

# Wisconsin Tax Bulletin

January 2026 Number 232



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## New Tax Law

### Expanding Business Development Tax Credit for Rehabilitating Workforce Housing or Establishing a Childcare Program

([2025 Wis. Act 78](#), amend secs. 71.07(3y)(b)6., 71.28(3y)(b)6., 71.47(3y)(b)6., and 238.308(4)(a)6., effective for taxable years beginning after December 31, 2025)

The Act expands the workforce housing and childcare program portions of the business development credit by adding eligibility for contributions made by a claimant to third parties responsible for building or rehabilitating workforce housing or establishing a childcare program, including contributions made to a local revolving fund loan program. The Act also removes the requirement that rehabilitating workforce housing or establishing a childcare program must only benefit the claimant's employees.

## General Updates and Reminders

### Avoid Mailing Late-Filed Tax Returns and Payments

Wisconsin law provides that tax returns and payments mailed to the Wisconsin Department of Revenue through the United States Postal Service (USPS) are timely if the document or payment is postmarked before midnight of the due date and received by the department within 5 days of the due date.

The USPS updated its Domestic Mail Manual effective December 24, 2025, to improve public understanding of postmarks and their relationship to the date of mailing. Postmarks are generally applied by the USPS via automation by machines at regional processing facilities. The date of a postmark applied at a processing facility may be one or more days after you deliver a mailpiece (e.g., envelope) to the USPS, for example, at a retail location.

The postmark date is important as it determines, in part, whether your Wisconsin tax returns and payments are timely made or subject to late filing fees and interest.

Ensure your Wisconsin tax returns and payments are timely by doing one of the following:

- 1. File and pay electronically!** Electronically filed tax returns are fast and secure, and you receive a confirmation number and/or notification that your return was received by the department. Wisconsin individual income tax returns may be filed electronically through the department's [WisTax](#) application, [My Tax Account](#) platform, or through approved [third-party software](#). To pay your taxes electronically, visit the department's [Make a Payment](#) web page.
- 2. Mail your documents early.** There could be several days between when you deliver a document to the USPS and when it is postmarked by the USPS. Mailing early reduces the chance of your envelope getting a postmark date that is after the due date of the return or payment.
- 3. Go to a USPS retail location.** There are several ways to get proof the USPS received your documents at a retail location.
  - Manual postmarks are applied to envelopes, upon a customer's request, free of charge at the retail counter of every Post Office, station, or branch.
  - Obtain a Postage Validation Imprint (PVI) Label at a retail location. These labels are printed by the USPS when you pay for postage at a retail location (e.g., you pay for regular or certified mail at the counter). The PVI labels are applied to the envelope upon acceptance by the USPS and indicate the date of acceptance.

The department's Customer Service Bureau can assist taxpayers that want to learn how to file and pay Wisconsin tax returns electronically – Individuals: (608) 266-2486, Businesses: (608) 266-2776.

### 2025 Fall Tax Updates - Practitioner Questions and Answers

Every year the department presents tax updates for tax practitioners across the state. Answers to questions received from practitioners are posted on the department's website. See the [Fall 2025 Tax Practitioner Questions and Answers](#).

## Practitioner Alert: Data Breaches of Tax Professionals on the Rise

Cybercriminals are increasingly targeting tax professionals, so vigilance is key. System intruders can change direct deposit accounts on pending returns to accounts they control and/or steal data used to create fraudulent tax returns.

### ***Signs of a Potential Data Breach***

- Returns being submitted or changed from unrecognized IP addresses, at unexpected times, or by an unexpected employee of your firm.
- Customer contacts indicating a tax refund was issued but not deposited into their bank account.
- An employee reports they clicked on a link or attachment from a suspicious email. Phishing attempts disguised as client requests or vendor communications commonly target tax professionals.
- Tax professionals or clients responding to emails your firm did not send.
- Slow system performance, crashes, or other unanticipated system behavior can be a sign of malware.
- Increase in client tax returns being rejected because their Social Security Number was already used on another return.

### ***Implementing Safeguards Can Protect Your Clients and Your Reputation***

- Install anti-malware/anti-virus security software on all devices and automatically update software.
- Use a firewall.
- Create and secure virtual private networks.
- Use strong unique passwords and multi-factor authentication.
- Encrypt all sensitive data.
- Limit access to taxpayer data to individuals who need to know. Review access controls regularly.
- Train staff to be cautious with emails and links. Never click on unexpected links or open attachments without verifying the sender.
- Review Internal Revenue Service (IRS) e-Services accounts regularly to check on the number of returns filed with your Electronic Filing Identification Number (EFIN). Contact the IRS if discrepancies are found.
- Make a final review of return information, especially direct deposit info, prior to e-filing.

