

# Wisconsin TAX BULLETIN

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

Number 145

November 2005



## FOCUS ON . . . WHAT'S NEW

### Update on New Tax Laws

- Since the last issue of the *Wisconsin Tax Bulletin*, the Wisconsin Legislature has enacted the Taxpayer Friendly Bill and other changes to the Wisconsin tax laws (pages 4 to 8).
- The federal provisions relating to health savings accounts continue to not apply for Wisconsin (page 16).
- Procedures for withholding tax from nonresident members of pass-through entities (page 18).
- Sales tax exemption replaces manufacturer's sales tax credit (page 15).

### Forms and Publications

- Tax preparers will not be sent a 2005 tax form order blank; on-line forms ordering available as of November 1 (page 8).
- Form changes for 2005 (page 1).
- A form has been developed by the Wisconsin Department of Veterans Affairs to verify eligibility for the veterans' and surviving spouses' property tax credit (page 10).

### Current Issues

- Wisconsin sales and use tax treatment of disaster relief payments from FEMA and the American Red Cross (page 20).
- 2005 standard mileage rates increase in response to recent gas price increases and Hurricane Katrina (page 3).
- Streamlined Sales Tax Governing Board organized (page 19).

### Coming Soon

- Electronic filing of corporation franchise and income tax returns (page 17).
- Businesses to be contacted concerning filing sales and use tax returns electronically (page 9).
- Internet posting of delinquent tax accounts (page 21).

### Form Changes for 2005

Listed on page 2 are brief descriptions of the major changes to the Wisconsin individual income tax forms (Forms 1, 1A, WI-Z, and 1NPR) and homestead credit claims (Schedules H and H-EZ) for 2005. There are no major changes to the farmland preservation credit claim (Schedule FC) for 2005.

Additionally, there are two new schedules that have been developed for 2005. Schedule OS will be used to claim the credit for net tax paid to another state. Schedule VC is used to claim either of the venture capital credits (angel investment credit or early stage seed investment credit).

(continued on page 2)

**2005  
Tax  
Filing**

Season at a Glance

#### Number of original individual income tax returns

2,912,778

2004 returns – 2,639,680

#### Number of refunds

2.3 million

#### Electronic filing

Fed/State E-file

Preparer 1,113,950 - up 8%

Taxpayer 298,167 - up 18%

TeleFile 66,999 - down 16%

FreeFile 91,714 - up 13%

Total\* 1,570,830

\* 59% of 2004 returns filed



**In This Issue****Articles –**


Form Changes for 2005.....	1
Tax Volunteers Needed.....	2
Vehicle Dealers' Use Tax .....	3
Standard Mileage Rates .....	3
New Tax Laws .....	4
On-Line Forms Ordering.....	8
Reminders for Tax Practitioners .....	8
Administrative Rules in Process.....	8
E-Filing of Sales Tax Returns.....	9
Bulletin Index Available .....	9
Sales and Use Tax Report Mailed .....	9
Magnetic Media/Electronic Filing ....	10
Corporation Estimated Tax.....	10
Verification for Veterans Property Tax Credit .....	10

Electronically Filed Homestead Claims .....	11
Withholding Tax Pointers .....	13
Information or Inquiries? .....	14
<i>Wanted: Your Comments</i> .....	14
Substitute Tax Forms.....	14
Sales Tax Exemption Replaces Credit .....	15
Health Savings Accounts .....	16
Corporation Electronic Filing .....	17
Endangered Resources Program.....	17
Pass-Through Withholding Procedures .....	18
Streamlined Sales Tax .....	19
Refund Interception Program.....	19
Disaster Relief Payments.....	20
Preparers Help Electronic Filing .....	21
Internet Posting of Delinquent Accounts .....	21

Income Tax Refunds .....	22
Free-File Experiences Success .....	22
On-Line Business Tax Registration .....	23
Question and Answer .....	23
Enforcement Report .....	24
EFT Payment Options .....	25
Tax Publications Available .....	26
Index of Reference Material .....	28
Package WI-X Available .....	28
Unpaid Use Tax.....	28
Election Campaign Fund.....	29
Report on Litigation .....	30
<b>Attachments –</b>	
September Tax Report.....	31
Guidelines for Substitute Forms.....	35
Copies of Forms .....	39
Order Blank.....	60

**Form Changes for 2005***(continued from page 1)*

Copies of the 2005 Forms 1, 1A, WI-Z, and 1NPR, and Schedules H, H-EZ, FC, and OS are reproduced on pages 39 to 59 of this Bulletin. Copies of these and other Wisconsin tax forms are also available on the department's web site, [www.dor.state.wi.us](http://www.dor.state.wi.us).

- The percentage rate for computing farmland tax relief credit on Forms 1 and 1NPR is changed from 15% to 20%. The maximum allowable credit is \$1,500.
- A line is added on Forms WI-Z, 1A, 1, and 1NPR for designations to the veterans trust fund.
- A line is added on Forms 1A and 1NPR for educator expenses.
- Lines are added on Forms 1 and 1NPR for the venture capital credits.
- A line is added on Forms 1A, 1, and 1NPR for claiming the veterans' and surviving spouses' property tax credit.
- A line is added on Form 1NPR and certain lines are renumbered to conform with changes made to federal Form 1040. The new line is for the domestic production activities deduction.
- The heading area of Forms WI-Z, 1A, 1, and 1NPR and Schedules H and H-EZ is reformatted to provide space for the printing of a 2-D bar code.
- A check box is added to the heading area of Form 1NPR and Schedules H and H-EZ to designate the filing of an amended return. 

**Tax Return Volunteers Needed**

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

*(continued on page 3)***Wisconsin Tax Bulletin***Published quarterly by:*

Wisconsin Department of Revenue  
Income, Sales, and Excise Tax Division  
Mail Stop 6-40  
P.O. Box 8933  
Madison, WI 53708-8933

*Subscriptions available from:*

Wisconsin Department of Administration  
Document Sales  
P.O. Box 7840  
Madison, WI 53707-7840

*Annual cost \$7.00*

## Tax Return Volunteers Needed

(continued from page 2)

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

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

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

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

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

John Lulay 1-414-297-1766 [John.F.Lulay@IRS.gov](mailto:John.F.Lulay@IRS.gov)

or

Rick Dilley 1-608-266-2606 [Rdilley@dor.state.wi.us](mailto:Rdilley@dor.state.wi.us)




## Motor Vehicle Dealers' Measure of Use Tax Increased to \$125

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

**Effective January 1, 2006, the amount subject to use tax is increased from \$122 to \$125 per plate per month.** (Note: The use tax per plate per month is not \$125. Rather, \$125 is multiplied by the use tax rate (5%,

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

The reason for the increase to \$125 per plate is that sec. 77.53(1m)(a), Wis. Stats. (2003-04), requires that the Department of Revenue annually adjust the amount subject to use tax to reflect the annual percentage change in the U.S. Consumer Price Index for All Urban Consumers, U.S. City Average, as determined by the U.S. Department of Labor for the 12 month period ending June 30. The percentage change for the period July 2004 to June 2005 was 2.53% ( $\$122 \times 1.0253 = \$125$  rounded to the nearest whole dollar). 




## Standard Mileage Rates for 2005

Listed below are the Internal Revenue Service (IRS) optional standard mileage rates for 2005, for computing automobile expenses for business, medical, moving expense, and charitable purposes. Unless otherwise noted, these rates also apply for Wisconsin.

For 2005 the business standard mileage rate is 40.5¢ per mile for all business miles driven between January 1 and August 31, and 48.5¢ per mile for all business miles driven between September 1 and December 31. These rates apply without regard to whether the automobile was previously considered fully depreciated. If the standard mileage rate of 40.5¢ or 48.5¢ per mile is used, depreciation is considered to be allowed at 17¢ per mile. However, no portion of the 40.5¢ or 48.5¢ per mile is

considered to be depreciation after the adjusted basis of the automobile reaches zero.

For 2005 the mileage rate allowed for medical expense and moving expense deductions is 15¢ per mile for miles driven between January 1 and August 31, and 22¢ per mile for miles driven between September 1 and December 31.

For 2005 the mileage rate allowed for charitable use of a vehicle is generally 14¢ per mile. However, the rate allowed for charity work related to Hurricane Katrina is 29¢ per mile for miles driven between August 25 and August 31, and 34¢ per mile for miles driven between September 1 and December 31. (**Note:** The increased rates for charity work related to Hurricane Katrina do not apply for Wisconsin. For Wisconsin purposes, a rate of 14¢ per mile is allowed.) 



## New Tax Laws

The Wisconsin Legislature has enacted a number of changes to the Wisconsin tax laws. Following is an index and brief descriptions of the major individual and fiduciary income tax, individual and corporation franchise and income tax, sales and use tax, withholding, excise tax, estate tax, and other provisions.

These provisions are contained in 2005 Acts 49 (the Taxpayer Friendly Bill) and 50.

The description for each provision indicates the sections of the statutes affected and the effective date of the new provision.

	Effective Date	Page
<b>A. Individual and Fiduciary Income Taxes</b>		
1. Interest During Extension Period	Various	5
2. Angel Investment Credit Revised	Taxable years beginning on or after January 1, 2005	5
<b>B. Individual and Corporation Franchise and Income Taxes</b>		
1. Qualified Retirement Funds	October 28, 2005	5
<b>C. Sales and Use Taxes</b>		
1. Refund of Tax from Seller to Buyer	Notices of refunds or notices of amounts due dated, offsets taken, and the discovery of amounts collected erroneously as taxes on or after October 28, 2005	5
2. Definition of Timely Filed Revised to Include Private Delivery Services	October 28, 2005	6
<b>D. Withholding</b>		
1. Single-Owner Entity	October 28, 2005	6
2. Extension of Time to File Annual Reconciliation Report	Reconciliation reports due on or after January 31, 2006	6
<b>E. Excise Taxes</b>		
1. Definitions Provided for Alternative Fuels Tax	October 28, 2005	6
2. Definition of "Sign" Provided for Tobacco Products Tax	October 28, 2005	6
3. Underage Persons on Alcohol Licensed Premises	October 28, 2005	6
<b>F. Estate Tax</b>		
1. Waiver of Interest for Estate Tax Purposes	October 28, 2005	6
<b>G. Other</b>		
1. Appeal of Earned Income Credit Not Subject to Fee	Appeals filed on or after October 28, 2005	7
2. Reducing Nondelinquent Taxes	October 28, 2005	7
3. Definition of Timely Filed Revised to Include Private Delivery Services	October 28, 2005	7
4. Certain Audit Requirement Eliminated	October 28, 2005	8

## A. Individual and Fiduciary Income Taxes

1. **Interest During Extension Period** (2005 Act 49, amend sec. 71.03(7)(d) and create sec. 71.03(7)(e), various effective dates).

