



# Wisconsin TAX BULLETIN



## Towing

See article on page 1,  
tax release on page 18.

## New Tax Laws to Be Addressed in Special Issue

The Governor's Budget Bill, 1993 Senate Bill 44, includes several provisions affecting Wisconsin income, sales, and excise taxes. Additional bills which affect Wisconsin taxes have also been introduced.

The Wisconsin Legislature is expected to complete its current legislative session by June 30, 1993. If any bills affecting Wisconsin income, sales, or excise taxes become law, a special issue of the *Wisconsin Tax Bulletin* explaining the new laws will be published later this summer. □



## Tax Treatment of Towing Changed

Effective May 1, 1993, sec. Tax 11.49(1)(c), Wis. Adm. Code, is amended to provide that all towing of tangible personal property is subject to Wisconsin sales or use tax, unless an exemption applies. Previously, towing tangible personal property was

subject to Wisconsin sales or use tax only if it was related to the repair, service, or maintenance of the property being towed.

For more information about this change, refer to the tax release on towing, beginning on page 18 of this Bulletin. □

## Tax Auditors Discover Over \$17 Million in Unpaid Use Tax

As part of its auditing efforts to obtain compliance with Wisconsin's use tax laws, Department of Revenue auditors assessed over \$17 million of use tax, penalties, and interest in the fiscal year ending June 30, 1992.

Auditors found that many businesses, while properly accounting for tax on sales, fail to have a system to keep track of purchases subject to use tax. Following are examples of purchases made without a sales or use tax being paid . . . until the businesses were audited:

1. Purchases from unregistered, out-of-state sellers.
2. Purchases for which exemption certificates were issued to the seller but the item purchased was ultimately used in a taxable manner.

Purchasers should carefully review their accounting methods to ensure that use tax is properly reported. □

## Telephone Company's Billing and Collection Services

Effective October 1, 1991, the gross receipts received by a local telephone company for providing billing and collection services to long-distance telecommunications service providers are not subject to Wisconsin sales or use tax. See the tax release on this subject, beginning on page 17 of this Bulletin. □

## Don't Forget Temporary Recycling Surcharge

### Who Is Subject to the Surcharge?

The following persons or entities are subject to the temporary recycling surcharge:

- Individuals who must file a Wisconsin income tax return, Form 1 or 1NPR, and who have, for federal income tax purposes,
  - a profit or loss from a trade or business,
  - income as a statutory employee, or
  - net farm profit.
- Estates and trusts that must file a Wisconsin fiduciary income tax return, Form 2, and that have, for federal income tax purposes,
  - a profit or loss from a trade or business,

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**Who Is Not Subject to the Surcharge?**

A partnership, individual, estate, trust, or exempt trust is not subject to the temporary recycling surcharge if:

- It is not engaged in farming and has less than \$1,000 of gross receipts from all trade or business activities or as a statutory employe for federal income tax purposes.

Beginning in 1992, the surcharge does not apply to income received by duly ordained, commissioned, or licensed ministers of a church in the exercise of their ministry, by members of religious orders in the exercise of duties required by the order, and by Christian Science practitioners in the exercise of their profession.

- It is engaged only in farming and has less than \$1,000 of net farm profit for federal income tax purposes.

- statutory employe income, or
- net farm profit.

- Partnerships that must file a Wisconsin partnership return, Form 3, and that have a profit or loss from a trade or business or net farm

profit for federal income tax purposes.

- Corporations that must file a Wisconsin franchise or income tax return, Form 4 or 5.

- Tax-option (S) corporations that must file a Wisconsin franchise or income tax return, Form 5S.

- Insurance companies that must file a Wisconsin franchise tax return, Form 4I.

- Exempt corporations that are subject to the tax on unrelated business taxable income and must file Wisconsin Form 4T.

- Exempt trusts that are subject to the tax on unrelated business taxable income and must file Wisconsin Form 4T.

