

Wisconsin TAX BULLETIN

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Update: Important Sales and Use Tax Changes Effective October 1, 2009

Effective October 1, 2009, a number of changes were made to Wisconsin's sales and use tax laws which affect Wisconsin retailers. The October issue of the *Wisconsin Tax Bulletin* (WTB) listed a number of these changes, and since that time the department has published additional information concerning a number of other changes. This information is just a click away, using the links below. Please note that the changes listed below and in the October WTB are not all-inclusive. Additional sales and use tax changes were also included in 2009 Wisconsin Act 2 and 2009 Wisconsin Act 28.

- [Products Purchased Prior to October 1, 2009 That No Longer Qualify for Exemption Because of Changes in Definitions – Use Tax Not Due](#)
- [Change in Items Subject to Local Food and Beverage Tax](#)
- [Drop Shipment Sales - Change in Wisconsin Sales and Use Tax Treatment](#)
- [Sales to Restaurant Employees](#)
- [Sales of Food and Food Ingredients by Hospitals and Other Facilities](#)
- [Items Given Away for Free](#)
- [Equipment Provided With Operator](#)

Local Food and Beverage Tax Rate To Increase July 1

Effective July 1, 2010, the 0.25% local food and beverage tax will be increased to 0.5%. This increase is a result of the Wisconsin Center District exercising its authority to increase the rate, as provided in sec. 77.981, Wis. Stats. (2007-08), as amended effective October 1, 2009 by 2009 Wis. Act 2.

Note: A change in items subject to the local food and beverage tax occurred effective October 1, 2009. A link to additional information concerning this change, as well as other important sales and use tax changes effective October 1, 2009, may be found above. [↗](#)

Sales and Use Tax Report Available

The latest issue of the [Sales and Use Tax Report](#) became available on the Department of Revenue's web site in December. The December 2009 *Sales and Use Tax Report* (5-09) contains additional information concerning recent sales and use tax law changes and other pertinent sales and use tax information, including the following important reminders:

- Beginning April 1, 2010, the 0.5% county tax will be in effect in Fond du Lac County.
- Effective January 1, 2010, the motor vehicle dealers' measure of use tax was decreased from \$140 to \$138 per plate per month.
- Effective January 1, 2010, the premier resort area tax rates for the City of Wisconsin Dells and Village of Lake Delton increased from 0.5% to 1.0%.
- The department is no longer mailing Forms ST-12 and WT-7.
- The department's electronic funds transfer (EFT) registration and payment system is no longer available for sales and use tax, withholding tax, business tax registration renewal fee, premier resort area tax, and rental vehicle fee.
- A new withholding teleFile option is available for filing and paying WT-6 deposit reports and WT-7 annual withholding reconciliations.
- There are six new self-help Internet videos to help with registering, filing returns, and making payments in *My Tax Account*. [↗](#)



Hmm...This Stuff Looks Familiar

Has our front page given you a sense of déjà vu? If so, don't worry. More than likely you're among those who previously received much of this information through our [tax practitioner page](#) and [electronic mailing lists](#). They're the most efficient and timely means of getting the information you need (but you probably already knew that). [↗](#)

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Updated Publications

Since the last issue of the *Wisconsin Tax Bulletin*, the following publications of the Income, Sales, and Excise Tax (IS&E) Division of the Department of Revenue have been revised:

Income and Franchise Taxes

- 103 Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, and Trusts (11/09)
- 104 Wisconsin Taxation of Military Personnel (11/09)
- 106 Wisconsin Tax Information for Retirees (12/09)
- 109 Tax Information for Married Persons Filing Separate Returns and Persons Divorced in 2008 (11/09)
- 113 Federal and Wisconsin Income Tax Reporting Under the Marital Property Act (1/10)
- 120 Net Operating Losses for Individuals, Estates, and Trusts (11/09)
- 121 Reciprocity (1/10)
- 122 Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 2009 (11/09)
- 125 Credit for Tax Paid to Another State (11/09)
- 126 How Your Retirement Benefits are Taxed (11/09)
- 127 Wisconsin Homestead Credit Situations and Solutions (12/09)
- 503 Wisconsin Farmland Preservation Credit (12/09)

Sales and Use Taxes

- 201 Wisconsin Sales and Use Tax Information (9/09)
- 403 Premier Resort Area Tax (12/09)

Excise Taxes

MF-109 Fuel – How Does It Apply to Biodiesel and Vegetable Oil Used in Vehicles? (10/09)

