


# Wisconsin TAX BULLETIN

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

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## Federal Tax Forms No Longer Available from Department of Revenue Offices

Effective with this filing season, federal tax forms will no longer be available at Department of Revenue (DOR) offices. This is a result of a determination by the Internal Revenue Service (IRS) that it can no longer supply DOR offices with forms. Federal tax forms and publications may be obtained through the IRS's web site at [www.irs.gov](http://www.irs.gov) or by calling the IRS at 1-800-829-3676. 



## Standard Mileage Rates for 2006


Listed below are the optional standard mileage rates provided by the Internal Revenue Service (IRS) for 2006, for computing automobile expenses for business, charitable, medical, and moving expense purposes. Unless otherwise noted, these rates also apply for Wisconsin.

For 2006 the business standard mileage rate is 44.5¢ per mile for all business miles driven. The new rate compares to a rate of 40.5¢ per mile for the first eight months of 2005 and a special rate of 48.5¢ per mile for the last four months of 2005. The 44.5¢ per mile rate is allowed without regard to whether the automobile was previously considered fully depreciated.

If the standard mileage rate of 44.5¢ per mile is used, depreciation is considered to be allowed at 17¢ per mile for 2006, the same as was allowed for 2005. However, no portion is considered to be depreciation after the adjusted basis of the automobile reaches zero.

For 2006 the allowable standard mileage rate for medical expense and moving expense deductions is 18¢ per mile. The new rate compares to a rate of 15¢ per mile for the first eight months of 2005 and a special rate of 22¢ per mile for the last four months of 2005.

For 2006 the allowable standard mileage rate for charitable use of a vehicle is generally 14¢ per mile, the same as was generally allowed for 2005. However, the rate allowed for charity work related to Hurricane Katrina is 32¢ per mile. (**Note:** The increased rate for


charity work related to Hurricane Katrina does not apply for Wisconsin. For Wisconsin purposes, a rate of 14¢ per mile is allowed.) 

## Corporation Electronic Filing Is Now Available

Corporations can now electronically file both their federal and Wisconsin corporation franchise and income tax returns together through a new program developed with the cooperation of the Wisconsin Department of Revenue (DOR), the Internal Revenue Service (IRS), and the Federation of Tax Administrators (FTA). This new federal-state e-filing service permits taxpayers and tax professionals to prepare the returns using certain third-party private vendor software packages. Here's how it works:

*(continued on page 2)*

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

- ◆ provides free taxpayer assistance all around Wisconsin (see article on page 10), and via the Internet ([www.dor.state.wi.us](http://www.dor.state.wi.us), then click on "FAQS" – frequently asked questions)
- ◆ has free publications on a wide variety of tax subjects (see article on page 31)
- ◆ has indexes to make your research easier (see articles on pages 27 and 29)
- ◆ provides old and new tax forms via the Internet ([www.dor.state.wi.us](http://www.dor.state.wi.us)) and via Fax-A-Form (phone 608-261-6229 from a fax telephone) (see article on page 21)
- ◆ offers recorded refund information 24 hours a day, seven days a week (phone 608-266-8100, Madison, 414-227-4907, Milwaukee, or 1-866-947-7363, toll-free within the U.S. or Canada)
- ◆ provides an Internet site for inquiring about your refund ([www.dor.state.wi.us](http://www.dor.state.wi.us)) 

**In This Issue****Articles –**

<b>Federal Tax Forms .....</b>	<b>1</b>
<b>Standard Mileage Rates .....</b>	<b>1</b>
<b>Corporation Electronic Filing .....</b>	<b>1</b>
<b>Did You Know .....</b>	<b>1</b>
<b>New Tax Laws .....</b>	<b>3</b>
<b>Tax Compromises .....</b>	<b>9</b>
<b>Taxpayer Assistance .....</b>	<b>10</b>
<b>Sales Tax Refunds to Customers ...</b>	<b>11</b>
<b>Pass-Through Withholding FAQs ...</b>	<b>11</b>
<b>Taxable Sales By Travel Agents .....</b>	<b>13</b>
<b>Video Gambling Machines .....</b>	<b>14</b>
<b>Reminder: Estate Tax .....</b>	<b>15</b>
<b>File Error-Free Returns .....</b>	<b>16</b>
<b>1099-Gs, 1099-INTs Mailed .....</b>	<b>17</b>
<b>Wisconsin Earned Income Credit ...</b>	<b>18</b>
<b>Reminder: Posting of Delinquent Accounts .....</b>	<b>18</b>
<b>File Sales Tax Electronically .....</b>	<b>19</b>

<b>Corporation Returns - Receipt .....</b>	<b>19</b>
<b>It's an Electronic World .....</b>	<b>20</b>
<b>Reminder: Electronic Filing Required .....</b>	<b>20</b>
<b>File 3K-1s on Magnetic/Electronic Media .....</b>	<b>21</b>
<b>How to Obtain Forms .....</b>	<b>21</b>
<b>Filing Free and Online .....</b>	<b>22</b>
<b>Integrated Tax System .....</b>	<b>23</b>
<b>Electronic Filing Available for W-2s and 1099s .....</b>	<b>23</b>
<b>Attach Federal Return .....</b>	<b>24</b>
<b>Due Dates for Information Returns .....</b>	<b>24</b>
<b>Preparing Form WT-7 .....</b>	<b>24</b>
<b>Processing Tax Refunds .....</b>	<b>25</b>
<b>Question and Answer .....</b>	<b>26</b>
<b>Negligence Penalties Imposed .....</b>	<b>27</b>
<b>Index of Reference Material .....</b>	<b>27</b>
<b>Sales Tax Report Mailed .....</b>	<b>27</b>
<b>How to Obtain Copies .....</b>	<b>28</b>

<b>Information or Inquiries? .....</b>	<b>29</b>
<b>Withholding Tax Update .....</b>	<b>29</b>
<b>Bulletin Index Included .....</b>	<b>29</b>
<b>Clearance Certificates and Successor Liability .....</b>	<b>29</b>
<b>Sales Tax on Income Returns .....</b>	<b>30</b>
<b>Speakers Bureau .....</b>	<b>30</b>
<b>Sales Tax Seminars .....</b>	<b>30</b>
<b>Tax Publications Available .....</b>	<b>31</b>
<b>Enforcement Report .....</b>	<b>33</b>
<b>Administrative Rules in Process .....</b>	<b>34</b>
<b>Report on Litigation .....</b>	<b>36</b>
<b>Attachments –</b>	
December Tax Report .....	38
Withholding Tax Update .....	40
Frequently Asked Questions .....	42
Bulletin Index .....	44
Order Blank .....	79

**Corporation Electronic Filing Is Now Available***(continued from page 1)*

- The return is prepared using an approved vendor's tax preparation software.
- Returns for the IRS and participating states are securely transmitted to the IRS.
- DOR automatically retrieves the Wisconsin returns from the IRS on a daily basis.
- The e-filing generates an acknowledgement back to the originator when each of these transmissions is completed.
- After the tax return is processed, a direct deposit refund or an electronic payment submission to the designated financial institution occurs if this information is included with transmission.
- State only and amended returns can also be filed through this method.

Electronic filing saves time and is more convenient and accurate than paper filing. Confidential information is just as secure as it is with paper filing, plus there is no postage.

The IRS has regulations in place requiring that, starting in 2006, certain large 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.

For more information regarding this and other services provided by DOR, visit [www.dor.state.wi.us](http://www.dor.state.wi.us). 

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## 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, excise tax, and other provisions. These provisions are contained in 2005 Acts 59, 71, 72, 74, 85, 97, and 103.

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. Donations to Multiple Sclerosis Programs	Taxable years beginning on or after January 1, 2006	4
2. Veterans and Surviving Spouses Property Tax Credit Revised	Taxable years beginning on or after January 1, 2005	4
<b>B. Individual and Corporation Franchise and Income Taxes</b>		
1. Health Insurance Risk-Sharing Plan Assessments Credit Created	Taxable years beginning on or after January 1, 2006	5
2. Angel Investment Credit and Early Stage Seed Investment Credit Amended	Taxable years beginning on or after January 1, 2005	6
<b>C. Sales and Use Taxes</b>		
1. Create Exemption for Health Insurance Risk-Sharing Plan Authority	January 7, 2006	7
<b>D. Excise Taxes</b>		
1. Annual Adjustment of Motor Vehicle Fuel Tax Ended	After the calculation of the rate that takes effect on April 1, 2006	7
2. Petroleum Inspection Fee Decrease Effective Date Changed	April 1, 2006	7
3. Distribution Restrictions on Wholesalers, Brewers, and Out-of-State Shippers	July 31, 2006 for any person holding a wholesaler's license	7
<b>E. Other</b>		
1. Debtor Charged for Costs of Setoffs	Payments ordered in actions commenced on or after April 1, 2006	9
2. Department of Transportation May Disclose Information to DOR	Payments ordered in actions commenced on or after April 1, 2006	9

## A. Individual and Fiduciary Income Taxes

### 1. Donations to Multiple Sclerosis Programs (2005 Act 71, amend sec. 20.566(1)(hp) and create sec. 71.10(5g), effective for taxable years beginning on or after January 1, 2006).

Every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for programs for people with multiple sclerosis. Designations, less administrative expenses, shall be forwarded to the National Multiple Sclerosis Society to be distributed to entities located in Wisconsin that operate health-related programs for people with multiple sclerosis. The entities that receive the funds shall pledge to the Society that they will use the money they receive solely for health-related programs for people with multiple sclerosis in Wisconsin.

If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for programs for people with multiple sclerosis when the individual files a tax return. If an individual who owes taxes fails to remit an amount equal to or in excess of the total actual tax due (after any error correction) and the amount designated on the return for programs for people with multiple sclerosis, the department will reduce the amount designated to reflect the amount remitted in excess of the actual tax due (after any error correction). If the amount remitted with the return does not exceed the tax due (after any error correction), the designation is void.

If the individual still has a refund after applying the refund to any delinquency owing the department and to any offset (pursuant to secs. 71.75(9) and 71.80(3) and (3m), Wis. Stats.), the department will deduct the amount designated on the return for programs for people with multiple sclerosis from the amount of the refund. If an individual is owed a refund that does not equal or exceed the amount designated on the return for programs for people with multiple sclerosis (after any error correction and deduction for a delinquency or offset), the department will reduce the designation for programs for people with multiple sclerosis to reflect the actual amount of refund (after any

error correction and deduction for a delinquency or offset).

If an individual places any conditions on a designation for programs for people with multiple sclerosis, the designation is void.

If a designation for programs for people with multiple sclerosis is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

A place must be provided on the individual income tax return for designations to programs for people with multiple sclerosis.

Amounts designated for programs for people with multiple sclerosis are not subject to refund unless the taxpayer submits information to the satisfaction of the department within 18 months after the date on which taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error.

### 2. Veterans and Surviving Spouses Property Tax Credit Revised (2005 Act 72, amend sec. 71.07(6e)(a)1., 1m., and 5. and create sec. 71.07(6e)(c)3. and nonstatutory provision, effective for taxable years beginning on or after January 1, 2005).

Several definitions were revised for purposes of the veterans and surviving spouses property tax credit.

“Claimant” means an eligible unremarried surviving spouse, an eligible veteran, or an eligible spouse.

“Eligible spouse” means the spouse of an eligible veteran who files a separate return.

“Property taxes” means real and personal property taxes, exclusive of special assessments, delinquent interest, and charges for service, paid by a claimant, and the claimant’s spouse if filing a joint return, on the eligible veteran’s or unremarried surviving spouse’s principal dwelling in Wisconsin during the taxable year, less any property taxes paid which are properly includable as a trade or business expense.

Under prior law, if the principal dwelling is owned by two or more persons or entities as joint tenants or tenants-in-common or is owned by spouses as marital property, “property taxes” is that part of property taxes paid that reflects the ownership percentage of the claimant. This bill provides that this limitation does not apply to spouses who file a joint return.

If an eligible veteran and an eligible spouse file separate returns, each spouse may claim a credit based on their respective ownership interest in the eligible veteran’s principal dwelling.

