company A to unrelated financial institutions.

Company A claims an income tax deduction for the discount it now realizes on the sale of the contracts. Neither Company A nor Company B claim a bad debt deduction related to the installment contracts sold at a discount in reporting taxable gross receipts for Wisconsin sales tax purposes.

For the 2003 tax year, Company A and Company B will “check the box” to be treated as a corporation for federal and Wisconsin income tax purposes. In addition, effective as of January 1, 2003, the entities will elect S corporation status.

Effective January 1, 2003, Company C will be formed as a subsidiary of Company A. Company C will elect qualified subchapter S subsidiary (“QSSS”) status. It will be disregarded for federal and Wisconsin corporate income tax purposes.

Company C will have its own employees and bank accounts. It will pay Company A a management fee to handle certain accounting, payroll, and tax functions.

Under the new structure, Company A will sell auto installment contracts to Company C. However, the contracts will be sold at 100% of their face value and the

risk of loss will remain with Company A. Any defaults on the contracts held by Company C or third parties must be made good by Company A.

Company C will sell the installment contracts purchased from Company A at a discount to either Company B or to outside financial institutions.

Company A will pay the balance of any installment contract that a customer defaults on to Company B or, if appropriate, to a third-party financial institution that has purchased the contract.

Company A will be reimbursed for any installment receivable that has been charged off as a bad debt by the company to the extent Company B recovers all or a portion of the defaulted contract. The recovered amounts will be paid to Company A by Company B.

The proposed restructuring of Company A and Company B will allow the owners to bring specialized expertise and management focus to the retail automotive business and the financial/treasury operations. The creation of Company C will separate the consumer credit operations of Company B from the other corporate financing activities. This will facilitate the sales efforts of Company A by providing faster turnaround on auto financing deals. Company C's credit managers will work closely with Company A's sales personnel to qualify prospective buyers and tailor credit terms to meet their individual needs.

Company B will be able to concentrate more fully on the strategic issues of the business, such as raising capital and providing cash to affiliated businesses. It will work closely with outside creditors and financial institutions rather than Company A's customers. Company B personnel will fulfill treasury functions rather than the retail credit objectives of Company C.

The new organization of Company A and related entities will be similar to other companies in the retail industry that have specialized sales, consumer credit, and treasury/financing functions (e.g., department stores, auto manufacturers). The discreet businesses will have separate performance goals. The managers and employees will be evaluated independently and their compensation structured with specific rewards.

Request:

For installment contracts sold on or after January 1, 2003, by the entities described above, you requested that the department rule on the following issues:

1. Can Company A claim a bad debt deduction under sec. 77.51(4)(b)4, Wis. Stats. (1999-00), and sec. Tax 11.30(2)(d)2, Wis. Adm. Code (June 1991 Register), for installment contracts that will be sold to Company C if Company C sells these contracts at a discount to Company B and the contracts subsequently become worthless in whole or part? Stated another way, does the fact that the installment contracts will be sold by Company C at a discount to Company B preclude Company A from taking a bad debt deduction?
2. Can Company A claim a bad debt deduction under sec. 77.51(4)(b)4, Wis. Stats. (1999-00), and sec. Tax 11.30(2)(d)2, Wis. Adm. Code (June 1991 Register), for installment contracts that will be sold to Company C if Company C sells these contracts at a discount to outside financial institutions and the contracts subsequently become worthless in whole or part? That is, does the fact that the installment contracts will be sold by Company C at a discount to outside financial institutions preclude Company A from taking a bad debt deduction?

Ruling:

1. Company A may claim a bad debt deduction under the factual situation described above for that portion of the contract that becomes worthless. This answer assumes that Company A previously paid sales tax to the State of Wisconsin for the sales represented by the accounts, and the accounts are found worthless and charged off for income or franchise tax purposes. The fact that the installment contracts will be sold by Company C at a discount to Company B does not preclude Company A from taking a bad debt deduction.

Note: If any such accounts found worthless and charged off are thereafter in whole or in part collected by Company A, Company B, or any other party, the amount so collected must be included in the first return filed by Company A after such collection, and the amount of the tax thereon paid with the return.

2. Company A may claim a bad debt deduction under the factual situation described above for that portion of the contract that becomes worthless. This answer assumes that Company A previously paid sales tax to the State of Wisconsin for the sales represented by the accounts, and the accounts are found worthless and charged off for income or franchise tax purposes. The fact that the installment contracts will

be sold by Company C at a discount to outside financial institutions does not preclude Company A from taking a bad debt deduction.

Note: If any such accounts found worthless and charged off are thereafter in whole or in part collected by Company A, Company B, or any other party, the amount so collected must be included in the first return filed by Company A after such collection, and the amount of the tax thereon paid with the return.

