

Wisconsin Tax Bulletin

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New Tax Laws

A. Individual and Fiduciary Income Taxes

1. Expanding the Additional Child and Dependent Care Credit

([2023 Wis. Act 101](#), renumber sec. 71.07(9g)(b) to 71.07(9g)(b)1. and amend as renumbered; and create sec. 71.07(9g)(b)2. and (c)5., effective for taxable years beginning after December 31, 2023)

The additional child and dependent care credit is increased from 50% to 100% of the related federal credit under section 21 of the Internal Revenue Code. Additionally, the amount of qualifying expenses that may be used to compute Wisconsin's credit is capped at \$10,000 for one qualifying child and \$20,000 for two or more qualifying children. These changes will first apply to returns filed for the 2024 tax year.

2. Changes to Administration of Trusts, Power to Decant Trusts, and Creating and Exercising Powers of Appointment

([2023 Wis. Act 127](#), effective March 23, 2024)

The Act makes various changes to chs. 30, 101, 342, 700, 701, 702, 814, 851, 854, 856, 859, 865, and 905, Wis. Stats. Changes include:

- Technical updates to the administration and regulation of trusts in Wisconsin
- Adopting the Uniform Trust Decanting Act
- Adopting the Uniform Powers of Appointment Act

See the Wisconsin Legislative Council's [Act Memo](#) for a summary.



3. Updated Married Persons Credit Definitions

([2023 Wis. Act 138](#), amend sec. 71.07(6)(am)1. and 2.d. and create sec. 71.07(6)(am)1m., effective March 23, 2024)

Previously, the married persons credit (a.k.a. married couple credit) referred to definitions in the Internal Revenue Code (IRC) as it existed on December 31, 1985. Current federal tax law is the IRC of 1986 as amended for the taxable year at issue. The Act replaced the reference to the IRC with the applicable language from the IRC on December 31, 1985, relating to the definitions for earned income and qualified earned income for purposes of Wisconsin's married persons credit. This change *does not* affect the computation of the married persons credit.

4. Credit for Transportation Services for Blind Workers

([2023 Wis. Act 142](#), create secs. 71.07(11) and 71.10(4)(cw), effective for taxable years beginning after December 31, 2023)

The Act creates a credit for the cost of qualifying transportation services used by a claimant. This credit is first available for returns filed for the 2024 tax year.

"Claimant" means a person who is considered blind under section [63\(f\)\(4\)](#) of the Internal Revenue Code (IRC).

"Qualifying transportation services" means transportation services provided between a person's place of residence and place of employment by means of mass transit, paratransit, taxicab, or transportation network company, as defined in sec. [440.40\(6\)](#), Wis. Stats.

The credit is equal to 50 percent of the qualifying transportation services paid by the claimant during the taxable year with a maximum credit of \$1,500. Transportation services paid with monies withdrawn from an ABLÉ account (under section 529A of the IRC) are not allowed if the owner of the account or other person who deposited into the account claimed a subtraction under sec. [71.05\(6\)\(b\)52.](#), Wis. Stats. No credit may be allowed for an amount paid for qualifying transportation services if the claimant is reimbursed for the amount paid.

The credit is nonrefundable so it may only offset the tax imposed under sec. [71.02](#), Wis. Stats. Unused credits may not be carried forward and used to offset tax in a subsequent taxable year.

The credit must be claimed on the tax return for the taxable year in which the transportation services were paid, and must be claimed within four years of the unextended due date of the tax return.

5. Business Development Tax Credit and Enterprise Zone Tax Credit

([2023 Wis. Act 143](#), effective for taxable years beginning after December 31, 2023)

See New Tax Law Item B.1.

6. Qualified New Business Venture

([2023 Wis. Act 144](#), repeal sec. 238.15(1)(f)1. and create sec. 238.15(1)(f)1m., effective as of March 23, 2024)

See New Tax Law Item B.2.

7. Angel Investment Tax Credit Revised for Transferability

([2023 Wis. Act 145](#), amend sec. 238.15(3)(e), effective March 23, 2024)

The Act allows an individual to sell or otherwise transfer an angel investment tax credit. Credits eligible for transfer are only credits first approved by the Wisconsin Economic Development Corporation (WEDC) to claim on or after March 23, 2024. Credits approved by WEDC to be claimed prior to March 23, 2024, are not eligible for transfer. The person transferring the credit must notify WEDC and the Wisconsin Department of Revenue of the transfer and may not sell or otherwise transfer the credit more than once in a 12-month period.

8. Expanding the Capital Gains Exclusion on Sale of Farm Assets to a Family Member

([2023 Wis. Act 146](#), renumber sec. 71.05(6)(b)25. to 71.05(6)(b)25.(intro.) and amend as renumbered; and create sec. 71.05(6)(b)25.a. and b., effective for taxable years beginning after December 31, 2023)

Current law provides a capital gains income tax exclusion for certain assets used in farming that are held more than one year and sold or transferred to persons who are related to the seller.

For purposes of claiming the capital gains income tax exclusion, the Act expands the definition of "assets used in farming" to include ownership interest in a partnership or limited liability company treated as a partnership, if the partnership or limited liability company has 15 or fewer partners or members and all partners or members are natural persons.

