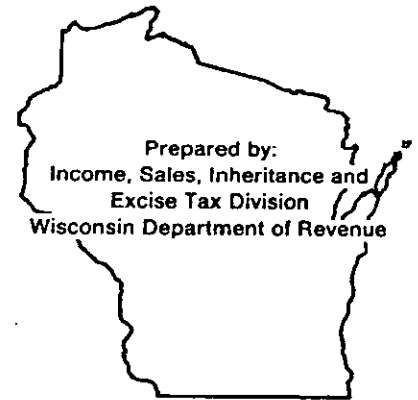


WISCONSIN TAX BULLETIN

July 1989
NUMBER 61



Subscriptions available from:

Wisconsin Department of
Administration
Document Sales
P.O. Box 7840
Madison, WI 53707
Annual cost \$5.00

NEW TAX LAWS

The Governor's Budget Bill and other tax bills were still pending before the Wisconsin Legislature at the time this bulletin went to press. If any of these bills become law, a special issue of the *Wisconsin Tax Bulletin* will be published to provide information about the tax law changes.

PRIVATE LETTER RULINGS PUBLISHED

As a result of a new law enacted in 1988, the department now issues private letter rulings. A private letter ruling is a written statement, requested in accordance with the procedures provided in Wisconsin Publication 111, issued to a taxpayer that interprets and applies the Wisconsin tax laws to the taxpayer's specific set of facts.

The department is authorized to publish letter rulings; however, not all rulings are required to be published. Rulings selected for publication will appear in the section of the *Wisconsin Tax Bulletin* titled "Private Letter Rulings." This section will be located after the "Tax Releases" section. See page 21 of this Bulletin.

IN THIS ISSUE

	Page
New Tax Laws	1
Private Letter Rulings Published . . .	1
Estimated Tax Payments Under the Annualized Income Method . . .	1
Wausau Office Relocated	2
Information or Inquiries?	2
Madison Accountant Charged With Failure to File Returns	2
New ISI&E Division Rules and Rule Amendment in Process . .	3
Report on Litigation	4
Tax Releases	
Individual Income Taxes	13
Homestead Credit	18
Corporation Franchise or Income Taxes	19
Sales/Use Taxes	19
Private Letter Rulings	21

ESTIMATED TAX PAYMENTS UNDER THE ANNUALIZED INCOME METHOD

For Wisconsin taxpayers who are required to make estimated tax payments, there are two methods for computing the amount of such payments. Taxpayers may use (1) the regular method (generally, payments must equal 90% of the tax that will be shown on the current year's return or 100% of the tax shown on the prior year's return) or (2) the annualized income installment method.

Questions have been received as to whether taxpayers who use the annualized income installment method to compute any estimated tax installments must use that method to compute all installments.

The answer is "No." However, Wisconsin law (sec. 71.09(13)(d), Wis. Stats. (1987-88)) provides that when a taxpayer pays estimated tax based on the annualized income installment method, any subsequent payment based on the regular installment method must be increased by the amount saved by using the annualized income installment method rather than the regular method for earlier installments.

Example — A taxpayer determines Wisconsin estimated tax payments of \$200 for each quarterly period using the regular method. The taxpayer also determines that the payment for the first quarterly period would be only \$150 under the annualized income installment method. There is no benefit to using the annualized income installment method for the second, third, and fourth quarter payments. The amount of estimated tax payment required for each quarterly period is as follows:

1st Quarter = \$150
2nd Quarter = \$250 (\$200 plus \$50 saved by using annualized income method for 1st quarter)
3rd Quarter = \$200
4th Quarter = \$200

Taxpayers using the annualized income installment method may want to use the

Annualized Income Installment Worksheet which is provided in Part III of Wisconsin Schedule U (Underpayment of Estimated Tax by Individuals and Fiduciaries) or Part IV of Form 4U (Underpayment of Estimated Tax by Corporations). The worksheet should be helpful in determining the amount by which "regular" method installments must be increased to reflect savings from earlier "annualized" method installments.

The worksheet automatically selects the smaller of the annualized income installment or the regular installment (increased by the amount saved by using the annualized income installment method in figuring earlier installments) as the payment to make for each quarterly period. The worksheet can be used (1) to compute the installment payments for all periods, or (2) to compute the payment for the period for which the taxpayer first uses the annualized income installment method and payments for subsequent periods.

