

# Wisconsin Tax Bulletin

January 2025 Number 228



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## General Updates and Reminders

### Reminder: Annual Business Filing Requirements

Annual business filings can easily be forgotten. The following are some guidelines to remember:

- Certain businesses with an active Wisconsin seller's permit are required to file an annual Wisconsin sales and use tax return. The due date for a calendar-year annual return is January 31. For fiscal-year filers, annual returns are due the last day of the month following the fiscal year end. Returns are required to be filed even if the business has no sales for the period.
- Businesses that are required to withhold Wisconsin tax from employee wages must file an annual withholding reconciliation (Form WT-7) and wage statements (Forms W-2) and/or information returns (Forms 1099). The due date for these returns is January 31.

- Electronic filing is required and is available for free on [My Tax Account](#).
- If your business is closed or inactive, please report it through My Tax Account, call (608) 266-2776, or email [DORBusinessTax@wisconsin.gov](mailto:DORBusinessTax@wisconsin.gov).

**Note:** If a due date falls on a weekend or legal holiday, the due date extends to the next business day immediately following the weekend or holiday.

## Reporting Identity Theft and Breaches

### *Identity Theft Victims*

Tax-related identity theft occurs when your personal information is used to file a tax return and claim a refund without your permission. Tax-related identity theft victims should contact their tax authorities immediately.

Victims may notify the Wisconsin Department of Revenue by calling (608) 266-2772 or emailing [DORIDTheft@wisconsin.gov](mailto:DORIDTheft@wisconsin.gov). Victims should also mail [Form ID-100](#), *Identity Theft Declaration*, to the department at the following address:

Wisconsin Department of Revenue  
Office of Criminal Investigation - ID Theft  
PO Box 8906 Madison WI 53708-8906

**Note:** The department does not accept Form ID-100 through email because email is not a secure way to transmit confidential information.

### *Organization Data Breaches*

If an organization experiences a data compromise involving payroll or tax information, they should notify the department by emailing [DORIDTheft@wisconsin.gov](mailto:DORIDTheft@wisconsin.gov). The email should include:

- Organization's name
- Federal employer identification number (FEIN)
- Brief description of the breach incident
- Contact information of the individual who will be working with the department

**Note:** Do not include personally identifiable information (e.g., social security number, driver's license number, financial account number) for impacted employees or customers in the email.

Contact information for other state tax agencies is available on the [Federation of Tax Administrators' website](#).

See [Identity Theft](#) common questions on the department's website for more information.

## Submitting Questions to the Department

The department strives to provide excellent customer service by responding to questions in a timely manner with a high level of professionalism and quality.

### *General Questions*

The department encourages taxpayers and practitioners to use the [Submit a Question](#) web page to electronically route questions to the appropriate business unit. To expedite the handling of questions, choose the subject in the dropdown list that best relates to your question.

Taxpayers and practitioners can also visit the department's [Contact Us](#) web page to find contact information for various business units in the department. This web page provides phone numbers, office hours and locations, and links to informational web pages related to specific topics.

## **Request for Private Letter Rulings**

Taxpayers or their authorized representative may request a department ruling on the tax treatment of a specific transaction or activity through a Private Letter Ruling (PLR). A PLR is a written statement of the department's interpretation and application of Wisconsin tax law to a specific set of facts. A PLR does not bind the taxpayer and may be published if the department decides to do so. More information about a PLR can be found in [Publication 111](#), *How to Get a Private Letter Ruling*.

## **Income and Franchise Tax Updates and Reminders**

### **What's New This Tax Season?**

Below are changes that may impact 2024 Wisconsin tax returns:

#### **1. Individuals, Estates, and Trusts**

**A. IRS Direct File and Wisconsin's free electronic filing:** Individuals using the IRS's Direct File program are able to load information from their federal Form 1040 or 1040-SR to the department's [WisTax](#) application or their registered [My Tax Account](#) (MTA) to file their Wisconsin Form 1. This significantly reduces the information that must be entered in WisTax or MTA to file the Wisconsin tax return, and eliminates having to attach a copy of the federal return since it is transferred from the IRS.

Not all taxpayers qualify to use WisTax or MTA. See [WisTax Common Questions](#) for qualifications and more information. Taxpayers who do not qualify for free electronic filing using WisTax are encouraged to go to a [tax professional](#) or use [third-party software](#).

**B. Internal Revenue Code (IRC) update:** For the 2024 taxable year, Wisconsin follows the federal IRC as amended to December 31, 2022, with certain exceptions, for income and franchise tax purposes. See *Conformity with Internal Revenue Code and Exceptions* section on page 10 of the [2024 Form 3 instructions](#) for more details, or read explanations of common differences in the [2024 Schedule I instructions](#). The *New Tax Law* articles in [Wisconsin Tax Bulletin 223](#) (October 2023) also provide the most recent federal public laws that have been adopted for Wisconsin income and franchise tax purposes.

**C. