



# Wisconsin TAX BULLETIN

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## New Tax Laws Summarized

Since the last issue of the Wisconsin Tax Bulletin, the Wisconsin Legislature has enacted a number of changes to the Wisconsin tax laws. See page 3 for details.

## Emergency Rules Adopted to Administer Job Creation Incentives

The department has adopted emergency rules that, effective April 7, 2011, administer newly created incentives for job creation in Wisconsin. In addition, proposed permanent rules that will administer these incentives are in process.

[Tax 2.957](#) provides for the administration of income and franchise tax credits and deductions for businesses that relocate to Wisconsin. [Tax 3.05](#) provides for the administration of income and franchise tax deductions for job creation. These credits and deductions were created by 2011 Wisconsin Acts 3 and 5, see pages 3 to 5 for summaries of the statutory provisions.

Information concerning all administrative rules of the Department of Revenue, as well as other state agencies, is available at the State of Wisconsin Administrative Rules [Home Page](#). At this web site you can search for rules, view the status of current rulemaking, view documents associated with rulemaking, submit and view comments on rules, and subscribe to receive notification of rulemaking. [↗](#)

## Recent Sales and Use Tax Guidance

The department recently published two articles on its practitioner web page providing guidance on credit for taxes paid to other states. One article is specific to tax on repair labor, and the other to transactions of construction contractors. For a complete, up-to-date list of topics, see [News for Tax Practitioners](#). [↗](#)

## Electronic Filing Mandate Letters to Corporations and Partnerships

The Wisconsin Department of Revenue (DOR) will be mailing letters to corporations and partnerships this summer, informing them of their requirement to file tax returns and make payments electronically. The Wisconsin Administrative Code provides that DOR may require any corporation franchise or income tax or partnership tax return be filed electronically. Electronic funds transfer may be required for:

- corporate income and franchise estimated tax payments and tax due with the return when the net tax less refundable credits on the prior year's return was \$1,000 or more; and
- any amount due for pass-through entities required to make withholding payments.

The department's web site provides a [list](#) of software vendors who support corporation and partnership e-file and e-pay. Also, to e-pay, you can use the department's [My Tax Account](#). If the requirement to e-file or e-pay causes an undue hardship, an [Electronic Filing or Electronic Payment Waiver Request](#) may be submitted. [↗](#)

## New Online Applications for Delinquent Tax

An Installment Agreement Request (Form A-771) or Wage Assignment Reduction Request (Form A-772) may now be completed and submitted [online](#). These new applications also feature online help with completion of the form; immediate confirmation that the request has been received by the department; and the ability to update an existing installment agreement to change a monthly payment amount, request electronic payments, change bank account information, or cease electronic payments. [↗](#)

**In This Issue**

## Articles –

Emergency Rules Adopted.....	1
Sales and Use Tax Guidance.....	1
E-File Mandate Letters .....	1
New Online Applications .....	1
Sales and Use Tax Report Available.....	2

Estate Tax Reminder .....	2
New Tax Law Summaries.....	3
Capital Losses for Corporations.....	6
Don't Pay Twice!.....	6
Reminders: Nexus Determinations.....	7
Updated Publications.....	7
E-Filing for Insurance Companies ....	7

Combined Return Due Date.....	8
Businesses and Use Tax.....	8
Enforcement Report .....	9
Report on Litigation. ....	10
Tax Releases.....	11

***Sales and Use Tax Report Available***

The latest issue of the [Sales and Use Tax Report](#) became available on the Department of Revenue's web site in March. The *Sales and Use Tax Report* provides information concerning recent sales and use tax law changes and other pertinent sales and use tax information. Listed below are the articles in the March 2011 *Sales and Use Tax Report* (1-11). Links provided are to articles in [News for Tax Professionals](#) concerning the same subject matter.

