

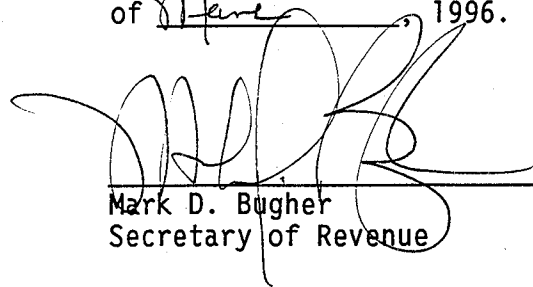
CERTIFICATE

STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records, certify that the annexed rule, relating to claims for refund, amended returns, forms reproduction, and notices of federal adjustments or amended returns, was duly approved and adopted by this department on March 27, 1996.

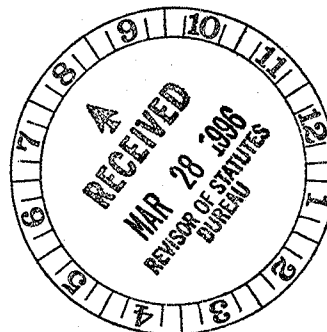
I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 27th day of March, 1996.



Mark D. Bugher
Secretary of Revenue

CKRUL/174



LRB or Bill No./Adm. Rule No.

TAX 2.09, 2.105, 2.12

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R10/94)

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

Subject

Refund Claims; Reproduction of Tax Forms; Audit Adjustments; Amended 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
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

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

This rule would repeal Tax 3.94, Wis. Adm. Code, and repeal and recreate Tax 2.09, 2.105 and 2.12, relating to: claims for refund; the reproduction of franchise or income tax forms; notices of federal audit adjustments and federal or other states' amended returns; and amended Wisconsin returns. The provisions of repealed Tax 3.94 would be included in Tax 2.12; other changes are being made to reflect legislative changes, to conform the rules with current Department of Revenue policy, to delete obsolete language, and to conform language and style to Legislative Council Rules Clearinghouse standards. The rule changes have no fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue

Bruce J. Biermeier, 266-7396

Authorized Signature/Telephone No.

Dennis Collier
266-5773

Date

8/11/95

ORDER OF THE DEPARTMENT OF REVENUE
REPEALING AND REPEALING AND RECREATING RULES

The Wisconsin Department of Revenue adopts an order to repeal Tax 3.94 and to repeal and recreate Tax 2.09, 2.105 and 2.12, relating to: claims for refund; the reproduction of franchise or income tax forms; notices of federal audit adjustments and federal or other states' amended returns; and amended Wisconsin returns.

Analysis by the Department of Revenue

Statutory authority: s. 71.80(1)(c), Stats.

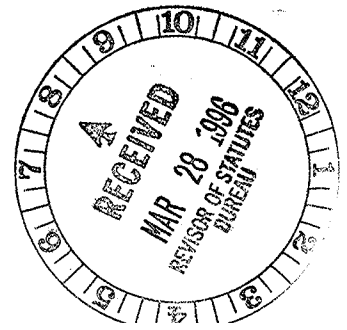
Statutes interpreted: ss. 71.03(6)(a), 71.20(1), 71.24(1), 71.30(4), 71.44(1)(a), 71.74, 71.75, 71.76, 71.77, 71.80(18) and 77.96(4), Stats.

SECTION 1. Tax 2.09 is repealed and recreated to: reflect correct statutory references and add "franchise" tax in the title; reflect the department's current policy and specifications regarding the reproduction of tax forms; make the rule clearer by adding titles to the subsections, renumbering the introductory language to be sub. (1), renumbering subs. (1) to (5) to be part of sub. (2), and renumbering sub. (6) to be sub. (3); and conform language and style to Legislative Council Rules Clearinghouse standards.