9. College Savings Accounts and Employee College Savings Account Contribution Credit

([2023 Wis. Act 148](#), amend secs. 71.05(6)(a)26.a., 26.b., 26.c., (b)32.a., 32.ae., and 32.am., 71.07(10)(a)1., (10)(a)3., (10)(b), and (10)(c)2., 71.28(10)(c)2., 71.47(10)(c)2. and 224.50(2)(a), and create secs. 71.05(6)(b)32.ap., 71.07(10)(c)3., 71.28(10)(c)3., 71.47(10)(c)3. and 71.98(11), effective for taxable years beginning after December 31, 2023)

The Act increases the maximum employee college savings account contribution credit to be 50 percent of the amount the employer contributes to an employee's college savings account, not to exceed a maximum credit of \$800 per employee, adjusted for inflation. The Act also permits the credit to be claimed by a sole proprietor and specifies that credits may be claimed only for employees whose compensation is reported, or required to be reported, on a Form W-2 for federal income tax purposes.

The Act also makes changes to the treatment of Wisconsin's college savings programs. The Act allows Wisconsin law to continuously conform to changes in federal law relating to qualified higher education expenses under sec. 529 of the Internal Revenue Code. The Act also clarifies the administration of college savings accounts to require the use of a first-in, first-out accounting method for account withdrawals and restrictions on carry-overs of contributions. Additionally, the Act increases the maximum amount of account contributions that may be deducted for each beneficiary to \$5,000, indexed for inflation, or \$2,500, indexed for inflation, for a married individual filing a separate return, and repeals the smaller contribution limitation for divorced individuals.

10. Anatomical Gift Registration through Tax Return

([2023 Wis. Act 187](#), amend sec. 157.06(20) and create secs. 71.10(5w), 157.06(6)(bm), and 343.175(1x), effective for taxable years beginning after December 31, 2023)

The Act requires the Wisconsin Department of Revenue (DOR) to include a question on the individual income tax return asking if the individual wishes to include their name as a donor of an anatomical gift (i.e., organ donor) on the donor registry maintained by the Wisconsin Department of Transportation (DOT). This question does not have to be answered to file the return. DOR will transmit the necessary information to DOT for the individual to be included in the donor registry. This question will be added to Wisconsin's individual income tax returns starting with 2024 tax year returns.

The Act also modified the donor registry law so that declining to authorize inclusion when filing the tax return; applying for or renewing a driver's license or identification card; or applying for a hunting, fishing, or trapping license will not revoke an individual's prior authorization to be included on the donor registry. An individual must expressly indicate their intent to have their name removed from the donor registry.

B. Corporation Franchise and Income Taxes

1. Business Development Tax Credit and Enterprise Zone Tax Credit

([2023 Wis. Act 143](#), repeal secs. 71.07(3w)(bm)5. and 71.28(3w)(bm)5., renumber sec. 71.07(3w)(a)1. to 71.07(3w)(a)1.a. and amend as renumbered; renumber sec. 71.07(3w)(a)3. to 71.07(3w)(a)3.a. and amend as renumbered; renumber sec. 71.28(3w)(a)1. to 71.28(3w)(a)1.a. and amend as renumbered; renumber sec. 71.28(3w)(a)3. to 71.28(3w)(a)3.a. and amend as renumbered; renumber sec. 71.47(3w)(a)1. to 71.47(3w)(a)1.a. and amend as renumbered; renumber sec. 71.47(3w)(a)3. to 71.47(3w)(a)3.a. and amend as renumbered; renumber sec. 238.308(1) to 238.308(1)(intro) and amend as renumbered; renumber sec. 238.308(3) to 238.308(3)(a) and amend as renumbered; amend secs. 71.07(3w)(a)6. and (3y)(a)2., 71.28(3w)(a)6. and (3y)(a)2., 71.47(3w)(a)6. and (3y)(a)2., 238.30(2m)(a), 238.308(4)(a)4., (4)(b), and (5)(a), 238.399(5)(f) and (6)(d), and create secs. 71.07(3w)(a)1.b., and 3.b., (3y)(b)6., and (3y)(c)3., 71.28(3w)(a)1.b and 3.b., (3y)(b)6., and (3y)(c)3., 71.47(3w)(a)1.b., and 3.b., (3y)(b) 6., and (3y)(c)3., 238.308(1)(b), (2)(c), (3)(b), and (4)(a)6., 238.399(1)(am)(intro.), (1)(ar) and (1)(as), effective for taxable years beginning after December 31, 2023)

Under current law, the Wisconsin Economic Development Corporation (WEDC) may certify a person for the refundable business development tax credit if the person's business increases net employment above the business's level of employment in the year preceding the certification. Calculation of the business development tax credit is based, generally, on wages of eligible employees, training costs, and personal and real property investment. Similarly, WEDC may certify a person for the refundable enterprise zone tax credit based on a claimant's increased employment, employee retention, employee training, capital investment, and purchases from Wisconsin vendors. Enterprise zone tax credits are typically awarded to businesses that relocate major operations to Wisconsin or undertake significant expansion projects in Wisconsin.

The Act provides the following revisions to the business development tax credit:

- Allows eligibility if a person creates new jobs or retains existing jobs and makes a capital investment in the state, or if a person does not decrease net employment in the person's business in the year preceding the certification.

- Allows additional claims related to investments in workforce housing and establishment of employee childcare programs, at a level not to exceed 15 percent of the amounts of those investments and subject to disallowance of duplicative claims.
- The property investment tax credit threshold for capital investment is reduced from \$1 million to \$250,000.
- Specifies that WEDC must approve or deny an application for the certification of the credit within 90 days after receiving a person's application.

