

## Question and Answer

**Q** I own a business that has multiple locations. I hold a Wisconsin seller's permit for each location from which I make sales of tangible personal property or taxable services.

Am I required to file a Wisconsin sales and use tax return for each location?

**A** No. You file one return for all business locations, reporting the total of gross receipts, deductions, and sales and use tax from all the locations on the one sales and use tax return.

**Q** I am expanding my business by adding a new location. I will be making sales of tangible personal property or taxable services from that location. I already hold a seller's permit for my current location.

Must I apply for a seller's permit for my new location?

**A** Yes. You are required to hold a seller's permit for each location from which you make sales of tangible personal property or taxable services.

Application for a seller's permit is made using Form A-101, which may be obtained from any Department of Revenue office. The seller's permit issued for your new location will have the same number as your current seller's permit but will have a letter suffix assigned.

A person who operates as a seller in Wisconsin without a permit is guilty of a misdemeanor.

**Q** I hold a Wisconsin seller's permit and am required to file my Wisconsin sales and use tax return on a monthly basis. There are some

months when I have no taxable sales and no sales or use tax to report.

Am I required to file a sales and use tax return for a reporting period where I have no tax due?

**A** You are required by law to file a return even though you may have no tax liability for the period, unless you are a seasonal filer. Failure to file the return can result in a \$10 late filing fee, even though no tax is due on the return.

A seasonal filer is one that is open for business only part of the year. The Department of Revenue will notify you if you are a seasonal filer. A seasonal filer is only required to file sales and use tax returns for the months of its business season, or if a liability is incurred during a reporting period when usually closed.

## Topical and Court Case Index Available

Are you looking for an easy way to locate reference material to research a Wisconsin tax question? The *Wisconsin Topical and Court Case Index* will help you find reference material to research 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 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, subscribe to the *Wisconsin Topical and Court Case Index*. The annual cost is \$18, plus sales tax. The \$18 fee includes a volume published in December, and an addendum published in May.

To order your copy, complete the order blank on page 59 of this Bulletin. The order blank may also be used for subscribing to the *Wisconsin Tax Bulletin* and for ordering the Wisconsin Administrative Code.

## Jail Time for Failure to File

Thomas B. Shepard, 51, 270 E. Highland Avenue, Milwaukee, was sentenced in January 1996, for failure to file Wisconsin income tax returns for 1991, 1992, and 1993. He pled guilty in November 1995 to all three counts. Milwaukee County Circuit Court Judge Kitty Brennan sentenced Shepard to 80 days in the House of Corrections with Huber privileges, and two years probation. During the probationary period he must pay restitution as well as the cost of prosecution. He must also provide 60 hours of community service to female or minority entrepreneurs seeking to enter the restaurant business.

According to the criminal complaint, Shepard failed to file Wisconsin income tax returns for the years 1991, 1992, and 1993. During those years, the complaint alleges, Shepard had gross income in excess of \$3,000,000, which was his share of the income from Brew City Barbeque, Inc.

Failure to file a Wisconsin income tax return when due is a crime punishable by up to nine months imprisonment and up to \$10,000 in fines. In addition to the criminal penalties, Wisconsin law provides for substantial civil penalties on the civil tax liability. Assessment and collection of the taxes, penalties, and interest follow a conviction for criminal violations.

William P. Doucas, 36, of Oconomowoc, a former Oshkosh car dealer, avoided jail time as part of a plea bargain arrangement in Winnebago County Circuit Court in February 1996. Doucas was facing 106 years in prison for 25 criminal counts against him and Doucas Motors, related to non-payment of over \$150,000 in liens, failure to

pay more than \$196,000 of state sales and excise taxes, and taking more than \$12,000 from employees' retirement contributions. Doucas pleaded no contest to the charges as part of the plea bargain.

Circuit Judge Robert Hawley stayed a two-year prison sentence and placed Doucas on probation for three years. He also ordered Doucas to perform 300 hours of community service, make restitution of \$327,380, and pay a fine of \$31,680. In addition, he may never work in the automobile business in Wisconsin again, and he must cooperate fully with providing needed documentation to the car dealership's new owners.

A self-employed Beloit painter, Daniel J. Welch, 41, was sentenced to jail in March 1996, for failing to file income tax returns. Rock County Circuit Judge James P. Daley ordered Welch to serve 30 days in jail and three years probation, and to pay \$7,000 restitution to the state, plus court costs.