For additional resources, including what to do if you discover your firm is a victim of data theft, see the department's [Identity Theft](#) common questions and IRS [Identity theft information for tax professionals](#) web page.

## **Submitting Questions to the Department**

The department strives to provide excellent customer service by responding to questions in a timely manner with a high level of professionalism and quality.

### ***General Questions***

The department encourages taxpayers and practitioners to use the department's [Submit a Question](#) web page to electronically route questions to the appropriate business unit. To expedite the handling of questions, choose the subject in the dropdown list that best relates to your question.

Taxpayers and practitioners can also visit the department's [Contact Us](#) web page to find contact information for various business units in the department. This web page provides phone numbers, office hours and locations, and links to informational web pages related to specific topics.

## ***Request for Private Letter Rulings***

Taxpayers or their authorized representative may request a department ruling on the tax treatment of a specific transaction or activity through a Private Letter Ruling (PLR). A PLR is a written statement of the department's interpretation and application of Wisconsin tax law to a specific set of facts. A PLR does not bind the taxpayer and may be published if the department decides to do so. More information about a PLR can be found in [Publication 111, How to Get a Private Letter Ruling](#).

## **Income and Franchise Tax Updates and Reminders**

### **What's New This Tax Season?**

Below are changes that may impact 2025 Wisconsin tax returns:

#### **1. Individuals, Estates, and Trusts**

- A. Internal Revenue Service (IRS) Direct File:** The IRS Direct File program officially ended and is not available for filing 2025 tax returns during the 2026 tax filing season.
- B. Wisconsin's free electronic filing:** Individuals can use the department's [WisTax](#) application or their registered [My Tax Account](#) (MTA) to file their Wisconsin [Form 1, Income Tax Return](#). Now individuals can also amend their Wisconsin Form 1 using WisTax or MTA. In addition, individuals with no taxable income who file returns only to claim the veterans and surviving spouses property tax credit have a more streamlined filing experience using WisTax.

Not all taxpayers qualify to use WisTax or MTA. See [WisTax Common Questions](#) for qualifications and more information. Taxpayers who do not qualify for free electronic filing using WisTax are encouraged to go to a [tax professional](#) or use [third-party software](#).

- C. Internal Revenue Code (IRC) update:** For the 2025 taxable year, Wisconsin follows the federal IRC as amended to December 31, 2022, with certain exceptions, for income and franchise tax purposes. See *Conformity with Internal Revenue Code and Exceptions* section on page 10 of the [2025 Form 3 instructions](#) for more details, or read explanations of common differences in the [2025 Schedule I instructions](#).

- D. Wisconsin tax law changes:** The following tax law changes are effective for the 2025 tax year. Unless specified otherwise, see the *New Tax Laws* articles in the [Wisconsin Tax Bulletin 230](#) (July 2025) for an explanation of the change(s).

- Expanded the income threshold at which the second tax bracket ends and the third tax bracket begins for individuals, estates, and trusts.
- Created a new retirement income subtraction for individuals at least 67 years of age at the end of the taxable year. For additional information, see the department's [2025 Schedule SB instructions](#), line 16, and the *Income/Franchise and Withholding* section of the [Fall 2025 Tax Practitioner Questions and Answers](#).
- Expanded the subtraction for adoption expenses from \$5,000 to \$15,000 for each child.

**E. Other changes for 2025:** The following are other notable changes occurring for the 2025 tax year.

- *College Savings Account:* The Wisconsin subtraction for contributions to a Wisconsin state-sponsored college savings account is increased from \$5,000 to \$5,130 per beneficiary (\$2,500 to \$2,560 per beneficiary if you are married and file a separate return). See the [2025 Schedule CS instructions](#).
- *Tuition:* The Wisconsin subtraction for tuition and fees is increased from \$7,333 to \$7,649. See the [2025 Schedule SB instructions](#), line 8.

