



Wisconsin Department of Revenue

TAX BULLETIN

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Save the Date for 2014 Wisconsin Tax Updates

The Department of Revenue is finalizing plans to provide Wisconsin tax updates for the 2014 filing season. In October and November, there will be free, half-day seminars offered at various locations throughout the state. Upon completion of the presentations, a video of the seminar will be posted online for viewing at your convenience.

Please save the date and watch for an online registration available in late August.

Wisconsin Update Seminar Schedule (9:00 -11:30 a.m.)

- October 20, Monday – Eau Claire
- October 21, Tuesday – Stevens Point
- October 29, Wednesday – Madison
- October 31, Friday – Pewaukee
- November 4, Tuesday – Menasha
- November 7, Friday – Madison
- November 10, Monday – Kenosha

New Form HR-T and Common Questions Available

[Form HR-T](#), which is used to notify the department of the intent to transfer Wisconsin's supplement to federal historic rehabilitation credit and request certification of ownership of the credit to be transferred, is available on the department's website. Also available are [Common Questions](#) concerning the transfer of the credit.

New 2014 Form 6 - Combined Corporate Income/Franchise Tax Return

Corporations have been required to file combined returns for income/franchise tax since 2009. Over the past few years, businesses and tax practitioners have requested numerous changes to the corporate combined return (Form 4 and Form 4M) and related schedules. This past year, the department consulted with the business community to completely redesign the 2014 corporate combined income/franchise tax return. The new combined return, Form 6, is in columnar format for easier return preparation. Draft versions of the redesigned corporate tax returns are available at: revenue.wi.gov/html/taxcorp14.html. Below is a summary of the major changes to the 2014 corporate income/franchise tax returns:

New Corporate tax forms used only by combined groups:

- Form 6 – *Wisconsin Combined Corporation Franchise or Income Tax Return*
- Form 6BL – *Wisconsin Net Business Loss Carryforward for Combined Group Members*
- Form 6CL – *Capital Loss Adjustment*
- Form 6CS – *Sharing of Research Credits*
- Form 6I – *Adjustment for Insurance Companies*
- Form 6Y – *Modification for Dividends*

Corporate tax forms eliminated:

- Form 5, *Wisconsin Corporation Franchise or Income Tax Return*. Previous Form 5 filers will file Form 4. Form 4 is used by all corporations who are not members of a combined group. Form 4 will accommodate both 100% Wisconsin and multistate corporations who are not members of a combined group.
- Form 4A, *Wisconsin Apportionment Data for Combined Groups*, is eliminated and incorporated into Form 6
- Form 4M, *Wisconsin Combined Group Member-Level Data*, is eliminated and incorporated into Form 6
- Form 4R, *Federal Taxable Income Reconciliation for Wisconsin Combined Groups*, is eliminated and incorporated into Form 6

Corporate tax forms renamed:

- Form 4A-1, *Wisconsin Apportionment Data for Single Factor Formulas*, is renamed Form A-1 and is used by all taxpayers apportioning their income
- Form 4A-2, *Wisconsin Apportionment Data for Multiple Factor Formulas*, is renamed Form A-2 and is used by all taxpayers apportioning their income
- Form 4N, *Wisconsin Nonapportionable and Separately Apportioned Income*, is renamed Form N and used by all taxpayers with nonapportionable/separately apportioned income
- Schedule V, *Wisconsin Additions to Federal Income*, is renamed Schedule 4V (**Note:** Schedule V is incorporated into Form 6 for combined groups)
- Schedule W, *Wisconsin Subtractions From Federal Income*, is renamed Schedule 4W (**Note:** Schedule W is incorporated into Form 6 for combined groups)

Itemized Deduction Credit Errors

The department recently identified that the Wisconsin itemized deduction credit was computed incorrectly on certain 2013 Wisconsin income tax returns by certain tax preparation software.

