

**WISCONSIN DEPARTMENT OF REVENUE  
DIVISION OF INCOME, SALES, AND EXCISE TAX**

**NOTICE OF PROPOSED GUIDANCE DOCUMENTS**

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

**SUBMITTING PUBLIC COMMENTS**

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

**DEADLINE FOR SUBMISSION**

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

<b>Document Number</b>	<b>Document Title</b>
<b>100156</b>	Manufacturer's Sales Tax Credit - Common Questions

State of Wisconsin  
Department of Revenue

## Manufacturer's Sales Tax Credit

**This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.**

1. Since the manufacturer's sales tax credit was replaced with a sales and use tax exemption beginning January 1, 2006, what happens to my unused manufacturer's sales tax credits from taxable years that began before January 1, 2006?
2. Can I use the credit to offset my entire Wisconsin tax liability?
3. I am a shareholder in a tax-option (S) corporation. What types of income can I include when computing the tax imposed on the business operations of the tax-option (S) corporation?
4. I am being audited for my taxable year beginning July 1, 2004, and ending June 30, 2005. I miscalculated the manufacturer's sales tax credit for that taxable year. May I claim credit for the additional amount of manufacturer's sales tax credit discovered during the audit?
5. How do these rules apply to manufacturer's sales tax credits computed by a partnership, limited liability company (LLC) treated as a partnership, or tax-option (S) corporation for taxable years beginning on or after January 1, 1998?

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1. **Since the manufacturer's sales tax credit was replaced with a sales and use tax exemption beginning January 1, 2006, what happens to my unused manufacturer's sales tax credits from taxable years that began before January 1, 2006?**

If you have \$25,000 or less of unused credits as of January 1, 2006, you may use up to 50% of the credit in each of your taxable years beginning in 2006 and 2007. You may use any remaining credits in future taxable years within the 20-year carryforward period.

If you have more than \$25,000 of unused credits as of January 1, 2006, you may deduct in each of your next two taxable years beginning after December 31, 2005, 50% of the amount of unused credit that you had added back to income at the time that you first claimed the credit. You may take these deductions even if you otherwise have no Wisconsin income due to business losses or carryforwards.

If you have more than \$25,000 of unused manufacturer's sales tax credits as of January 1, 2006, you may **not** elect to claim any of those amounts as a credit. However, if you became certified by the Wisconsin Economic Development Corporation as eligible for a manufacturing

investment credit, you may claim the manufacturing investment credit. For more information on the manufacturing investment credit, visit the Economic Development Corporation's website at [inwisconsin.com](http://inwisconsin.com).

**2. Can I use the credit to offset my entire Wisconsin tax liability?**

Corporations may offset the credit from their own manufacturing operations against their entire Wisconsin franchise or income tax liability. Sole proprietors may offset the credit only against tax on the income from the business operations in which the fuel and electricity were consumed. If you have an unused manufacturer's sales tax credit from more than one sole proprietorship or if you have an unused credit that was passed through from an estate, trust, partnership, limited liability company treated as a partnership, or tax-option (S) corporation, you must compute the allowable credit from each entity separately. You may not offset credits from a business that operated at a loss against the income from another business that operated at a profit. See [Wisconsin Schedule MS](#) and its [instructions](#) to compute your allowable credit.

**Note:** You may not offset the credit against the economic development surcharge. Tax-option (S) corporations may not offset the credit against the built-in gains tax.

**3. I am a shareholder in a tax-option (S) corporation. What types of income can I include when computing the tax imposed on the business operations of the tax-option (S) corporation?**

For purposes of computing the tax imposed on the business operations of the tax-option (S) corporation, the income is limited to your pro rata share of the corporation's net income or loss which is taxable by Wisconsin. This includes your pro rata share of the corporation's ordinary income or loss, interest and dividend income, capital gains or losses, and other separately stated items of corporate income or expense passed through to you.

You may not include the following types of payments you received from the tax-option (S) corporation:

- Salary for services you performed for the corporation
- Interest on loans you made to the corporation
- Taxable dividends paid by the corporation
- Rents or royalties from assets you leased to the corporation.

**4. I am being audited for my taxable year beginning July 1, 2004, and ending June 30, 2005. I miscalculated the manufacturer's sales tax credit for that taxable year. May I claim credit for the additional amount of manufacturer's sales tax credit discovered during the audit?**

You may claim an offset for the credit against the franchise or income tax owed in the same period in which the sales tax was paid.

**5. How do these rules apply to manufacturer's sales tax credits computed by a partnership, limited liability company (LLC) treated as a partnership, or tax-option (S) corporation for taxable years beginning on or after January 1, 1998?**

A partnership or LLC treated as a partnership was required to pass through to its partners or members the credits for sales and use tax paid by the entity on fuel and electricity used in manufacturing. The partners or members could offset the credits only against the tax on the

partner's or member's distributive share of the partnership or LLC income. Therefore, each partner or member must separately determine whether his, her, or its unused credit is \$25,000 or less or more than \$25,000 and apply the appropriate rules.

A tax-option (S) corporation had the option of claiming the credits computed for taxable years beginning on or after January 1, 1998, at the corporation level or passing the credits through to its shareholders. The shareholders could offset the credits only against the tax on the shareholder's pro rata share of the tax-option (S) corporation's income. The tax-option (S) corporation and each of its shareholders must separately determine whether his, her, or its unused credit is \$25,000 or less or more than \$25,000 and apply the appropriate rules.

See [Wisconsin Schedule MS](#) and its [instructions](#) to compute the allowable credit for each partner, member, or shareholder.

## Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of December 17, 2019: Sections 71.07, 71.23 and 71.28, Wis. Stats., sec. 71.28(3)(d), Wis. Stats. (1995), and sec. Tax 2.11, Wis. Adm. Code.

Laws enacted and in effect after December 17, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to December 17, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

### FOR QUESTIONS OR COMMENTS CONTACT:

MS 5-77

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