- It is engaged in both farming and other trade or business activities and has less than \$1,000 of gross receipts from all nonfarm trade or business activities for federal income tax purposes *and* less than \$1,000 of net farm profit for federal income tax purposes.

**Caution:** These exceptions do not apply to corporations, tax-option (S) corporations, insurance companies, and exempt corporations.

**Additional Information**

For further information about the temporary recycling surcharge, including definitions of the terms "trade or business," "statutory employe," "gross receipts," and "net farm profit," refer to Wisconsin Publication 400, *Wisconsin's Temporary Recycling Surcharge*, which may be obtained from any Department of

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Revenue office. Also see the instructions for completing the various tax returns and tax releases in *Wisconsin Tax Bulletin 76* (April 1992), pages 15 to 19, and in this bulletin, pages 20 to 29. □

## Information or Inquiries?

### Madison - Main Office Area Code (608)

Beverage, Cigarette, Tobacco Products . . . . .	266-6701
Corporation Franchise and Income . . . . .	266-1143
Estimated Taxes . . . . .	266-9940
Fiduciary, Inheritance, Gift, Estate . . . . .	266-2772
Homestead Credit . . . . .	266-8641
Individual Income . . . . .	266-2486
Motor Fuel . . . . .	266-3223
Sales, Use, Withholding . . . . .	266-2776
Audit of Returns: Corporation, Individual, Homestead . . . . .	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

## Recycling Surcharge Rates Unchanged

The temporary recycling surcharge rates remain unchanged for taxable years ending after April 1, 1993, and before April 1, 1994.

Section 77.945, Wis. Stats., requires the Department of Revenue annually, in December, to establish annual recycling surcharge rates for taxable

years that end after April 1, 1992, and before April 1, 1999, that are necessary to generate sufficient revenue to fund the appropriations from the recycling fund for the following fiscal year. The annual surcharge rates must be approved by the Legislature's Joint Committee on Finance.

As a result of this process, the following surcharge rates will continue to apply for taxable years that end before April 1, 1994:

- Corporations (except tax-option (S) corporations), insurance companies, and exempt organizations taxable as corporations: The greater of \$25 or 5.5% of gross tax liability, but not more than \$9,800.
- Tax-option (S) corporations: The greater of \$25 or 0.4345% of Wisconsin net income, but not more than \$9,800.
- Partnerships, except partnerships engaged only in farming: The greater of \$25 or 0.4345% of net business income as allocated or apportioned to Wisconsin, but not more than \$9,800.
- Individuals, estates, trusts, and exempt trusts, except those entities engaged only in farming: The greater of \$25 or 0.4345% of net business income as allocated or apportioned to Wisconsin, but not more than \$9,800.
- Partnerships, individuals, estates, trusts, and exempt trusts engaged in farming: \$25, provided the entity has a net farm profit of \$1,000 or more.

**Note:** A provision included in the Governor's 1993-1995 Budget Bill would alter the effective date of temporary recycling surcharge rate changes. If this provision is enacted, new rates will apply for taxable years

beginning on the January 1 after the department notifies the Joint Committee on Finance. For example, if a rate change is proposed in December 1993 and approved by the Joint Committee on Finance, the new rates will first apply to taxable years beginning on January 1, 1994.

If the recycling surcharge rates change, the new rates will be published in a future issue of the *Wisconsin Tax Bulletin*. □

## No Criminal Prosecution for Some Late Filers

Wisconsin residents who come forward voluntarily and file one or more late Wisconsin income tax returns before being contacted by the Department of Revenue will not be criminally prosecuted. This practice applies to individuals who 1) filed one or more late returns with the Department, 2) had only legal source income (that is, no part of the income was earned from activity which is illegal under federal or state law), 3) filed a true or correct tax return or returns, and 4) filed before being contacted by letter or telephone by the department.

This practice is similar to the Internal Revenue Service position as announced under its nationwide "non-filer program."

