



# Wisconsin TAX BULLETIN

## New Tax Laws to Be Addressed in Special Issue

The Governor introduced his Budget Bill for 1994-95, Senate Bill 690, on February 1, 1994. This bill includes several provisions affecting Wisconsin taxes. Additional bills which affect Wisconsin taxes have also been introduced.

The Wisconsin Legislature was scheduled to complete its 1994 legislative session by late March 1994. If any bills affecting Wisconsin taxes become law, a special issue of the *Wisconsin Tax Bulletin* explaining the new laws will be published later this spring.

## Are You Correctly Reporting Use Tax?

Failure to report use tax is the most common error on sales and use tax returns. Before you file your return, make sure your use tax is correctly reported on lines 17-23 of the return.

The Wisconsin use tax is a 5% tax (plus ½% county tax, where applicable) imposed on the purchase price of tangible personal property or taxable services that are used, stored, or otherwise consumed within Wisconsin, upon which a sales tax is not imposed or paid.

Failure to report use tax may result in penalties of as much as 50% of the use tax not reported.



## 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.

## Milwaukee Grocers Charged in Cigarette Sting

Nine Milwaukee grocers were arrested in February 1994, as the result of a special operation conducted by agents of the Department of Revenue's Alcohol and Tobacco Enforcement Section and the Milwaukee Police Department. The operation, targeting neighborhood stores and gas stations, was the culmination of a three-month undercover investigation.

The nine arrests were for conspiracy to receive stolen property, a ten-year felony, or attempting to receive stolen property, a five-year felony. Several additional charges are pending, including felony possession of untaxed cigarettes. Those arrested were: Mohamud Yessin, 50; Edgar Smith, 33; Mohammed Ghaffar, 38; Nathaniel Paden, 43; Modher Sigh, 34; Balwinder Dhillon, 38; Husein A. Ali, 28; Allal Ali Taki, 41; and Shakil Ahmad, 42.

In the sting operation, undercover agents received almost \$16,000 cash in exchange for thousands of cartons of cigarettes, which were represented as being stolen and were "sold" to those arrested for a fraction of the normal wholesale price. In addition, agents confiscated more than 1,300 cartons of improperly stamped cigarettes from other targeted stores that had been searched.

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In January 1994, dentist Frederick G. Kriemelmeyer, 44, 1120 Caledonia St., LaCrosse, was charged with failure to file tax returns by LaCrosse County Circuit Court Judge Dennis Montabon. The charges were for failure to file Wisconsin income tax returns for 1990, 1991, and 1992.

The criminal complaint indicated that Kriemelmeyer, who has been a Wisconsin resident since 1988 and has filed no Wisconsin tax returns, had income of \$111,000 in 1990,

\$112,000 in 1991, and \$39,000 in 1992. He refused to provide any information regarding his income, claiming he is a nonresident alien and also claiming an objection under the 4th, 5th, 8th, 9th, 10th, 13th, and 14th Amendments to the U.S. Constitution.

Citing federal copyright law, Kriemelmeyer refused to be fingerprinted or photographed during his booking and spent one night in the county jail, before agreeing to the booking procedures. If convicted on all three income tax counts, he faces up to 27 months imprisonment and \$30,000 in fines.

Five additional charges of failure to file Wisconsin income tax returns were filed in January and February, 1994.

In January, attorney Clifton G. Owens, 52, 1812 W. Kneeland St., Milwaukee, was charged in Dane County Circuit Court with two counts

of failure to file 1990 and 1991 returns. The criminal complaint charges that Owens had income of \$30,000-\$40,000 in 1990 and about \$41,000 in 1991. His law license was suspended for 60 days in 1992, for failure to file Wisconsin income tax returns over an extended period of time, and failing to cooperate with the investigation into his misconduct.

In February, Allen L. Bakke, 41, a carpenter whose address is 1315 E. Racine St., Janesville, was charged by the Rock County District Attorney's office with three counts of failure to file 1990, 1991, and 1992 returns. The criminal complaint alleges that Bakke had income of \$27,000 in 1990, \$21,000 in 1991, and \$46,000 in 1992, and a Wisconsin tax liability of over \$6,000 for those three years. He allegedly has filed no Wisconsin income tax returns since becoming a Wisconsin resident in 1983.

Failure to file Wisconsin income tax returns is a crime punishable by up to nine months in prison and up to \$10,000 in fines for each count.