SECTION 2. Tax 2.105 is repealed and recreated. References to the temporary recycling surcharge are added wherever appropriate. The definition of "taxpayer" in sub. (2) is expanded to include partnerships and limited liability companies. Sub. (4)(a) and (b) are changed to reflect statutory changes to s. 71.76, Stats., by 1991 Wis. Act 39, regarding when a taxpayer must notify the department of federal changes. Sub. (4)(c) is changed to clarify a taxpayer's reporting requirements regarding federal adjustments or amended returns. Subs. (5) and (6) are reversed and sub. (7) is made a part of new sub. (5) as par. (c)4, for clarity. Old sub. (5)(b)2 and an example, relating to pre-7/2/83 adjustments, are deleted because they are obsolete. References to other subs. in sub. (3)(b) and new sub. (6)(a) and (b) are changed to reflect proper cross-references. Throughout the rule, changes are made to conform language, style and format to Legislative Council Rules Clearinghouse standards.

SECTIONS 3 and 4. Tax 2.12, is repealed and recreated, and Tax 3.94 is repealed and its provisions are made a part of Tax 2.12.

With respect to Tax 2.12, sub. (1)(a) is recreated as subs. (3)(a), (3)(c) and (4)(b)6. Sub. (1)(b) is recreated as sub. (3)(e). Sub. (1)(c) is recreated as sub. (4)(a), (4)(b)3 and (4)(b)7. Sub. (2) is repealed and subs. (5)(a) and (6)(b) are created to replace it, stating that amended forms must be on the proper form and in the proper manner, listing the proper forms, and stating how to mark an amended form. Note 1) at the end of Tax 2.12 is incorporated as part of sub. (3)(a), and Note 2) is deleted.



With respect to Tax 3.94, incorporating the rule in Tax 2.12 reflects a statutory change to s. 71.75(6), Stats., by 1993 Wis. Act 205, which provides that claims for refund must be filed on a form and in the manner prescribed by the department (which is an amended form). Sub. (1) is made a part of the definition of "timely filed" in Tax 2.12(2). Sub. (2) is recreated as Tax 2.12(6)(a), and the language regarding the permissive use of amended forms is removed. Sub. (3) is deleted.

In addition, Tax 2.12 is expanded to include many new provisions. Throughout the rule where appropriate, references to "credit claims" are added to reflect amended farmland preservation credit and homestead credit claims, and references to temporary recycling surcharge and partnership returns are added. Sub. (1) states the scope of the rule. Sub. (3)(b) states that refunds may be claimed only by filing an amended form. Sub. (3)(c) reflects statutory changes to s. 71.76, Stats., by 1991 Wis. Act 39, regarding when a taxpayer must file an amended Wisconsin return to reflect federal or other states' amendeds. Sub. (3)(d) specifies how and under what circumstances a taxpayer must report federal audit changes to the department. Sub. (4)(b)1, 2, 4, 5, 6 and 8 provide exceptions to the 4-year filing limitation, including refunds for field audited years and office audited items, capital loss carrybacks for corporations, extension agreements, federal amendeds and defense contract renegotiations or redeterminations. Sub. (5)(b) provides that the department may prescribe special forms for specific tax issues. Sub. (6)(c) and (d) provide that amendeds must be mailed to a specific address and may not be attached to original returns. Notes are added to give treatment of various provisions before and after various law changes.

SECTION 1. Tax 2.09 is repealed and recreated to read:

Tax 2.09 REPRODUCTION OF FRANCHISE OR INCOME TAX FORMS. (ss. 71.03(6)(a), 71.20(1), 71.24(1) and 71.44(1)(a), Stats.) (1) GENERAL.

Subject to the provisions of this section, the official Wisconsin franchise or income tax forms required to be filed with the department may be reproduced and the reproductions may be filed in lieu of the corresponding official forms. Any reproduction which varies from the official version in any particular, except as authorized in this section, shall be submitted to the department for approval before it is used. The department may reject any reproduction which is in whole or in part illegible or which is of a format that has not been approved by the department.

(2) SPECIFICATIONS. The following specifications shall apply:

(a) Printing of reproductions shall be by conventional printing processes, photocopying, computer graphics or similar reproduction processes and shall duplicate the font sizes, graphics and format of the official form. Reproductions may be printed on one side or both sides of the paper.