For taxable years beginning after December 31, 2002, interest will not be charged during an extension period for (1) persons who served in support of Operation Iraqi Freedom or an operation that is a successor to Operation Iraqi Freedom in the United States, or (2) persons who qualify for a federal extension of time to file under 26 USC 7508, who served outside the United States because of their participation in Operation Iraqi Freedom or an operation that is a successor to Operation Iraqi Freedom in the Iraqi Freedom theater of operations. (**Note:** This provision was previously in effect for taxable years beginning in 2003 and 2004. It would have expired for taxable years beginning January 1, 2005.)

For taxable years beginning on or after January 1, 2006, interest will not be charged during an extension period for persons who qualify for a federal extension of time to file by reason of service in a combat zone.

2. **Angel Investment Credit Revised** (2005 Act 49, repeal sec. 71.07(5d)(c)3, effective for taxable years beginning on or after January 1, 2005).

Nonresidents and part-year residents are no longer required to prorate the angel investment credit on the basis of Wisconsin adjusted gross income to federal adjusted gross income.

## B. Individual and Corporation Franchise and Income Taxes

1. **Qualified Retirement Funds** (2005 Act 49, create secs. 71.01(7n), 71.22(5m), 71.34(1m), and 71.42(2m), effective October 28, 2005).

A qualified retirement fund for a taxable year for federal income tax purposes is a qualified retirement fund for the taxable year for Wisconsin tax purposes.

## C. Sales and Use Taxes

1. **Refund of Tax From Seller to Buyer** (2005 Act 49, renumber sec. 77.59(4)(c) to 77.59(5m) and amend as renumbered, and amend sec. 77.59(5), first applies to notices of refunds or notices of amounts due dated, offsets taken, and the discovery of amounts collected erroneously as taxes on October 28, 2005, even if the notices, offsets, and amounts relate to sales that occurred after August 31, 1994).

A seller who collects amounts as taxes erroneously from buyers, but who does not remit such amounts to the state, or who is entitled to a refund under sec. 77.59(4)(a) or (b), Wis. Stats., that is offset under sec. 77.59(5), Wis. Stats., shall submit the taxes and related interest to the buyers from whom the taxes were collected, or to the Department of Revenue if the seller cannot locate the buyers, within 90 days after the date of the refund, after the date of the offset, or after discovering that the seller has collected taxes erroneously from the buyers.

If the seller does not submit the taxes and related interest to the Department of Revenue or the buyers within that period, the seller shall submit to the department any part of a refund or taxes that the seller does not submit to a buyer or to the department along with a penalty of 25% of the amount not submitted or, in the case of fraud, a penalty equal to the amount not submitted.

A person who collects amounts as taxes erroneously from buyers for a real property construction activity or nontaxable service may reduce the taxes and interest that he or she is required to submit to the buyer or to the Department of Revenue under this provision for that activity or service by the amount of tax and interest subsequently due and paid on the sale of or the storage, use, or other consumption of tangible personal property that is used by the person in that activity or service and transferred to the buyer.



The department may offset the amount of any refund for a period, together with interest on the refund, against deficiencies for another period, and against penalties and interest on the deficiencies, or against any amount of whatever kind, due and owing on the books of the department from the person who is entitled to the refund. Prior law referred to the person “claiming the refund,” rather than the person “who is entitled to the refund.”

2. **Definition of Timely Filed Revised to Include Private Delivery Services** (2005 Act 49, amend sec. 77.61(14), effective October 28, 2005).

See description under tax type *Other*, on page 7.

#### D. Withholding

1. **Single-Owner Entity** (2005 Act 49, amend sec. 71.63(3)(c) and create sec. 71.65(3)(h), effective October 28, 2005).

In regard to a single-owner entity that is disregarded as a separate entity under sec. 7701 of the Internal Revenue Code, the owner, not the entity, is an “employer,” except that, if the entity elects to be an employer for federal withholding tax purposes, the entity is the employer for Wisconsin purposes.

If a single-owner entity that is disregarded as a separate entity under sec. 7701 of the Internal Revenue Code is an employer subject to Wisconsin withholding and if the entity does not deduct, withhold, report, and deposit the tax as required, the owner of the single-owner entity is liable for any tax, interest, and penalties.

2. **Extension of Time to File Annual Reconciliation Report** (2005 Act 49, amend sec. 71.65(5)(a)1, effective for reconciliation reports due on January 31, 2006).

The department may grant a 30-day extension of time to file an annual reconciliation report.

#### E. Excise Taxes

1. **Definitions Provided for Alternative Fuels Tax** (2005 Act 49, create sec. 78.39(5d) and (5m), effective October 28, 2005).

For purposes of the alternative fuels tax, “pay” means mail or deliver funds to the department or, if the department prescribes another method of payment or another destination, use that other method or submit to that other destination. “Sign” means write one’s signature or, if the department prescribes another method of authenticating, use that other method.

2. **Definition of “Sign” Provided for Tobacco Products Tax** (2005 Act 49, create sec. 139.75(9m), effective October 28, 2005).

For purposes of the tobacco products tax, “sign” means write one’s signature or, if the department prescribes another method of authenticating, use that other method.

3. **Underage Persons on Alcohol Licensed Premises** (2005 Act 50, amend sec. 125.07(3)(a)11 and create 125.07(3)(a)13, effective October 28, 2005).

An underage person not accompanied by his/her parent, guardian, or spouse of legal age is generally prohibited (with certain exceptions) from being on an alcohol beverage licensed premises. This law now allows unaccompanied underage persons to enter and remain in a dance hall or banquet or hospitality room attached to a Class B (on-sale) liquor or beer licensed premises for the purpose of attending a banquet, reception, dance, or other similar event.

The law also allows an unaccompanied underage person to enter and remain in a banquet or hospitality room on a brewery premises operated under a Class B license for the purpose of attending a brewery tour.

#### F. Estate Tax

1. **Waiver of Interest for Estate Tax Purposes** (2005 Act 49, renumber sec. 72.23 to 72.23(1) and create sec. 72.23(2), effective October 28, 2005).

The department or circuit court may waive interest on any additional tax arising from the discovery of property omitted in the inventory of total assets or in the original tax determination, if due diligence was exercised in determining the assets.

## G. Other

1. **Appeal of Earned Income Credit Not Subject to Fee** (2005 Act 49, amend sec. 71.88(2)(b), effective for appeals filed on or after October 28, 2005).

An appeal to the Wisconsin Tax Appeals Commission of the earned income credit, except when the denial is based upon late filing of a claim for credit, is not subject to the filing fee.

2. **Reducing Nondelinquent Taxes** (2005 Act 49, create sec. 73.13, effective October 28, 2005).

A taxpayer may petition the department to reduce the taxpayer's taxes, including related costs, penalties, and interest. The petition shall set forth a sworn statement of the taxpayer and be in a form prescribed by the department. The department may examine the taxpayer under oath about the petition and may require the taxpayer to provide financial statements and any other information that is related to the petition.

If the department determines that the taxpayer is unable to pay the taxes, costs, penalties, and interest in full, the department shall determine the amount that the taxpayer is able to pay and enter an order reducing the taxes in accordance with the determination.

The order shall provide either that the order is effective only if the reduced taxes are paid in full within ten days from the date on which the order is issued or that the order is effective only if the reduced taxes are paid according to a payment schedule that the department determines. The department or its collection agents, upon receipt of the order, shall accept payment in accordance with the order. Upon payment of the reduced taxes, the department shall credit the unpaid portion of the principal amount of the taxes and record the unpaid amount of costs, penalties, and interest accrued to the date of the order.

If within three years from either the date of the order or the date of the final payment according to a payment schedule, whichever is later, the department ascertains that the taxpayer has an income or owns property sufficient to enable the taxpayer to pay the unpaid portion of the principal amount of the taxes due, including the

costs, penalties, and interest, the department shall reopen the order and order the taxpayer to pay in full the unpaid amount of taxes due, including the costs, penalties, and interest.

Before the entry of the order for payment, the department shall send a written notice to the taxpayer, by certified mail, advising the taxpayer of the intent to reopen the order and fixing a time and place for the appearance of the taxpayer, if the taxpayer desires a hearing. If the department determines that the taxpayer is able to pay the unpaid amount, including the costs, penalties, and interest, the department shall enter the order for payment in full. The unpaid portion of the principal amount of the taxes due, including the costs, penalties, and interest, shall be due and payable immediately upon entry of the order for payment in full and shall thereafter be subject to interest as it applies to delinquent income and franchise taxes and to the delinquent account fee.

3. **Definition of Timely Filed Revised to Include Private Delivery Services** (2005 Act 49, amend secs. 71.80(18), 77.61(14), 78.22(4), 139.03(2x)(d), 139.05(2a), 139.315(4), and 139.38(5), effective October 28, 2005).

Documents and payments required or permitted that are mailed shall be considered furnished, reported, filed or made on time, if mailed in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked, or marked or recorded electronically as provided under sec. 7502(f)(2)(c) of the Internal Revenue Code, before midnight of the date prescribed for such furnishing, reporting, filing or making, provided such document or payment is actually received by the department or at the destination that the department or the Department of Administration prescribes within five days of such prescribed date. Documents and payments that are not mailed are timely if they are received on or before the due date.

"Mailed" includes delivery by a delivery service designated under sec. 7502(f) of the Internal Revenue Code.

**Note:** This provision does not apply for estate tax purposes.

- 4. Certain Audit Requirement Eliminated** (2005 Act 49, amend sec. 110.20(8)(e), effective October 28, 2005).

