

CR 86-152

CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF REVENUE )

**RECEIVED**

MAY 19 1987  
*9:15 am*  
Revisor of Statutes  
Bureau

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Karen A. Case, Secretary of the Department of Revenue and custodian of the official records of said department do hereby certify that the annexed Order, Clearinghouse Rule 86-152, relating to updating franchise and income tax rules to delete obsolete material, correct or update language, format, addresses, references and form numbers, and to clarify or update procedures, was duly approved and adopted by this department on May 14, 1987.

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

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 14th day of May, 1987.

  
Karen A. Case  
Secretary of Revenue

ORDER OF THE DEPARTMENT OF REVENUE  
REPEALING, AMENDING AND CREATING RULES

To repeal Tax 2.01(1); to renumber Tax 1.10(b) and (2), 2.03(1)(f), (h) and (i); to renumber and amend Tax 1.10(1)(title) and (1)(a), 2.01(2), 2.03(1)(g) and (j) and (2), 2.08(1)(c) and (d); to amend Tax 1.06, 1.13(title), (1)(a)1 and (b), (3)(a) and (4), 2.03(title), (1)(a), (1)(c) and (d), 2.05, 2.08(title) and (1)(a) and (b), 2.08(2) and (3), and 3.07; to create Tax 1.10(1), 2.03(1)(f), (L), (m), (n), (o) and (p) and (2), 2.08(1)(c) through (j) relating to general administration, returns and confidentiality provisions of income and franchise taxation.

---

Analysis by the Department of Revenue

This rule order updates various rules in Chapters Tax 1, 2 and 3 to delete obsolete material, correct or update language, format, addresses, references and form numbers and to clarify or update procedures. The provisions are procedural rather than substantive.

SECTION 1. Tax 1.06 is amended to clarify that to the extent that Wisconsin tax law is referenced to the Internal Revenue Code, federal regulations applicable in determining credits and the Wisconsin income and minimum taxes should apply as well as the federal regulations applicable in determining Wisconsin taxable income. Grammar is also corrected.

SECTIONS 2-5. Tax 1.10 regarding depository bank requirements is amended to reformat the rule. Subsection (1) is created and subsection (2) is amended to reflect the actual operating procedures being used by the depository bank.

SECTION 6. Tax 1.13 regarding power of attorney provisions is amended to cover all types of taxes to which the confidentiality provisions of the statutes apply, and to correct grammar and an address.

SECTIONS 7 and 8. Tax 2.01 regarding a change of residence from Wisconsin to another state is revised to specify the form that must be filed with the Department of Revenue as an attachment to the individual's Wisconsin income tax return, to delete unnecessary language, and to add a note indicating how the form may be obtained. Subsection (1) of Tax 2.01 is repealed since it is obsolete following the case of Donald J. Kuban vs. Department of Revenue, WTAC (3-20-79) and other recent court decisions.

SECTIONS 9-17. Tax 2.03 regarding corporation returns is amended to add additional forms designated for the use of corporations, renumber sections, correct grammar, delete unnecessary language and correct an address. Subsection (2) is created to specify who must sign the returns.

SECTION 18. Tax 2.05 regarding the information return required for transfers of stock is amended to update terminology, change the word "statements" to "reports", and to correct grammar.

SECTIONS 19-22. Tax 2.08 regarding tax returns for noncorporate taxpayers is revised to add additional forms designated for the use of persons other than corporations, renumber sections, add statutory references, correct a reference to other Wisconsin Administrative Code sections, delete unnecessary language.

provide a more complete address and correct grammar. Subsection (3) is also amended to specify that the returns filed must be signed.

SECTION 23. Tax 3.07 regarding bonuses and wage adjustments paid by corporations is amended to correct references to obsolete forms and to correct grammar.

---

Pursuant to the authority vested in the Department of Revenue by section 71.11(24)(a), Stats., the Department of Revenue hereby repeals, amends and creates rules contained in Chapters Tax 1, 2 and 3 which interpret sections 71.10, 71.02(2), 71.04(1), 71.09(7), 71.10(1), (2) and (3), 71.11(44), 71.20(4), 72.06, 77.61(5), 78.80(3), 78.84, 139.38(6) and 139.82(6), Stats., as follows:

SECTION 1. Tax 1.06 is amended to read:

Tax 1.06 APPLICATION OF FEDERAL INCOME TAX REGULATIONS FOR PERSONS OTHER THAN CORPORATIONS. (s. 71.02(2), Stats.) To the extent that any provision of the internal revenue code has application in the determination of Wisconsin taxable income, Wisconsin income tax or Wisconsin minimum tax of persons other than corporations, any United States treasury regulation interpreting such the provision shall be deemed a tax rule of the Wisconsin administrative code.