WAUSAU OFFICE RELOCATED

Effective immediately, the department's Wausau office is now located at One Wausau Center, 710 Third Street, Wausau 54401. The telephone number remains (715) 842-8665.

INFORMATION OR INQUIRIES?

MADISON - MAIN OFFICE Area Code (608)

Beverage, Motor Fuel, Cigarette	
Tobacco Products	266-6701
Corporation Franchise or	
Income	266-3645
Estimated Taxes	266-9940
Fiduciary, Inheritance, Gift	266-1231
Homestead Credit	266-8641
Individual Income	266-2486
Property Tax Deferral Loan	266-1983
Sales, Use, Withholding	266-2776

Audit of Returns:

Corporation, Individual, Homestead, Sales	266-2772
Appeals	266-0185
Refunds	266-8100
Delinquent Taxes	266-7879
Copies of Returns:	
Homestead, Individual	266-2890
All Others	266-0678
Forms Request: Taxpayers	266-1961
Practitioners	267-2025

DISTRICT OFFICES

Appleton	(414) 832-2727
Eau Claire	(715) 836-2811
Milwaukee	(414) 227-4000

MADISON ACCOUNTANT CHARGED WITH FAILURE TO FILE RETURNS

Income Tax

A Madison accountant, James L. Nicholson, 2666 Pennwall Circle, Madison, was charged in Dane County Circuit Court with 3 counts of failing to timely file state income tax returns for each of the years 1985, 1986, and 1987 and 8 counts of failing to deposit state income taxes withheld from wages of his employes for 1986 and 1987.

A Brookfield accountant has been ordered to serve 4 years probation for criminal violations of Wisconsin state income tax laws. Martin J. Seibert, Jr., 2560 Anita Drive, Brookfield, was sentenced in Waukesha County Circuit Court, Branch 2, Waukesha, after he pled no contest to 5 counts of failing to timely file state individual and corporation tax returns. He was charged with failing to file state individual income tax returns for 1984, 1985, and 1986 and corporation franchise tax returns for 1985 and 1986.

Judge Mark S. Gempeler sentenced Seibert to 6 months in jail, stayed execution of the sentence and placed Seibert on probation for 4 years. Under the conditions of probation, Seibert must make restitution of any taxes for the years for which he filed

late returns and pay court costs.

An Appleton accountant and his wife, Erwin J. and Sondra M. Oenes, 728 Fernmeadow Drive, Appleton, were charged in Outagamie County Circuit Court with 3 counts of failing to timely file state individual income tax returns for each of the years 1985, 1986, and 1987 and 22 counts of failing to deposit state income taxes withheld from wages of employes in 1986 and 1987. Erwin Oenes was also charged with failing to timely file state corporation franchise tax returns for Oenes and Associates, S.C., for the years 1986 and 1987.

Bernard A. Brennan, 539 East McKinley Street, Appleton, was charged in Outagamie County Circuit Court with 3 counts of failing to timely file state income tax returns for each of the years 1985, 1986, and 1987.

Ralph E. Paul, 2040 McGann Road, Neenah, Wisconsin was sentenced in Winnebago County Circuit Court, Branch 3, Oshkosh, after he pled no contest to one count of failing to timely file a state income tax return for 1985. Judge Thomas S. Williams sentenced Paul to 6 months in jail, stayed execution of the sentence and placed Paul on probation for 2 years. Under the conditions of probation, Paul must pay a \$500 fine, file his 1984 and 1988 state income tax returns and file future returns on time during the period of probation.

Criminal charges against Paul were initiated March 27, 1989, by the Winnebago County District Attorney's office after an investigation by the Intelligence Section of the Wisconsin Department of Revenue. He was charged with failing to file state income tax returns for 1985, 1986, and 1987. The charges for 1986 and 1987 were dismissed after he pled no contest to the violation for 1985.

Alois C. Fischer, 1713 East Glendale Street, Appleton, was charged with 3 counts of failing to file state income tax returns for each of the years 1985, 1986, and 1987. Ronald J. White, 7426 Country Club Road,

Oshkosh, was also charged with 3 counts of failing to file state income tax returns for each of the years 1985, 1986, and 1987.

Larry A. Christopherson, 5211 - 84th Street, Kenosha, was charged with 23 counts of failing to deposit taxes withheld from wages of employes of Nardi Electric Company, Inc. and one count of theft of the tax monies. The complaint alleges Christopherson was president and treasurer of Nardi Electric Company and failed to make deposits totaling more than \$36,000 from December 1, 1985, through June 30, 1988.

