

1997 Estimated Tax Requirements for Individuals, Estates, and Trusts

Taxpayers who expect to owe \$200 or more of tax and temporary recycling surcharge on a 1997 Wisconsin income tax return are required to pay 1997 Wisconsin estimated tax. There are exceptions for certain estates and trusts, as explained below. A 1997 Form 1-ES, 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, 1997. Installment payments are also due on June 16, 1997, September 15, 1997, and January 16, 1998. 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, 1996. 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, 1998.

A trust which is subject to tax on unrelated business income is generally required to pay 1997 Wisconsin estimated tax if it expects to owe \$500 or more on a 1997 Wisconsin franchise or income tax return (Form 4T). A 1997 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 a taxpayer does not make the estimated tax payments when required or underpays any installment, interest may be assessed. □



Farmers Receive \$43.5 Million in Farmland Credits

Approximately \$43.5 million in direct benefits were distributed to Wisconsin farmers in 1996 through the farmland preservation credit program and the farmland tax relief credit program. About 23,000 Wisconsin farmers claimed farmland preservation credits amounting to \$28.4 million, and 60,650 farmers received farmland tax relief credits totalling \$15.1 million.

Farmland Preservation Credit

Benefits averaging \$1,203 per claimant (28% of their property tax liabilities) were distributed through the farmland preservation credit program. The goals of this program are to preserve Wisconsin farmland, encourage local land use planning and soil conservation practices, and provide property tax relief to farmland owners. About 38% of owners with at least 35 acres participated in the farmland preservation credit program in 1996.

To qualify for relief under this program, farmland must be zoned for exclusive agricultural use or be subject to a preservation agreement between the farmland owner and the state. About 82% of the claims were for land under zoning and 18% were for land covered by agreements. In addition, participants must comply with soil and water conservation standards developed by county land conservation committees, based on guidelines set by the state Land Conservation Board.

Farmland Tax Relief Credit

Farmland tax relief credits averaging \$247 were paid in 1996. These credits equal 10% of the first \$10,000 of property taxes on qualifying farmland. This program, which is in addition to the farmland preservation credit program, provides direct benefits to virtually all Wisconsin farmland owners with 35 or more acres. □

Filing Wisconsin Fiduciary and Estate Tax Returns

Wisconsin Fiduciary Returns

Who Must File

Every personal representative or special administrator of the estate of a Wisconsin decedent must file a Wisconsin fiduciary income tax return (Form 2) if the gross income of the estate is \$600 or more. Nonresident estates must file Wisconsin fiduciary returns if they have gross income of \$600 or more from Wisconsin sources.

Every trustee of a Wisconsin trust must file a Wisconsin fiduciary income tax return (Form 2) if the trust has:

1. any taxable income for the tax year, or
2. gross income of \$600 or more, regardless of the amount of taxable income.

A nonresident trust must file a Wisconsin fiduciary income tax return if the trust has:

1. any Wisconsin taxable income for the year, or

2. gross Wisconsin income of \$600 or more, regardless of the amount of taxable income.

Trusts must file on a calendar-year basis, and the due date is the following April 15. (Exception: a limited number of charitable trusts may file on a fiscal-year basis.) Estates may choose any fiscal year, but the first return may not cover more than a 12-month period, and the taxable year must end on the last day of a month. The due date for fiduciary returns for estates is 3½ months after the close of the fiscal year.

Closing Certificates

Every executor, administrator, personal representative, or trustee applying to a court in Wisconsin having jurisdiction for discharge must obtain a Closing Certificate for Fiduciaries from the department. Before the certificate will be issued, all required income, gift, sales, use, and withholding tax returns and reports, with the exception of the final income tax return of the estate or trust, must be filed.

With the next-to-final fiduciary return, estates must submit a copy of the probate inventory and a copy of the decedent's will. Trustees must submit a statement as to why the trust is closing, copies of annual court accountings for the past three years, and a copy of the trust agreement (or will creating such trust) if not submitted with a prior return.

If an estate does not have enough income to require filing and needs a Closing Certificate for Fiduciaries, or if the estate will be filing only one fiduciary return when the estate is closed and needs the closing certificate before filing that return, use the following procedures:

1. Complete the top third of page 1 of Form 2.

2. Insert the appropriate statement at line 1:

- a. "Gross income is less than \$600 and no 1041 is required." or
- b. "A first and final return will be filed upon closing the estate."

