



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

CLEARINGHOUSE RULE 01-143

AN ORDER to repeal Tax 2.08 (1) (a) 16. and 11.01 (1) (c), (d), (e) and (h); to renumber Tax 2.08 (1) (a) 6. to 11., 13., 14. and 17. to 28. and (b) 6. and 11.01 (1) (f), (i), (j) and (k); to renumber and amend Tax 2.08 (1) (a) 12. and 15. and (b) 5. and (3) and 11.01 (1) (g); to amend Tax 2.08 (1) (a) 2., 3. and 5. and (b) 3. and 11.01 (1) (b); to repeal and recreate Tax 11.01 (2); and to create Tax 2.08 (1) (a) 6., 7., 22. and 24. and (b) 5. and 6. and (3) (a) 1. to 3., (b), (c), (d) and (e) and 11.01 (1) (title), relating to returns of persons other than corporations that relate to income, and sales and use tax returns.

Submitted by **DEPARTMENT OF REVENUE**

12-05-01 RECEIVED BY LEGISLATIVE COUNCIL.

01-04-02 REPORT SENT TO AGENCY.

RS:WF:jal;rv

LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS
[s. 227.15 (2) (e)]

Comment Attached YES NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached YES NO



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 01-143

Comments

[NOTE: All citations to “Manual” in the comments below are to the **Administrative Rules Procedures Manual**, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

4. Adequacy of References to Related Statutes, Rules and Forms

a. Section Tax 2.08 (1) (a) 5. references returns filed using “tefile” or “netfile.” However, these terms do not appear to be defined in ch. Tax 2. The department should consider providing definitions of these terms.

b. Section Tax 2.08 (3) (a) 2. states that returns may be filed by delivering them to the destination that the department or the Department of Administration (DOA) prescribes, but contains no information as to how the Department of Revenue (DOR) or the DOA will prescribe this destination or how a person determines the prescribed destination. The rule should contain information as to how the DOR or the DOA will prescribe the destination for forms. This comment is also applicable to s. Tax 2.08 (3) (a) 3.

**PROPOSED ORDER OF THE DEPARTMENT OF REVENUE
REPEALING, RENUMBERING, RENUMBERING AND AMENDING,
AMENDING, REPEALING AND RECREATING AND CREATING RULES**

The Wisconsin Department of Revenue proposes an order to: **repeal** Tax 2.08(1)(a)16. and Tax 11.01(1)(c), (d), (e) and (h); **renumber** Tax 2.08(1)(a)6. to 11., 13., 14. and 17. to 28. and (b)6. and Tax 11.01(1)(f), (i), (j) and (k); **renumber and amend** Tax 2.08(1)(a)12. and 15. and (b)5. and (3) and Tax 11.01(1)(g); **amend** Tax 2.08(1)(a)2., 3. and 5. and (b)3. and Tax 11.01(1)(b); **repeal and recreate** Tax 11.01(2); and **create** Tax 2.08(1)(a)6., 7., 22. and 24. and (b)5. and 6. and (3)(a)1. to 3., (b), (c), (d) and (e) and Tax 11.01(1)(title); **relating to** returns of persons other than corporations that relate to income, and sales and use tax returns.

Analysis by the Department of Revenue

Statutory authority: ss. 71.80(1)(c) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 71.01(5)(g), 71.03(2), 71.20(1), 71.55(3), 71.80(18), 77.51(3r), 77.58 and 77.75, Stats.

SECTION 1. Tax 2.08(1)(a)2. and 3. are revised, to conform language to Legislative Council Rules Clearinghouse ("Clearinghouse") standards.

Tax 2.08(1)(a)5. is revised, to provide that form 1X is used to amend telefile and netfile returns.

SECTIONS 2 AND 5. Tax 2.08(1)(a)6. to 15. and 17. to 28. are renumbered Tax 2.08(1)(a)8. to 21., 23. and 25. to 31., due to the addition and deletion of forms as described in sections 3, 4, 6 and 9.

As renumbered, Tax 2.08(1)(a)14. is revised, to include information about forms described in section 3.

As renumbered, Tax 2.08(1)(a)17. is revised, to correct the name of schedule DC.

SECTIONS 3 AND 6. Tax 2.08(1)(a)6., 7., 22. and 24. are created, to list new or previously unlisted forms.

SECTION 4. Tax 2.08(1)(a)16. is repealed, to remove obsolete schedule EICW.

SECTION 7. Tax 2.08(1)(b)3. is revised, to change the name of form 3S as a result of replacing the temporary recycling surcharge with a recycling surcharge.

SECTIONS 8 AND 9. Tax 2.08(1)(b)5. and 6. are renumbered Tax 2.08(1)(b)7. and 8., due to the addition of forms as described below.

As renumbered, Tax 2.08(1)(b)7. is revised, to correct the name of schedule DC.

Tax 2.08(1)(b)5. and 6. are created, to list new or previously unlisted forms.

SECTION 10. Tax 2.08(3) is renumbered Tax 2.08(3)(a)(intro.) and revised, to reflect the creation of subdivisions 1. to 3. as explained in section 11.

SECTION 11. Tax 2.08(3)(a)1. to 3. are created, to provide updated filing procedures, including filing by electronic means and delivering as prescribed per the creation of s. 71.01(5g), Stats., and the amendment to s. 71.80(18), Stats., by 1997 Wis. Act 27.

Tax 2.08(3)(b) to (e) are created, to provide authority for the department to require certain tax return preparers and tax preparation firms to file returns by electronic means, and to provide exceptions to the requirement.