(b) Reproductions of optical character reader-scannable, or OCR-scannable, documents shall bear an OCR-scannable line as prescribed for the specific document type. Photocopies of OCR-scannable forms may not be filed.

(c) The reproductions shall be on paper of substantially the same weight and texture, and of quality at least as good as that used in the official forms.

(d) In the reproduction of tax forms, official forms printed on colored paper may be reproduced on white paper, and black ink may be substituted for colored ink.

(e) The size of the reproduction, both as to dimensions of the paper and image reproduced on it, shall be the same as that of the official form, except that full-page official forms which are other than 8½ inches by 11 inches in size may be reproduced on 8½ inch by 11 inch paper.

(f) Except for returns executed by fiduciaries as provided in sub. (3) or returns filed electronically, all signatures required on returns which are filed with the department shall be original, affixed subsequent to the reproduction process.

(3) FIDUCIARIES. A fiduciary or the fiduciary's agent may use a facsimile signature in filing a tax return on form 2, subject to the following conditions:

(a) Each group of returns forwarded to the department shall be accompanied by a letter signed by the person authorized to sign the returns declaring, under penalties of perjury, that the facsimile signature appearing

on the returns is the signature adopted by the person to sign the returns filed and that the signature was affixed to the returns by the person or at the person's direction. The letter shall also list each return by name and identifying number.

(b) A signed copy of the letter shall be retained by the person filing the returns and shall be available for inspection by the department.

(c) If returns are reproduced by photocopying or similar reproductive methods, the facsimile signature shall be affixed subsequent to the reproduction process.

Note: Written requests for approval of substitute forms should be mailed to Wisconsin Department of Revenue, Processing Forms Approval, P.O. Box 8903, Madison, WI 53708-8903.

SECTION 2. Tax 2.105 is repealed and recreated to read:

Tax 2.105 NOTICE BY TAXPAYER OF FEDERAL AUDIT ADJUSTMENTS AND AMENDED RETURNS. (ss. 71.75(2), 71.76, 71.77(2) and (7) and 77.96(4), Stats.) (1) **PURPOSE.** This section clarifies the time periods for a taxpayer to report federal audit adjustments and federal and other state amended returns for Wisconsin franchise or income tax and temporary recycling surcharge purposes, and the result if a taxpayer fails to report the adjustments or amended returns.

(2) **DEFINITION.** In this section, "taxpayer" includes individuals, estates, trusts, partnerships, limited liability companies and corporations.

(3) **GENERAL.** (a) Under ss. 71.76 and 77.96(4), Stats., a taxpayer meeting the conditions described in sub. (4) shall report to the department changes or corrections made to a tax return by the internal revenue service, or file with the department amended Wisconsin franchise or income tax returns or amended temporary recycling surcharge returns reporting any information contained in amended returns filed with the internal revenue service, or with another state if there has been allowed a credit against Wisconsin taxes for taxes paid to that state.

(b) Except as provided in sub. (5), the department may give notice to the taxpayer of assessment or refund within 90 days of the date the department receives the taxpayer's report of federal adjustments or amended return described in par. (a). The 90-day limitation does not apply to instances where the taxpayer files an incorrect franchise or income tax return or temporary recycling surcharge return with intent to defeat or evade the franchise or income tax or temporary recycling surcharge assessment.

(4) TAXPAYER REQUIRED TO REPORT. (a) Federal adjustments. If the federal net income tax payable, a credit claimed or carried forward, a net operating loss carried forward or a capital loss carried forward on a taxpayer's federal tax return is adjusted by the internal revenue service in a way which affects the amount of Wisconsin net franchise or income tax or temporary recycling surcharge payable, the amount of a Wisconsin credit or a Wisconsin net operating loss, net business loss or capital loss carried forward, the taxpayer shall report the adjustments to the department within 90 days after they become final. The following shall also apply with respect to federal adjustments:

1. 'Finality of federal adjustments.' For the purpose of determining when the federal adjustments become final, the following shall be deemed a final determination:

a. Payment of any additional tax, not the subject of any other final determination described in subd. 1. b., c., d. or e.