The Act provides the following revisions to the enterprise zone development credit:

- Creates a new definition of "full-time job" to mean a nonseasonal job for which the annual pay is more than 2,080 hours multiplied by 150 percent of the federal minimum wage, and for which retirement, health, and or other benefits are offered. Prior law required an employee to actually work 2,080 hours per year.
- Changed the definition of "zone payroll" to mean amounts attributable to full-time employees "based in" an enterprise zone.
- Creates a 12-month period "base year" definition for calculation of enterprise zone credits. Prior law calculated credits using the prior taxable year as the base year.
- Sunsets certain "supplemental claims" to the enterprise zone credit that previously allowed certification of enterprise zone benefits for a qualifying financial services technology business.

2. Qualified New Business Venture

([2023 Wis. Act 144](#), repeal sec. 238.15(1)(f)1. and create sec. 238.15(1)(f)1m., effective as of March 23, 2024)

The Act changes the criteria businesses must meet to be certified or recertified by the Wisconsin Economic Development Corporation (WEDC) as a Qualified New Business Venture (QNBV) for purposes of claiming the angel investment tax credit. Under prior law, in addition to other criteria, a business must do either of the following to be eligible for certification:

1. Engage in, or has committed to engage in, innovation in any of the following:
 - Manufacturing, biotechnology, nanotechnology, communications, agriculture, or clean energy creation or storage technology
 - Processing or assembling certain innovative technology products or other products that are produced using manufacturing methods that are enabled by applying differentiating technology
 - Services that are enabled by applying differentiating technology
2. Undertakes pre-commercialization activity related to differentiating technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying differentiating technology.

The Act replaces the first option with permissible certification for a business that is engaged in, or has committed to engage in, innovation, if the innovation involves the development of a differentiating technology, product, service, or production process.

3. Financial Institution Commercial Loan Income Exemption

([2023 Wis. Act 146](#), amend secs. 71.05(1)(i) and 71.26(1)(i), and create sec. 71.365(4m)(d)1.bd., various effective dates)

For taxable years beginning after December 31, 2022, the Act provides an exemption on income derived from a commercial loan of five million dollars or less for a qualifying tax-option (S) corporation that makes the election to pay franchise or income tax at the entity level under sec. [71.365\(4m\)\(a\)](#), Wis. Stats.

On or after March 23, 2024, the Act provides that in order to qualify for the commercial loan income exemption the loan proceeds must be used primarily for a business or agricultural purpose in Wisconsin.

4. Wisconsin Qualified Opportunity Fund Certification Due Date and Filing Method Changed

([2023 Wis. Act 146](#), amend secs. 71.05(25m)(c), 71.26(3)(vm)2., 71.34(1k)(p)2., and 71.45(2)(a)21.b., effective for taxable years beginning after December 31, 2023)

Annually, a Wisconsin Qualified Opportunity Fund (WQOF) must certify to each investor and the department that it qualifies as a Wisconsin qualified opportunity fund for the fund's taxable year. [Form WQOF](#), *Wisconsin Qualified Opportunity Fund Certificate*, is the form required to be filed with the department.

Prior to the Act, a WQOF was required to file Form WQOF and provide a copy to each investor by January 31 of the year following the close of the fund's taxable year. The only filing method for Form WQOF was electronically through DocuSign.

As a result of the Act, a WQOF is required to file Form WQOF and provide a copy to each investor by the due date, including extensions, of the fund's corresponding Wisconsin income or franchise tax return. The DocuSign filing method has been discontinued. Funds must file Form WQOF by including it with their corresponding Wisconsin income or franchise tax return.

For more information, see Wisconsin [Fact Sheet 1121](#), *Capital Gain Exclusion – Investment in a Wisconsin Qualified Opportunity Fund*, the department's common questions: [Qualified Opportunity Zones](#), and the [Form WQOF](#) and [instructions](#).

5. College Savings Accounts and Employee College Savings Account Contribution Credit

([2023 Wis. Act 148](#), effective for taxable years beginning after December 31, 2023)

See New Tax Law Item A.9.

C. Withholding Taxes

1. Withholding Requirement Threshold Increase for Nonresidents

([2023 Wis. Act 146](#), amend secs. 71.64(6)(b) and 71.775(3)(a)2., effective for taxable years beginning after December 31, 2023)

The Act increases the minimum thresholds for employers and pass-through entities to withhold tax on wages and pass-through income for nonresidents as follows:

- From \$1,500 to \$2,000 on wages attributable to Wisconsin
- From \$1,000 to \$2,000 on pass-through income attributable to Wisconsin

See additional information in the department's [General Withholding Tax Questions](#) and [Pass-Through Entity Withholding](#) common questions.

D. Sales and Use Taxes

1. Renaming of the Police and Fire Protection Fee

([2023 Wis. Act 19](#), amend sec. 77.54(55), effective July 1, 2024)

The Act renames the police and fire protection fee to the 911 fee. Forms, instructions, letters, and other published guidance are being updated to reflect the name change.