## **B. Individual and Corporation Franchise and Income Taxes**

### **1. Health Insurance Risk-Sharing Plan Assessments Credit Created** (2005 Act 74, amend secs. 71.21(4), 71.26(1)(be) and (2)(a), 71.34(1)(g), 71.45(2)(a)10., and 77.92(4) and create secs. 71.07(5g), 71.10(4)(cp), 71.28(5g), 71.30(3)(dm), 71.47(5g), and 71.49(1)(dm), effective for taxable years beginning on or after January 1, 2006).

The Health Insurance Risk-Sharing Plan (HIRSP) provides health insurance coverage for Wisconsin residents who meet certain requirements. HIRSP is funded by premiums paid by covered persons, assessments against insurers, and provider payment discounts. Under prior law, HIRSP was administered by the Department of Health and Family Services. The Act creates the Health Insurance Risk-Sharing Plan Authority to administer HIRSP beginning July 1, 2006.

Income of the Health Insurance Risk-Sharing Plan Authority is exempt from Wisconsin franchise or income tax.

The Act creates a health insurance risk-sharing plan assessments credit for insurers that pay assessments to the HIRSP Authority. The following definitions of “claimant” apply for purposes of the credit:

- For individuals and fiduciaries – “Claimant” means a partner, limited liability company member, or tax-option corporation shareholder who is a partner, member, or shareholder of an entity that is an insurer, as defined in sec. 149.10(5), Wis. Stats.

- For corporations and insurance companies – “Claimant” means an insurer, as defined in sec. 149.10(5), Wis. Stats.

For taxable years beginning after December 31, 2005, a claimant may claim as a credit against franchise or income tax an amount that is equal to the amount of HIRSP assessment under sec. 149.13, Wis. Stats., paid in the taxable year multiplied by a certain percentage.

The Department of Revenue, in consultation with the Office of the Commissioner of Insurance, shall determine the percentage for each claimant for each taxable year. The percentage shall be equal to \$5,000,000 divided by the aggregate risk-sharing plan assessment. The Office of the Commissioner of Insurance shall provide to each claimant that participates in the cost of administering the plan the aggregate assessment at the time it notifies the claimant of the claimant’s assessment. The aggregate amount of the credit for all claimants participating in the cost of administering the plan shall not exceed \$5,000,000 in each fiscal year.

Partnerships, limited liability companies, and tax-option corporations may not claim the credit, but the eligibility for, and the amount of, the credit are based on their payment of the assessment. A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

The amount of any credits that a claimant is awarded for taxable years beginning after December 31, 2005, and before January 1, 2008, may first be claimed against the tax imposed for taxable years beginning after December 31, 2007, and in the manner determined by the Department of Revenue.

Credits computed by a partnership, tax-option corporation, corporation, or insurer shall be added to the entity’s income.



If a credit is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance may be carried forward and credited against Wisconsin income or franchise taxes for the following 15 taxable years to the extent not offset by the taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carryforward credit is claimed.

In the case of a change in ownership or business of a corporation, sec. 383 of the Internal Revenue Code applies to the carryover of unused credits.

The Department of Revenue has full power to administer the credits and may take any action, conduct any proceeding and proceed as it is authorized in respect to income and franchise taxes. The income and franchise tax provisions relating to assessments, refunds, appeals, collection, interest, and penalties apply to the credits.

No credit may be allowed unless it is claimed within four years of the unextended due date of the return.

- 2. Angel Investment Credit and Early Stage Seed Investment Credit Amended** (2005 Act 97, repeal sec. 71.07(5d)(c)3., renumber secs. 71.07(5b)(b), 71.28(5b)(b), and 71.47(5b)(b) to 71.07(5b)(b)1., 71.28(5b)(b)1., and 71.47(5b)(b)1. and amend as renumbered, amend sec. 71.07(5d)(a)1.a. and b. and (b), and create secs. 71.07(5b)(b)2. and (5d)(a)2m. and (c)3m., 71.28(5b)(b)2., and 71.47(5b)(b)2., effective for taxable years beginning on or after January 1, 2005).

The Act makes the following changes to the angel investment credit:

- A “bona fide angel investment” means a purchase of an equity interest, or any other expenditure, as determined by rule by the Department of Commerce, that is made by a person or a network of persons who reviews new businesses or proposed new businesses for potential investment of the person’s money. “Person” means a partnership or limited liability company that is a nonoperating entity, as determined by the

Department of Commerce, an individual, or a fiduciary. Under prior law, a bona fide angel investment was limited to investments made by individuals or networks of individuals.

- A claimant may claim as a credit against income tax imposed, up to the amount of the tax, in each taxable year for two consecutive years, beginning with the taxable year as certified by the Department of Commerce, an amount equal to 12.5 percent of the claimant’s bona fide angel investment made directly in a qualified new business venture. Under prior law, a claimant could claim a credit in each taxable year for two consecutive years, beginning with the taxable year in which the claimant’s initial investment was made.
- Partnerships and limited liability companies may not claim the credit, but the eligibility for, and the amount of, the credit are based on their investment directly in a qualified new business venture. The credit is computed in each taxable year for two consecutive years, beginning with the taxable year as certified by the Department of Commerce, and is equal to 12.5 percent of the entity’s bona fide angel investment. A partnership or limited liability company shall compute the amount of credit that each of its partners or members may claim and shall provide that information to each of them. Partners and members of limited liability companies may claim the credit in proportion to their ownership interest or as specially allocated in their organizational documents.
- The provision requiring an claimant who is a nonresident or part-year resident of Wisconsin to prorate the credit is repealed.

The Act makes the following changes to the early stage seed investment credit:

- A claimant may claim as a credit against income or franchise tax imposed, up to the amount of those taxes, 25 percent of the claimant’s investment paid to a fund manager that the fund manager invests in a new business venture certified by the Department of Commerce. The Department

of Commerce will determine the year in which the claimant may first claim the tax credit. Under prior law, the credit was limited to 25 percent of the claimant's initial investment paid in the taxable year to a fund manager that the fund manager invested in a new business venture certified by the Department of Commerce.

- In the case of a partnership, limited liability company, or tax-option corporation, the computation of the 25 percent limitation shall be determined at the entity level rather than at the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity's organizational documents. The entity must provide to the Department of Revenue and to the Department of Commerce the names and tax identification numbers of the claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

### C. Sales and Use Taxes

- 1. Create Exemption for Health Insurance Risk-Sharing Plan Authority** (2005 Act 74, amend sec. 77.54(9a)(a), effective January 7, 2006).

The gross receipts from sales to, and the storage, use, or other consumption of tangible personal property and taxable services by the Health Insurance Risk-Sharing Plan Authority are exempt from Wisconsin sales and use tax.

### D. Excise Taxes

- 1. Annual Adjustment of Motor Vehicle Fuel Tax Ended** (2005 Act 85, amend secs. 78.015(1) and 78.12(4)(a)4. and (b)2., effective after the calculation of the rate that takes effect on April 1, 2006).

The annual adjustment to the motor vehicle fuel tax based on the annual average U.S. consumer price index for all urban consumers, U.S. city average, is ended.

- 2. Petroleum Inspection Fee Decrease Effective Date Changed** (2005 Act 85, amend sec. 9408(1x) of 2005 Act 25, effective April 1, 2006).

The petroleum inspection fee was decreased from 3 cents per gallon to 2 cents per gallon by 2005 Act 25. The effective date of this decrease is changed from May 1, 2006 to April 1, 2006.

- 3. Distribution Restrictions on Wholesalers, Brewers, and Out-of-State Shippers** (2005 Act 103, amend secs. 125.01, 125.25(1), 125.26(1), 125.28(1), 125.29(3), 125.30(1), 125.31(2) and (3)(intro.), and 125.33(11)(a) and create sec. 125.34, effective for any person holding a wholesaler's license under sec. 125.28 as of July 31, 2006).

No fermented malt beverages may be sold, transported, or delivered to a retailer unless they are first unloaded at and distributed from a wholesaler's warehouse that is covered by both a wholesaler's license and an alcohol beverage warehouse permit, is located in Wisconsin, and is physically separate from any retail premises or brewery premises.

A brewer that manufactures not more than 50,000 barrels of fermented malt beverages in a calendar year may be issued a wholesaler's license for wholesale premises located on the brewery premises.

A brewer that manufactures more than 50,000 barrels of fermented malt beverages in a calendar year may be issued a wholesaler's license for wholesale premises located on the brewery premises, but may not ship or sell more than 1,000 barrels of fermented malt beverages in any calendar year to retailers from these wholesale premises. Fermented malt beverages provided by the brewer to any retail premises for which the brewer holds the retail license are not included in any calculation of the 1,000 barrel limitation.

A brewer may be issued a wholesaler's license for wholesale premises located on the brewery premises if the brewer ships or sells only to other wholesalers. A brewer issued a wholesaler's license under this provision may sell or ship from the brewery premises any brand of fermented malt beverages to retailers located in a designated sales territory for the brand if the wholesaler to which the brewer has granted distribution rights for the brand in the designated sales territory is unable to service the designated sales territory for any reason,

including the discontinuance of the wholesaler's distribution rights. A brewer may sell or ship fermented malt beverages to retailers under this provision for not more than 12 months after the wholesaler becomes unable to service the wholesaler's designated sales territory.

A wholesaler may not sell, transport, or deliver any brand of fermented malt beverages unless the wholesaler has entered into a written agreement with the brewer or out-of-state shipper supplying the brand that grants to the wholesaler distribution rights for the brand and identifies the designated sales territory for which such distribution rights are granted, including the precise geographical area comprising the designated sales territory. If the wholesaler and the brewer or out-of-state shipper are the same person, in lieu of a written agreement this information must be maintained in writing. A brewer or out-of-state shipper may not grant to more than one wholesaler distribution rights for the same brand in the same designated sales territory or in any part of the same designated sales territory.

Within a wholesaler's designated sales territory for any brand of fermented malt beverages, the wholesaler may not refuse to sell the brand of fermented malt beverages, or refuse to offer reasonable service related to the sale of the brand of fermented malt beverages, to any retailer.

A wholesaler may not sell, transport, or deliver, or cause to be sold, transported, or delivered, any brand of fermented malt beverages to any retailer located outside of the wholesaler's designated sales territory for the brand. This restriction does not apply for a period during which another wholesaler that has been granted distribution rights for the brand in the designated sales territory where the sale, transportation, or delivery occurs is unable to service this designated sales territory and the brewer or out-of-state shipper has given its consent. This restriction also does not apply if the wholesaler is also a brewer and another wholesaler to whom this brewer has granted distribution rights for the brand in the designated sales territory where the sale, transportation, or delivery occurs has given its consent or refused to service this territory.

A wholesaler may not sell, transport, or deliver, or cause to be sold, transported, or delivered to any person, other than another wholesaler, that the wholesaler knows or should know will transport the product for resale in a designated sales territory for which another wholesaler has been granted distribution rights for the brand.

Deliveries of fermented malt beverages to retailers may be made only by wholesalers and must be made to retailers only at their retail premises. No retailer may transport fermented malt beverages from one retail premises to another retail premises for purposes of selling the fermented malt beverages at the other retail premises unless both retail premises are operated by a brewer holding the retail licenses.

A brewer or out-of-state shipper may sell, transport, and deliver fermented malt beverages only to a wholesaler, which may be the brewer or out-of-state shipper itself if, in its activities as a wholesaler, it complies with the requirements indicated above.

A brewer or out-of-state shipper that holds a Class "A" or Class "B" license may sell fermented malt beverages to persons other than licensees and permittees. The provisions in sec. 125.34(2) to (5) of this Act do not apply with respect to any retail premises for which the brewer holds the retail license.

A brewer that holds an out-of-state shipper's permit for premises located in another state used for the manufacture of fermented malt beverages may ship such beverages from those premises to any brewery premise in Wisconsin.

### *Definitions*

"Brand" means any word, name, group of letters, symbol, or combination thereof, including the name of the brewer or out-of-state shipper if the brewer or out-of-state shipper's name is also a significant part of the product name, adopted and used by a brewer or out-of-state shipper to identify a specific fermented malt beverage product and to distinguish that product from other fermented malt beverages produced by that brewer or out-of-state shipper or other brewers or out-of-state shippers.