3. Complete the "Information Required" section of page 2 of Form 2.

4. Sign and date the Form 2.

5. Attach copies of the inventory and will.

The department shall determine that all income, withholding, sales, use, gift, and delinquent taxes are paid. A Closing Certificate for Fiduciaries will then be issued. This does not relieve the executor, administrator, personal representative, or trustee from filing the final fiduciary income tax return. If a probate final account is filed with the court, a copy must be attached to the final return.

For the fiscal year ending June 30, 1996, the department issued nearly 10,000 Closing Certificates for Fiduciaries.

Wisconsin Estate Tax Returns

(Note: Effective for deaths occurring on or after January 1, 1992, there is no longer a Wisconsin inheritance tax. It is replaced with a Wisconsin estate tax.)

Filing Requirement

An estate is required to file a Wisconsin estate tax return (Form W706) if it is required to file a federal estate tax return. An estate is required to file a federal estate tax return (Form 706) if the gross estate

at date of death plus gifts in excess of \$10,000 made to each donee per calendar year since December 31, 1976, exceeds \$600,000.

The Wisconsin estate tax is equal to the credit for state death taxes allowed on the federal estate tax return (line 15 of federal Form 706). This credit is computed under section 2011 of the Internal Revenue Code (IRC). Estates owning property both within and outside Wisconsin owe a percentage of the credit to Wisconsin based on gross Wisconsin property divided by gross total property.

Due Date

The personal representative, special administrator, trustee, or distributee must file the Wisconsin estate tax return by the due date, which is 9 months after the date of death or the extended due date allowed by the Internal Revenue Service (IRS).

If the return is filed after the due date, there is a penalty equal to 5% of the tax, with a minimum of \$25 and a maximum of \$500.

Payment of Tax

The tax is due 9 months after the decedent's date of death, even if an extension has been obtained to file the return.

If the tax is not paid within 9 months of the decedent's death, interest is imposed at 1% per month from the date of death.

Examples:

1. The decedent died February 15, 1996. An extension of time to file the federal estate tax return was obtained from the IRS. The Wisconsin estate tax return and payment of the tax were submitted on December 31, 1996,

which was within the extension period. Tax of \$1,200 was due. The total amount due is \$1,326, computed as follows:

Tax	\$1,200
Interest (1% x 10½ months)	<u>126</u>
Total amount due	<u>\$1,326</u>

- The decedent died February 15, 1996 and did not obtain an extension to file from the IRS. The Wisconsin estate tax return was filed December 31, 1996, and showed no tax due. This estate owes the minimum penalty of \$25.

Installment Payments

Effective for deaths occurring on or after July 29, 1995, some estates may qualify to pay the Wisconsin estate tax in installments. If a percentage of the federal estate tax may be paid in installments under IRC section 6166, the same percentage of Wisconsin estate tax may be paid under the same installment schedule. However, an election to pay in installments for federal estate tax purposes does not automatically constitute an election for Wisconsin purposes. **Written notice of the election to pay the Wisconsin estate tax in installments must be filed with the Wisconsin Department of Revenue within nine months after the decedent's death.** The provisions on acceleration of installment payments under IRC section 6166(g) also apply for Wisconsin purposes.

Interest is computed at the rate of 12 percent per year from date of death. Distributees of real estate must provide to the department a certified copy of a lien for unpaid taxes and interest on the property to secure payment, and record the lien in the office of the register of deeds of the county in which the property is located. Distributees of personal

property must provide either a lien or a financial guarantee bond equal to the estimated tax and interest, if the tax has not been determined. Upon determination of the tax, distributees of personal property must either provide a lien or a financial guarantee bond sufficient to secure payment of the tax and interest, or pay the excess over the amount of tax and interest secured by the bond.

Any distributee who fails to provide the security required or disposes of one-third or more of the property on which the tax is secured must pay the tax in full.

Certificate Determining Estate Tax

Upon receipt of the Wisconsin estate tax return and review for correctness, the department will issue a Certificate Determining Estate Tax. If the IRS increases or decreases the federal estate tax, the person entitled to the refund or liable for the additional tax is required to notify the department within 30 days. □

Tax Publications Available

Over 50 publications are available, free of charge. To receive any of the publications by mail, write, call, or fax a request to Wisconsin Department of Revenue, Forms Request Office, P.O. Box 8903, Madison, WI 53708-8903 (telephone (608) 266-1961, fax (608) 261-6239).

