

- Rent certificate altered or not filled in completely.
- Number of occupants not filled in on rent certificate.
- Rent certificate shows more than one occupant, but claimant claims all rent and does not explain why.
- More than 12 months rent/taxes claimed, with no explanation.
- Lottery credit claimed but not shown on property tax bill.
- Tax bill(s) shows owner(s) other than claimant, or different address.
- Wisconsin tax return, federal copy, schedules, wage statements, or signature missing.
- Special instructions for separated spouses not followed.

#### **Farmland Preservation Credit (Schedule FC)**

- Zoning certificate incorrect or incomplete.
- Prior year's property tax payment not verified, when tax bill indicates delinquent taxes.
- Inadequate information submitted when improvements made to property.
- Copies of all property tax bills or correct year's tax bills not attached.
- Ownership not verified, when other owners listed on tax bill.
- Copy of **executed** farmland preservation agreement not attached.
- Zoning certificate missing land conservation committee signature.
- Form 1040 copy or income schedule not attached.
- Closing agreement for sale or purchase of land not attached.

#### **Partnership (Form 3)**

- Federal employer identification number not filled in.
- Copies of federal Form 1065 or Wisconsin Schedule 3K-1 not attached.
- Federal Form 1065 and Schedule K-1 filed without Wisconsin Form 3 and Schedule 3K-1.

#### **Avoid Errors on Tax Returns**

Are your tax returns filed without any errors? Many errors on tax returns are discovered each year, either in processing the returns or in subsequent audits by the Department of Revenue. The information below may be helpful to you in preparing your Wisconsin tax return or your clients' returns.

#### **Errors Discovered in Processing Returns**

Common errors discovered in processing 1992 individual income tax returns include the following:

- Math errors. Over 270,000 income tax returns (10% of the returns processed) were adjusted to correct math errors.
- Incomplete returns. In addition to the 11,000 returns sent back because they were incomplete (see the preceding related article), processing of thousands of other returns was delayed because of missing information regarding the school or tax district, school property tax credit, earned income credit, itemized deduction credit, or taxes paid to other states.
- Underpayment of estimated tax. Adjustments charging estimated tax underpayment interest were sent to over 35,000 taxpayers.

- Insufficient payments. Thousands of returns were adjusted where taxes were due but no payment or only a partial payment was included. Over 5,100 returns included checks that were returned due to insufficient funds.
- Social security claimed as Wisconsin tax withheld.

#### **Audit Adjustments**

Errors discovered in auditing Wisconsin tax returns by the department's auditors resulted in the collection of \$133.6 million in taxes, penalties, and interest in the fiscal year ending June 30, 1993. This includes sales and use taxes of \$53.5 million, income taxes of \$44.5 million, corporation taxes of \$25.3 million, and other taxes (inheritance, alcohol, tobacco, fuel, etc.) of \$10.3 million. The most common errors, by type of tax, are described below.

#### *Individual and Fiduciary Income Taxes*

- Capital gain or loss reported incorrectly, including failure to apply \$500 loss limitation, to claim 60% capital gain exclusion, and to use correct cost basis.
- Taxable unemployment compensation or social security computed incorrectly.
- Nonbusiness travel and entertainment expenses claimed as business expenses.
- IRA penalty, distribution, or deduction omitted or claimed incorrectly.
- Interest or dividend income not reported.
- Office-in-home deduction claimed incorrectly.
- Incorrect filing status used.

- Dependent credit incorrectly claimed for taxpayer and/or spouse.
- Farm loss limitation computed incorrectly.
- Credit for tax paid to another state based on withholding rather than net tax actually paid.
- Amended Wisconsin return not filed to report IRS adjustments to federal return.

#### *Corporation Franchise and Income Taxes*

- Officers' and/or shareholders' personal expenses incorrectly deducted.
- State franchise or income taxes incorrectly deducted.
- Net operating loss carryover, depreciation, or transitional adjustments computed incorrectly.
- Income, deductions, credits, or allowances incorrectly distributed, apportioned, or allocated between related corporations.
- Income of foreign sales corporations (FSCs) not properly allocated.
- Unitary income improperly excluded from apportionable income.
- Manufacturer's sales tax credit or research credits not properly computed.
- Throwback sales not included in computation of sales factor.
- Imputed interest on loans to shareholders not claimed.
- Travel/entertainment 20% reduction not added back.