“Brewer” means a permittee under sec. 125.29, Wis. Stats.

“Designated sales territory” means the geographical area identified in a written agreement between a wholesaler and a brewer or out-of-state shipper under which the wholesaler is authorized to distribute one or more brands of fermented malt beverages supplied by the brewer or out-of-state shipper.

“Out-of-state shipper” means a permittee under sec. 125.30, Wis. Stats.

“Retailer” means any person holding a Class “A” license or a Class “B” license or permit.

“Retail premises” means the premises described in a Class “A” license or a Class “B” license or permit.


“Wholesaler” means a licensee under sec. 125.28, Wis. Stats., and includes a brewer or out-of-state shipper that holds a wholesaler’s license under sec. 125.28, Wis. Stats.

## E. Other

1. **Debtor Charged for Costs of Setoffs** (2005 Act 59, amend secs. 71.93(5) and 71.935(2) and (5), effective for payments ordered in actions commenced on or after April 1, 2006).

The Department of Revenue may set off debts owed to other state agencies, municipalities, and counties against any refund owed to the debtor. The debtor shall be charged for administration expenses. The department may set off amounts charged to the debtor against any refund owed to the debtor. Under prior law, the state agency, municipality, or county was charged for the administration expenses.

2. **Department of Transportation May Disclose Information to DOR** (2005 Act 59, amend secs. 342.06(1)(intro.) and (eg), 343.027, and 343.14(1) and (2j)(b), effective for payments ordered in actions commenced on or after April 1, 2006).

Names, addresses, license numbers, and social security numbers obtained by the Department of Transportation shall be provided to the Department of Revenue for the purpose of administering state taxes and setoffs for other state agencies, municipalities, and counties. 

## Tax Compromises

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


When reviewing a taxpayer’s petition for compromise the department considers many factors, including:

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

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

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

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

Publication 124, *Petition for Compromise of Taxes*, offers more information on this topic. Both Form A-212 and Publication 124 are available on the department’s web site, [www.dor.state.wi.us](http://www.dor.state.wi.us). See the article titled “Tax Publications Available” on page 31 of this Bulletin, for other methods of obtaining Publication 124. 



## Department Offers Taxpayer Assistance

Department personnel will be available through April 17, 2006, to provide taxpayer telephone and walk-in assistance. Assistance is provided Monday through Friday in many of the larger offices, and Mondays only in other offices (except as noted in the chart below).

### *Offices Providing Daily Assistance (Monday through Friday)*

Location	Address	Telephone No.	Hours
Appleton	265 W. Northland Ave.	(920) 832-2727	7:45-4:30
Eau Claire	718 W. Clairemont Ave.	(715) 836-2811	7:45-4:30
Madison	2135 Rimrock Rd.	(608) 266-2772	7:45-4:30
Milwaukee	819 N. Sixth St., Rm. 408	(414) 227-4000	7:45-4:30
Waukesha	141 N.W. Barstow St.	(262) 521-5310	7:45-4:30

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

Location	Address	Telephone No.	Hours
Baraboo	1000 Log Lodge Ct.	(608) 356-3472	7:45-1:00
Beaver Dam	220 Seippel Blvd.	(920) 356-6090	7:45-1:00
Elkhorn	715 W. Walworth St.	(262) 723-4098	7:45-1:00
Fond du Lac	845 S. Main, Ste. 150	(920) 929-3985	7:45-1:00
Grafton	1930 Wisconsin Ave.	(262) 375-7948	7:45-1:00
Green Bay	200 N. Jefferson St., Rm. 526	(920) 448-5179	7:45-4:30 *
Hayward	100 Ranch Rd.	(715) 634-8478	7:45-1:00
Hudson	2100 O'Neil Rd., Ste. 200	(715) 381-5060	7:45-1:00
Janesville	2524 Morse St.	(608) 758-6190	7:45-4:30 †
Kenosha	4911 88th Ave., Ste. B	(262) 653-7088	7:45-4:30 **
La Crosse	620 Main St., Rm. 213	(608) 785-9720	7:45-4:30
Lancaster	130 W. Elm St.	(608) 723-2641	7:45-1:00
Marinette	Courthouse, 1926 Hall Ave.	(715) 732-7565	9:00-1:00
Oshkosh	515 S. Washburn, Ste. 105	(920) 424-2100	7:45-4:30
Rhineland	203 Schiek Plaza	(715) 365-2666	7:45-1:00
Sheboygan	807 Center Ave.	(920) 459-3101	7:45-1:00
Superior	1225 Tower Ave., Ste. 315	(715) 392-7985	7:45-1:00
Tomah	203 E. Clifton St.	(608) 372-3256	7:45-1:00
Wausau	710 Third St.	(715) 842-8665	7:45-1:00
Wisconsin Rapids	1681 2nd Ave. S.	(715) 421-0500	7:45-1:00

\* Open Monday, Tuesday, Wednesday, and Thursday

\*\* Open Monday, Tuesday, and Wednesday

† Open Monday and Tuesday

## Clarification of New Sales and Use Tax Law Regarding a Seller's Requirement to Refund Sales or Use Tax to its Customer

A recent law change expands the situations under which a seller is required to refund sales or use taxes to buyers. The new law, which is in 2005 Act 49, renumbers sec. 77.59(4)(c), Wis. Stats., to 77.59(5m), Wis. Stats., and amends this provision as renumbered, and amends sec. 77.59(5), Wis. Stats.

Under the new law, a seller is required to refund taxes and related interest to the buyers from whom the taxes were collected, in the following situations:

- (a) The seller files a claim for refund with the Wisconsin Department of Revenue, for taxes that the seller has collected from buyers, and receives such refund.
- (b) The seller files a claim for refund with the Wisconsin Department of Revenue, for taxes that the seller has collected from buyers, and the seller is entitled to a refund of such taxes, but the refund is offset against deficiencies of the seller due and owing on the books of the Wisconsin Department of Revenue.

- (c) The seller collects amounts as taxes erroneously from buyers, but the seller does not remit such amounts to the state.

If the seller cannot locate the buyers, the seller must return the taxes and related interest to the Wisconsin Department of Revenue within 90 days after the date of the refund, within 90 days after the date of the offset, or within 90 days after discovering that the seller has collected taxes erroneously from the buyers.

The new law 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 as far back as September 1, 1994.

Under prior law, a seller was required to refund sales or use taxes to buyers in Situation (a) above, but not in Situations (b) and (c) above.

Additional information is provided on pages 5 and 6 of *Wisconsin Tax Bulletin 145* (November 2005). [↗](#)

## Pass-Through Entities: Withholding Is Required on Income Allocable to Nonresidents

For taxable years beginning on or after January 1, 2005, pass-through entities doing business in Wisconsin or deriving income from property located in Wisconsin must withhold income or franchise tax on income allocable to nonresident partners, members, shareholders, or beneficiaries. Prior articles in *Wisconsin Tax Bulletin 144* (September 2005), page 23, and *Wisconsin Tax Bulletin 145* (November 2005), page 18, presented the general provisions of the law and withholding procedures.

The withholding will be paid with Form PW-1, which is due on the unextended due date of the pass-through entity's Wisconsin income or franchise tax return. Form PW-1 and its instructions are available on the Department of Revenue's web site at [www.dor.state.wi.us/html/formpub.html](http://www.dor.state.wi.us/html/formpub.html).

Following is a summary of answers to frequently asked questions about this requirement:

### When Withholding Is Not Required

A partnership, limited liability company, tax-option (S) corporation, estate, or trust that is treated as a pass-through entity for federal income tax purposes must withhold tax on income allocable to a nonresident. However:

- An entity disregarded for Wisconsin tax purposes is not required to withhold on behalf of its owner.
- As a transitional rule, pass-through entities that completely liquidated prior to October 31, 2005, are not required to withhold.
- As a transitional rule, estates and trusts that closed during the taxable year beginning in 2005 are not required to withhold.
- Withholding is not required on behalf of a nonresident who has no Wisconsin income from sources other than the pass-through entity and such income is less than \$1,000. For purposes of determining this exemption, the pass-through entity

may presume that the nonresident has no other sources of Wisconsin income.

- Withholding is not required by joint ventures electing not to be treated as partnerships or by publicly traded partnerships, provided that certain requirements are met.
- Withholding is not required on behalf of nonresidents who are otherwise not subject to Wisconsin income or franchise tax.

### How to File and Pay

Pass-through entities should file and pay this withholding electronically. The Department of Revenue offers free electronic filing (e-filing) and electronic payment options through its web site. The electronic filing and electronic payment options became available on February 1, 2006.

- You do not need to register for electronic funds transfer (EFT) to pay electronically. All you need for the EFT payment transaction is a bank account.
- Two electronic filing options are available. The first, online e-filing, is similar to the Free-File program that is currently used for Wisconsin individual income taxes. The second, e-file (XML) transmission, offers the ability to submit an XML file from a template available on the department's web site.
- To file and pay, visit [www.dor.state.wi.us/eserv/pw/index.html](http://www.dor.state.wi.us/eserv/pw/index.html).
- If filing or paying by electronic means presents an undue hardship, you may request a waiver to use the paper form. See the Form PW-1 instructions for details on how to obtain a waiver.

### How to Compute the Withholding Amount

The withholding is based upon the amount of Wisconsin income reportable to the nonresident, computed as if the share of pass-through entity income is the nonresident's only source of Wisconsin income. Credit is allowed for tax previously paid on income attributable to the pass-through entity. The Form PW-1 instructions provide details and examples of this computation.

- As a transitional provision, credit is allowed for estimated payments applied to the calendar year

2005, as well as estimated payments made in 2005 for taxable years beginning in 2005.

- For nonresidents who are individuals, the 60% long-term capital gain exclusion may be used to reduce the amount of pass-through income subject to withholding.
- If a nonresident member of a pass-through entity is itself a pass-through entity (an "upper-tier" entity), the lower-tier entity must withhold on all income allocable to the upper-tier entity. However, the upper-tier entity may take credit on Form PW-1 for tax already withheld by the lower-tier entity.
- Credit is not allowed for loss carryforwards, whether or not these carryforwards are attributable to the pass-through entity.

### Effect of Withholding on the Nonresident's Return

The pass-through entity notifies the nonresident of the amount withheld by entering it on the line of the Schedule 5K-1, 3K-1, or 2K-1 titled "Wisconsin tax withheld." The nonresident takes credit for the tax withheld when their Wisconsin income or franchise tax return is filed.

- The withholding does not waive the nonresident's requirement to file a Wisconsin income or franchise tax return.
- For purposes of computing underpayment interest, the amount of tax required to be withheld by the pass-through entity is subtracted from the nonresident's tax liability.
- To substantiate the withholding, a nonresident must attach a copy of the Schedule 5K-1, 3K-1, or 2K-1 to their return. However, these schedules are not required to be attached to Forms 1CNS or 1CNP.

### Effect of Withholding on the Pass-Through Entity

The statute does not preclude a pass-through entity from choosing how to record the withholding amount. For example, the pass-through entity may choose to bill the nonresident for the tax withheld and record a loan receivable. However, under no circumstances may the pass-through entity net the tax withheld against the income reportable on the nonresident's Schedule 5K-1, 3K-1, or 2K-1. [✎](#)

## Travel Agents May Have Taxable Sales

Travel agents are liable for the reporting and payment of sales tax if they make sales of taxable property or services in Wisconsin. If a travel agent sells a package including both taxable and nontaxable items, the travel agent may make a reasonable allocation of its selling price to determine the tax due.

*Example: Sale of a “Package Deal” Which Includes Ticket to Event, Meals, Lodging, and Transportation*

- Individual A wants to attend a football game in Green Bay, Wisconsin.
- Individual A contacts Travel Agent B, located in Wisconsin, who is offering a “game day package” for \$400.
- The “game day package” includes one ticket to the game, meals at a restaurant, one night of lodging at a hotel, and transportation from the hotel to the game.
- Travel Agent B purchases the ticket to the game from Football Team C for \$75, the meals from Restaurant D for \$50, the lodging from Hotel E for

\$50, and the transportation to the game from Transporter F for \$25.