- New Search Function for Sales and Use Tax Reports
- [Sales and Use Tax Exemption Certificate Requirements](#)
- [Do I Need a "Wisconsin Sales and Use Tax Exemption Certificate" For Every Residential Customer to Sell Them Propane Without Wisconsin Sales Tax?](#)
- [Registration of Snowmobiles and ATVs in Wisconsin by Nonresidents](#)
- Discount/Membership Cards
- [Tax Treatment of Online Seminars](#)
- Questions and Answers (explain that the service of removing snow and clearing ice dams from roofs is not taxable and swimming pool cleaning and maintenance services are subject to tax) [↗](#)

**Reminder: No Estate Tax for 2011 and 2012**

The Wisconsin estate tax is based on the federal credit for state death taxes after December 31, 2007. Since as a result of the federal Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 (Public Law 111-312, enacted December 17, 2010) there is no federal credit for state death taxes for deaths occurring in 2011 and 2012, there is no Wisconsin estate tax for deaths occurring between January 1, 2011, and December 31, 2012.

Under current law, the federal credit for state death taxes will return in 2013 as a result of the "sunset" of the provisions of, and amendments made by, The Economic Growth and Tax Relief Reconciliation Act of 2001. Since there will be a federal credit for state death taxes for deaths occurring in 2013, there will be a Wisconsin estate tax for deaths occurring on or after January 1, 2013.

At this time it is not known if the Wisconsin Legislature will enact further legislation regarding the estate tax. Any such legislation will be reported in [News for Tax Professionals](#) and the *Wisconsin Tax Bulletin*. [↗](#)

**Wisconsin Tax Bulletin**

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## New Tax Laws

The Wisconsin Legislature has enacted a number of changes to the Wisconsin tax laws. Following are brief descriptions of the major individual and fiduciary income tax, corporation franchise or income tax, and sales and use tax provisions. These provisions are contained in 2011 Acts 1, 3, 5, 7, and 15.

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

### *Individual Income Taxes (also see “Individual and Fiduciary Income Taxes”)*

**Health Savings Accounts Allowed** (2011 Act 1, create subchapter XVI of chapter 71, sec. 71.83(1)(ce), and nonstatutory provision, effective for taxable years beginning on or after January 1, 2011.)

Effective for taxable years beginning on or after January 1, 2011, sections 106(d), 220(f)(5)(A), 223, and 408(d)(9) of the Internal Revenue Code, as amended to December 31, 2010, relating to health savings accounts have been adopted for Wisconsin tax purposes. The federal law treatment of health savings accounts applies for Wisconsin.

For distributions after December 31, 2010, for federal tax purposes the additional tax on distributions from a health savings account that are not used for qualified medical expenses is 20 percent of the amount of distribution that is includible in gross income. For Wisconsin tax purposes, the penalty for distributions not used for qualified medical expenses is 33 percent of the federal penalty.

### *Individual and Fiduciary Income Taxes*

**Relocation of a Business—Subtraction From Income** (2011 Act 3, create sec. 71.05(6)(b)47., effective for taxable years beginning on or after January 1, 2011.)

For two consecutive taxable years beginning with the taxable year in which the claimant’s business locates to this state from another state or another country and begins doing business in this state, a subtraction is provided for income earned by the relocated business.

”Locates to this state” means moving either 51 percent or more of the workforce payroll of the business or at least \$200,000 of wages, as defined in sec. 3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the first taxable year to which this subtraction applies.

”Doing business in this state” includes, except as prohibited under P.L. 86-272, issuing credit, debit, or travel and entertainment cards to customers in this state; regularly selling products or services of any kind or nature to customers in this state that receive the product or service in this state; regularly soliciting business from potential customers in this state; regularly performing services outside this state for which the benefits are received in this state; regularly engaging in transactions with customers in this state that involve intangible property and result in receipts flowing to the taxpayer from within this state; holding loans secured by real or tangible personal property located in this state; owning, directly or indirectly, a general or limited partnership interest in a partnership that does business in this state, regardless of the percentage of ownership; and owning, directly or indirectly, an interest in a limited liability company that does business in this state, regardless of the percentage of ownership, if the limited liability company is treated as a partnership for federal income tax purposes. A taxpayer doing business in this state for any part of the taxable year is considered to be doing business in this state for the entire taxable year.

