



Wisconsin TAX BULLETIN

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January 2004



Sales and use taxes on computer software

See article on this page, Wisconsin Tax Appeals Commission decision on page 29, and extension agreement form on page 38.

New Tax Laws

Since the last issue of the *Wisconsin Tax Bulletin*, the Wisconsin Legislature has enacted changes to the Wisconsin tax laws. Following are brief descriptions of the individual and fiduciary income, corporation franchise or income, and sales/use tax provisions. These provisions are contained in 2003 Acts 72, 83, 85 and 99.

(continued on page 4)

Department of Revenue Administrator Honored

Note: The information in this article was obtained from the November 3, 2003, issue of "TaxExPRESS," the Federation of Tax Administrators' weekly electronic newsletter.

Diane Hardt, administrator of the Wisconsin Department of Revenue's IS&E Division, has been named one of 11 Public Officials of the Year by Governing Magazine. Recipients were chosen because they "took a risk, fought for a cause they believed in and triumphed against the odds, proving conventional wisdom wrong." Governing honored Diane because she "has spent the past several years crusading for a uniform, streamlined sales tax system — one that would eliminate much of the confusion of the current 50-state hodge-podge. In advancing the concept as far as she has — more than 20 states have now signed on — she has demonstrated rare patience and negotiating skill." The award winners were honored at a dinner in Washington, D.C. on November 13. [Ⓜ](#)

Wisconsin Tax Appeals Commission Rules on Taxability of Computer Software

On December 1, 2003 the Wisconsin Tax Appeals Commission issued a ruling in the case of *Menasha Corporation vs. Wisconsin Department of Revenue*. The issue in this case is whether computer software purchased by the taxpayer was custom computer software and not subject to Wisconsin sales and use tax. See page 29 of this Bulletin for a summary of the Commission's decision. The Wisconsin Department of Revenue has appealed the Commission's decision to the Circuit Court.

(continued on page 3)

Did You Know the Department of Revenue...

- ◆ provides free taxpayer assistance all around Wisconsin (see article on page 10), and via the Internet (www.dor.state.wi.us, then click on "FAQS" – frequently asked questions)
- ◆ has free publications on a wide variety of tax subjects (see article on page 19)
- ◆ has indexes to make your research easier (see articles on pages 17 and 22)
- ◆ provides old and new tax forms via the Internet (www.dor.state.wi.us) and via Fax-A-Form (phone 608-261-6229 from a fax telephone) (see article on page 16)
- ◆ offers recorded refund information 24 hours a day, seven days a week (phone 608-266-8100, Madison, or 414-227-4907, Milwaukee)
- ◆ provides an Internet site for inquiring about your refund (www.dor.state.wi.us) [Ⓜ](#)

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Electronic Filing is Now Available for Wage Statements and Information Returns

Persons required to file Forms W-2, W-2G, 1099-MISC, and 1099-R on magnetic media with the Wisconsin Department of Revenue now have the option of electronically transferring data through the department's web site, rather than submitting physical media. Using this new file transfer option requires no additional computer programming, as the file format is the same as files transferred using magnetic media. The only change from magnetic media is that files transferred via the Internet must be in ASCII format. The file transfer site is available by accessing the department's web site at www.dor.state.wi.us. Click on "Business," then on "Electronic Filing," and then on "W-2 & 1099 File Transmission."

For those who prefer to continue to file using magnetic media, the department will accept cartridges (IBM 3480/3490 compatible), diskettes or CD-ROM. Starting with wage statements and information returns filed in 2004 for tax year 2003, the department will no longer accept 9 track magnetic reel tape.

Wage statements and information returns may be, and are encouraged to be, filed with the department using magnetic media or the file transfer site even though that format is not required.

Additional information is available in Publication 509, *Filing Wage Statements and Information Returns on*

Magnetic Media or by Electronic Transmission, and Publication CO-001, *Annual W-2, 1099-R, 1099-MISC and W-2G Reporting*. See the article titled "Tax Publications Available" on page 19 of this Bulletin, for methods of obtaining Publications 509 and CO-001. Additional information is also available by contacting the department at:

ATTN: Magnetic Media Coordinator
Audit Bureau
Wisconsin Department of Revenue
2135 Rimrock Rd. Rm. 232B
Madison, WI 53708-8906

608-267-3327

w2data@dor.state.wi.us



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Wisconsin Tax Appeals Commission Rules on Taxability of Computer Software

(Continued from page 1)

In order to extend the statute of limitations for the department to issue a refund in the event that the Wisconsin Tax Appeals Commission is affirmed, persons who paid sales or use tax on computer software similar to that at issue in the *Menasha* decision may take one of the following actions while the appeal is pending:

- File a claim for refund with the Wisconsin Department of Revenue for sales or use tax paid on the sale or license of the computer software. The claim must be filed before the statute of limitations expires. See Wisconsin Publication 216, *Filing Claims for Refund of Sales or Use Tax*, for more information on the statute of limitations for filing

claims for refund. See the article titled “Tax Publications Available” on page 19 of this Bulletin for information about how to obtain a copy of this publication.

- Enter into an agreement extending the time to file a claim for refund with the Wisconsin Department of Revenue for sales or use tax paid on the sale or license of the computer software. Both parties must sign the agreement before the statute of limitations expires. A copy of the [agreement form](#) is reproduced on page 38 of this Bulletin.

Questions concerning how to proceed with either of the above options, or other questions concerning the taxability of computer software, may be directed to the Wisconsin Department of Revenue at (608) 266-2776 or sales10@dor.state.wi.us. [↗](#)

Federal “Medicare Prescription Drug, Improvement, and Modernization Act of 2003” Does Not Apply for Wisconsin

Generally, Wisconsin law provides that the computation of taxable income on the 2003 Wisconsin income tax return is to be based on the provisions of the Internal Revenue Code (IRC) enacted as of December 31, 2002. Changes to the IRC enacted after December 31, 2002, 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 2003 Schedule I was sent to the printer (December 3, 2003), new federal legislation affecting the IRC was being considered. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173) was enacted on December 8, 2003. The changes made by P.L. 108-173 to the IRC do not apply for Wisconsin purposes for 2003.

Following is a brief explanation of the difference between federal and Wisconsin law for 2003 that results from the enactment of P.L. 108-173. The “Federal” explanation indicates how this item is to be treated for federal income tax purposes for 2003. The “Wisconsin” explanation indicates how the item is to be treated for Wisconsin purposes under the IRC enacted as of December 31, 2002.

If you are affected by this difference, you must complete 2003 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).

Federal Subsidies for Prescription Drug Plans

- (a) Federal -- Gross income does not include any special subsidy payment received under sec. 1860D-22 of the Social Security Act for prescription drug plans. (Public Law 108-173)
- (b) Wisconsin -- The taxation of federal subsidies for prescription drug plans is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002. [↗](#)

Forms 1CNA and 1CND Discontinued

For taxable years beginning in 2003, Form 1CNA, *Combined Wisconsin Individual Income Tax Return for Nonresident Members of Professional Athletic Teams*, and Form 1CND, *Combined Wisconsin Individual Income Tax Return for Nonresident Directors of*

Corporations, have been discontinued. Instead, nonresident athletes and directors must file Wisconsin Form 1NPR, *Nonresident and Part-Year Resident Income Tax Return*. See the article titled “How to Obtain Wisconsin Tax Forms” on page 16 of this Bulletin, for methods of obtaining Form 1NPR. [↗](#)

New Tax Laws

(Continued from page 1)

Individual and Fiduciary Income Taxes

Interest Abated During Extension Period (2003 Act 83, create sec. 71.03(7)(d), effective December 9, 2003.)

For taxable years beginning in 2003 and 2004, no interest charge will apply during the period of an extension of time to file, for persons who:

- Serve in the United States in support of Operation Iraqi Freedom (or an operation that is its successor), or
- Serve outside the United States and who qualify for a federal extension of time to file due to service in a combat zone because of their participation in Operation Iraqi Freedom (or an operation that is its successor) in the Iraqi Freedom theater of operations.

Interest Income From Certain Housing and Economic Development Authority Bonds Exempted From Tax (2003 Act 85, repeal sec. 71.05(1)(c)2 and create sec. 71.05(1)(c)1m, effective for taxable years beginning on or after January 1, 2004.)

Interest income received on bonds or notes issued by the Wisconsin Housing and Economic Development Authority is exempt from Wisconsin income tax if the bonds or notes are issued to fund multifamily affordable housing or elderly housing projects.

The exemption for interest income from bonds issued by the Wisconsin Housing and Economic Development Authority if the bonds were used to fund a loan under sec. 234.935, Wis. Stats. (1997-98), relating to a cultural and architectural landmark, is repealed.

Computation of Technology Zone Tax Credit Revised Retroactively (2003 Act 72, renumber and amend sec. 71.07(3g)(a)2, amend sec. 71.07(3g)(a)3, and create secs. 71.07(3g)(a)2.a and 2.b, (e) and (f), effective for taxable years beginning on or after January 1, 2002.)

See description under *Corporation Franchise or Income Taxes*.

Manufacturer's Sales Tax Credit Replaced With Sales Tax Exemption and Manufacturing Exemption Credit (2003 Act 99, amend secs. 71.05(6)(a)15, 71.07(3s)(c)1, and 71.08(1)(intro.) and create secs. 71.05(6)(b)3m, 71.07(3s)(c)7 and (3t), and 71.10(4)(gbb); various effective dates.)

See description under *Corporation Franchise or Income Taxes*.

Corporation Franchise or Income Taxes

Computation of Technology Zone Tax Credit Revised Retroactively (2003 Act 72, renumber and amend secs. 71.07(3g)(a)2, 71.28(3g)(a)2, and 71.47(3g)(a)2, amend secs. 71.07(3g)(a)3, 71.28(3g)(a)3, and 71.47(3g)(a)3, and create secs. 71.07(3g)(a)2.a and 2.b, (e), and (f), 71.28(3g)(a)2.a and 2.b, (e), and (f), and 71.47(3g)(a)2.a and 2.b, (e), and (f), effective for taxable years beginning on or after January 1, 2002.)