- Travel Agent B provides Football Team C, Restaurant D, and Hotel E with a properly completed exemption certificate claiming the resale exemption.

### Allocation of Selling Price Among Items Included in Package

The \$400 selling price of the complete package should be allocated among the four items being sold as part of the package (i.e., the ticket to the game, meals, lodging, and transportation to the game).

One method of allocating the \$400 selling price is to determine the percentage cost of each of the components offered in the package to the total cost of all the components offered in the package and multiply that percentage times the \$400 package selling price.


Based on the facts in the above example, the percentage cost of each of the components in the package and the amount allocated to the selling price of the package would be as follows:

Item in Package	Cost of Item (A)	Total Cost of All Items in Package (B)	Percentage of Total Cost (A)/(B)	Amount of Selling Price of Package (\$400) Allocated to This Item
Ticket	\$75	\$200	37.5%	\$150
Meals	\$50	\$200	25%	\$100
Lodging	\$50	\$200	25%	\$100
Transportation	\$25	\$200	12.5%	\$50

That portion of the \$400 selling price of the package to Individual A which is allocated to the meals (\$100), lodging (\$100), and ticket (\$150) is subject to Wisconsin sales tax by Travel Agent B. That portion of the \$400 selling price which is allocated to transportation to the game (\$50) is not subject to Wisconsin sales tax.

In the above example, Travel Agent B would be required to charge Wisconsin sales or use tax on \$350 of the \$400 selling price of the game day package (i.e.,

\$100 lodging + \$150 ticket + \$100 meals). Travel Agent B may purchase the admission, meals, and lodging for resale and therefore is not required to pay the sales tax to the suppliers of these items. No sales or use tax would be due on the purchase or sale of the transportation service.

If you have any questions concerning the taxability of sales made by travel agents, please feel free to contact the Wisconsin Department of Revenue at (608) 266-2776 or by e-mail at [sales10@dor.state.wi.us](mailto:sales10@dor.state.wi.us). 



## Video Gambling Machines – Who is the Operator Liable for Sales Tax?

A prior article in the *Wisconsin Tax Bulletin* explained that the gross receipts from providing access to or the use of video gambling machines in Wisconsin are subject to Wisconsin sales tax. The person responsible for reporting and remitting the sales tax to the Wisconsin Department of Revenue is the “operator” of the machine. (See *Wisconsin Tax Bulletin* 140, October 2004, pages 4 to 6.)

This article provides clarification as to who the operator is when distributors of video gambling machines place those machines in a business location owned by another person.

The “operator” of a video gambling machine means the person who has access to the machine for stocking or restocking or for removing the gross receipts, or who, in general, has control over the machine and its contents. (Section Tax 11.52(1), Wis. Adm. Code (June 1991 Register)).

The determination of who the operator is depends on the facts of each case. To help determine whether the operator is the distributor or the distributor’s customer (where placement is made), the following examples are provided.

### Example 1:

Tavern A owns a video gambling machine and is responsible for all aspects of the operation of the machine, including determining the payout percentages, who may play the machine, whether a player will receive a cash payout, and removing cash from the machine and using some of the cash to pay customers for accumulated credits (payouts). Distributor B provides routine service and maintenance to the machine for a fee.

Tavern A is the operator of the machine and is liable for sales tax on its gross receipts from the machine because it has access to the machine for removing the gross receipts and has general control over the machine.

### Example 2:

Distributor C rents video gambling machines to Tavern D for a fixed monthly charge. Tavern D is responsible for all aspects of the operation of the machines, including determining which types of machines it will rent, the payout percentages, who may play the

machines, whether a player will receive a cash payout, and removing cash from the machines and using some of the cash to pay customers for accumulated credits (payouts). Distributor C provides routine service and maintenance to the machines.

Tavern D is the operator of the machines and is liable for sales tax on its gross receipts from the machines because it has access to the machines for removing the gross receipts and has general control over the machines.

### Example 3:

Distributor E places video gambling machines at Tavern F’s establishment after the terms are negotiated.

Tavern F agrees that it will provide adequate and appropriate space for the machines, provide the electricity necessary to operate the machines, and to keep them connected to electrical outlets and in operation during all business hours. Tavern F must take reasonable measures to protect the equipment from tampering, vandalism, injury, and damage and will contact Distributor E promptly of any malfunctions. Tavern F agrees not to allow “houseplay” or free use of the machines. Tavern F determines who may play the machines and if the player receives a cash payout. Tavern F has keys to the machines, removes the cash from them for safe keeping, and uses some of the cash to pay customers for accumulated credits (payouts).

Distributor E has the right to select the type and number of machines it places at Tavern F’s location. Distributor E has keys for all the machines placed at Tavern F’s location and provides routine service and maintenance to them. Distributor E is responsible to set each machine’s payout percentage and does not provide Tavern F with access codes or technical information necessary to change the counters or the payout percentages.

Distributor E regularly visits Tavern F to read the machine meters. Distributor E provides a statement to Tavern F showing the gross receipts (amount deposited into the machines), the sales tax, and the split. The statement also shows the amount of payouts. The receipts are split between Distributor E and Tavern F per their agreement. If there are money shortages, Distributor E has the right to take the keys for the machines away from Tavern F.

Distributor E is the operator of the machines since it has the right of access to them for removing the gross receipts and has general control over them, as explained below.

*Right of access for removing the gross receipts.* Distributor E always has the right of access to the machines. Tavern F may have the right to do so as well, but it is conditional and subject to revocation by Distributor E. While the agreement between Distributor E and Tavern F may not expressly provide for an agency relationship, Tavern F is removing the cash to protect it on behalf of Distributor E so that the proper division can be made when Distributor E arrives.

*General control over the gambling machines and their contents.* While Tavern F has physical custody of the machines, control over their operations is really in the hands of Distributor E. Only Distributor E sets the

payout percentages. Distributor E controls where the machines are placed and which machines will be installed in Tavern F's location. Tavern F's control over maintenance is limited to notifying Distributor E of any problems. Tavern F is prohibited from setting up "houseplay" or free plays for itself, its staff, or customers. Although Tavern F is making the cash payouts and storing the cash, this is being done on behalf of Distributor E. It is Distributor E's machines that determine the winners and the amount they win.

**Notes:** (1) Determinations of who is the operator for sales tax purposes are made on a case-by-case basis depending on the facts and circumstances.

(2) See *Wisconsin Tax Bulletin* 140, October 2004, page 6, for information about recordkeeping requirements. [↗](#)

## Reminder: Estate Tax Filing Requirements

Persons handling the affairs of deceased individuals (such as a personal representative, special administrator, trustee, distributee, or a friend or family member of the decedent) should be aware of the requirements for filing a Wisconsin estate tax return (Form W706). Listed below is general information concerning these requirements for deaths occurring in 2006.

### Wisconsin Estate Tax Filing Requirement

Form W706 is required to be filed for a decedent whose gross estate plus adjusted taxable gifts and specific exemption is \$675,000 or more. If a federal estate tax return (Form 706) is not required to be filed, the gross estate is the date of death value of the decedent's property, not reduced by mortgages and liens. If a federal estate tax return is required to be filed, the gross estate is as reported on federal Form 706, not reduced by mortgages and liens, or as determined by a final federal audit.

### Due Date of the Estate Tax Return

Form W706 is due nine months after the date of death or when the federal estate tax return is required to be filed, as extended, whichever is later. An extension of time obtained for filing the federal estate tax return also extends the time for filing Form W706, provided a copy of the approved federal extension is attached to Form W706 at the time it is filed. If a federal estate tax

return is not required, a Wisconsin-only extension may be requested using Form W4768, *Application for Extension of Time to File a Wisconsin Estate Tax Return (W706)*. If the return is filed after the due date, as extended, there is a penalty equal to 5% of the tax. The minimum penalty is \$25 and the maximum penalty is \$500.

### Due Date of the Payment of Tax

Regardless of when Form W706 is due, the tax is due nine months after the date of death. There is no provision for extending the time to pay the Wisconsin estate tax, even though an extension is available for paying the federal estate tax. If the tax is not paid within nine months of the date of death, interest is imposed at 1% per month **from the date of death**. If an advance payment of Wisconsin estate tax is to be made (before Form W706 is filed), it should be submitted with a completed Form 401T, *Report of Estate or Inheritance Tax Payment*.

Additional information concerning estate tax filing requirements, as well as other Wisconsin returns that may be required to be filed for a deceased individual, may be found on the department's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). Click on "FAQs," then "Individual," and then "Estates and Fiduciaries." Additional information is also available by contacting the department at (608) 266-2772 or [estate@dor.state.wi.us](mailto:estate@dor.state.wi.us). [↗](#)

## File Error-Free Tax Returns and Credit Claims

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

In the 2005 processing season (2004 returns and claims), the department sent back thousands of tax returns and credit claims. Processing was delayed on thousands of other forms, to obtain additional information from taxpayers or claimants. Tax returns and credit claims that were adjusted during processing numbered in the hundreds of thousands.

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

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

- Read and follow instructions.
- Fill in the social security number or employer identification number.
- Make sure all required line entries have been made, and that they are on the proper lines.
- Check and recheck the return before it is filed, even if it is filed electronically. Although electronic filing does significantly reduce errors, each year the department sees an increase in the number of amended returns it receives as a result of electronically filed returns being submitted without first being checked over.
- Sign the return or claim.
- Attach required documents:
  - copies of federal return and schedules.
  - (individual returns) wage and tax statements, page 4 of Form 1 (when the itemized deduction credit or married couple credit is claimed), property tax bill(s) and the verification received from the Wisconsin Department of Veterans

Affairs (when the eligible veteran's and surviving spouse's property tax credit is claimed).

- (1NPR) residence questionnaire, other state's tax return copy.
- (corporation returns) manufacturer's sales tax, research, development zone, farmland tax relief schedules.
- (homestead) copy of separately filed tax return (including federal return and wage statements), rent certificate (completed, signed, and unaltered), property tax bill, ownership verification if applicable.
- (farmland preservation) property tax bills, farmland preservation agreement or zoning certificate if appropriate, ownership verification if applicable.
- (partnerships) Schedule 3K-1.
- (fiduciaries) as listed on page 2 of Form 2.
- (estate tax returns) copies of federal Form 706 and schedules, list of assets, will, trust instruments, approved federal extension if appropriate.

- Individual returns:

- Fill in correct amounts and all information for the standard deduction, exemption deduction, school property tax/rent credit, married couple credit, itemized deduction credit, and Wisconsin withholding.
- Correctly calculate the earned income credit, farmland tax relief credit, underpayment interest, retirement plan deductions, and federal/Wisconsin income differences.
- Include all taxable income, such as S corporation and partnership income, IRA distributions, interest and dividends, income earned in another state, and gambling winnings.
- If the eligible veteran's and surviving spouse's property tax credit is claimed on a 2005 return, the school property tax credit, homestead credit, farmland preservation credit, or farmland tax relief credit may not be claimed on the same return.

- Homestead credit:

- Prorate rent for joint occupancy, if appropriate – see bottom of rent certificate.

