



# Wisconsin TAX BULLETIN

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## Policies Concerning Unfiled Returns Updated

Effective January 1, 2011, the Department of Revenue's (DOR) policy concerning voluntary disclosure of unfiled returns has been revised. Previously, delinquent interest of 18% was applied to the tax due on late returns filed under voluntary disclosure. Under the new policy, regular interest of 12% will be applied. The complete [policy](#) as revised is available on DOR's web site.

In addition, DOR has adopted a maximum ten year look-back policy for certain unfiled income and franchise tax returns. The article at right provides more information concerning this new policy. [☞](#)

## Schedule I Instructions Revised

The 2010 Schedule I [instructions](#) were revised on January 25, 2011, to include an adjustment relating to the deduction for health insurance premiums paid by employers who claim the federal credit for health insurance premiums paid by small employers (see related article on page 4).

The instructions were previously revised on December 28, 2010, to include additional changes to federal law that must be considered when completing Schedule I. These law changes were made by Public Law 111-312 (the Tax Relief Act of 2010), enacted December 17, 2010. [☞](#)

## At Your Service: Online Resources

As the hustle and bustle of the tax season quickly reaches a frenzy, don't forget about the many valuable [online resources](#) that are available to you and your clients. We are always working to find new and improved ways to meet your needs. For example:

- Under "new," an [application](#) that allows individuals and their authorized representatives to view 1099-G information online.
- Under "improved," the estimated tax payment inquiry [application](#) now allows you to view any estimated tax payment scheduled for a future date. [☞](#)

## Recent Sales and Use Tax Guidance

The department recently published articles on its practitioner web page providing guidance on exemption certificates for propane suppliers and the registration of snowmobiles and ATVs by nonresidents of Wisconsin. For a complete, up-to-date list of topics, see [News for Tax Professionals](#). [☞](#)

## Look-Back Policy for Income and Franchise Tax Non-Filers

The Financial Accounting Standards Board requires certain business disclosures in regard to income taxes. In order to make these disclosures, businesses must know the administrative practice of tax agencies in regard to non-filing and nexus determinations.

For Wisconsin tax purposes, when a person (i.e., individual, partnership, corporation, limited liability company, and fiduciary) fails to file required income or franchise tax returns, the Wisconsin Department of Revenue (DOR) may make an assessment of tax at any time and for any taxable year for which a return is due. However, the statutes do not limit the number of years for which an assessment may be made for past due income or franchise tax returns.

DOR has adopted a maximum ten year look-back policy for persons meeting certain conditions. DOR will look back for no more than ten taxable years if the following conditions are met:

- (1) Person currently has nexus in Wisconsin.
- (2) Person timely filed a Wisconsin income or franchise tax return for at least the four most recent taxable years.

The ten year look-back period shall be determined as of the date DOR first contacts the taxpayer in writing about such tax or the initiation of an audit. The ten year look-back period commences with the final day of the most recent taxable year for which the person was required to file a return prior to the written contact by DOR.

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**Farmers May Reap New Credits in 2010 and 2011**

Among the more significant income tax changes for 2010 occurred in the area of [farmland credits](#). The farmland tax relief credit and, for certain claimants, the farmland preservation credit as we've come to know it have come to an end. In their place is a new farmland preservation credit with a new claim form, [Schedule FC-A](#).

Looking ahead to 2011, both beginning and established farmers may be eligible for new income tax [credits](#). A beginning farmer may claim a credit of up to \$500 for amounts paid to enroll in a financial management program. An established farmer who leases farm assets to a beginning farmer may claim a credit equal to 15% of the lease amount. [↗](#)

**Summary of 2010 Addition and Subtraction Modification Codes, Other Information Available**

The Department of Revenue (DOR) recently added to its web site a "[cheat sheet](#)" of addition and subtraction modification code numbers for 2010. This information was one of several handouts at the October 2010 Working Together Workshops cosponsored by DOR and the Internal Revenue Service. The handout lists each code number, a brief description of the related addition or subtraction modification, and the corresponding page of the Form 1 instructions where detailed information is available.

If you weren't able to attend one of the seven tax practitioner workshops held across the state in October, don't worry. The agenda, power point summaries of presentations, and handouts are all available [online](#). [↗](#)

**New Post Office Box for Informational Returns**

Information returns may be transmitted online, delivered to the Wisconsin Department of Revenue at 2135 Rimrock Road, Madison, Wisconsin, or mailed to the appropriate address listed below.

Form 9b or substitute forms (Forms 1099-R and 1099-MISC) and Form 8 should be mailed to:

Wisconsin Department of Revenue  
PO Box 8905  
Madison WI 53708-8905 [↗](#)

**Wisconsin/Minnesota Sales Tax Seminars**

The Wisconsin and Minnesota Departments of Revenue will again present a series of free joint sales and use tax seminars in the spring of 2011. The seminars will include information on similarities and differences in the two states' sales and use tax laws. All of the seminars are for general businesses.

