

sin Tax Requirements Relating to Non-resident Entertainers.”

Copies of Publication 508, Form WT-10, Form WT-11, and the Nonresident Entertainer’s Surety Bond may be obtained from the Wisconsin Department of Revenue, Shipping and Mailing Section, P. O. Box 8903, Madison, Wisconsin 53708.

Any questions about the requirements of this law may be directed to Karl Foss, Wisconsin Department of Revenue, P. O. Box 8906, Madison, Wisconsin 53708, telephone (608) 266-3645.

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

WE ARE FREQUENTLY ASKED . . .

1. **Question:** If I received a wage statement (Form W-2) after I have filed my income tax return, what should I do?

Answer: Obtain Wisconsin Form 1X from any department office and recompute your tax using the correct income you earned. Mail Form 1X to the address shown on the form.

2. **Question:** Can a person who is a full-year resident of Wisconsin file using Wisconsin Form 1 if the person’s spouse is a nonresident or part-year resident?

Answer: Yes, provided the person is filing as married filing separately. If the person and his or her spouse wish to file a joint Wisconsin return, they must use Form 1NPR.

3. **Question:** If my gross income is above the Wisconsin filing requirement, but because of subtraction modifications, my taxable income is below the filing requirement, must I file a Wisconsin income tax return?

Answer: Yes, you are required to file a Wisconsin income tax return. The filing requirement is based on gross income before subtraction modifications.

4. **Question:** I am filing for a 4-month extension of time to file my federal income tax return. Does this extension apply to my Wisconsin return?

Answer: Yes. The 4-month federal extension will apply to your Wisconsin return provided you attach a copy of the federal extension application to the Wisconsin return you file.

5. **Question:** How can I get my withholding back if I don’t have a filing requirement?

Answer: You must file a completed Wisconsin income tax return to obtain a refund, even if you are not required to file a Wisconsin tax return.

ACCOUNTANT SENTENCED FOR FAILURE TO FILE RETURNS

Income Taxes

A Madison accountant has been ordered to serve 3 years probation and 6 months in jail for criminal violations of Wisconsin state income tax laws. James L. Nicholson, 2666 Pennwall Circle, Madison, was sentenced in Dane County Circuit Court, Branch 4, after he pled no contest to 2 counts of failing to timely file state income tax returns for 1985 and 1987 and 2 counts of failure to deposit state income taxes withheld from his employes’ wages during 1986. Judge Jack Aulik also sentenced Nicholson to provide 240 hours of community service. Under the conditions of probation, Nicholson must make restitution of all taxes, penalties and interest due in excess of \$12,000.

Bernard A. Brennan, 539 East McKinley Street, Appleton, was sentenced in Outagamie County Circuit Court, Branch 5, after he was convicted on one count of failing to timely file a state individual income tax return. Judge Michael Gage sentenced Brennan to 9 months in jail, stayed execution of the sentence, and ordered Brennan to serve 2 years probation. Under the conditions of probation, Brennan must serve 60 days in jail, make restitution of state income taxes in excess of \$4,000, and file his tax returns on time during the probationary period.

Melvin G. Flannery, 606 South Grandview Avenue, Crandon, Wisconsin, was sentenced in Dane County Circuit Court, Branch 6, Madison. Judge James Boll ordered Flannery to pay a \$500 fine after he pled no contest to one count of failing to timely file a state income tax return for 1983.

Ronald J. White, 7426 Country Club Road, Oshkosh, Wisconsin, was sentenced in Winnebago County Circuit Court, Branch 3, Oshkosh. Judge Thomas S. Williams ordered White to serve 2 years probation after he pled no contest to 2 counts of

failing to timely file state income tax returns for 1985 and 1986. Under the conditions of probation, White must serve 4 weeks in the Winnebago County jail, pay fines totaling \$1,500, and make restitution of all taxes, penalties, and interest due. He must also file all tax returns on time during the probationary period.

An Appleton woman has been ordered to serve time in jail for violations of the Wisconsin state tax laws. Marion E. Hoffman, 2729 South Greenview Street, Appleton, Wisconsin, was sentenced in Calumet County Circuit Court, Chilton, on one count of filing a false Wisconsin state income tax return. Judge Hugh F. Nelson withheld sentence and placed Hoffman on probation for 3 years. Under the conditions of probation, Hoffman must serve 4 months in jail, make restitution of state income taxes and homestead credit claims in excess of \$2,400, and she will also be secondarily liable for restitution of homestead credit claims of 4 other defendants in related false refund cases.

Also charged with filing false homestead credit claims were Roger Fahrenkrug, Cheri Cross, and Thomas Cross, Appleton, and Cara Techlin, Little Chute. Techlin was sentenced to serve 2 years probation on July 17, Thomas Cross was sentenced to serve 2 years probation on April 11, Cheri Cross was sentenced to serve 2 years probation on June 19, and Roger Fahrenkrug was ordered to serve 3 years probation on June 12. Judge Nelson ordered each of them to make restitution for false homestead credit refunds as a condition of probation. Roger Fahrenkrug and Thomas Cross must also serve 15 days in jail.