The technology zone tax credit is a percentage, determined by the Department of Commerce, of the Wisconsin real and personal property taxes paid, 10% of the capital investments made, and 15% of the amount spent for the first 12 months of wages for each job created after the business was certified for tax credits. Capital investments include the purchase price of depreciable, tangible personal property and the amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a technology zone.

The amount of a capital investment cannot be used to calculate the technology zone tax credit if that amount has been used in the calculation of any other Wisconsin tax credit. Capital investments must be retained for use in the technology zone for the period during which the claimant is certified for technology zone benefits.

The technology zone credit will be allowed only if the following information is attached to the claimant's Wisconsin franchise or income tax return:

- A copy of the verification from the Department of Commerce that the business is certified for technology zone credits and has entered into an agreement with the Department of Commerce, and
- A statement from the Department of Commerce verifying the purchase price of capital investments and that the investments have been retained for use in the technology zone for the period during which the claimant is certified for tax benefits.

Under prior law, the technology zone tax credit was a percentage, determined by the Department of Commerce, of the Wisconsin real and personal property taxes, Wisconsin franchise and income taxes, and Wisconsin sales and use taxes paid in the taxable year.

The technology zone tax credit is claimed on Schedule TC. A revised 2002 Schedule TC has been published on the Department's web site at: <http://www.dor.state.wi.us/forms/2002/02ic-029.pdf>.

Interest Income From Certain Housing and Economic Development Authority Bonds Exempted From Income Tax (2003 Act 85, create secs. 71.26(1m)(em) and 71.45(1t)(em), effective for taxable years beginning on or after January 1, 2004.)

Note: This interest income must be included in taxable income for purposes of the franchise tax.

Interest income received on bonds or notes issued by the Wisconsin Housing and Economic Development Authority is exempt from Wisconsin income tax if the bonds or notes are issued to fund multifamily affordable housing or elderly housing projects.

Manufacturer's Sales Tax Credit Replaced With Sales Tax Exemption and Manufacturing Investment Credit (2003 Act 99, amend secs. 71.05(6)(a)15, 71.07(3s)(c)1, 71.08(1)(intro.), 71.21(4), 71.26(2)(a), 71.28(3)(c)1, 71.34(1)(g), 71.45(2)(a)10, 71.47(3)(c)1, 77.54(2), and 77.92(4) and create secs. 71.05(6)(b)3m, 71.07(3s)(c)7 and (3t), 71.10(4)(gbb), 71.28(3)(c)7 and (3t), 71.30(3)(bb), 71.45(2)(a)10b, 71.47(3)(c)7 and (3t), 71.49(1)(bb), 77.54(30)(a)6, and 560.28; various effective dates.)

Under current law, a business may claim a franchise or income tax credit for the sales and use taxes paid on fuel and electricity consumed in manufacturing tangible personal property in Wisconsin. Unused credits may be carried forward for 15 taxable years. This Act makes the following changes with respect to the manufacturer's sales tax credit:

- The manufacturer's sales tax credit may not be claimed for taxable years that begin after December 31, 2005. The treatment of manufacturer's sales tax credits claimed but unused for taxable years that begin before January 1, 2006, depends on the amount of unused credits.
- **Taxpayers having \$25,000 or less of unused credits as of January 1, 2006**, may use up to 50%

of the credit in each of the following two taxable years.

- **Taxpayers having more than \$25,000 of unused credits as of January 1, 2006**, may deduct in each of the taxable years beginning after December 31, 2005, and before January 1, 2008, 50% of the amount of unused credit that the taxpayer had added back to income at the time the taxpayer first claimed the credit. With respect to credits passed through from a partnership, limited liability company, or tax-option (S) corporation, a deduction is allowed for 50% of the amount that the entity added back to its income and was included in the partner's, member's, or shareholder's Wisconsin net income at the time that the credit was first claimed.
- A manufacturing investment credit is available for taxable years that begin after December 31, 2007.

The credit is equal to the claimant's unused manufacturer's sales tax credits. It must be amortized over 15 years, starting with the taxable year beginning after December 31, 2007. The amortized amount may be offset against the claimant's franchise or income tax, including the alternative minimum tax, due. Unused credits may be carried forward for 15 taxable years.

To qualify for the credit, a business must be certified by the Department of Commerce and must attach a copy of the certification to the tax return filed. The business may obtain a certification only if it satisfies one of the following conditions:

- a. The business has retained from December 23, 2003, 100% of the business's full-time jobs in Wisconsin. "Full-time job" means a regular, nonseasonal full-time position in which an individual, as a condition of employment, is required to work at least 35 hours in a week.
- b. The business's average annual investment in Wisconsin since January 1, 2003, is equal to no less than 2% of the total book value of the business's depreciable assets in facilities that are based in Wisconsin.
- c. The business's average annual investment in Wisconsin since January 1, 2003, is no less than \$5,000,000.
- d. Any other criteria that are specific to an industry, as promulgated by rule by the Department of Commerce in consultation with the Department of Revenue.


Partnerships, limited liability companies, and tax-option (S) corporations may not claim the manufacturing investment credit, but the eligibility for, and the amount of, the credit are based on the amount of their unused credits. The entity must compute the amount of credit that each of its partners, members, or shareholders may claim and provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option (S) corporations may claim the credit in proportion to their ownership interest.

Sales and Use Taxes

Provide Exemption for Fuel and Electricity Consumed in Manufacturing (2003 Act 99, amend sec. 77.54(2), and create sec. 77.54(30)(a)6., effective January 1, 2006.)


A sales and use tax exemption is created for fuel and electricity consumed in manufacturing tangible personal property in Wisconsin.

Prior to January 1, 2006, sales of fuel and electricity consumed, destroyed, or losing its identity in the manufacture of tangible personal property were not exempt from sales or use tax except for:

- Fuel or electricity consumed, destroyed or losing its identity in manufacturing shopper's guides, newspapers or periodicals.
- Fuel converted to electric energy, gas or steam by utilities and that portion of the amount of fuel converted to steam for purposes of resale by persons other than utilities.
- Any residue that is used as a fuel in a business activity and that results from the harvesting of timber or the production of wood products, including slash, sawdust shavings, edgings, slabs, leaves, wood chips, bark and wood pellets manufactured primarily from wood or primarily from wood residue. 

Click-N-Ship™ Saves Time and Money

You can save yourself and the Department of Revenue time and money with the Click-N-Ship feature on the United States Postal Service ("USPS") web site! During the height of the income tax season, the department receives up to 8,000 certified pieces of mail each business day. These require an employee to sign each and every green receipt card, a task that can take all day. In addition, the cost for mailing, for example, six pages of tax forms in a catalog envelope, using Certified Mail™ with Return Receipt, is \$4.65 compared to just \$3.85 for Priority Mail®. Your savings can be even greater with the Priority Mail flat-rate envelope (available on-line or at the Post Office™). It offers a flat rate of \$3.85, *regardless of the weight of the envelope* (great for sending multiple returns or thick returns).

You can also save a substantial amount of time by shipping Priority Mail with Delivery Confirmation™ versus Certified Mail. With the USPS Click-N-Ship service on-line at www.usps.com, you can select Priority Mail with *free* Delivery Confirmation service. You can then print your shipping label and take it to the Post Office, requiring only payment of postage, or register for an account and prepare a postage prepaid label. Either way, you can get free proof of delivery, log on to the USPS web site anytime to track your client's mailed tax form, save money, and help the department to process the large volume of incoming mail that is received more efficiently. 

File Sales Tax Returns Electronically

The Wisconsin Department of Revenue ("DOR") will be offering three methods to file sales and use tax returns (Forms ST-12) electronically during 2004.

Sales Internet Process (SIP)

If you're a tax practitioner and would like to file your clients' sales and use tax returns electronically, the department invites you to do so using its existing Sales Internet Process ("SIP").

SIP is a secure Internet process that provides the convenience of filing sales and use tax returns from your computer desktop. This technology is more efficient and flexible than filing a paper Form ST-12 and will save you time and money in the long run.

SIP offers many advantages over filing paper Form ST-12s. Using SIP eliminates the worry about whether the department receives your clients' Form ST-12s on time. For example, it eliminates any concerns about the postal service delivering your clients' returns by the due date. Another advantage is that SIP will do many of the computations for you.

However, you will need to make a few manual pre-calculations in order to arrive at the data to enter into SIP. Perhaps the biggest advantage SIP offers is the flexibility to file your clients' sales and use tax returns before the due date, and yet they can make their payments later (on the due date). SIP also gives you a receipt that confirms the filing date for each of the returns you file.

In order to use SIP, you must apply for a logon ID and password by completing a SIP application (Form S-002). Further, each client for which you will be using SIP must also fill out a Form S-002, giving you permission to access the client's account via SIP, to file the sales and use tax returns. Clients must also obtain their own separate logon IDs and passwords to access their individual account information on SIP.

New Methods Coming During 2004

Two new methods for sales tax electronic filing will be implemented early in 2004. DOR is presently testing the software behind both of these new programs.

The first new method is TeleFile. DOR will be using the existing Interactive Voice Response equipment in its Madison and Milwaukee offices to support the filing of ST-12s using touch-tone telephones. This is very similar to the individual income tax TeleFile program, except there will not be a requirement for a Personal Identification Number (PIN). DOR will announce the availability of this filing option as soon as it is ready to "go live", hopefully in the first quarter of 2004.

The second new method for e-filing sales tax is called File Transmission (FT). Again using existing equipment, DOR has worked with the private sector to define a file structure and a place for those filers who use software to prepare their ST-12 to "drop off" an electronic version of their returns. DOR heard from many filers that they already had an electronic version of their return that they were printing out and reentering into SIP, which certainly was inefficient. To address this, DOR needed to define a file format that software could create and which could be "read" to send the data to the department's processing system. To date, DOR has authorized one software provider, a firm called Trustfile, to participate in this program. DOR is talking to several other Wisconsin sales tax software providers to expand the number of tax preparation software options available. As the program is expanded, authorized participants will be listed on the department's web site.

For more information about sales tax electronic filing and to obtain a SIP application, please visit the department's web site at www.dor.state.wi.us. Click on "Business" and then on "Electronic Filing." From this site you can also review (and download, if you wish) a publication about SIP. Publication 227, *E-File Sales Tax returns with S.I.P.*, is available by clicking on "Publications" and then "Tax Publications."