Both notes at the end of Tax 2.08 are revised, to update the department office location and mailing address and to include additional statutory references.

SECTION 12. Tax 11.01(1)(title) is created, to clarify the context of the subsection.

SECTION 13. Tax 11.01(1)(b) is revised, to provide that the form may also be used to file refund claims or report additional taxes for prior periods.

SECTIONS 14 AND 16. Tax 11.01(1)(c), (d), (e) and (h) are repealed, to remove obsolete forms S-013, S-014, SU-002 and S-108.

SECTIONS 15 AND 17. As a result of the repeals in sections 14 and 16, Tax 11.01(1)(f) and (g) are renumbered Tax 11.01(1)(c) and (d), and Tax 11.01(1)(i) to (k) are renumbered Tax 11.01(1)(e) to (g).

As renumbered, Tax 11.01(1)(d) is revised, to reflect the new number of the department of transportation form for aircraft sales.

SECTION 18. Tax 11.01(2) is repealed and recreated, to provide updated filing procedures, including filing by electronic means and delivering as prescribed per the creation of s. 77.51(3r), Stats., by 1997 Wis. Act 27; to provide authority for the department to require that certain sales and use tax returns be filed by electronic means and provide exceptions to the requirement; and to move an address to a note, per Clearinghouse standards.

Both notes at the end of Tax 11.01 are revised, to provide the department office location and update the mailing address, and to include an additional statutory reference.

SECTION 1. Tax 2.08(1)(a)2., 3. and 5. are amended to read:

Tax 2.08(1)(a)2. Form 1A. Income tax. This is an optional short form return ~~which~~ that may be used by individuals who are full-year Wisconsin residents and filing as married filing a joint return, head of household or single.

3. Form WI-Z. Income tax. This is an optional short form return which that may be used by individuals who are full-year Wisconsin residents and filing as married filing a joint return or single.

5. Form 1X. Income tax - amended return. This return may be used by full-year Wisconsin resident individuals to amend form 1, 1A or WI-Z - or returns filed using "telefile" or "netfile."

④
Need to
repeal
or add
+ ny?

SECTION 2. Tax 2.08(1)(a)6. to 15. are renumbered Tax 2.08(1)(a)8. to 17. and as renumbered Tax 2.08(1)(a)14. and 17. are amended to read:

Tax 2.08(1)(a)14. Form CN-ES. Composite estimated tax voucher. This form may be used by nonresident athletes, directors, partners, members or shareholders using form 1CNA, 1CND, 1CNP or 1CNS.

17. Schedule DC. Development ~~zone credits~~ zones credit.

SECTION 3. Tax 2.08(1)(a)6. and 7. are created read:

Tax 2.08(1)(a)6. Form 1CNA. Combined individual income tax return for nonresident members of professional athletic teams.

7. Form 1CND. Combined individual income tax return for nonresident directors of corporations.

SECTION 4. Tax 2.08(1)(a)16. is repealed.

SECTION 5. Tax 2.08(1)(a)17. to 20., 21. and 22. to 28. are renumbered Tax 2.08(1)(a)18. to 21., 23. and 25. to 31.

SECTION 6. Tax 2.08(1)(a)22. and 24. are created to read:

Tax 2.08(1)(a)22. Schedule MS. Manufacturer's sales tax credit.

24. Schedule RS. Recycling surcharge.

SECTION 7. Tax 2.08(1)(b)3. is amended to read:

Tax 2.08(1)(b)3. Form 3S. Partnership ~~temporary~~ recycling surcharge.

SECTION 8. Tax 2.08(1)(b)5. and 6. are renumbered Tax 2.08(1)(b)7. and 8. and as renumbered Tax 2.08(1)(b)7. is amended to read:

Tax 2.08(1)(b)7. Schedule D DC. Development zone credits zones credit.

SECTION 9. Tax 2.08(1)(b)5. and 6. are created to read:

Tax 2.08(1)(b)5. Form 3U. Underpayment of estimated recycling surcharge by partnerships.

6. Schedule 3Z. Manufacturer's sales tax credit.

SECTION 10. Tax 2.08(3) is renumbered Tax 2.08(3)(a)(intro.) and amended to read:

Tax 2.08(3)(a)(intro.) All forms and information required to be filed or furnished by persons other than corporations shall be filed or furnished by providing the information requested on the appropriate forms, signing the returns or forms as appropriate, and delivering them to the department or mailing them to the address specified by the department on the form or in the instructions, and submitting them by one of the following means:

SECTION 11. Tax 2.08(3)(a)1. to 3., (b), (c), (d) and (e) are created to read:

Tax 2.08(3)(a)1. Mailing them to the address specified by the department on the form or in the instructions.

2. Delivering them to the department or to the destination that the department or the department of administration prescribes. *(S)*

3. Filing them by the use of electronic means as prescribed by the department. *(4) under par b?*

(b) The department may require a tax return preparer or tax preparation firm to file certain returns prepared by that tax return preparer or tax preparation firm by electronic means.

The department shall notify tax return preparers and tax preparation firms by October 1 of any year of the requirement to use electronic means. The requirement to file returns by electronic means shall be effective beginning January 1 of the year following notification. *71.05(5g)*

(c) Paragraph (b) does not apply to a return if the taxpayer has indicated on the return that the taxpayer did not want the return filed by electronic means.