Publications can also be received via your fax machine, using the department's Fax-A-Form system by calling (608) 261-6229 from a fax telephone. Some publications are also available via the Internet, by accessing the department's World Wide Web site at

<http://www.dor.state.wi.us>

Income and Franchise Taxes

- Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders (11/96)
- Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, Trusts (10/96)
- Wisconsin Taxation of Military Personnel (8/96)
- Wisconsin Tax Information for Retirees (8/96)
- Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 1996 (10/96)
- Wisconsin Estimated Tax and Estimated Surcharge for Individual, Estates, Trusts, Corporations, Partnerships (11/96)
- Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (10/96)
- Wisconsin Federal/State Electronic Filing Handbook (9/96)
- Income Tax Payments Are Due Throughout the Year (12/95)
- Limited Liability Companies (LLCs) (11/96)
- Net Operating Losses for Individuals, Estates, and Trusts (11/96)
- Reciprocity (10/95)
- Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 1996 (10/96)
- Business Tax Credits for 1996 (11/96)
- Wisconsin Taxation of Lottery Winnings (11/93)
- Wisconsin Taxation of Pari-Mutuel Wager Winnings (3/94)

Sales and Use Taxes

- Sales and Use Tax Information for Electrical Contractors (2/97)

- 201 Wisconsin State and County Sales and Use Tax Information (1/97)
- 202 Sales and Use Tax Information for Motor Vehicle Sales, Leases, and Repairs (2/97)
- 203 Sales and Use Tax Information for Manufacturers (12/94)
- 205 Do You Owe Wisconsin Use Tax? (Individuals) (2/97)
- 206 Sales Tax Exemption for Non-profit Organizations (9/90)
- 207 Sales and Use Tax Information for Contractors (2/96)
- 210 Sales and Use Tax Treatment of Landscaping (5/94)
- 211 Sales and Use Tax Information for Cemetery Monument Dealers (2/97)
- 212 Businesses: Don't Forget About Use Tax (2/97)
- 213 Travelers: Don't Forget About Use Tax (2/97)
- 214 Do You Owe Wisconsin Use Tax? (Businesses) (2/97)
- 216 Filing Claims for Refund of Sales or Use Tax (9/95)
- 217 Auctioneers – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (3/96)
- 219 Hotels, Motels, and Other Lodging Providers – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (6/96)
- 220 Grocers – How Do Wisconsin Sales and Use Taxes Affect Your Operations? (8/96)

Audits and Appeals

- 501 Field Audit of Wisconsin Tax Returns (2/96)
- 505 Taxpayers' Appeal Rights of Office Audit Adjustments (6/96)
- 506 Taxpayers' Appeal Rights of Field Audit Adjustments (2/96)
- 507 How to Appeal to the Tax Appeals Commission (4/96)

Other Topics

- 111 How to Get a Private Letter Ruling From the Wisconsin Department of Revenue (3/96)
- 114 Wisconsin Taxpayer Bill of Rights (1/97)
- 117 Guide to Wisconsin Information Returns (10/96)
- 118 Electronic Funds Transfer Guide (4/96)
- 130 Fax A Form (8/96)
- 400 Wisconsin's Temporary Recycling Surcharge (11/96)
- 410 Local Exposition Taxes (11/94)
- 500 Tax Guide for Wisconsin Political Organizations and Candidates (1/97)
- 502 Do You Have Wisconsin Tax Questions? (2/97)
- 503 Wisconsin Farmland Preservation Credit (12/96)
- 504 Directory for Wisconsin Department of Revenue (10/96)
- 508 Wisconsin Tax Requirements Relating to Nonresident Entertainers (8/94)
- 509 Filing Wage Statements and Information Returns on Magnetic Media (3/94)
- 700 Speakers Bureau presenting ... (2/93)
- W-166 Wisconsin Employer's Withholding Tax Guide (3/96)

It's Costly to Evade Taxes

Mark E. Breneman, 25, Madison, was found guilty in February 1997, of one count of tax evasion related to the purchase of a GMC truck. According to the criminal complaint, he purchased a 1993 GMC truck for \$17,000 but listed the purchase price as \$6,146 when he registered it in June 1995 with the Department of



Transportation. He evaded \$597 in state sales taxes. Breneman was also charged with filing another false Application for Title/Registration regarding a 1986 Ford Mustang which he purchased for \$5,250 in October 1993. He reported a purchase price of \$500 and evaded sales taxes of \$261.

Breneman pled no contest to one count as part of a plea agreement. Dane County Circuit Court Judge Jack Aulik ordered him to make restitution to the state for tax and penalties of \$1,287.34, to pay a \$500 fine plus \$195 court costs, and to perform 48 hours of community service within the next six months. If the community service is not performed, Breneman must spend two days in the Dane County Jail.

