

WISCONSIN TAX BULLETIN

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CHECKS FOR ADDITIONAL 1983 HOMESTEAD CREDIT TO BE MAILED IN LATE AUGUST

One of the new laws passed by the Legislature in 1984 provides that each person who files a timely 1983 Homestead claim (Schedule H) will automatically receive a 25% increase in his or her homestead credit for 1983. This additional homestead credit will be paid to persons in a separate check. The credit will be equal to 25% of the credit computed by using the computation tables appearing in the instructions for the 1983 Schedule H. The maximum increase will be \$220 ($\$880 \times .25$). If the amount of credit claimed is adjusted by the department, the 25% increase will be based on the adjusted credit.

A person does not have to file any additional form to receive this additional 25% credit. For those persons whose original 1983 homestead credit was paid or credited by the department before July 31, 1984, the separate check for the 25% additional credit will be mailed by the department during the last week of August, 1984. If the 1983 homestead credit was paid or credited on or after July 31, 1984, the separate check will be mailed within 90 days after the initial homestead credit was paid or credited.

To illustrate how much credit may be received, assume a person filed a 1983 Schedule H in March, 1984 claiming a credit of \$500. A check for \$500 was mailed to the person in April, 1984. During the last week of August, 1984, this person will automatically receive a check in the mail for \$125 ($\$500 \times .25 = \125).

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NEW LAWS WILL AFFECT 1984 HOMESTEAD CREDIT CLAIMS

The Legislature, in addition to the 25% additional credit for 1983 claims, also enacted other laws which will affect 1984 Homestead claims which are filed in 1985. A summary of these homestead credit changes follows.

1. The claimant's 1984 household income may not exceed \$16,500. (For 1983 claims, the limit was \$15,500.)
2. Claimants will be allowed 25% of rent paid for occupancy in 1984. (For 1983 claims, the percentage was 20%.)
3. Claimants who have a 1984 homestead which is part of a farm will be allowed to claim property taxes on their home and up to 120 acres of land adjoining it, including all improvements (e.g., buildings) on this same 120

acres. (For 1983 claims, only 35 acres were allowed.)

4. The amount of property taxes or rent constituting property taxes to be used in computing homestead credit for 1984 will increase to \$1,200. (For 1983 claims, the limit was \$1,100.)

In addition to the above changes, the formula for computing the credit was changed so that claimants with household income of \$7,400 (prior law was \$7,000) or less will receive a credit equal to 80% of their property taxes accrued and/or rent constituting property taxes accrued. If the income is more than \$7,400 the credit will be 80% of the amount by which such taxes accrued exceed 13.187% (prior law 12.94%) of household income exceeding \$7,400.

SOCIAL SECURITY PAYMENTS NOT TAXABLE FOR WISCONSIN

Although social security and railroad retirement benefits will be taxable for federal purposes in 1984 to persons whose income exceeds certain limitations, these amounts will not be taxable income for Wisconsin. The statutory provisions for not taxing these amounts were enacted in 1983 Wisconsin Act 212, published April 25, 1984.

The 1984 income tax forms (Form 1 and Form 1A) will include information to notify taxpayers that these benefits are not taxable for Wisconsin.

NEW LAW ALTERS RENUMBERING PROVISIONS OF 1983 WISCONSIN ACT 189

In the May, 1984 issue of the WTB (Number 37), it was reported that various tax law statutes had been renumbered by 1983 Wisconsin Act 189, effective May 10, 1984. A com-

parative listing of old and new statutory references was included on pages 35-37.

1983 Wisconsin Act 544, effective June 8, 1984, has modified the renumbering provisions of Act 189. This new act, passed during the Legislature's special session in late May, makes the following changes to the Act 189 provisions:

- The renumbering changes to Chapter 71 have been repealed. These statutes will continue to be numbered with the "Old Reference" number shown on pages 35 and 36 of WTB #37.
- The effective date of the renumbering changes for Chapter 77 (sales tax) has been delayed until January 1, 1987. (Originally, the new numbering was to become effective May 10, 1984.)

The renumbering changes which 1983 Wisconsin Act 189 made to the beverage and cigarette tax statutes were not altered by 1983 Wisconsin Act 544.

INHERITANCE AND GIFT TAX EXEMPTIONS INCREASED

The inheritance tax exemption for property transferred to Class A distributees other than spouses (e.g., son, daughter, parent, grandchild, grandparent, son-in-law, daughter-in-law) is increased from \$10,000 to \$25,000 for transfers because of deaths occurring from April 13, 1984 to June 30, 1985. This exemption will increase to \$50,000 for transfers because of deaths occurring on or after July 1, 1985.