(d) The secretary of revenue may waive the requirement to file by electronic means when the secretary determines that the requirement causes an undue hardship, if the tax return preparer or tax preparation firm otherwise required to file by electronic means does all of the following:

1. Requests the waiver in writing.

Note: Written waiver requests should be addressed to Wisconsin Department of Revenue, Secretary's Office, Mail Stop 3-258, PO Box 8903, Madison WI 53708-8903.

2. Clearly indicates why the requirement causes an undue hardship.

(e) In determining whether the electronic means requirement causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances that may prevent the person from filing by electronic means.

Example: The tax return preparer does not have access to a computer that is connected to the internet.

2. Any other factor that the secretary determines is pertinent.

Note to Revisor: Replace the 2 notes at the end of Tax 2.08 with the following:

Note: Forms may be delivered in person to the Department of Revenue at 2135 Rimrock Road, Madison, Wisconsin. Blank forms may be obtained at the same location, by calling (608) 266-1961 or by writing to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 5-77, PO Box 8951, Madison WI 53708-8951.

Note: Section Tax 2.08 interprets ss. 71.01(5g), 71.03(2), 71.20(1), 71.55(3) and 71.80(18), Stats.

SECTION 12. Tax 11.01(1)(title) is created to read:

Tax 11.01(1)(title) FORMS.

SECTION 13. Tax 11.01(1)(b) is amended to read:

Tax 11.01(1)(b) Form S-012. Also called form ST-12. The monthly, quarterly or annual return used to report state, county and stadium taxes by persons holding a Wisconsin seller's permit, use tax registration certificate or consumer's use tax registration certificate. This form is also used to file refund claims or report additional taxes for prior periods.

SECTION 14. Tax 11.01(1)(c), (d) and (e) are repealed.

SECTION 15. Tax 11.01(1)(f) and (g) are renumbered Tax 11.01(1)(c) and (d) and as renumbered Tax 11.01(1)(d) is amended to read:

Tax 11.01(1)(d). Form ~~AR-4~~ DT 1556 . A department of transportation form for occasional and dealer sales of aircraft.

SECTION 16. Tax 11.01(1)(h) is repealed.

SECTION 17. Tax 11.01(1)(i), (j) and (k) are renumbered Tax 11.01(1)(e), (f) and (g).

SECTION 18. Tax 11.01(2) is repealed and recreated to read:

Tax 11.01(2) FILING RETURNS. (a) Forms required to be filed shall be submitted by one of the following means:

1. Mailing them to the address specified by the department on the forms or in the instructions.
2. Delivering them to the department or to the destination that the department prescribes.
3. Filing them electronically via the department's sales internet process, or "SIP," or some other electronic means prescribed by the department.

Note: Information about SIP is found in Wisconsin Publication 227, "E-File Sales Tax Returns With S.I.P.," which is available from any Wisconsin Department of Revenue office or online at www.dor.state.wi.us/html/taxpubs.html.

(b) The department may require a person registered or required to be registered for Wisconsin sales and use tax purposes to file its sales and use tax return by electronic means. The department shall notify the person at least 90 days prior to the due date of the first sales and use tax return required to be filed by electronic means of the requirement to file by electronic means. In its notice, the department shall indicate the period covered for the first return to be filed by electronic means.

(c) The secretary of revenue may waive the requirement for a person to file by electronic means when the secretary determines that the requirement causes an undue hardship, if the person does all of the following:

1. Requests the waiver in writing.

Note: Written requests should be addressed to Wisconsin Department of Revenue, Secretary's Office, Mail Stop 3-258, PO Box 8903, Madison WI 53708-8903.

2. Clearly indicates why the requirement causes an undue hardship.

(d) In determining whether the electronic means requirement causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances that may prevent the person from using electronic means.

Example: The person does not have access to a computer that is connected to the internet.

2. Any other factor that the secretary determines is pertinent.

Note to Revisor: Replace the 2 notes at the end of Tax 11.01 with the following:

Note: Department of Revenue forms may be delivered in person to the Department of Revenue at 2135 Rimrock Road, Madison, Wisconsin. Blank Department of Revenue forms may be obtained at the same location, by calling (608) 266-2776 or by writing to Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8902, Madison WI 53708-8902.

Note: Section Tax 11.01 interprets ss. 77.51(3r), 77.58 and 77.75, Stats.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

DEPARTMENT OF REVENUE

Dated: _____

12/4/01

By: _____

Richard G. Chandler

Richard G. Chandler
Secretary of Revenue



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK RD. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-6466 • FAX (608) 266-5718 • <http://www.dor.state.wi.us>

Scott Mc Callum
Governor

Richard G. Chandler
Secretary of Revenue

April 22, 2002

Honorable Judith Robson
Co-Chair Joint Committee for Review
of Administrative Rules
Rm 115 South State Capitol
PO Box 7882
Madison WI 53707-7882

Honorable Glenn Grothman
Co-Chair Joint Committee for Review
of Administrative Rules
Rm 15 North State Capitol
PO Box 8952
Madison WI 53708-8952

Re: Clearinghouse Rule 01-043

Dear Senator Robson and Representative Grothman:

Enclosed are copies of Clearinghouse Rule 01-043 in final draft form, and the Report to the presiding officers of the State Senate and Assembly required under s. 227.19(2) and (3), Stats.