If you have more questions after visiting the web site, contact the department's Technical Assistance unit at (608) 261-6261. [☎](#)

Reminder: Electronic Filing Required for Certain Practitioners

Administrative rule section Tax 2.08 requires that certain tax practitioners file individual income tax returns electronically.

Beginning January 1, 2004, this requirement applies to practitioners who filed 100 or more 2002 Wisconsin individual income tax returns (Form 1, 1A, and WI-Z) and homestead credit claims in 2003. The threshold, which was 200 returns for the 2003 processing season, will remain at 100 for future years.

The Department of Revenue sent a letter to practitioners in June, notifying them of this requirement. If you are a practitioner who filed 100 or more 2002 Wisconsin individual income tax returns and/or homestead credit claims and did not receive a letter notifying you of this

requirement, please contact the department using one of the methods listed at the end of this article.

While the department is committed to advancing electronic filing, the rule allows for a waiver in the case of undue hardship, and in specific cases when the individual taxpayer does not want to file electronically. A taxpayer who prefers to file a paper return may write "no e-file" before his or her signature on the tax return; this will relieve the practitioner of the e-filing requirement for that return.

For more information about the rule, contact the department using one of the methods listed at the end of this article.

For more information about registering to submit individual income tax returns electronically through the federal/state e-file program, go to www.dor.state.wi.us/eserv/e-ero.html or contact the department by any of the following methods:

Mail: Wisconsin Department of Revenue
Electronic Filing Unit
P.O. Box 8949
Madison, WI 53708-8949

Phone: (608) 264-6886

Fax: (608) 267-1030

E-mail: efiling@dor.state.wi.us. 



Electronic Filing Free and On-Line

The Wisconsin Department of Revenue is committed to serving taxpayers in the most efficient manner possible. Last year, the department used technology to streamline the methods used to file individual income tax returns. The result was the introduction of a new way to file, Wisconsin Free File. Over 65,000 2002 Wisconsin income tax returns were filed using this program, and it will be available again this year for filing 2003 returns.


Wisconsin Free File, an expansion of the successful NetFile program, is an on-line, fill-in-the-blank personal income tax return that can be filed with the Department of Revenue at the click of a computer mouse. No charge! It is the first no-charge electronic tax filing option available for taxpayers of every income category. It works for anyone filing Form WI-Z, Form 1A, Form 1 with federal 1040 (but Free File does not file your federal return with the Internal Revenue Service), and a homestead credit claim (Schedule H).

Wisconsin Free File combines the convenience and quick results of electronic filing with the familiarity of the traditional paper tax form. (The line numbers are the same.) Choose direct deposit and Wisconsin Free File will return refunds (on returns that do not require adjustment) within five working days – just like the

third-party tax preparation software, but without the purchase price. Wisconsin Free File is even cheaper than paper, because you don't need postage stamps.

Wisconsin Free File is available on-line by accessing the Wisconsin state government portal at <http://www.wisconsin.gov> using the "State Tax Information" link, or at www.dor.state.wi.us. Click on "Individual," then select the Free File link to access the application. The application can be used by taxpayers as well as tax professionals. It works with a standard modem and web browsers Netscape 3.0 or Internet Explorer 3.0 or higher.

Unlike the more full-featured commercial tax-preparation software packages, however, Wisconsin Free File does not offer tax advice or the high level of automation.

It is not available for first-time filers or for those claiming certain credits (such as development zone, historic rehabilitation, technology zone, and taxes paid to other states). Nor is it available for federal schedules C, D, E, or F, or Wisconsin Schedules FC, MS, MT, RS, T, WD, or Form I-804. It cannot accept Schedule H with more than 4 rent certificates, more than 4 separate rental amounts on lines 11a and 11b of the rent certificate, or tax bills for adjoining property where the owner name and type are different than what is on the home tax bill OR where taxes are greater than \$1450. 


Federal Form 1099-Gs, 1099-INTs Mailed to Taxpayers

The Department of Revenue mailed nearly 800,000 federal Form 1099-Gs and Form 1099-INTs in January 2004. Federal law provides that the department must furnish 2003 Form 1099-Gs to persons who received a Wisconsin income tax refund in 2003 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 in 2003.

Regardless of whether a taxpayer receives a Form 1099-INT, all interest received from the department in 2003 must be reported as income on the taxpayer's 2003 federal and Wisconsin tax returns. In addition, all or a portion of a state income tax refund from Form 1099-G may be includable in federal taxable income. However, **the refund should not be included** in Wisconsin taxable income.

Example: A taxable state income tax refund of \$300 is reported on line 10 of the 2003 federal Form 1040. If Form 1 is filed for Wisconsin, a subtraction of \$300 should be claimed on line 6. (**Note:** If the state income tax refund is not included in income on the federal return, a subtraction should not be claimed on line 6 of Form 1.)

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. 

Take Taxes, for Instance It’s an Electronic World Out There

When taxpayers filed their Wisconsin personal income taxes in 2003, nearly 1,289,000 chose to file electronically – either through a professional tax preparer, via TeleFile, or on-line from their personal computer through the www.wisconsin.gov web site. That’s one of every three taxpayers! The greatest percentage growth is in direct, on-line filing from home computers.


On-line filing has these advantages:

- Taxpayers can e-file both state and federal income taxes at the same time from one location.
- The computer software does the math and walks taxpayers through the process.
- Taxpayers get immediate confirmation that their return has been received.
- Taxpayers can get their refunds in five business days, no matter when they file (if they choose direct deposit and the return needs no additional review), even if they file right on the April 15 deadline. (Paper returns filed on the deadline typically require up to 12 weeks.)
- E-filers can choose to electronically deposit their refunds.
- Electronically filed returns are more accurate (a 1% error rate compared to 10% for paper forms).

- The IRS Free File Alliance allows low-income taxpayers to e-file for free! In the past, that meant earning \$25,000 or less annually, but the new alliance may allow for other income levels and situations to file for free, as well. Check it out at www.irs.gov. (Also see the article on page 8 of this Bulletin, regarding e-filing Wisconsin returns for free through Wisconsin Free File.)

E-filing has increased 36% in just the last year, and the Department of Revenue continues to expand and offer additional electronic filing options:


- Applicants for homestead credit can now file Schedule H electronically when they file their income tax returns using the fed/state e-file program, as well as using the Wisconsin Free File program (see the related article regarding Wisconsin Free File, on page 8 of this Bulletin).
- Wisconsin TeleFile is included in the Wisconsin Form 1A and WI-Z booklet this year. The 4-digit TeleFile PIN is located on the mailing label on the front cover of the booklet. Taxpayers who did not receive the booklet and are eligible to TeleFile can contact the department at (608) 264-6886 or by e-mail at telefile@dor.state.wi.us to obtain a PIN number. For more information about Wisconsin TeleFile, visit the department’s web site at www.dor.state.wi.us.
- Taxpayers can pay by credit card.

In these and other ways, the Wisconsin Department of Revenue is committed to making the tax filing experience easier and less stressful. 

Withholding Tax Update Sent to Employers

The annual Withholding Tax Update was sent in December 2003, 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 34 and 35 of this Bulletin. It is also available on the department’s web site at www.dor.state.wi.us/ise/with/index.html. 



Department Offers Taxpayer Assistance

Department personnel will be available through April 15, 2004, to provide taxpayer telephone and walk-in assistance. Assistance is provided Monday through Friday in many of the larger offices, and Mondays only in other offices (except as noted in the chart below).

Offices Providing Daily Assistance (Monday through Friday)

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
Madison	2135 Rimrock Rd.	(608) 266-2772	7:45-4:30
Milwaukee	819 N. Sixth St., Rm. 408	(414) 227-4000	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) 356-3472	7:45-1:00
Beaver Dam	220 Seippel Blvd.	(920) 356-6090	7:45-1:00
Elkhorn	715 W. Walworth St.	(262) 723-4098	7:45-1:00
Fond du Lac	845 S. Main, Ste. 150	(920) 929-3985	7:45-1:00
Grafton	1930 Wisconsin Ave.	(262) 375-7948	7:45-1:00
Green Bay	200 N. Jefferson St., Rm. 526	(920) 448-5179	7:45-4:30 *
Hayward	100 Ranch Rd.	(715) 634-8478	7:45-1:00
Hudson	2100 O'Neil Rd., Ste. 200	(715) 381-5060	7:45-1:00
Janesville	101 E. Milwaukee, Rm. 525	(608) 758-6190	7:45-4:30 †
Kenosha	4003 80th St., Ste. 102	(262) 697-5860	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	7:45-1:00
Marinette	Courthouse, 1926 Hall Ave.	(715) 732-7565	9:00-1:00
Oshkosh	515 S. Washburn, Ste. 105	(920) 424-2100	7:45-4:30
Racine	616 Lake Ave.	(262) 638-7500	7:45-4:30 **
Rhineland	203 Schiek Plaza	(715) 365-2666	7:45-1:00
Rice Lake	11 E. Eau Claire St., Ste. 4	(715) 234-7889	7:45-1:00
Sheboygan	807 Center Ave.	(920) 459-3101	7:45-1:00
Superior	1225 Tower Ave., Ste. 315	(715) 392-7985	7:45-1:00
Tomah	203 E. Clifton St.	(608) 372-3256	7:45-1:00
Wausau	710 Third St.	(715) 842-8665	7:45-1:00
Wisconsin Rapids	830 Airport Ave.	(715) 421-0500	7:45-1:00

* Open Monday, Tuesday, Wednesday, and Thursday

** Open Monday, Tuesday, and Wednesday

† Open Monday and Tuesday

†† Open Monday and Wednesday





IRS Mileage Rates for 2004 Apply for Wisconsin

The optional standard mileage rates provided by the Internal Revenue Service (“IRS”) for 2004, for computing automobile expenses for business, charitable, medical, and moving expense purposes, also apply for Wisconsin.

For 2004 the IRS has increased the business standard mileage rate from 36¢ per mile to 37.5¢ per mile for all business miles driven. The 37.5¢ per mile rate is allowed without regard to whether the automobile was previously considered fully depreciated.