b. An agreement entered into with the internal revenue service waiving restrictions on the assessment and collection of a deficiency and accepting an overassessment. Federal form 870, "Waiver of Restrictions on Assessment and Collection of Deficiency in Tax and Acceptance of Overassessment," or 870-AD, "Offer to Waive Restrictions on Assessment and Collection of Tax Deficiency and to Accept Overassessment," are the forms prescribed for this purpose.

c. Expiration of the 90-day time period, or the 150-day period in the case of a notice addressed to a person outside the United States, within which a petition for redetermination may be filed with the United States tax court with respect to a statutory notice of deficiency issued by the internal revenue service, if a petition is not filed with that court within that time.

d. A closing agreement entered into with the internal revenue service under s. 7121 of the internal revenue code.

e. A decision by the United States tax court or a judgment, decree or other order by a court of competent jurisdiction which has become final, or the date the court approves a voluntary agreement stipulating disposition of the case. A court of competent jurisdiction includes a United States district court, a court of appeals, a court of claims or the United States supreme court.

Note. Decisions of the U.S. tax court and other courts ordinarily become final as follows:

a. If no appeal is made of a U.S. tax court decision, it becomes final upon expiration of a period of 90 days after the decision is entered. Decisions in unappealable cases involving deficiencies of \$10,000 or less heard by the U.S. tax court under s. 7463 of the internal revenue code become final 90 days after they are entered.

b. Appealed decisions of the U.S. tax court become final as set forth in s. 7481 of the internal revenue code.

c. A decision of a U.S. district court normally becomes final if not appealed to the U.S. court of appeals within 60 days of the judgment, decree or order.

d. A decision of the U.S. court of claims or the U.S. court of appeals normally becomes final unless an appeal or a petition for certiorari is filed with the U.S. supreme court within 90 days of the judgment or decree.

e. A decision of the U.S. supreme court is normally final upon the expiration of a period of 25 days from the date the decision is rendered, if a motion for reconsideration or rehearing is not filed within that time.

2. 'Information to report to department.' The taxpayer shall submit to the department a copy of the final federal audit report issued by the internal revenue service together with any other documents or schedules necessary to

inform the department of the adjustments as finally determined. The report shall be included with an amended Wisconsin return if a Wisconsin refund is being claimed and may be, but is not required to be, included with an amended return if additional Wisconsin tax or temporary recycling surcharge is due or if there is no change in tax or temporary recycling surcharge.

3. 'Agreement with adjustments.' A taxpayer shall be deemed to concede the accuracy of the federal adjustments for Wisconsin franchise or income tax or temporary recycling surcharge purposes unless a statement is included with the report to the department stating why the taxpayer believes the adjustments are incorrect.

(b) Amended returns. If a taxpayer files an amended federal tax return and the changes on the amended federal tax return affect the amount of Wisconsin net franchise or income tax or temporary recycling surcharge payable, the amount of a Wisconsin credit or a Wisconsin net operating loss, net business loss or capital loss carried forward, the taxpayer shall file with the department an amended Wisconsin return reflecting the same changes. A taxpayer filing an amended return with another state shall file an amended Wisconsin return if a credit has been allowed against Wisconsin taxes for taxes paid to that state and if the changes affect the amount of Wisconsin net franchise or income tax or temporary recycling surcharge payable, the amount of a Wisconsin credit or a Wisconsin net operating loss, net business loss or capital loss carried forward. The amended Wisconsin return shall be filed within 90 days after the date the amended return is filed with the internal revenue service or other state.

(c) Where and how to submit report or amended return. An amended Wisconsin return or a taxpayer's report of federal adjustments submitted with an amended Wisconsin return shall be filed in accordance with the provisions of s. Tax 2.12(5) and (6). A taxpayer's report of federal adjustments

submitted to the department without an amended return shall be identified as reflecting federal adjustments made by the internal revenue service and shall be mailed to Wisconsin Department of Revenue, Audit Bureau, P.O. Box 8906, Madison, WI 53708-8906. The report submitted without an amended return may not be made a part of or attached to any Wisconsin tax return.