Sincerely,

Richard G. Chandler
Secretary of Revenue

RGC:MPW:MSOffice
e:rules208 Committees - JCRAR

Enclosure

DEPARTMENT OF REVENUE

CLEARINGHOUSE RULE NUMBER 01-043

SECTION 227.19(2) AND (3), STATS., REPORT

Need for Proposed Rule

The rule is necessary to:

- Permit the Department to require that certain returns relating to income of persons other than corporations and certain sales and use tax returns be filed by electronic means.
- Delete references to obsolete forms.
- List new or previously unlisted forms.
- Update or correct information relating to certain forms.
- Update information relating to methods by which returns may be submitted to the Department.

Public Hearing

A public hearing was held on March 12, 2002. Nobody appeared at the public hearing to provide testimony or comment. However, a letter with comments was received from Mr. Vernon Eulert, E. A., of Eulert Accounting, relating to s. Tax 2.08(3)(b). A copy of this letter is being enclosed with this Report. As a result of this letter, sub. (3)(b) was revised to set forth the thresholds for the number of returns prepared for the prior taxable year before a tax return preparer or tax preparation firm would be required to file returns by electronic means. With respect to other comments made in Mr. Eulert's letter:

- The department is not attempting to require all tax return preparers or tax preparation firms to file their clients' individual income tax returns electronically. Only preparers or firms that prepared 200 or more individual income tax returns for the prior taxable year would be required to file 2002 tax returns electronically in 2003; that threshold number would be reduced to 100 in 2004 and thereafter. In addition, electronic filing would not be required for the return of a taxpayer who indicates he or she does not want the return filed electronically, and a waiver from the requirement can be granted in case of undue hardship.
- The fiscal estimate is not in error. This estimate measures the fiscal effect for the state, and as indicated, the proposed rule has no state fiscal effect.
- Based on the department's research, the cost of filing a return by electronic means is significantly less than the amounts represented in the letter. In addition, since the cost of preparing and filing a return is an ordinary expense of doing business, such costs could be passed on to the client, resulting in little or no additional cost to the

preparer or firm. For these reasons, the department feels that the regulatory flexibility analysis at the end of the proposed rule is accurate.

- The October 1 date listed in the proposed rule is the latest date the department could notify a preparer or firm of the electronic filing requirement for the following year. It is anticipated that the notification will be made significantly sooner than October 1.

Legislative Council Staff Recommendations

All comments of the Legislative Council staff have been addressed. All recommendations have been incorporated into the proposed rule.

Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Sharyn J. Eulert
Vernon C. Eulert

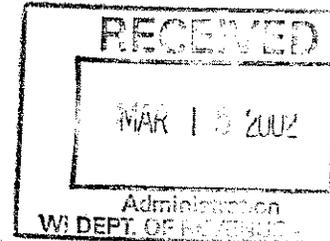
3617 Hwy 33 West
West Bend, WI 53095



Phone: 262-338-0820
Fax: 262-338-4690
eulertactg@aol.com

March 13, 2002

Mr. Mark Wipperfurth
Department of Revenue
Mail Stop 6-40
2135 Rimrock Road
P. O. Box 8933
Madison, WI 53708-8933



Re: Notice of Hearing
Revenue (CR01-137)

Dear Mr. Wipperfurth:

I would like to issue the following comments regarding the above proposed rules. Due to tax season I have not been able to analyze the complete notice, however, I am very disturbed about 2.08(3) (b).

It appears the department wants the ability to dictate that all tax preparation firms must file electronically. This is a business decision that should be made by each firm, not by the department. I believe this is what the department is trying to do to transfer their budget cuts to the taxpayers and preparers of this state.

The fiscal estimate is completely in error. It states that there is no fiscal impact. This sure is not correct. Approximately 50% of the tax returns are filed by paid preparers. That would amount to 1.45 million tax returns. The average charge for filing a return is \$30.00. This charge includes the additional software charges, the pay per return charges, telephone long distance charges, the additional time needed to submit the return and the time needed to handle all of the error messages received. Some firms claim to offer this service free, however, when you examine their fee structure they have at least this amount buried in their prices. The \$30.00 fee is a breakeven fee. Some firms charge as much as \$75.00 to file electronically. If all preparers are required to file electronically this would put additional tax preparation fees of at least \$43.5 million on the residents of the State of Wisconsin. So the fiscal impact is additional charges to the small business and individuals of the state of at least \$43,500,000.00. I think this is completely ridiculous. I would assume if this is passed the department will immediately cut their budget by this additional amount.

Enrolled to practice before the Internal Revenue Service

I also take issue with your timing of telling preparers by October 1 that they must use this method by the next January 1. Most software firms require that you renew your software by no later than June 15th with full payment by then. Any changes to the contract after that time requires additional higher cost charges.

According to the Department of Revenues current statistics 45% of the returns received are being filed electronically, so, I cannot understand why the department wants to take this unprecedented action. I hope at least this part of this rule is never passed.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Vernon Eulert E. A.", written in a cursive style.

Vernon Eulert E. A.

CC: Repr Glenn Grothman
Sen Mary Panzer

**PROPOSED ORDER OF THE DEPARTMENT OF REVENUE
REPEALING, RENUMBERING, RENUMBERING AND AMENDING,
AMENDING, REPEALING AND RECREATING AND CREATING RULES**

The Wisconsin Department of Revenue proposes an order to: **repeal** Tax 2.08(1)(a)16. and Tax 11.01(1)(c), (d), (e) and (h); **renumber** Tax 2.08(1)(a)4., 6. to 11., 13., 14. and 17. to 28. and (b)6. and Tax 11.01(1)(f), (i), (j) and (k); **renumber and amend** Tax 2.08(1)(a)5., 12. and 15. and (b)5. and (3) and Tax 11.01(1)(g); **amend** Tax 2.08(1)(a)2. and 3. and (b)3. and Tax 11.01(1)(b); **repeal and recreate** Tax 11.01(2); and **create** Tax 2.08(1)(a)4., 7., 8., 23. and 25. and (b)5. and 6. and (3)(a)1. to 3., (b), (c), (d) and (e) and Tax 11.01(1)(title); **relating to** returns of persons other than corporations that relate to income, and sales and use tax returns.