If the standard mileage rate of 37.5¢ per mile is used, depreciation is considered to be allowed at 16¢ per mile for 2004, the same as was allowed for 2003. However, no portion is considered to be depreciation after the adjusted basis of the automobile reaches zero.

For 2004 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 12¢ per mile to 14¢ per mile. [↗](#)



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 February 2, 2004 (January 31 and February 1 are weekend dates) include Form W-2 to report wages, tips, and other compensation, and Form W-2G to report gambling winnings.

Information returns due March 1, 2004 (February 28 and 29 are weekend dates) 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, 2004 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 February 2, 2004. 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 19 of this Bulletin for information about how to obtain a copy of this publication. [↗](#)

Sales/Use Tax Can be Reported on Income Tax Returns

If a person purchases tangible personal property or taxable services from an out-of-state seller on which no sales tax was charged, and the property or service is stored, used, or consumed in Wisconsin, the person is subject to Wisconsin sales or use tax on the purchase. Wisconsin individual income tax Forms 1, 1A, WI-Z, and 1NPR include a line titled *Sales and use tax due on out-of-state purchases*. Individuals should use these lines to report sales or use tax due on out-of-state purchases of the following items:

- Sporting goods, toys, clothing, and any other taxable items purchased via the Internet.

- Computer equipment, supplies, prewritten software, clothing, and any other taxable items purchased from a mail order company.
- Records, tapes, books, etc., advertised on television and purchased via a toll-free telephone call.
- Jewelry, works of art, furniture, etc., purchased while traveling outside the United States.

The department conducts various audit projects designed to identify individuals who may not be properly reporting sales or use tax due on out-of-state purchases of tangible personal property or taxable services. Failure to report use tax is one of the main reasons a penalty may be imposed if a person is audited. [↗](#)



Tips to Speed Processing of Income Tax Refunds

If you have a refund coming on your 2003 Wisconsin individual income tax return, you want your return processed quickly. You can help by following the tips listed below.



File Electronically

There are many good reasons to file your Wisconsin return electronically (“e-file”). It’s fast, safe, documented, easy, and accurate. For more information, see the article relating to Wisconsin Free File, on page 8 of this Bulletin.



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 three weeks for returns received in January and February, four weeks for returns received in March, and eight weeks for returns received in April and after.



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.
- 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 2003 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 31 of the Form 1NPR booklet).



More Tips

For more tips, see the article titled “File Error-Free Tax Returns and Credit Claims,” on page 15 of this Bulletin. [↗](#)



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 November 1, 2002 through October 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 return** or a **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 a federal deconsolidated 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)



Corporation Tax Returns - Receipt Please

Many taxpayers or tax professionals include a letter and a self-addressed stamped envelope with their or their client's corporation franchise or tax return, requesting that the letter be date stamped and returned as proof of receipt. Because of budgetary constraints, the Department of Revenue does **not** return acknowledgements of tax returns.

Although there are no additional postage costs for the department to return this type of acknowledgement, there are staff costs for the time it takes to stamp, seal, and route the envelope for mailing. Due to budget cuts, all processes not directly related to processing a tax return have been evaluated. By eliminating processes such as this, the department can best serve its customers by focusing on processing returns faster and putting refunds back in the hands of taxpayers sooner.

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 10-14 business days after the department receives the request. When a copy of a state return is requested, a copy of the federal return will automatically be provided if it is a part of the Wisconsin return. Wage statement copies are not always available with Forms 1A and WI-Z. Tax returns are generally available for copying 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 which is signed by the taxpayer, partner, or corporation officer, and specifies the type of tax return and periods requested. 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 year or period requested. 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 (the written request may be faxed) or in person. If faxing a request, payment must be received before the department can mail the requested information. Requests by telephone will not be accepted. Requests must include the following:

1. Name on the requested tax return.
2. Name and address to which the copies are to be mailed.

3. Social security number (including spouse's social security number, if applicable) or other identification number of the taxpayer.
4. Type of return and year(s) or period(s) of the tax return being requested.
5. Signature of the taxpayer, partner, corporation officer, or authorized representative.
6. Photocopy of legal photo ID, or have the request notarized.
7. Payment of fees for requested information.

Another option for requesting copies is to go to the department's web site, www.dor.state.wi.us, and click on "Forms" and then "Miscellaneous." Complete the fill-in form, Form P-521, *Request for Copy of Tax returns(s)*. Mail the completed form, along with the payment, to the address listed on the form.

Where to Direct Requests

Written Requests: Mail your request to
 Wisconsin Department of Revenue
 Mail Stop 232B
 P.O. Box 8903
 Madison, WI 53708-8903

In-Person Requests: Visit the Customer Service counter at the Department of Revenue, 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) 266-2890.

The chart below lists returns and information that are available, and the number of prior years for which they are generally available.

<u>Returns/Information</u>	<u>Available # of Years</u>
Corporation tax returns	6
Gift tax reports	5
Homestead credit claims	5
Individual income tax returns	4
Insurance tax returns	6
Partnership tax returns	4
Sales/use tax returns	10
Trust fiduciary returns	4
Microfilmed withholding tax deposit reports	10 ↗

Corporation Extensions - IC-830 or Not?

Do you know when to file for a Wisconsin extension for your corporation tax return? Thousands of taxpayers don't. Every year the Department of Revenue receives thousands of Form IC-830s (Application for Extension of Time to File) unnecessarily.

The Form IC-830 should only be filed if the corporation **does not** obtain a federal extension. If the corporation obtains a federal extension (federal Form 7004) and attaches it to the Wisconsin return, the Department of Revenue automatically grants the taxpayer an additional 30-day extension on top of the federal extension of six months. That's right – corporations have an automatic seven-month extension with the Department of Revenue by obtaining the federal extension and attaching a copy to their Wisconsin return.

Does the approval of the Wisconsin Application for Extension of Time to File extend that seven months to an eight-month extension? No. If a taxpayer obtains both the federal and Wisconsin extensions, the taxpayer still only has a total of seven months for an extension with Wisconsin.

What if a corporation does not obtain the federal extension but wants an extension for the Wisconsin return? The taxpayer should file the Form IC-830 to receive a 30-day extension from Wisconsin.

By filing the Form IC-830 only when necessary, taxpayers save time and effort, and the Department of Revenue can better spend its time processing corporation tax returns.

Questions pertaining to corporation extensions of time to file may be directed to the department's Corporation Review and Adjustment Unit at (608) 266-0800. [↗](#)



File Error-Free Tax Returns and Credit Claims

Are your or your clients' 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 2003 processing season (2002 returns and claims), the department sent back thousands of tax returns and credit claims. Processing was delayed on thousands of other forms, to obtain additional information from taxpayers or claimants. Tax returns and credit claims that were adjusted during processing numbered in the hundreds of thousands.

Preparing error-free tax returns and credit claims will help avoid annoying processing delays and may result in fewer tax dollars being assessed in subsequent office audits or field audits.

Listed below are tips for avoiding some common errors made in preparing individual and corporation tax returns, homestead and farmland preservation credit claims, partnership returns, fiduciary income tax returns, and estate tax returns. Some of the tips apply to more than one of these categories.

- Read and follow instructions.
- Fill in social security number or employer identification number.
- Make sure all required line entries have been made, and that they are on the proper lines.
- Check and recheck math.
- Sign the return or claim.
- Attach required documents:
 - copies of federal return and schedules.
 - (individual returns) wage and tax statements, page 4 of Form 1 (when the itemized deduction credit or married couple credit is claimed).
 - (1NPR) residence questionnaire, other state's tax return copy.
 - (corporation returns) manufacturer's sales tax, research, development zone, farmland tax relief schedules.
 - (homestead) copy of separately filed tax return, complete rent certificate, property tax bill, ownership verification if applicable.
 - (farmland preservation) property tax bills, farmland preservation agreement or zoning certificate if appropriate, ownership verification if applicable.
 - (partnerships) Schedule 3K-1.
 - (fiduciaries) as listed on page 2 of Form 2.
 - (estate tax returns) copies of federal Form 706 and schedules, list of assets, will, trust instruments, approved federal extension if appropriate.
- Individual returns:
 - Fill in correct amounts and all information for standard deduction, exemption deduction, school property tax/rent credit, married couple credit, itemized deduction credit, and Wisconsin withholding.
 - Correctly calculate earned income credit, farmland tax relief, underpayment interest, retirement plan deductions, and federal/Wisconsin income differences.
 - Include all taxable income, such as S corporation and partnership income, IRA distributions, interest and dividends, income earned in another state, gambling winnings.
- Homestead credit:
 - Prorate rent for joint occupancy, if appropriate – see bottom of rent certificate.
 - Correctly prorate property taxes for part business use, more than one acre, co-owned property.
 - Reduce property taxes/rent for months Wisconsin Works (W2) received.
 - Follow special instructions if separated from spouse or married, divorced, or widowed during the year.
 - Include all household income, such as gross pensions and annuities, nontaxable capital gains, depreciation (including standard mileage depreciation), IRA/deferred compensation deductions, Wisconsin Works (W2) and county relief payments.
- Farmland preservation credit:
 - Prorate property taxes for co-owned property.

- Do not claim special assessments or property taxes for land not in a farmland preservation agreement or zoning certificate.
- Claim the correct percentage of credit.
- Include all household income, such as gross pensions and annuities, nontaxable capital gains, depreciation, capital loss carryover, deferred compensation.
- Fiduciaries:
 - On page one, check one “type of trust” box if applicable, answer questions, fill in fiscal year dates if applicable, request closing certificate if needed.
- Report all income, expenses, and credits as distributable income on final Form 2.
- Follow special procedures if ESBT (electing small business trust).
- Estate tax returns:
 - File only if required.
 - File and pay tax timely – use 401T for payment, not 1-ES or 4-ES.
 - Request closing certificate for both fiduciary and estate returns at same time, if possible. [✉](#)

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 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 local offices. The office locations and hours of service are listed in the article titled “Department Offers Taxpayer Assistance” on page 10 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, Mail Stop 1-151, P.O. Box 8949, Madison, WI 53708-8949;



- Calling the department in Madison at (608) 266-1961;
- Faxing your request to the department at (608) 264-7776; or
- E-mailing your request to forms@dor.state.wi.us.