2. Exemption Created for Electricity Used to Charge Electric Vehicles

([2023 Wis. Act 121](#), amend secs. 77.52(13) and 77.53(10), and create sec. 77.54(71), effective January 1, 2025)

The Act creates an exemption from sales and use tax for the sale of electricity delivered or placed by:

- A Level 3 charger of an electric vehicle charging station, as defined in sec. [77.997\(1\)](#), Wis. Stats., into the battery or other energy storage device of an electric vehicle
- A Level 1 or Level 2 charger installed on or after March 22, 2024, of an electric vehicle charging station, as defined in sec. [77.997\(1\)](#), Wis. Stats., into the battery or other energy storage device of an electric vehicle

If the owner, operator, manager, or lessor of an electric vehicle charging station charges for the delivery or placement of the electricity into the battery or other energy storage device of an electric vehicle, such person is not required to obtain an exemption certificate from the purchaser for the sale of electricity to be exempt from sales and use tax.

3. Premier Resort Area Tax Money Usage by Certain Municipalities

([2023 Wis. Act 134](#), renumber sec. 66.1113(2)(d) to 66.1113(2)(d)1. And amend as renumbered; and create sec. 66.1113(2)(d)2., effective March 23, 2024)

The Act authorizes the city of Wisconsin Dells and village of Lake Delton to use the proceeds from the premier resort area tax for public safety expenses and infrastructure expenses within the premier resort area.

Under prior law the city of Wisconsin Dells and village of Lake Delton could only use proceeds from the tax for infrastructure expenses.

Premier resort areas enacting an ordinance to impose premier resort tax after December 31, 1999, including the villages of Ephraim, Sister Bay, and Stockholm and the cities of Rhinelander, Eagle River, and Bayfield must continue to use proceeds from the tax for infrastructure expenses.

4. Insulin Exemption Modification

([2023 Wis. Act 138](#), renumber sec. 77.54(14m) to 77.54(14)(en) and amend as renumbered, effective March 23, 2024)

The Act eliminates the requirement for purchasers to present an exemption certificate to claim the sales and use tax exemption for insulin furnished by a pharmacist to a person for the treatment of diabetes of a human being. Under prior law, although insulin dispensed on a physician's prescription was exempt from sales tax, purchasers had to present an exemption certificate to claim the exemption.

5. No Exemption Certificate Needed for Exempt Health Care Records and Farm-Raised Fish

([2023 Wis. Act 138](#), amend secs. 77.52(13) and 77.53(10), effective March 23, 2024)

The Act eliminates the requirement for sellers to obtain and purchasers to provide an exemption certificate for exempt sales and purchases of patient health care records sold to the patient or to a person that the patient authorizes to receive the records (sec. [77.54\(64\)](#), Wis. Stats.).

The Act also eliminates the requirement for sellers to obtain and purchasers to provide an exemption certificate for exempt sales and purchases of farm-raised fish sold to a fish farm, as defined in sec. 95.001(1)(aj), Wis. Stats., that is registered with the Department of Agriculture, Trade and Consumer Protection, or to a person who holds a valid permit under sec. 29.736, Wis. Stats., for the stocking of fish (sec. [77.54\(66\)](#), Wis. Stats.).

6. Exemption Created for Real Estate Broker Memberships

([2023 Wis. Act 141](#), amend secs. 77.52(13) and 77.53(10), and create sec. 77.54(72), effective June 1, 2024)

The Act creates a sales and use tax exemption for the sale of and the storage, use, or other consumption of a membership sold to a real estate broker licensed under ch. 452, Wis. Stats., who, pursuant to the broker's membership agreement, offers to compensate and cooperate with other real estate brokers in brokering sales of properties and who obtains access to information about real estate listings and compensation offers from other real estate brokers.

Revised
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No exemption certificate is needed to claim the exemption.

7. Exemption Created for Certain Road Building Equipment

([2023 Wis. Act 146](#), create sec. 77.54(73), effective June 1, 2024)

The Act creates a sales and use tax exemption for the sale of and the storage, use, or other consumption of portable machinery and equipment, including accessories, attachments, parts, and supplies for such machinery and equipment, used primarily to crush, mill, produce, or pulverize asphalt, concrete, gravel, rock, or aggregate base for road or commercial surface lot construction or resurfacing.

To claim the exemption, road builders, commercial surface lot construction, or resurfacing contractors that qualify for the exemption must provide their equipment supplier one of the following fully completed Wisconsin Sales and Use Tax Exemption Certificates for purchases made on or after June 1, 2024:

- [Form S-211](#), *Wisconsin Sales and Use Tax Exemption Certificate*: Check the box for "other exemptions provided by law" and enter "Road Building Equipment."
- [S-211E](#), *Electronic Wisconsin Sales and Use Tax Exemption Certificate*: Check the box for "Construction – Road Building Equipment."

8. Exemption Created for Precious Metal Bullion

([2023 Wis. Act 149](#), create sec. 77.54(74), effective March 23, 2024)

The Act creates a sales and use tax exemption for the sale of and the use or other consumption of precious metal bullion.

The Act defines "precious metal bullion" to mean coins, bars, rounds, or sheets that contain at least 35% gold, silver, copper, platinum, or palladium and that are marked with weight, purity, and content or that a government authority minted on the basis of weight, purity, and content.

The exemption does not apply to other tangible personal property that contains, in whole or in part, precious metal bullion, such as jewelry, works of art, scrap metal, or electronics.

To claim the exemption, purchasers should provide its vendors with one of the following fully completed Wisconsin Sales and Use Tax Exemption Certificates for purchases on or after March 23, 2024:

- [Form S-211](#), *Wisconsin Sales and Use Tax Exemption Certificate*: Check the box for "other exemptions provided by law" and enter "Precious Metal Bullion."
- [S-211E](#), *Electronic Wisconsin Sales and Use Tax Exemption Certificate*: Check the box for "Precious Metal Bullion."