The specific dates, times, and locations of the seminars, as well as registration information, is available on the "[Training](#)" page of the Department of Revenue's web site. [↗](#)

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## Look-Back Policy for Income and Franchise Tax Non-Filers *(continued from page 1)*

The ten year look-back policy applies to income and franchise taxes only.

The ten year look-back policy does not apply to any person who has made an intentional misrepresentation of facts to the Wisconsin Department of Revenue.

**Example 1:** ABC Company timely filed calendar 2005, 2006, 2007, and 2008 franchise tax returns. ABC Company did not file franchise tax returns before 2005. DOR initiated an audit in January 2010 and determined that ABC Company had nexus in years prior to 2005. ABC Company should have filed franchise tax returns in those years. The ten year look-back period begins on December 31, 2009, which is the final day of the most recent taxable year for which ABC Company was required to file a return at the time the audit was initiated. DOR could assess additional taxes back to and including the 2000 taxable year.

**Example 2:** XYZ Company is a tax-option (Subchapter S) corporation. XYZ Company has filed Wisconsin franchise/income tax returns for 20 years. XYZ Company has a nonresident shareholder who has owned 50% of XYZ Company for the 20 years the company has existed. The nonresident shareholder reported his share of XYZ Company's income on timely filed Wisconsin income tax returns for 2006, 2007, 2008, and 2009. The nonresident shareholder did not file Wisconsin income tax returns for years prior to 2006. An audit of the nonresident shareholder is initiated in June 2010. The ten year look-back period begins on December 31, 2009, which is the final day for the most recent taxable year for which the nonresident shareholder was required to file a return at the time the audit was initiated. DOR could assess additional taxes back to and including the 2000 taxable year. [☞](#)

## The Little Things Make a Big Difference: Common E-File Errors

Although errors do not frequently occur when filing Wisconsin income tax returns electronically, they nonetheless do occur. Many of the errors that cause an e-filed return to reject may be avoided simply by making sure the following information is complete and accurate:

- direct deposit/direct withdrawal routing transit number
- tax district information, including the city, village or township name, along with the county name
- spouse's first and last name when the filing status is married filing joint or married, filing as head of household

- rent certificate or property tax bill when filing homestead credit
- Legal Residence Questionnaire when a part-year Wisconsin resident moved out of Wisconsin during 2010
- state postal abbreviation code when a nonresident of Wisconsin

Another common area for errors on e-filed returns is homestead credit. If you prepare homestead credit claims for your clients, it may be well worth your time to review the [instructions and guidelines](#) available online. [☞](#)

## Do You Owe Use Tax?

Use tax must be paid on all taxable items purchased from retailers who do not collect Wisconsin sales tax and all taxable items brought into Wisconsin. It applies to purchases made in foreign countries as well as other states. Use tax only applies when Wisconsin sales tax is not charged.

As part of its efforts to obtain compliance with Wisconsin use tax laws, Department of Revenue auditors have consistently assessed between 30 and 40 million dollars of use tax annually. If you want to help avoid an audit of yourself and your clients, a good start would be to [learn more](#) about use tax and how to keep track of and pay it. [☞](#)

## Credit for Small Employer Health Insurance Premiums

For federal tax purposes, sec. 1421 of Public Law 111-148, *The Patient Protection and Affordable Care Act*, created a credit for health insurance premiums paid by small employers. This section also provided that the employer may not claim a deduction for the portion of the premiums for health insurance paid by the employer that is equal to the credit.

The provisions of Public Law 111-148 have not been adopted for Wisconsin income and franchise tax purposes. As a result, the employer is not required to reduce the deduction for the health insurance premiums paid by the amount of the federal credit.

Individuals who claim the federal credit for health insurance premiums paid by small employers should adjust for the difference between the federal and Wisconsin deduction for health insurance premiums paid on Wisconsin Schedule I, *Adjustments to Convert 2010 Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin*. (**Note:** This adjustment was inadvertently omitted from the 2010 instructions for Schedule I. The instructions have since been revised, see article on page 1.)

Corporations that file Form 4 or 5 would adjust for the difference between the federal and Wisconsin amounts on Schedule W, Wisconsin Subtractions from Federal Income.

Partnerships and tax-option (S) corporations report such differences in column c of Schedule 3K or 5K. [☞](#)

## Sales and Use Tax Report Available

Listed below are the articles in the December 2010 [Sales and Use Tax Report](#) (4-10). Links provided are to articles in [News for Tax Professionals](#) concerning the same subject matter.