Caution: The unsigned proposed contracts between Company A and Company C and Company C and Company B contain language obligating Company A to repurchase any contract upon default by the vehicle purchaser only with respect to a failure by the vehicle purchaser to make the **first** scheduled payment. These contracts do not correspond with the representation that Company A is liable for any default by the vehicle purchaser, regardless of the identity of the holder. This ruling is premised on the representation made, and not the proposed contracts. If any of the representations made are different from what actually occurs, this ruling may not be relied upon as authority for the positions taken therein.

Analysis:

Section 77.51(4)(b)4, Wis. Stats. (1999-00), provides:

“In the case of accounts which are found to be worthless and charged off for income or franchise tax purposes, a retailer is relieved from liability for sales tax. A retailer who has previously paid the sales tax on such accounts may take as a deduction from the measure of the tax the amount found to be worthless and this deduction must be taken from the measure of the tax in the period in which said account is found to be worthless or within a reasonable time thereafter.”

Section Tax 11.30(2)(a), Wis. Adm. Code (June 1991 Register), provides:

“*Deduction from measure of tax.* A retailer is relieved from the liability for sales tax by ss. 77.51(4)(b)4. and 77.52(6), Stats., or from liability to collect and report use tax by s. 77.53(4), Stats., insofar as the measure of the tax is represented by accounts found worthless and charged off for income tax purposes or, if the retailer is not required to file income tax returns, charged off in accordance with generally accepted accounting

principles. However, only a retailer who has previously paid sales or use tax to this state on the accounts may claim the bad debt deduction. The deduction shall be taken from the measure of tax in the period in which the account is found to be worthless. That period is defined as any time within the retailer's fiscal or calendar year in which the account is written off. However, if the taxpayer is out of business when the account becomes worthless, a bad debt deduction may be claimed on the last return filed by that business, or through a refund claim or amended return filed within the statutory time allowed. Notes, which later become worthless, received on the sale of tangible personal property shall be treated in the same manner as other worthless accounts.”

Section Tax 11.30(2)(b), Wis. Adm. Code (June 1991 Register), provides:

“*Recovery of bad debts charged off.* If any accounts found worthless and charged off are thereafter in whole or in part collected by the retailer, the amount so collected shall be included in the first return filed after such collection and the amount of the tax thereon paid with the return.”

Section Tax 11.30(2)(d)2, Wis. Adm. Code (June 1991 Register), provides:

“A retailer who sells its receivables and agrees to bear any bad debt loss on them is entitled to a bad debt deduction to the same extent as if the accounts were not sold. However, a bad debt deduction is not allowable when receivables are sold outright at a discount.”

For accounts that are sold by Company A to Company C and that subsequently become worthless, Company A is entitled to a bad debt deduction because Company A will not sell the receivables at a discount, and the risk of loss will remain with Company A. This is provided in sec. Tax 11.30(2)(a) and (d)2, Wis. Adm. Code (June 1991 Register). This answer assumes that Company A previously paid sales tax to the State of Wisconsin for the sales represented by the accounts, and the accounts are found worthless and charged off for income or franchise tax purposes.

Although Company C will be formed as a subsidiary of Company A and will be disregarded for federal and Wisconsin corporate income tax purposes, it is a separate entity from Company A for sales and use tax

purposes other than reporting and collecting sales and use tax.

Various income and franchise tax statutes were amended and created by 1997 Wisconsin Act 27 to adopt federal provisions that allow qualified subchapter S subsidiaries (QSSSs) and certain single-owner entities to be disregarded as separate entities for Wisconsin income or franchise tax purposes.

As part of this same legislation, two sales and use tax provisions were amended as described below:

1. The definition of “person” in sec. 77.51(10), Wis. Stats., was amended to include single-owner entities disregarded as separate entities under ch. 71, Wis. Stats.
2. Section 77.58(3)(a), Wis. Stats., was amended to provide that the owner of a qualified subchapter S

subsidiary or single-owner entity disregarded as a separate entity for Wisconsin income or franchise tax purposes must report taxable sales and purchases of the disregarded entity on the owner’s sales and use tax return.

No sales and use tax provisions, other than 1 and 2 above, were amended or created to state that a qualified subchapter S subsidiary or single-owner entity that is disregarded as a separate entity for Wisconsin income and franchise tax purposes is also disregarded as a separate entity for Wisconsin for sales and use tax purposes. Therefore, for sales and use tax purposes other than reporting and collecting sales and use tax, Company C is an entity separate from Company A. [!\[\]\(830769b31eeeaca920791081939ff8ba_img.jpg\)](#)