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 1997 through 2003 are available via Fax-A-Form. For sales/use, withholding, and alcohol beverage taxes, only 2003 forms and instructions are available. In addition, 1997 through 2003 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 19 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: Wisconsin Department of Revenue, Fax-A-Form Coordinator, Mail Stop 1-151,

P.O. Box 8949, Madison, WI 53708-8949, or call (608) 266-1961.

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 web site, www.dor.state.wi.us, and click on “Forms.” 



Attaching Copy of Federal Return

Individuals who file their Wisconsin income tax return on Form 1 or 1NPR are required to attach (paper clip) 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

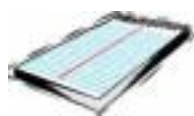
Some taxpayers who file their Wisconsin return on Form 1 or 1NPR file their federal return by phone, using the federal TeleFile system. These taxpayers, who are not required to submit a paper tax return to the IRS, may attach a copy of their federal TeleFile Tax Record to their Wisconsin Form 1 or 1NPR 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 \$11,010 but less than \$11,200 for 2003, must file a 2003 Wisconsin return but is not required to file a 2003 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. 



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 73 of this Bulletin. The Index is also on the department’s Internet web site at www.dor.state.wi.us. Just click on “Publications.” 

On-Line Business Tax Registration is Becoming a Reality

The Wisconsin Department of Revenue is currently developing a new program, designed to allow a business to complete and submit Form BTR-101, *Application for Business Tax Registration*, electronically. Once received, the form will be processed and notification of the Tax Account Number(s) will be sent via e-mail within 1-2 days.

In addition to new registration, customers will be able to add locations, add tax types, and make other changes to their existing accounts on-line. There will be no increase to the \$20 registration fee for this service.

The department hopes to have the program implemented by the spring of 2004. Further information will be posted on the department's web site, www.dor.state.wi.us, as it becomes available. [↗](#)

Delinquent Tax Compromises

When a taxpayer does not have the ability to pay a delinquent tax liability in full, either immediately or over a period of time, a compromise of delinquent tax may be considered. A taxpayer must complete a Form A-212, *Petition for Compromise of Delinquent Taxes*, to request a compromise.

When reviewing a taxpayer's petition for compromise, the department considers many factors. Among them are:

- age of the petitioners;
- current and future earning potential;
- equity in real estate or other assets; and
- any other factor that would affect a taxpayer's ability to fully satisfy the obligation.

Compromise amounts must be paid in a lump sum or, if the department agrees, through installments. Accepting installment payments to satisfy a compromise of delinquent tax is at the department's discretion; no

installment arrangements will be accepted if the department believes the acceptance would jeopardize the state's revenues.

Installment payments are a way for some taxpayers to take advantage of a delinquent tax compromise who would otherwise be unable to do so. However, acceptance of a compromise based on installment payments also carries a condition that no new tax obligations may be incurred during the life of the agreement. Not making all of the agreed upon payments by their due dates, or incurring a new tax obligation while making payments, will automatically void the agreement. Should this occur, the full tax obligation that was the subject of the compromise will become due and owing immediately.

Publication 124, *Petition for Compromise of Delinquent Taxes*, offers more information on this topic. Both the Form A-212 and the publication are available on the department's web site, www.dor.state.wi.us. See the article titled "Tax Publications Available" on page 19 of this Bulletin, for other methods of obtaining Publication 124. [↗](#)

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

Partnerships with 100 or more partners may 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. The Department of Revenue no longer accepts 9 track magnetic reel tape.

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 the process of filing tax returns.

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

Don Lark
Wisconsin Department of Revenue
Mail Stop 5-257
P.O. Box 8906
Madison, WI 53708-8906

Phone: (608) 267-3327

E-mail: dlark@dor.state.wi.us. [↗](#)

Tax Publications Available

Listed below are 74 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) 264-7776.

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

- 102* Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (12/03)
- 103* Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, and Trusts (11/03)
- 104* Wisconsin Taxation of Military Personnel (10/03)
- 106* Wisconsin Tax Information for Retirees (11/03)
- 109* Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 2003 (11/03)
- 112 Wisconsin Estimated Tax and Estimated Surcharge for Individual, Estates, Trusts, Corporations, Partnerships (11/02)
- 113* Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (10/03)
- 116 Income Tax Payments are Due Throughout the Year (11/02)
- 119 Limited Liability Companies (LLCs) (12/02)

- 120* Net Operating Losses for Individuals, Estates, and Trusts (11/03)
- 121* Reciprocity (11/03)
- 122* Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 2003 (11/03)
- 123* Business Tax Credits for 2003 (12/03)
- 125* Credit for Tax Paid to Another State (11/03)
- 126* How Your Retirement Benefits Are Taxed (11/03)
- 600* Wisconsin Taxation of Lottery Winnings (12/03)
- 601 Wisconsin Taxation of Pari-Mutuel Wager Winnings (1/02)

Sales and Use Taxes

- 200 Electrical Contractors – How Do Wisconsin Sales and Use Taxes Affect Your Business? (11/02)
- 201 Wisconsin Sales and Use Tax Information (11/02)
- 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)
- 204 Sales and Use Tax Information for Colleges, Universities and Technical Colleges (3/01)
- 205 Use Tax Information for Individuals (4/03)
- 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 (11/03)
- 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? (4/03)
- 213 Travelers: Don't Forget About Use Tax (4/03)
- 214 Businesses: Do You Owe Use Tax? (4/03)
- 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)

Excise Tax

AB-103 Alcohol Beverage Tax Information (3/03)

MF-106 Alternate Fuel Tax Information (4/03)

MF-107 Motor Vehicle Fuel Tax Information (4/03)

MF-108 General Aviation Fuel Tax Information (4/03)

302 Wisconsin Alcohol Beverage and Tobacco Laws for Retailers (4/03)

Other Taxes and Credits

127* Wisconsin Homestead Credit Situations and Solutions (11/03)

400* Wisconsin's Recycling Surcharge (12/03)

403 Premier Resort Area Tax (2/03)

410 Local Exposition Taxes (2/03)

503* Wisconsin Farmland Preservation Credit (11/03)

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 (10/03)

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* 2004 Handbook for Federal/State Electronic Filing (11/03)

117* Guide to Wisconsin Information Returns (11/03)

124* Petition for Compromise of Delinquent Taxes (11/03)

130* Fax A Form (12/03)

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

401* Extensions of Time to File (12/03)

405 Wisconsin Taxation of Native Americans (12/01)

500* Tax Guide for Wisconsin Political Organizations and Candidates (12/03)

502* Directory of Wisconsin Tax Publications (11/03)

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

509 Filing Wage Statements and Information Returns on Magnetic Media or by Electronic Transmission (11/03)

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

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



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.

College Savings Accounts (Individual Income Tax)


Q I contributed \$3,000 to a Wisconsin college savings account (EdVest account) for my dependent child in January of 2003. In December of 2003, I withdrew the funds in the account because of my concerns about the investment. The amount withdrawn was not used for qualified educational expenses. May I claim the Wisconsin \$3,000 subtraction for the amount contributed to the EdVest account in 2003?

A No. Because you withdrew your contribution within the same taxable year, you do not qualify for the \$3,000 subtraction for the contribution to the EdVest account.

Q I contributed \$3,000 to a Wisconsin EdVest account for my dependent child in January of 2003. In August of 2003, I rolled over the amount to another sec. 529 college savings plan offered by another state. May I claim the Wisconsin \$3,000 subtraction for the amount contributed to the EdVest account in 2003?

A Yes. A qualified rollover to another state's sec. 529 college savings plan does not prevent you from claiming the Wisconsin \$3,000 subtraction.

Q I contributed \$3,000 to a Wisconsin EdVest account for my dependent child in January of 2003. A \$3,000 distribution was made from the account in September of 2003. The amount of the distribution was used for qualified educational expenses. May I claim the Wisconsin \$3,000 subtraction for the amount contributed to the EdVest account in 2003?

A Yes. The \$3,000 subtraction for the amount contributed to the EdVest account may be claimed for 2003 even though a qualified distribution was made from the account in the same taxable year. 



Wisconsin Tax Bulletin Annual Index Included

This issue of the Wisconsin Tax Bulletin includes (on pages 39 to 72) 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 136 (through October 2003). [☞](#)



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 March. The seminars will include information on similarities and differences in the two states' sales and use tax laws. All of the seminars 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., at the locations indicated. To register or for more information, call the Minnesota Department of Revenue at (651) 297-4213.

March 9, 2004 – Duluth, Minnesota
Minnesota Department of Revenue Office
2711 West Superior Street

March 16, 2004 – Hudson, Wisconsin
Hudson House
1616 Crestview Drive

March 23, 2004 – Onalaska, Wisconsin
Onalaska Omni Center
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 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, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949; fax your request to (608) 266-9829; call (608) 266-1911; or fill out the online request form at the department's web site, www.dor.state.wi.us; click on "Training." [☞](#)

Wisconsin Earned Income Tax Credit

Are your clients eligible for Wisconsin's earned income tax credit (EITC)? The Wisconsin EITC is available to taxpayers that are full year residents of Wisconsin and have at least one qualifying child for purposes of the federal EITC. The Wisconsin EITC is a percentage, determined by the number of qualifying children, of the allowable federal EITC. For one qualifying child, the Wisconsin EITC is 4% of the allowable federal EITC. For two qualifying children, the Wisconsin EITC is 14% of the allowable federal EITC. For three or more

qualifying children, the Wisconsin EITC is 43% of the allowable federal EITC.

Who is a qualifying child?

A qualifying child is a child who meets the relationship, age and residency tests.

Relationship test:

The child must be a biological child, grandchild, adopted child, stepchild or eligible foster child. An

eligible foster child is a child placed by an authorized placement agency. Siblings, stepsiblings or descendants thereof may be qualifying children if they are cared for by the taxpayer as their own children.

Age test:

The child must be under the age of 19 at the end of the tax year or under age 24 if a full time student for at least five months of the tax year. If the child is permanently and totally disabled at any time during the year, the age test does not apply.

Residency test:

The child must live with the taxpayer in the United States for more than six months of the tax year.

What other qualifications are there for claiming the EITC?