The lifetime exemption for gift taxes for property transferred to Class A donees other than spouses increased from \$10,000 to \$25,000 for transfers occurring from January 1, 1985 to December 31, 1985. This exemption increases to \$50,000 for transfers occurring on or after January 1, 1986.

The annual gift tax exemption for all donees is still \$3,000 for 1984; however, it will increase to \$10,000 beginning for 1985. Also, gift tax returns will not have to be filed for 1985 and thereafter unless the total value of all gifts during the year from a donor to a donee exceeds \$10,000.

PERSONS CONVICTED FOR FAILURE TO FILE RETURNS

A Milwaukee salesman has been ordered by Dane County Circuit Judge Moria Krueger to serve two years probation, pay \$1,000 in fines and serve 60 days in jail for criminal violations of the Wisconsin state income tax laws. Christopher L. Niesl was charged with two counts of failing to file state income tax returns on gross income of more than \$39,000 for 1980 and \$38,000 for 1981. He was found guilty on both counts after a jury trial on November 23, 1983. Under the conditions of probation, he must also file valid Wisconsin state income tax returns for 1980 and 1981, pay the taxes, penalties and interest for those years, file any tax returns due while he is on probation and pay the taxes promptly.

Virgil J. Ivey of Pulaski, Wisconsin, was found guilty of failing to file Wisconsin state income tax returns on gross income of more than \$13,000 for 1979, \$10,000 for 1980 and \$11,000 for 1981. Circuit Judge Mark A. Frankel withheld sentencing and ordered Ivey to serve four years probation, pay \$750 in fines and serve 90 days in jail. He must also file Wisconsin state income tax returns for 1979, 1980, 1981, 1982 and 1983, pay the taxes and penalties for those years and file any tax returns due while he is on probation. Ivey has filed an appeal.

On May 24, 1984, Robert J. Ekberg of Sister Bay, Wisconsin, pled no contest to two counts of failing to file Wisconsin income tax returns. Circuit Judge John C. Jaekels ordered Ekberg to serve two years probation, pay \$500 in fines and serve 30 days in jail. In addition, he must cooperate with the Wisconsin Department of Revenue in determining his income tax liabilities and in making payment of the income taxes due. Criminal charges were filed against Ekberg by the Brown County District Attorney's Office after an investigation by the Intelligence Section of the Wisconsin Department of Revenue. Ekberg was charged with failing to file state income tax returns on gross income of more than \$23,000 for 1980 and \$54,000 for 1981.

Failure to file a Wisconsin state income tax return is a crime punishable by a maximum fine of \$500 or imprisonment not to exceed six months, or both. In addition to the criminal penalties provided by stat-

ute, Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collection of the additional taxes, penalties and interest due follows conviction for criminal violations.

NEW ISI&E DIVISION RULES AND RULE AMENDMENTS IN PROCESS

Listed below, under parts A and B, are proposed new administrative rules and amendments to existing rules that are currently in the rule adoption process. The rules are shown at their stage in the process as of July 1, 1984. Part C lists new rules and amendments which have been approved by legislative standing committees but are not yet effective. Part D lists new rules and amendments which have been adopted in 1984.

("A" means amendment, "NR" means new rule, "R" means repealed and "R&R" means repealed and recreated.)

A. Rules at Legislative Council Rules Clearinghouse

11.71 Automatic data processing-N

B. Rules at Legislative Standing Committees

11.03 Elementary and secondary schools-A
11.05 Governmental units-A
11.65 Admissions-A

C. Rules Approved by Legislative Committees But Not Yet Effective

11.05 Governmental units-A
11.08 Medical appliances, prosthetic devices and aids-A
11.09 Medicines-A
11.10 Occasional sales-A
11.11 Waste treatment facilities-A
11.12(4) Farming, agriculture, horticulture and floriculture-A
11.12(5) Farming, agriculture, horticulture and floriculture-A
11.13 Sale of a business or business assets-A
11.15 Containers and other packaging and shipping materials-A
11.17 Hospitals, clinics and medical professions-A
11.19 Printed material exemptions-A
11.27 Warranties-A

- 11.30 Credit sale, bad debt and repossessions-A
- 11.39 Manufacturing-A
- 11.45 Sales by pharmacies and drug stores-A
- 11.51 Grocer's guidelist-A
- 11.56 Printing industry-A
- 11.65 Admissions-A
- 11.67 Service enterprises-A
- 11.72 Laundries, dry cleaners and linen and clothing suppliers-A
- 11.79 Leases of highway vehicles and equipment-A
- 11.83 Motor vehicles-A
- 11.85 Boats, vessels and barges-A
- 11.86 Utility transmission and distribution lines-A
- 11.87 Meals, food, food products and beverages-A
- 11.94 Wisconsin sales and taxable transportation charges-A
- 11.95 Retailer's discount-A