Sales Tax

Charles A. Schott, 4360 Beaufort Drive, Brookfield was charged in Waukesha County Circuit Court with one count of filing a false sales and use tax return relative to registration of a boat in June 1987.

Excise Taxes

On April 11, 1989, John R. Molitor, d/b/a "Maggies Fine Foods & Spirits," 3480 Molitor Road, Eau Claire, pleaded "no contest" to one count of wholesaling liquor and beer without a permit. Molitor was fined \$250 plus costs and was given 30 days to pay.

Brennan's Country Farm Market, Inc., 5533 University Avenue, Madison, Wisconsin, was found guilty on January 23, 1989, of purchasing liquor from other than a Wisconsin wholesaler as well as wholesaling liquor without a permit. The corporation was fined a total of \$893 for these 2 violations.

Skogen's IGA, 1008 North Main Street, Galesville, Wisconsin was fined \$420 on February 14, 1989, for failing to maintain invoices for its liquor purchases.

Bonnie Maas, Route 2, Trempealeau, Wisconsin, was fined \$420 for selling liquor and beer without a license from

Larry's Landing, a bait shop which she operates.

NEW ISI&E DIVISION RULES AND RULE AMENDMENTS IN PROCESS

Listed below, under Parts A, B, and C, are proposed new administrative rules and amendments to existing rules that are currently in the rule adoption process. The rules are shown at their state in the process as of June 15, 1989. Parts D and E list new rules and amendments which were adopted in 1989. Part F lists emergency rules. ("A" means amendment, "NR" means new rule, "R" means repealed and "R&R" means repealed and recreated.)

A. Rules at Legislative Council Rules Clearinghouse

- 2.41 Separate accounting method-A
- 2.46 Apportionment of business income of interstate air carriers-R&R
- 2.47 Apportionment of net business income of interstate motor carriers of property-A
- 2.49 Apportionment of net business incomes of interstate finance companies-R&R
- 3.03 Dividends received, deductibility of-R&R
- 3.08 Retirement and profit-sharing payments by corporations-A
- 3.10 Salesmen's and officers' commissions, travel and entertainment expense of corporations-R
- 3.12 Losses on account of wash sales by corporations-R&R
- 3.37 Depletion of mineral deposits by corporations-A
- 3.38 Depletion allowance to incorporated mines and mills producing or finishing ores of lead, zinc, copper, or other metals except iron-A
- 3.47 Legal expenses and fines—corporations-R
- 3.54 Miscellaneous expenses not deductible—corporations-R&R

- 3.81 Offset of occupational taxes paid against normal franchise or income taxes-A
- 3.91 Petition for redetermination-A
- 3.92 Informal conference-A
- 3.93 Closing stipulations-A
- 3.94 Claims for refund-A
- 11.05 Governmental units-A
- 11.09 Medicines-A
- 11.10 Occasional sales-A
- 11.12 Farming, agriculture, horticulture and floriculture-A
- 11.16 Common or contract carriers-A
- 11.18 Dentists and their suppliers-A
- 11.19 Printed material exemptions-A
- 11.26 Other taxes in taxable gross receipts and sales price-A
- 11.32 "Gross receipts" and "sales price"-A
- 11.40 Exemption of machines and processing equipment-A
- 11.41 Exemption of property consumed or destroyed in manufacturing-A
- 11.51 Grocers' guidelist-A
- 11.57 Public utilities-A
- 11.61 Veterinarians and their suppliers-A
- 11.66 Communications and CATV services-A
- 11.67 Service enterprises-A
- 11.68 Construction contractors-A
- 11.84 Aircraft-A
- 11.85 Boats, vessels and barges-A
- 14.01 Administrative provisions-R&R
- 14.02 Qualification for credit-R&R
- 14.03 Household income-R&R
- 14.04 Property taxes accrued-R&R
- 14.05 Rent constituting property taxes accrued-R&R

B. Rules at Revisor of Statutes Office for Publication of Hearing Notice

- 3.095 Income tax status of interest and dividends from municipal, state and federal obligations received by individuals and fiduciaries-A

C. Rules at Legislative Standing Committee

- 2.57 Annuity payments received by corporations-A
- 2.60 Dividends on stock sold "short" by corporations-A