#### *Sales and Use Taxes*

- Use tax not reported on taxable property and services stored, used, or consumed in Wisconsin.
- Manufacturer's rebates not included in taxable gross receipts.

- Mandatory tips not included in taxable gross receipts.
- Transportation charges not included in taxable gross receipts.
- Tax not collected by nonprofit organizations on taxable sales.
- Failure to keep required exemption certificates to prove sale was exempt.
- Purchaser improperly giving exemption certificate (e.g., manufacturer, farmer, resale, etc.) for items that do not qualify for exemption.
- Failure to pay tax on taxable canned computer software.
- Contractor adjustments:
  - Buying items without tax which are used in real property construction and then failing to pay use tax.
  - Buying items without tax out-of-state and failing to pay use tax on those items used in Wisconsin.
  - Failing to charge sales tax when acting as a retailer (e.g., installing kitchen cupboards in a restaurant).
  - Failing to charge sales tax on repair of personal property (e.g., repairing a furnace).
  - Failing to pay tax on materials used in construction of real estate for exempt entities (e.g., churches, schools).
- County sales/use adjustments:
  - Failure of seller to recognize that it has nexus in a taxable county and to charge that county's sales tax.
  - Failure to pay county use tax.
  - Failure of contractor to pay county tax on items used in real property construction in a taxable county.

#### *Homestead Credit*

- AFDC, IRA and deferred compensation deductions, depreciation, section 179 expense, and unemployment compensation not included in household income.
- Special assessments and charges incorrectly claimed as property taxes.
- Property taxes not properly prorated for homestead owned with others or occupied only part of year.
- Property taxes or rent not reduced for months AFDC received.
- Property taxes before lottery credit incorrectly claimed.
- Total rent incorrectly claimed for jointly occupied homestead.
- Percentage of rent constituting property taxes computed incorrectly.
- Credit looked up incorrectly on computation tables.

#### *Farmland Preservation Credit*

- Gross pension, depreciation, deferred compensation, and capital gain exclusion not included in household income.
- Total household income computed incorrectly.
- Property taxes computed incorrectly.
- Property taxes not prorated for property owned by or with others.
- Incorrect credit percentage claimed.

#### **Extensions for Filing Tax Returns**

Extensions of time are permitted for filing certain Wisconsin tax returns. For information about extensions of time available for filing individual, partnership, and fiduciary income tax

returns and corporation franchise and income tax returns, see the tax release titled "Extension of Time to File Franchise and Income Tax Returns" on page 23 of this Bulletin. □

### Remember: Nonqualified Plan Distributions May Be Taxable to Nonresidents

Distributions from a *nonqualified* retirement or deferred compensation plan which are received by a person while a nonresident of Wisconsin are taxable to Wisconsin to the extent the payment is attributable to personal services performed in Wisconsin. A tax release explaining the proper treatment for Wisconsin purposes of distributions from nonqualified retirement plans and nonqualified deferred compensation plans was published in *Wisconsin Tax Bulletin* 82 (July 1993), on page 28.

Example: During 1993, Taxpayer X received a distribution of \$50,000 from a nonqualified retirement plan of his former employer. Taxpayer X had worked for this employer for 25 years, and 10 of those years of employment were spent in Wisconsin. X is now a legal resident of Arkansas. \$20,000 (\$50,000 x 10/25) of the amount received during 1993 is attributable to services X performed in Wisconsin and is taxable to Wisconsin.

**NOTE:** Distributions from *qualified* retirement plans or *qualified* deferred compensation plans received by a person while a nonresident of Wisconsin are exempt from Wisconsin income tax. □

## Department Offers Taxpayer Assistance

During the filing season of January through April 15, 1994, department personnel will be available to answer questions.

In the department's larger offices, assistance is provided on a daily basis (Monday through Friday). Assistance in other offices generally is available on Mondays only, although there are exceptions as noted below.