- Correctly prorate property taxes for part business use, more than one acre, or co-owned property.
- Reduce property taxes/rent for months Wisconsin Works (W2) received.
- Do not claim more than 12 months of property taxes/rent.
- Include all household income, such as gross pensions and annuities, nontaxable capital gains, depreciation (including standard mileage depreciation and partners, limited liability company (LLC) members, and tax-option (S) corporation shareholders distributive share of depreciation), IRA/deferred compensation deductions, Wisconsin Works (W2) payments, child support payments, and caretaker supplement payments.
- Farmland preservation credit:
  - Prorate property taxes for co-owned property.
  - Do not claim special assessments or property taxes for land not in a farmland preservation agreement or zoning certificate.
  - Claim the correct percentage of credit.
  - Include all household income, such as gross pensions and annuities, nontaxable capital gains, depreciation, capital loss carryover, and deferred compensation.
- Fiduciaries:
  - Mail to the correct Post Office box, as indicated on the bottom of page 2 of Form 2.
  - On page one, check one “type of trust” box if applicable, answer questions, fill in fiscal year dates if applicable, request a closing certificate if needed.
- Estate tax returns:
  - Follow special procedures if an ESBT (electing small business trust) or a QFT (qualified funeral trust).
  - Report all income, expenses, and credits as distributable income on a final Form 2.
  - If requesting a closing certificate, check the box on page one of Form 2 to indicate this and fill in the information below the check box indicating where the closing certificate is to be mailed. Also complete Schedule CC and attach it to Form 2, along with the other information listed in the Form 2 instructions.
  - Do not write in the bottom margin of Form 2, this space is reserved for department use.
- File if the gross estate (including nonprobate assets) plus adjusted taxable gifts exceeds \$675,000, even if no tax is due.
- File Form W4768 if an extension is needed for an estate that is filing only a Wisconsin estate tax return.
- File and pay tax timely – use Form 401T for payment, not Form 1-ES or 4-ES.
- Request a closing certificate for both the fiduciary and estate returns at the same time, if possible.
- Do not write in the bottom margin of Form W706, this space is reserved for department use. [☞](#)

## Federal Forms 1099-G, 1099-INT Mailed to Taxpayers

The Department of Revenue mailed over 850,000 federal Forms 1099-G and Forms 1099-INT in January 2006. Federal law provides that the department must furnish 2005 Forms 1099-G to persons who received or received benefit of a Wisconsin income tax refund in 2005. Forms 1099-INT must be provided to persons who received \$600 or more of interest on refunds issued by the Department of Revenue in 2005.

Regardless of whether a taxpayer receives a Form 1099-INT, all interest received from the department in 2005 must be reported as income on the taxpayer's 2005 federal and Wisconsin income tax returns. In addition, all or a portion of a state income tax

refund from Form 1099-G may be includable in federal taxable income if state income tax payments were claimed as an itemized deduction on the federal tax return for the year to which the refund applies.

Form 1099-G includes an explanation as to how the refund reported to the Internal Revenue Service (IRS) was determined. The refund reported to the IRS may not be the same amount as the actual income tax refund check received. Many donations, refundable credits, and penalties that are included in the computation of a refund check may or may not be included in the computation of the income tax refund reported to the IRS. See Form 1099-G for complete instructions. For Wisconsin purposes, the state income tax refund should not be included in taxable income. [☞](#)



## Wisconsin Earned Income Tax Credit

Are your clients eligible for Wisconsin's earned income tax credit (EITC)? The Wisconsin EITC is available to taxpayers that are full year residents of Wisconsin and have at least one qualifying child for purposes of the federal EITC. The Wisconsin EITC is a percentage, determined by the number of qualifying children, of the allowable federal EITC. For one qualifying child, the Wisconsin EITC is 4% of the allowable federal EITC. For two qualifying children, the Wisconsin EITC is 14% of the allowable federal EITC. For three or more qualifying children, the Wisconsin EITC is 43% of the allowable federal EITC.

### Who is a qualifying child?

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

### **Relationship test:**

The child must be a son, daughter, stepchild, foster child, brother, sister, stepbrother, stepsister, or a descendent of any of them (for example, a grandchild, niece, or nephew). An adopted child is always treated as the taxpayer's own son or daughter. An adopted child includes a child lawfully placed with the taxpayer for legal adoption. A foster child is a child placed by an authorized placement agency or by judgement, decree, or other order of any court of competent jurisdiction.

### **Age test:**

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

### **Residency test:**


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

### What other qualifications are there for claiming the EITC?

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

- The taxpayer, spouse (if married), and all children must have a valid social security number.
- The taxpayer must be a US citizen or a resident alien for the full calendar year.
- The correct filing status cannot be "married filing separate."
- The taxpayer's investment income must be less than \$2,650 for tax year 2004 and less than \$2,700 for tax year 2005.
- The taxpayer must have earned income.

Additional information concerning the federal EITC may be obtained from federal Publication 596, *Earned Income Credit (EIC)*, which is available in both English and Spanish versions. Publication 596, as well as other information concerning the federal EITC, is available on the Internal Revenue Service's web site at [www.irs.gov](http://www.irs.gov).

Additional information concerning the Wisconsin EITC may be obtained on the Department of Revenue's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us), or by contacting the department by phone at (608) 266-2772 or by e-mail at [income@dor.state.wi.us](mailto:income@dor.state.wi.us). 

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## Reminder: 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 more than \$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 have filed for bankruptcy. The Internet site will be updated each business day to account for cases that meet the non-posting criteria identified above. The site will also be updated quarterly to add new

accounts and remove accounts that no longer owe more than \$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 Internet site, which went online on January 3, 2006, also contains a separate list of the 100 largest delinquent accounts.

Information about 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 the Central Collection Section at (608) 266-7879. 



## File Sales and Use Tax Returns Electronically

The Wisconsin Department of Revenue (DOR) has several different ways for you to join the tens of thousands of people each month who electronically file their Wisconsin sales and use tax returns. Filing and paying your taxes electronically makes the filing process easier for you! The electronic systems provide confirmation receipts for your returns and payments, check your math, and ensure that returns have all the required information. These returns are less likely to be adjusted, which reduces interest charges and speeds up processing.

### Electronic Filing and Payment Options Available for Sales and Use Tax Returns

#### Sales TeleFile

You can file your Wisconsin sales and use tax return with any touch-tone telephone. To use TeleFile, obtain a TeleFile sales and use tax worksheet and payment voucher from the DOR web site at [www.dor.state.wi.us/eserv/e-sales.html](http://www.dor.state.wi.us/eserv/e-sales.html). When you have completed the worksheet, call (608) 261-5340 in Madison or (414) 227-3895 in Milwaukee to actually file your return. You will be given a confirmation number at the end of the call, which assures that DOR has received your return. You will also be provided with information regarding the available methods of payment (Electronic Funds Transfer (EFT), credit card, check, or money order) if there is a tax due on your return.

#### Sales Internet Process

Sales Internet Process (SIP) is a free, Internet-based electronic filing application for sales and use tax. It performs calculations, provides a history of all your electronically filed returns, issues a receipt, and allows you to make your tax payment by EFT, check, or money order. To use SIP you will need to apply for and obtain a logon ID and password when you begin filing your tax returns at [www.salestax.dor.state.wi.us/sec/logon.asp](http://www.salestax.dor.state.wi.us/sec/logon.asp).



## Corporation Tax Returns – Receipt Please

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

## File Transmission

This program is a service for taxpayers using approved private vendors' software or who have the technical expertise to create a file in XML format. File Transmission places return data into a file format that can be directly processed into the DOR system. Using secure transmission over the Internet, you can submit an authorization for an EFT payment within the same file. You will receive an e-mail acknowledgement to confirm receipt of a successful file transmission. File Transmission may be found on the DOR web site at [www.dor.state.wi.us/eserv/file/index.html](http://www.dor.state.wi.us/eserv/file/index.html).

## Electronic Payments

Please note that paying by EFT requires a separate registration. DOR accepts EFT for most types of tax payments. It is easy to use and you are issued an acknowledgement that your payment was received, which is a service that cannot be provided for checks and money orders. EFT also enables you to "warehouse" your payment in advance until the actual due date. An EFT online registration form is provided on the DOR web site at [www.dor.state.wi.us/eserv/eft3.html](http://www.dor.state.wi.us/eserv/eft3.html). Complete the form and register by telephone at (608) 264-9918. Payments may be made either online or by telephone.

## Questions?

More information on all of the above services may be found under the "Business" or "E-Services" sections of the DOR web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). You may also contact DOR by any of the following methods:

*Phone* – (608) 266-2776

*E-mail* – [sales10@dor.state.wi.us](mailto:sales10@dor.state.wi.us)

*Write* – Technical Assistance Unit, Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949. 

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

### **Take Taxes, for Instance** **It's an Electronic World Out There**


When taxpayers filed their 2004 Wisconsin personal income taxes in 2005, 1,570,830, or 59%, chose to file electronically – either through a professional tax preparer, via TeleFile, or online from their personal computer through the [www.wisconsin.gov](http://www.wisconsin.gov) web site.

Online filing has these advantages:

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

file for free! Check it out at [www.irs.gov](http://www.irs.gov). (Also see the article on page 22 of this Bulletin, regarding e-filing Wisconsin returns for free through Wisconsin Free-File.)

- Applicants for homestead credit can file Schedule H or H-EZ electronically when they file their income tax returns using the fed/state e-file program, as well as using the Wisconsin Free-File program (see the related article regarding Wisconsin Free-File, on page 22 of this Bulletin).
- Wisconsin TeleFile is included in the Wisconsin Form 1A and WI-Z booklet. The 4-digit TeleFile PIN is identified on a postcard that was mailed separately from the booklet. Taxpayers who did not receive the postcard and are eligible to TeleFile can contact the department at (608) 264-6886 or by e-mail at [telefile@dor.state.wi.us](mailto:telefile@dor.state.wi.us) to obtain a PIN number. New this year, TeleFile offers filers direct deposit of their refunds. For more information about Wisconsin TeleFile, visit the department's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us).
- Taxpayers can pay by credit card. Filers using the fed/state e-file program also have the option of including an electronic payment along with their return.

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

### **Reminder: Electronic Filing Required for Certain Practitioners**

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

Beginning January 1, 2004, this requirement applied to practitioners who filed 100 or more 2003 Wisconsin individual income tax returns (Form 1, 1A, and WI-Z) and homestead credit claims in 2004. The threshold remains at 100 for 2004 Wisconsin individual income tax returns and homestead credit claims filed in 2005.

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

this will relieve the practitioner of the e-filing requirement for that return.

For more information about the rule, go to [www.dor.state.wi.us/eserv/rule.html](http://www.dor.state.wi.us/eserv/rule.html) or contact the department at the address below.

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

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

Phone: (608) 264-6886

Fax: (608) 267-1030

E-mail: [efiling@dor.state.wi.us](mailto:efiling@dor.state.wi.us)



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

Partnerships with 100 or more partners may file their Wisconsin Schedules 3K-1, *Partner's Share of Income, Deductions, etc.*, on magnetic/electronic media. The types of magnetic/electronic media allowed include magnetic tape, cartridge, CD, and diskette. The Department of Revenue (DOR) does not accept 9-track magnetic reel tape.

If your Schedules 3K-1 are prepared by software, ask your software company if they can provide these documents on magnetic/electronic media rather than on paper. Filing on magnetic/electronic media will save both preparers and DOR valuable resources, such as

paper, shipping costs, and processing time. It's another way DOR is streamlining the process of filing tax returns.

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

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

Phone: (608) 267-3327

E-mail: [dlark@dor.state.wi.us](mailto:dlark@dor.state.wi.us)



## How to Obtain Wisconsin Tax Forms

A new Online Forms Ordering System was implemented on November 1, 2005. This system allows you to order many Wisconsin tax forms and publications. It is the fastest way to receive original forms. You can access the Online Forms Ordering system by visiting the Department of Revenue's (DOR's) web site at [www.dor.state.wi.us](http://www.dor.state.wi.us) and clicking on "Forms" in the left column of the home page. Scroll down to the bottom of the forms page to the link to the Online Forms Ordering System. If you would prefer to send in a paper order, a paper Order Blank can be ordered using the Online Forms Ordering System. You will find the Order Blank under the "Miscellaneous" category. You can also obtain an Order Blank by writing, calling, or faxing your request to the department at the address or numbers listed below under "To Receive Forms in the Mail."

You can obtain up to 6 of any one Wisconsin tax form or a total of 15 Wisconsin forms by visiting any DOR office or by contacting the department by mail, by phone, or by fax. These limits are imposed in order to maintain a supply of forms for others. You can also receive forms via your fax machine or the Internet.

Some libraries have forms during the filing season. Most libraries have a copy of Wisconsin Package WI-X, from which most Wisconsin tax forms can be photocopied. New for this year, Package WI-X is also available as a zip file on DOR's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). Since the zip file is available, the Package WI-X CD-ROM is no longer being produced. The zip file is a no-cost way to obtain Package WI-X, versus the \$6.00 cost of the CD-ROM.



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

If you want to pick up forms at a department office, you may visit any of the department's local offices. The office locations and hours of service are listed in the article titled "Department Offers Taxpayer Assistance" on page 10 of this Bulletin (assistance is also available at these offices).