The subtraction is equal to the profit or loss from a trade or business as reported on federal income tax return Schedules C and F or their equivalents, plus ordinary gain or loss on the sale of business assets, as determined under the Internal Revenue Code that applies for Wisconsin, but not less than zero, multiplied by the apportionment fraction under sec. 71.04(4) and (7), Wis. Stats., which determines income as derived from business transacted and property located in Wisconsin.

For a partnership or limited liability company that locates to Wisconsin from another state or country, the partners or members may subtract their distributive share of taxable income as calculated under sec. 703 of the Internal Revenue Code (IRC); plus the items of income and gain under sec. 702 of the IRC, including taxable state and municipal bond interest and excluding nontaxable interest income or dividend income from federal government obligations; minus the items of loss and deduction under sec. 702 of the IRC, except items that are not deductible under sec. 71.21, Wis. Stats.; plus guaranteed payments to partners under sec. 707(c) of the IRC; plus credits claimed under sec. 71.07, Wis. Stats.; and plus or minus, as appropriate, transitional adjustments, depreciation differences, and basis differences under sec. 71.05(13), (15), (16), (17), and (19), Wis. Stats., multiplied by the apportionment fraction determined in sec. 71.04(4) and (7), Wis. Stats., or by separate accounting. Amounts subtracted may not be included in the capital gain exclusion modification.

For a tax-option corporation that locates to Wisconsin from another state or country, the shareholders may subtract their distributive share of the entity's net income or loss, including interest income from federal, state, and municipal government obligations, multiplied by the apportionment fraction determined under sec. 71.25(6m) and (9), Wis. Stats., or by separate accounting. Amounts subtracted may not be included in the capital gain exclusion modification.

No subtraction may be made if the person, partnership, limited liability company, or tax-option corporation has done business in Wisconsin during any of the two taxable years preceding the first taxable year in which the subtraction would otherwise be allowed.

The department shall promulgate rules to administer the subtraction.

**Job Creation Tax Deduction** (2011 Act 5, create sec. 71.05(6)(b)47.m. and nonstatutory provision, effective for taxable years beginning on or after January 1, 2011.)

A subtraction from federal income is allowed for an amount equal to the increase in the number of full-time equivalent employees employed by the taxpayer in Wisconsin during the taxable year, multiplied by \$4,000 for a business with gross receipts of no greater than \$5,000,000 in the taxable year or \$2,000 for a business with gross receipts greater than \$5,000,000 in the taxable year.

The increase in the number of full-time equivalent employees employed by the taxpayer in Wisconsin during the taxable year is determined by subtracting from the number of full-time equivalent employees employed by the taxpayer in Wisconsin during the taxable year, the number of full-time equivalent employees employed by the taxpayer in Wisconsin during the immediately preceding taxable year.

The "number of full-time equivalent employees employed by the taxpayer in Wisconsin during the taxable year" is determined by computing the average employee count from the taxpayer's quarterly unemployment insurance reports or other information as required by the department for the taxable year.

The "number of full-time equivalent employees employed by the taxpayer in Wisconsin during the immediately preceding taxable year" is determined by computing the average employee count from the taxpayer's quarterly unemployment insurance reports or other information as required by the department for the immediately preceding taxable year.

No person may claim a deduction for job creation if the person may claim the deduction (or credit in the case of corporations) equal to the person's tax liability for relocating the person's business from another state to Wisconsin.

The department shall promulgate rules to administer the job creation tax deduction.

**Dairy and Livestock Farm Investment Credit Extended** (2011 Act 15, amend sec. 71.07(3n)(a)2.(intro.), 5.(intro.), and 6.b. and (b)1. and 2., effective for taxable years beginning after December 31, 2011, and before January 1, 2017.)

The availability of the dairy and livestock investment credit is extended to taxable years that begin before January 1, 2017. Under prior law, the credit was available for taxable years beginning before January 1, 2012.