A person who buys a vehicle from a non-dealer must report the purchase price and pay the use tax when registering the vehicle with the State of Wisconsin. The Department of Revenue implemented a new program in November 1996 which uses Vehicle Identification Numbers to determine if buyers paid the correct amount of tax. Buyers who are found to have under-reported the purchase price are assessed for the tax due, interest of 12% per year, and a 50% negligence penalty. Wisconsin law also provides for criminal penalties of up to 30 days in jail and up to \$500 in fines for under-reporting the purchase price of a vehicle.

Steven R. Hansen, Stoughton, was found guilty, also in February, of one count of tax evasion related to the purchase of a Chevrolet Blazer. According to the criminal complaint, Hansen purchased a 1992 Blazer for \$16,000 but listed the purchase price as \$5,000 when he registered it with the Department of Transportation, evading \$605 in state sales taxes.

Dane County Circuit Court Judge Michael Nowakowski fined Hansen

\$200 plus costs. In addition to the criminal penalties, civil penalties and interest were assessed on the amount under-reported.

In January 1997, Roland Travers, 60, Elkhorn, was charged by the Dane County District Attorney's Office with three counts of failure to file Wisconsin income tax returns. According to the criminal complaint, Travers failed to file income tax returns for 1993, 1994, and 1995. During those years he was a construction laborer, and he earned more than \$50,000 each year.

If convicted on all counts, Travers faces up to 27 months in jail and up to \$30,000 in fines. 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, assessment and collection of the taxes, penalties, and interest due follows a conviction for criminal violations.

In February 1997, Alcohol and Tobacco Enforcement agents of the Department of Revenue and Milwaukee police detectives recovered 48 cases of whiskey which had been reported stolen from a Milwaukee liquor wholesaler in January. The recovered property had a wholesale value of approximately \$10,000.

The investigators recovered the liquor at Food Town, a food and liquor store in Milwaukee. Although store owners denied any knowledge of how the liquor got to their store, one of the owners was taken into custody, to be charged with receiving stolen property and possession of un-invoiced alcohol beverages. Investigators also seized 14 cartons of cigarettes which were not covered by invoice, and which are suspected to have been stolen.

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, 1997, or at the stage in which action occurred during the period from January 2, 1997 to April 1, 1997.

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).

Proposed Rules Being Drafted

- 11.002 Permits, application, department determination-A
- 11.01 Sales and use tax return forms-A
- 11.15 Containers and other packaging and shipping materials-A
- 11.35 Occasional sales by non-profit organizations on or after January 1, 1989-A
- 11.39 Manufacturing-A
- 11.41 Exemption of property consumed or destroyed in manufacturing-A
- 11.66 Telecommunications and CATV services-A
- 11.97 "Engaged in business" in Wisconsin-A

Rules Sent to Legislative Council Rules Clearinghouse

- 11.12 Farming, agriculture, horticulture and floriculture-A

Rules Adopted and in Effect (March 1, 1997)

- 11.83 Motor vehicles-A

Rule on Hold Pending Court Decision

- 11.04 Constructing buildings for exempt entities-A

Recently Adopted Rules Summarized

Summarized below is information regarding sec. Tax 11.83 (Motor vehicles), revised effective March 1, 1997.

In addition to the summaries of the changes, the text of some of the revised rules is reproduced, excluding notes and examples. In the amendments, material lined through (~~lined through~~) represents deleted text, and underscored (underscored) material represents new text.

To order up-to-date administrative rules of the Department of Revenue, you can use the order blank on page 67 of this Bulletin to obtain the Revenue section of the Wisconsin Administrative Code.

Tax 11.83(1), (2), (3)(d), (4)(b), (6), (7)(a), (11)(c), and (12) are amended to conform language and format to Legislative Council Rules Clearinghouse standards. In addition, Tax 11.83(2)(a) and (b) and Tax 11.83(11)(c) are further amended to clarify when the provisions of those paragraphs apply.

Tax 11.83(5) is amended to clarify the language in sec. 77.53(17), Wis. Stats.

Tax 11.83(8) is repealed and recreated to reflect the amendments to secs. 77.53(1), 77.56(2), and 77.71(2), Wis. Stats., and the creation of sec. 77.53(1m), Wis. Stats., by 1995 Wisconsin Act 27.

The text of Tax 11.83(2)(a), (2)(b), (5), (8), and (11)(c) is as follows:

11.83(2)(a) ~~Gross receipts from the~~ The sale of a motor vehicle minus any trade-in allowance, if the sale and trade-in are one transaction. A separate or independent sale of a motor vehicle by either the buyer or seller of another motor vehicle is not a trade-in, even if the proceeds from the sale are immediately applied by the seller to a purchase of another motor vehicle. A dealer does not realize taxable receipts from a transaction in which one motor vehicle is traded for another of lesser value, called a "trade-down," unless cash or services are received by the dealer.