To claim the EITC, the taxpayer must meet certain eligibility rules:

- The taxpayer, spouse (if married) and all children must have a valid social security number.
- The taxpayer must be a U.S. citizen or a resident alien for the full calendar year.
- The correct filing status cannot be “married filing separate.”
- The taxpayer’s investment income must be less than \$2,550 for tax year 2002 and less than \$2,600 for tax year 2003.
- The taxpayer must have earned income.

What is the Wisconsin Department of Revenue’s pre-refund review?

Each tax season, the department conducts a pre-refund review of select EITC returns. The review started almost 10 years ago due to the number of returns filed that were claiming the credit incorrectly. Most taxpayers selected for review are sent a form letter that asks questions relating to when the taxpayer moved to Wisconsin. It also asks questions about the children claimed, including the date of birth, social security number, relationship to the taxpayer, and number of days the child lived in the taxpayer’s home. The form letter also asks questions about the biological parents of the children claimed and whether other adults resided in the taxpayer’s home during the year.

The pre-refund review staff reviews each of the letters for completeness and compliance with the EITC law. If the reviewer determines something on the questionnaire

needs clarification, additional information will be requested from the taxpayer. The additional information will aid the reviewer in determining whether the taxpayer is entitled to the EITC as claimed, or if the amount of EITC needs to be adjusted.

What additional information may be requested, and how is it used to determine the taxpayer’s eligibility for the EITC?

Birth certificate and social security card of a child: A birth certificate or original certificate of live birth may be requested to establish the existence of the child and the identity of their biological mother and/or biological father. A social security card may be requested to verify that the child has a valid social security number.

Foster care placement papers: These may be requested to verify that the child was placed by an authorized agency, the dates the placement began and ended, and the amount of foster care payments received.

Kinship care papers: These may be requested to verify the dates a child lived with a related non-parent.

School/daycare records: These may be requested to verify the dates the child was enrolled and the home address of the child while enrolled. For a child over age 19, these records may also be requested to verify the number of credits/classes the child completed during the tax year.

Lease/rental agreement/housing assistance agreement/notarized landlord statement: This information may be requested to identify all of the residents of a household during the tax year. It also verifies the amount of rent charged during the tax year.

Divorce decree/separation agreement: For cases where the physical placement and/or custody of the child may be shared between ex-spouses, the legal documents as well as a calendar showing the exact days the child actually lived with each parent may be requested.

The above list is not meant to be all-inclusive. Unique situations may require the reviewer to ask for other verification.

All of the information requested is necessary to complete the review of the income tax return and EITC. Providing only part of the information will result in an additional delay, as another request for the missing information will be made.

Why does the department conduct a pre-refund review?

DOR conducts a pre-refund review of the EITC for several reasons:

- To educate EITC filers about the qualifications for claiming the EITC.
- To promote voluntary compliance for individual filers and the tax filing population as a whole.
- To correct invalid/incorrect claims and to issue the correct amount of EITC.

For the 2002 tax year there were 220,578 EITC claims filed through June 30, 2003. After computer and staff reviews, 5,160 EITC filers were contacted for additional information and/or had their EITC claims adjusted. The pre-refund program prevented \$4,114,191 of incorrect EITC from being issued.

It is the department's goal to issue EITC refunds to filers as quickly and efficiently as possible, while maintaining or improving voluntary compliance for the benefit of all taxpayers. [↗](#)

Dry Cleaners Must be Licensed, Pay Fees and File Returns Timely

License requirements

Dry cleaners operating in Wisconsin must be licensed by the Wisconsin Department of Revenue, to operate a dry cleaning facility. Dry cleaners that are not licensed could be subject to penalties for each day they operate without holding a valid dry cleaning license.

In order to obtain a dry cleaning license for the current year, a facility must have paid in full the dry cleaning facility fee from the previous calendar year, as explained below. When the January 25 quarterly installment is paid, the department mails a dry cleaning license, which is valid for the year in which the January 25 installment is due.

Under Wisconsin law, unless specifically exempted, any person who operates a dry cleaning facility without holding a valid dry cleaning license issued by the department is subject to a penalty. The penalty is \$5 per day for each day the person operates without a license.

Fees and dry cleaning returns

The dry cleaning facility fee and dry cleaning return are due to the department in four quarterly installments, on April 25, July 25, October 25, and January 25. The amount of the fee for each installment is 1.8% of the gross receipts received in the quarter ending the last day of the month preceding the payment due date.

Example:

Gross receipts –

January	\$1,321
February	1,255
March	<u>982</u>
First quarter total	\$3,558

First quarter total	\$3,558
	<u>X .018</u>
Amount due April 25	\$64.04

Failure to pay the fee by the installment due date results in a penalty of \$5 per day for each day the installment is late. In addition, dry cleaners that file their dry cleaning return after the due date are subject to a late filing fee, as well as delinquent interest on fees due with the return. A dry cleaner that files late may also be assessed negligence penalties.

For corporations, the late filing fee is \$30. For businesses other than corporations, the late filing fee is as follows:

- \$2 when the total fee for the quarter is less than \$10.
- \$3 when the total fee for the quarter is \$10 or more, but less than \$20.
- \$5 when the total fee for the quarter is \$20 or more.
- Exception - \$30 when the return is 60 or more days late.

The total fee due with a late-filed return is subject to interest at 1.5% per month until paid. If the dry cleaning return is filed late due to negligence, the fees due on the return are also subject to a negligence penalty of 5% for each month or fraction of a month the return is late, up to 25%.

If you have questions regarding dry cleaning facility fees or returns, or how to obtain a dry cleaning license, you may contact the department's Technical Assistance unit at (608) 261-6261. Additional information is also available on the department's web site, www.dor.state.wi.us, under "FAQs" (frequently asked questions). [↗](#)

Negligence Penalties May be Imposed in Field Audits

The Field Audit Section of the Wisconsin Department of Revenue has the authority to impose various civil penalties during the field audit of a taxpayer's franchise, income, withholding, or sales and use tax returns.

Following are the main factors considered by the department in determining whether penalties should be imposed, and statistics indicating the percentage of field audit actions in the past four years that included negligence penalties.

The main factors considered by the department for the imposition of negligence penalties include:

- Taxpayer's awareness of the taxability of the items adjusted, including whether taxpayer should have been aware.
- Certainty or uncertainty of the taxable status of the items adjusted.

- Knowledge, education, and expertise of the person(s) responsible for filing the returns.
- Prior audit history and prior penalty imposition.
- Adequacy of the records and taxpayer's efforts to establish adequate records.
- Consistency and pattern of errors.
- Any other information that relates to whether or not there was good cause for underreporting.

Field audit negligence penalties imposed:


Fiscal Year Ending June 30...	<u>2000</u>	<u>2001</u>	<u>2002</u>	<u>2003</u>
Number of Negligence Penalties	320	311	385	489
Number of Actions	1638	1581	1631	1978
Percentage	19.5%	19.7%	23.6%	24.7%



Clearance Certificates and Successor Liability

A purchaser of a business should be aware that if the seller has a liability for Wisconsin sales or use tax, and a sufficient amount of the purchase price is not withheld to pay the liability, they become personally liable for the payment of the tax. This is known as "successor liability." To ensure that the seller has filed all sales and use tax returns and paid all sales and use taxes due, the

purchaser may request a "clearance certificate" from the Wisconsin Department of Revenue.

A copy of frequently asked questions ("FAQs") and answers concerning clearance certificates and successor liability appears on pages 36 and 37 of this Bulletin. These questions and answers can also be found on the department's web site at www.dor.state.wi.us. Click on "FAQs" and then see "Clearance Certificates & Successor Liability." 

Hartford Man Charged with Failure to Remit Withholding Taxes

Criminal charges were filed in September 2003 against a Hartford man, Markus Meinhardt, 38, for failure to remit income taxes withheld from his employee's wages. According to the complaint, Meinhardt evaded payment of taxes to the Wisconsin Department of Revenue totaling \$64,211.54 between 1999 and 2002.

The complaint further alleges that Meinhardt, along with his father Adolf, operated a machine job shop under the name of A&M Tooling, Inc. in Hartford starting in about 1986. In September 1998, the Meinhardts merged A&M Tooling, Inc. into another business they operated under the name of Elmass North America, Inc. After the merger, Meinhardt ceased filing state withholding tax

reports for A&M, but never applied for a withholding tax number or permit for Elmass.

From September 1998 until the business ceased in May 2002, Meinhardt deducted state income taxes from his employee's wages but never remitted any of it to the Department of Revenue. According to the complaint, for a short time after the merger Meinhardt's accountant prepared tax reports showing the amount of state taxes withheld. The accountant gave these reports to Meinhardt, who never filed them with the Department of Revenue.

If convicted, Meinhardt could face up to three years of imprisonment and fines totaling \$40,000.

A 24-year-old Milwaukee woman who electronically filed fraudulent income tax returns using the names of 10 different people, obtaining \$6,564 in tax refunds from Wisconsin, Indiana and the Internal Revenue Service, was sentenced in November of 2003 to 18 months in prison.

Shana M. Cooper was also sentenced to serve an additional 18 months of extended supervision after completing her prison sentence, and ordered to make restitution of \$2,394 to the Wisconsin Department of Revenue. Ms. Cooper had been convicted of forgery, attempted theft and filing a false homestead credit claim in September of 2003.

A criminal complaint filed in July of 2003 (see *Wisconsin Tax Bulletin* 136 (October 2003), page 14) stated that Ms. Cooper filed the fraudulent income tax returns via the Internet from either her home computer or from computers at the Milwaukee Public Library. She used Intuit's Turbo Tax or the Department of Revenue's Free File software programs.

Ms. Cooper attempted to fraudulently obtain a total of \$13,267 in tax refunds from the Wisconsin Department of Revenue, the Indiana Department of Revenue and the Internal Revenue Service during March and April of 2003. Among the names she used on the fraudulent returns were those belonging to two of her cousins who

lived in Indiana, as well as two other persons who were in jail at the time the returns were filed.

According to the complaint, Ms. Cooper electronically created false wage and tax statement information (Forms W-2), which listed fictitious amounts of wages and income taxes withheld. She included this information along with the electronically filed income tax returns. To facilitate her scheme, she also obtained and used actual employer tax identification numbers of several businesses. These included The Bradley Center, Aluminum Casting & Engineering Co., Covenant Health Care Systems, Inc. and Spherion Atlantic LLC.