The requirement that the Department of Revenue annually audit records of persons under contract with the Department of

Transportation to perform emissions test and equipment inspection of nonexempt vehicles has been eliminated. [!\[\]\(cbe80b694ebd74fcfe136a095b608235\_img.jpg\)](#)

---

## **Forms Ordering Process Change Tax Form Order Blank Replaced by On-Line Forms Ordering**

As of November 1, 2005, forms ordering became much easier! All Wisconsin tax forms may be ordered on-line on a new Department of Revenue (DOR) web page. In addition, a direct debit option is available for orders that require payment.

To place an order, link to the on-line order form from DOR's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). Click on "Forms," then "2005 Income Tax," and then the "Request Form" link. Orders are expected to be filled in late December and early January.

As most tax preparers will be able to take advantage of the speed and convenience of ordering forms on-line, DOR will no longer be sending out tax form order

blanks to be completed and returned. Those tax preparers without Internet access may request an order blank by writing to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949; or calling (608) 266-1961. Please do not submit a copy of a 2004 order blank instead of placing an on-line order or requesting a 2005 order blank.

Package WI-X may also now be ordered on-line, using the link described in the previous column. As an alternative to ordering forms, most forms in Package WI-X may be reproduced. Package WI-X will be mailed separately in late January (see the article titled "2005 Package WI-X Available in January" on page 28 of this Bulletin, for more information). In addition, 2005 Wisconsin income tax forms will be available at some libraries. [!\[\]\(870f5d5e9c0d57485634be3ecf52f3ca\_img.jpg\)](#)

---

## **Reminders for Tax Practitioners – Mailing Addresses and Direct Deposit Information**

With the increase in the number of electronically filed returns received this past filing season, the Department of Revenue (DOR) encountered a significantly larger volume of direct deposit rejects from banks and undeliverable refund checks from the Post Office. A majority of the returns that generated the rejects and returned checks were prepared by tax practitioners.

When a direct deposit reject occurs, the refund must be issued via a paper check instead. This adds approximately one month to the time it takes to receive a refund. Undeliverable refund checks are held until DOR is contacted with correct address information.

The following reminders for the upcoming filing season are offered by DOR to tax practitioners, so they may better serve their customers:

- Verify the customer's current mailing address.
- When a customer elects a direct deposit of their refund, verify the accuracy of their bank routing number and account number. A check is the best document to use to verify the routing number, as this information is not always correct on a deposit slip.

Following the above steps will help customers receive their refunds timely, and in the manner they have elected. [!\[\]\(b64b40baaee5acddc1eab8538ba84754\_img.jpg\)](#)

---

## **Administrative Rules in Process**

Listed on page 9 are administrative rules that are currently in the rule promulgation process. The rules are shown at their stage in the process as of October 15,

2005, and at each step where action occurred during the period from July 2, 2005, through October 15, 2005.

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

### Scope Statement Published

1.12 Electronic funds transfer – A (published October 15, 2005)

1.15 Enforcement of rules and guidelines as they apply to a small business – NR (published July 31, 2005)

2.04 Information returns and wage statements – A (published October 15, 2005)

2.50 Apportionment of net business income of interstate public utilities – A (published August 31, 2005). [☞](#)

## Businesses to Be Contacted Concerning Filing Sales and Use Tax Returns Electronically

The department will begin mailing letters to businesses that currently file their sales and use tax returns on paper. This letter will identify three ways to file returns electronically: (1) Sales Internet Process (Internet filing application); (2) XML File Transfer; and (3) Sales TeleFile (via touch-tone phone).

The advantages of filing electronically are:

- **More accurate.** The computer does the arithmetic and eliminates errors.

- **More certain.** E-filing acknowledges that your return was received and is on file.
- **Better business.** Avoid interest payments because e-filing results in fewer return adjustments.
- **More cost efficient.** E-filing efficiencies make each tax dollar go further by reducing processing costs.

The letter explains each method of electronic filing in more detail and provides notice to the business to begin filing electronically within 90 days. Businesses will be able to contact the department to indicate circumstances as to why the requirement causes an undue hardship. The letters will be sent over the next twelve month period. [☞](#)



## Wisconsin Tax Bulletin Annual Index Available

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

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

The latest *Wisconsin Tax Bulletin* index available appears in *Wisconsin Tax Bulletin* 141 (January 2005), pages 42 to 75. It includes information for issues 1 to 140 (through October 2004). [☞](#)



## Sales and Use Tax Report Mailed

The September 2005 *Sales and Use Tax Report* (2-05) was sent in late September and early October to all persons registered for Wisconsin sales and use tax purposes. The *Sales and Use Tax Report* contains summaries of recent sales and use tax law changes in addition to other pertinent sales and use tax information.

The revision to the Report appears in section IV.H. The prior version incorrectly stated that the state rental vehicle fee applies to the gross receipts on the rental of “...certain motor vehicles, trucks, trailers, buses, mobile homes and camping trailers...” The revised version states that the fee applies to the gross receipts on the rental of “...Type I automobiles, mobile homes, motor homes, and camping trailers...” [☞](#)

A revised Report was posted on the Department of Revenue’s (DOR’s) web site on September 23, 2005. A copy of the revised Report appears on pages 31 to 34 of this Bulletin. It is also available on DOR’s web site at [www.dor.state.wi.us/ise/sales/05-2.pdf](http://www.dor.state.wi.us/ise/sales/05-2.pdf).

## Magnetic Media/Electronic Filing Required for Some Forms

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

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

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

Wisconsin Publication 509, *Filing Wage Statements and Information Returns on Magnetic Media or by Electronic Transmission*, provides more information about magnetic media and electronic filing. For information about how to obtain this publication, see the article titled “Tax Publications Available” on page 26 of this Bulletin. [🔗](#)

---

## Making Corporation Estimated Tax Payments

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

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

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

Estimated tax payments can be made by EFT. Taxpayers that make estimated tax payments by EFT do not need to complete the Form 4-ES. For more information about EFT payments, call (608) 264-9918; write to Wisconsin Department of Revenue, P.O. Box 8949, Madison, WI 53708-8949; or visit the department’s web site, [www.dor.state.wi.us](http://www.dor.state.wi.us). This site also provides information about forms and filing requirements. [🔗](#)

---

## Verification Needed for the Veterans’ and Surviving Spouses’ Property Tax Credit

A new credit is available to certain veterans and surviving spouses for taxable years beginning in 2005. The credit is equal to the amount of property taxes paid during the year on the veteran’s or surviving spouse’s principal dwelling located in Wisconsin. See page 8 of *Wisconsin Tax Bulletin* 144 (September 2005) for information on eligible veterans and surviving spouses.

The Wisconsin Department of Veterans Affairs is responsible for verifying that veterans and surviving spouses qualify for the credit. The veterans or surviving spouses must request this verification from the Department of Veterans Affairs before filing their Wisconsin income tax returns. A copy of the verification must be attached to the Wisconsin income tax return on which the credit is claimed.

Use Form WDVA 2097 (which you can find in WDVA Brochure B0106) to submit your request, along with a copy of the veteran’s DD Form 214 and Veterans Administration disability award letter and, if applicable, the veteran’s death certificate, a marriage certificate, and a completed copy of Form WDVA 0001 (if the veteran never previously submitted one).

WDVA Brochure B0106 and Form WDVA 2097 are available from your county veterans service officer or on the Internet at [www.dva.state.wi.us](http://www.dva.state.wi.us). You may submit Form WDVA 2097 and supporting documents to your county veterans service officer or mail them to: Wisconsin Department of Veterans Affairs, 30 West Mifflin St., P.O. Box 7843, Madison WI 53707-7843. If you qualify, the Wisconsin Department of Veterans Affairs will send you verification of your eligibility. [🔗](#)

## Electronically Filed Homestead Credit Information

The fourth year for filing homestead credit claims electronically (e-filing) saw a 27% increase over the amount of electronically filed claims for 2003. To date, 89,270 claimants filed their 2004 homestead credit claims electronically, which is more than 37% of the total number of homestead credit claims filed so far for 2004.

Approximately 73,316 (82%) of the claims filed electronically were filed through a preparer, 9,357 (11%) were filed using vendor software, and 6,597 (7%) were filed using the Wisconsin Free-File fill-in-the-form web site application.

Of the 89,270 e-filed homestead credit claims, 75,011 (84%) finished processing **within five business days**. The remaining 14,259 (16%) were selected for review. Of the claims selected for review, 1,207 (8%) needed letters for additional information, and 2,688 (19%) needed letters to obtain missing Form W-RAs with required attachments.

**Avoid delays** - Many of the claims selected for review could have avoided selection if the property tax bill information, rent certificate information, household income information, and/or homestead notes and attachments checklist information had been entered completely and correctly before transmitting the claim. For more information on providing the necessary information, see [www.dor.state.wi.us/eserv/hcfiling.html](http://www.dor.state.wi.us/eserv/hcfiling.html).

Follow the tips below to avoid some of the errors and delays experienced this year. (**Note:** Schedule H and rent certificate line references are to the 2005 Schedule H and rent certificate.)

### Form W-RA Information Tips

- The Form W-RA, *Required Attachments for Electronic Filing*, must be mailed to the Wisconsin Department of Revenue with the required homestead credit documentation **within 48 hours of Wisconsin acknowledgment**. Not receiving the Form W-RA is the main reason delays occur.
- Put Form W-RA as the front document, with attachments stapled behind. (**Hint:** Attachments include wage statements [Forms W-2] and Forms 1099-R, original rent certificate(s), copy of 2005 property tax bill(s) and/or closing statement, and

any other document or note needed per the homestead credit instructions.)

- Do not mail a paper copy of the electronically transmitted income tax return or homestead credit claim. This will cause delays.
- Do not staple two or more claimants' Form W-RAs and attachments together.
- Do not mail Form W-RA before receiving the Wisconsin acknowledgment. (**Hint:** Be sure you mail it to the correct address, listed below.)
- Send Form W-RA and ALL of the required attachments to:

### Using U.S. Postal Service

Wisconsin Department of Revenue  
P.O. Box 8977  
Madison, WI 53708-8977

### Using another service

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

### Property Tax Bill Information Sheet Tips

- Enter the information **exactly** as it is shown on the property tax bill (year, name of owner, type of owner, address of property, assessed land valuation, assessed improvement valuation, number of acres [if shown], taxes before lottery/gaming credit, and lottery/gaming credit [if shown]). (**Hint:** By not providing all of this information, a claim will be rejected because information needed to calculate allowable taxes is missing.)
- Do not reduce the taxes for ownership percentage, personal use percentage, or acreage adjustment when entering the taxes on the property tax bill information sheet. (**Hints:** The property tax reductions for acreage and personal use percentage should be done on Schedules 1 and 2 on page 3 of the Schedule H and then entered on line 13 of Schedule H. The reduction for ownership percentage should be done when allowable taxes are entered on line 13 of Schedule H.)
- Indicate "Self and/or spouse" as the ownership type if the claimant or spouse has a life estate ownership interest in the homestead property.