Analysis by the Department of Revenue

Statutory authority: ss. 71.80(1)(c) and 227.11(2)(a), Stats.

Statutes interpreted: ss. 71.01(5)(g), 71.03(2), 71.20(1), 71.55(3), 71.80(18), 77.51(3r), 77.58 and 77.75, Stats.

SECTION 1. Tax 2.08(1)(a)2. and 3. are revised, to conform language to Legislative Council Rules Clearinghouse ("Clearinghouse") standards.

SECTIONS 2 AND 5. Tax 2.08(1)(a)4., 5., 6. to 15. and 17. to 28. are renumbered Tax 2.08(1)(a)5., 6., 9. to 22., 24. and 26. to 32., due to the addition and deletion of forms as described in sections 3, 4 and 6.

As renumbered, Tax 2.08(1)(a)6. is revised, to provide that form 1X is used to amend telefile and netfile returns.

As renumbered, Tax 2.08(1)(a)15. is revised, to include information about forms described in section 3.

As renumbered, Tax 2.08(1)(a)18. is revised, to correct the name of schedule DC.

SECTIONS 3 AND 6. Tax 2.08(1)(a)4., 7., 8., 23. and 25. are created, to list new or previously unlisted forms.

SECTION 4. Tax 2.08(1)(a)16. is repealed, to remove obsolete schedule EICW.

SECTION 7. Tax 2.08(1)(b)3. is revised, to change the name of form 3S as a result of replacing the temporary recycling surcharge with a recycling surcharge.

SECTIONS 8 AND 9. Tax 2.08(1)(b)5. and 6. are renumbered Tax 2.08(1)(b)7. and 8., due to the addition of forms as described below.

As renumbered, Tax 2.08(1)(b)7. is revised, to correct the name of schedule DC.

Tax 2.08(1)(b)5. and 6. are created, to list new or previously unlisted forms.

SECTION 10. Tax 2.08(3) is renumbered Tax 2.08(3)(a)(intro.) and revised, to reflect the creation of subdivisions 1. to 3. as explained in section 11.

SECTION 11. Tax 2.08(3)(a)1. to 3. are created, to provide updated filing procedures, including filing by electronic means and delivering as prescribed per the creation of s. 71.01(5g), Stats., and the amendment to s. 71.80(18), Stats., by 1997 Wis. Act 27.

Tax 2.08(3)(b) to (e) are created, to provide authority for the department to require certain tax return preparers and tax preparation firms to file returns by electronic means, and to provide exceptions to the requirement.

Both notes at the end of Tax 2.08 are revised, to update the department office location and mailing address and to include additional statutory references.

SECTION 12. Tax 11.01(1)(title) is created, to clarify the context of the subsection.

SECTION 13. Tax 11.01(1)(b) is revised, to provide that the form may also be used to file refund claims or report additional taxes for prior periods.

SECTIONS 14 AND 16. Tax 11.01(1)(c), (d), (e) and (h) are repealed, to remove obsolete forms S-013, S-014, SU-002 and S-108.

SECTIONS 15 AND 17. As a result of the repeals in sections 14 and 16, Tax 11.01(1)(f) and (g) are renumbered Tax 11.01(1)(c) and (d), and Tax 11.01(1)(i) to (k) are renumbered Tax 11.01(1)(e) to (g).

As renumbered, Tax 11.01(1)(d) is revised, to reflect the new number of the department of transportation form for aircraft sales.

SECTION 18. Tax 11.01(2) is repealed and recreated, to provide updated filing procedures, including filing by electronic means and delivering as prescribed per the creation of s. 77.51(3r), Stats., by 1997 Wis. Act 27; to provide authority for the department to require that certain sales and use tax returns be filed by electronic means and provide exceptions to the requirement; and to move an address to a note, per Clearinghouse standards.

Both notes at the end of Tax 11.01 are revised, to provide the department office location and update the mailing address, and to include an additional statutory reference.

SECTION 1. Tax 2.08(1)(a)2. and 3. are amended to read:

Tax 2.08(1)(a)2. Form 1A. Income tax. This is an optional short form return ~~which~~ that may be used by individuals who are full-year Wisconsin residents and filing as married filing a joint return, head of household or single.

3. Form WI-Z. Income tax. This is an optional short form return which that may be used by individuals who are full-year Wisconsin residents and filing as married filing a joint return or single.

SECTION 2. Tax 2.08(1)(a)4., 5. and 6. to 15. are renumbered Tax 2.08(1)(a)5., 6. and 9. to 18. and as renumbered Tax 2.08(1)(a)6., 15. and 18. are amended to read:

Tax 2.08(1)(a)6. Form 1X. Income tax - amended return. This return may be used by full-year Wisconsin resident individuals to amend form 1, 1A or WI-Z or returns filed using telefile or netfile.

15. Form CN-ES. Composite estimated tax voucher. This form may be used by nonresident athletes, directors, partners, members or shareholders using form 1CNA, 1CND, 1CNP or 1CNS.