9. Recreational Vehicles and Campers

([2023 Wisconsin Act 164](#), amend sec. 340.01(48r), effective October 1, 2024)

The Act amends the definition of a recreation vehicle to mean a vehicle that is designed to be towed upon a highway by a motor vehicle, that is equipped and used, or intended to be used, primarily for temporary or recreational human habitation that does not exceed 46 feet in length.

"Recreational vehicle" includes a camping trailer, as defined in sec. 218(1c), Wis. Stats., 5th-wheel recreational vehicle, as defined in sec. 218.10(1q), Wis. Stats., park model recreational vehicle, as defined in sec. 218.10(7m), Wis. Stats., and travel trailer, as defined in sec. 218.10(8v), Wis. Stats.

This amended definition increases the maximum length of a recreational vehicle (RV) from 45 to 46 feet and removes the need for walls of rigid construction. The Act adds camping trailers, 5th-wheel RVs, park models, and travel trailers, defined above, to the definition of RV.

RVs are subject to Wisconsin sales and use tax. Retailers are required to collect and remit the 5-percent state sales tax if the customer takes possession in Wisconsin, unless an exemption applies.

County and city tax is based on the type of item sold.

- If the sale is of an RV, county and city tax is based on where the RV is customarily kept. **Note:** As stated above, camping trailers are RVs. Therefore, effective October 1, 2024, the county and city tax of camping trailers, including pop-up campers and tent campers are based on where the camping trailer is customarily kept. This is a change from prior law.
- If the sale is of a motor home (motor vehicle), it does not meet the definition of an RV and the tax treatment is the same as a motor vehicle (sec. [Tax 11.83\(1\)\(b\)](#), Wis. Adm. Code). The county and city tax are based on where the motor home is customarily kept by the purchaser.
- If the sale is of a truck camper (slide-in truck camper), county and city tax is based on where the purchaser takes possession of the trailer or camper.

Sales to Nonresidents:

If a nonresident purchases an RV and takes possession in Wisconsin, the retailer is required to collect the state tax and also remit county and city tax based on where the RV is customarily kept in Wisconsin. If the RV is customarily kept outside Wisconsin, the retailer is only required to collect the 5-percent Wisconsin state tax.

Sales of motor vehicles (i.e., motor homes) to nonresidents are exempt from tax (state, county, and city tax) if the use in Wisconsin is only to remove the motor vehicle from Wisconsin as provided in sec. [77.54\(5\)\(a\)4.](#), Wis. Stats. This exemption does not apply to sales of RVs to nonresidents.

This article supersedes the *Recreational Vehicles and Campers* article in [Wisconsin Tax Bulletin 210](#) (July 2020).

See [Fact Sheet 2113](#), *Sales and Use Tax on Sales of Used Motor Vehicles, Boats, Snowmobiles, RVs, Trailers, Semitrailers, ATVs, UTVs, Off-Highway Motorcycles, and Aircraft*, for additional information about when county and city taxes apply.

E. Excise Taxes

1. Electric Vehicle Charging Station Registration and Excise Tax

([2023 Wis. Act 121](#), amend ch. 77(title) and create subch. XIII of ch. 77, effective January 1, 2025)

The Act creates a definition of an electric vehicle charging station to mean a charging station for electric vehicles containing a Level 3 charger, as defined in sec. 16.9565(1)(c), Wis. Stats., or containing a Level 1 charger, as defined in sec. 16.9565(1)(a), Wis. Stats., or a Level 2 charger, as defined in sec. 16.9565(1)(b), Wis. Stats., installed on or after March 22, 2024.

Note: The Act also places restrictions on state agencies and local governmental units to own, operate, manage, or lease electric vehicle charging stations under secs. 16.9565 and 66.0442, Wis. Stats.

Electric Vehicle Charging Station Registration

Effective January 1, 2025, the Act requires that prior to delivering or placing, or offering to deliver or place, electricity from an electric vehicle charging station owned, operated, managed, or leased by a person, the person must register with the department. Registration will include but is not limited to the operating name of the applicant and location of the all the applicant's electric vehicle charging stations.

No registration is required for an electric vehicle charging station located at a residence. "Residence" means a place where a person resides permanently or temporarily, except for a hotel, as defined in sec. 97.01(7), Wis. Stats.

Electric Vehicle Charging Station Excise Tax

Effective January 1, 2025, the Act imposes an excise tax on a registrant at the rate of 3 cents per kilowatt-hour on the electricity delivered or placed by:

- A Level 3 charger of an electric vehicle charging station into the battery or other energy storage device of an electric vehicle
- A Level 1 or Level 2 charger installed on or after March 22, 2024, of an electric vehicle charging station into the battery or other energy storage device of an electric vehicle

The excise tax does not apply to electricity delivered or placed by a Level 3 charger of an electrical vehicle charging station located at a residence.

Caution: The excise tax applies to the total kilowatt-hours of electricity delivered or placed by an electric vehicle charging station regardless of whether a registered person charges for the electricity.

A person who is registered and owes the excise tax must file a biannual return with the department by July 31 for the period beginning January 1 and ending on June 30, and by January 31 for the period beginning on July 1 and ending on December 31.