Welch was charged in March 1995 with failing to file 1991, 1992, and 1993 Wisconsin income tax returns, and in February 1996 he pled no contest to two counts. The criminal complaint stated he had gross income of over \$105,000 for 1991 to 1993. □

## Farmers Receive Nearly \$47 Million in Tax Credits

Nearly \$47 million in direct benefits were distributed to Wisconsin farmers in 1995 through two state programs, the farmland preservation credit program and the farmland tax relief credit program. About 23,900 Wisconsin farmers claimed farmland preservation credits amounting to \$31.4 million, and nearly 61,500

farmers received farmland tax relief credits totalling \$15.5 million in 1995.

### Farmland Preservation Credit

Benefits averaging \$1,317 per claimant were distributed through the farmland preservation credit program, which is designed to preserve Wisconsin farmland by encouraging local land use planning and soil conservation practices. Participating farmland owners received benefits averaging 29.4% of their property tax liabilities.

To qualify for relief under this program, farmland must be zoned for exclusive agricultural use or be subject to a farmland preservation agreement between the farmer and the state. About 83% of the claims were for land under zoning and 17% were for land covered by agreements.

### Farmland Tax Relief Credit

Farmland tax relief credits averaging \$253 were paid to farmers statewide in 1995. These credits equal 10% of the first \$10,000 of property taxes on qualifying farmland, exclusive of improvements. This program, which is in addition to the farmland preservation credit, provides direct benefits to virtually all farmers in the state. □

## Tax Publications Available

The Department of Revenue publishes over 45 publications that are available, free of charge, to taxpayers or practitioners. To order any of the publications, write or call Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8903, Madison, WI 53708-8903 (telephone (608) 266-1961).



## Tax information & filing in an electronic world

There have been other changes for taxpayers this filing season. TeleFile, a system in which some single taxpayers can file their 1040EZ forms by touchtone phone, is proving to be a big success. Joint federal/state electronic filing continues to grow. And this year taxpayers can “surf the net” to find the tax forms and information they need.

The new IRS Home Page on the World Wide Web of the Internet (<http://www.irs.ustreas.gov>) went on-line January 8th as scheduled and was an immediate big hit with computer users — with more than 220,000 hits (that's the number of accesses) — in the first 24 hours. One week after its debut, the hit counter was up to more than a million. By mid-February, over 20 million hits had been reported.

Even the most novice internet user will find the page easy to navigate. Written in a simple, user-friendly format, the page offers everything from tax forms and publications to complete tax information for both individuals and businesses.

Under the heading of “Tax Information For You,” users can find the answers to basic questions through “Tax Trails,” an interactive session that poses key questions to identify the user's particular circumstances. Or users can cruise through a summary of important changes for 1995, or just find where to file their taxes.

Under “Taxpayer Help and Education,” users can find simple summaries of 150 different tax topics, or answers to frequently asked questions.

Or, if users don't want to spend the time cruising the different options, the page offers two quick and easy

ways to find the subject they're looking for — by a key word search or by the site tree where users can simply click on available topics.

Other features of the page include plain English summaries of recent IRS regulations; descriptions of IRS's electronic services such as TeleFile, FedState Electronic Filing and 1040PC; and Tax Information for Businesses.

The IRS is continually looking for alternative methods of providing taxpayers with information, and with 40 million Americans having access to the Internet, cyberspace is proving to be one of the most viable methods. Many more services will be available on the page in the near future, including a hypertext version of Publication 17 (Your Federal Income Tax), tax statistics, and the IRS Newsstand, where users can find a complete menu of IRS news releases and fact sheets.

### New taxpayer rights initiatives

The Internal Revenue Service recently announced other changes — a series of new taxpayer rights initiatives as part of its ongoing efforts to reduce the burden on taxpayers when conducting business with the IRS and to make it easier for taxpayers to understand and exercise their rights. Highlights of the new initiatives include the following:

#### ■ Enhanced Powers for the Taxpayer Ombudsman

*Background.* The Taxpayer Ombudsman has served since 1979 as the advocate for taxpayers within the IRS and has responsibility for administering the nationwide Problem Resolution Program. When a taxpayer faces a problem dealing with the IRS, the taxpayer may ask the Ombudsman, or one of the Ombudsman's Problem Resolution

Officers based in local IRS offices, to intervene on the taxpayer's behalf to resolve the problem. If the taxpayer's complaint has merit, the Ombudsman will either negotiate a solution to the problem with IRS personnel or issue a Taxpayer Assistance Order (TAO) to order the IRS either to take or cease action, as the case may be, with respect to the taxpayer.

