



# Wisconsin TAX BULLETIN



## Voluntary Disclosure

See article on page 1,  
and pages 25 to 34.

## New Tax Laws to Be Addressed in Special Issue

The Governor introduced his Budget Bill for the 1997-99 biennium on February 12, 1997. This bill includes several provisions affecting Wisconsin taxes. Additional bills which affect Wisconsin taxes have also been introduced.

The Wisconsin Legislature is scheduled to complete work on the 1997-99 Budget Bill by June 26, 1997. If any provisions of the Budget Bill (or other bills) affecting Wisconsin taxes become law, a special issue of the *Wisconsin Tax Bulletin* explaining the new laws will be published later this summer. □

## Making Purchases for Resale

Contrary to what some people believe, a seller's permit is not a "tax number" that exempts businesses from paying sales tax. However, there is a way for businesses to

make tax-exempt purchases of property or services they intend to resell. It's called a resale certificate.

The Wisconsin resale certificate (Form S-205) is signed by buyers and given to sellers to verify that a sale is exempt. If valid and accepted in good faith, the resale certificate relieves the seller of the burden of proving that sales of tangible personal property or taxable services are not sales at retail.

Sellers claiming exemptions for "sales for resale" are required to retain resale certificates in support of such exemptions.

Additional information about resale certificates may be found on pages 38 and 39 of Publication 201, *Wisconsin Sales and Use Tax Information*. You may obtain Publication 201 and Wisconsin resale certificates at any Wisconsin Department of Revenue office. □

## Voluntary Disclosure Pays

If a person hasn't filed Wisconsin tax returns for prior years, or realizes that taxes were underpaid on previously filed Wisconsin returns, what should that person do? A contact by the Wisconsin Department of Revenue could result in costly civil and/or criminal penalties.

Don't wait for a letter or audit from the Department of Revenue. A better

alternative is to take advantage of the department's voluntary disclosure policies. Various penalties are waived and other benefits are obtained by voluntary disclosure.

Both of the department's voluntary disclosure policies are published in this Bulletin, on the following pages:

- Pages 25 to 27, relating to additional taxes or excessive credits on previously filed returns. (Note: this is a new policy.)
- Pages 28 to 34, relating to unfiled returns (including copies of sample agreements). (Note: This is the same information as published in January 1995, in *Wisconsin Tax Bulletin* 90). □

## Focus on Publications: Wisconsin Taxpayer Bill of Rights

Wisconsin taxpayers have both responsibilities and rights. Department of Revenue (DOR) Publication 114, *Wisconsin Taxpayer Bill of Rights*, summarizes a Wisconsin taxpayer's rights under Wisconsin law, as they relate to individual income, corporation franchise or income, fiduciary income, sales and use, and withholding taxes. These rights include the right to:

- courteous treatment by DOR employees;
- information about Wisconsin tax laws;

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**Need a Speaker?**

Are you planning a meeting or training program? The Department of Revenue's Speakers Bureau 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 sales/use, income, and corporate tax laws.
- How sales tax affects contractors, manufacturers, nonprofit organizations, or businesses in general.
- What to expect in an audit.
- Common errors discovered in audits.
- Manufacturing property assessment.

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. □

**Claims for Refund of Franchise or Income Tax – Any Specific Form or Manner?**

Are claims for refunds of income or franchise taxes, or for refunds of homestead and farmland preservation credits, **required** to be filed on a certain form and in a specific manner? The answer is "yes." These requirements, which became effective November 1, 1994, result from a law (1993 Wisconsin Act 205) which was passed in 1994. (**Note:** 1993 Wisconsin Act 205 does not apply to claims for refunds of sales and use taxes.)

- assistance from DOR with state tax forms;
- privacy and confidentiality;
- pay only the required tax;
- a prompt refund of overpaid taxes;
- fair treatment during tax audits;
- appeal DOR determinations; and
- reasonable tax collection arrangements.