## 2. Businesses

**A. New Form 1099 Submission Method – Information Returns Intake System (IRIS) Schema:** If you have a third-party software or service or are developing software, you can use IRIS Application to Application (IRIS A2A) to electronically file thousands of returns (up to 100 MB at a time) directly to Wisconsin. This is the Internal Revenue Service's (IRS) new method to electronically file information returns. Organizations that make software that generates xml files to the specifications in the IRIS schema must contact [DORDeveloperRelations@wisconsin.gov](mailto:DORDeveloperRelations@wisconsin.gov) for access to Letters of Intent (LOI) and testing parameters. Annual acceptance testing is required before filing.

**Caution:** Wisconsin has additional filing requirements which must be included with the Form 1099 submission (e.g., state specific data). These requirements are documented on the state exchange. You can gain access to the state exchange once you submit an LOI and it is approved.

For more schema information on the state exchange, see [Publication 172](#), *Annual W-2, W-2C, 1099-R, 1099-MISC, 1099-NEC, 1099-K, and W-2G Electronic Reporting*, or contact [DORDeveloperRelations@wisconsin.gov](mailto:DORDeveloperRelations@wisconsin.gov).

**B. Internal Revenue Code (IRC) update:** For the 2025 taxable year, Wisconsin follows the federal IRC as amended to December 31, 2022, with certain exceptions, for income and franchise tax purposes. See *Conformity with Internal Revenue Code and Exceptions* section on page 10 of the [2025 Form 3 instructions](#) for more details, or read explanations of common differences in the [2025 Schedule I instructions](#).

**C. Other Changes for 2025:** The following are other notable changes occurring for the 2025 tax year.

- *Wisconsin Department of Financial Institutions Number Requirement:* Certain types of businesses must register with the Wisconsin Department of Financial Institutions (DFI). The following forms now request a Wisconsin DFI number in the entity information section of the return:
  - Form 3, *Wisconsin Partnership Return*
  - Form 4, *Wisconsin Non-Combined Corporation Franchise or Income Tax Return*
  - Form 4H, *Wisconsin Corporation Declaration of Inactivity*
  - Form 4T, *Wisconsin Exempt Organization Business Franchise or Income Tax Return*
  - Form 5S, *Wisconsin Tax-Option (S) Corporation Franchise or Income Tax Return*
  - Form 6, *Wisconsin Combined Corporate Franchise or Income Tax Return*
  - Schedule DE, *Disregarded Entity Schedule*

## Individual Income Tax Reminders

### **Extensions**

Extensions available under federal law may be used for Wisconsin purposes, even if you do not need an extension to file your federal return or already filed your federal return. To obtain a 6-month extension to file your Wisconsin individual income tax return, attach one of the following items to your Wisconsin return when you file:

- A copy of federal Form 4868 with only Part I completed
- A statement indicating which federal extension provision you are using for Wisconsin

If you plan to file your return using one of the federal 6-month extension provisions, you must file your Wisconsin return by October 15, 2026, for it to be considered timely. Returns filed after October 15, 2026, are assessed a \$50 late filing fee.

An extension of time to file is not an extension of time to pay. Interest accrues on any unpaid taxes starting April 15, 2026. Submit your payment as a 2025 estimated payment using one of the options listed on the [Make a Payment](#) page.

Additional information about extensions is on page four of the [Form 1 instructions](#).

### **Adjustments**

If the department adjusts your tax return, a notice is mailed explaining the changes made. You must file an appeal within 60 days if you disagree with the changes, or the changes become final. For faster processing, [submit appeals](#) using the department's website and attach any relevant documents to show why you believe the changes are incorrect. Refer to your notice for additional options to submit your appeal.

### **Processing Time**

Most individual income tax returns are processed within 12 weeks. The department is required by law to hold an individual income tax refund until March 1 if the individual's employer(s) has not submitted their Form W-2 to the department. The department may send a letter requesting additional information to process your return; timely response to such letters ensures your return is processed efficiently and accurately. The department does not provide copies of 2025 Forms W-2 or 1099 until March 1 or later for taxpayers who request copies of their forms. See [Requesting Copies of Tax Records](#) common questions for more information.

Amended returns filed between January 1 and May 31 may take additional time to process due to the high volume of original returns the department processes during this time.

### **Get Ready for Tax Season**

Several resources are available on the department's website to help you get ready to file individual income tax returns.

- Use the [Form 1099-G lookup\\*](#) to view your Form 1099-G issued by the department (if any) reporting your state refund from last year. The lookup tool does not show Forms 1099-G issued for unemployment compensation. Contact the payer of your unemployment compensation for a copy of your Form 1099-G from unemployment. For Wisconsin unemployment, visit the Department of Workforce Development (DWD)'s website at <https://dwd.wisconsin.gov/uiben/1099.htm> or call (608) 266-2999.