- Enter the address of the property exactly as shown on the property tax bill. (**Hints:** Enter N, S, E, or W as shown on the property tax bill, and do not enter a rural route address when the property tax bill shows a street address; for example, use W4459 Center Road rather than RR 2.)
- Use the “Adjoining Property Tax Bill Information” section when there is more than one property tax bill. (**Hint:** Be sure to enter number of acres, assessed valuation of land, assessed valuation of improvements [if any], and the property tax amount.)
- Only enter dates of occupancy when a home was purchased or sold during the year.
- When a home was sold during the year, enter the date of sale, allocated property taxes, selling price, selling expenses from the closing statement, and adjusted basis of the home sold in the correct data fields.
- Do not enter property tax bill information when line 10b of the rent certificate has an amount that should be entered on line 13 of Schedule H. If software requires you to enter property tax bill information when line 10b of the rent certificate has an amount, contact the software company. The software should allow for this situation.
- Enter the month and day when entering the dates of occupancy on line 4 of the rent certificate (01-January/01-1<sup>st</sup>). Do not enter the month and year (01-January/05-2005). (**Hint:** By incorrectly entering the month and year, the days of occupancy and allowable rent cannot be correctly computed.)
- Enter the information exactly as it is shown on the rent certificate. (**Hint:** If software automatically computes and enters the rent for lines 11c, 11e, and 13a of the rent certificate, verify that the amounts are the same as shown on the original rent certificate. If they are not, you must override the amounts so they match the amounts on the original rent certificate.)
- When the box for line 9b of the original rent certificate is checked, be sure to check it on the rent certificate information sheet.
- Each column for line 11b of the electronic rent certificate has 2-byte data fields for months and 2-byte fields for days. (**Hint:** Only use the “days” data fields when the rent certificate shows a fraction of a month or a number of days on line 11b; for example, enter 10 1/2 months as “10” months and “15” days.)
- Complete the “Shared Living Expenses Schedule” section of the electronic rent certificate when the rent certificate shows more than one occupant and each occupant did not pay an equal share of the rent. Amounts for each type of expense in columns a and b must be listed (rent, food, utilities, AND other).

### Rent Certificate Information Tips

- Claim only the claimant’s share of rent on lines 14a and 14c of Schedule H.
- Only claim rent that is properly documented by a signed rent certificate or, if the rent certificate is not signed, by copies of money orders or cancelled checks.
- Do not indicate that the landlord will not sign the rent certificate when you have a landlord signed rent certificate. (**Hints:** Do not enter rent certificate information without an original landlord signed rent certificate. If a landlord signed rent certificate is not provided when you are preparing the claim, obtain one from the claimant before proceeding with the claim.)
- If the landlord will not sign a rent certificate, indicate this and complete all of the required information for both the claimant and landlord. Mail copies of each cancelled check or money order receipt to verify the rent paid along with Form W-RA, *Required Attachments for Electronic Filing*.

### Tax and Rent Information Tip

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

### Household Income Information Tips

- Include the distributive share of partnership, limited liability company (LLC), and tax-option (S) corporation depreciation, Section 179 expense, depletion, amortization, and intangible drilling costs on line 11g of Schedule H. (**Hints:** Do not include it on line 11h or 11i. Use Homestead Credit Note #3, if none.)



- Include depreciation from federal Schedules C, C-EZ, E, F, and federal Form 8829 on line 11i of Schedule H. Also include on line 11i depreciation from federal Form 2106 that is claimed in the “Adjusted gross income” section of federal Form 1040 as an expense of a reservist, qualified performing artist, or fee-basis government official.
- Include mileage depreciation for car and truck expenses (when the standard mileage rate was used to compute the expense) on line 11h of Schedule H. (**Hints:** Use Homestead Credit Note #4 to indicate the number of miles that were used in computing the expense. Use Homestead Credit Note #6 to indicate the car and truck expenses were computed using actual expenses.)
- Include nontaxable pension and annuity income on line 9d of Schedule H. (**Hint:** Use Homestead Credit Note #9 if a rollover or tax-free exchange occurred.)
- Include deferred compensation labeled with D, E, F, G, H, S, or Y (from box 12 on a wage statement) on line 9e of Schedule H.
- Include the gain from the sale of a home that is excluded under I.R.C. Section 121 on line 11c of Schedule H (even though this is not taxable income, it is includable in household income).
- Include child support, maintenance payments, and other support money on line 9i of Schedule H.
- Properly identify “other” subtraction amounts with the correct two-digit code number provided in the Form 1 instructions.

### Homestead Notes and Attachments Tip

Use the Homestead Credit Notes when needed. (Hint: “Needed” includes situations per the Schedule H instructions such as, (a) relating to low income, (b) either claimant and/or spouse is age 65 or over and did not receive social security, (c) distributive share of tax-option (S) corporation, partnership, and LLC depreciation, Section 179 expense, depletion, amortization, and intangible drilling costs is “None,” (d) less than 12 months of property taxes/rent, (e) IRA/pension/annuity rollovers, (f) married, divorced, or separated during year, (g) lottery/gaming credit not claimed or allowed separately from tax bill, moved during the year, etc.) [🔗](#)



### Pointers for Withholding Tax Reporting

- ☐ Make withholding deposits by Electronic Funds Transfer (EFT). It is quick, easy, and allows you to receive confirmation that your payment was received. For more information visit [www.dor.state.wi.us/eserv/eftgen.html](http://www.dor.state.wi.us/eserv/eftgen.html).
- ☐ If you can’t use EFT to report a liability and make deposits, use the department pre-printed vouchers (WT-6). The pre-printed vouchers should be used whenever possible, as vouchers need to be a specified size and have information in specific places in order to process through imaging equipment.
- ☐ Write your six-digit Wisconsin Employer Identification Number (WEIN) on the memo portion of your check or check stub.
- ☐ Do not include correspondence with Form WT-6 unless it is absolutely necessary. Correspondence slows down the processing of the payment. If you need to report an address change, use the pink address change cards provided with the vouchers.
- ☐ If you no longer have employees, contact the department at (608) 266-2776 to inactivate your account. Do not send WT-6 vouchers reporting zero liability if your account has been inactivated, as this makes unnecessary work for the department.
- ☐ File your Form WT-7 using one of the department’s electronic filing options at [www.dor.state.wi.us/html/with.html](http://www.dor.state.wi.us/html/with.html). It is free, fast, and safe! It also provides confirmation that the department received your return.
- ☐ If you can’t file Form WT-7 electronically, use the department pre-printed Employers Annual Reconciliation (WT-7) form. The pre-printed form should be used whenever possible, as this form is processed through data imaging equipment and needs to be printed with specific spacing and data. [🔗](#)



## 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 Taxpayer Services Division. A comprehensive listing of telephone numbers and addresses appears in *Wisconsin Tax Bulletin* 142 (April 2005), pages 20 to 23.

### 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 .....	266-2776
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



## Wanted: Your Comments About the *Wisconsin Tax Bulletin*

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

How could the department improve on the information it publishes? What topics do you want covered or expanded? Do you have particular likes or dislikes about the WTB? Do you have ideas, comments, or suggestions you'd like to share?

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



## Guidelines for Reproduced and Substitute Tax Forms

Tax returns may generally be filed on forms that have been reproduced or on substitute forms that have been approved by the department. However, certain guidelines must be followed to ensure that the reproduced or substitute forms are compatible with the department's processing system.

A copy of the "Guidelines for Reproduced and Substitute Tax Forms" appears on pages 35 through 38 of this Bulletin. The guidelines are also on the department's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). Click on "Forms" and then "Reproduced and Substitute Tax Forms," which may be found under the heading "Tax Return Guidelines."

## Sales Tax Exemption Replaces Manufacturer's Sales Tax Credit

Beginning January 1, 2006, a sales and use tax exemption applies for fuel and electricity consumed in manufacturing tangible personal property in Wisconsin. To claim this exemption, manufacturers will need to determine the amount of fuel and/or electricity that is consumed in manufacturing and provide an exemption certificate to the supplier of the fuel and/or electricity. The *Wisconsin Sales and Use Tax Exemption Certificate* (Form S-211) has been revised to allow manufacturers to claim exemption from Wisconsin sales and use tax on the percentage of fuel and electricity that is exempt. The revised form can be obtained from the Department of Revenue's web site at: [www.dor.state.wi.us/forms/sales/s-211.pdf](http://www.dor.state.wi.us/forms/sales/s-211.pdf).

The amount of fuel and/or electricity that qualifies for exemption from Wisconsin sales and use tax beginning January 1, 2006, should be calculated in a similar manner as was previously used to calculate the amount of fuel and/or electricity that qualified for the manufacturer's sales tax credit for tax years beginning prior to January 1, 2006. When making the determination as to the amount of fuel and/or electricity that qualifies for exemption, the following rules should be kept in mind:

- Fuel and electricity "consumed in manufacturing" means only fuel and electricity used to operate machines and equipment used directly in the step-by-step manufacturing process. Fuel and electricity are not "consumed in manufacturing" if they are used in providing plant heating, cooling, air conditioning, communications, lighting, safety and fire prevention, research and product development, receiving, storage, sales, distribution, warehousing, shipping, advertising, or administrative department activities. However, fuel and electricity used directly in manufacturing steam which is used by the manufacturer in further manufacturing or in heating a facility, or both, is consumed in manufacturing.
- Purchasers (other than purchasers holding a direct pay permit) are not allowed to claim 100% exempt usage for fuel or electricity when they know at the time of purchase that the exempt usage will be less than 100%. The exemption percentage claimed should represent the buyer's best estimate of the exempt usage and should be calculated and claimed on a meter-by-meter basis

for each meter that is measuring electricity and/or natural gas consumption.