**Corporation Franchise or Income Taxes**

**Relocation of a Business – Tax Credit** (2011 Act 3, amend secs. 71.26(2)(a)4. and 71.45(2)(a)10. and create secs. 71.26(2)(a)10., 71.28(9s), 71.30(3)(ex), 71.47(9s), and 71.49(1)(ex), effective for taxable years beginning on or after January 1, 2011.)

For two consecutive taxable years beginning with the taxable year in which the claimant's business locates to this state from another state or another country and begins doing business in this state, a credit is provided against the income or franchise taxes of the relocated business.

"Locates to this state" means moving either 51 percent or more of the workforce payroll of the business or at least \$200,000 of wages, as defined in sec. 3121 of the Internal Revenue Code, paid to such workforce in Wisconsin during the first taxable year to which this credit applies.

"Doing business in this state" includes, except as prohibited under P.L. 86-272, issuing credit, debit, or travel and entertainment cards to customers in this state; regularly selling products or services of any kind or nature to customers in this state that receive the product or service in this state; regularly soliciting business from potential customers in this state; regularly performing services outside this state for which the benefits are received in this state; regularly engaging in transactions with customers in this state that involve intangible property and result in receipts flowing to the taxpayer from within this state; holding loans secured by real or tangible personal property located in this state; owning, directly or indirectly, a general or limited partnership interest in a partnership that does business in this state, regardless of the percentage of ownership; and owning, directly or indirectly, an interest in a limited liability company that does business in this state, regardless of the percentage of ownership, if the limited liability company is treated as a partnership for federal income tax purposes. A taxpayer doing business in this state for any part of the taxable year is considered to be doing business in this state for the entire taxable year.

The credit is equal to the amount of income or franchise tax liability for the taxable year after applying all other allowable credits, deductions, and exclusions.

Partnerships, limited liability companies, and tax-option corporations may not claim the relocation credit.

The amount of the computed credit must be included in the claimant's income.

No person may claim the relocation credit if the person has done business in Wisconsin during any of the two taxable years preceding the first taxable year in which the credit would otherwise be allowed.

The department shall promulgate rules to administer the credit.

**Job Creation Tax Deduction** (2011 Act 5, create secs. 71.26(1)(h) and 71.45(1)(c) and nonstatutory provision, effective for taxable years beginning on or after January 1, 2011.)

See description under "Individual and Fiduciary Income Taxes."

**Exempt and Excludable Income – Wisconsin Economic Development Corporation** (2011 Act 7, amend sec. 71.26(1)(be), effective February 24, 2011.)

Income of the Wisconsin Economic Development Corporation is exempt from corporation franchise and income tax.

**Dairy and Livestock Farm Investment Credit Extended** (2011 Act 15, amend secs. 71.28(3n)(a)2.(intro.), 5.(intro.), and 6.b. and (b)1. and 2. and 71.47(3n)(a)2.(intro.), 5.(intro.), and 6.b. and (b)1. and 2., effective for taxable years beginning after December 31, 2011, and before January 1, 2017.)

The availability of the dairy and livestock investment credit is extended to taxable years that begin before January 1, 2017. Under prior law, the credit was available for taxable years beginning before January 1, 2012.



### *Sales and Use Taxes*

**General Exemptions – Wisconsin Economic Development Corporation** (2011 Act 7, amend sec. 77.54(9a)(a), effective February 24, 2011.)

The sales price from sales to, and the storage by, use by or other consumption of tangible personal property, and items and property under sec. 77.52(1)(b) and (c), Wis. Stats., and taxable services by the Wisconsin Economic Development Corporation is exempt from sales and use tax. [☞](#)

## Capital Loss Issues for Corporations

### Capital Loss Carryforwards:

Under sec. 71.255(4)(i) and (11), Wis. Stats. (2009-10), and sec. Tax 2.61(6)(c), Wis. Adm. Code (November 2010 Register), the capital loss limitation is determined on an aggregate basis for the combined group, similar to how it is determined for a consolidated group for federal purposes under Treas. Regs. §1.1502-22 and 1.1502-23. However, the aggregate computation for the combined group cannot include capital gain or loss items that members must report on a separate entity basis or non-sharable capital loss carryovers from pre-2009 capital losses.