Excise Taxes

On June 20, 1989, 420-422 Water Street, Inc., d/b/a "Harpo's Bar," Eau Claire, plead "no contest" to a charge of failing to maintain liquor invoices. Judge Thomas Barland fined the corporation \$144 and dismissed a charge of purchasing liquor from other than a Wisconsin wholesale as part of a plea agreement.

Premium Beer Distributing Co., Inc., 560 Rolling Meadows Drive, North Fond du Lac, Wisconsin, plead "no contest" on April 10, 1989, to a charge of warehousing liquor without a permit. The corporation was fined \$500 plus costs.

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 state in the process as of October 1, 1989. Part C lists new rules and amendments which were adopted in 1989. Part D 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 timber 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

- 3.81 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 Government 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

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

- 1.06 Application of federal income tax regulations for persons other than corporations-A
- 1.10 Depository bank requirements for withholding, motor fuel, general aviation fuel and special fuel tax deposit reports-A
- 1.13 Power of attorney-A
- 2.01 Residence-A
- 2.03 Corporation returns-A
- 2.04 Information returns and wage statements-R&R
- 2.05 Information returns, forms 8 for corporations-R&R
- 2.06 Information returns required of partnerships and persons other than corporations-R
- 2.07 Income tax returns of liquidated or dissolved corporations-R

2.08	Returns of persons other than corporations-A		other states-A	2.505	Apportionment of net business income of interstate professional sport clubs-A (8/1/89)	
2.081	Indexed income tax rate schedule-R	2.96	Extension of time to file corporation franchise or income tax returns-A	2.53	Stock dividends and stock rights received by corporations-A (8/1/89)	
2.085	Claim for refund on behalf of a deceased taxpayer-A	2.98	Disaster area losses-A	2.56	Insurance proceeds received by corporations-A (8/1/89)	
2.10	Copies of federal returns, statements, schedules, documents, etc., to be filed with Wisconsin returns-A	3.085	Retirement plan distributions-A	2.57	Annuity payments received by corporations-A (8/1/89)	
2.105	Notice by taxpayer of federal audit adjustments and amended returns-A	3.096	Interest paid on money borrowed to purchase exempt government securities-A	2.60	Dividends on stock sold "short" by corporations-A (8/1/89)	
2.11	Credit for sales and use tax paid on fuel and electricity-A	3.24	Corporation taxes, miscellaneous-R	2.61	Building and loan dividends on installment shares received by corporations -R (8/1/89)	
2.12	Amended income and franchise tax returns-A	3.55	Donations and contributions—corporations-R	2.63	Dividends accrued on stock-A (8/1/89)	
2.13	Moving expenses-A	11.535	Operators of a swap meet, flea market, craft fair or similar event-NR	2.65	Interest received by corporations-A (8/1/89)	
2.15	Methods of accounting for corporations-A	14.01	Administrative provisions-R&R	2.70	Gain or loss on capital assets of corporations; basis of determination-A (8/1/89)	
2.17	Cash method of accounting for corporations-R	14.02	Qualification for credit-R&R	2.72	Exchanges of property by corporations generally-A (8/1/89)	
2.18	Accrual method of accounting for corporations-R	14.03	Household income-R&R	2.721	Exchanges of property held for productive use or investment by corporations-A (8/1/89)	
2.30	Property located outside Wisconsin—depreciation and sale-A	14.04	Property taxes accrued-R&R	2.83	Requirements for written elections as to recognition of gain in certain corporation liquidations-A (8/1/89)	
2.31	Taxation of personal service income of nonresident professional athletes-A	14.05	Rent constituting property taxes accrued-R&R	2.88	Interest rates-A (8/1/89)	
2.50	Apportionment of net business income of interstate public utilities-A	14.06	Marriage, separation, or divorce during claim year-NR	2.90	Withholding; wages-A (8/1/89)	
2.51	Rent received by corporations from Wisconsin real estate-A	C. Rules Adopted in 1989 (effective date is given in parentheses)			2.91	Withholding; fiscal year taxpayers-A (8/1/89)
2.69	Income from Wisconsin business-R	1.001	Definition-A (8/1/89)	2.92	Withholding tax exemptions-A (8/1/89)	
2.73	Involuntary conversion by corporations-A	2.14	Aggregate of personal exemptions-A (8/1/89)	2.93	Withholding from wages of a deceased employe and from death benefit payments-A (8/1/89)	
2.74	Gain or loss on disposition of property by corporations; adjustment to basis-R	2.16	Change in method of accounting for corporations-A (8/1/89)	2.956	Historic structure and rehabilitation of nondepreciable historic property credits-NR (8/1/89)	
2.75	Recoveries by corporations-A	2.19	Installment method of accounting for corporations-A (8/1/89)	3.01	Rents paid by corporations-A (8/1/89)	
2.76	Refunds of taxes to corporations-A	2.20	Accounting for acceptance corporations, dealers in commercial paper, mortgage discount companies and small loan companies-A (8/1/89)	3.05	Profit-sharing distributions by corporations-A (8/1/89)	
2.80	Improvements of leased real estate, income to corporate lessor-A	2.21	Accounting for incorporated contractors-A (8/1/89)	3.07	Bonuses and retroactive wage adjustments paid by corporation-A (8/1/89)	
2.81	Damages received by corporations-A	2.22	Accounting for incorporated dealers in securities-R&R (8/1/89)	3.09	Exempt compensation of military personnel-A (8/1/89)	
2.86	Income to corporations from cancellation of government contracts-A	2.24	Accounting for incorporated retail merchants-A (8/1/89)	3.095	Income tax status of interest and dividends from municipal, state and federal obligations received by individuals and fiduciaries-A (9/28/89)	
2.89	Penalty for underpayment of estimated tax-R	2.25	Corporation accounting generally-A (8/1/89)			
2.945	Spousal individual retirement contributions-R	2.26	"Last in, first out" method of inventorying for corporations-A (8/1/89)			
2.955	Credit for income taxes paid to	2.45	Apportionment in special cases-A (8/1/89)			
		2.50	Apportionment of net business income of interstate public utilities-A (8/1/89)			