- If a purchaser provides a properly completed exemption certificate to a seller and the seller accepts that certificate in good faith, the seller of the fuel and/or electricity is not liable for the sales tax on the gross receipts from the sale of the fuel and/or electricity which the purchaser has indicated is exempt on the exemption certificate.
- If a purchaser provides an exemption certificate to a seller, the seller does not charge sales tax on that portion of the fuel and/or electricity which the purchaser has indicated is exempt from tax on the exemption certificate, and the purchaser subsequently uses the fuel and/or electricity in a taxable manner, the purchaser is responsible for self-assessing and remitting use tax on the taxable portion of the fuel and/or electricity originally purchased without tax.
- If a purchaser pays sales or use tax on fuel and/or electricity that is used in an exempt manner, the purchaser may claim a refund of those sales or use taxes. The purchaser may request the seller to refund the sales or use tax paid to the seller in error or, under certain circumstances, the purchaser may file a claim for refund of these taxes directly with the Department of Revenue. See Wisconsin Publication 216, *Filing Claims for Refund of Sales or Use Tax*, for additional information.
- Electricity and/or natural gas is considered sold at the time of billing as provided in sec. 77.54(30)(b), Wis. Stats. (2003-04). If the billing is being made by mail, the time of billing is the day on which the billing is mailed. Therefore, electricity and/or natural gas that is metered prior to January 1, 2006, but which is billed on or after January 1, 2006, may qualify for the new exemption.
- Sales of fuels other than natural gas are considered sold when possession of the fuel is transferred from the seller or seller's agent to the purchaser or purchaser's agent as provided in sec. 77.51(14r), Wis. Stats. (2003-04). Therefore, fuels other than natural gas that are delivered to the purchaser prior to January 1, 2006, will not qualify for the new exemption, regardless of when the purchaser is billed for these fuels.


See the Department of Revenue's web site for questions and answers relating to the exemption for fuel and electricity consumed in manufacturing ([www.dor.state.wi.us](http://www.dor.state.wi.us), then click on "FAQs" – frequently asked questions).

### **Manufacturer's Sales Tax Credit for Income and Franchise Tax Purposes**

Prior to January 1, 2006, sales of fuel and/or electricity consumed, destroyed, or losing its identity in the manufacture of tangible personal property generally are not exempt from sales or use tax. Instead, a business may claim a franchise or income tax credit for the sales and use taxes paid on fuel and/or electricity consumed in manufacturing tangible personal property in Wisconsin.

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 taxable years beginning in 2006 and 2007. Any remaining credits may be used in future taxable years within the 20-year carryforward period.

**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. For taxable years that begin after December 31, 2007, a manufacturing investment credit will be available to businesses certified by the Department of Commerce. 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. 

---

### **Federal Provisions Relating to Health Savings Accounts Continue to Not Apply for Wisconsin**

The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173), was enacted December 8, 2003. This federal Act amended the Internal Revenue Code (IRC) and provided for the establishment of health savings accounts. Since the federal provisions relating to health savings accounts were enacted during 2003, they did not apply for Wisconsin. See related article on page one of *Wisconsin Tax Bulletin* 140 (October 2004).

For tax years beginning in 2005, Wisconsin generally follows the IRC as amended to December 31, 2004. An exception to this treatment is the federal provisions in the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 relating to health savings accounts. Therefore, these provisions continue to not apply for Wisconsin for taxable years beginning in 2005.

### **Effect of Wisconsin Not Following Federal Law Changes Relating to Health Savings Accounts**

- A deduction is not allowed for the amount contributed to a health savings account for an individual.
- Earnings on the health savings account are taxable to the individual.
- Amounts distributed from the health savings account are not taxable to Wisconsin, regardless of whether or not the amount is used to pay medical expenses.
- Medical expenses paid with a distribution from a health savings account are allowed in the computation of the Wisconsin itemized deduction credit.
- A rollover from an Archer medical savings account to a health savings account results in a taxable transaction.
- Amounts contributed by an employer to a health savings account for an employee are taxable wages to the employee.
- Amounts contributed to a health savings account pre-tax by an employee under sec. 125, IRC (cafeteria plan), are taxable wages for Wisconsin.

## Employers Must Notify Employee on W-2 Wage Statement

Contributions to a health savings account that represent additional wages to an employee for Wisconsin purposes can be reported to employees by either:

- (1) including the amount that is taxable for Wisconsin purposes (but not taxable for federal purposes) in Box 16 of the 2005 Form W-2, or
- (2) providing employees with a supplemental “Wisconsin only” 2005 Form W-2 with the taxable health savings account benefits shown in Box 16.

## Where to Adjust for Differences Between Wisconsin and Federal Law

Individuals should use Wisconsin Schedule I (titled “Adjustments to Convert 2005 Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin”) to adjust for differences between the Wisconsin and federal income tax treatment of health savings accounts.

Schedule I is available from any Wisconsin Department of Revenue office. Schedule I is also available from the department’s Internet web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). (Note: The 2005 Schedule I instructions will be available on the department’s web site in December.) [🔗](#)

## Coming This January...Corporation Electronic Filing

Beginning in January, businesses will be able to electronically file their Wisconsin corporation franchise and income tax returns with their federal returns in a single electronic transmission. This new federal/state e-filing service will permit returns to be prepared using approved third-party software. The returns will be transmitted through a secure Internet site accessible only to registered users using Extensible Markup Language (XML) technology. Attachments will be transmitted as scanned documents in .pdf format.

Electronic filing offers the following advantages:

- One point of contact for filing federal and Wisconsin returns.
- Acknowledgement that the federal and Wisconsin returns have been received.
- Electronically filed returns have proven to be more accurate than returns filed on paper.

- Electronic filing makes the processing and storage of returns more cost-effective for the Department of Revenue (DOR), thereby making tax dollars go further.

The Internal Revenue Service (IRS) has regulations in place requiring that, starting in 2006, certain corporations and tax-exempt organizations electronically file their federal returns. More information concerning these requirements, as well as other information concerning electronically filing federal returns, may be found on the IRS’s web site at [www.irs.gov](http://www.irs.gov). Although the electronic filing of Wisconsin corporation franchise and income tax returns is currently not required, corporations filing their federal returns electronically are encouraged to also file electronically for Wisconsin.

The Department of Revenue is working with the IRS and the Federation of Tax Administrators (FTA) to develop the federal/state electronic filing service. Look for updates in future issues of the *Wisconsin Tax Bulletin* and on-line at [www.dor.state.wi.us/eserv/corp.html](http://www.dor.state.wi.us/eserv/corp.html). [🔗](#)



## Endangered Resources Contributions Decrease in 2005

The 2004 Wisconsin income tax returns included a line for taxpayers to designate a contribution to the Wisconsin Endangered Resources Fund. These contributions help protect and care for Wisconsin’s endangered species, nongame wildlife, and rare plant and animal habitats.

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

During July 2004 through June 2005 (primarily 2004 returns), 33,287 taxpayers contributed \$544,911 to the Endangered Resources Fund. This compares with 2003 income tax returns, where 39,452 taxpayers contributed \$629,895. [🔗](#)



## Procedures for Withholding Tax from Nonresident Members of Pass-Through Entities

Pursuant to sec. 71.775, Wis. Stats., a pass-through entity that has Wisconsin income for the taxable year is required to pay withholding tax on the income passed through to a nonresident partner, member, shareholder, or beneficiary.

This statute was created by 2005 Wisconsin Act 25, effective for taxable years beginning on or after January 1, 2005. See page 23 of *Wisconsin Tax Bulletin* 144 (September 2005) for details of the statute's provisions.

Following is a summary of how this new law will be implemented:

### *Form PW-1*

The pass-through entity withholding tax will be reported on Form PW-1. Form PW-1 is due, with payment, on the unextended due date of the pass-through entity's Wisconsin income or franchise tax return.

A draft of Form PW-1 will soon be available on the Department of Revenue web site at [www.dor.state.wi.us](http://www.dor.state.wi.us).

### *Electronic Filing and Payment*

The pass-through entity withholding tax will be filed and paid by electronic means. If filing or payment by electronic means presents an undue hardship, paper filing and payment will be permitted. New administrative rules are in process to set forth the e-filing requirement and procedures necessary to request paper filing and mailing payment. See page 9 of this Bulletin for details of these and other administrative rules in process.

### *Nonresident Partner, Member, Shareholder, or Beneficiary Procedures*

Pass-through entities will notify each nonresident partner, member, shareholder, or beneficiary of the withholding tax paid by including it on the Schedule 3K-1, 5K-1, or 2K-1 issued to that partner, member, shareholder, or beneficiary. The nonresident will then report the pass-through entity withholding tax paid as a credit on its Wisconsin income or franchise tax return.

Alternatively, if the pass-through entity files a composite return (Form 1CNS or 1CNP), the withholding tax for all members of the composite return will be credited against the total tax liability of those members.

In order to substantiate the credit for withholding tax paid, the nonresident must attach a copy of Schedule 3K-1, 5K-1, or 2K-1 to its income or franchise tax return. This requirement does not apply to taxpayers reporting on Form 1CNS or 1CNP.

### *Changes to Existing Tax Forms*

On Schedules 3K-1, 5K-1, and 2K-1, a line will be added in the credits section for "Wisconsin tax withheld."

On Forms 4 and 4T, a line will be added underneath the line for estimated tax payments, for "Wisconsin tax withheld from pass-through entities." For Forms 1CNS and 1CNP, the line for estimated tax payments will be replaced by a line for "Wisconsin tax withheld."

On Form 1NPR, no changes will be made. However, the line for Wisconsin income tax withheld should include the pass-through entity withholding tax. The instructions to Form 1NPR will include a reminder to take credit for the amount withheld by pass-through entities.

### *Transitional Provisions*

For nonresident partners, members, shareholders, or beneficiaries who have made estimated tax payments for 2005, the pass-through entity withholding may be reduced by these estimated payments.

For calendar year pass-through entities, the withholding amount may be reduced by estimated payments made by nonresidents on their share of the pass-through income for the pass-through entity's calendar year 2005. For fiscal year pass-through entities, the withholding amount may be reduced by estimated payments made in 2005 by nonresidents on their share of the pass-through income for the pass-through entity's tax year beginning in 2005.

The pass-through entity must maintain documentation of the estimated payments credited against withholding for all nonresident partners, members, shareholders, or beneficiaries.

Pass-through entities that completely liquidated prior to October 31, 2005 are not required to file Form PW-1.