- Use the [estimated payment lookup](#)\* to view your estimated payments and overpayments carried over from last year's return. Payments are displayed as "pending" until the return is filed.
- Review the list of [Common Questions](#) pages to find answers to your questions. Also view the department's [Tax Publications](#), [Fact Sheets](#), and [2025 Individual Income Tax Forms](#) web pages. If you do not find the answers you need, [contact us](#) for assistance.
- [Where's My Refund](#) provides real-time, accurate refund status information. **Note:** Statuses for amended returns and appeals are not available in Where's My Refund.

**\*Practitioners:** The estimated payment and 1099-G lookups count the number of unsuccessful attempts from the same IP address and lock the IP address for 24 hours after a set number of attempts. If several practitioners are working from the same IP address, unsuccessful attempts by one person lock the IP address for everyone. If you cannot wait the 24 hours for the account to unlock, call our My Tax Account support line at (608) 261-5338 for assistance.

## Individual Income Tax Forms Filing Methods

The department encourages taxpayers to electronically file individual income tax returns. Benefits include:

- Faster refunds using direct deposit
- Accuracy – tax preparation software does the calculations
- Confirmation that tax returns are filed
- Secure transfer of personal information
- Timely electronic payments – if you owe, you can choose direct debit/withdrawal from your financial institution and choose the date you want to pay (up to April 15) without worrying about mailing a paper check by the due date

Options for electronic filing:

- Use a tax professional. You can search the Internal Revenue Service's [e-file provider locator](#) website for authorized providers.
- Use [third-party software](#) approved to transmit returns to the department.
- Use the Volunteer Income Tax Assistance or Tax Counseling for the Elderly program. More information, including who may qualify, is available in the department's [Volunteer Income Tax Assistance \(VITA\) Tax Counseling for the Elderly \(TCE\)](#) common questions.
- File for free with Wisconsin's [WisTax](#) application or [My Tax Account](#) (requires registration with a username and password). See the department's [WisTax](#) and [Using My Tax Account for Personal Use](#) common questions for qualifications and more information.

If filing on paper, view and print Wisconsin individual income tax forms and instructions from the department's [2025 Individual Income Tax Forms](#) web page. Paper forms and instructions may also be available at your local library or contact the department at (608) 266-2486 or [DORFormsRequests@wisconsin.gov](mailto:DORFormsRequests@wisconsin.gov).

## Error Computing the Credit for Taxes Paid to Other States – Capital Gain Exclusion

Wisconsin residents may receive a credit for income taxes paid to other states if the income taxed by the other state is also taxed by Wisconsin (sec. [71.07\(7\)](#), Wis. Stats.)

Wisconsin only taxes 70% of the net capital gain on the sale of most assets held more than one year and 40% for net capital gain on the sale of farm assets (secs. [71.05\(6\)\(b\)9](#) and [9m](#), Wis. Stats.). Because Wisconsin only taxes a portion of the capital gain, the credit for taxes paid to other states must be calculated on the net taxes paid to the other state on the same amount of capital gains that are taxable in Wisconsin.

For example, if a Wisconsin resident had a \$100,000 capital gain and pays tax to Wisconsin on \$70,000 and also pays tax to another state on \$100,000 of such capital gain, the credit for Wisconsin must be calculated on the net taxes paid to the other state on \$70,000 of such capital gain.

The department's [2025 Schedule OS instructions](#) address this issue when computing the credit and the Wisconsin Tax Appeals Commission provided a decision in [Wolfgang and Terry Hemschik v. Wisconsin Department of Revenue](#) (Docket 23-I-028, October 14, 2024), where the Commission concluded:

The amount of credit available to Wisconsin taxpayers for tax paid to another state or states requires taxpayers to calculate the amount of income being taxed by both Wisconsin and the other state to ensure that credit is claimed only on tax paid on income which is taxed by both states pursuant to Wis. Stat. § 71.07(7)(b)1.

See [Publication 125](#), *Credit for Tax Paid to Another State*, for additional information.

## Research and Experimental Expenses

Section 70302 of the One Big Beautiful Bill Act ([Public Law 119-21](#)), made changes to when research and experimental expenses (R&E) are deductible for federal purposes. Wisconsin has not adopted section 70302 of P.L. 119-21 and instead follows sec. 174 of the Internal Revenue Code (IRC) as amended to December 22, 2017. Therefore, differences exist in deducting research and experimental expenses for federal and Wisconsin purposes.