D. Rules Adopted in 1984 (in parentheses is the date the rule became effective)

- 9.01 Definitions pertaining to cigarette tax-N (4/1/84)
- 9.08 Cigarette tax refunds to Indian tribes-N (4/1/84)
- 9.09 Cigarette sales to and by Indians-N (4/1/84)
- 11.15 Containers and other packaging and shipping materials-A (1/1/84)
- 11.16 Common or contract carriers-A (1/1/84)
- 11.19 Printed material exemptions-A (1/1/84)
- 11.26 Other taxes in taxable gross receipts and sales price-A (1/1/84)
- 11.32(3) "Gross receipts" and "sales price"-A (1/1/84)
- 11.48 Landlords, hotels and motels-A (1/1/84)
- 11.50 Auctions-A (1/1/84)
- 11.52 Coin-operated vending machines and amusement devices-A (1/1/84)
- 11.68 Construction contractors-A (1/1/84)

REPORT ON LITIGATION

This portion of the WTB summarizes recent significant Tax Appeals Commission and Wisconsin court decisions. The last paragraph of each decision indicates whether the case has been appealed to a higher court.

The last paragraph of each WTAC decision in which the department's determination has been reversed will indicate one of the following: 1) "the department appealed", 2) "the department has not appealed but has filed a notice of nonacquiescence" or 3) "the department has not appealed" (in this case the department has acquiesced to Commission's decision).

The following decisions are included:

Income and Franchise Taxes

- Thomas L. Adelman vs. Wisconsin Department of Revenue
- Joseph Bromley vs. Wisconsin Department of Revenue
- Dennis Culver vs. Wisconsin Department of Revenue
- Gerald R. Hoepfner vs. Wisconsin Department of Revenue
- Key Line Freight, Inc. vs. Wisconsin Department of Revenue
- Douglas J. Kimball vs. Wisconsin Department of Revenue
- Anthony D. Maglio vs. Wisconsin Department of Revenue
- Eugene F. Mower vs. Wisconsin Department of Revenue
- Roland Murphy vs. Wisconsin Department of Revenue
- Wisconsin Department of Revenue vs. Overly, Inc.
- 333 Enterprises, Inc. vs. Wisconsin Department of Revenue

Sales/Use Taxes

- Kohler Company vs. Wisconsin Department of Revenue
- The Mylrea Company, Inc. vs. Wisconsin Department of Revenue
- Schuster Construction Company vs. Wisconsin Department of Revenue
- Senior Golf Association of Wisconsin, Inc. vs. Wisconsin Department of Revenue
- Shopper Advertiser, Inc., d/b/a Shopper Advertiser - Walworth County, and Shopping News, Inc., d/b/a Greater Beloit Shopping News, vs. Wisconsin Department of Revenue

Farmland Preservation Credit

- Dorothy McManus vs. Wisconsin Department of Revenue

Withholding Taxes

- William D. Kleiman vs. Wisconsin Department of Revenue

INCOME AND FRANCHISE TAXES

Thomas L. Adelman vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, March 15, 1984). The issue before the Commission is whether monies advanced by the taxpayer to A&H of Reedsburg, Inc. were loans to the corporation or contributions to capital, and whether the subsequent deduction should be treated as a business bad debt or capital loss.

A&H of Reedsburg, Inc. was incorporated in Wisconsin in 1973. The taxpayer was an officer and director of the corporation and held 50% of the common stock. On his 1980 tax return the taxpayer claimed a bad debt loss for loans made to A&H of Reedsburg, Inc. as follows:

1975	\$ 7,500.00
1977	4,800.00
1979	<u>20,000.00</u>
TOTAL	\$32,300.00

The findings of fact in this case include the following:

- A. The taxpayer and the other 50% shareholder of the corporation made advances of equal amounts and at the same times to A&H of Reedsburg, Inc.
- B. The taxpayer stated that there were no notes evidencing the loans nor was there anything in writing stating the terms of the loans.
- C. All three advances were used to pay A&H of Reedsburg's bank loans which were past due.
- D. The corporation did not establish a sinking fund to pay back the advances to the shareholders and there was no repayment schedule or fixed payment date.
- E. The shareholders did not have any security interest in any of the assets of the corporation in exchange for the advances.
- F. The taxpayer expected the corporation to repay the advances from its future profits when the business could afford it.
- G. A&H of Reedsburg never made any repayment of the principal on these advances. The corpora-