SECTION 2. Tax 1.10(title) and (1)(a) are renumbered 1.10(2)(title) and (2)(a) and amended to read:

Tax 1.10(2) DEPOSIT REPORTS RECEIVED WITH PROPER PAYMENT. (a) The depository bank shall inscribe the date received, amount of payment and a consecutively assigned validation number upon each deposit report received which is accompanied by payment in the amount of the stated tax liability. The deposits received and validated for each day shall be combined into a single deposit to the account of the state treasurer. The processed deposit reports shall be kept in sequence within batches for each business day. The batches for each business day shall be sent daily by special courier to the department's collection section in Madison. A validation tape and batch card shall accompany each batch, and each day's transmittal shall include ~~one~~ a recapitulation sheet for withholding tax and a separate recapitulation sheet for motor fuel, general aviation fuel and special fuel taxes and a copy of the daily deposit slip.

SECTION 3. Tax 1.10(1)(b) is renumbered 1.10(2)(b).

SECTION 4. Tax 1.10(1) is created to read:

Tax 1.10(1) DAILY PROCESSING OF DOCUMENTS. Screening and processing of deposit reports shall be done daily on the date received in accordance with specific procedures provided by the department.

SECTION 5. Tax 1.10(2) is renumbered 1.10(3).

SECTION 6. Tax 1.13(title), (1)(a)1 and (b), (3)(a), and (4) are amended to read:

Tax 1.13 (title) POWER OF ATTORNEY. (ss. 71.11(44)(c)5, 72.06, 77.61(5)(b)5a, 78.80(3), 139.38(6) and 139.82(6), Stats.)

(1) POWER OF ATTORNEY. (a)1. Inspect confidential information {e.g., tax returns and audit reports}.

(b) The power of attorney requirement applies to income, franchise, minimum, withholding, gift, sales and use, inheritance, estate, motor fuel, general aviation fuel, special fuel and cigarette and tobacco products tax matters of individuals, partnerships and corporations and homestead and farmland preservation credit matters.

(3) FILING OF POWER OF ATTORNEY. (a) One power of attorney form shall be filed with the Wisconsin department of revenue, with one additional copy for each additional tax matter. For example, if a power of attorney covers 2 tax matters, {e.g., income tax and sales tax}, 2 power of attorney forms shall be filed.

(4) FORM OF POWER OF ATTORNEY. (a) Power of attorney forms are available from any Wisconsin department of revenue office. The Wisconsin form {Form A-222}, is similar to the federal power of attorney form {Form 2848}.

(b) Use of the Wisconsin power of attorney form is not mandatory. However, the department prefers that this form or another similar form be used. The form shall clearly express the scope of the authority granted the taxpayer's representative, the Wisconsin tax matters {e.g., income, sales, or gift tax}, covered and the tax year or period to which it relates.

Note to Revisor: Substitute this note for the existing note following Tax 1.13:

Note: A supply of forms may be obtained from the department at 4638 University Avenue, Madison, Wisconsin 53705, or from any other department of revenue office located throughout the state, or by mail request to Wisconsin Department of Revenue, P.O. Box 8903, Madison, Wisconsin 53708.

SECTION 7. Tax 2.01(1) is repealed.

SECTION 8. Tax 2.01(2) is renumbered 2.01 and amended to read:

Tax 2.01 RESIDENCE. (s. 71.01, Stats.) Individuals claiming a change of residence, {i.e., domicile}, from Wisconsin to another state shall file a "declaration-of-residence" form I-827, "Residence Questionnaire", with the General-Audit section-of-the Wisconsin department of revenue by delivery-to-4638 University-Avenue, Madison, Wisconsin, or-by-mailing-to-P.-O.-Box-8906, Madison, Wisconsin-53708 attaching it to their Wisconsin income tax return for the year they claim to have changed residence, and shall furnish such other information as the department may require.

Note to Revisor: The following Note should be added at the end of Tax 2.01:

Note: Form I-827 may be obtained from the department at 4638 University Avenue, Madison, or from any other department of revenue office located throughout the state, or by mail request to Wisconsin Department of Revenue, P. O. Box 8903, Madison, Wisconsin 53708.

SECTION 9. Tax 2.03 ~~(title)~~, and (1)(a), (c) and (d) are amended to read:

Tax 2.03 (title) CORPORATION RETURNS. (s. 71.10(1) and (3), Stats.)

(1)(a) Form 4. RETURN-OF-INCOME Corporation franchise or income tax return for the calendar or fiscal year.

(c) Form 4B. Apportionment data {when-applicable-to-the-corporation}.