18. Schedule DC. Development ~~zone credits~~ zones credit.

SECTION 3. Tax 2.08(1)(a)4., 7. and 8. are created read:

Tax 2.08(1)(a)4. Telefile and netfile worksheet. Income tax. This is a worksheet that may be used by single individuals under age 65 who file by telephone using telefile or by computer using netfile. Only eligible individuals who have been selected by the department to file in this manner may use telefile or netfile.

7. Form 1CNA. Combined individual income tax return for nonresident members of professional athletic teams.

8. Form 1CND. Combined individual income tax return for nonresident directors of corporations.

SECTION 4. Tax 2.08(1)(a)16. is repealed.

SECTION 5. Tax 2.08(1)(a)17. to 20., 21. and 22. to 28. are renumbered Tax 2.08(1)(a)19. to 22., 24. and 26. to 32.

SECTION 6. Tax 2.08(1)(a)23. and 25. are created to read:

Tax 2.08(1)(a)23. Schedule MS. Manufacturer's sales tax credit.

25. Schedule RS. Recycling surcharge.

SECTION 7. Tax 2.08(1)(b)3. is amended to read:

Tax 2.08(1)(b)3. Form 3S. Partnership temporary recycling surcharge.

SECTION 8. Tax 2.08(1)(b)5. and 6. are renumbered Tax 2.08(1)(b)7. and 8. and as renumbered Tax 2.08(1)(b)7. is amended to read:

Tax 2.08(1)(b)7. Schedule D DC. Development ~~zone credits~~ zones credit .

SECTION 9. Tax 2.08(1)(b)5. and 6. are created to read:

Tax 2.08(1)(b)5. Form 3U. Underpayment of estimated recycling surcharge by partnerships.

6. Schedule 3Z. Manufacturer's sales tax credit.

SECTION 10. Tax 2.08(3) is renumbered Tax 2.08(3)(a)(intro.) and amended to read:

Tax 2.08(3)(a)(intro.) All forms and information required to be filed or furnished by persons other than corporations shall be filed or furnished by providing the information requested on the appropriate forms, signing the returns or forms as appropriate, and delivering them to the department or mailing them to the address specified by the department on the form or in the instructions. and submitting them by one of the following means:

SECTION 11. Tax 2.08(3)(a)1. to 3., (b), (c), (d) and (e) are created to read:

Tax 2.08(3)(a)1. Mailing them to the address specified by the department on the form or in the instructions.

2. Delivering them to the department or to the destination that the department or the department of administration prescribes.

3. Filing them by the use of electronic means as prescribed by the department.

Note to Revisor: Insert the following note at the end of Tax 2.08(3)(a):

Note: The destination for delivering forms that the department or the department of administration prescribes and the type of electronic means the department prescribes for filing forms shall be stated on the forms or in the instructions, on the department's internet web site at www.dor.state.wi.us or in the department's quarterly newsletter titled "Wisconsin Tax Bulletin" or other written material.

(b) Except as provided in pars. (b) and (c), the department may require a tax return preparer or tax preparation firm that prepared the threshold number, as described in subds. 1. and 2., of Wisconsin individual income tax returns for the prior taxable year, to file individual income tax returns prepared by that tax return preparer or tax preparation firm by electronic means. The department shall notify tax return preparers and tax preparation firms by October 1 of any year of the requirement to use electronic means. The requirement to file returns by electronic means shall be effective beginning January 1 of the year following notification. The threshold number of returns prepared in the prior taxable year is as follows:

1. For taxable year 2002, 200 or more returns.
2. For taxable year 2003 and thereafter, 100 or more returns.

(c) Paragraph (b) does not apply to a return on which the taxpayer has indicated that the taxpayer did not want the return filed by electronic means.

(d) The secretary of revenue may waive the requirement to file by electronic means when the secretary determines that the requirement causes an undue hardship, if the tax return preparer or tax preparation firm otherwise required to file by electronic means does all of the following:

1. Requests the waiver in writing.

Note: Written waiver requests should be addressed to Wisconsin Department of Revenue, Secretary's Office, Mail Stop 3-258, PO Box 8903, Madison WI 53708-8903.

2. Clearly indicates why the requirement causes an undue hardship.

(e) In determining whether the electronic means requirement causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances that may prevent the person from filing by electronic means.

Example: The tax return preparer does not have access to a computer that is connected to the internet.

2. Any other factor that the secretary determines is pertinent.

Note to Revisor: Replace the 2 notes at the end of Tax 2.08 with the following:

Note: Forms may be delivered in person to the Department of Revenue at 2135 Rimrock Road, Madison, Wisconsin. Blank forms may be obtained at the same location; by calling (608) 266-1961; by writing to Wisconsin Department of Revenue, Forms Request Office, Mail Stop 1-151, PO Box 8951, Madison WI 53708-8951; or by accessing the department's internet web site at www.dor.state.wi.us.

Note: Section Tax 2.08 interprets ss. 71.01(5g), 71.03(2), 71.20(1), 71.55(3) and 71.80(18), Stats.

SECTION 12. Tax 11.01(1)(title) is created to read:

Tax 11.01(1)(title) FORMS.

SECTION 13. Tax 11.01(1)(b) is amended to read:

Tax 11.01(1)(b) Form S-012. Also called form ST-12. The monthly, quarterly or annual return used to report state, county and stadium taxes by persons holding a Wisconsin seller's permit, use tax registration certificate or consumer's use tax registration certificate. This form is also used to file refund claims or report additional taxes for prior periods.

SECTION 14. Tax 11.01(1)(c), (d) and (e) are repealed.