### Offices Providing Daily Assistance

Location	Address	Telephone No.	Hours
* Appleton	265 W. Northland Ave.	(414) 832-2727	7:45-4:30
* Eau Claire	718 W. Clairemont Ave.	(715) 836-2811	7:45-4:30
* Green Bay	200 N. Jefferson St., Ste. 526	(414) 448-5179	7:45-4:30
* Kenosha	5906 10th Ave., Rm. 106	(414) 653-7100	7:45-4:30
Madison	125 S. Webster St.	NONE	9:00-4:30
* Madison	4638 University Ave.	(608) 266-2772	7:45-4:30
* Milwaukee	819 N. Sixth St., Rm. 408	(414) 227-3883	7:45-4:30
* Racine	616 Lake Ave.	(414) 638-7500	7:45-4:30
* Waukesha	141 N.W. Barstow St.	(414) 521-5310	7:45-4:30

### Offices Providing Assistance on Mondays Only (unless otherwise noted)

Baraboo	1007 Washington	(608) 356-8973	7:45-4:30
Beaver Dam	211 S. Spring St.	(414) 887-8108	7:45-4:30
Elkhorn	300 S. Lincoln St.	(414) 723-4098	7:45-4:30
Fond du Lac	845 S. Main, Ste. 150	(414) 929-3985	7:45-4:30
Grafton	1930 Wisconsin Ave.	(414) 377-6700	7:45-4:30
Hayward	221 Kansas Ave.	(715) 634-8478	7:45-11:45
Hudson	1810 Crestview Dr., Ste. 1B	(715) 386-8224	7:45-4:30
Janesville	101 E. Milwaukee	(608) 758-6190	7:45-4:30(a)
* La Crosse	620 Main St.	(608) 785-9720	7:45-4:30(a)
Lancaster	130 W. Elm St.	(608) 723-2641	7:45-4:30
Manitowoc	1314 Memorial Dr.	(414) 683-4152	7:45-4:30
Marinette	Courthouse, 1926 Hall Ave.	(715) 732-7565	9:00-12:00
Marshfield	300 S. Peach Ave., Ste. 4	(715) 387-6346	7:45-4:30
Monroe	1518 11th St.	(608) 325-3013	7:45-4:30
Oshkosh	300 S. Koeller	(414) 424-2100	7:45-4:30
Rhineland	203 Schiek Plaza	(715) 365-2666	7:45-4:30
Rice Lake	101 N. Wilson Ave.	(715) 234-7889	7:45-4:30
Shawano	420 E. Green Bay St.	(715) 526-5647	7:45-4:30
Sheboygan	504 S. 14th St.	(414) 459-3101	7:45-4:30
Superior	1418 Tower Ave., Ste. 5	(715) 392-7985	7:45-4:30
Tomah	1200 McLean Ave.	(608) 372-3256	7:45-11:45
Watertown	600 E. Main St.	(414) 261-7700	7:45-4:30
Waupaca	201½ S. Main St.	(715) 258-9564	7:45-11:45
Wausau	710 Third St.	(715) 842-8665	7:45-4:30
West Bend	120 N. Main St.	(414) 335-5380	7:45-4:30
Wisconsin Rapids	830 Airport Ave.	(715) 421-0500	7:45-4:30(b)

\* Open During noon hour

(a) Open Monday, Tuesday, and Wednesday

(b) Open Tuesday only

## Tax Publications Available

The Department of Revenue publishes over 35 publications that are available, free of charge, to taxpayers or practitioners. To order any of the publications, write or call Shipping and Mailing Section, Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903 (telephone (608) 266-1961).