***Exemption for Pass-Through Income Under \$1,000***

Withholding is not required if the partner, member, shareholder, or beneficiary has no Wisconsin income other than his or her share of Wisconsin income from the pass-through entity and that share of such income is less than \$1,000.

For purposes of this exemption, the \$1,000 threshold is computed as the Wisconsin taxable income of the pass-through entity reportable to that partner, member, shareholder, or beneficiary for the year, without regard to carryforwards of prior year losses.

The pass-through entity may presume that a nonresident partner, member, shareholder, or beneficiary has no Wisconsin income other than the amount passed through the entity. The nonresident is not required to notify the pass-through entity of other sources of Wisconsin income.

Additional information on this withholding requirement will soon be available in the FAQs (frequently asked questions) section of the Department of Revenue web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). 


**Streamlined Sales Tax Governing Board Organized; 18 States Enact Conforming Legislation**

On October 1, 2005, the Streamlined Sales Tax Governing Board was incorporated. Eighteen states that have enacted all of the conforming legislation required by the Streamlined Sales and Use Tax Agreement have organized themselves into the Governing Board. The 18 states are: Arkansas, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Utah, West Virginia, and Wyoming. In addition, Nevada will become the 19th member of the Governing Board on January 1, 2006.

The Governing Board was incorporated as a non-profit organization that will manage the Streamlined Sales and Use Tax Agreement. The Governing Board has drafted

by-laws and operating rules. It conducts its business through two councils: (1) State and Local Advisory Council and (2) Business Advisory Council.

Also on October 1, 2005, the 18 states that formed the Governing Board announced an amnesty period of one year for sellers to come forward and begin collecting sales and use taxes. Under the amnesty, there are no back taxes due on the registering seller, regardless of the nexus of that seller in the 18 states, provided the seller had received no audit notices from the states. As of October 25, 2005, one hundred sellers had taken advantage of the amnesty and registered to collect sales and use taxes in the 18 states.

The Wisconsin Legislature has not yet enacted the legislation necessary to become part of the Governing Board. 


**Refund Interception Program Continues to Grow**

The fiscal year ending June 30, 2005, saw continued growth for the Wisconsin Department of Revenue's refund interception program for state agencies and local governments. The program brought in more than \$34 million for the 308 state, federal, county, and municipal agencies that participated in the program, up 6% from last year, while enrollment increased by 24%.

First authorized in the early 1980's, the program was initiated to allow the department to intercept state tax refunds and refundable credits for debts owed to other state agencies. The program, later expanded to include local governments and the IRS, replaced the original modem-based information exchange system with an Internet-based application that made data exchange considerably easier. This change in technology, as well

as other modifications, resulted in tremendous growth for the program, and new agencies continue to enroll at a steady pace.

The program is currently undergoing a complete facelift that will make participation even easier and more efficient. Plans include a redesign of TRIP, the Internet-based application used to exchange debtor information, which will result in increased reporting options and more "user friendly" information display. Additionally, the technology architecture behind the program will be updated to eliminate system limitations and make administration of the program easier for both the Department of Revenue and the client agencies.

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

## Disaster Relief Payments: Wisconsin Sales and Use Tax Treatment

The Federal Emergency Management Agency (FEMA) and the American Red Cross (ARC) have been providing relief to Hurricane Katrina and other disaster victims by distributing funds to those in need. Based on information from FEMA and ARC, nearly \$800 million has already been distributed to disaster victims. Funds are being distributed to disaster victims using various methods including: (1) making electronic transfers directly into a disaster victim's bank account; (2) issuing U.S. Treasury checks to a disaster victim; (3) issuing FEMA debit cards to a disaster victim; (4) providing the disaster victim with an ARC Disbursing Order (ARCD O); and (5) providing the disaster victim with a Client Assistance Card (CAC). The Wisconsin sales and use tax treatment of purchases made using each of these payment methods is described below.

### FEMA Electronic Funds Transfer and U. S. Treasury Checks

Purchases made by disaster victims with funds from FEMA that have been electronically transferred into an individual's bank account or received by the individual in the form of a U.S. Treasury check are subject to Wisconsin sales or use tax in the same manner as any other purchase made by that individual.

For example, Individual A is a victim of Hurricane Katrina and receives funds from FEMA through an electronic funds transfer directly into Individual A's bank account. Individual A uses these funds to purchase gasoline for his automobile and a meal at a restaurant. Individual A's purchase of the gasoline for his automobile is not subject to Wisconsin sales tax since gasoline for automobiles is generally not subject to Wisconsin sales tax. Individual A's purchase of the meal is subject to Wisconsin sales tax. The fact that these purchases are made with funds that were provided to Individual A by FEMA does not affect the taxability of the transactions.

### FEMA Issued Debit Cards

In addition to providing funds to disaster victims using electronic funds transfer and U.S. Treasury checks, FEMA also had a pilot program in which they provided approximately 8,500 debit cards to some of the victims. The debit cards were set up in the victim's name and "pre-loaded" with \$2,000 in spending authority. Purchases made by persons using the FEMA provided debit cards that have been set up in the victim's name

are subject to Wisconsin sales or use tax in the same manner as any other purchase made by that individual.

### American Red Cross Disbursing Orders (ARCD Os)

An ARCD O is a voucher that ARC provides to a disaster victim for a specific vendor and is good up to a specified dollar amount. Although ARCD Os are mainly issued for lodging for the victims, ARC also issues ARCD Os for items such as groceries and clothing. A vendor that accepts an ARCD O submits a copy of the invoice or receipt showing what was purchased by the victim, along with a copy of the ARCD O, to ARC. (Note: If the purchase was for less than \$25 or was for groceries, a copy of the invoice or receipt is not required to be sent along with the ARCD O.) ARC then sends a check to the vendor to pay for the purchase. Purchases made using ARCD Os, as described above, are not subject to Wisconsin sales or use tax since these purchases are made by ARC. The vendor should keep a copy of the ARCD O and receipt and indicate ARC's Certificate of Exempt Status (CES) number on the receipt to prove that the sale qualifies for exemption from Wisconsin sales and use tax. The CES number for ARC is contained in the merchant instructions for the ARCD O.

### American Red Cross Client Assistance Cards (CACs)


American Red Cross Client Assistance Cards (CACs) are prepaid credit cards which ARC issues to some victims. Generally, CACs can be used anywhere that a MasterCard® is accepted and may be used to purchase any items other than alcohol, tobacco, and firearms.

When a CAC account is set up by ARC for a victim, the financial institution through which the CAC has been issued will remove the specified amount of funds from ARC's bank account and transfer the funds to the CAC account. The victim will then select a personal identification number (PIN) for the account and have approximately 15 days to spend the balance on the card. ARC reserves the right to deactivate or suspend the card at any time if misuse is suspected. In addition, any funds left on the card after a specified period of time are returned to ARC's bank account.

Purchases made using CACs are not subject to Wisconsin sales or use tax, provided the invoice for the purchase is made out in the name of ARC and the purchaser pays for the purchase using the CAC. The retailer should keep a copy of the CAC and receipt and indicate ARC's Certificate of Exempt Status (CES)

number on the receipt to prove that the sale qualifies for exemption from Wisconsin sales and use tax.

If you have any questions concerning sales to or purchases by disaster victims using funds from FEMA

or ARC, please feel free to contact the Wisconsin Department of Revenue at (608) 261-6261 or by e-mail at [sales10@dor.state.wi.us](mailto:sales10@dor.state.wi.us). 

## Preparers Help Bolster Electronic Filing

In the 2005 tax season, over 1,551,000 income tax returns were electronically filed with the Wisconsin Department of Revenue (DOR), through one of the four accepted e-file methods, an increase of about 8%. The success of the Wisconsin e-file program is due in large part to the participation and cooperation of tax practitioners who are approved Electronic Return Originators (EROs).

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


- Return less likely to be adjusted, because the data on e-filed returns are more accurate; the software performs mathematical calculations.
- Direct deposit is available only for e-filed Wisconsin returns.
- Refunds will be issued within one week for returns that need no additional review.
- Taxpayers receive acknowledgements of their returns being filed, from both DOR and the IRS.
- Balance due returns can be filed early in the season, but can be paid on April 15th.
- Electronic filing reduces processing costs for DOR, which benefits all taxpayers.
- Wisconsin allows electronic filing through October 15th for returns with extensions.

## How do tax practitioners become EROs with DOR?

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

These documents can be faxed to (608) 266-9829 or mailed to:

Wisconsin Department of Revenue  
Electronic Filing Office  
Mail Stop 5-77  
PO Box 8949  
Madison WI 53708-8949

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


## Internet Posting of Delinquent Tax Accounts

2005 Act 25 requires the Wisconsin Department of Revenue (DOR) to post information about delinquent taxpayers on the Internet if they owe over \$25,000 including tax, interest, penalty, fees, and costs, and the amount is unpaid more than 90 days after all appeal rights have expired. DOR will not post the accounts of taxpayers who have entered into an installment agreement, submitted a complete Petition for Compromise, or filed for bankruptcy. The Internet site, which will be on-line on January 3, 2006, will be updated each business day to account for cases that meet the non-posting criteria identified above, and quarterly

to add new accounts and remove accounts that are no longer over \$25,000.

Taxpayers eligible for posting were warned by letter on November 7, 2005, and given 30 days to resolve their account balances with DOR to avoid posting.

The site will also contain a separate list of the 100 largest delinquent accounts.

Information about the Internet posting of delinquent accounts may be obtained by visiting DOR's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us) or by calling (608) 266-7879. 



## Income Tax Refunds Issued

The 2005 income tax processing season once again saw direct deposit refunds for electronically filed returns achieve an average of 5 days to complete. The mailing of checks for paper returns not requiring adjustment averaged 35 days. Needless to say, the continued growth of electronic filing has enabled taxpayers to receive their refunds much more quickly than with paper filing. Electronic filing results in faster refunds than paper filing because electronic returns move through the department's computer systems more quickly and are more accurate than paper returns.

The department issued 2,153,054 refunds during the fiscal year ending June 30, 2005 (primarily 2004 returns). The average refund amount was \$524.00. The average refund for 2003 returns was \$560.58. Over 663,000 direct deposit refunds from e-filed returns were issued into taxpayers' accounts.