### Freddie Mac and Fannie Mae Losses:

For federal tax purposes, the Emergency Economic Stabilization Act of 2008 (Public Law 110-343) allows recognition of ordinary loss on the sale or exchange of Federal National Mortgage Association (Fannie Mae) or Federal Home Loan Mortgage Corporation (Freddie Mac) preferred stock. Wisconsin does not follow the provisions of Public Law 110-343, so any loss on the sale or exchange of Fannie Mae or Freddie Mac preferred stock is a capital loss for Wisconsin tax purposes.

Wisconsin Schedule V must be used to adjust for the difference between the ordinary loss deducted on the federal return and any capital loss that is deductible for Wisconsin. When completing line 12 of Schedule V, it may be necessary to prepare pro-forma federal Forms 1120 and 4797 and Schedule D to determine the allowable capital loss for Wisconsin. These pro-forma forms and schedule would be similar to the separate federal Schedule D and Form 4797 used to compute line 18 of Wisconsin Form 4R.

Records must be maintained to document the allowable Wisconsin capital loss remaining to carry forward to future tax years. The carryover losses are entered on Wisconsin Form 4CL as either a shareable or non-shareable loss, as applicable. [☞](#)

## Credit Card Purchases – Don't Pay Twice!

Many businesses and individuals pay for purchases using credit cards. Typically, these purchases are made from out-of-state vendors. The order may be placed on the Internet, via FAX, or by telephone, and the purchaser may not always print or keep a copy of the receipt.

It is presumed that all purchases of tangible personal property, or items, property, or goods specified under [sec. 77.52 \(1\)\(b\)](#), [\(c\)](#), or [\(d\)](#), Wis. Stats. (2009-10), or taxable services are subject to use tax, unless the contrary is established. Without a copy of the receipt with the tax separately stated, the purchaser is liable for the tax. Section 77.53(2), Wis. Stats. (2009-10), states, in part, the following:

“The person's **liability is not extinguished until the tax has been paid** to this state, but a **receipt with the tax separately stated** from a retailer engaged in business in this state ... given to the purchaser ... **relieves the purchaser from further liability** for the tax to which the receipt refers.” (Emphasis added.)

When auditing a business, the Department of Revenue will make adjustments where no documentation exists to show that sales or use tax has been paid on a taxable transaction. Businesses and individuals should make sure they have copies of receipts showing that tax has been paid to ensure they don't pay the tax twice! [☞](#)

## Reminders: Nexus Determinations

### Filing a Return in Another State Does Not Create Nexus

Filing an income or franchise tax return in another state, or obtaining a certificate of authority to transact business in another state, does not by itself give rise to nexus in that state. For nexus to be established, the entity must have business activity not protected by Federal Public Law 86-272 in that state.

### Nexus is Determined on an Annual Basis

Section Tax 2.82, Wis. Adm. Code (November 2010 Register), describes generally the kind of activity which, when conducted in Wisconsin, creates nexus for income and franchise tax purposes. Section 71.22(1r), Wis. Stats. (2009-10), defines “doing business in this state” (i.e., nexus). A taxpayer doing business in Wisconsin for any part of a taxable year is considered to be doing business in Wisconsin for the entire taxable year. The statutory language relating to the non-recognition of part-year nexus applies to any period for which the statute of limitations has not expired.

### Nexus for a Member of a Combined Group

Effective for taxable years beginning on or after January 1, 2009, for a combined group, nexus is determined for the unitary business as a whole, as provided in sec. 71.255(5)(a), Wis. Stats. (2009-10). If a member of a combined group has nexus in Wisconsin and that nexus is attributable to the combined group’s unitary business, all members of the combined group have nexus in Wisconsin. If any member of a combined group has nexus in another state attributable to the combined group’s unitary business, all members of the combined group have nexus in that state.