(5) ASSESSMENTS AND REFUNDS BY DEPARTMENT. If a taxpayer reports federal adjustments or files an amended Wisconsin return with the department within 90 days after the adjustments become final or after an amended return is filed with the internal revenue service or another state, the department may make an assessment or issue a refund relating to the report or amended return as follows:

(a) Assessments. Under s. 71.77(2), Stats., the department may make an assessment within 4 years from the date the original Wisconsin franchise or income tax return was filed. However, under s. 71.77(7)(a), Stats., if the taxpayer reported less than 75% of the correct net income and the additional tax for the year exceeds \$200 for a joint return, or \$100 for a return other than a joint return, an assessment may be made within 6 years after the return was filed.

(b) Refunds. Under s. 71.75(2), Stats., the department may issue a refund if an amended return is filed within 4 years of the unextended date the original Wisconsin franchise or income tax return was due.

(c) Exceptions. 1. An assessment may be made later than the 4- and 6-year periods provided in par. (a) if notice of the assessment is given to the taxpayer within 90 days of the date the department receives a timely report of federal adjustments or an amended Wisconsin return. However, the assessment made after the expiration of the 4- and 6-year periods shall only relate to those federal adjustments or the changes on the amended Wisconsin return.

2. If a taxpayer reports federal adjustments to the department after the expiration of the 4-year period for filing an amended Wisconsin return as described in par. (b), a refund based upon federal adjustments reducing the taxpayer's federal tax liability, which are applicable to the taxpayer's Wisconsin tax or temporary recycling surcharge liability, may still be made if notice of the refund is given to the taxpayer within 90 days of the date the department received a timely report of the federal adjustments.

3. The 90-day period for the department's giving notice of an assessment or issuing a refund may be extended if a written agreement is entered into by the department and the taxpayer prior to the expiration of the 90 days.

4. If federal adjustments or changes on an amended return filed with the internal revenue service or another state pertain to a year which has been previously field audited by the department and the field audit has been finalized, an assessment or refund nevertheless may be made. However, the assessment or refund shall only relate to those federal adjustments or the changes on the amended return. Notice of the assessment or refund shall be given to the taxpayer within 90 days of the date the department received the report of federal adjustments or an amended Wisconsin return from the taxpayer.

Examples: 1) Federal adjustments were made to an individual's 1989 calendar-year basis federal income tax return; the adjustments became final on June 1, 1994. On August 15, 1994, within 90 days after the adjustments became final, the department received the taxpayer's report of the adjustments. Although the 4-year period provided by s. 71.77(2), Stats., for making adjustments to the 1989 Wisconsin return expired on April 15, 1994, the department had until November 13, 1994, 90 days after the date the department received a report of the adjustments, to give notice of an assessment to the taxpayer.

2) An individual filed an amended 1993 calendar-year basis New York return on June 1, 1994. An amended Wisconsin return, reflecting the changes on the amended New York return, was filed with the department on July 12, 1994. Under the 4-year assessment period in s. 71.77(2), Stats., the department has 4 years from April 15, 1994, the due date of the 1993 return, in which to notify the taxpayer of any assessment relating to the changes on the amended New York return.

(6) TAXPAYER'S FAILURE TO REPORT FEDERAL ADJUSTMENTS OR FILE AMENDED WISCONSIN RETURNS. (a) Adjustments and amended returns relating to taxable year 1987 and thereafter. If a taxpayer fails to report federal adjustments or the filing of an amended federal or other state return, relating to the taxable year 1987 and thereafter, within the 90-day period described in sub. (3)(b), the department may assess additional Wisconsin franchise or income tax or temporary recycling surcharge relating to the adjustments or amended return within 4 years after discovery by the department.

Example: An individual taxpayer filed a 1993 calendar-year basis Wisconsin income tax return on April 15, 1994. The internal revenue service made adjustments to the 1993 federal income tax return which the taxpayer did not report to the department within 90 days after the adjustments became final. The internal revenue service reports these adjustments to the department under the exchange of information agreement between the two agencies on May 1, 1996. The department may issue an assessment for the adjustments any time on or before May 1, 2000.