SECTION 15. Tax 11.01(1)(f) and (g) are renumbered Tax 11.01(1)(c) and (d) and as renumbered Tax 11.01(1)(d) is amended to read:

Tax 11.01(1)(d). Form ~~AR-4~~ DT 1556. A department of transportation form for occasional and dealer sales of aircraft.

SECTION 16. Tax 11.01(1)(h) is repealed.

SECTION 17. Tax 11.01(1)(i), (j) and (k) are renumbered Tax 11.01(1)(e), (f) and (g).

SECTION 18. Tax 11.01(2) is repealed and recreated to read:

Tax 11.01(2) FILING RETURNS. (a) Forms required to be filed shall be submitted by one of the following means:

1. Mailing them to the address specified by the department on the forms or in the instructions.

2. Delivering them to the department or to the destination that the department prescribes.

3. Filing them electronically via the department's sales internet process, or "SIP," or some other electronic means prescribed by the department.

Note: Information about SIP is found in Wisconsin Publication 227, "E-File Sales Tax Returns With S.I.P.," which is available from any Wisconsin Department of Revenue office or online at www.dor.state.wi.us/html/taxpubs.html.

(b) The department may require a person registered or required to be registered for Wisconsin sales and use tax purposes to file its sales and use tax return by electronic means. The department shall notify the person at least 90 days prior to the due date of the first sales and use tax return required to be filed by electronic means of the requirement to file by electronic means. In its notice, the department shall indicate the period covered for the first return to be filed by electronic means.

(c) The secretary of revenue may waive the requirement for a person to file by electronic means when the secretary determines that the requirement causes an undue hardship, if the person does all of the following:

1. Requests the waiver in writing.

Note: Written requests should be addressed to Wisconsin Department of Revenue, Secretary's Office, Mail Stop 3-258, PO Box 8903, Madison WI 53708-8903.

2. Clearly indicates why the requirement causes an undue hardship.

(d) In determining whether the electronic means requirement causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances that may prevent the person from using electronic means.

Example: The person does not have access to a computer that is connected to the internet.

2. Any other factor that the secretary determines is pertinent.

Note to Revisor: Replace the 2 notes at the end of Tax 11.01 with the following:

Note: Department of Revenue forms may be delivered in person to the Department of Revenue at 2135 Rimrock Road, Madison, Wisconsin. Blank Department of Revenue forms may be obtained at the same location; by calling (608) 266-2776; by writing to Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8902, Madison WI 53708-8902; or by accessing the department's internet web site at www.dor.state.wi.us.

Note: Section Tax 11.01 interprets ss. 77.51(3r), 77.58 and 77.75, Stats.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

Initial Regulatory Flexibility Analysis

This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

DEPARTMENT OF REVENUE

Dated: _____

4/19/02

By: _____

Richard G. Chandler

Richard G. Chandler
Secretary of Revenue

e:rules\208 Proposed Order

FISCAL ESTIMATE FORM

2001 Session

- ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB # 01-
INTRODUCTION #
Admin. Rule # Tax 2.08 and 11.01

Subject
Income and Sales Tax Returns

Fiscal Effect

State: No State Fiscal Effect
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

- Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation

- Increase Costs - May be Possible to Absorb Within Agency's Budget Yes No
 Decrease Costs

Local: No Local Government Costs

1. Increase Costs
 Permissive Mandatory
 2. Decrease Costs
 Permissive Mandatory

3. Increase Revenues
 Permissive Mandatory
 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
 Towns Villages Cities
 Counties Others _____
 School Districts WTCS Districts

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate:

The proposed rule order would update the income and sales tax returns and other forms listed in the Administrative Code. It would update filing procedures, including procedures for electronic filing, and indicate when filing by electronic means is required and when exceptions to that requirement are allowed. These changes have no fiscal impact.

DC:skr
 I:\legisfiles\dc\Tax 2 and 11.doc

Long-Range Fiscal Implications:

Agency/Prepared by: (Name & Phone No.) Wisconsin Department of Revenue Dennis Collier, (608) 266-5773	Authorized Signature/Telephone No. Brian Pahnke,  (608) 266-2700	Date 11/01/01
---	--	------------------



State of Wisconsin • DEPARTMENT OF REVENUE

2135 Rimrock Rd. • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933
PHONE (608) 266-8253 • FAX (608) 261-6240 • mwipperf@dor.state.wi.us

April 30, 2002

✓
Honorable Judith Robson
Co-Chair Joint Committee for Review
of Administrative Rules
Rm 115 South State Capitol
PO Box 7882
Madison WI 53707-7882

Honorable Glenn Grothman
Co-Chair Joint Committee for Review
of Administrative Rules
Rm 15 North State Capitol
PO Box 8952
Madison WI 53708-8952

Re: Clearinghouse Rule 01-143 - **Correction**

Dear Senator Robson and Representative Grothman:

On April 22, 2002, the Department of Revenue sent you documents relating to Clearinghouse Rule 01-143, which was incorrectly identified as Clearinghouse Rule 01-043. Enclosed is a copy of the corrected Report.

Sincerely,

Mark P. Wipperfurth

Mark P. Wipperfurth
Administration Technical Services
Income, Sales, and Excise Tax Division

E:\rules\208 Committees - JCRAR - Correction

DEPARTMENT OF REVENUE

CLEARINGHOUSE RULE NUMBER 01-143

SECTION 227.19(2) AND (3), STATS., REPORT

Need for Proposed Rule

The rule is necessary to:

- Permit the Department to require that certain returns relating to income of persons other than corporations and certain sales and use tax returns be filed by electronic means.
- Delete references to obsolete forms.
- List new or previously unlisted forms.
- Update or correct information relating to certain forms.
- Update information relating to methods by which returns may be submitted to the Department.

