

TAX 2.3

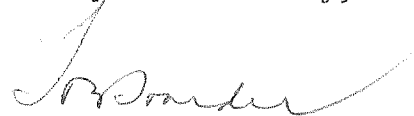
February 3-1958
4:05 P.M.

STATE OF WISCONSIN) }
DEPARTMENT OF TAXATION) SS.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, H. W. Harder, Commissioner of Taxation and custodian of the official records of the Wisconsin Department of Taxation, do hereby certify that the annexed changes in the Rules of the Wisconsin Department of Taxation (pursuant to which Rule TAX 3.83 is repealed, Rule TAX 2.721 is created, and Rules TAX 2.04, 2.06, 2.08, 2.09, 2.14, 2.41 and 2.72 are amended) have been approved by me, and have been compared by me with the originals on file in this Department and are true and correct copies of such originals.

IN TESTIMONY WHEREOF, I have hereunto set my hand at the State Office Building in the City of Madison, Wisconsin, this 3rd day of February, A.D., 1958.



H. W. Harder
Commissioner of Taxation

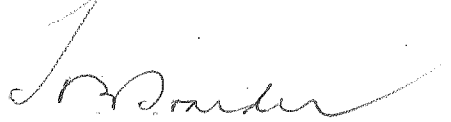
ORDER OF THE
WISCONSIN DEPARTMENT OF TAXATION
ADOPTING, AMENDING AND REPEALING RULES

Pursuant to the authority vested in the Wisconsin Department of Taxation by Section 71.11 (24) of the statutes, the said Department hereby repeals Rule TAX 3.83, creates Rule TAX 2.721, and amends Rules TAX 2.04, 2.06, 2.08, 2.09, 2.14, 2.41 and 2.72, all as shown in the annexed papers.

The rule changes herein referred to shall take effect upon the first day of the month following publication in the Wisconsin Administrative Register as provided in Section 227.026 (1) of the statutes.

Dated this 3rd day of February, 1958.

WISCONSIN DEPARTMENT OF TAXATION



H. W. Harder
Commissioner of Taxation

Tax 2.04 Information returns; forms 9, 9b and 9x for corporations.
(Sections 71.04 (1) and (2) and 71.10 (1), Wis. Stats.) All corporations doing business within this state, whether subject to the income tax or not, shall file with the department of taxation at its office in the State Office Building at Madison on or before March 15 of each year on Forms 9 as prescribed by the tax commissioner, statements of payments made within the preceding calendar year to residents of Wisconsin of salaries, wages, bonuses, retirement pay and fees. Statements of payments to residents of Wisconsin within the preceding calendar year of interest and dividends, including dividends paid in capital stock, and payments to residents and non-residents of Wisconsin of rents and royalties on property in Wisconsin shall be filed at the same time and place on Forms 9b. These forms must be filed by March 15 of each year regardless of the fact that the corporation keeps its records on a fiscal year basis. Salaries, wages, bonuses, retirement pay, fees and other compensation paid to an employee or officer (active or retired) need not be reported if they aggregate less than \$600.00; and no one of interest, dividends, rents or royalties needs be reported if it is less than \$100.00. Each corporation must file with forms 8, 9 or 9b, form 9x showing the number of reports made on forms 8, 9 and 9b. (See also Tax 2.05) Items required to be reported on Forms 9 or 9b may be disallowed as deductions from the corporation's gross income upon failure to make proper report thereof.

Note: Blank forms may be obtained from the department at the State Office Building address.

(Corporations failing to file Forms 9 or 9b as prescribed by law shall be subject to a fine of not less than \$50.00 nor more than \$500.00.) (See section 71.11 (45), Wis. Stats.)

Tax 2.06 Information returns for individuals. (Sections 71.05 (1), 71.05 (2) and 71.05 (3), Wis. Stats.) Reports of payments made by individuals may be made a part of the income tax return or may be made on forms 9 and 9b. The items referred to in the statutes will be disallowed as deductions from gross income if not properly reported.

Note: Blank forms may be obtained from the office of the assessor of incomes in which the reports are required to be filed.

Tax 2.08 Returns of persons other than corporations. (1) For the purpose of filing income tax returns, the commissioner of taxation has designated the following forms for the use of persons other than corporations:

Form 1	For all individuals except married women.
Form 1a	Optional (short) form for all individuals with adjusted gross income of less than \$5,000.00 except married women.
Form 1B	For persons having a business or profession.
Form 1-Fc	For farmers on the cash basis.
Form 1-Fi	For farmers on an inventory or accrual basis.
Form 1W	For wives having separate incomes.
Form 1Wa	Optional (short) form for married women with adjusted gross income of less than \$5,000.00. (Form 1B, 1-Fc or 1-Fi is filed with Form 1, 1W, 1Wa or 1a)
Form 2	For trustees, executors, administrators and others acting in a fiduciary capacity, but excluding guardians. (Guardians should report on Form 1.)
Form 3	For partnerships and joint ventures.

(2) Information returns required of persons other than corporations are specified in Tax 2.06 and Tax 3.63. See also Tax 3.07.

(3) All returns, reports, statements and information required to be filed, furnished or reported by natural persons or partnerships, shall be filed in the office of the assessor of incomes for the district in which the natural person resides, or in which the partnership has its principal business office. Natural persons who are not residents of this state shall file with the assessor of incomes from whose district they derive income from business therein transacted or property therein located, and when they derive income from more than one district, they shall consistently file in the office of the assessor of incomes for one of such districts unless notified by the department of taxation to file with the assessor of another district.

Note: Blank forms may be obtained from the office of the assessor of incomes in which the returns are required to be filed.