(2)(b) ~~Gross receipts from charges for~~ The delivery, handling, and preparation of a motor vehicle being sold and any the sale of a warranty, relating to the sale of a motor vehicle that is taxable.

(5) TEMPORARY USE IN WISCONSIN. Motor vehicles purchased outside Wisconsin, which are not registered or titled or required to be registered or titled in Wisconsin, brought into Wisconsin by a nondomiciliary for that person's own storage, use or other consumption while temporarily in Wisconsin are not subject to use tax when the motor vehicle is not stored, used or otherwise consumed in Wisconsin in the conduct of a trade, occupation, business or profession or in the performance of personal services for wages or fees.

(8) VEHICLES USED BY LICENSED WISCONSIN MOTOR VEHICLE DEALERS.

(a) *General.* Motor vehicles purchased without tax for resale by a Wisconsin motor vehicle dealer licensed under s. 218.01, Stats., and used for a purpose in addition to retention, demonstration or display, except motor vehicles loaned to any school or school district for a driver training educational program conducted by the school or school district, are subject to Wisconsin use tax. Motor vehicles used by the dealership solely for retention, demonstration and display, while holding them for sale in the regular course of business, or solely for leasing to others, such as customers and employees, are not subject to Wisconsin use tax.

(b) *Amount subject to use tax.* The amount subject to use tax on a motor

vehicle used by a licensed motor vehicle dealer for a purpose in addition to retention, demonstration or display is one of the following:

1. Motor vehicles held for sale which are assigned to a specific dealer employe subject to withholding from federal income tax on wages are subject to Wisconsin use tax on \$96 per motor vehicle registration plate per month.

2. Motor vehicles held for sale and not assigned to a specific dealer employe subject to federal withholding on wages are subject to Wisconsin use tax on the lease value of the motor vehicle computed on a calendar month basis. If a motor vehicle is used by the dealer for a period of less than one calendar month, the amount subject to use tax is the daily lease value calculated by multiplying the applicable monthly lease value by a fraction, the numerator of which is the number of days used by the dealer for a purpose in addition to retention, demonstration or display and the denominator of which is the number of days in the calendar month. Lease value is computed using the internal revenue service lease value table contained in internal revenue service regulation s. 1.61-21(d)(2). In the lease value table, the "automobile fair market value" is one of the following:

a. The amount an individual would have to pay in an arm's length transaction to purchase the motor vehicle. The amount includes all amounts attributable to the purchase of the automobile such as sales tax and title fees.

b. The motor vehicle dealer's cost of purchasing the automobile, including all expenses attributable to that purchase, provided the automobile is owned by the dealer and the purchase was made at arm's length.

3. Motor vehicles not held for sale, including motor vehicles properly capitalized for Wisconsin income or franchise tax purposes, are subject to use tax based on the sales price of the motor vehicle as defined in s. 77.51(15), Stats. However, if the motor vehicles were purchased without tax using a resale or other exemption certificate and the first use, in addition to retention, demonstration or display,

occurs more than 6 months after the purchase by the dealer, the dealer may use the fair market value of the motor vehicle at the time of first use as the amount subject to tax.

(c) *Recordkeeping.* It is presumed that all dealer plates issued by the department of transportation to a licensed motor vehicle dealer are used each month on motor vehicles assigned to employes subject to withholding for federal income tax purposes for a purpose in addition to retention, demonstration or display and are subject to use tax as provided in par (b)1, unless one of the following applies:

1. The motor vehicle dealer keeps adequate records showing that the dealer plates were not used during the month on motor vehicles for a purpose in addition to retention, demonstration or display.

2. The motor vehicle to which the dealer plate is assigned is subject to use tax as computed in par. (b)2. or 3.

(d) *Transitional provision.* For motor vehicles, not assigned to employes or salespersons subject to federal withholding on wages, that are used by the dealer for a purpose in addition to retention, demonstration and display both prior to September 1, 1995, and on and after September 1, 1995, upon which a sales or use tax was paid on the purchase price of the motor vehicle by the dealer, the imposition of use tax as described in par. (b)2. does not apply.

(11)(c) A supplier ~~cannot~~ may not accept a resale certificate in good faith on items which are not physically transferred to the purchaser's customer, except when the purchaser does all of the following:

1. Inventories the property;
2. Certifies that the purchaser sells ~~significant amounts of~~ the property over the counter to walk-in trade; and in the regular course of business.

3. ~~The purchaser specifies~~ Specifies on the resale certificate each type of item the purchaser sells ~~over the counter in the regular course of business.~~