Public Hearing

A public hearing was held on March 12, 2002. Nobody appeared at the public hearing to provide testimony or comment. However, a letter with comments was received from Mr. Vernon Eulert, E. A., of Eulert Accounting, relating to s. Tax 2.08(3)(b). A copy of this letter is being enclosed with this Report. As a result of this letter, sub. (3)(b) was revised to set forth the thresholds for the number of returns prepared for the prior taxable year before a tax return preparer or tax preparation firm would be required to file returns by electronic means. With respect to other comments made in Mr. Eulert's letter:

- The department is not attempting to require all tax return preparers or tax preparation firms to file their clients' individual income tax returns electronically. Only preparers or firms that prepared 200 or more individual income tax returns for the prior taxable year would be required to file 2002 tax returns electronically in 2003; that threshold number would be reduced to 100 in 2004 and thereafter. In addition, electronic filing would not be required for the return of a taxpayer who indicates he or she does not want the return filed electronically, and a waiver from the requirement can be granted in case of undue hardship.
- The fiscal estimate is not in error. This estimate measures the fiscal effect for the state, and as indicated, the proposed rule has no state fiscal effect.
- Based on the department's research, the cost of filing a return by electronic means is significantly less than the amounts represented in the letter. In addition, since the cost of preparing and filing a return is an ordinary expense of doing business, such costs could be passed on to the client, resulting in little or no additional cost to the

preparer or firm. For these reasons, the department feels that the regulatory flexibility analysis at the end of the proposed rule is accurate.

- The October 1 date listed in the proposed rule is the latest date the department could notify a preparer or firm of the electronic filing requirement for the following year. It is anticipated that the notification will be made significantly sooner than October 1.

Legislative Council Staff Recommendations

All comments of the Legislative Council staff have been addressed. All recommendations have been incorporated into the proposed rule.

Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.



State of Wisconsin • DEPARTMENT OF REVENUE

2135 RIMROCK ROAD • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718 • <http://www.dor.state.wi.us>

Scott McCallum
Governor

Richard G. Chandler
Secretary of Revenue

May 14, 2002

Vernon Eulert E.A.
Eulert Accounting
3617 Hwy 33 West
West Bend, WI 53095

Dear Mr. Eulert:

Thank you for your comments regarding Clearinghouse Rule 01-143 and the Department of Revenue's proposal to require tax practitioners to file tax returns electronically if the practitioners file a large number of returns. I appreciate your input on this rule; the department values its positive working relationship with tax practitioners and we are working hard to implement technology changes in ways that benefit both DOR as well as all tax filers and practitioners.

As you noted in your letter, the department would like to have tax practitioners file their clients' returns electronically if the practitioner files 200 or more returns in 2003 and 100 or more returns in 2004 and thereafter. We anticipate that this requirement would affect approximately 2,000 practitioners in tax year 2002 (153,000 income tax returns) and approximately 1,500 more, for a total of 3,500 practitioners in tax years 2003 and beyond (250,000 income tax returns annually). The other 43,700 practitioners who file Wisconsin returns will not be affected by Rule 01-143.

I understand your apprehension regarding a requirement of this nature, and I hope I can address your concerns. The rule as proposed would allow several options for those who do not wish to utilize electronic filing:

- Any practitioner can ask for a waiver from the electronic filing requirement if the requirement results in a hardship to the practitioner. Certainly the potential extra expense you mention if software is not purchased by June 15th would be considered a hardship and I would be willing to waive the requirement in such an instance.
- If a client wishes to file a paper copy of a tax return, the practitioner would not be required to file electronically for that client.
- There is no penalty for failure to comply with the mandate.

You also expressed some concerns about the cost of electronic filing for tax returns. DOR staff members have researched the software and associated charges for electronic filing and have found a wide range of charges both for the cost of the software as well as additional fees for electronic transmission. A number of packages are available at quite reasonable rates (under \$1,000) and include unlimited transmission of both state and federal tax returns, while other less costly packages charge small fees (\$1-\$5) for transmission of each return.

May 14, 2002
Page Two

The department is actively monitoring the electronic filing software market and I would be happy to share more detail with you if you would like to review our research. The e-file software market is quite fluid at this point. As more states begin to require electronic filing, software companies are changing their pricing structure to respond to the increasing demand. I expect that costs for the software and transmission packages will continue to become even more competitive in the next several years.

Moving from paper processing of the millions of tax returns filed each year to a more efficient electronic filing system is of vital importance to the Department of Revenue as we move further into the information technology age with greater expectations for the service we provide to taxpayers. Providing refunds to taxpayers within 5 days of the time an electronic return is filed is a great benefit both to taxpayers and the department. Those who file paper returns often must wait 12 weeks to receive their refunds, a situation that is frustrating not only for taxpayers but for the department as well.

I hope you can support the department's efforts to increase the number of tax practitioner electronic returns. We are certainly willing to make allowances for any hardships an e-file requirement might have on you or any other practitioner and we hope to work together to provide better and quicker service for the taxpayers of Wisconsin.

Please feel free to contact me with any additional comments or questions you may have.

Thank you again for your input into our administrative rule process.

Sincerely,



Richard G. Chandler
Secretary of Revenue

cc: Representative Glenn Grothman
Senator Mary Panzer