Other Topics

- 117 Guide to Wisconsin Information Returns (12/09)
- 501 Field Audit of Wisconsin Tax Returns (11/09)
- 509 Filing Wage Statements and Information Returns Electronically (12/09)

All of the IS&E Division's publications may be downloaded or ordered [online](#). There are over 70 publications available, covering a wide range of topics. [↗](#)

**Wisconsin/Minnesota Sales Tax Seminars**

The Wisconsin and Minnesota Departments of Revenue will again present a series of joint sales and use tax seminars in March. The seminars will include information on similarities and differences in the two states' sales and use tax laws. All of the seminars are for general businesses.

The specific dates, times, and locations of the seminars, as well as registration information, is available on the "[Training](#)" page of the Department of Revenue's web site. [↗](#)

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Combined Reporting Update: Administrative Rules and Forms

For taxable years beginning on or after January 1, 2009, groups of commonly controlled corporations (except S corporations) are generally required to compute their Wisconsin franchise or income tax liability using combined reporting. Combined reporting was enacted in 2009 Act 2 and subsequently amended in 2009 Act 28. These Acts also contained other law changes that apply to corporations that will use combined reporting.

In December 2009 and January 2010, the Department of Revenue took two major steps in implementing these law changes. These steps were:

- Issued two groups of administrative rules (as emergency rules) to interpret the combined reporting statute and the related provisions of Acts 2 and 28
- Finalized all forms and instructions that relate to combined reporting

Further details of these developments follow:

Administrative Rules

The two groups of emergency rules are described below, along with information about submitting comments and an upcoming public hearing:

Group 1: Combined Reporting Rules (ss. Tax 2.60 to 2.67). These rules interpret the combined reporting statute itself (s. 71.255, Stats.). This group was originally published on August 8, 2009. However, based on public comment, the department significantly revised these rules and on January 15, 2010, published a revised version. The revised version is still considered an emergency rule. The department's [Combined Reporting Web Page](#) contains the text of this group of rules, the official rule order, and a summary of the significant revisions made in the January 15, 2010 version.

Group 2: Amendments to Previously Existing Apportionment and Nexus Rules. This group consists of amendments to previously existing apportionment and nexus rules. The amendments explain how combined reporting and other provisions of 2009 Acts 2 and 28 affect various apportionment and nexus issues. This group was published on December 31, 2009. The [Combined Reporting Web Page](#) contains the text of this group of rules and the official rule order.

Submittal of Comments and Public Hearing. You may submit written comments about any of these

emergency rules. Submit written comments to either Wendy Miller or Dale Kleven at the Wisconsin Department of Revenue, Mail Stop 6-40, 2135 Rimrock Road, P.O. Box 8933, Madison, WI 53708-8933.

There will also be a public hearing on these rules. The date, time, and place are as follows:

Thursday, February 25, 2010


1:00 p.m.

Events Room
State Revenue Building
2135 Rimrock Road
P.O. Box 8933
Madison, Wisconsin

If you make an oral presentation at the hearing, you must also provide written comments at the hearing which reflect the oral presentation. However, you do not have to attend the hearing to provide written comments. All written comments submitted on or before March 4, 2010 will be given the same consideration as testimony presented at the hearing.

Combined Reporting Forms and Instructions

All forms that may apply to combined returns have been finalized and are available on the department's [2009 Corporation Tax Forms Web Page](#).

The department has also developed a table which organizes the specific forms that all or most combined groups will use, along with their instructions. The table includes all forms that are specific to combined returns as well as other forms that combined return filers will commonly use. You can find the table on the [Combined Reporting Web Page](#). 

Quick Links to Combined Reporting Information and Resources:

- [Administrative Rules](#)
- [Articles](#)
- [Explanations and FAQs](#)
- [Forms](#)
- [Training](#)

Reminder: Electronic Resources Available

The Wisconsin Department of Revenue (DOR) has a variety of online [services](#) that provide a secure, fast, and convenient way to complete transactions. The following

are just two examples of how these services can help you better serve your clients:

- Every year, DOR adjusts the estimated tax payments claimed on thousands of tax returns. In an effort to minimize this type of adjustment, DOR developed

an [application](#) that allows individuals, corporations, partnerships, trusts, estates, and practitioners to verify available estimated tax payments when completing a tax return.