(d) Form 4C. Separate accounting data {when-applicable-to-the-corporation}.

SECTION 10. Tax 2.03(1)(f) is renumbered 2.03(1)(g).

SECTION 11. Tax 2.03(1)(f) is created to read:

Tax 2.03(1)(f) Form 4H. Declaration of inactivity.

SECTION 12. Tax 2.03(1)(g) is renumbered 2.03(1)(h) and amended to read:

Tax 2.03(1)(h) Form 4S. Shareholders' tax-option (~~subchapter S~~) corporation modifications or share of income {or loss}.

SECTION 13. Tax 2.03(1)(h) and (i) are renumbered 2.03(1)(i) and (j).

SECTION 14. Tax 2.03(1)(j) is renumbered 2.03(1)(k) and amended to read:

Tax 2.03(1)(k) Form 5. Optional ~~return-of-income~~ corporation franchise or income tax return for the calendar or fiscal year. This return is to be used only by corporations whose entire net income is ~~taxable-in~~ attributable to Wisconsin or by those reporting on the apportionment method. It may not be used by tax-option (S) corporations or corporations which determine their Wisconsin net income by the separate accounting method.

SECTION 15. Tax 2.03(1)(L), (m), (n), (o) and (p) are created to read:

Tax 2.03(1)(L) Form BL. Computation of Wisconsin net business loss offset for non-apportionment filers.

(m) Form CU. Credit union declaration of exempt status.

(n) Schedule CU-1. Credit union income computation schedule.

(o) Schedule FC. Farmland preservation credit.

(p) Schedule R. Research credits.

SECTION 16. Tax 2.03(2) is renumbered Tax 2.03(3) and amended to read:

Tax 2.03(3) All returns, statements, schedules and information required to be filed or furnished by corporations, except Form 4-ES, shall be mailed to the Wisconsin ~~department~~ Department of revenue Revenue, P. O. Box 8908, Madison, Wisconsin 53708 or delivered to the department's audit bureau at 4638 University Avenue, Madison, Wisconsin. Form 4-ES shall be mailed to the Wisconsin Department of Revenue, P. O. Box 8912, Madison, Wisconsin 53708.

Note to Revisor: The note following Tax 2.03 should not be changed.

SECTION 17. Tax 2.03(2) is created to read:

Tax 2.03(2) An officer of the corporation shall sign all returns required to be filed. If a return is prepared by someone other than an employe or officer of the corporation, the person or firm preparing the return shall also sign as preparer.

SECTION 18. Tax 2.05 is amended to read:

Tax 2.05 INFORMATION RETURNS, FORMS 8 FOR CORPORATIONS. (s. 71.10 (1), Stats.) All corporations doing business within this state, whether subject to the franchise or income tax or not, are required to file with the department of revenue by mailing to the Wisconsin department Department of revenue Revenue, P. O. Box 8908, Madison, Wisconsin 53708 or delivery to the audit bureau, 4638 University Avenue, Madison, Wisconsin on or before March 15 of each year on forms 8, or other approved forms, ~~as prescribed by the secretary of revenue~~ statements approved by the department, reports of transfers of capital stock made by residents of Wisconsin during the preceding calendar year.

SECTION 19. Tax 2.08 (title) and (1)(a) and (b) are amended to read:

Tax 2.08 (title) RETURNS OF PERSONS OTHER THAN CORPORATIONS. (ss. 71.09(7)(i), and 71.10(2) and (3), Stats.)

(1)(a) Form 1. ~~For~~ (Long form). Return for all individuals, whether married or single, ~~and for husbands and wives electing to file a combined return.~~

(b) Form 1A. (Short form). Optional short form return for all individuals, whether married or single.

SECTION 20. Tax 2.08(1)(c) and (d) are renumbered 2.08(1)(k) and (L) and amended to read:

Tax 2.08(1)(k) Form 2. ~~For~~ Return for trustees, personal representatives, and others acting in a fiduciary capacity, but excluding guardians. {Guardians should report on form 1}.

(L) Form 3. ~~For~~ Return for partnerships and joint ventures.

SECTION 21. Tax 2.08(1)(c) through (j) are created to read:

Tax 2.08(1)(c) Form 1-ES. Declaration of estimated tax by individuals.

(d) Form 1X. Amended individual income tax return.

(e) Schedule 2440W. Disability income exclusion for individuals.

(f) Schedule FC. Farmland preservation credit claim.

(g) Schedule I. Adjustments to convert federal adjusted gross income to the amount allowable under the provisions of the internal revenue code applicable for Wisconsin purposes for the taxable year.

(h) Schedule R. Research credits claim.