Taxpayers with incomes over a certain threshold are subject to limitations of federal itemized deductions for 2013. The limitation applies for Wisconsin if:

- You claimed interest expenses and/or gifts to charity for the Wisconsin itemized deduction credit, and

- Your income was over \$300,000 if married filing joint; \$275,000 if head of household; \$250,000 if single; or \$150,000 if married filing separately

If your income was above these thresholds, the interest expenses and gifts to charity otherwise includable in the credit are reduced by the lesser of:

- 3 percent of the excess of adjusted gross income (AGI) over a certain amount, or
- 80 percent of the amount otherwise allowable

There is an [article](#) on the department's website with worksheets that assist in computing the allowable itemized deductions for Wisconsin purposes.

The department is correcting returns with this error and sending a Notice of Amount Due.* You do not need to send an amended return for this error. Interest and penalties will not be assessed as long as the bill is paid on or before the due date of the Notice of Amount Due since the IRS instructions were not available in time for the department to provide additional guidance on the topic in the Form 1 income tax booklet instructions.

*If you had a refund that you asked to be carried forward to the 2014 tax year, and the department uses the carryforward to pay the additional amount of tax due on your 2013 return, you will be notified that you should make additional estimated payments for 2014 in order to avoid potential underpayment interest.

Hiring a Nonresident Entertainer? You May Be Required to Withhold Wisconsin Income Tax

If you will be hiring a public speaker or other nonresident entertainer for an upcoming meeting, conference, or other event, you should be aware you may be considered the nonresident entertainer's employer for purposes of withholding Wisconsin taxes.

An "employer" is any Wisconsin resident person or firm that contracts for the services of a nonresident entertainer. In the absence of such resident contracting person or firm, the employer is the last resident person or firm to have receipt, custody, or control of the proceeds of the event. If there is neither a resident contracting person or firm, nor a resident with control of the proceeds, the employer is any nonresident person or firm who contracts for or has control of the proceeds of the event.

A "nonresident entertainer" is a nonresident person who furnishes amusement, entertainment, or public speaking services, or performs in one or more sporting events. This includes a foreign corporation, partnership, or other entity not regularly engaged in business in Wisconsin that derives income from any of these activities or from these services performed by a nonresident person. (A foreign corporation, partnership, or other entity is one not organized under the laws of Wisconsin.)

Wisconsin law requires nonresident entertainers to file a surety bond or cash deposit if the total contract price for a performance in Wisconsin exceeds \$7,000. This bond or deposit must be filed to guarantee payment of income or franchise taxes, sales and use taxes, and any penalties and interest. The surety bond or cash deposit, along with a Form WT-11 (this is the application and receipt for the surety bond or cash deposit), must be filed with the Wisconsin Department of Revenue at least seven days before the performance.

If the nonresident entertainer does not file the required bond or deposit, and the total contract price for a Wisconsin performance exceeds \$7,000, the employer is required to withhold payment from the entertainer in an amount for which a bond or deposit should have been filed. If the employer fails to withhold the required amount, they will be held liable for the amount that should have been withheld.

Additional information is available in [Publication 508](#), *Wisconsin Tax Requirements Relating to Nonresident Entertainers*. Additional information is also available by contacting the department at (608) 266-3645 or income@revenue.wi.gov (enter "Nonresident Entertainer Program" on the subject line).

Wage Statement and Information Return Reporting Requirement for Payers

The department has published [guidance](#) on accurately submitting Form W-2s and other information returns as it strives to do more in addressing fraudulent reporting of wages, other income, and withholding. We ask that you or your payroll provider review your information and return format to insure they meet DOR requirements when they are submitted in January 2015 for amounts you paid in 2014.

Village of Stockholm Adopts Premier Resort Area Tax Effective October 1, 2014

Beginning October 1, 2014, the 0.5% premier resort area tax will be in effect in the Village of Stockholm.