### **Federal Deductibility**

- **Foreign R&E expenditures:**
  - Capitalize and amortize over a 15-year period – IRC 174
- **Domestic R&E expenditures, one of the following:**
  - Deduct in the taxable year paid or incurred – IRC 174A
  - Elect to capitalize the expenditures and amortize the deduction over a period of not less than 5 years – IRC 174A
  - Elect to capitalize the expenditures and amortize the deduction over 10-years – IRC 59(e)(2)(B)
  - Elect to deduct the remaining balance of capitalized domestic R&E expenditures incurred for the 2022 through 2024 taxable years on their 2025 federal return or ratably on their 2025 and 2026 returns – IRC 174A
  - Elect to retroactively deduct expenditures in the year incurred (2022 through 2024) by filing amended returns by July 4, 2026. This election is available to small business taxpayers with average annual gross receipts of \$31 million or less – IRC 174A



## Wisconsin Deductibility

**Caution:** Taxpayers must follow the same accounting method used for federal purposes if such method is authorized under Wisconsin law. The federal election to deduct the remaining balance of domestic expenditures and the small business election do not apply for Wisconsin, so an adjustment may be required. See examples below.

- **Foreign and Domestic expenditures – IRC in effect for Wisconsin purposes (prior to the enactment of the Tax Cuts and Jobs Act ([P.L. 115-97](#)), one of the following:**

- Deduct in the taxable year paid or incurred – IRC 174, as of December 22, 2017
- Elect to treat the expenditures as deferred expenses amortizable over a period of at least 5 years – IRC 174, as of December 22, 2017
- Elect to amortize the expenditures over 10 years – IRC 59(e)(2)(B), as of December 22, 2017

## Examples

In the following examples, Taxpayer A qualifies as a small business taxpayer. Taxpayer B does not.

**Example 1** – Taxpayer A incurred \$100,000 of domestic R&E expenditures during the tax year ending December 31, 2022. The taxpayer amortized the \$100,000 over 60 months, claiming a \$20,000 deduction on the 2022 and 2023 federal tax returns. The taxpayer deducted the full \$100,000 on the 2022 Wisconsin tax return which included an \$80,000 subtraction modification. The Wisconsin 2023 tax return included an addition modification of \$20,000.

On August 15, 2025, Taxpayer A amended the 2022 and 2023 federal tax returns increasing the 2022 deduction from \$20,000 to \$100,000 and decreasing the 2023 deduction from \$20,000 to \$0. In this case, the 2022 Wisconsin return does not need to be amended because the full amount of expenses had been deducted. The 2023 Wisconsin return may be amended to remove the \$20,000 addition modification.

**Example 2** – Taxpayer A incurred \$100,000 of domestic R&E expenditures during the tax year ending December 31, 2022. The taxpayer amortized the \$100,000 over 60 months, claiming a \$20,000 deduction on the federal and Wisconsin 2022 and 2023 tax returns.

On August 15, 2025, Taxpayer A amended the federal 2022 and 2023 tax returns increasing the 2022 deduction from \$20,000 to \$100,000 and decreasing the 2023 deduction from \$20,000 to \$0. Taxpayer A must also amend the 2022 and 2023 Wisconsin tax returns to reflect the same changes on the federal amended return. By amending the federal return, the federal accounting method is changed to deduct the costs in the year incurred. Because Wisconsin law allows costs to be deducted in the taxable year incurred, Taxpayer A must amend their Wisconsin returns to reflect the same accounting method as used for federal purposes.

**Example 3** – Taxpayer A incurred \$100,000 of domestic R&E expenditures and \$50,000 of foreign R&E expenditures during the tax year ending December 31, 2022. The taxpayer amortized the \$100,000 over 60 months, and the \$50,000 over 180 months, claiming a deduction of \$20,000 and \$3,334 respectively on the 2022 and 2023 federal tax returns. The taxpayer deducted the full \$150,000 on the 2022 Wisconsin tax return which included an \$80,000 and \$46,666 subtraction modification. The Wisconsin 2023 tax return included an addition modification of \$20,000 and \$3,334.

