

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

The Wisconsin Department of Revenue adopts 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 is repealed, to remove obsolete schedule EICW.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. (c) and (d), 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.

Final Regulatory Flexibility Analysis

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

DEPARTMENT OF REVENUE

Dated: _____ By: _____

Richard G. Chandler
Secretary of Revenue

e:rules\208 Adopt - Order