In February 1994, Kenneth J. Weber, 26, 27037 S. Elm Lane, Wind Lake, was charged by the Milwaukee County District Attorney's office with two counts of income tax evasion, for filing fraudulent Wisconsin income tax returns for 1991 and 1992. According to the criminal complaint, he failed to report income of \$17,000 in 1991 and \$20,000 in 1992, from unreported sales of scrap metal. Weber was also charged in July 1993, with theft of enough aluminum scaffolding to fill eight semitrailers, from his former employer.

If convicted on both income tax evasion charges, Weber faces up to ten years in prison and up to \$20,000 in fines. □

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## Oconto County Adopts County Tax

Effective July 1, 1994, the county sales and use tax will be adopted by Oconto County. This brings to 46 the number of counties that have adopted the ½% county tax. Adams County adopted the tax effective January 1, 1994, and Dodge County adopted the tax effective April 1, 1994.

The March 1994 *Sales and Use Tax Report*, a copy of which appears on pages 33 and 34 of this Bulletin, includes a listing of the counties that have adopted the county tax. □

## Federal Extensions for Exempt Organization Returns Apply for Wisconsin

For federal purposes, the due date for filing the 1993 Form 990-T, Exempt Organization Business Income Tax Return, has been extended to the later of the 15th day of the 5th month after the end of the organization's taxable year or July 15, 1994.

This same treatment applies for Wisconsin purposes. Wisconsin law provides that any extension of time granted by law or by the Internal Revenue Service for filing the federal return extends the time for filing the Wisconsin Form 4T, Exempt Organization Business Franchise or Income Tax Return.

An extension for filing the return doesn't extend the time to pay franchise or income tax. Interest will be charged on tax not paid by the original due date. □

## Recycling Surcharge Rates Unchanged

The temporary recycling surcharge rates remain unchanged for taxable

years beginning on or after January 1, 1994, and before January 1, 1995.

Wisconsin law requires the Department of Revenue annually, in December, to establish annual recycling surcharge rates for taxable years beginning on or after the following January 1 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 begin during 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. □

## Extensions of Time to File Tax Returns

### Individuals

Extensions of time provided by federal law or granted by the Internal Revenue Service (IRS) for filing a federal income tax return are available to extend the time for filing a Wisconsin individual income tax return. All that is required to obtain the Wisconsin extension is that a copy of the federal extension application be attached to the Wisconsin return when filed.

For example, assume that you file federal Form 4868 to apply for the automatic 4-month extension of time to file your federal return. You will also be allowed a 4-month extension of time to file your Wisconsin return if you attach a copy of your completed Form 4868 to your Wisconsin return when you file that return.

Extensions available under federal law may be used for Wisconsin purposes, even though an individual does not need an extension to file his or her federal return. A statement must be attached to the Wisconsin return when filed, indicating which federal extension provision is being used (e.g., automatic 4-month extension) or a copy of the federal extension application form must be attached with only the name, address, and signature areas completed.

Certain taxpayers outside the United States and Puerto Rico on April 15 are allowed an automatic 2-month extension of time to file their federal return. Since no federal form is required for this extension, a statement must be attached to the Wisconsin return, explaining how the taxpayer meets the qualifications for this extension.

### Corporations

An extension allowed by the IRS for filing the federal return automatically extends the due date for filing the Wisconsin franchise or income tax return, provided a copy of the federal extension is attached to the Wisconsin return.

A corporation which is not requesting a federal extension but needs additional time to file the Wisconsin return may request a 30-day extension by submitting an Application for Extension of Time to File (Wisconsin Form IC-830) to the department on or before the due date of the return.

Certain corporations may request a Wisconsin extension in excess of 30 days. A foreign corporation having no office or place of business in the United States may request a 3-month Wisconsin extension. A cooperative or a domestic international sales corporation may request a 6-month extension.