(b) Adjustments and amended returns relating to 1986 and prior taxable years. If a taxpayer fails to report federal adjustments or the filing of an amended federal or other state return which related to 1986 or prior taxable years within the 90-day period described in sub. (3)(b), the department may assess additional Wisconsin franchise or income tax relating to the adjustments or amended return within 10 years after the date the original Wisconsin return for the year was filed or within 2 years after the date when the federal determination of tax becomes final, whichever is later. A return filed before the last date prescribed by law, commonly April 15 for an individual reporting on a calendar-year basis, is considered as filed on the last date prescribed by law under s. 71.77(8), Stats.

Example: An individual taxpayer filed a 1986 income tax return on April 15, 1987. The taxpayer filed an amended return with Ohio on January 1, 1988. The result of the amended return was a reduction in the net tax paid to Ohio on income also reported to Wisconsin. The taxpayer did not notify the department within 90 days of filing the amended Ohio return. The department has until April 15, 1997, to issue an assessment for the Ohio amended return's effect on the Wisconsin credit for taxes paid to other states.

Note: Section 71.76, 1989 Stats., was amended by 1991 Wis. Act 39, effective for federal changes or corrections to a federal income tax return that became final on or after August 15, 1991, and for amended federal and other state returns filed on or after August 15, 1991. Under the statute in effect immediately prior to the enactment of 1991 Wis. Act 39, a taxpayer was required to report internal revenue service adjustments to taxable income that affected the income reportable or tax payable to Wisconsin, and to file an amended Wisconsin return if information contained on an amended federal or other state tax return affected income reportable or tax payable to Wisconsin.

SECTION 3. Tax 2.12 is repealed and recreated to read:

Tax 2.12 AMENDED RETURNS. (ss. 71.30(4), 71.74, 71.75, 71.76, 71.77, 71.80(18) and 77.96(4), Stats.) (1) SCOPE. This section applies to amended Wisconsin franchise or income tax returns, amended partnership returns, amended temporary recycling surcharge returns and amended farmland preservation credit and homestead credit claims.

(2) DEFINITION. In this section, "timely filed," in the case of an amended return or credit claim, means the amended return or credit claim is actually in the possession of the department prior to the expiration of the statutory limitation period or extended limitation period, or it is mailed in a properly addressed envelope with postage prepaid and is received by the department within 5 working days after the last day of the statutory limitation period or extended limitation period.

(3) GENERAL. (a) The department shall accept amended returns and credit claims to correct previously filed original, other amended or adjusted Wisconsin franchise or income tax returns, partnership returns, temporary recycling surcharge returns or farmland preservation credit or homestead credit claims.

(b) Under s. 71.75(6), Stats., and as provided in this section, a refund of taxes or credits under ch. 71, Stats., or temporary recycling surcharge under s. 77.96(4), Stats., may be claimed only by filing an amended return or credit claim.

(c) An amended Wisconsin return shall be filed with the department if either an amended federal return is filed or an amended return is filed with another state for which a credit for taxes has been allowed against Wisconsin taxes, and the changes to the amended federal or other state return affect the amount of Wisconsin net franchise or income tax or temporary recycling surcharge payable, a Wisconsin credit or a Wisconsin net operating loss, net business loss or capital loss carried forward.

(d) An amended Wisconsin return filed to report internal revenue service adjustments as provided in s. Tax 2.105(4)(a) shall include a copy of the final federal audit report.

(e) An amended return or credit claim does not begin or extend the statute of limitation periods for assessing additional tax or temporary recycling surcharge or claiming a refund.

(4) TIMELY FILING. (a) Except as provided in par. (b), if an amended return or credit claim shows a refund, it shall be filed within 4 years of the unextended due date of the original return.

(b) The 4-year filing limitation in par. (a) does not apply in the following situations:

1. Except as provided in subds. 3 and 4, an amended Wisconsin return or credit claim requesting a refund may not be filed for any year covered by a field audit which resulted in a refund or no change in the tax owed, or in an assessment that has become final under s. 71.88(1)(a) or (2)(a), 71.89(2), 73.01 or 73.015, Stats., provided the department advises the taxpayer that the field audit is final unless the taxpayer appeals the result.