On August 15, 2025, Taxpayer A amended the 2022 and 2023 federal tax returns increasing the 2022 domestic R&E expenditure deduction from \$20,000 to \$100,000 and decreasing the 2023 deduction from \$20,000 to \$0. In this case, the 2022 Wisconsin return does not need to be amended because the full

amount of domestic R&E expenditures had been deducted. The 2023 Wisconsin return may be amended to remove the \$20,000 addition modification for the domestic R&E expenditures, but not the \$3,334 addition modification for the foreign R&E expenditures.

**Example 4** – Taxpayer B incurred \$100,000 of domestic R&E expenditures for the tax year ending December 31, 2023. The taxpayer amortized the \$100,000 over 60 months, claiming \$20,000 on the federal and Wisconsin 2023 and 2024 tax returns. On the 2025 federal tax return the taxpayer makes the election to deduct the unamortized \$60,000. The taxpayer cannot claim the same \$60,000 deduction on the 2025 Wisconsin tax return because Wisconsin has not adopted section 70302 of [Public Law 119-21](#), which allows the taxpayer to elect to deduct the balance of R&E expenditures on the 2025 federal tax return. The Wisconsin 2025 tax return must include an addition modification of \$40,000.

## Wisconsin Identity Protection PIN

The Wisconsin Identity Protection PIN prevents fraudsters from using an individual's personal information to file a return and receive a Wisconsin tax refund.

Individuals must register for [My Tax Account](#) (MTA) to receive the Wisconsin Identity Protection PIN. After registration is complete and a PIN is received, taxpayers:

- Have comfort in knowing their Wisconsin tax accounts are secure and no one else can file a tax return without their PIN
- Can quickly and easily renew their PIN each year

**Practitioners:** Taxpayers must sign up for MTA themselves, so they have Master access. **Do not** register for MTA and sign up for the PIN on your clients' behalf.

Participation in the Wisconsin Identity Protection PIN program is voluntary. Once an individual is assigned a PIN, the PIN must be listed on all future returns unless a taxpayer takes steps to cancel their PIN requirement. See the department's [WI Identity Protection PIN](#) common questions for more information.

## Tax Return Donations

Wisconsin law allows taxpayers to make donations to certain organizations listed on the Wisconsin individual income tax return. The organizations for 2025 are the same as on the 2024 Wisconsin individual income tax return.

Donations made by taxpayers on returns filed between July 2024 through June 2025 equaled:

Fund	Donation Amount	Use of Donations
Endangered Resources Fund	\$230,524	Protect and manage native plant and animal species, natural communities, and other natural features
Cancer Research Fund	\$140,778	Donations divided equally between the Medical College of Wisconsin, Inc., and University of Wisconsin Carbone Cancer Center for cancer research projects
Veterans Trust Fund	\$ 75,599	Used by the Wisconsin Department of Veterans Affairs for the benefit of veterans or their dependents

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Multiple Sclerosis Fund	\$ 50,235	Forwarded to the National Multiple Sclerosis Society for distribution to Wisconsin entities that operate health-related programs for people in Wisconsin with multiple sclerosis
Military Family Relief Fund	\$ 71,355	Used by the Wisconsin Department of Military Affairs to provide financial aid to eligible immediate family members of Wisconsin residents on active duty in the U.S. Armed Forces or National Guard
Second Harvest/Feed America Fund	\$157,707	Donations divided as follows: 65% to Feeding America Eastern Wisconsin (located in Milwaukee); 20% to Second Harvest Foodbank of Southern Wisconsin (located in Madison); and 15% to Feed My People (located in Eau Claire). The food banks provide food to food pantries, meal programs, shelters, and soup kitchens throughout the state
American Red Cross Badger Chapter	\$105,144	Used by the American Red Cross for Wisconsin disaster relief
Special Olympics Wisconsin Fund	\$ 76,463	Forwarded to Special Olympics Wisconsin, Inc.

## Sales and Use Tax Updates and Reminders

### Wisconsin/Minnesota Sales and Use Tax Seminars

The Wisconsin and Minnesota Departments of Revenue are partnering to present sales and use tax seminars in the Spring of 2026. The seminars include information on similarities and differences in the two states' sales and use tax laws.

Topics cover sales and use tax and are ideal for businesses that have operations in both Minnesota and Wisconsin.

You can find these seminars in Superior, Hudson, and La Crosse. The specific dates, times, and locations of the seminars, as well as registration information, is available on the [Training](#) page of the department's website.