- [Rhineland Office Closing](#)
- [Reminder: Local Exposition Basic Room Tax Rate Increase](#)
- [“Buy One, Get One Free” and Similar Promotions](#)
- [Did You Know? Ice Cream Cakes May Be Taxable](#)
- [Hot Air Balloon Rides – Tax Treatment Changed](#)
- [Septic System Installers – Taxable Items Minor in Comparison to Total Contract Price](#)
- [Electronic Exemption Certificates are Acceptable in Wisconsin](#)

- [Landscaping Services and Snow Removal Services](#)
- [Flags and Flag Kits](#)
- [Are Your Sales Subject to the Police and Fire Protection Fee?](#)
- [Sales Tax Audits Include Reconciliation of Gross Receipts](#)
- [Truck Owner-Operators – Tax Treatment Changed](#)
- [Sales-Use Tax Exemption: Property Consumed, Destroyed, or Losing Its Identity in Manufacturing](#)
- [Reporting Sales Tax on Sales of Used Motor Vehicles, Boats, Snowmobiles, Recreational Vehicles, Trailers, Semitrailers, All-Terrain Vehicles, and Aircraft](#) [☞](#)

## Reminder: Local Exposition Basic Room Tax Rate Increased

Effective January 1, 2011, the 2.0% local exposition basic room tax was increased to 2.5%. The sale of lodging is subject to the local exposition room tax when furnished in Milwaukee County to a person for a continuous period of less than one month. If the lodging is furnished in the City of Milwaukee, it is subject to the local exposition basic room tax and a 7% additional room tax.

[Publication 410](#), *Local Exposition Taxes*, provides additional information about the local exposition taxes. This publication will be updated in the near future to reflect the basic room tax increase.

You are encouraged to file your Local Exposition Tax Return (Form EX-12) electronically through “[My Tax Account](#)” if you are not already filing in this manner. “My Tax Account” is the department’s free online business tax service that allows businesses to access their accounts to view current account status, file and amend returns, make payments, and manage and update account information. [☞](#)

## Updated Publications

The following publications of the Income, Sales, and Excise Tax (IS&E) Division of the Department of Revenue have recently been revised:

### Income and Franchise Taxes

- 103 Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, and Trusts (11/10)
- 104 Wisconsin Taxation of Military Personnel (11/10)
- 109 Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 2010 (12/10)
- 120 Net Operating Losses for Individuals, Estates, and Trusts (11/10)
- 122 Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 2010 (11/10)
- 125 Credit for Tax Paid to Another State (11/10)

- 126 How Your Retirement Benefits are Taxed (11/10)

### Sales and Use Taxes

- 201 Wisconsin Sales and Use Tax Information (11/10)
- 205 Use Tax Information For Individuals (11/10)
- 212 Businesses: Do You Owe Use Tax on Imported Goods? (11/10)
- 213 Travelers: Don't Forget About Use Tax (11/10)
- 214 Businesses: Do You Owe Use Tax? (11/10)

### Other Topics

- 115 2010 Handbook for Federal/State Electronic Filing (12/10)

All of the IS&E Division's publications may be downloaded or ordered [online](#). There are over 70 publications available, covering a wide range of topics. [↗](#)



## Enforcement Report

### Madison Man Charged With Tobacco Tax Evasion

Salamah S. Awadalla, Madison, has been charged in Dane County Circuit Court with dealing in untaxed tobacco and acting as a tobacco products distributor without a Wisconsin permit.

According to the criminal complaint, Awadalla operates Saricakes, LLC, located in Madison, Wisconsin. Awadalla is alleged to have delivered untaxed tobacco products to gas stations and convenience stores in the Dane County area since November of 2008.

Awadalla was charged by the Dane County District Attorney's office following an investigation by the Wisconsin Department of Revenue.

If convicted on both counts, Awadalla could face up to \$11,000 in fines, one year in prison, or both.

According to the criminal complaint, Sidhu operates the Mobil 22 under the company name Sooch, Inc. Sooch, Inc., is alleged to have obtained untaxed tobacco products from an out-of-state company and sold these products through the store, along with selling intoxicating liquor without holding a retail liquor license. The complaint states that 670 packages of cigars, little cigars, moist snuff, and other tobacco products, along with 125 bottles of intoxicating liquor, were seized during an investigation in May 2009.

Sidhu was charged by the Oconto County District Attorney's Office following an investigation by the Wisconsin Department of Revenue.

If convicted on all counts, Sidhu could face up to 12 months in jail, \$11,000 in fines, or both. [↗](#)

### Oconto Falls Woman Charged With Alcohol and Tobacco Violations

Maninder Kaur Sidhu, who operates the Mobil 22 in Oconto Falls, has been charged with dealing in untaxed tobacco and selling liquor without the proper licenses.