### Additional Information

For further information on extensions of time for filing Wisconsin franchise or income tax returns, see the tax release titled "Extension of Time to File Franchise and Income Tax Returns" in *Wisconsin Tax Bulletin* 85 (January 1994), page 23. □

### 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* 82 (July 1993), pages 36 to 58, and includes information for issues 1 (October 1976) to 80 (January 1993). □

### 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

### 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, corpora-

tion franchise and income, withholding, sales and use, gift, inheritance and estate, cigarette, tobacco products, beer, intoxicating liquor and wine, and motor vehicle fuel, alternate 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 35 of this Bulletin. The order blank may also be used for subscribing to the *Wisconsin Tax Bulletin* and for ordering the Wisconsin Administrative Code. □

### 1994 Estimated Tax Requirements for Individuals, Estates, and Trusts

Estimated income tax payments are tax deposits made during the year to prepay the income tax (including alternative minimum tax) and temporary recycling surcharge that will be due when an income tax return is filed. Every individual, married couple filing jointly, estate, or trust (except certain estates and trusts, as explained below) is required to pay 1994 Wisconsin estimated tax if they expect to owe \$200 or more on a 1994 Wisconsin income tax return. Form 1-ES, 1994 Wisconsin Estimated Tax Voucher, is filed with each estimated tax payment.

For calendar year taxpayers, the first estimated tax payment is due on April 15, 1994. Installment payments are also due on June 15, 1994, September 15, 1994, and January 17, 1995. For fiscal year taxpayers, installment payments are due on the 15th day of the 4th, 6th, and 9th months of the fiscal year and the 1st month of the following fiscal year.

Estates and grantor trusts which are funded on account of a decedent's death are only required to make estimated tax payments for taxable

years which end two or more years after the decedent's death. For example, an individual died on March 25, 1994. A grantor trust which was funded on account of the individual's death is not required to make estimated tax payments for any taxable year ending before March 25, 1996.

A trust which is subject to tax on unrelated business income is generally required to pay 1994 Wisconsin estimated tax if it expects to owe \$500 or more on a 1994 Wisconsin franchise or income tax return

(Form 4T). A 1994 Form 4-ES, Wisconsin Corporation Estimated Tax Voucher, is filed with each estimated tax payment. Installment payments for such trusts are due on the 15th day of the 3rd, 6th, 9th, and 12th months of the taxable year.

If an individual, married couple filing jointly, estate, or trust does not make the estimated tax payments when required or underpays any installment, interest may be assessed. □

## Question and Answer

**Q** We are a nonprofit association organized and operated exclusively for educational purposes. No part of the profit inures to the benefit of any individual member. We don't operate any business which is unrelated to our exempt purpose. For federal purposes, we must file Form 990, Return of Organization Exempt From Income Tax. Are we required to file either an application for exemption from Wisconsin franchise and income taxes or a Wisconsin franchise or income tax return?

**A** No. A religious, scientific, educational, benevolent, or other corporation or association not organized or conducted for pecuniary profit is not required to apply for an exemption from Wisconsin franchise and income taxes. Such an organization is not required to file a Wisconsin franchise or income tax return if it doesn't operate a business unrelated to its exempt purpose. Note: A nonprofit organization that must file federal Form 990-T, Exempt Organization Business Income Tax Return, because it has at least \$1,000 of gross income from an unrelated trade or business, must file Wisconsin Form 4T, Exempt Organization Business Franchise or Income Tax Return.

**Q** My landlord indicated "2" as the number of occupants on the rent certificate he filled out for my homestead credit claim. I rent an apartment, and my son, age 25, lives with me. The lease is in my name, and I pay all the rent. My son and I each pay

for half of the food, utilities, and other supplies. May I claim all of the rent shown on my rent certificate, since I pay all of the rent, and only my name is on the lease?

**A** No. Since there are two occupants in your homestead, and the second occupant is not your spouse or minor child, the rent on your homestead credit claim must be only the portion that reflects the percentage of the total "shared living expenses" that *you* paid. Shared living expenses include rent, food, utilities, supplies, and other items directly related to the occupancy of the homestead. The following chart provides an example of how to compute each occupant's share of rent, assuming Occupant A paid all the rent and they each paid half of the other expenses.

	Occupant A	Occupant B	Total
Rent	\$4,000	\$ 0	\$4,000
Food	1,300	1,300	2,600
Utilities	600	600	1,200
Other	<u>100</u>	<u>100</u>	<u>200</u>
Total	<u>\$6,000</u>	<u>\$2,000</u>	<u>\$8,000</u>

In this example, the total shared living expenses were \$8,000. Occupant A paid \$6,000, or 75%, of the shared living expenses, and Occupant B paid \$2,000, or 25%. Therefore, Occupant A may claim only \$3,000 of rent (75% of \$4,000), and Occupant B may claim \$1,000 of rent (25% of \$4,000), even though A paid all of the rent and B did not pay any of the rent. □