Retailers who (1) make sales of taxable products or taxable services that take place in the Village of Stockholm after September 30, 2014 **and** (2) are classified under one of the Standard Industrial Classification numbers noted in the department's [Premier Resort Area Tax](#) common questions must remit premier resort area tax on such sales.

If you are a retailer who meets both of the conditions above, you must be registered to report premier resort area tax. If you are not already registered for premier resort area tax, send us your legal name, address and 15-digit sales tax number by:

Email: DORRegistration@revenue.wi.gov,

Fax: (608) 327-0232, or

Mail: Wisconsin Department of Revenue
Registration Unit
PO Box 8902
Madison, WI 53708-8902

Note: Premier resort area tax is filed separately from sales and use tax. Filers not required to file electronically using My Tax Account will file the appropriate version of Form PRA-012 which will be available on the department's website.

If you have any questions, please contact us at (608) 266-2776.

Sales and Use Tax Report Available

The latest issue of the [Sales and Use Tax Report](#) became available on the Department of Revenue's website in June. 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 June 2014 *Sales and Use Tax Report* (Issue 2-14).

- Reminder! Premier Resort Area Tax Increase Becomes Effective July 1, 2014
- Village of Stockholm Adopts Premier Resort Area Tax Effective October 1, 2014
- New Tax Laws
- Seller's Permit Wallet Cards
- Sales of Kombucha
- Sales of Prepaid Telephone Cards
- Educational Products, Goods, and Services
- Huber Law Fees
- Aircraft Parking
- Snowmobiles, ATVs, UTVs, and Similar Property Sold to Nonresidents



Report on Litigation

Summarized below are recent significant Wisconsin Tax Appeals Commission (WTAC) and Wisconsin Court decisions.

The following decision is included:

Sales and Use Tax

Lodging - Internet lodging provider	
<i>Orbitz, LLC</i>	5

SALES AND USE TAX

Lodging - Internet lodging provider. *Orbitz, LLC vs. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, May 14, 2014).

Orbitz, LLC ("Orbitz"), an online travel company, was assessed additional sales/use tax for a six year period. The department asserted that the measure of tax under sec. 77.53(3), Wis. Stats., was the "full price charged by the Internet lodging provider to their customers less the measure of tax previously reported." Hotels for which Orbitz arranged reservations reported and remitted sales tax on the amounts they received for furnishing rooms and lodging. The amount at issue in the assessment is the amount Orbitz received/retained for its services.

The Commission found that the tax applies only to the proceeds Orbitz forwards to the hotels as payment for the reserved rooms and not to the additional compensation retained by Orbitz.

According to the Commission (1) Orbitz serves as an intermediary between travelers and hotels, (2) the services provided by Orbitz do not constitute the "furnishing of rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations," (3) the activities of Orbitz are not listed under sec. 77.52(2)(a), Wis. Stats., and (4) sec. 77.52(2)(a), Wis. Stats., does not clearly impose a tax on the mark-up compensation Orbitz receives from its customers for its services.

The department has appealed this decision.



Private Letter Rulings

“Private letter rulings” are written statements issued to a taxpayer by the department, that interpret Wisconsin tax laws based on the taxpayer’s specific set of facts. Any taxpayer may rely upon the ruling to the extent the facts are the same as those in the ruling.

The ruling number is interpreted as follows: The “W” is for “Wisconsin”; the first four digits are the year and week the ruling becomes available for publication (80 days after it is issued to the taxpayer); the last three digits are the number in the series of rulings issued that year. The date is the date the ruling was issued.

Certain information that could identify the taxpayer has been deleted. Additional information is available in Wisconsin Publication 111, “How to Get a Private Letter Ruling From the Wisconsin Department of Revenue.”