*Details of new initiatives.* Several new initiatives, effective January 1996, are designed to increase the Ombudsman's authority.

- In the past, A TAO issued by the Ombudsman could be overruled by a number of local IRS officials, including district directors, service center directors, compliance center directors, regional directors of appeals, or their superiors. The initiative increases the Ombudsman's authority by limiting those with authority to overrule, modify or withdraw a TAO to the Commissioner, Deputy Commissioner, or Ombudsman.
- To clarify the proper scope of a TAO, the Commissioner explicitly delegates to the Ombudsman the authority to direct the IRS through a TAO to issue a refund to relieve a severe financial hardship faced by a taxpayer. Likewise, the Ombudsman explicitly may issue a TAO to stop a collection action to ensure review of whether the action is appropriate.
- The Ombudsman will be required to prepare annual reports on the most serious taxpayer problems and suggest administrative and legislative solutions to them. The Ombudsman will establish a formal process to track the response of IRS officials to the administrative solutions identified in these annual reports.

- The Ombudsman's authority is being increased in local IRS offices by giving the Ombudsman greater power in selecting and evaluating local Problem Resolution Officers in IRS regions, districts and service centers.

#### ■ Divorced and Separated Spouses

*Background.* Many taxpayers have expressed concern that the federal income tax system does not adequately address the unique problems faced by spouses who filed joint returns and later divorce or separate. For example, a divorced or separated spouse may not know of an IRS collection action against the other spouse on a joint tax liability.

#### *Details of new initiatives.*

- The IRS plans to adopt a new procedure by March 1996 to notify one spouse of actions taken against the other spouse to collect their joint taxes. The new procedure will have privacy safeguards to ensure that the procedure is used exclusively for tax purposes.
- The IRS has begun a study of the tax problems facing divorced and separated spouses. For example, the IRS will examine whether the tax liability of divorced or separated spouses should continue to be determined under a joint and several liability standard (that is, each spouse is potentially liable for all of the couple's taxes), or changed to a proportionate liability standard (that is, each spouse is liable for only the taxes attributable to a particular spouse's income) or even determined according to the couple's divorce decree. As another example, the innocent spouse provisions will be analyzed to determine if they provide any real relief to divorced and separated taxpayers. The goal of the study is to recommend legislative and adminis-

trative solutions to these problems where possible.

#### ■ Computerized Record Storage and New Electronic Filing Options

*Background.* Many businesses, both large and small, have asked the IRS to adopt procedures to lessen the paper they must store to comply with the tax laws and the paper they must send to the IRS.

- The IRS intends to issue a Revenue Procedure to permit taxpayers — primarily businesses — to use computer imaging systems, rather than paper copies, to store the records necessary to properly support the information reported on their tax returns.

- The IRS recently issued Revenue Procedure 96-19 to permit employers to use electronic methods to file Form 941, "Employer's Quarterly Federal Tax Return," which reports the income tax withheld and the Federal Insurance Contributions Act (FICA) tax paid by the employer.

#### ■ Expedited Appeals Procedure for Employment Tax Issues

*Background.* Many businesses, particularly small businesses, have asked the IRS to consider developing procedures to shorten the time necessary to resolve their employment tax disputes with the IRS, such as the classification of a worker as an employee or independent contractor.

*Details of new initiative.* The IRS will issue a new procedure to allow employers to appeal employment tax issues to Appeals even while an examination is in progress. This early referral procedure, modeled on the CEP early referral procedure in Rev. Proc. 96-9, should significantly reduce the time and expense

necessary to resolve employment tax issues.

#### ■ New Mediation Procedure

*Background.* The IRS recognizes that litigation is expensive and time consuming for both taxpayers and the IRS. The IRS is thus exploring various alternative dispute resolution techniques.

*Details of new initiative.* In October 1995, the IRS began a one-year test of a procedure that allows certain taxpayers in the Appeals process to request mediation of one or more issues. Mediation has already been used successfully to resolve one large valuation dispute. The IRS encourages taxpayers to consider the mediation procedure if applicable.