- 3.098 Railroad retirement supplemental annuities-A (8/1/89)
- 3.14 Losses from bad debts by corporations-A (8/1/89)
- 3.17 Corporation losses, miscellaneous-A (8/1/89)
- 3.35 Depletion, basis for allowance to corporations-A (8/1/89)
- 3.36 Depletion of timber by corporations-A (8/1/89)
- 3.43 Amortization of trademark or trade name expenditures-A (8/1/89)
- 3.44 Organization and financing expenses—corporations-A (8/1/89)
- 3.45 Bond premium, discount and expense—corporations-A (8/1/89)
- 3.48 Research or experimental expenditures-A (8/1/89)
- 3.52 Automobile expenses—corporations-R&R (8/1/89)
- 3.82 Evasion of tax through affiliated interests-A (8/1/89)
- 3.83 Domestic international sales corporations (DISCs)-A (8/1/89)
- 11.10 Occasional sales-A (5/1/89)

D. Emergency Rules

- 11.66 Communication and CATV services-A (effective 10/1/89)

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 the Commission's decision).

The following decisions are included:

Individual Income Taxes

John M. Dorsey (p. 8)
Nonresidents—personal service income

Klaus Wacker (p. 9)
Foreign taxes paid

Corporation Franchise or Income Taxes

Astra Plating, Inc. (p. 9)
Manufacturer's sales tax credit—manufacturing defined

Appleton Papers, Inc. (p. 10)
Business loss carryforward—mergers

The Williams Company, Inc., et al. (p. 10)
Consolidated filing

Sales/Use Taxes

Marathon Electric Manufacturing Corp. (p. 11)
When and where sale takes place

Pavelski Enterprises, Inc. (p. 11)
Manufacturing—defined and scope of

INDIVIDUAL INCOME TAXES

Nonresidents—personal service income.
John M. Dorsey vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, March 17, 1989). The only issue before this Commission is whether part of the \$125,000 received by the taxpayer on July 10, 1984, at the time of the contract signing is taxable to the taxpayer, a nonresident of Wisconsin in 1984. In the event that there is a final determination that no portion of the \$125,000 received by the taxpayer on July 10, 1984, is subject to Wisconsin income taxation, or that the amount subject to taxation is less than that assessed by the department, the itemized deductions allowed in the assessment notice will be subject to the adjustment for nonresident persons provided in sec. 71.02(2)(f), Wis. Stats.

John M. Dorsey, resided at all times during 1984 in the state of Connecticut.

On July 10, 1984, the taxpayer signed National Football League Player contracts with the Green Bay Packers for the 1984, 1985, and 1986 football seasons. Attached to and a part of the 1984 contract, was a rider providing for the additional payment of \$125,000 in and for the year 1984. The taxpayer received the \$125,000 at the time of signing the contract.

In filing his 1984 Wisconsin individual income tax return, the taxpayer claimed a Wisconsin subtraction from federal income of \$150,000 for "Signing Bonus Green Bay Packers—Contract" and reported Wisconsin taxable income of zero.

Based on the taxpayer's 1984 W-2 form received from the Green Bay Packers, Inc., showing the taxpayer received total compensation of \$152,457 from the Green Bay Packers, Inc., in 1984 and that \$139,500 of such compensation was Wisconsin income, the department, on April 18, 1986, issued an assessment to the taxpayer taxing the income set forth of \$139,500 less the taxpayer's IRA contribution of \$2,000 and less prorated itemized deductions of \$12,358, resulting in Wisconsin adjusted net taxable income of \$125,142.

The \$125,000 paid to the taxpayer was not a pure signing bonus requiring only his execution of the contract since in return for the bonus he was required not only to sign, but also perform a number of personal services. The taxpayer's bonus was an advance payment for the services which he agreed to render under the terms of the rider attached to his 1984 contract.

The Commission concluded that the bonus which the taxpayer received pursuant to the rider attached to his 1984 contract constituted income derived from the performance of personal services within the meaning and intent of secs. 71.01(1) and 71.07(1), Wis. Stats., and as such was properly taxable in Wisconsin to the extent that it represented compensation for those services which he rendered within Wisconsin.

The taxpayer has not appealed this decision.

□