- Make filing income tax returns and homestead credit claims completely paperless by submitting Form W-RA and required attachments [electronically](#). [✉](#)



Enforcement Report

Two from Milwaukee Area Convicted for Tax Fraud

In separate cases in October 2009, two people from the Milwaukee area were convicted of tax fraud. Shana Marie Cooper, 30, was sentenced to five years in prison and five years of extended supervision following her prison term for using the identities of at least 40 individuals on false tax returns and Kenneth C. Kranich, 37, was sentenced to 90 days in jail for filing fraudulent Wisconsin income tax returns for the years 2004 through 2007.

In the case of Ms. Cooper, she filed sixty-six fraudulent income tax returns between 2006 and 2007, defrauding the Internal Revenue Service and the Wisconsin Department of Revenue of over \$170,000.

In the case of Mr. Kranich, he altered information in the wage and tax statements (W-2 forms) that he and his wife received from their employers. By altering the W-2 information, Kranich omitted \$74,236 that should have been reported on the tax returns he filed for these years, according to the criminal complaint.

Kranich further falsified the returns by overstating the amounts of income taxes withheld from their wages, claiming \$12,289 more than what was actually withheld in state and federal taxes.

Kranich was ordered to pay back \$6,540 to the Wisconsin Department of Revenue in taxes evaded.

Both cases were prosecuted by the Public Integrity Unit of the Milwaukee County District Attorney's Office after an investigation by the Fraud Unit of the Wisconsin Department of Revenue.

Mukwonago Man Sentenced for Tax Fraud

Michael L. Gengler, 34, of Mukwonago, was sentenced in November 2009 to nine months in jail for failure to

file Wisconsin income tax returns. Waukesha County Circuit Court Judge Linda Van De Water also placed Gengler on two years of probation and ordered him to file all back tax returns and pay all taxes due.

Gengler refused to file income tax returns for the years 2005 through 2007 and instead sent the Department of Revenue documents arguing that he did not have to file income tax returns because he had no income.

In November 2008, Gengler was criminally charged with failure to file income tax returns after an investigation by the Wisconsin Department of Revenue's Fraud Unit. The investigation revealed that Gengler earned \$280,637 in the years 2005 through 2007.

Portage Man Sentenced for State Tax Evasion

Russell J. Schmid, 39, was ordered in November 2009 to spend six months in the county jail for state income tax fraud. He pled no contest on Monday, October 26th, in Columbia County Circuit Court to two felony counts of filing fraudulent state income tax returns.

According to the criminal complaint filed July 17, 2009, Schmid filed six fraudulent Wisconsin income tax returns for the years 2003 through 2008 on which he reported that he had no income. Schmid also filed a letter with each tax return indicating that the tax code does not include wages as "income." The complaint alleged that Schmid received total income, comprised primarily of wages and unemployment compensation, of \$181,765 during the years 2003 through 2008.



The complaint further alleged that as a result of Schmid's fraudulent representation that he had no income, he owed Wisconsin income taxes of \$6,257 for the years 2003 through 2008.

As part of a plea agreement, Judge Daniel George placed Schmid on four years probation. As a condition of probation, Schmid was ordered to spend six months in jail. Schmid was also ordered to pay restitution of \$6,257 and fines, court costs, and other charges totaling \$226 as a condition of probation.

Schmid was prosecuted by the Columbia County District Attorney's office after an investigation by the Wisconsin Department of Revenue's Criminal Investigation Section.

Stoughton Man Charged With Tax Crimes

Dontrell A. Bluford, 26, Stoughton, is facing criminal charges for filing fraudulent state income tax returns.

According to the criminal complaint filed in December 2009 by the Dane County District Attorney's Office, Bluford was charged with three felony counts of filing fraudulent Wisconsin income tax returns for the years 2006 through 2008. The criminal charges are the result of an investigation by the Wisconsin Department of Revenue's Criminal Investigation Section.

The complaint alleges that during 2006 through 2008, Bluford earned well over \$50,000 in each of the years identified. However, Bluford filed income tax returns for 2006, 2007, and 2008 and reported zero income on each return. Bluford requested a refund of Wisconsin income tax withheld on each return.

The complaint goes on to state that as a result of Bluford's fraudulent representation that he had no income during 2006 through 2008, he owes Wisconsin income taxes of \$4,690 for those years.

If convicted on all counts, Bluford could face up to 18 years in prison and \$30,000 in fines, or both. [↗](#)