Delinquent interest, fees, and civil penalties on late filed returns may be assessed as provided in the law.

Nonfilers may call the department at (608) 266-1961 to obtain forms and instructions. Nonfilers may obtain assistance in completing and filing their returns by calling (608) 266-2772 or by visiting any of the Department's offices located throughout the state. Locations of Department of Revenue offices are listed in state tax booklets. □

## Annual Bulletin Index Available

Once each year the *Wisconsin Tax Bulletin* includes an index of materials that have appeared in past Bulletins. The latest index available appears in *Wisconsin Tax Bulletin* 78 (July 1992) and includes information for issues 1 (October 1976) to 75 (January 1992). □

## Department of Revenue Wins IRS Accuracy Award

"The professionalism and dedication of Wisconsin Department of Revenue (DOR) employes has been confirmed by an unusual source — the Internal Revenue Service (IRS)," State Revenue Secretary Mark D. Bugher has reported.

"The IRS relies heavily on electronic data supplied by banks, employers, state tax agencies, and others on Form 1099 and W-2 documents to validate individual income tax return information reported by taxpayers. In December 1992, we learned that DOR is one of only 16 organizations nationwide to receive the 'IRS Quality Supplier Award' for accurately filing over 500,000 error-free reports in 1990 and 1991.

"This high level of accuracy helps both taxpayers and government. The award highlights the outstanding quality of public service our employes have achieved in a variety of activities. Taxpayers know about programs like Quick Refund that directly improve taxpayer service. But many of our efforts to make government more effective and efficient escape public attention. I am pleased to accept this unique award on behalf of DOR employes as an affirmation of our strong commitment to quality public service," Secretary Bugher concluded. □

## Wanted: Your Comments or Suggestions

Do you have comments, ideas, or suggestions for improving Wisconsin's tax forms or instructions? Do you have ideas which could be helpful in administering Wisconsin's tax programs? If so, the department is interested in hearing from you.

Send your comments, ideas, or suggestions to the Wisconsin Department of Revenue, Director of Technical Services, P.O. Box 8933, Madison, WI 53708-8933. □



## Need a Speaker?

Are you planning a monthly meeting or training program? The Wisconsin Department of Revenue provides speakers to business, community, and educational organizations.

Department representatives are available to speak on a variety of topics that can be targeted toward your group's particular areas of interest, including:

- New income and corporate tax laws.
- How sales tax affects contractors, landscapers, manufacturers, non-profit organizations, or businesses in general.
- What to expect in an audit.
- Common errors discovered in audits.
- Homestead credit.
- Farmland preservation credit.

To arrange for a speaker, please write to Wisconsin Department of Revenue, Speakers Bureau, P.O. Box 8933, Madison, WI 53708-8933, or call (608) 266-1911. □

## Topical and Court Case Index Available

Are you looking for a convenient way to locate reference material so you can research a particular Wisconsin tax question? The *Wisconsin Topical and Court Case Index* will help you find reference material for use in researching your Wisconsin tax questions. This index references Wisconsin statutes, administrative rules, *Wisconsin Tax Bulletin* articles, tax releases, publications, Attorney General opinions, and court decisions.

The first part of the index, the "Topical Index," gives references to alphabetized subjects for the various taxes, including individual income, corporation franchise and income, withholding, sales and use, gift, inheritance and estate, cigarette, tobacco products, beer, intoxicating liquor and wine, and motor fuel, special fuel, and general aviation fuel.

The second part, the "Court Case Index," lists Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court decisions by alphabetized subjects for the various taxes.

If you need an easy way to research Wisconsin tax questions, consider subscribing to the *Wisconsin Topical and Court Case Index*. The annual cost is \$14, plus sales tax. The \$14 fee includes a volume published in December, and an addendum published in May.

To order your copy, complete the order blank that appears on page 39 of this Bulletin. The order blank may also be used for subscribing to the *Wisconsin Tax Bulletin* and for ordering the Wisconsin Administrative Code. □