In addition to filing and paying the excise tax, a person holding a registration shall maintain records indicating the total number of kilowatt-hours of electricity delivered or placed by each Level 3 charger and Level 1 and Level 2 chargers installed on or after March 22, 2024.

The department shall deposit all of the excise tax revenue in the state's transportation fund under sec. 25.40, Wis. Stats.

Note: The department will provide additional communication about registration and filing the excise tax prior to the effective date of January 1, 2025.

F. Unclaimed Property Laws

1. Voluntary Disclosure Program for Unclaimed Property

([2023 Wis. Act 138](#), amend sec. 177.1505(4), first applies to applications received on June 1, 2024)

The Act removes the limited timeframe for the department to enter into a voluntary disclosure agreement to waive penalties for holders that voluntarily disclose and report unclaimed property. Therefore, the Act creates a permanent voluntary disclosure program.

2. Unclaimed Property Changes

([2023 Wis. Act 138](#), amend secs. 177.0202(title) and (1)(intro.), 177.0210(1)(intro.), and 177.0607(4), and create secs. 177.01(7a), (7d)(c)5., (13b)(c)8., (14d)(c)5., and (16)(e), and 177.0607(3)(d), first applies to property reportable on November 7, 2021)

The Act creates a definition for a financial organization loyalty card and excludes the card from unclaimed property. A financial organization loyalty card means a card or electronic record that is given without direct monetary consideration under an award, reward, benefit, loyalty, incentive, rebate, or promotional program established by a financial organization for purposes of rewarding a relationship with the sponsoring entity and that may be redeemed for money or otherwise monetized by the issuer or used to obtain goods or services or a discount on goods or services. An annual fee or periodic membership fee charged to the cardholder for joining or maintaining membership in any such award, reward, benefit, loyalty, incentive, rebate, or promotional program shall not be considered direct monetary consideration paid for the financial organization loyalty card.

The Act also does the following:

- Provides a presumption of abandonment for tax-exempt retirement accounts to be the same as tax-deferred retirement accounts.
- Clarifies published guidance that under sec. 177.0210, Wis. Stats., the presumption of property is abandoned the later of the date on which the property is otherwise presumed abandoned in the subchapter or the date on which the dormancy period has elapsed following the last indication of interest by the apparent owner in the property. Previously, the statute indicated the presumption was the earlier of the two dates.
- Provides that interest shall not accrue on claims paid to another state.
- Clarifies that property received before January 2, 2019, shall accrue interest if that property was interest-bearing to the owner, as reported by the holder at the time of receipt by the administrator.

General Updates and Reminders

Reporting Suspected Tax Fraud or Evasion

If you suspect an individual or business is not complying with tax laws you may report that information anonymously using [Form P-626](#), *Wisconsin Tax Information Referral Form*, to report fraud, or [Form P-627](#), *Wisconsin Remote Seller Referral Form*, to report remote sellers that should be collecting Wisconsin sales or use tax.

When completing Form P-626 or P-627, provide as much information as possible to assist us in properly identifying the taxpayer and the reason you suspect the individual or business is not compliant. Examples include: the name and address of the referred, why you think tax fraud is being committed, how much money is involved, any personal or financial information you have concerning the referred, etc.

Note: Under state privacy laws, we cannot disclose what, if any, action was taken based on information you provide, and the department does not issue rewards for reporting suspected tax fraud or evasion.

Some examples of potential income tax fraud may include the following:

- Employers paying wages in cash and not issuing Form W-2 to employees.
- Businesses operating on a cash-only basis to avoid reporting the income.
- Businesses using phantomware or an automated sales suppression device.

Examples of sales and use tax fraud may include the following:

- Businesses charging sales tax on nontaxable products or charging a higher sales tax rate than allowed and keeping the additional revenue.
- Businesses using phantomware or an automated sales suppression device.

Note: If a remote seller is not charging sales tax when they sell more than \$100,000 in Wisconsin for the calendar year, you may notify the department using Form P-627.

The department investigates cases of tax fraud or evasion. If you are the victim of a scam or unfair business practices unrelated to taxes, the Department of Agriculture, Trade and Consumer Protection (DATCP) may be able to help. You can file a consumer complaint with DATCP online, or use their Consumer Protection

Hotline. For more information visit:

https://datcp.wi.gov/Pages/Programs_Services/FileConsumerComplaint.aspx.

Income and Franchise Tax Updates and Reminders

Commercial Loan Income Exemption – Emergency Rule and Common Questions

According to secs. [71.05\(1\)\(i\)](#) and [71.26\(1\)\(i\)](#), Wis. Stats., for tax years beginning on or after January 1, 2023, certain financial institutions may receive an income or franchise tax exemption for income derived from a commercial loan of five million dollars or less.

Emergency rule [EMR2404](#), creates sec. Tax 3.10, Wis. Adm. Code, relating to the commercial loan exemption. The rule was published in [Administrative Register 819A3](#) and the Wisconsin State Journal on March 18, 2024. The rule takes effect upon publication in the state newspaper and shall remain in effect for 150 days, as provided in sec. [227.24\(1\)\(c\)](#), Wis. Stats., subject to extensions under sec. [227.24 \(2\)](#), Wis. Stats.

The department posted [Commercial Loan Income Exemption](#) common questions regarding the emergency rule and secs. [71.05\(1\)\(i\)](#) and [71.26\(1\)\(i\)](#), Wis. Stats.