Ms. Cooper directed the refunds to be deposited into bank accounts she had with U.S. Bank, Landmark Credit Union, TCF Bank and the Indiana University Credit Union.

Although most of the refunds claimed on the fraudulent returns were not issued, \$2,394 was obtained from the Wisconsin Department of Revenue. She also obtained \$2,300 from the Indiana Department of Revenue and \$1,870 from the Internal Revenue Service.

The case was prosecuted by the Milwaukee County District Attorney's Office after a joint investigation by the Wisconsin and Indiana Department's of Revenue. [↗](#)

Administrative Rules in Process

Listed below are administrative rules that are currently in the rule promulgation process. The rules are shown at their stage in the process as of January 1, 2004 and at each step where action occurred during the period from October 2, 2003, through January 1, 2004.

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

Scope Statement Published

- 1.12 Electronic funds transfer – A
- 2.49 Apportionment of net business incomes of interstate finance companies - R&R [↗](#)



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

Penalties - negligence

Gary Larson, Jr...... 27

Sales and Use Tax

Aircraft – taxable use

G & G Trucking, Inc...... 28

Computer software – taxability (canned vs. custom programs)

Menasha Corporation..... 29

Leases and rentals - real vs. personal property

All City Communication Company, Inc. and Waukesha Tower Associates...... 29

INDIVIDUAL INCOME TAXES



Penalties - negligence. *Gary Larson, Jr. vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, October 2, 2003). The issue in this case is whether the department correctly imposed the 25% negligence penalty pursuant to Sec. 71.83(1)(a)2 Wis. Stats. (1999-2000), or whether the taxpayer showed that his filing of an incorrect Wisconsin tax return for tax year 2000 was due to good cause and not due to neglect.

Under date of April 15, 2001, the taxpayer filed a Wisconsin tax form for the year 2000 on which he either entered “0.00” or made no entry on almost every line. He attached his 2000 federal Form 1040 to his Wisconsin tax form. Again, he entered zeros on most lines of the Form 1040 and requested a refund of \$3,074.59, the entire amount of federal income tax withheld by his employer. Attached to the federal tax form was a statement in which he generally asserted that no Internal Revenue Code provision imposed a tax liability on him; that he was only filing his federal return so he would not be prosecuted by the IRS for failure to file; and 10 other arguments which he believes prove that no income tax is due on his wage income.

Subsequent to the filing of the taxpayer’s 2000 Wisconsin return, the department contacted the taxpayer’s employer for 2000. The employer provided information to the department that the taxpayer had been paid \$26,724.88 that year. They also provided the department with a form captioned “Reciprocity Exemption/Affidavit of Residency” on which the taxpayer stated that he was a resident of Wisconsin, not Minnesota, so no Minnesota income tax was withheld.

Under date of January 2, 2002, the department issued an income tax assessment for tax year 2000 against the taxpayer for \$1,695.56, consisting of tax, interest, and the 25% negligence penalty pursuant to Sec. 71.83(1)(a)2 Wis. Stats. (1999-2000). Under date of March 12, 2002, the taxpayer wrote to the department, enclosing a check for the assessed tax and interest but objecting to the \$311.50 negligence penalty. The department treated the objection as a petition for redetermination by the taxpayer of the assessment of the negligence penalty. The department denied the petition for redetermination, and the taxpayer filed a timely petition for review with the Commission solely on the issue of the 25% negligence penalty.

The taxpayer argued that: (1) he was instructed to enter on line 1 of his Wisconsin tax return (“Wages, salaries, tips, etc.”) the amount reported on line 7 of the federal Form 1040; (2) line 7 on his federal tax return had “0” entered, so therefore (3) the correct entry on his Wisconsin tax return, line 1 was “0”; and (4) he did what he was required. He also argued that the penalty was not properly imposed, as he “made an offer to pay the penalty” if certain documents were provided to him. These included a copy of the “written determination” as to how the penalty was imposed and “the background file documents”; the department’s regulation that requires him to pay the penalty; identification of the department’s employee or employees who imposed the penalty and a copy of the Secretary of Revenue’s written delegation of authority to that person or persons; and a copy of the “JUDGE’S ORDER” or the “JURY’S VERDICT” under which he was convicted.

The Commission concluded that the department correctly imposed the 25% negligence penalty, and the taxpayer did not show that his filing an incorrect Wisconsin tax return for 2000 was due to good cause and not due to neglect. The taxpayer’s argument that his

Wisconsin return was correctly filed is flawed in that his federal return was incorrect. Carrying the information from the incorrect federal tax return to the Wisconsin return also resulted in an incorrect Wisconsin tax return. His demand for documents from the department has no support in the law and improperly tries to reverse the burden of proof, requiring the department to prove that its imposition of the negligence penalty is correct.


The Commission also imposed an additional assessment of \$250.00 against the taxpayer, as his position was frivolous or groundless. He had filed a similar 1999

Wisconsin income tax return and advanced many of the same arguments. Following a May 10, 2001 Commission trial, he filed a post-hearing brief. About two weeks later, he paid the assessment, and the case was resolved.

The taxpayer has not appealed this decision.

CAUTION: This is a small claims decision of the Wisconsin Tax Appeals Commission and may not be used as a precedent. The decision is provided for informational purposes only. [!\[\]\(c694a3ff3b077d76910920a6a1593ab4_img.jpg\)](#)

SALES AND USE TAXES

 **Aircraft - taxable use.** *G & G Trucking, Inc. vs. Wisconsin Department of Revenue* (Court of Appeals, District IV, October 9, 2003). On July 9, 2002, the Circuit Court for Dane County affirmed the Wisconsin Tax Appeals Commission decision dated October 3, 2001. See *Wisconsin Tax Bulletin* 132 (October 2002), page 25, and *Wisconsin Tax Bulletin* 129 (April 2002), page 23, for summaries of the Circuit Court and Commission decisions. The issue in this case is whether the taxpayer made taxable use of aircraft purchased for the purpose of lease or rental.

The taxpayer is a Wisconsin corporation engaged in the business of interstate trucking. During the period under review, the taxpayer purchased aircraft and related maintenance services and supplies without paying sales or use tax or providing exemption certificates.

Because the taxpayer lacked facilities to store the aircraft, and had no employees to fly them, the taxpayer entered into oral lease agreements to lease the aircraft to aircraft charter companies. Under the terms of the agreements, the charter companies had possession of the aircraft and were responsible for all insurance, registration, licensing, cleaning and maintenance, although the charter companies could bill certain costs, such as maintenance, to the taxpayer. In addition, the charter companies provided and paid the pilots, and were required to keep the aircraft in a safe and secure location. The charter companies had the sole responsibility for scheduling the use of the aircraft. In return, the taxpayer received payments from the charter companies based on the number of hours each aircraft was chartered. Any of the parties could terminate a lease agreement upon providing 30 days notice.

A third party that chartered an aircraft paid an initial charter fee, a pilot fee and a per-hour fee, the latter including gasoline for the aircraft. In contrast, when the taxpayer chartered aircraft, it paid no initial charter fee and paid a lower hourly rate. However, the taxpayer did pay a pilot fee and the cost of the fuel for the flight. If one of its own aircraft was not available, the taxpayer did not have “bumping rights” under the lease agreement; the taxpayer had to find either alternative transportation or cancel the trip. Alternative transportation could include “trading hours” with the owner of other aircraft leased to the charter company. When trading hours, the taxpayer paid the same lower hourly rate the owner of the aircraft paid when chartering its aircraft from the charter company. The charter company did not separately charge the taxpayer for chartering aircraft but offset that amount against the monthly rental fee the charter company paid to the taxpayer. During the period at issue, the taxpayer chartered its own aircraft for 10.8 percent to 20.5 percent of the total hours those aircraft were chartered each year.

The Court of Appeals affirmed the Circuit Court’s conclusion that the taxpayer made use of the aircraft as that term is defined in sec. 77.51(22)(a), Wis. Stats., because the taxpayer owned the aircraft and chartered them for business purposes on more preferential terms than any other charter customer. The taxpayer exercised its right or power over the aircraft by using its ownership of the aircraft under these preferential terms to its economic advantage when it chartered the aircraft for its own business transportation for as much as twenty per cent of the total charter time. Exerting a right or control over property does not require that the taxpayer physically possess or control the property for there to be a taxable use under sec. 77.51(22)(a), Wis. Stats.

The taxpayer has appealed this decision. [!\[\]\(626ce8ac21792b9405bfddfea8e0c96a_img.jpg\)](#)



Computer software - taxability (canned vs. custom programs).

Menasha

Corporation vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, December 1, 2003). The issue in this case is whether computer software purchased by the taxpayer was tangible personal property and subject to sales or use tax. The following summarizes the Commission's findings of fact and conclusions of law.

The taxpayer is a worldwide corporation based in Wisconsin that produces packaging, paperboard, material handling, plastics, promotional materials, and printing.

During the period under review, the taxpayer purchased integrated business application software as a result of an evaluation of its business and accounting software systems. After approximately two years of evaluation and a demonstration of one of the recommended vendors' software, the taxpayer purchased the software at a cost of \$5.2 million.

The software consisted of the taxpayer's selection from more than 70 software modules, each of which were designed to provide a rudimentary business and accounting computer software system for a segment of the taxpayer's business. The basic modules required customization using a specific programming language in order for the software system to serve the taxpayer's business and accounting needs.

The software was delivered to the taxpayer on multiple CD-ROM disks, which were installed over a two day period onto the taxpayer's computer hardware by a former employee of the software vendor. The customization and testing of the software took approxi-

mately nine months, and was done by an implementation team and a programming team consisting of employees of the taxpayer as well as employees of the software vendor and third party consultants. The total cost of customizing and implementing the new software added approximately \$17.8 million to the initial cost of the software.

When the software went on-line for the first time, employees of the taxpayer were required to attend training classes of two to five days to learn how to use the new software in performing their jobs.

The taxpayer purchased from the software vendor yearly maintenance for technical support, upgrades, new releases, and patches to the software.