## Excise Tax Updates and Reminders

### Motor Fuel Tax Refund Claims Can Be Filed Online

Wisconsin law (sec. [78.75](#), Wis. Stats.) provides that motor fuel excise tax may be refunded if it is used for off-road purposes in non-licensed vehicles and mobile equipment. Refund claims must be filed within one year of the date fuel is purchased and must cover at least 100 gallons. For additional information about motor vehicle fuel tax refunds, see the [Motor Vehicle Fuel Tax](#) common questions on the department's website.

Motor Fuel Tax Refund Claims ([Form MF-001](#)) can be filed online through [My Tax Account](#) (MTA). My Tax Account is free, simple, secure, and available 24 hours a day, seven days a week. Claims filed online may take less time to process and approve than claims filed on paper.

If you need assistance getting your refund claim filed online using MTA, reach out to [DOREExcise@wisconsin.gov](mailto:DOREExcise@wisconsin.gov) or call (608) 266-6701.

## Report on Litigation

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

### Corporation Franchise and Income Taxes

#### Apportionment Sales – Licensing of Software

*InterSystems Corporation v. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, November 20, 2025).

##### **Issue**

Must InterSystems apportion the income it receives from licensing of its Caché (computer software) to Wisconsin, or is income InterSystems receives from the licensing of its Caché software properly apportioned based on the location of InterSystems' licensee's end user?

Epic is a Wisconsin corporation using Caché software in the regular course of Epic's business operations in Wisconsin. To the extent Epic pays InterSystems for Epic's use of the internal developmental license for Caché software, the parties agree that this revenue should be sourced to Wisconsin for income tax and franchise tax purposes. The parties' agreement regarding the tax treatment of this income complies with the provisions of sec. [71.25\(9\)\(df\)](#), Wis. Stats.

The dispute regarding the department's assessment relates to income paid to InterSystems which is generated as part of Epic's license of Epic's own software to its end-users. For the income at issue, when an end-user purchases a license to use Epic's software, the end-user is required as part of that purchase to acquire the separate right to use Caché software in order for the Epic Software to function. The parties do not agree on how to characterize the transaction by which the end-user acquires the right to use Caché software.

##### **Facts**

InterSystems is a Massachusetts corporation specializing in creating database management system software, called Caché software, that third parties use to create applications and manage information within those applications, primarily in the healthcare field.

InterSystems contracts with third parties, which they call Application Partners (AP), that develop software applications using Caché software. The APs deliver those developed software applications, which utilize Caché software, to their customers, referred to as "end user customers" in InterSystems' contracts with its APs. InterSystems authorizes their APs to offer their end user customers the right to use Caché software solely to operate the AP's application pursuant to the terms of an agreement between InterSystems and the end-user customer.



Epic Systems Corporation, headquartered in Wisconsin, has been an AP of InterSystems since the late 1980s. Epic creates and licenses software that is widely used in the healthcare community. Certain Epic software applications depend on InterSystems' Caché software to manage the large repositories of patient-related data accessed by those applications. Generally, Epic's end-user customers contact Epic for support, and Epic contacts InterSystems as needed. InterSystems relationship with Epic is governed by the parties' Application Partner Agreements. While Caché software is used in conjunction with Epic's software, it is separate and distinct from Epic's software.

InterSystems bills Epic for the license fees for the end-user customers. InterSystems has no control over how much Epic charges its customers for the software licenses.

## Arguments

Income from direct licenses of computer software to licensees is sourced to Wisconsin when the licensee uses the software in Wisconsin, where "use" means that the licensee uses the software in the regular course of business operations in Wisconsin or for personal use in Wisconsin, or if the licensee is an individual whose domicile is in Wisconsin. Section [71.25\(9\)\(df\)](#), Wis. Stats.

The department frames the transaction whereby the end-user acquires the right to use Caché software as one where Epic sells a sublicense of Caché software to its end-users. The department's position is that Epic has a license from InterSystems, which it uses to create Epic's own software product for an end-user. When Epic sells its software to an end-user, it sells a sublicense for Caché software as part of the sale of Epic software. Under the department's analysis, sec. [71.25\(9\)\(df\)](#), Wis. Stats., is inapplicable to income derived from transactions involving software sold by Epic to end-users, because the end-users hold a sublicense from Epic for the use of Caché software and sec. [71.25\(9\)\(df\)](#), Wis. Stats., sets out Wisconsin law only as it relates to licensors and licensees. The department's position is based on the Court of Appeals holding in its ruling in the *Microsoft* case that, "there was no direct relationship between the software seller and the end-users because the end-users did not purchase anything, including a license, from the software seller." See *Wisconsin Department of Revenue v. Microsoft Corp.*, 2019 WI App 62, ¶ 32.