A copy of Publication 114 is given to each taxpayer at the initial conference regarding a field audit. Copies are also available at various speeches given by DOR representatives to practitioners and other business organizations throughout the state. In addition, the publication is available at DOR offices, by mail, by fax, and by internet. See the article titled "Tax Publications Available" on page 8 of this Bulletin for information about how to obtain this and other DOR publications. □

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**Wisconsin Tax Bulletin Annual Index Included**



Once each year the *Wisconsin Tax Bulletin* includes an index of articles, tax releases, court cases, private letter rulings, and other materials that have appeared in past Bulletins. The index for issues 1 (October 1976) to 99 (October 1996) can be found on pages 39 to 66 of this Bulletin. □

## Form

An amended Wisconsin tax return or credit claim requesting a refund must be filed on the proper form, as follows:

- If the original form was a Form 1, 1A, or WI-Z, the amended form must be a Form 1X.
- If the original form was a Form 4 or 5, the amended form must be a Form 4X.
- If the original form was a Form 1NPR, 2, 3, 3S, 4I, 4T, 5S, 1CNP, or 1CNS, or a Schedule H filed without a tax return, the amended form must be the same form as the original.
- If the original form was a tax return which included a Schedule H or FC and that schedule is changed, the amended form must include the revised Schedule H or FC.

**(Note:** An amended Wisconsin tax return or credit claim filed for a purpose other than to request a refund is not required to be filed on the form prescribed above, although the department prefers that the prescribed form be used. The above requirements also do not apply if the department has notified a taxpayer that a special form has been developed to address a specific tax issue.)

## Manner

An amended Wisconsin tax return or credit claim must be filed in a specific manner, as explained below.

- It must be in writing.
- It must be properly identified. If the amended form is not a Form 1X or 4X, the "Amended return" box must be checked if one is provided on the form, or "AMENDED" must be marked

at the top of the front page of the amended form.

- It must indicate the reporting period for which the changes are being made.
- It must contain a statement setting forth the specific grounds upon which the amended form is based.
- It must be mailed to the department at the address specified on the form or in its instructions, or if there is no address specified, it may be mailed to Wisconsin Department of Revenue, P.O. Box 8991, Madison, WI 53708-8991.

**(Note:** An amended return or credit claim requesting a refund may **not** be made a part of or attached to any original Wisconsin return or credit claim.)

## Questions

Following are common questions, answers, and examples regarding the filing of refund claims.

**Question 1:** What if a taxpayer files a claim for refund on the wrong form?

**Answer 1:** If the claim for refund was timely filed, the department will return it to the taxpayer, along with the appropriate form and instructions indicating a date by which it must be completed and returned. To receive a refund, the taxpayer will be required to file the claim for refund on the prescribed form by the last date for timely filing the claim for refund, or within 30 days from the taxpayer's receipt of the appropriate form from the department, whichever is later.

*Example 1:* The taxpayers (husband and wife) filed an original 1993

Wisconsin individual income tax return on a Form 1A. On October 3, 1997, they file a claim for refund on a 1993 Wisconsin Form 1. Since they did **not** file their claim for refund on the proper form (Form 1X, Wisconsin Income Tax — Amended Return), the department returns their claim for refund, along with the appropriate Form 1X. The taxpayers have until April 15, 1998, to file their claim for refund on the Form 1X.

*Example 2:* Assume the same facts as Example 1, except that the taxpayers file their claim for refund on a 1993 Form 1 on April 15, 1998. The department returns their claim for refund, along with the appropriate Form 1X. The taxpayers have 30 days from their receipt of the Form 1X to file their claim for refund on the Form 1X.

**Question 2:** What if a taxpayer files a claim for refund in letter format?

**Answer 2:** The claim for refund will **not** be accepted in that format. When the department becomes aware of a timely filed claim for refund in any format other than on the prescribed form, the department will proceed as described in Answer 1.

**Question 3:** What should a taxpayer do if on the last day for filing a claim for refund the taxpayer does not have the prescribed form?