#### ■ New Rules for IRS Investigations

*Background.* The IRS takes seriously its responsibility to protect taxpayers' rights in the course of carrying out its legal obligation to investigate tax cases. The IRS is adopting several new rules to better ensure that taxpayers' rights will be respected during investigations.

#### *Details of new initiatives:*

- The IRS strongly believes that it is inappropriate for an agent to compromise the tax liability of an informant in exchange for information about another taxpayer and is formalizing its longstanding practice, effective immediately, to explicitly prohibit this kind of behavior.
- The IRS now requires its agents (effective January 31, 1996) to make more extensive examinations of disputed information returns. This issue arises when a taxpayer claims that wage income reported on a Form W-2 or interest or dividend income reported

on a Form 1099 is incorrect. The IRS will increase its efforts to verify that the payor reported the correct amount of income to the IRS. In addition, to reduce the number of such disputes, the IRS will ask the payors who file Form 1099 information returns to include their telephone numbers on the taxpayer's copy of the returns, so that taxpayers can contact the payors directly with questions.

- Federal law permits the IRS or IRS agents to use a "designated summons" to obtain documents from taxpayers. These summonses can, in some circumstances, disadvantage taxpayers by extending the time for assessing taxes. Under the new initiative, effective immediately, IRS agents generally will not be permitted to use such a designated summons except for large corporate taxpayers, and only after review by high-level IRS officials.

#### ■ Interest Netting

*Background.* Taxpayers ideally would like to offset the interest they owe on overdue taxes with the interest they can receive on tax refunds — a procedure known as "interest netting." While the IRS has already introduced some interest netting procedures in simpler situations, such computations can be difficult and expensive for taxpayers with more complicated taxes.

*Details of new initiative.* The IRS will conduct a study examining its current interest netting practices and investigate the feasibility of expanding such practices to cover new situations. Public comments soon will be requested.

#### Summary

Change is inevitable. But I can guarantee you that two things will

not change. One is our continued commitment to our partnership with our colleagues at the Wisconsin Department of Revenue — and to our new colleagues at the Departments of Revenue in Iowa and Nebraska. The other is my desire to continue an ongoing dialogue with the members of the professional tax community throughout our new district. □

### Administrative Rules in Process

Listed below are proposed new administrative rules and changes to existing rules that are currently in the rule adoption process. The rules are shown at their stage in the process as of April 1, 1996, or at the stage in which action occurred during the period from January 2 to April 1, 1996.

Each affected rule lists the rule number and name, and whether it is amended (A), repealed (R), repealed and recreated (R&R), or a new rule (NR).

#### Rules Sent to Legislative Council Rules Clearinghouse

- 11.47 Apportionment of net business income of interstate motor carriers of property-R&R
- 11.69 Financial institutions-A

#### Rules Being Reviewed Following Publication of Notice

- 9.01 Definitions-A
- 9.06 Affixing of state revenue stamps-A
- 9.08 Cigarette tax refunds to Indian tribes-A
- 9.09 Cigarette sales to and by Indians on reservations of tribes that have not entered into a refund agreement with the department-A

- 9.11 Refunds-A
- 9.12 Refunds — military-R
- 9.16 Meter machines-R
- 9.17 Meter machine settings-R
- 9.19 Fuson machines and stamps-A
- 9.21 Shipments to retailers-A
- 9.22 Drop shipments-A
- 9.26 Trade or transfer of unstamped cigarettes-A
- 9.31 Sales out of Wisconsin-A
- 9.36 Displaying of cigarettes-A
- 9.41 Vending machines-A
- 9.46 Purchases by the retailer-A
- 9.47 Invoicing of sales, including exchanges of cigarettes-A
- 9.51 Samples-A
- 9.61 Warehousing of cigarettes-A
- 9.68 Ownership and name changes-A

#### Rules Adopted But Not Yet Effective (anticipated effective date June 1, 1996)

- 2.09 Reproduction of income tax forms-R&R
- 2.105 Notice by taxpayer of federal audit adjustments and amended returns-R&R
- 2.12 Amended income and franchise tax returns-R&R
- 2.31 Compensation received by nonresident members of professional athletic teams-NR
- 3.94 Claims for refund-R

#### Rule on Hold Pending Court Decision

- 11.04 Constructing buildings for exempt entities-A □