

**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.

Document Number	Document Title
100230	Wisconsin Voluntary Disclosure Program - Common Questions

State of Wisconsin
Department of Revenue

Wisconsin Voluntary Disclosure Program

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.

The Wisconsin Department of Revenue encourages businesses and individuals who are not in compliance with Wisconsin tax laws to voluntarily come forward. Taxpayers may remain **anonymous** throughout the voluntary disclosure process.

Online Marketplace Sellers: Sellers who make sales through online marketplaces may be required to collect Wisconsin sales/use tax and file Wisconsin franchise/income tax returns as a result of having inventory stored in a warehouse or fulfillment center located in Wisconsin. Such sellers may participate in Wisconsin's Voluntary Disclosure Program. Marketplace providers that sell goods on behalf of sellers may also participate in Wisconsin's Voluntary Disclosure Program.

Benefits of Voluntary Disclosure

- Written agreement to restrict the statute of limitations.
- Waiver of negligence penalties.
- Reduction of Interest from 18% to 12%, except for withholding taxes, motor vehicle floor taxes and intoxicating liquor floor taxes which remain at 18%.
- Possible reduction in number of periods for which returns must be filed.
- Elimination of the risk of being discovered under audit.

Taxpayer Qualifications

To be considered for voluntary disclosure treatment, a taxpayer must meet certain conditions and enter into a written agreement with the department. The following conditions must be met for a taxpayer to qualify for voluntary disclosure treatment.


- No tax returns filed for the period in question.
- No registration for the type of tax involved during the period in question.

- No contact by the department within the last 6 years regarding a registration/filing requirement or an assessment/audit assignment.
 - Any partners of partnerships, shareholders in S corporations, trusts, or trust beneficiaries are considered to have been contacted if the pass-through entity has been contacted.
 - Any owners of disregarded entities are considered to have been contacted if the disregarded entity has been contacted.

Note: The request for completion of nexus questionnaires by the department constitutes the commencement of an office audit.

Note: The department will not enter into an agreement to resolve a successor's liability under sec. Tax 11.91, Wis. Adm. Code, unless collection of the amount due from the predecessor appears unlikely.

How To Apply

A taxpayer or the taxpayer's representative may request voluntary disclosure treatment by submitting  [Form A-020](#) to the department for consideration. The request will include the following information:

- Description of Wisconsin activities for the years involved.
- List of property owned or leased in Wisconsin.
- Taxpayer's taxable year-end.
- Taxpayer's federal tax return type.
- Date taxable activities began in Wisconsin.
- Whether the tax involved has been collected or withheld and for what periods. For sales and use tax purposes, whether tax has been paid to a vendor in error for which a credit is being claimed.
- Approximate liability (by tax type) for each of the years involved.
- Prior contacts by the Department of Revenue.
- Other types of tax returns currently being filed with the department.
- Whether the taxpayer is registered with the Wisconsin Department of Financial Institutions (formerly the Secretary of State) to transact business in Wisconsin.

Note: If unable to complete the electronic request for voluntary disclosure, submit a written request including the information above. If applying for voluntary disclosure for more than one tax type, **each tax type must be specified**. For example, a request for voluntary disclosure for income tax does not cover sales tax.

Multistate Tax Commission (MTC)

Wisconsin is a member of the MTC's National Nexus Program. If you wish to enter into agreements with more than one state, or want to learn more, visit the [MTC website](#).

To submit a Wisconsin-only request, use the contact information below.

Taxpayer Responsibilities

- File all returns for the periods agreed upon (usually 4 prior years).
 1. Sales and withholding taxes are required to be filed on a quarterly basis.
 2. Combined corporation franchise or income tax returns must be filed electronically for the current and two prior years.
- Pay all tax, late filing fees, and interest according to the agreement.
- File the current and any subsequent returns in a timely manner according to the agreement.
- Make books and records available to the department.

Department Rights

All voluntary disclosure agreements include provisions reserving the department's right to:

- Audit factual representations made as part of the agreement.
- Audit the taxpayer and any returns filed.
- Void the agreement if factual misrepresentations have been made by the taxpayer and assess additional tax, penalties, and interest as appropriate.
- Void the agreement if the taxpayer fails to comply with any terms of the agreement.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of February 18, 2020: Sections 71.82(2)(b), 77.51(13b)(b)4 and (13)(c), 77.52(1)(b), and 77.62, Wis. Stats., and secs. Tax 2.87(2)(e) and 11.98(2)(e), Wis. Adm. Code.

Laws enacted and in effect after February 18, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to February 18, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

Confidential Inquiries

To submit a written request, please contact:

WISCONSIN DEPARTMENT OF REVENUE

MS 2-233

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Email additional questions to DORWIVoluntaryDisclosureProg@wisconsin.gov

Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

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