**Answer 3:** If the form is available through the department's Fax-A-Form system or via the Internet, the taxpayer may receive the form by calling the Fax-A-Form number, (608) 261-6229, or by accessing the department's World Wide Web site at <http://www.dor.state.wi.us>. The taxpayer may also obtain the required form at a department office or at another public building (e.g., a library).

If the taxpayer is unable to obtain the proper form by the last day for timely filing a claim for refund, the taxpayer may file a handwritten claim for refund with the department. That claim for refund must be postmarked to later than the last day for timely filing the claim. The department will send the proper form to the taxpayer, and the taxpayer will have 30 days from receipt of the form to file the claim for refund on the proper form.

*Example:* On April 15, 1998, the taxpayers (husband and wife) determine that they are entitled to a refund for 1993. They are unable to obtain a Wisconsin Form 1X in time to file their claim for refund. They may file a written claim for refund in letter format; the claim for refund must be postmarked no later than April 15, 1998. The department will handle the claim for refund as described in Answers 1 and 2.

**Question 4:** What if a taxpayer attaches a claim for refund to an original tax return?

**Answer:** A claim for refund attached to an original return is not valid. The claim for refund will not be considered as filed in the proper manner, since it is not filed separately from any original return or credit claim.

However, if the department identifies the invalid claim for refund before the last date for timely filing a claim for refund **and** the claim was filed on the prescribed form, the department will remove it from the original return and act on it as a valid claim.

If the department identifies the invalid claim for refund before the last date for timely filing a claim for refund, but the claim was not filed on the prescribed form, the depart-

ment will handle it as described in Answers 1 and 2.

If the department identifies the invalid claim for refund but the claim was filed late, the claim for refund will be rejected.

*Example 1:* The taxpayer (a single individual) attaches a 1993 amended Wisconsin Form 1X to a timely filed original 1996 individual income tax return. Because the 1993 amended return is attached to an original return, the claim for refund is not valid. However, if the department identifies the 1993 amended return on or before April 15, 1998, the department will act on it as a valid claim.

*Example 2:* In Example 1, if the department does not identify the 1993 amended return until after April 15, 1998, the claim for refund will be rejected.

*Example 3:* The taxpayer (a single individual) attaches a letter claiming a refund for 1993 to a timely filed original 1996 Wisconsin income tax return. The claim for refund is not valid, because it is attached to an original return, and also because it was not filed on the prescribed form. However, if the department identifies the invalid 1993 claim for refund on or before April 15, 1998, the department will handle the claim as described in Answers 1 and 2. □



## 191,000 Receive Wisconsin Earned Income Credit

More than 191,000 Wisconsin families received state earned income credit (EIC) benefits amounting to \$54.8 million in 1996. The state credits are in addition to federal EIC benefits paid to Wisconsin families.

This is an 11.4% increase over the \$49.2 million distributed through the state program last year. The average credit was \$287 in both 1995 and 1996, but the number of families benefiting rose by nearly 20,000. Many groups, including community-based organizations, employers, and others, deserve thanks for helping to expand awareness of the program.

Wisconsin is one of only a handful of states offering an earned income credit in addition to the federal credit. The state program, created in 1989, is based on a percentage of the federal EIC, depending on the number of children: 4% of the federal amount for claimants with one qualifying child, 14% for those with two children, and 43% for claimants with three or more children.

For 1996 EIC payments, the income cap for both federal and state EIC programs is \$25,078 for families with one child and \$28,495 for families with two or more children. To qualify for the state credit for 1996, claimants must have been full-year Wisconsin residents and must have had one or more children living at home for at least six months of 1996 (grandchildren can also qualify). One or both parents (or grandparents) must have worked full or part time during 1996.

The earned income credit is a component of "Wisconsin Works" or "W-2," Wisconsin's welfare reform strategy. It is anticipated that about 13,000 additional claims will be filed in 1997 as a result of the W-2 initiative. The combined benefits of federal and state EIC benefits for new entrants into the labor market can be substantial.