### To Receive Forms in the Mail

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

- Writing to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949;
- Calling the department in Madison at (608) 266-1961;
- Faxing your request to the department at (608) 267-1030; or
- Placing an order on the Online Forms Ordering System at [www.dor.state.wi.us](http://www.dor.state.wi.us).



### To Receive Forms Via the Internet

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

To download forms, access the department's web site, [www.dor.state.wi.us](http://www.dor.state.wi.us), and click on "Forms."



## To Receive Forms Via Your Fax Machine

You can receive forms via your fax machine by using the department's Fax-A-Form system. Individual income tax, homestead credit, farmland preservation credit, corporation franchise and income tax, estate tax, fiduciary income tax, and partnership forms and instructions for 1998 through 2005 are available via Fax-A-Form. For sales/use, withholding, and alcohol beverage taxes, only 2005 forms and instructions are available. In addition, 1998 through 2005 amended individual income tax forms and instructions are available, as well as publications published by the department (see the article titled "Tax Publications Available" on page 31 of this Bulletin).

**To use Fax-A-Form**, call (608) 261-6229 from the handset of your fax machine or the touch-tone telephone

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

Fax-A-Form is available 24 hours a day, 7 days a week. The department does not charge a fee for this service (though you will have to pay your normal telephone charges and fax machine operating costs). If you have questions, you may write to: Wisconsin Department of Revenue, Fax-A-Form Coordinator, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949, or call (608) 266-1961. [✉](#)



## Electronic Filing Free and Online

The Wisconsin Department of Revenue is committed to serving taxpayers in the most efficient manner possible. The department strives to continually use technology to streamline methods for filing individual income tax returns. Three years ago the result was the introduction of a new way to file, Wisconsin Free-File. Over 91,000 2004 Wisconsin income tax returns were filed using this program, and it will be available again this year for filing 2005 returns.

Wisconsin Free-File is an online, fill-in-the-blank personal income tax return that can be filed with the Department of Revenue at the click of a computer mouse. No charge! It is a no-charge electronic tax filing option available for taxpayers of every income category. It works for anyone filing Form WI-Z, Form 1A, Form 1 with federal 1040 (but Free-File does not file your federal return with the Internal Revenue Service), and a homestead credit claim (Schedule H or H-EZ). Certain federal Schedules C-EZ and D, and Wisconsin Schedule WD are also supported by Free-File.

Wisconsin Free-File combines the convenience and quick results of electronic filing with the familiarity of the traditional paper tax form. (The line numbers are the same.) Choose direct deposit and Wisconsin Free-File will return refunds (on returns that do not require adjustment) within five working days – just like the third-party tax preparation software, but without the

purchase price. Wisconsin Free-File is even cheaper than paper, because you don't need postage stamps.

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

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

Wisconsin Free-File is not available for first-time filers or for those claiming certain credits (such as development zones, historic rehabilitation, technology zone, and taxes paid to other states). Nor is it available for federal Schedules C, E, or F, or Wisconsin Schedules 2440W, DC, DI, FC, HR, MS, MT, RS, T, TC, or Form I-804. It cannot accept Schedule H or H-EZ with more than 4 rent certificates or 6 tax bills, more than 4 separate rental amounts on lines 11a and 11b of the rent certificate, or tax bills for adjoining property where the owner name and type are different than what is on the home tax bill OR where taxes are greater than \$1,450. [✉](#)



## Another Step Toward an Integrated Tax System

The Department of Revenue took another step toward integrating its tax computer systems in January 2006, when it implemented the Wisconsin Income Processing and Audit System (WINPAS) for corporation income/franchise tax. This system will process all corporation income/franchise returns, maintain customer accounts, perform accounting and correspondence functions, support office and field audit, and manage collection cases. All corporation income/franchise returns for tax year 2005 and any returns for prior years filed in January 2006 and thereafter will be processed in the new system.


### Changes

Corporation income/franchise return filers will have noticed the following changes starting in January 2006:

- The look and content of bills, notices, and letters have changed;
- New tax account numbers are being issued to customers who have not yet received them, but most returns and correspondence will also be identified by a business's federal employer identification number;

- Notices issued to taxpayers are being identified by a letter identification number, which allows a customer service person to immediately access the text of the notice that a customer has received;
- Customers who have overdue tax liabilities for corporation income/franchise tax and another tax program are receiving separate monthly statements for corporation income/franchise tax and for the other tax program;
- Tax returns have been redesigned to allow data capture through scanning; and
- As part of a joint project with the Internal Revenue Service, corporations are able to file their Wisconsin tax returns electronically.

### What's Next?

Following the corporation income/franchise tax rollout, WINPAS will be expanded to handle individual income tax returns for tax year 2006. A later phase of the project will cover partnership, fiduciary, and estate tax returns. When fully implemented, WINPAS will reduce computer system maintenance, since many tax programs will be supported by the same computer system. It will also allow the department to provide customer service more efficiently, since all taxpayer records will be located in one place. 

## Electronic Filing is Available for Wage Statements and Information Returns

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

For those who prefer to continue to file using magnetic media, the department will accept cartridges (IBM 3480/3490 compatible), diskettes, or CD-ROM. **The department does not accept 9-track magnetic reel tape.**

Wage statements and information returns may be, and are encouraged to be, filed with the department using magnetic media or the file transfer site even though that format is not required. The files submitted must be in the Social Security Administration's MMREF-1 file format.

Additional information is available in Publication 509, *Filing Wage Statements and Information Returns on Magnetic Media or by Electronic Transmission*, and Publication CO-001, *Annual W-2, 1099-R, 1099-MISC and W-2G Reporting*. See the article titled "Tax Publications Available" on page 31 of this Bulletin, for methods of obtaining Publications 509 and CO-001. Additional information is also available by contacting the department at:

ATTN: Magnetic Media Coordinator  
Audit Bureau  
Wisconsin Department of Revenue  
2135 Rimrock Rd Mail Stop 5-257  
Madison WI 53708-8906  
608-267-3327  
[w2data@dor.state.wi.us](mailto:w2data@dor.state.wi.us)







## Attaching Copy of Federal Return

Individuals who file their Wisconsin income tax return on Form 1 or 1NPR are required to attach (paper clip) a copy of their federal income tax return to their Wisconsin return. Generally this will be a copy of federal Form 1040, 1040A, or 1040EZ.

Some taxpayers who are required to file a Wisconsin income tax return are not required to file a federal income tax return with the Internal Revenue Service. For example, a person filing as head of household who is age 65 or over, with gross income of at least \$11,500 but less than \$11,750 for 2005, must file a 2005

Wisconsin return but is not required to file a 2005 federal return. In this situation, since the person would not have a copy of a federal return to attach to the Wisconsin return, a statement listing the sources and amounts of income must be attached to the Wisconsin Form 1 or 1NPR in lieu of a federal return.

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



## Don't Forget Due Dates for Information Returns

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

Information returns that were due January 31, 2006 include Form W-2 to report wages, tips, and other compensation, and Form W-2G to report gambling winnings.

Information returns due February 28, 2006 include Wisconsin Form 9b (or federal Form 1099-R or 1099-MISC) to report retirement plan distributions and other nonwage compensation, and for payers other than corporations to report rents or royalties.

Information returns due March 15, 2006 by **corporations** include Form 9b or federal Form 1099-MISC to report rents or royalties, and Form 8 to report capital stock transfers.

Regardless of the due date for filing the information returns with the department, copies of the information returns (except Form 8) must have been given to the recipients of the payments by January 31, 2006. Copies of Form 8 are not required to be given to individuals who transfer capital stock.

Additional information is available in Wisconsin Publication 117, *Guide to Wisconsin Information Returns*. See the article titled "Tax Publications Available" on page 31 of this Bulletin for information about how to obtain a copy of the publication. [✎](#)

## A Message to Persons Preparing Form WT-7

### Reminders



- ☐ **Form WT-7, Employers Annual Reconciliation of Wisconsin Income Tax Withheld from Wages, may be filed electronically.** See the Department of Revenue's (DOR's) web site for more information at [www.dor.state.wi.us/html/with.html](http://www.dor.state.wi.us/html/with.html).
- ☐ **A check digit is required on all Form WT-7s.** The check digit is required as the seventh digit of the Wisconsin Employer Identification Number (WEIN). The WEIN is six digits long, followed by a

single space, and then the check digit (for example: 123456 7). The check digit formula is available at [www.dor.state.wi.us/taxpro/ckdigit.html](http://www.dor.state.wi.us/taxpro/ckdigit.html)

- ☐ **Address changes may be done online.** See DOR's web site for more information at <https://ww2.dor.state.wi.us/GenericFile/application?interview=1086489>

### General Information

- ☐ Remember to use the 6-digit WEIN on Form WT-7 and all Forms W-2, not the 15-digit ITS number.
- ☐ If you must file on paper, please file with your pre-printed Form WT-7, or use the online fill-in Form WT-7 at [www.dor.state.wi.us/forms/with/w-107f.pdf](http://www.dor.state.wi.us/forms/with/w-107f.pdf).

- ☐ Remember to verify that all the taxpayer information printed on Form WT-7 is correct. If there has been a name or address change, check the appropriate box on Form WT-7 to indicate this.
- ☐ Any business change resulting in the requirement to obtain a new Federal Employer Identification Number (FEIN) may also require a new WEIN be obtained. Call (608) 266-2776 for assistance if you have a new FEIN.
- ☐ For the quickest service on refunds or payments due, be sure to use the appropriate mailing address shown on Form WT-7.
- ☐ If you cannot file Form W-2 electronically, DOR is requesting that employers NOT use carbon copied Forms W-2, including NCR. Carbon and NCR copied Forms W-2 do not scan well. The preferred format for a Form W-2 is the IRS approved format,

which may be viewed on the IRS web page at [www.irs.gov](http://www.irs.gov).

- ☐ For more information on submitting Forms W-2 electronically, see [www.dor.state.wi.us/eserv/w-2.html](http://www.dor.state.wi.us/eserv/w-2.html)

### Amending Form WT-7

- ☐ Amended Forms WT-7 are not reviewed until late in the year. If you file an amended Form WT-7, do not be alarmed if you do not receive a response from DOR until late in the year.
- ☐ If amending a Form W-2, please include a letter explaining the changes made.

**Questions?** Direct questions to Customer Service at (608) 261-6261. [customer@doit.wisconsin.gov](mailto:customer@doit.wisconsin.gov)



## Tips to Speed Processing of Income Tax Refunds

If you have a refund coming on your 2005 Wisconsin individual income tax return, you want your return processed quickly. You can help by following the tips listed below.



### File Electronically

There are many good reasons to file your Wisconsin return electronically (e-file). It's fast, safe, documented, easy, and accurate (to help ensure accuracy, be sure to check over your e-filed return before you hit "submit"). For more information, see the article relating to Wisconsin Free-File, on page 22 of this Bulletin.



### File Early

The time it takes to issue a refund varies greatly, depending on when the return is received and the complexity of the return. Refunds for returns that are not adjusted are issued in an average of three weeks for returns received in January and February, four weeks for returns received in March, and ten to twelve weeks for returns received in April and after.



### Use Your Label

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

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



### File an Accurate and Complete Return

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

- Check your arithmetic.
- Make entries legible and on the correct lines.
- Attach the correct withholding statements.
- Claim only Wisconsin tax withheld, not federal tax, social security, or tax withheld for another state.
- Attach **all** necessary supporting schedules.

- Attach a **complete** copy of your federal return and schedules if you file on Form 1 or 1NPR.
- Attach a completed rent certificate or a copy of your 2005 property tax bill if you are claiming homestead credit.
- Assemble your return in the proper order (see page 27 of the Form 1 instruction booklet or page 31 of the Form 1NPR booklet).



### More Tips

For more tips, see the article titled “File Error-Free Tax Returns and Credit Claims,” on page 16 of this Bulletin. [🔗](#)

## 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.*

### (Veteran’s and Surviving Spouse’s Property Tax Credit)

**Q** I am an eligible surviving spouse of a veteran who died while on active duty. I will be paying the property taxes on my home in December of 2005. I will then claim the veteran’s and surviving spouse’s property tax credit on my 2005 Wisconsin income tax return based on the property taxes paid. May I also claim homestead credit for 2005?