Filing Tips – Corporation Tax Forms 4 and 6

The following is a list of items to remember when completing [Form 4](#), *Wisconsin Non-Combined Corporation Franchise or Income Tax Return* and [Form 6](#), *Wisconsin Combined Corporate Franchise or Income Tax Return* :

- Enter the complete legal name of the entity, including all punctuation.
- Include [Schedule RT](#), *Wisconsin Related Entity Expenses Disclosure Statement*, when interest expenses, rent expenses, management fees, and intangible expenses paid to a related entity are greater than \$100,000. Schedule RT must be filed by the extended due date of the Wisconsin income or franchise tax return.
- Complete [Form 6](#), page 2 – *Reconciliation with Federal Consolidated Return*, correctly. The sum of all entities' Forms 1120, line 28 should be entered on line 1d. If entities are removed from the combined group, they should be reported on line 4, not netted from the total on line 1d. Be sure to include the Federal Employer Identification Numbers (FEINs) on line 4.
- When completing [Form 6Y](#), *Wisconsin Modification for Dividends*, enter the correct entities for the payer and payee.

Provide detailed explanations when entering other additions on Part II, line 2j, and other subtractions on Part II, lines 4n, of Form 6. When completing Form 4, lines 2 and 4, provide detailed explanations for line 10 of [Schedule 4V](#), *Wisconsin Additions to Federal Income*, and line 15 of [Schedule 4W](#), *Wisconsin Subtractions From Federal Income*.

Sales and Use Tax Updates and Reminders

Sales and Use Tax Guidance for Disregarded Entities

The common questions for [Disregarded Entities \(Sales and Use and Withholding Taxes\)](#) have been updated on the department's website. The questions and answers have been modified for plain language. In addition, questions 4 and 8 include the following changes:

- Question 4 - Example 5: Clarifies the sales and use tax treatment of a series of transactions that include an owner selling its interest in a disregarded entity to an unrelated entity.
- Question 8: Provides a disregarded entity can create a sales and use tax filing requirement for its owner or vice versa. Previously, the department's guidance provided that nexus was determined independently for a disregarded entity and its owner. Currently, the guidance provides that the activities of the owner and its disregarded entity may, collectively, create nexus and a sales and use tax filing requirement. Wisconsin law allows an owner of a disregarded entity to elect to file a single sales and use tax return that includes all of its activities and the activities of its disregarded entities, or file separate electronic sales and use tax returns for each of its disregarded entities.

Unclaimed Property Updates and Reminders

Administrative Rule for Virtual Currency Effective March 1, 2024

Chapter Tax 10, Wis. Adm. Code, has been created for Unclaimed Property administrative rules. The following Wisconsin Administrative Code sections were published in the [Administrative Register 818B](#):

- Section [Tax 10.01\(1\)](#), Wis. Adm. Code, a holder that is required to report and remit virtual currency to the department shall liquidate the virtual currency within 30 days prior to the November 1 due date of the report.
- Section [Tax 10.01\(2\)](#), Wis. Adm. Code, a holder that meets the liquidation requirements and substantially complies with provisions to provide the proper notice to apparent owners is considered to have delivered the virtual currency in good faith and is relieved of liability arising after payment and delivery of the virtual currency to the administrator (the department).

Matching Program Continues to Return Millions of Unclaimed Property to Owners

The department began matching unclaimed property owners with income tax records in 2015. Since the program started, approximately \$52.4 million in unclaimed property has been returned to more than 320,000 owners. This year's matching program has identified 23,154 unclaimed property owners and will be sending \$3.8 million in refund checks to the owners.

How the Matching Program Works

The department matches unclaimed property information reported (e.g., social security numbers) with income tax records. When a match is made, the department first offsets any debts before paying the unclaimed property to the owner. Then the department mails one of two different notices to the individual depending on the value of unclaimed property.

Notice of Claim Refund – Unclaimed Property (if the amount payable is \$2,000 or less)

- A check is attached to the notice when there is a refund payable
- The notice may include:
 - An itemized list of the property refunded to the owner
 - Any interest paid and the specific property to which the interest relates
 - The amount and type of debts, if any, that were paid from the proceeds of the unclaimed property
 - Contact information for questions

Action Required – Claim your Unclaimed Property (if the amount payable is more than \$2,000)

- The notice lists items and amounts of unclaimed property
- The owner must follow the instructions in the notice to file a claim for the property
- Upon approval of the claim, DOR sends the refund to the owner

DOR Contact Information

Persons receiving one of these notices are encouraged to visit the department's [Unclaimed Property](#) web page to search for additional unclaimed property they may have.

Call: (608) 264-4594 (Mon-Fri, 7:45 a.m. - 4:30 p.m.)

Email: DORUnclaimedProperty@Wisconsin.gov

Report on Litigation

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

Pass-Through Withholding Tax

Pass-Through Entities Required to File a Pass-Through Withholding Return and Submit Withheld Tax in Each Year there is Wisconsin Income

RADS Partnership, Via Cresta, L.P., Laughing Cow, LP, Westmar LTD, and Finger Living Trust (Petitioners) v. Wisconsin Department of Revenue (Court of Appeals, District IV, February 29, 2024).

See [Wisconsin Tax Bulletin 219](#) (October 2022), pages 16-18, for a summary of the Wisconsin Tax Appeals Commission's decision.

See [Wisconsin Tax Bulletin 221](#) (April 2023), page 12, for a summary of the Dane County Circuit Court's decision.