### Number Title of Publication

102	Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders	203	Sales and Use Tax Information for Manufacturers
103	Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts	205	Do You Owe Wisconsin Use Tax? (Individuals)
104	Wisconsin Taxation of Military Personnel	206	Sales Tax Exemption for Nonprofit Organizations
109	Tax Information for Married Persons Filing Separate Returns and Persons Divorced	207	Sales and Use Tax Information for Contractors
111	How to Get a Private Letter Ruling From the Wisconsin Department of Revenue	210	Sales and Use Tax Treatment of Landscaping
112	Wisconsin's Individual Estimated Tax and Corporation Estimated Tax Programs	211	Sales and Use Tax Information for Cemetery Monument Dealers
113	Federal and Wisconsin Income Tax Reporting Under the Marital Property Act	212	Businesses: Don't Forget About Use Tax
114	Wisconsin Taxpayer Bill of Rights	213	Travelers: Don't Forget About Use Tax
117	Guide to Wisconsin Information Returns	214	Do You Owe Wisconsin Use Tax? (Businesses)
200	Sales and Use Tax Information for Electrical Contractors	400	Wisconsin's Temporary Recycling Surcharge
201	Wisconsin State and County Sales and Use Tax Information	500	Tax Guide for Wisconsin Political Organizations and Candidates
202	Sales and Use Tax Information: Motor Vehicle Sales, Leases and Repairs	501	Field Audit of Wisconsin Tax Returns
		502	Directory of Free Publications
		503	Wisconsin Farmland Preservation Credit
		504	Directory for Wisconsin Department of Revenue
		505	A Taxpayer's Appeal Rights of an Office Audit Adjustment
		506	Taxpayers' Appeal Rights of Field Audit Adjustments
		507	How to Appeal to the Tax Appeals Commission
		508	Wisconsin Tax Requirements Relating to Nonresident Entertainers
		509	Filing Wage Statements and Information Returns on Magnetic Media
		600	Wisconsin Taxation of Lottery Winnings
		601	Wisconsin Taxation of Pari-Mutuel Wager Winnings
		700	Speakers Bureau presenting ...

W-166 Wisconsin Employer's Withholding Tax Guide □



## 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, nonprofit 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 a supplement published in May.

To order your copy, complete the order blank that appears on page 51 of this Bulletin. The order blank may also be used for subscribing to the *Wisconsin Tax Bulletin* and for ordering the Wisconsin Administrative Code. □



## Look for the Loon

*The following article was submitted by the Bureau of Endangered Resources, Wisconsin Department of Natural Resources.*

The loon. Its haunting call echoing over a northern Wisconsin lake is a symbol of all that is wild in our state. It is also the new symbol of Wisconsin's Endangered Resources Fund. The fund is the primary means of support for the Bureau of Endangered Resources which is responsible for protecting our rare plants and animals

for future generations. Wisconsin taxpayers can contribute to the fund when preparing their state income tax returns by looking for the symbol of the loon on this year's form.

Thanks in large part to the support of Wisconsin tax practitioners, endangered species were given a shot in the arm in 1993. More than 57,700 taxpayers contributed a total of \$609,548.52 to the Endangered Resources Fund on their 1992 tax returns. The fund is used to preserve and manage more than 200 Wisconsin endangered and threatened species and the natural habitats where they live. From the tiny frosted elfin butterfly to the majestic bald eagle, all benefit from donations to the Endangered Resources Fund.

Last year's contributions were heartening, but the amount remains far shy of the total needed to protect Wisconsin's ever-growing list of rare species. The support of tax practitioners is vital to continuing the success of the Endangered Resources Fund. Practitioners can ensure that this important work will proceed by informing clients of the opportunity to contribute to the fund on their tax forms.

For more information on the Endangered Resources Fund please contact the Bureau of Endangered Resources, Box 7921, Madison, WI 53707, or call (608)266-7012. □

**Tax Kit Sent to Wisconsin High Schools**

## Wisconsin High Schools

Wisconsin high schools were recently sent a tax kit to help teachers explain Wisconsin taxes to students.

The tax kit was developed by the Wisconsin Department of Revenue for use in conjunction with the IRS's Understanding Taxes Program.

The kit contains a student tax guide which explains various Wisconsin taxes and provides problems and instructions for completing Form 1A and Form WI-Z. It also includes a teacher's tax guide. □

## Ceasing Business? What About Your Seller's Permit?

### *Occasional sale exemption*

The requirement to turn in your seller's permit within 10 days to qualify for the occasional sale exemption in sec. 77.51(9)(am), Wis. Stats. (1991-92), was eliminated effective August 12, 1993, as a result of the enactment of 1993 Wisconsin Act 16. The law change provides that the sale of tangible personal property (other than inventory held for sale) previously used by a seller to conduct its business at a location, is exempt from Wisconsin sales and use tax if it meets the following condition:

- The sale of tangible personal property occurs after the seller ceases actively operating as a seller of tangible personal property or taxable services at that location.

