

**WISCONSIN DEPARTMENT OF REVENUE  
DIVISION OF INCOME, SALES, AND EXCISE TAX**

**NOTICE OF PROPOSED GUIDANCE DOCUMENTS**

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

**SUBMITTING PUBLIC COMMENTS**

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

**DEADLINE FOR SUBMISSION**

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

<b>Document Number</b>	<b>Document Title</b>
<b>100028</b>	Reckless and Fraudulent Claims - Common Questions

State of Wisconsin  
Department of Revenue

## Reckless and Fraudulent Claims

**This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1). Wis. Stats.**

1. Are refundable credits subject to any filing restrictions or penalties?
2. What is considered a reckless claim?
3. What is considered a fraudulent claim?
4. What refundable credits are included?
5. What happens if I file for a refundable credit once a restriction has been placed?
6. What happens once the restriction is over after either 2 or 10 years?

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### 1. **Are refundable credits subject to any filing restrictions or penalties?**

If a refundable credit claim is considered "reckless" or "fraudulent", you may not claim that credit or any other refundable credits in future years under sec. 71.83(5) Wis. Stats. You may also be subject to a penalty.

If the claim is considered "reckless", you may not file for any refundable credit for 2 successive taxable years after the taxable year upon which the reckless claim is made. You are also subject to a penalty equal to 25% of the difference between the credit claimed on your return and the credit that should have been claimed.

If the claim is considered "fraudulent," you may not file for any refundable credit for 10 successive taxable years after the taxable year upon which the fraudulent claim is made. You are also subject to a penalty equal to 100% of the difference between the credit claimed on your return and the credit that should have been claimed.

### 2. **What is considered a reckless claim?**

A reckless claim is a claim for credit, filed by a person, that is improper, due to reckless or intentional disregard of the provisions of law or of rules and regulations of the department, as determined by the department.

Reckless claims may include (but are not limited to):

- Intentional Misstatement of Amounts Paid  
Knowingly claiming amounts that are more than was actually incurred or paid if the credit is based on expenses or amounts paid.
- Intentional Misstatement of Income  
Knowingly claiming that your income is less than your actual income if the credit is based on adjusted gross income or household income.
- Misrepresenting Residency  
Deliberately claiming full-year residency when in fact you were not a full-year legal resident of Wisconsin if the credit is based on full-year residency.
- Repeat Denials for Same Issue  
Having a refundable credit claim denied for a particular reason more than once.

### 3. **What is considered a fraudulent claim?**

A fraudulent claim is a claim for credit, filed by a person, that is false or excessive and filed with fraudulent intent, as determined by the department.

Fraudulent claims may include (but are not limited to):

- Filing Under False Identity  
Claiming credits using another person's identification.
- Using Identities of Nonexistent or Deceased Persons  
Claiming nonexistent or deceased persons/children as "qualifying persons" or "qualifying dependents."
- False Businesses  
Fabricating businesses for which false amounts of income and/or expenses are reported with the effect of increasing a refundable credit.
- False Certifications  
Altering certification documents, such as rent certificates, by claiming amounts paid that were never paid.
- Gross Misstatement of Income  
For credits based on adjusted gross income or household income, knowingly claiming that income is less than actual income.
- Continued False Claims After 2-Year Restriction  
Filing a claim that is denied for the same reason as a prior claim for which the 2-year restriction was imposed because it was considered reckless.

### 4. **What refundable credits are included?**

- Earned Income Tax Credit
- Homestead Credit
- Farmland Preservation Credit
- Jobs Tax Credit
- Eligible Veterans and Surviving Spouses Property Tax Credit
- Repayment Credit
- Enterprise Zone Jobs Credit
- Business Development Credit
- Any refundable credit enacted for taxable years beginning on or after January 1, 2016, under Secs. 71.07, 71.28 or 71.47, Wis. Stats.

**5. What happens if I file for a refundable credit once a restriction has been placed?**

You will receive a letter from us indicating that your refundable credit claim has been denied.

**6. What happens once the restriction is over after either 2 or 10 years?**

You may file a refundable credit claim for subsequent years subject to the same requirements as any other taxpayer or claimant.

## Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of October 15, 2019: Sections 71.07, 71.28, 71.47, 71.80 and 71.83, Wis. Stats.

Laws enacted and in effect after October 15, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to October 15, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

### FOR QUESTIONS OR COMMENTS CONTACT:

MS 5-77

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