2. Except as provided in subds. 3 and 4, an amended Wisconsin return or credit claim requesting a refund may not be filed for any item of income or deduction assessed as a result of an office audit, provided the assessment has become final under s. 71.88(1)(a) or (2)(a), 71.89(2), 73.01 or 73.015, Stats.

3. An amended Wisconsin return or credit claim requesting a refund of the tax or temporary recycling surcharge paid as a result of an office audit or field audit assessment may be filed within 2 years of the date the tax or temporary recycling surcharge was assessed if no petition for redetermination was filed.

4. An amended Wisconsin return requesting a refund of an overpayment attributable to a capital loss carryback may be filed by a corporation within 4 years after the due date, or extended due date, for filing the return for the taxable year of the capital loss that is carried back.

5. If the limitation period for making an assessment or refund has been extended by written agreement between a taxpayer and the department, an amended Wisconsin return or credit claim requesting a refund relating to the year or years covered by the extension agreement may be filed during the extension period.

6. An amended Wisconsin return filed under the provisions of sub. (3)(c) shall be filed with the department within 90 days after the date the amended federal or other state return is filed.

7. An amended Wisconsin return filed under the provisions of sub. (3)(d) shall be filed with the department within 90 days of the date on which the federal audit adjustments become final.

8. An amended Wisconsin return filed under the provisions of s. 71.30(4), Stats., to claim a reduction of income resulting from a renegotiation or price redetermination of a defense contract or subcontract shall be filed within one year of the final determination.

Note: Refer to s. Tax 2.105 for additional information regarding amended Wisconsin returns required as a result of filing amended federal or other state returns, or reports required as a result of federal audit adjustments made by the internal revenue service.

(5) FORMS. (a) Except as provided in par. (b), an amended Wisconsin return or credit claim requesting a refund shall be filed on the proper form as shown in the following table, in the manner prescribed in sub. (6). An amended return filed for a purpose other than to request a refund is not required to be filed on the forms indicated below.

<u>ORIGINAL FORM</u>	<u>AMENDED FORM</u>
1, 1A, WI-Z	1X
1NPR	1NPR
1 or 1A with Schedule H	1X + corrected H*
1 with Schedule FC	1X + corrected FC*
1NPR with Schedule H or FC	1NPR + corrected H or FC*
Schedule H alone	Schedule H
2	2
3	3
3S	3S
4	4X
4I	4I
4T	4T
5	4X
5S	5S
1CNP	1CNP
1CNS	1CNS

* If H or FC is changed.

(b) The department may prescribe a special form for taxpayers to use in claiming a refund, to address a specific tax issue. In this situation, the special form may be used in lieu of the amended form prescribed in par. (a).

Example: Wisconsin form 1X-R was developed in 1993 to address the issue of the flow-through of interest exempt from Wisconsin taxes received from a qualified retirement plan.

(6) MANNER. (a) An amended return or credit claim shall be in writing, indicate the reporting period for which the change was made and contain a statement setting forth the specific grounds upon which the amended form is based.

(b) An amended return or credit claim other than form 1X or 4X shall be identified as an amended form by checking the "amended return" box if one is provided on the form or by marking "AMENDED" across the top of the first page of the amended form.

(c) An amended return or credit claim requesting a refund may not be made a part of or attached to any original Wisconsin return or credit claim.

(d) An amended return or credit claim shall be mailed to the department at the address specified on the form or in its instructions or at the address provided for mailing amended Wisconsin returns or credit claims.

Note: 1) The address for mailing amended Wisconsin returns or credit claims is Wisconsin Department of Revenue, P.O. Box 8991, Madison, WI 53708-8991.

2) Sections 71.75(2) and 71.77(5), 1989 Stats., were amended by 1991 Wis. Act 39, effective August 15, 1991. Under the statutes in effect immediately prior to the enactment of 1991 Wis. Act 39, sub. (4)(b)4 did not apply.