The issues in the Commission's decision are whether the Petitioners, who are pass-through entities, are liable for pass-through withholding tax under sec. 71.775, Wis. Stats., and whether the trust Petitioner is liable for fiduciary income tax based on income the Petitioners received during tax year 2013.

The Wisconsin Court of Appeals affirmed the Circuit Court's dismissal of a petition for review because the department was not properly served and the Circuit Court therefore lacked competency. The decision of the Court of Appeals has been recommended for publication.

The petitioners are seeking review by the Wisconsin Supreme Court.

Corporate Franchise and Income Tax

Intercompany Transactions – Valid Business Purpose and Economic Substance

Skechers USA, Inc. vs. Wisconsin Department of Revenue (Dane County Circuit Court, April 1, 2024)

This is a judicial review of the Wisconsin Tax Appeals Commission's decision dated February 24, 2023. See [Wisconsin Tax Bulletin 221](#) (April 2023), pages 10-12, for a summary of the Commission's decision.

The issue is the application of sec. 71.30(2), Wis. Stats., *Allocation of gross income, deductions, credits between 2 or more businesses*. Skechers had set up a trademark licensing entity, transferred its domestic intellectual property to that subsidiary, and then licensed it back, claiming that it was entitled to a royalty deduction. There is no definitive test to determine whether transactions between related entities should be respected or subject to sec. 71.30(2), Wis. Stats. Both parties agreed to apply the decision in *Hormel Foods Corporation vs. Wisconsin Department of Revenue*, 2010 WL 1367782, *15 (WTAC Mar. 29, 2010) (*Hormel*).

Skechers asserted the Wisconsin Tax Appeals Commission (the "Commission") decision failed to follow the "viable business entity" exception they believe was outlined in *Hormel*. They claimed the licensing transactions in question should be respected and exempt from allocation under sec. 71.30(2), Wis. Stats., because the two related entities involved in the royalty transactions are engaged in other independent, unrelated economic activity.

The Circuit Court disagreed with Skechers' positions on several points. First, the *Hormel* Commission decision did not articulate a viable business exception. Even if a viable business exception existed in *Hormel*, the specifics of the transactions in the current case differ enough that such an exception would not apply. Second, in its application of *Hormel*, the Commission correctly focused on the specific royalty transactions versus the reason the entities were created.

The Court first noted that neither a future Commission nor any court is bound by a decision of a previous Commission. Then the Court considered the proper approach to analyze the "substance and reality" of the transactions at issue, which involves examining the "economic substance, business purpose, and a showing that the transaction was not shaped solely by tax avoidance features."

The Court upheld the Commission's decision, stating the taxpayer failed to prove by clear and satisfactory evidence that a nontax business reason existed for the royalty transactions between the two related entities. The Court considered Skechers' conduct to be a "near textbook example of what Wis. Stat. § 71.30(2) and the sham transaction doctrine aims to prevent..."

It is unknown at the time of this publication whether the taxpayer will seek review from the Wisconsin Court of Appeals.

Sales and Use Tax

Sales of Tickets to Sporting and Entertainment Events

StubHub v. Wisconsin Department of Revenue (Dane County Circuit Court, February 1, 2024).

This is a review of the Wisconsin Tax Appeals Commission decision dated February 28, 2023. See [Wisconsin Tax Bulletin 221](#) (April 2023), page 12, for a summary of the Wisconsin Tax Appeals Commission's decision.

The issue in this case is whether StubHub was selling tickets or acting as an agent and/or representative of others selling tickets. The department assessed tax and penalties on StubHub's sales of tickets to taxable admission events in Wisconsin. StubHub maintains it made no sales and did not serve as an agent or representative of those who did make sales.

The Wisconsin Tax Appeals Commission concluded:

- "1. ...StubHub was a retailer providing the service of selling taxable admissions..."
2. ...StubHub was liable in the alternative with the ticketholders listing tickets on StubHub's online marketplace for the sales tax..."
3. ...StubHub has not met its burden of proving the Department's sales/use assessment was incorrect.
4. ...The Department's imposition of penalties in this appeal is not supported by the facts, law, and department publications in place at the time of the transactions at issue."

In the Circuit Court's review of the Commission's decision, the Court concluded reasonable persons could disagree whether terms like "selling" and "representing sellers" apply to "running an online marketplace" and that statutes using those terms are ambiguous. The Court stated, "Sometimes a statute has no plain meaning. A statute is ambiguous if the language reasonably gives rise to different meanings..."

The Court concluded the Commission erred by:

1. Imposing sales tax under sec. 77.52, Wis. Stats., because reasonable persons could disagree about whether StubHub "sold" tickets.
2. Interpreting the doctrine of the undisclosed principal to create sales tax liability for StubHub.
3. Imposing sales tax under sec. 77.51(13)(c), Wis. Stats., because reasonable persons could disagree about whether StubHub was a "representative" of ticket sellers.

The Court determined StubHub satisfied its burden to show it owed no sales tax and set aside the decision of the Wisconsin Tax Appeals Commission.

The department intends to appeal this decision.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of April 30, 2024: chs. 16, 29, 66, 71, 77, 157, 177, 218, 227, 238, 343, 340, 440, and 452, [Wis. Stats.](#), and chs. Tax 1, 2, 3, 10, and 11, [Wis. Adm. Code](#). Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to this date that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis. Stats.

Public Comments

The public may [submit comments on guidance documents](#) at any time.