Using the factors for determining whether a program is a custom program listed under sec. Tax 11.71(1)(e), Wis. Adm. Code, the Commission concluded the software was custom software, because there had been: (1) significant presale consultation, (2) extensive testing, (3) substantial training and written documentation, (4) enhancement and maintenance support, (5) a cost greater than \$10,000, and (6) the software was not "prewritten" software because of the significant efforts required to bring it on-line for the taxpayer under factors 1-4. The Commission determined that Factor 7—pre-existing programs which need to be significantly modified by the vendor to be usable—was not applicable here as the Commission already had concluded that the software was custom. The Commission awarded summary judgement to the taxpayer.

The department has appealed this decision. [↗](#)



Leases and rentals - real vs. personal property.

All City Communication Company, Inc. and Waukesha Tower Associates vs. State of Wisconsin Department of Revenue (Court of Appeals, District IV, March 27, 2003). On March 18, 2002, the Circuit Court for Dane County affirmed the Wisconsin Tax Appeals Commission decision dated August 6, 2001. See *Wisconsin Tax Bulletin* 130 (July 2002), page 27, and *Wisconsin Tax Bulletin* 127 (October 2001), page 24, for summaries of the Circuit Court and Commission decisions. The issue in this case is whether Waukesha Tower's broadcast tower and equipment building are tangible personal property, making the lease or rental of the tower and equipment building subject to Wisconsin sales or use tax.

The determination of whether property, otherwise considered personal property, becomes real property is dependent upon the following three factors:

1. Actual physical annexation to the real estate;
2. Application or adaptation to the use or purpose to which the realty is devoted; and,
3. An intention on the part of the person making the annexation to make a permanent accession to the realty.

The lease agreement between the land owner and Waukesha Tower provided that "Improvements and per-

sonal property” on the land were the property of Waukesha Tower, which could remove them at the end of the 10-year lease. The lease permits the surrounding land to continue to be used as farmland. Waukesha Tower erected a 480 foot tower on a concrete foundation, secured by thirty guy wires that were also anchored in concrete. The Court of Appeals found the attachment of the tower to the ground sufficient to consider the tower to be *annexed* to the real property.

Although inconclusive as to whether the tower and equipment building were *adapted* to the use of the realty, because the realty could be considered equally suited for farming or as a base for the tower, the Court of Appeals determined the *intent* to make a permanent accession to the land was a more important factor.

The Court of Appeals determined it was not Waukesha Tower’s *intention* to make a permanent accession to the

realty because Waukesha Tower retained the right to remove the tower and equipment building at the expiration of the lease, and the landowner had the right to terminate the lease at the end of the lease term.

The Court of Appeals gave due weight to the Commission’s determination that the tower and equipment building were tangible personal property because a market existed for the sale and purchase of used towers, and the tower could be disassembled and reassembled at another site.

The Court of Appeals concluded the Commission’s determination that the tower and equipment building were tangible personal property was reasonable and thus subject to Wisconsin sales or use tax.

The taxpayer has not appealed this decision. [!\[\]\(3211b5d1d968fc1665909b34f9f16010_img.jpg\)](#)



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 releases are included:

Corporation Franchise and Income Taxes

1. Claiming the Alternative Incremental Research Credit 31
2. Nondeductibility of State Taxes for Corporate Franchise and Income Tax Purposes..... 32

CORPORATION FRANCHISE AND INCOME TAXES

1 Claiming the Alternative Incremental Research Credit

Statutes: Sections 71.28(4) and 71.47(4), Wis. Stats. (2001-02)

Background: Corporations, except tax-option (S) corporations, that meet the requirements specified in sec. 71.28(4) or 71.47(4), Wis. Stats. (2001-02), may qualify for a tax credit for increasing research activities in Wisconsin. For taxable years beginning on or after January 1, 1997, corporations may elect to determine their research credit under either the regular rules or the alternative incremental research credit rules of Internal Revenue Code section 41(c)(4). Once a corporation makes the election to use the alternative computation, the election applies to that taxable year and all future taxable years, unless the Department of Revenue permits its revocation.

Question 1: How does a corporation make the election to claim the alternative incremental research credit?

Answer 1: A corporation makes the election to claim the alternative incremental research credit on Wisconsin Schedule R, *Wisconsin Research Credits*. The corporation must complete Part I, Section B, relating to the election of the alternative incremental credit, and attach the completed Schedule R to the Wisconsin franchise or income tax return, Form 4, 4I, 4T, or 5, that it files for the taxable year.

Question 2: May a corporation claim the alternative incremental research credit on its Wisconsin franchise or income tax return if it claimed the regular research credit on its federal income tax return?

Answer 2: Yes, a corporation may make different elections for Wisconsin and federal purposes. The corporation may claim the regular research credit on its federal return and the alternative incremental research credit on its Wisconsin return, or vice versa.

Question 3: If a corporation files its original Wisconsin franchise or income tax return after the due date, including extensions, may it still make the election to claim the alternative incremental research credit?

Answer 3: Yes, the corporation may elect the alternative incremental credit on a late-filed original Wisconsin franchise or income tax return.

Question 4: If a corporation claimed the regular research credit on its original Wisconsin franchise or income tax return, may it amend the return to claim the alternative incremental research credit?

Answer 4: No, once the corporation has filed a Wisconsin return on which it has claimed the regular research credit, it may not amend that return to claim the alternative incremental credit. This is the case even if the original Wisconsin return was filed before the original due date.

Question 5: If a corporation does not claim any research credit on its original Wisconsin franchise or income tax return, may it amend its return to claim the alternative incremental research credit?

Answer 5: Yes, the corporation may amend its Wisconsin return to claim the alternative incremental credit, provided it did not claim any research credit on its

original return and the amended return is filed within four years of the unextended due date of its original return.

Question 6: How may a corporation revoke its election to claim the alternative incremental research credit?

Answer 6: A corporation must receive permission from the Department of Revenue to revoke its election to claim the alternative incremental credit. The corporation must send its request, in writing, to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 5-144, P.O. Box 8906, Madison, Wisconsin 53708-8906. The request must be submitted before the due date, including extensions, for the taxable year to which the revocation first applies. The corporation must attach a copy of the department's consent to revoke the election to claim the alternative incremental credit to its timely filed original return, including extensions, for the taxable year of the revocation.

2 Nondeductibility of State Taxes for Corporate Franchise and Income Tax Purposes

Statutes: Sections 71.26(3)(g), 71.34(1)(ag), and 71.45(2)(a)5, Wis. Stats. (2001-02)

Note: Also see the tax release titled "Deductibility of State and Local Taxes for Wisconsin Corporation Franchise and Income Tax Purposes" in *Wisconsin Tax Bulletin* 99 (October 1996), page 26.

Background: Corporations compute their Wisconsin net income under the Internal Revenue Code (IRC) as defined for Wisconsin purposes, with certain modifications. One of the modifications is sec. 71.26(3)(g), Wis. Stats. (2001-02), which provides that IRC sec. 164(3)(a) is modified so that state taxes and taxes of the District of Columbia that are value-added taxes, single business taxes, or taxes on or measured by all or a portion of net income, gross income, gross receipts, or capital stock are not deductible. Similar statutory language applies to tax-option (S) corporations and insurance companies.

Facts and Question 1: Kentucky imposes a corporation license tax based on the amount of "capital employed in the business." Capital includes capital stock, surplus, advances by affiliated companies, intercompany accounts, and borrowed moneys. See Kentucky Revised Statutes (KRS) §136.070.

May a corporation deduct the Kentucky corporation license tax paid under KRS §136.070(1) for Wisconsin franchise and income tax purposes?

Answer 1: No, the Kentucky corporation license tax is not deductible for Wisconsin franchise and income tax purposes.

Facts and Question 2: New Hampshire imposes a business profits tax on a percentage of the "taxable business profits" of every business organization. Taxable business profits are computed under the Internal Revenue Code with certain additions and subtractions. See New Hampshire Revised Statutes (RSA) chapter 77-A.

May a corporation deduct the New Hampshire business profits tax paid under N.H. RSA §77-A:2 for Wisconsin franchise and income tax purposes?

Answer 2: No, the New Hampshire business profits tax is not deductible for Wisconsin franchise and income tax purposes.

Facts and Question 3: Ohio imposes a franchise tax on corporations for the privilege of doing business, owning or using a part or all of its capital or property, holding a certificate of compliance authorizing it to do business, or otherwise having nexus with Ohio. The tax has a net income component based on federal taxable income with adjustments and a net worth component based on the value of the outstanding shares of stock. See Ohio Revised Code (ORC) chapter 5733.

May a corporation deduct either the net income component or the net worth component of the Ohio franchise tax paid under ORC §5733.06 for Wisconsin franchise and income tax purposes?

Answer 3: No, neither the net income component nor the net worth component of the Ohio franchise tax is deductible for Wisconsin franchise and income tax purposes.

Facts and Question 4: Texas imposes a franchise tax on corporations that do business or that are chartered or authorized to do business in Texas. The tax has a net worth component based on "net taxable capital" and a net income component based on "taxable earned surplus." A corporation's net taxable capital is its stated capital and surplus, as apportioned to Texas, less allowable deductions. Taxable earned surplus is reportable federal taxable income with adjustments. See chapter 171 of the Texas Tax Code.

May a corporation deduct either the net taxable capital component or the taxable earned surplus component of the Texas franchise tax paid under §171.001, Texas Tax Code, for Wisconsin franchise and income tax purposes?

Answer 4: No, neither the net taxable capital component nor the taxable earned surplus component of the Texas franchise tax is deductible for Wisconsin franchise and income tax purposes.

Facts and Question 5: West Virginia imposes a business and occupation tax on public service or utility businesses, taxpayers who generate electric power, the business of gas storage, and producers of synthetic fuels. See West Virginia Code §11-13-1 et seq. The measure of the tax and the tax rate vary, depending on the classification of the taxpayer's business activities. The tax is generally based on gross income (for certain public utilities), taxable generation capacity, or net dekatherms (for gas storage).

May a corporation deduct the West Virginia business and occupation tax paid under W.Va. Code §11-13-2 for Wisconsin franchise and income tax purposes?

Answer 5: Generally, the West Virginia business and occupation tax is deductible for Wisconsin franchise and income tax purposes. However, if the expenditure must be capitalized for federal income tax purposes, it must be capitalized for Wisconsin purposes.