Help completing federal and state tax forms is available from Internal Revenue Service offices and Wisconsin Department of Revenue offices

located throughout the state. Locations and phone numbers of state Revenue Department offices are listed in state tax booklets and local telephone directories (under "Wisconsin, State of"). Help with the state EIC is also available by calling (608) 266-2772. Additional information about the federal EIC is available by calling 1-800-829-1040. □

### Information or Inquiries?

This Bulletin includes a comprehensive listing of addresses and telephone numbers to use if you wish to contact the Department of Revenue about any of the taxes administered by the Income, Sales, and Excise Tax Division. The listing appears on pages 35 to 38 and is arranged by the type of tax or credit involved. □

### Tax Information Is Available

In addition to making available the *Wisconsin Tax Bulletin* and tax forms and instructions that taxpayers use to report and pay their taxes or obtain refunds, the Wisconsin Department of Revenue also has available other information. This information includes the items listed below.

#### Topical and Court Case Index

This two-part index will help you locate reference material to research your Wisconsin tax questions relating to income, franchise, withholding, sales/use, gift, inheritance/estate, and excise taxes. The *Topical and Court Case Index* is available on a subscription basis for \$18 per year, plus tax. This includes a volume published in January and an addendum published in June (see the order blank on page 67 of this Bulletin).

The first part of the index, the "Topical Index," lists by tax type, alphabetically by subject, references to Wisconsin statutes, administrative rules, Wisconsin tax publications, *Sales and Use Tax Reports*, Attorney General opinions, and *Wisconsin Tax Bulletin* articles, tax releases, and private letter rulings.

The second part, the "Court Case Index," lists by tax type, alphabetically by issue, decisions of the Wisconsin Tax Appeals Commission, Circuit Court, Court of Appeals, and Wisconsin Supreme Court.

#### Wisconsin Package WI-X

Package WI-X contains copies of most Wisconsin individual and fiduciary income tax, corporation franchise and income tax, sales and use tax, withholding tax, partnership, estate tax, and motor vehicle fuel tax forms. Most of the forms may be reproduced for use in filing the form.

Package WI-X is published annually and is generally available at the end of January. The cost is \$7 per copy, plus tax. Mail your request and payment to Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8903, Madison, WI 53708-8903.

#### Tax Publications

See the separate article titled "Tax Publications Available," on page 8 of this Bulletin.

#### Sales and Use Tax Report

The *Sales and Use Tax Report* includes general information about Wisconsin sales and use tax, including explanations of new laws and updated listings of counties that have adopted the county tax.

The *Sales and Use Tax Report* is published quarterly on an as-needed basis. It is mailed without charge to all persons holding a seller's permit or use tax certificate. In addition, the *Sales and Use Tax Report* is generally reproduced in the *Wisconsin Tax Bulletin*.

#### Wisconsin Administrative Code

The Revenue (Tax) section of the Wisconsin Administrative Code contains administrative rules that interpret Wisconsin tax laws administered by the Department of Revenue.

The initial fee to obtain all current rules in the Tax section of the Wisconsin Administrative Code is \$20, plus tax. Updates to the Tax section as changes occur are available for an additional fee of \$20 per year, plus tax. A binder to hold the Code is available for \$8, plus tax. These can all be ordered by using the order blank on page 67 of this Bulletin. □

### Question and Answer

**Q** I have a computer which is connected to the Internet. Can I get Wisconsin tax forms from the Internet?

**A** Yes. Visit the Wisconsin Department of Revenue's Web Site at <http://www.dor.state.wi.us>. Most major Wisconsin tax forms are available through the Internet.

**Q** I have access to a fax machine. Can I get Wisconsin tax forms by fax?

**A** You can get Wisconsin tax forms by fax by calling (608) 261-6229 from the telephone connected to your fax machine. Department publications are also available by fax. □