The following private letter ruling is included:

Sales and Use Tax

Sales of building materials to an exempt entity
W1417001 (p. 6)

✱ **W1417001** ✱

February 5, 2014

Type Tax: Sales and Use Tax

Issue: Sales of building materials to an exempt entity

Statute: Section [77.54\(9a\)](#), Wis. Stats. (2011-12)

Administrative Code: Sections Tax 11.04(5), Wis. Adm. Code ([August 2013 Register](#)) and 11.14(11) and (12)(d), Wis. Adm. Code ([August 2012 Register](#))

This letter responds to your request for a private letter ruling dated October 25, 2013.

Facts (as provided by you):

The Taxpayers are financial institutions that provide a broad range of financial services and business tools for customers. The Taxpayers' financial services include appraisals, business consulting, farm cash management, and fleet management. The taxpayers also offer various financial products including agricultural loans, leases, crop insurance, and home mortgages.

As part of its financial services, the Taxpayers provide construction financing to various customers, including exempt entities as defined in section Tax 11.04(1) of the Wisconsin Administrative Code. The exempt entities control the construction for which they have obtained financing, including the purchasing of building materials. The exempt entities complete and deliver purchase orders directly to the building material suppliers. The Taxpayers, however, pay the suppliers for the building materials on behalf of the exempt entities by drawing on the construction funds, issuing checks to the suppliers, and obtaining construction lien waivers for amounts paid. By paying the suppliers, the Taxpayers ensure the construction funds are used to pay suppliers in full and allows the Taxpayers to protect themselves from construction or mechanics' liens that would jeopardize the Taxpayers' security interests.

In addition, you have provided representative copies of the following, which relate to the financing and/or services provided by "Taxpayers" in the facts you have provided:

- A "Bond Purchase Agreement" between the Issuer and Taxpayers, as Holder and Servicer, and
- An "Indenture" among the Issuer, a Trustee, and Taxpayers as Servicer.

Ruling requested by you:

The Taxpayers respectfully request that the sales tax exemption provided in section 77.54(9a) of the Wisconsin Statutes and section Tax 11.04(5) of the Wisconsin Administrative Code apply to purchases of building materials made directly by an exempt entity when the supplier receives a purchase order from the exempt entity and payment to the supplier for such materials is made by a financial institution on behalf of the exempt entity.

Ruling:

A person who is the "Issuer" under either the "Bond Purchase Agreement" or "Indenture" and who is also an entity described in sec. 77.54(9a), Wis. Stats. (2011-12), may purchase construction materials exempt from Wisconsin sales and use taxes, even though payment for such purchases is being disbursed to the supplier by the "Servicer" under the terms of either a "Bond Purchase Agreement" or "Indenture" which both the "Issuer" and "Servicer" are parties to.

The supplier is relieved of its obligation to collect and remit the sales or use tax otherwise due when the purchaser is an entity described in sec. 77.54(9a), Stats., and the supplier complies with sec. Tax 11.14(11) or (12)(d), Wis. Adm. Code (August 2012 Register), as the case requires, **and** sec. Tax 11.04(5), Wis. Adm. Code (August 2013 Register).

Assuming the requirements in sec. Tax 11.14(11) or (12)(d), Wis. Adm. Code, are met, the supplier will be relieved of its responsibility for Wisconsin sales or use taxes on its sales of building materials to the "Issuer" provided "Issuer" (1) issues a purchase order for such materials in the name of "Issuer" and (2) "Issuer" pays the supplier directly as provided in sec. Tax 11.04(5), Wis. Adm. Code. The "Issuer" is considered to have paid the supplier directly from funds disbursed by "Servicer" when the "Issuer" and "Servicer" issue a joint notice to Supplier, along with payment, informing the supplier that "Servicer" is making payment on behalf of the "Issuer" using "Issuer's" funds, as provided in the relevant "Bond Agreement" or "Indenture."

Please note that, in the event the "Issuer" is charged and pays Wisconsin sales or use tax to the supplier on its purchases of building materials, "Issuer" may obtain a refund of such taxes by filing a buyer's claim for refund directly with the Wisconsin Department of Revenue. See Publication 216: *Filing Claims for Refunds of Sales and Use Taxes*, for additional information.