**A** No. If you claim the veteran’s and surviving spouse’s property tax credit on your 2005 return, you may not claim homestead credit, the homeowner’s school property tax credit, farmland tax relief credit, or farmland preservation credit on your 2005 return.

**Q** I am an eligible surviving spouse of a veteran who died while on active duty. In December of 2005 I received the bill for the property taxes on my home. I will be paying these taxes in 2006. I will claim homestead credit for 2005 based on the property taxes accrued. May I then claim the veteran’s and surviving spouse’s property tax credit for 2006 (the year the taxes are paid)?

**A** No. The veteran or surviving spouse who claims the property tax credit receives a refund of 100% of the property taxes on their principal dwelling and is not allowed an additional benefit from these taxes. To claim the homestead credit in 2005 and the veteran’s and surviving spouse’s property tax credit in 2006, based on the same taxes, would result in a double benefit. The

only way the surviving spouse could claim the veteran’s and surviving spouse’s property tax credit in 2006 would be if he/she were to amend the 2005 return and repay the homestead credit.

**Q** I am a 66 year old veteran who served on active duty under honorable conditions in the U.S. armed forces and have a service-connected disability rating of 100 percent. In addition, I was a resident of Texas at the time of entry into active service. May I claim the veteran’s and surviving spouse’s property tax credit?

**A** No. One of the conditions that must be met to qualify as an “eligible veteran” is that you must have been a resident of Wisconsin at the time of entry into active service.

### (Sales and Use Tax)

**Q** A tavern makes arrangements for a band to perform at the tavern. On the night of the performance, the tavern charges a \$5.00 cover charge. All proceeds from the cover charge will be given to the band as payment for its performance. Is the cover charge taxable? If so, who is responsible for reporting and remitting the sales tax?

**A** Yes, the cover charge is taxable. Sales tax is imposed on the sale of admissions to amusement, athletic, entertainment, or recreational events or places. Since the tavern is the seller of the admission (cover charge) the tavern is liable for sales tax on its gross receipts from the admissions, regardless of whether the proceeds are given to the band.

**Note:** The tavern’s payment to the band is not subject to sales or use tax. [🔗](#)

## Negligence Penalties May Be Imposed in Field Audits

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

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

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

- Taxpayer's awareness of the taxability of the items adjusted.
- Certainty or uncertainty of the taxable status of the items adjusted.

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

### Field audit negligence penalties imposed:

Fiscal Year Ending June 30...	<u>2002</u>	<u>2003</u>	<u>2004</u>	<u>2005</u>
Number of Audits With a Negligence Penalty Imposed	385	489	420	418
Total Number of Audits	1631	1978	1758	1949
Percentage	23.6%	24.7%	23.9%	21.4%



## 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 79 of this Bulletin. The Index is also on the department's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). Just click on "Publications." 



## Sales and Use Tax Report Mailed

The December 2005 *Sales and Use Tax Report* (3-05) was sent in late December and early January 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. Topics covered in the December 2005 Report include:

- correction to September 2005 *Sales and Use Tax Report*;
- new tax laws; and
- sales tax exemption replaces manufacturer's sales tax credit.

A copy of the Report appears on pages 38 and 39 of this Bulletin. It is also available on the Department of Revenue's web site at [www.dor.state.wi.us/ise/sales/05-3.pdf](http://www.dor.state.wi.us/ise/sales/05-3.pdf). 

## How to Obtain Copies of Your Tax Returns

### What Is Available

Upon request, the Department of Revenue will provide taxpayers with copies of their previously filed tax returns (or information regarding them). Copies of returns or information are generally mailed within 10 to 14 business days after the department receives the request. When a copy of a state return is requested, a copy of the federal return will automatically be provided if it is a part of the Wisconsin return. Wage statement copies are not always available with Forms 1A and WI-Z. Tax returns are generally available for copying within four months after the returns are filed.

### Who May Request Copies

Taxpayers, partners in a partnership, or corporation officers may request copies of their own tax returns. Other persons may also request copies, if they provide a power of attorney form or other written authorization which is signed by the taxpayer, partner, or corporation officer, and specifies the type of tax return and periods requested. Requests for copies of a deceased taxpayer's tax returns must include a certified domiciliary letter and be signed by the personal representative of the estate. If there is no estate, a certified copy of the death certificate and a statement of the reason for the request are required.

### Fees

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

### How to Request

All requests for copies of returns or information must be made in writing (the written request may be faxed) or in person. If faxing a request, payment must be received before the department can mail the requested information. Requests by telephone will not be accepted. Requests must include the following:

1. Name on the requested tax return.
2. Social security number (including spouse's social security number, if applicable) or other identification number of the taxpayer.
3. Type of return and year(s) or period(s) of the tax return(s) being requested.

4. Name and address to which the copies are to be mailed.
5. Signature of the taxpayer, partner, corporation officer, or authorized representative.
6. Photocopy of legal photo ID, or have the request notarized.
7. Payment of appropriate fees for requested information.

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

### Where to Direct Requests

*Written Requests:* Mail your request to


Wisconsin Department of Revenue  
Mail Stop 232B  
P.O. Box 8903  
Madison, WI 53708-8903

*In-Person Requests:* Visit the Customer Service counter at the Department of Revenue, 2135 Rimrock Road, Madison, Wisconsin. Office hours are 7:45 a.m. to 4:30 p.m. Proper identification (for example, a driver's license) is required. **Note:** It may take up to two hours to meet an in-person request.

### Questions

If you have questions, you may call the Department of Revenue in Madison, at (608) 266-2890.

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

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



## 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


## Withholding Tax Update Sent to Employers

The annual Withholding Tax Update was sent in December 2005, along with Forms WT-7, *Employer's Annual Reconciliation of Wisconsin Income Tax Withheld from Wages*, to employers registered to withhold Wisconsin taxes.

A copy of the Withholding Tax Update appears on pages 40 and 41 of this Bulletin. It is also available on the department's web site at [www.dor.state.wi.us/ise/with/index.html](http://www.dor.state.wi.us/ise/with/index.html). 




## Wisconsin Tax Bulletin Annual Index Included

This issue of the *Wisconsin Tax Bulletin* includes (on pages 44 to 78) the annual index of articles, tax releases, court case summaries, private letter rulings, and other materials that have appeared in past Bulletins. The index includes information for issues 1 to 145 (through November 2005). 

## Clearance Certificates and Successor Liability

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

A copy of frequently asked questions (FAQs) and answers concerning clearance certificates and successor liability appears on pages 42 and 43 of this Bulletin. These questions and answers can also be found on the department's web site at [www.dor.state.wi.us](http://www.dor.state.wi.us). Click on “FAQs” and then “Business,” and then see “Clearance Certificates & Successor Liability” under the heading “Sales and Use Tax.” 



## Sales/Use Tax Can Be Reported on Income Tax Returns

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

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

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

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



## Take Advantage of the Speakers Bureau

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

Department representatives are available to speak on a variety of topics that can be targeted to your group's particular areas of interest, including:

- New sales/use, income, and corporate tax laws.
- How sales tax affects contractors, manufacturers, nonprofit organizations, or businesses in general.
- Homestead credit.

- Audit and appeal procedures.
- Common errors discovered in audits.
- Recordkeeping requirements.
- Tax delinquencies and petitions for compromise.
- Manufacturing property assessment.
- Electronic filing of individual income tax returns.

To arrange for a speaker, you may write to Wisconsin Department of Revenue, Speakers Bureau, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949; fax your request to (608) 266-9829; call (608) 266-1911; e-mail [speakdor@dor.state.wi.us](mailto:speakdor@dor.state.wi.us); or fill out the online request form at the department's web site, [www.dor.state.wi.us](http://www.dor.state.wi.us), click on "Training."



## Wisconsin/Minnesota Sales Tax Seminars

The Wisconsin and Minnesota Departments of Revenue will again present a series of joint sales and use tax seminars in March and April. The seminars will include information on similarities and differences in the two states' sales and use tax laws. The first seminar will focus primarily on issues relating to contractors, and the remaining seminars are for general businesses.

You are invited to attend any of the following seminars, free of charge. All seminars are from 9:00 a.m. to 12:30 p.m., at the locations indicated. To register or for more information, call the Minnesota Department of Revenue at (651) 297-4213.

March 21, 2006 – Duluth, Minnesota  
Minnesota Department of Revenue Office  
2711 West Superior Street

\*\*\*\*\*

March 28, 2006 – Hudson, Wisconsin  
Hudson House  
1616 Crestview Drive

\*\*\*\*\*

April 11, 2006 – Onalaska, Wisconsin  
Onalaska Omni Center  
225 Rider Club Street



## Tax Publications Available

Listed below are 74 publications that are available, free of charge, from the Department of Revenue. Copies are available at any department office, or by mail, 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 online 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 (12/05)
- 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 (12/05)
- 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 (1/06)
- 119\* Limited Liability Companies (LLCs) (12/05)
- 120 Net Operating Losses for Individuals, Estates, and Trusts (11/05)
- 121\* Reciprocity (12/05)
- 122 Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 2004 (11/05)
- 123\* Business Tax Credits for 2005 (12/05)
- 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 (1/06)
- 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 (1/06)

### Other Taxes and Credits

- 127\* Wisconsin Homestead Credit Situations and Solutions (12/05)
- 400\* Wisconsin's Recycling Surcharge (12/05)

- 403 Premier Resort Area Tax (8/05)
- 410 Local Exposition Taxes (2/03)
- 503\* Wisconsin Farmland Preservation Credit (12/05)
- 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 (1/06)
- 124\* Petition for Compromise of Taxes (12/05)
- 130 Fax A Form (1/05)
- 401\* Extensions of Time to File (1/06)
- 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 . . . (1/06) [🔗](#)

## Enforcement Report

### Brothers Plead Guilty to \$810,000 Theft

Two brothers, Ali Shanaa and Assem Chanaa, pled guilty in October 2005 in Milwaukee County Circuit Court to theft of \$810,331 from the State of Wisconsin.

According to a criminal complaint filed in May 2005, the brothers committed the theft by skimming sales tax from cigarette sales made at eleven retail stores that they operated during 2001 and 2002. Ali Shanaa owned the stores, while his brother Assem Chanaa was responsible for managing the stores.

The brothers also pled guilty to tobacco products tax evasion for these same years on untaxed purchases of cigars they made from locations in Texas and Florida.

Their business, known as “Tobacco Deals,” had several Milwaukee locations, as well as locations in Madison, Burlington, and Janesville.

According to the complaint, in May 2002 the Department of Revenue responded to citizen complaints that several of the stores charged incorrect amounts of sales tax on cartons of cigarettes sold. Revenue agents who followed up on the complaints were told by Shanaa’s attorney, Douglas Frazer, that Tobacco Deals had not retained any register tapes, ledgers, or bank records related to the business operation. Furthermore, Shanaa’s Minnesota accountant refused to supply records for the business, saying that there was no need for the department to look at them.

In September 2002, Shanaa purported to sell the entire operation to a Wissam Mehdi. Mehdi was an employee at Shanaa’s Burlington store. Eleven new corporations were set up under the names of Smoke Shop #1, Smoke Shop #2, etc., purportedly operating the stores previously operated by Tobacco Deals. While Mehdi was listed as the incorporator of these businesses, Shanaa continued to maintain control over the stores.

In January 2003, agents from the Department of Revenue’s Alcohol and Tobacco Enforcement Unit seized cigarettes, tobacco products, and business records from several of the stores. The brothers ceased operating the stores by February 2003.

An analysis of bank records for Great Midwest Bank, Bank One, and Wells Fargo Bank showed that the stores made sales of almost \$19 million in cigarettes and tobacco products in the two year span between 2001 and 2002. During this time, Shanaa filed fraudulent sales tax

returns falsely claiming that the stores made sales of only about \$4 million with Shanaa and his brother failing to report the sales taxes collected on about \$15 million of sales. A further analysis of the bank records showed that sales tax returns had been falsified as far back as 1998, when Shanaa opened his first store.

According to the complaint, at various times throughout the period of the tax theft Shanaa transferred at least \$300,000 via money orders into an overseas bank account.