This exemption applies to sales of tangible personal property meeting the above condition if the last sale of that property occurs after August 12, 1993, regardless of whether the seller ceased actively operating the business before or after August 12, 1993.

### *Should you turn in your seller's permit?*

Regardless of whether or not you qualify for the occasional sale exemption described above, you must still turn in your seller's permit to the department as required by sec. 77.52(12), Wis. Stats. (1991-92), if you cease actively operating as a

seller of tangible personal property or taxable services. Although the Wisconsin statutes do not indicate the specific number of days for turning in your seller's permit, the department suggests you turn in your seller's permit within 60 days of ceasing business.

Upon notification that you are no longer actively operating as a seller, the department will inactivate your seller's permit account. If you don't notify the department that you have ceased operating, the department will continue to send you sales and use tax returns for periods after you have ceased operating.

If you hold seller's permits at more than one location and cease business at one of them, turn in your seller's permit only for the location at which you ceased business. □

### Oshkosh Gambling Kingpin Sentenced

In October 1993, 61-year-old James Franta, 308 Shorelane St., Oshkosh, pled no contest to charges of commercial gambling and income tax fraud. Winnebago County Circuit Court Judge Robert Haase sentenced Franta in December 1993, to five years probation and confinement in his home for nine months. He was also fined \$2,000 and ordered to perform 500 hours of community service. Franta will be allowed to leave his home for medical treatment, alcohol/drug and gambling counseling, church, and community service.

According to the criminal complaint, Franta ran a gambling operation worth about \$4 million, and in 1992 he collected about \$67,000, which he failed to report on his 1992 Wisconsin income tax return.

In September 1993, insurance agent Wilbur S. Ashman, 73, 2015 Hickory Court, Appleton, was sentenced for failure to file income tax returns for 1989, 1990, and 1991, and for filing a false application for title/registration when he purchased a motor home. Outagamie County Circuit Court Judge Michael W. Gage ordered Ashman to serve two years probation, pay fines and court costs of \$660, make restitution for Wisconsin taxes, penalties, and interest of \$5,500, and serve 96 hours of community service.

The criminal complaint alleged that Ashman failed to file income tax returns when he had gross income in excess of \$27,000 in 1989, \$27,000 in 1990, and \$19,000 in 1991. In addition, Ashman filed an application for title/registration in connection with a motor home, on which he understated the purchase price by more than \$30,000, reducing his sales tax by more than \$1,500.

In November 1993, former Appleton resident Leo E. Wanta, 53, was deported from Switzerland and arrested in New York, for unlawful flight to avoid prosecution. He was extradited to Wisconsin in December and charged in Dane County Circuit Court, with tax evasion and filing false Wisconsin income tax returns. Wanta faces \$40,000 in fines and 22 years in prison on the felony charges. Wisconsin authorities had been attempting to get him into court voluntarily since early 1992.

Wanta is alleged to have filed fraudulent Wisconsin income tax returns for 1988 and 1989, having claimed no income while he actually earned taxable income of more than \$166,000 in 1988 and \$63,000 in 1989. In addition, he owes delinquent Wisconsin income taxes of more than \$237,000 for 1986 to 1989. □

### How to Obtain Wisconsin Tax Forms

Small supplies of forms can be obtained from any Department of Revenue office. Requests will be generally limited to 6 copies of any single form. This is necessary to prevent the supply of forms at any office from being quickly depleted and unavailable to other persons.

Practitioners or other persons requiring larger supplies of forms should write to Shipping and Mailing Section, Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903, or call (608) 266-1961.

In addition, Wisconsin libraries have a copy of Wisconsin Package WI-X which contains copies of most Wisconsin tax forms. Reproductions may be made from Package WI-X, except in the case of items marked "Do Not Photocopy." □

### How to Obtain Copies of Your Tax Returns

#### What is Available

Upon request, the Department of Revenue will provide copies of taxpayers' previously filed tax returns. This includes individual income tax returns, homestead credit claims, corporation or insurance franchise or income tax returns, sales and use tax returns, withholding tax returns and statements, partnership tax returns, fiduciary tax returns, and gift tax reports.

All requests for copies of returns must be made in writing or in person. Requests made by telephone will not be honored.

Individual income tax returns and homestead credit claims are available for at least the 4 prior tax years.