Here are some other comparisons:

	<b>Returns Received in 2005</b>	<b>Returns Received in 2004</b>
Number of individual income tax returns	2,912,325	2,931,925
Itemized deduction credit		
% of taxpayers claiming	27%	26%
Average credit	\$580	\$564
Homestead credit		
# of claimants	228,599	235,674
Average credit	\$504	\$503
Age 65 or older	40%	42%
Renters*	56%	57%
Homeowners*	48%	49%
*some claimants were both		
Farmland preservation credit		
# of claimants	20,043	20,442
Average credit	\$685	\$736
Earned income credit		
# of claimants	228,413	228,047
Average credit	\$341	\$338
Sales/use tax payments		
Amount collected	\$1,801,268	\$1,679,758
# of payers	25,761	25,885




## Wisconsin Free-File Experiences Continued Success

More than 91,700 taxpayers used Wisconsin Free-File (Free-File), the Department of Revenue's own electronic form and filing service, to file their 2004 Wisconsin individual income tax returns and homestead credit claims. Free-File provides on-line instructions and fill-in forms on which taxpayers can enter information and submit their return electronically. This year Free-File was once again very successful, with its use seeing an increase of more than 13% over last year.

Free-File was developed in response to taxpayers' comments about wanting a free electronic filing alternative. Free-File is for filing Wisconsin income tax returns and homestead credit claims only. Tax filers using Free-File must file their federal return with the Internal Revenue Service (IRS) separately, but they do need to enter some federal information to complete their state filing. While the department intends to eventually expand eligibility, Free-File currently does not support filers who file federal Schedules C, D, E, F, or federal Form 4797.

In most cases, Free-File is a paperless process with no requirement for a signature document. However, when instructions appear asking for supporting documentation, filers are required to submit Wisconsin Form W-RA, *Required Attachments for Electronic Filing*. Anyone claiming homestead credit is required to submit supporting documentation, as well as a few others with specific filing situations.

Free-File is used primarily by taxpayers that do not use a paid preparer. Free-File, like paper instructions and forms, does not compete with paid preparers and other tax professionals since it offers no tax preparation assistance or advice. The department will continue to value the partnerships it has with paid preparers, other tax professionals, and the vendors of full-featured tax preparation software.

Free-File is available from early January through October 15th each year, and may be accessed by visiting the department's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). 



## On-Line Business Tax Registration is Available

Businesses may request the most common business permits – seller's, withholding, consumer's and/or use tax – by completing and submitting Form BTR-101, *Application for Business Tax Registration*, electronically. This process enables businesses to receive their requested permits in a matter of days instead of weeks. Access the application in the E-Services section of the department's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us).

The normal purchase/processing fee of \$20 remains the same, but the turnaround time to process and mail the permits is significantly reduced. If a quicker turnaround is needed, an expedited service is available for an additional \$10.

The businessperson completes Form BTR-101 electronically and clicks on "File." A few days later, the registration information arrives in the mail. This process eliminates the need both for completing and mailing a paper application and for department staff to key the application information into the business tax registration system.

In addition to speeding up the turnaround time for permits, the system allows the businessperson to manage the company's permit account by updating mailing information, adding business locations, and adding additional tax types.

Questions about the application process may be directed to the department at (608)266-2776 or [sales10@dor.state.wi.us](mailto:sales10@dor.state.wi.us). [✉](#)

## Question and Answer



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

### (Individual Income Tax)

**Q** Does Wisconsin exempt any portion of military pay?

**A** Yes. Military pay which is exempt for federal tax purposes is also exempt for Wisconsin. For example, military pay which qualifies for the federal combat pay exclusion is also exempt for Wisconsin tax purposes.

Also, military pay received by certain members of the Reserves and National Guard may also be exempt for Wisconsin tax purposes. To qualify for the exemption, the military pay must have been:

- Received from the federal government,
- Received after being called into active federal service or into special state service authorized by the federal Department of Defense, and
- Paid to the Reserve or National Guard member for a period of time during which they were on active duty.

**Note:** This exemption only applies to members of the Reserves or National Guard who are called into active federal service under 10 USC 12302(a) or 10 USC 12304 or into special state service under 32 USC 502(f). However, it does not apply to pay that members of the Reserves and National Guard receive for their weekend or two-week annual training. It also does not apply to a person who is serving on active duty or full-time duty in the active guard reserve (AGR) program.

### (Sales and Use Tax)

**Q** Are shipping and handling charges subject to sales and use tax?

**A** Yes. When a seller charges a purchaser for the delivery of taxable tangible personal property, the seller's total charge, including any transportation and service charges, is subject to the sales or use tax. It is immaterial whether the delivery is made by the seller's vehicle, a common or contract carrier, or the United States Postal Service.

If a shipment contains both taxable and nontaxable property, the seller must make a reasonable allocation of the shipping charges attributable to the taxable and nontaxable property. The portion attributable to the nontaxable property is not subject to tax. If no allocation is made, the entire shipping charge is taxable. [✉](#)



## Enforcement Report

### Attorney General Peg Lautenschlager Announces Suit Against “Tobacco Deals” Owners Over Tax Proceeds

Attorney General Peg Lautenschlager announced in June 2005 the Wisconsin Department of Justice has filed suit in Milwaukee County against brothers Ali Shanaa and Asem Chanaa, both of Minnesota, and owners of cigarette and tobacco retail outlets called “Tobacco Deals,” over alleged non-payment of tax proceeds they collected on cigarette and other tobacco sales in Wisconsin.

The Shanaa/Chanaa brothers (who use two different spellings of their last name) operated a series of stores selling a variety of tobacco products. The state alleges that they collected sales tax proceeds but did not remit the required amounts to the state for the years 2001 and 2002. They are charged with the theft of approximately \$800,000.

The Attorney General’s Office initiated the charges following an investigation by the Wisconsin Department of Revenue’s Criminal Investigation Section, which believes the brothers obtained these products from out-of-state vendors and marketed them through their stores. The stores operated in several counties, primarily Milwaukee County, but with individual locations in Racine, Rock, and Dane Counties.

The maximum penalties faced by the defendants are a fine of \$10,000, incarceration of 38 years, or both.

---

### Elkhorn Man Sentenced for Failure to File Income Tax Returns

Robert A. Spangler, 54, of Elkhorn, Wisconsin, was ordered in June 2005 to serve three months in the Walworth County Jail for failure to file state income tax returns. Circuit Court Judge John R. Race also placed Spangler on three years probation, fined him \$500, and ordered him to file back tax returns and pay his tax liability.

Spangler pled guilty in April 2005 to charges that he had not filed Wisconsin income tax returns for the years 2001, 2002, and 2003.

Spangler was charged with the tax crimes in a complaint filed in December 2004 by the Walworth County District Attorney’s Office after an investigation by the

Wisconsin Department of Revenue’s Criminal Investigation Section.

According to the criminal complaint, Spangler had not filed state or federal income tax returns since 1995. The complaint alleges that the Wisconsin Department of Revenue had been in contact with Spangler in 1996, requesting him to file tax returns. Spangler refused, however, and responded to the department’s correspondence by either returning it marked “acceptance denied” or by sending back tax protestor documents.

In December 1998, Spangler sent the Department of Revenue a promissory note for \$18,936.22 to pay off an estimated assessment that had been issued due to Spangler’s failure to file income tax returns. The note was not drawn on any bank and did not have any value.

The complaint further alleges that, during the years 2001 through 2003, Spangler did carpentry work either as an independent contractor or as an employee for various companies, which included the Nippersink Golf Club, Stepanek Enterprises, and Ricchio, Inc. Spangler told Ricchio, Inc., not to withhold any income taxes from his earnings.

According to the complaint, Spangler received gross income of \$149,249.27 during the three years from 2001 through 2003 for which he paid no income taxes.

---

### Texas Man Convicted of Theft, Forgery, and Filing Fraudulent Income Tax Returns

Cleveland Lee, Sr., 55, of Houston, Texas, the former treasurer, business manager, and chief financial officer of the Harambee Community School in Milwaukee, was convicted in August 2005 of theft, forgery, and filing fraudulent state income tax returns after a five day jury trial. Lee was immediately taken into custody and a cash bail of \$200,000 was set.

Lee was prosecuted by the Milwaukee County District Attorney’s Office after an investigation by the White Collar Crime Unit of the District Attorney’s Office and the Criminal Investigation Section of the Wisconsin Department of Revenue.

According to the criminal complaint filed in January 2005, Lee embezzled at least \$467,749 from the Harambee Community School between January 2000 and March 2002 while he was an officer there. In addition, he was charged with evading \$34,366 in state

income taxes by filing fraudulent income tax returns for 1999, 2000, and 2001. The testimony during the trial showed that Lee's embezzlement went as far back as 1998 and that he embezzled up to \$644,000.

Lee obtained these funds by diverting school revenue streams for his personal benefit. This consisted of childcare payments from the Wisconsin Shares Child Care Subsidy Program; fees paid to the school for adult computer classes and computer consulting services; privately paid childcare payments; and \$7,350 in stolen charitable contributions, including contributions from the Steve Miller Foundation and the Albert & Flora Ellinger Foundation, Inc.

The complaint stated that Lee first deposited these funds into two Harambee school accounts at US Bank, the Child Care Account and the Hot Lunch Account. Lee maintained secretive and exclusive control over these accounts and kept them off the financial books of the school. Lee then routinely forged the signature of the school's assistant business manager on checks drawn on these two accounts. Lee embezzled at least 90% of the money that was deposited into these two accounts between January 2000 and March 2002, at which time he was fired from his position with the school.

Lee deposited the majority of the forged checks into a bank account in the name of Harambee Child Care, Inc. This was a sham corporation having no real existence other than the bank account at US Bank. Lee set up the bogus corporation in late 1997.

From this account, Lee disbursed money to himself or to two other businesses that he operated, Metroserv, Inc. and P.T. Publication, Inc. Most of the embezzled money was used to pay Lee's personal expenses or for operating his businesses.

During the trial, Lee maintained that this money was for repayment of prior loans he made to the school, reimbursement of travel expenses between his Milwaukee and Houston homes, or for various

undocumented "goods and services" that his businesses provided to the Harambee Community School.

Lee was scheduled to be sentenced in October 2005.