Petitioner's position is that the end-users are licensees of InterSystems and not sublicensees therefore sec. [71.25\(9\)\(df\)](#), Wis. Stats., does apply. Thus, the focus should be on where software, developed by Epic using Caché software, is used by end-users. Petitioner argues that just because each end-user passes its payments for Caché software to InterSystems through Epic, the income from those sales is not Wisconsin income for purposes of the apportionment formula.

Following the reasoning of the Court of Appeals in *Microsoft*, the Commission examined the agreements among InterSystems, Epic, and the end-users to determine the nature of the relationship of the end-users to InterSystems.

## Decision

The Commission determined there must be a contract in order for end-users of Epic's computer software to have a licensor-licensee relationship with InterSystems. Epic was responsible for obtaining the necessary Caché software licenses from InterSystems, and InterSystems did not negotiate license terms with Epic's customers. The license fees Epic paid to InterSystems were calculated based on Epic's own licensing metrics and were invoiced exclusively to Epic at its Wisconsin headquarters. There were no separate charges or billings from InterSystems directed to the end-users. Although end-users were required to agree to an InterSystems addendum, the Commission found that the addendum did not constitute a contract between InterSystems and the end-users. Without contracts between InterSystems and the end-users, the Commission concluded there could be no licensor-licensee relationship. Therefore, sec. [71.25\(9\)\(df\)](#), Wis. Stats., is not applicable to determine the source of the income InterSystems derives from end-users of Epic's computer software.



Because the purchaser (Epic) is billed for the intangible product at an address in Wisconsin, under both secs. [71.25\(9\)\(d\)1](#) and [\(d\)2](#), Wis. Stats., the income InterSystems receives from Epic for the use of Caché software alongside Epic's software is properly sourced to Wisconsin.

InterSystems has appealed this decision.

For more detailed information see [\*InterSystems Corporation v. Wisconsin Department of Revenue\*](#), 2025 WI TAC.

## Sales and Use Tax

### Sales of Tickets to Sporting and Entertainment Events

*StubHub v. Wisconsin Department of Revenue* (Court of Appeals, District I, January 13, 2026).

This is an appeal of a February 1, 2024, order of the Circuit Court for Dane County reversing a February 28, 2023, Wisconsin Tax Appeals Commission decision. See [Wisconsin Tax Bulletin 221](#) (April 2023), page 12, and [Wisconsin Tax Bulletin 225](#) (April 2024), page 18, for summaries of the Wisconsin Tax Appeals Commission and Dane County Circuit Court decisions.

The primary issue in this case is whether StubHub is subject to sales tax on its online ticket sales to sporting and entertainment events in Wisconsin. The department assessed StubHub for tax, interest, and fees for years 2008 to 2013. It also assessed negligence penalties because StubHub did not follow published guidance indicating StubHub was responsible for paying Wisconsin sales and use tax.

The Wisconsin Tax Appeals Commission (the Commission) determined StubHub was subject to sales tax on its online sales of admissions to recreational events in Wisconsin for the period assessed. However, the Commission also found StubHub was not subject to penalty for those same years.

Both parties sought review in Dane County Circuit Court. The Circuit Court found the sales tax statute ambiguous and did not hold StubHub responsible for sales tax. The department appealed the Circuit Court decision. On appeal the department argued the Commission correctly found StubHub subject to sales tax and that StubHub should be subject to penalty.

StubHub argued the marketplace provider law enacted in 2019 supports the position that StubHub is not subject to sales tax for 2008 to 2013. The marketplace law defines marketplace provider and marketplace seller. It requires marketplace providers to collect and remit tax on sales facilitated on behalf of marketplace sellers.

The department argued the marketplace law was not a substantive change in law but a clarification that businesses like StubHub are subject to sales tax, and its passage was intended to quell the increase in litigation initiated by businesses like StubHub. The department maintained StubHub is a seller under basic dictionary definitions and general contract principles, noting the similarity to consignment store arrangements.

The Court of Appeals agreed with the department and concluded that StubHub is a person selling within the meaning of sec. [77.52\(2\)](#), Wis. Stats., and is subject to retail sales tax and the penalty for failure to pay such tax.

It is not known if StubHub will appeal this decision.

## Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of January 30, 2026: chs. 71, 77, and 78, [Wis. Stats.](#), and chs. Tax 1, 2, 3, 4, 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.