- | | | |
|---|--|--|
| <p>2.61 Building and loan dividends on installment shares received by corporations-R</p> <p>2.63 Dividends accrued on stock-A</p> <p>2.70 Gain or loss on capital assets of corporations; basis of determination-A</p> <p>3.01 Rents paid by corporations-A</p> <p>3.05 Profit-sharing distributions by corporations-A</p> <p>3.07 Bonuses and retroactive wage adjustments paid by corporations-A</p> <p>3.14 Losses from bad debts by corporations-A</p> <p>3.17 Corporation losses, miscellaneous-A</p> <p>3.35 Depletion, basis for allowance to corporations-A</p> <p>3.36 Depletion of timber by corporations-A</p> <p>3.43 Amortization of trademark or trade name expenditures—corporations-A</p> <p>3.48 Research or experimental expenditures-A</p> <p>3.52 Automobile expenses—corporations-R&R</p> <p>3.83 Domestic international sales corporations (DISCs)-A</p> <p>D. Rules Adopted in 1989 But Not Yet Effective</p> <p>1.001 Definition-A</p> <p>2.14 Aggregate of personal exemptions-A</p> <p>2.16 Change in method of accounting for corporations-A</p> <p>2.19 Installment method of accounting for corporations-A</p> <p>2.20 Accounting for acceptance corporations, dealers in commercial paper, mortgage discount companies and small loan companies-A</p> <p>2.21 Accounting for incorporated contractors-A</p> <p>2.22 Accounting for incorporated dealers in securities-R&R</p> <p>2.24 Accounting for incorporated retail merchants-A</p> <p>2.25 Corporation accounting generally-A</p> <p>2.26 "Last in, first out" method of inventorying for corporations-A</p> | <p>2.45 Apportionment in special cases-A</p> <p>2.50 Apportionment of net business income of interstate public utilities-A</p> <p>2.505 Apportionment of net business income of interstate professional sport clubs-A</p> <p>2.53 Stock dividends and stock rights received by corporations-A</p> <p>2.56 Insurance proceeds received by corporations-A</p> <p>2.65 Interest received by corporations-A</p> <p>2.72 Exchanges of property by corporations generally-A</p> <p>2.721 Exchanges of property held for productive use or investment by corporations-A</p> <p>2.83 Requirements for written elections as to recognition of gain in certain corporation liquidations-A</p> <p>2.88 Interest rates-A</p> <p>2.90 Withholding; wages-A</p> <p>2.91 Withholding; fiscal year taxpayers-A</p> <p>2.92 Withholding tax exemptions-A</p> <p>2.93 Withholding from wages of a deceased employe and from death benefit payments-A</p> <p>2.956 Historic structure and rehabilitation of nondepreciable historic property credits-NR</p> <p>3.09 Exempt compensation of military personnel-A</p> <p>3.098 Railroad retirement supplemental annuities-A</p> <p>3.44 Organization and financing expenses—corporations-A</p> <p>3.45 Bond premium, discount and expense—corporations-A</p> <p>3.82 Evasion of tax through affiliated interests-A</p> <p>E. Rules Adopted in 1989</p> <p>11.10 Occasional sales-A (effective 5/1/89)</p> <p>F. Emergency Rules</p> <p>2.956 Historic structure and rehabilitation of nondepreciable historic property credits-NR (effective 12/28/88; expires 7/26/89)</p> | <p>3.095 Income tax status of interest and dividends from municipal, state, and federal obligations received by individuals and fiduciaries-A (effective 1/1/89; expires 9/28/89)</p> <p>REPORT ON LITIGATION</p> <p><i>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.</i></p> <p><i>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 the Commission's decision).</i></p> <p>The following decisions are included:</p> <p>Individual Income Taxes</p> <p>Kenneth William Koch (p. 5)
Tax protestors</p> <p>Edwin F. and Nancy L. Prizer (p. 5)
Domicile</p> <p>Corporation Franchise or Income Taxes</p> <p>Brunswick Corporation (p. 6)
Appeals; petition for redetermination
Interest—assessments</p> <p>J. C. Penney Company, Inc. (p. 6)
Interest income—imputed</p> <p>Sta-Rite Industries, Inc. (p. 7)
Statute of limitations—waivers</p> <p>United States Shoe Corporation (p. 7)
Business loss carryforward—merger</p> <p>W. R. Grace & Co. (p. 8)
Closing agreements</p> |
|---|--|--|