### Nexus When Returns are Filed on a Separate Entity Basis

For taxable years beginning **prior** to January 1, 2009, and for taxpayers not filing as part of a combined group for taxable years beginning on or after January 1, 2009, nexus is determined on a separate entity basis. [☞](#)

## Updated Publications

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

MF-107	Motor Vehicle Fuel Tax (2/11)
MF-109	Motor Vehicle Fuel Tax – How Does It Apply to Biodiesel and Vegetable Oil Used in Vehicles? (2/11)
114	Your Wisconsin Taxpayer Bill of Rights (4/11)
401	Extensions of Time to File (1/11)
500	Tax Guide for Wisconsin Political Organizations and Candidates (4/11)
503	Wisconsin Farmland Preservation Credit (1/11)
508	Wisconsin Tax Requirements Relating to Nonresident Entertainers (1/11)

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. [☞](#)

## E-Filing for Insurance Companies

**Concern:** Internal Revenue Service (IRS) [guidelines](#) do not allow insurance companies that have a property and casualty insurance company or life insurance company as a parent to electronically file a consolidated federal return. How do insurance companies in this situation comply with Wisconsin’s electronic filing mandate for combined returns?

**Solution:** The federal/state [program](#) allows insurance companies using supporting software to file just a Wisconsin combined return with federal return information and any other schedules attached as a PDF file. The IRS will forward the return to the Department of Revenue for processing.

Practitioners or taxpayers may also request an electronic filing waiver. [Form EFT-102](#) allows taxpayers to request a waiver by identifying why e-filing is not possible. [☞](#)

## Not-For-Profit Members Do Not Extend Combined Return Due Date

When for-profit and not-for-profit entities are part of the same unitary group, the due date of the combined return is the 15th day of the third month after the close of the combined group's taxable year. The fact that a not-for-profit corporation is required to file by the 15th day of the fifth month after the close of its taxable year does not extend the due date of the combined return. If the designated agent does not have enough information concerning the not-for-profit entities to file the combined return by the due date, there are two available options:

**File under an extension.** The Department of Revenue grants an automatic extension of seven months or until the original due date of the combined group's corresponding federal return, whichever is later. Any extension granted by law or by the IRS for filing the corresponding federal return will also extend the deadline for filing the combined return.

An extension to file the combined return is not an extension to pay the tax. Any unpaid amount will accrue interest during the extension period at the rate of 12% per year from the original due date. Interest during the extension period can be avoided by paying the taxes that are due by the original due date of the combined return.

**File using available information.** The combined return may be filed by the due date using the best data available for the not-for-profit entities. When all information is available, an amended return may be filed to reflect any necessary changes or corrections. Any additional tax due with the amended return will be subject to interest at the rate of 12% per year from the original due date of the return. [↗](#)

## Businesses – How to Track Your Use Tax Liability

Use tax is the counterpart of sales tax. It must be paid on all taxable items purchased from retailers who do not collect Wisconsin sales tax and on 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.

For example, Company A purchases a computer for its business from Retailer B, who is located in another state. Retailer B ships the computer to Company A's Wisconsin location and does not charge Company A sales tax. Company A owes Wisconsin use tax on its purchase of the computer.

**There are convenient ways to keep track of taxable purchases during the year.** Two of these methods are described, below:

1. **Use Tax Calculator** –The Wisconsin Department of Revenue has developed a free [Use Tax Calculator](#) (in an Excel spreadsheet) to help individuals and businesses track and calculate use tax owed to Wisconsin. The spreadsheet can be used by persons who have some type of spreadsheet software on their computers (Excel, Lotus, QuatroPro, etc.). If you don't have the Microsoft Excel software, you can download a free viewer.

Calculate the use tax by multiplying the total cost of the taxable goods or services purchased, including separately stated charges such as shipping and handling, by the tax rate.