### Former Insurance Agent Sentenced in Rusk County

Former insurance agent Thomas E. Mikunda, 55, of Exeland, appeared for sentencing before Bayfield Circuit Court Judge John P. Anderson in Rusk County Circuit Court in August 2005. Mikunda failed to make restitution of \$58,950 to one of his elderly victims as required by the terms of a plea agreement entered into in May 2005, when Mikunda pled guilty to two felony counts of engaging in unfair trade practices and one felony count of filing a false Wisconsin income tax return. Mikunda's failure to pay the restitution prior to sentencing opened the door for Rusk County District Attorney Kathy Pakes to argue for more prison time, which she did, asking the maximum prison sentence of 16 1/2 years for the three felonies.

According to the criminal complaint, Mikunda was an insurance agent for Banker's Life and Casualty. While acting in this position of trust, Mikunda swindled large sums of money from several of his elderly clients by collecting checks and cash from them under the pretext that the money was for insurance premiums.

Judge Anderson sentenced Mikunda to 3 1/2 years of prison on each count of unfair trade practice to be served consecutively and 2 years of prison on the tax charge to be served concurrently. Mikunda will be serving four years of extended supervision after initial incarceration of three years. In the first two years of extended supervision, the Judge ordered that Mikunda make restitution to the victims of nearly \$190,000. In the second two years of extended supervision, Mikunda was ordered to complete 750 hours of community service. Mikunda was remanded to the custody of the Rusk County Sheriff immediately following sentencing. [🔗](#)



### EFT Payment Options for Corporations

There are three Electronic Funds Transfer (EFT) payment options for corporation franchise and income tax. Corporations

registered to pay by EFT may pay **estimated taxes**, **tax due** with their returns, and **bills** using EFT, simply by

choosing the appropriate tax type code when making their payment:

- Corporation Estimated Payment 02100
- Corporation Tax Due with Return 02200
- Corporation Bill 02540

To learn more about paying by EFT or registering to pay by EFT visit [www.dor.state.wi.us/eserv/eftgen.html](http://www.dor.state.wi.us/eserv/eftgen.html). [🔗](#)

## Tax Publications Available

Listed below are 75 publications that are available, free of charge, from the Department of Revenue. Copies are available at any department office, or by mail, phone, fax, or the Internet.

### *By Mail*

Write to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949.

### *By Phone*

Call (608) 266-1961.

### *Via Your Fax Machine*

Fax a request to (608) 267-1030 or 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](http://www.dor.state.wi.us), and click on "Publications" and then "Tax Publications" to either download publications or request them using the on-line order form.

**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 (11/04)
- 103\* Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, and Trusts (11/05)
- 104\* Wisconsin Taxation of Military Personnel (10/05)
- 106 Wisconsin Tax Information for Retirees (11/04)
- 109\* Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 2005 (11/05)
- 112 Wisconsin Estimated Tax and Estimated Surcharge for Individuals, Estates, Trusts, Corporations, Partnerships (11/02)
- 113 Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (12/04)
- 116 Income Tax Payments are Due Throughout the Year (11/02)

- 119 Limited Liability Companies (LLCs) (12/04)
- 120\* Net Operating Losses for Individuals, Estates, and Trusts (11/05)
- 121 Reciprocity (11/03)
- 122\* Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 2004 (11/05)
- 123 Business Tax Credits for 2004 (12/04)
- 125\* Credit for Tax Paid to Another State (11/05)
- 126\* How Your Retirement Benefits Are Taxed (11/05)
- 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 (11/04)
- 207 Sales and Use Tax Information for Contractors (9/04)
- 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? (4/04)
- 227 E-file Sales Tax returns with S.I.P. (3/01)
- 228\* Temporary Events (9/05)
- 229 Brackets for Collecting Wisconsin Sales or Use Tax on Retail Sales (2/05)
- 230 Sales and Use Tax Information for Sellers of Antiques, Crafts, and Artwork (12/02)

#### Excise Tax

- AB-103\* Alcohol Beverage Tax Information (7/05)
- MF-106 Alternate Fuel Tax Information (3/05)
- MF-107 Motor Vehicle Fuel Tax Information (3/05)
- MF-108 General Aviation Fuel Tax Information (3/05)
- 302\* Wisconsin Alcohol Beverage and Tobacco Laws for Retailers (9/05)

#### Other Taxes and Credits

- 127 Wisconsin Homestead Credit Situations and Solutions (11/04)
- 400 Wisconsin's Recycling Surcharge (12/04)
- 403\* Premier Resort Area Tax (8/05)
- 410 Local Exposition Taxes (2/03)

- 503 Wisconsin Farmland Preservation Credit (11/04)
- 508 Wisconsin Tax Requirements Relating to Nonresident Entertainers (3/05)
- W-166 Wisconsin Employer's Withholding Tax Guide (2/04)

#### Audits and Appeals

- 501 Field Audit of Wisconsin Tax Returns (2/04)
- 505 Taxpayers' Appeal Rights of Office Audit Adjustments (12/04)
- 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 (3/05)
- 115\* 2006 Handbook for Federal/State Electronic Filing (11/05)
- 117 Guide to Wisconsin Information Returns (11/04)
- 124 Petition for Compromise of Delinquent Taxes (11/03)
- 130 Fax A Form (1/05)
- 140 A Tax Practitioner's Guide to Electronic Filing (6/03)
- 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 (2/05)
- 509 Filing Wage Statements and Information Returns on Magnetic Media or by Electronic Transmission (11/04)
- 700 Speakers Bureau presenting . . . (6/00) [↗](#)





## 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 60 of this Bulletin. The Index is also on the department’s Internet web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). Just click on “Publications.” [↗](#)

---

## 2005 Package WI-X Available in January

Wisconsin’s Package WI-X will be available by January 31, 2006. Package WI-X will contain actual size copies of most 2005 Wisconsin individual and fiduciary income tax, corporation franchise and income tax, partnership, estate tax, motor vehicle fuel tax, sales and use tax, and withholding tax forms.

The cost of the 2005 Package WI-X is \$7.00, plus sales tax. It is only offered in a paper version this year; a CD-ROM version is no longer available. Package WI-X may

now be ordered on-line on a new Department of Revenue web page. See the article headed “Forms Ordering Process Change” on page 8 of this Bulletin for more information.

If you want to purchase copies of the 2005 Package WI-X and do not have Internet access, you may request an order blank by writing to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 5-77, P.O. Box 8949, Madison WI 53708-8949; or calling (608) 266-1961. [↗](#)

---

## Auditors Discover Over \$25 Million in Unpaid Use Tax

As part of its efforts to obtain compliance with Wisconsin use tax laws, Department of Revenue auditors assessed over \$25 million of use tax in the fiscal year ending June 30, 2005.

Field auditors found that many businesses, while properly accounting for tax on sales, do not have a system to keep track of purchases subject to use tax. For example, purchases were made from unregistered out-of-state sellers (e.g., mail order or Internet companies) without sales or use tax being paid . . . until the businesses were audited.

Office audit staff found that many purchasers of motor vehicles, all-terrain vehicles, aircraft, boats, and snowmobiles failed to properly report use tax because they underreported the purchase price or claimed invalid exemptions when they registered motor vehicles, all-terrain vehicles, aircraft, boats, and snowmobiles purchased from nondealers and out-of-state dealers.

In addition, discovery projects targeting particular industries and individuals resulted in use tax collections for purchases made from unregistered out-of-state sellers (e.g., mail order or Internet companies).

The \$25 million of use tax assessed does not include interest and penalties that were also imposed.

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



## **State Election Campaign Fund Checkoffs Increase for 2005**

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

During July 2004 through June 2005 (primarily 2004 tax returns), taxpayers designated \$246,836 to the election campaign fund on their Wisconsin tax returns. This compares to \$241,852 for the prior year. [⤴](#)



## 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 decision is included:

### Homestead Credit

Definition of income – rollover from a traditional IRA to a Roth IRA

*James D. and Carol J. Clark*..... 30

### HOMESTEAD CREDIT



#### Definition of income – rollover from a traditional IRA to a Roth IRA. *James D.*

*and Carol J. Clark vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, September 2, 2005). The issue in this case is whether the taxable portion of a rollover from a traditional Individual Retirement Account (IRA) to a Roth IRA is includable in household income for homestead credit purposes.

The taxpayers received a 2003 Form 1099-R indicating a gross distribution of \$10,318.80 resulting from a rollover from a traditional IRA into a Roth IRA. They determined that the taxable portion of the distribution was \$9,972.00, and included this amount as income on their 2003 federal and Wisconsin income tax returns.

The taxpayers filed a Schedule H with their 2003 Wisconsin income tax return, claiming \$668.00 in homestead credit. The amount they reported on line 7 of Schedule H (Wisconsin income from the 2003 Wisconsin income tax return) included the gross distribution resulting from the IRA rollover. After consulting the Schedule H instructions and speaking to a customer service representative at the department, they subtracted the taxable portion of the distribution on line 9d of Schedule H (pensions and annuities) in order to determine their total household income.

In determining the taxpayers' 2003 tax refund, the department disallowed the subtraction for the taxable amount of the distribution and added \$9,972.00 back to total household income. With the addition of this

amount, the total household income exceeded the maximum limit allowable to claim homestead credit.

On May 11, 2004, the department issued a Notice of Refund in the amount of \$161.00 for tax year 2003. The taxpayers' claim for homestead credit was denied. The taxpayers filed a timely petition for redetermination with the department, which the department subsequently denied. The taxpayers filed a timely petition for review with the Commission.

The Commission concluded that the taxable portion of the taxpayers' rollover distribution from a traditional IRA to a Roth IRA is not includable in household income for homestead credit purposes. The Wisconsin Administrative Code states that the following is excluded from income for homestead credit purposes:

Pension, annuity, or other retirement plan payments rolled over from one retirement plan to another [Section Tax 14.03(5)(a)7].

The plain language reading of this code section compels the conclusion that this exclusion applies to all pension, annuity, or other retirement plan payments that are rolled over from one retirement plan to another. This code section, as well as the department's instructions or publications, make no exception for "taxable" rollovers of retirement plans.

The department 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 not binding upon and will not be followed by the department in other cases.

The department's position is that taxable rollovers (conversions) from a traditional IRA to a Roth IRA are includable in household income for homestead credit purposes. Such amounts are included in Wisconsin income, and there is no statutory provision to subtract them in determining household income. [✎](#)