Tax 2.09 Reproduction of forms. Subject to the conditions set forth under this rule, the official Wisconsin income tax return forms may be reproduced and the reproductions filed with the department in lieu of the corresponding official forms:

(1) The reproductions must be made by photo-offset, photo-engraving or by some similar photographic process. They may be reproduced on one side or both sides of the paper.

(2) The reproductions must be on paper of substantially the same color, weight and texture, and of quality at least as good as that used in the official forms. Forms 1-Fc, 1-Fi, 1W, 1Wa, 2 and 3 may not, therefore, be reproduced on white paper.

(3) Since all of the official forms are printed in black ink, such printing must be reproduced in black.

(4) The size of the reproductions, both as to dimensions of the paper and image reproduced thereon, must be the same as that of the official form.

(5) All signatures required on returns which are filed with the department must be original, affixed subsequent to the reproduction process.

Tax 2.14 Separate income tax returns for husband and wife.

If husband and wife each has a gross income of \$600.00 or more or if each has some net income when their combined net income is \$1,400.00 or more, each must file a separate return. (See Amerpohl vs Tax Commission, 225 Wisconsin 62.) The aggregate personal exemption of \$14.00 allowable when each files a return may be divided between the two according to their choice.

Tax 2.41 Separate accounting method. (Section 71.07 (2), Wis. Stats.) (1) When the separate accounting method is used, separate records must be kept of sales, cost of sales and expenses for the Wisconsin business as distinct from the remainder of the business. Overhead items of income and expense must then be allocated to the business within and without Wisconsin upon a basis or combination of bases justified by the facts and conditions. For example: The ratio of Wisconsin sales to total sales usually represents a satisfactory basis for a merchandising business, while the ratio of direct cost of material and labor in Wisconsin to the total gives a more accurate result for a construction business. Federal income taxes are based upon income and should, therefore, be allocated to Wisconsin business on the basis of income. Federal income taxes are deductible only on the cash basis, and the allocation to Wisconsin business for any year, therefore, must be based upon the ratio of income within Wisconsin to the total income of the year on which the federal income taxes are assessed, even though that ratio differs from the ratio of the year in which the taxes are actually paid.

(a) The relationship of the general overhead items to Wisconsin operations will determine whether the home office income and expense should be allocated to the Wisconsin business. Such overhead items as officers' salaries, office salaries, office rent and sundry office expenses should ordinarily be included in the allocation.

(2) Rentals received from real estate held purely for investment purposes and not used in the operation of the business are not subject to allocation. All expenses connected with the interest, dividends and rentals realized from investments such as the above are not subject to allocation but must be applied against the investment income. The taxability of the net investment income depends upon the situs of the investment property or the residence of the recipient.

Tax 2.72 Exchanges of property generally. (Section 71.03 (1) (g), Wis. Stats.) (1) Except where otherwise specifically provided by Chapter 71, where property is exchanged for other property which has a fair market value, a taxable gain or deductible loss may result, and such fair market value must be treated as the price realized for the property exchanged and the cost price of the property received, for purposes of future sale. When the property received in exchange has no determinable market value, the property received takes the place of the property exchanged, and no profit or loss is recognized. In the event of future sale in such case, the income tax cost of the original property exchanged becomes the basis for computing the gain or loss on the property received in exchange.

(2) Except where otherwise specifically provided by Chapter 71, where property of two different kinds is received in exchange for property, one kind having a determinable fair market value and the other no determinable fair market value, the gain is measured by the excess of the fair market value of the property received over the income tax cost of the property exchanged. The property received which has no determinable fair market value is considered as having no cost in case of future sale, the entire proceeds of such sale being taxable income. If the income tax cost of the property exchanged is in excess of the fair market value of the property received in exchange, such excess shall be taken as the income tax cost of the property received which has no determinable fair market value, no loss being recognized in such cases.

(3) Taxable gain or deductible loss must be computed when used working assets such as automobiles and machinery were traded in on the purchase price of new assets of a like kind in all cases in which the exchange occurred in a taxable year ending prior to December 31, 1957. The only exception to this rule occurs in the case of a taxpayer who has been permitted or required to use a composite rate of depreciation. (For the handling of such exchanges occurring in taxable years ending on and after December 31, 1957, when both the property exchanged and the property received have a situs in Wisconsin, see Section 71.03 (6) Wis. Stats.)

In general there are four types of exchanges upon which exemption from tax may be claimed:

1. Exchanges made pursuant to a plan of reorganization.
2. Exchanges in which the property received in trade has no determinable market value.
3. Exchanges of residences pursuant to Section 71.03 (5).
4. Exchanges of property held for productive use or investment pursuant to Section 71.03 (6) when the exchange occurred in a taxable year ended on or after December 31, 1957.

Tax 2.721 Exchanges of property held for productive use or investment. (Section 71.03 (6), Wis. Stats.)

(1) Property held for productive use in trade or business may be exchanged tax free for property of a like kind held for investment as well as for property of a like kind held for productive use in trade or business, and, similarly, property held for investment may be exchanged tax free for property of a like kind held for productive use in trade or business as well as for property of a like kind held for investment.

(2) The phrase "of a like kind" has reference to the nature or character of the property and not its grade or quality. One kind or class of property may not be exchanged tax free for property of a different kind or class.

(3) A leasehold interest in land cannot be exchanged tax free for a fee title unless the lease has 30 years or more to run.

(4) Where as part of the consideration to the taxpayer another party to the exchange assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability, such assumption or acquisition (in the amount of the liability) shall be considered as money received by the taxpayer on the exchange.

(5) Section 71.03 (6) does not apply to trade-in of non-business property, such as an automobile used solely for personal purposes.

Rule Tax 3.83 is Repealed.