2. **Use Tax Accrual Account** – Some businesses will set up an account in its books of ledger to accrue its use tax liability. For purchases that are subject to use tax, the business will debit the expense account for the amount of the purchase plus the amount of use tax due on the item. The amount of the use tax will be entered as a credit in the use tax accrual account. The balance in the use tax accrual account is remitted when the business files its sales and/or use tax return.

A business should note on the invoice that use tax was remitted when filing its return. A business may also want to keep a copy of such invoices separately to support the use tax remitted.

### Businesses have two options for paying Wisconsin use tax.

1. A business can pay use tax on its Wisconsin sales and use tax return, or
2. A business can report and pay use tax quarterly on a [Wisconsin Form UT-5, Consumer Use Tax Return](#).



The Department of Revenue audits businesses and enters into agreements with other states to ensure that use tax owed on out-of-state purchases is remitted to the department. Businesses that don't pay the use tax owed may be subject to interest and penalties in addition to the use tax.

\*Wisconsin allows a credit against the use tax due for the combined state and local sales taxes properly paid to another state. For additional information about this credit, see the tax release titled “[Credit for Sales and Use Taxes Paid to Other States and Their Local Units of Government](#)” published in *Wisconsin Tax Bulletin* 157 (July 2008) for information about how to compute the tax due. [↗](#)



## Enforcement Report

### Waukesha Man Charged with Sales Tax Theft

Mark Staley has been charged in Waukesha County Circuit Court with one count of felony theft of sales taxes. Staley is the former operator of Custom Detailing, LLC, and Diversified Maintenance Group, LLC.

According to the criminal complaint, Staley failed to remit \$3,703.08 in sales tax that he collected from January 2003 through December 2007. Staley admitted that he had collected the sales tax, but did not remit the taxes owed on his sales tax returns between 2003 and 2007. Staley said that after collecting the sales tax, he began to run into problems and used the sales tax money collected to pay other business bills.

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

If convicted on all counts, Staley could face up to three years and six months in prison and fines totaling \$10,000. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability, which would follow a conviction for criminal violations.

### Town of Benton Woman Charged with Tax Crimes

Attorney General J.B. Van Hollen announced that on March 11, 2011, an attorney for the Wisconsin Department of Justice, acting as special prosecutor for Lafayette County and Dane County, filed a summons and criminal complaint in Lafayette County Circuit Court accusing Kathy Richard, town of Benton resident, with five counts of Fraudulent Claim for Tax Credit. Each count is a Class H Felony with a maximum penalty of a fine not to exceed \$10,000 or imprisonment not to exceed six years, or both.

According to the criminal complaint, Ms. Richard obtained \$7,979 by submitting fraudulent earned income tax credit claims to the Wisconsin Department of Revenue for 2004, 2006, 2007, 2008, and 2009. In each of the claims, Ms. Richard falsely claimed to own and operate a daycare business. She also obtained \$12,165 by filing similar claims with the federal government.

The charges are the result of an investigation by the Wisconsin Department of Justice - Division of Criminal Investigation, the Wisconsin Department of Revenue, and the United States Office of the Inspector General. Assistant Attorney General Eric D. Défort represents the State of Wisconsin as the special prosecutor.

### Slinger Resident Found Guilty of Tax Fraud, Other Crimes

*Note: Information for the following section of this article was obtained from the March 11, 2011, edition of the Milwaukee Journal Sentinel.*

Algernon Thompson, 29, of Slinger was found guilty in Milwaukee County Circuit Court of fraudulent writings, income tax fraud, and knowingly making a false statement in a car title application.

Thompson had made significant cash deposits into his bank accounts that weren't reflected in his tax returns. He testified he later amended those returns to account for the cash, which he said he earned boxing at illegal matches in Chicago. He also bought a 1984 Camaro for \$5,800 in \$20 bills in August 2008. However, when he registered the car he listed the purchase price as \$25.

Sentencing is set for May 17. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability, which follow a conviction for criminal violations. [↗](#)