The complaint also noted that in January 2002, Ali Shanaa submitted a personal financial statement to the landlord of his Madison store stating his net worth to be \$2,458,900, and that he had salary income of \$145,000 and investment income of \$125,000.

The Shanaa brothers were scheduled to be sentenced in December 2005 and face up to thirty-four years in prison, fines of up to \$30,000, or both. Both brothers currently reside in Blaine, Minnesota.

This case was prosecuted by the Wisconsin Attorney Generals Office after an investigation by the Fraud and Alcohol and Tobacco Enforcement Units of the Wisconsin Department of Revenue.

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### Charges Filed Against Eau Claire Businessman

Mohammad Al-Hashlamoun, 30, of Eau Claire was charged in November 2005 by the Eau Claire County District Attorney’s office with three counts of sales tax theft. He was also charged with four counts of failure to file personal and corporate income tax returns for 2003 and 2004 and one count of filing false tax documents related to his filing of a 2002 Wisconsin corporate franchise tax return for Eau Claire Tobacco, Inc. Al-Hashlamoun was the sole shareholder of Eau Claire Tobacco, Inc.

According to the complaint, cash register tapes were obtained by an agent of the Wisconsin Department of Revenue during an inspection. Cash register tapes for November 2002 recorded \$5,459 in sales tax collected on gross sales of \$99,310. The sales tax return filed by Eau Claire Tobacco, Inc., reported a tax liability of only \$2,041 on receipts of \$37,124. Based on the cash register tapes, the complaint alleges theft of \$3,417 of sales tax. This was corroborated by a review of the business bank account, which indicated charge sales and checks alone exceeded \$45,000 for the month of November.



Also according to the complaint, in October 2002 deposits into the bank account were in excess of \$58,000, while the sales tax return filed for Eau Claire Tobacco, Inc., reported gross receipts of \$31,869. Based on the deposits, the complaint alleges theft of \$1,485 in tax money.

In February 2003, according to the sales tax return filed by Eau Claire Tobacco, Inc., receipts were \$51,254 with a reported state and county sales tax liability of \$2,818. Cash register tapes, however, show a total of \$76,672 in sales and \$4,215 in sales tax collected from customers. Based on the tapes, \$1,396 of sales tax is alleged to have been stolen.

The charge for filing false tax documents is a result of the defendant submitting a 2002 Wisconsin corporation franchise tax return which materially understated purchases and receipts, according to the complaint.

The complaint states that, according to the Wisconsin Department of Revenue, the defendant did not file individual income tax returns for 2003 and 2004 in spite of having filed returns for 2001 and 2002. He also did not file corporate tax returns for the same years in spite of a previous filing and in spite of filing sales tax returns for 2003 and 2004 which reported gross receipts in excess of \$650,000 in 2003 and in excess of \$734,000 in 2004.

The charges are the result of an investigation by the Wisconsin Department of Revenue's Criminal Investigation Section. If convicted of all counts, Al-Hashlamoun faces 20 years and 3 months in prison as well as \$80,000 in fines.

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### **Texas Man Sentenced for Theft, Forgery, and Filing False Income Tax Returns**

Cleveland Lee, Sr., 55, former treasurer, business manager, and chief financial officer of the Harambee

Community School in Milwaukee, was sentenced in November 2005 to seven years in state prison for theft, forgery, and filing false Wisconsin income tax returns. Milwaukee County Circuit Court Judge David Hansher also placed Lee on probation for an additional six years after he completes his prison term.

Lee, who lives in Houston, Texas, has been held in jail since his August 2005 conviction following a four-day jury trial. Lee was originally arrested in Houston in January 2005, after charges were filed against him in Milwaukee County.

According to the criminal complaint, between 1998 and 2002 Lee diverted hundreds of thousands of dollars of Harambee school revenues into two bank accounts labeled "hot lunch" and "day care." Lee maintained secretive and exclusive control over these accounts and kept them off the financial books of the school. Lee routinely wrote checks on these accounts to himself, to businesses he controlled, or to others, by forging the signature of the school's assistant business manager, Doreen Cotton-Wood.

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 one of his businesses provided to the Harambee Community School.

Lee's tax charges stemmed from both the unreported embezzled funds and unreported income he received from the operation of his pest control business, Metroserv.

Lee was ordered to make restitution of \$642,000 to the Harambee Community School and \$34,367 to the Wisconsin Department of Revenue for income taxes evaded. [Ⓜ](#)

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## **Administrative Rules in Process**

Listed below are administrative rules that are currently in the rule promulgation process. The rules are shown at their stage in the process as of January 1, 2006, and at each step where action occurred during the period from October 15, 2005, through January 1, 2006.

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

### **Emergency Rules Adopted**

- 1.12 Electronic funds transfer – A (effective December 28, 2005)

- 2.04 Information returns and wage statements – A  
(effective December 28, 2005)
- 2.50 Apportionment of apportionable income of  
interstate public utilities – R&R (effective  
December 5, 2005)
- 2.502 Apportionment of apportionable income of  
interstate telecommunications companies – NR  
(effective December 5, 2005)

**Sent to Legislative Council Rules Clearinghouse**

- 2.50 Apportionment of apportionable income of  
interstate public utilities – R&R
- 2.502 Apportionment of apportionable income of  
interstate telecommunications companies – NR





## Report on Litigation

Summarized below are recent significant Wisconsin Tax Appeals Commission (WTAC) and Wisconsin Court decisions. The last paragraph of each decision indicates whether the case has been appealed to a higher Court.

The following decisions are included:

### Sales and Use Taxes


#### Lodging

*Associated Training Services Corp. and Diesel Truck Driver Training School, Inc.*..... 36

#### Real Property Construction Activities Versus Manufacturing

*Visu-Sewer Clean & Seal, Inc.*..... 37

### SALES AND USE TAXES

 **Lodging.** *Associated Training Services Corp. and Diesel Truck Driver Training School, Inc. vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, November 8, 2005). The issue in this case is whether Associated Training Services Corp. (ATS) and Diesel Truck Driver Training School, Inc. (Diesel) were “furnishing accommodations that are available to the public” within the meaning of sec. 77.52(2)(a)1., Wis. Stats., which imposes Wisconsin sales and use tax on such services.

ATS is a Wisconsin corporation with its principal place of business located in Sun Prairie, Wisconsin. ATS is engaged in the business of operating an excavation and grading industry training program that involves training its students to operate certain pieces of heavy equipment (e.g., bulldozers, backhoes, loaders).

Diesel is a Wisconsin corporation with its principal place of business located in Sun Prairie, Wisconsin. Diesel is engaged in the business of operating a diesel truck driver training program that involves training its students to operate tractor trailers.

WaterTower Inn, Inc. (WaterTower) is a motel that furnishes rooms and lodging to the public. WaterTower’s facilities include bedrooms, color TV, laundry facilities, a game room, and continental breakfast.

ATS and Diesel (the taxpayers) purchased rooms or lodging services from WaterTower, then furnished or resold such rooms or lodging to their students to use during training programs. WaterTower is the only entity from which the taxpayers purchased rooms or lodging services for resale to their students. The students were not required to stay at WaterTower or to otherwise purchase a room or lodging services from the taxpayers. Neither of the taxpayers made the rooms or lodging services that they purchased from WaterTower available to any persons other than to their students. Both of the taxpayers also offered financing to assist their students with the purchase of the rooms or lodging services, course tuition, and other course fees.

Section 77.52(2)(a)1., Wis. Stats., imposes sales or use tax on “(t)he furnishing of rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations.” The taxpayers argued that they were schools and were not “other persons furnishing accommodations that are available to the public,” because the accommodations they sell are available only to their students, and not the “public.” They contended that their students are members of a narrow class of persons and that this class is too limited to be considered the “public.”

The Commission disagreed with the taxpayers and concluded that the taxpayers were “furnishing accommodations that are available to the public.” The gross receipts from furnishing rooms or lodging services by the taxpayers to their students are subject to Wisconsin sales tax.

At this time it is not known whether the taxpayers will appeal this decision. [!\[\]\(5d954b3e270654ad8ab0d5913161c03c\_img.jpg\)](#)

**Real Property Construction Activities Versus Manufacturing.**

*Visu-Sewer Clean & Seal, Inc. vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, October 6, 2005). The issues in this case are whether Visu-Sewer Clean & Seal, Inc. (taxpayer) was (1) engaged in real property construction activities when it installed sewer liners, and (2) whether royalties paid by the taxpayer for its purchases of U-Liners are subject to Wisconsin use tax.

The taxpayer is a Wisconsin corporation engaged in various lines of business, including sewer cleaning and inspecting and re-lining underground sewer pipes that are in disrepair. All of the taxpayer's sewer re-lining work is for underground sewer pipes made of such materials as clay, reinforced concrete, non-reinforced concrete, case iron, steel, and transite. Sewer pipes have a design life of 50 years. The liners at issue that the taxpayer used have a design life of 50 years.

Once the liners are installed into a sewer pipe, the liners cannot be removed without damaging the liner and the host pipe. Removal of the installed liner would only be done if it were damaged. It requires destroying the liner by cutting it up, and may require excavation to pull out the liner. If the installed liner were removed after installation, it would be destroyed and could not be used again. The taxpayer re-lines the sewer pipes with one of two separate products, National Liners and U-Liners. The taxpayer billed its customers by the linear foot for the installed liner, a charge that included its labor, equipment, and materials.

For a re-lining job using National Liners, the taxpayer orders a custom amount of raw materials from Quail Pipe Corporation. Three raw materials were used for National Liners: a felt liner, resin, and a catalyst material. In order to use the raw materials for lining sewer pipes, the liquefied resin was mixed with the catalyst material, kept cool, and injected into the felt liner in what is known as a "wet-out" process. The "wet-out" process was normally done at the taxpayer's main facility. After the "wet-out" process, the liner was transported to the job site in a refrigerated truck to maintain the cool temperature. At the job site, the liner was inserted into the host sewer pipe with water or air pressure and each end of the liner was capped with steam shoes to create a closed system. Steam pressure was then used to expand the liner, which then fit tightly into the host pipe and oozed into any crevices or grooves, making a "mechanical lock." After curing and inspection, openings were cut or milled in the liner to match up with existing openings in the host sewer pipe.

When using the U-Liner product, the only item purchased from Quail Pipe Corporation was the lengths of U-Liner. U-Liner is a liner made of high-density polyethylene. There was no process performed on the U-Liner at the taxpayer's facility. The U-Liner was taken directly to the job site, inserted into the host sewer pipe, capped, and heated with steam, in a similar manner as the National Liner. After cooling and inspection, openings were cut in the liner to match up with the openings in the host sewer pipe. In addition to the purchase prices of the U-Liner, the taxpayer paid a flat license fee each year to Midwest Pipeliners for the territorial rights to use the U-Liner product. This fee was paid on a per-foot basis at different rates based upon the size of the diameter of the U-Liner.

The taxpayer argued that its installation of the National Liners and U-Liners into a customer's host sewer pipes is a manufacturing process, and that the raw materials, equipment, and equipment repair and maintenance were exempt from Wisconsin sales and use tax. The taxpayer also argued that the installation royalty payments paid with U-Liner purchases are exempt from sales and use tax because they are not tangible personal property.

The Commission determined that the installation of sewer liners by the taxpayer was a real property construction activity. The taxpayer's purchase of the materials, machinery, and equipment used to install the sewer liners were not exempt from Wisconsin use tax under sec. 77.53, Wis. Stats. The sewer liners were physically annexed to the real estate when they were installed into the host pipes and were clearly adapted to the use of those pipes. The sewer pipe lines were intended to be a permanent accession to the realty.

The Commission ruled that the taxpayer is liable for sales or use tax on its purchase of the materials that it used in the real property construction activity of the sewer liner installation: "(The taxpayer) is a real property construction contractor, and the activities in question are real property construction activities. Thus, (the taxpayer's) activities are not eligible for the manufacturing exemption."

The Commission also ruled that installation royalties that the taxpayer paid for its purchases of U-Liners are a part of the taxpayer's purchase price of the U-Liners and are subject to Wisconsin use tax.

The taxpayer has appealed this decision to the Circuit Court.