3) Section 71.76, 1989 Stats., was amended by 1991 Wis. Act 39, effective for federal changes or corrections to a federal income tax return that became final on or after August 15, 1991, and for amended federal and other state returns filed on or after August 15, 1991. Under the statute in effect immediately prior to the enactment of 1991 Wis. Act 39, a taxpayer was required to report internal revenue service adjustments to taxable income that affected the income reportable or tax payable to Wisconsin, and to file an amended Wisconsin return if information contained on an amended federal or other state tax return affected income reportable or tax payable to Wisconsin.

4) Section 71.75(4), 1989 Stats., was amended by 1991 Wis. Act 39, effective for field audit notices issued on or after October 1, 1991. Under the statute in effect immediately prior to the enactment of 1991 Wis. Act 39, the limitation in sub. (4)(b)1 applied only to field audits which resulted in an assessment of additional tax.

SECTION 4. Tax 3.94 is repealed.

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

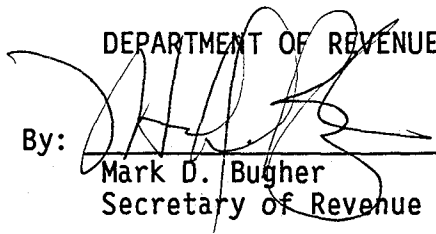
This rule order does not have a significant economic impact on a substantial number of small businesses.

Dated:

March 27, 1996

DEPARTMENT OF REVENUE

By:


Mark D. Bugher
Secretary of Revenue

CKRUL/85



State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

March 27, 1996

Gary L. Poulson
Deputy Revisor
131 West Wilson Street, Suite 800
Madison, WI 53703-3233

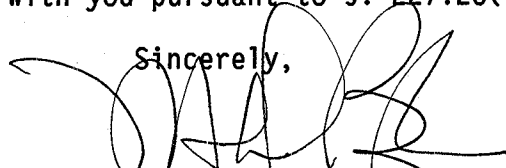
Re: Clearinghouse Rule 95-169

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to claims for refund, forms reproduction, amended returns, and notices of federal adjustments or amended returns.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKRUL/171

Enclosure

cc: Douglas J. La Follette, Secretary of State
Commerce Clearing House, Inc.
Research Institute of America, Inc.





State of Wisconsin • DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET • P.O. BOX 8933 • MADISON, WISCONSIN 53708-8933 • 608-266-6466 • FAX 608-266-5718

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

March 27, 1996

Douglas La Follette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, WI 53703

Dear Secretary La Follette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 95-169.

These materials are filed with you pursuant to s. 227.20(1), Stats.

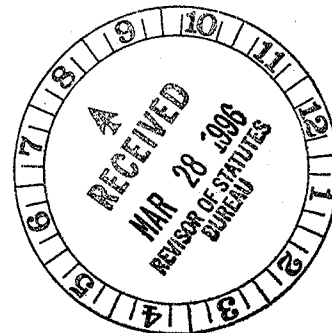
Sincerely,

Mark D. Bugher
Secretary of Revenue

MDB:MPW:c11
CKRUL/170

Enclosure

cc: Deputy Revisor



LRB or Bill No./Adm. Rule No.

TAX 2.09, 2.105, 2.12

Amendment No. if Applicable

FISCAL ESTIMATE
DOA-2048 N(R10/94)

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

Subject

Refund Claims; Reproduction of Tax Forms; Audit Adjustments; Amended 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
- Decrease Existing Appropriation
- Create New Appropriation
- Increase Existing Revenues
- Decrease Existing Revenues

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

This rule would repeal Tax 3.94, Wis. Adm. Code, and repeal and recreate Tax 2.09, 2.105 and 2.12, relating to: claims for refund; the reproduction of franchise or income tax forms; notices of federal audit adjustments and federal or other states' amended returns; and amended Wisconsin returns. The provisions of repealed Tax 3.94 would be included in Tax 2.12; other changes are being made to reflect legislative changes, to conform the rules with current Department of Revenue policy, to delete obsolete language, and to conform language and style to Legislative Council Rules Clearinghouse standards. The rule changes have no fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department of Revenue

Bruce J. Biermeier, 266-7396

Authorized Signature/Telephone No.

Dennis Collier
266-5773

Date

8/11/95