(i) Schedule T. Transitional adjustments for individuals.

(j) Schedule U. Underpayment of estimated tax by individuals.

SECTION 22. Tax 2.08(2) and (3) are amended to read:

Tax 2.08(2) Information returns required of persons other than corporations are specified in ~~Wis. Adm. Code section Tax-2.06. See also Tax-3.07~~ s. Tax 2.04.

(3) Returns required to be filed by persons other than corporations shall be filed by ~~mailing them to P. O. Box 268, Madison, Wisconsin 53790 if a tax is due. If a refund is payable or if no amount is due, the return shall be filed by mailing it to P. O. Box 59, Madison, Wisconsin 53785. Returns required to be filed by fiduciaries shall be filed by mailing them to P. O. Box 8904, Madison, Wisconsin 53708~~ providing the information requested by the appropriate forms and schedules, signing the returns, and by delivering them to 4638 University Avenue, Madison, Wisconsin, or by mailing them to the following address:

(a) If tax is due, P. O. Box 268, Madison, Wisconsin 53790.

(b) If a refund is payable or no amount is due, P. O. Box 59, Madison, Wisconsin 53785.

(c) If returns are those required to be filed by fiduciaries, P. O. Box 8904, Madison, Wisconsin, 53708.

Note to Revisor: The note following Tax 2.08 should not be changed.

SECTION 23. Tax 3.07 is amended to read:

Tax 3.07 BONUSES AND RETROACTIVE WAGE ADJUSTMENTS PAID BY CORPORATIONS.

(s. 71.04(1), Stats.) Bonuses for services actually rendered but not based upon a prearranged bonus agreement or established policy are allowable when actually paid, provided ~~such~~ the payments when added to the stipulated salaries or other compensation do not exceed a reasonable compensation for the services rendered. Bonuses paid to employes and others which do not have in them the element of compensation or are excessive in comparison to the services rendered are not deductible from gross income. Christmas bonuses, if paid as additional compensation, are proper deductions from gross income if included on ~~forms-WT-9 or-9b~~ federal form W-2 or Wisconsin form 9b as a part of the compensation paid. Retroactive wage adjustments, if reasonable in amount, may be taken as a deduction from gross income in the year in which they are finally determined to be payable. ~~Such~~ The adjustments are to be reported on ~~forms-WT-9-or-9b~~ federal form W-2 or Wisconsin form 9b.

---

The repeals, amendments and creations contained in this order shall take effect on the first day of the month commencing after the date of publication as provided in s. 227.22(2)(intro.), Wis. Stats.

Final Regulatory Flexibility Analysis

This rule order does not have an adverse affect upon small business.

Dated: May 14, 1989

DEPARTMENT OF REVENUE

By: Karen A. Case  
Karen A. Case  
Secretary of Revenue

RPT/M023305B



State of Wisconsin ● DEPARTMENT OF REVENUE

RECEIVED

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

Tommy G. Thompson MAY 19 1987  
Governor

May 15, 1987

Karen A. Case  
Secretary of Revenue

Revisor of Statutes  
Bureau

John W. Torgerson  
Deputy Secretary

Mark D. Bugher  
Executive Assistant

Orlan L. Prestegard  
Revisor of Statutes  
30 West Mifflin Street, Suite 904  
Madison, Wisconsin 53703

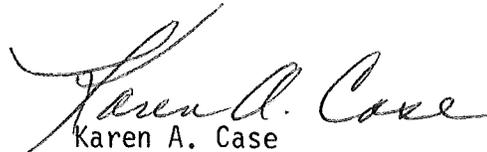
Re: Clearinghouse Rule 86-152

Dear Mr. Prestegard:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue adopting rules relating to income and franchise taxes.

These materials are filed with you pursuant to s. 227.20, Wis. Stats.

Sincerely,

  
Karen A. Case  
Secretary of Revenue

KAC:bet  
Enclosure  
430810

cc: Douglas J. LaFollette, Secretary of State  
Prentice Hall, Inc.  
Commerce Clearinghouse, Inc.



**State of Wisconsin** ● **DEPARTMENT OF REVENUE**

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

**Tommy G. Thompson**  
Governor

May 15, 1987

**Karen A. Case**  
Secretary of Revenue

**John W. Torgerson**  
Deputy Secretary

**Mark D. Bugher**  
Executive Assistant

Douglas LaFollette  
Secretary of State  
Room 271, GEF 1  
Madison, WI 53702

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 86-152.

These materials are filed with you pursuant to s. 227.20, Wis. Stats.

Sincerely,

  
Karen A. Case  
Secretary of Revenue

KAC:bet  
Enclosure  
430310a

cc: Revisor of Statutes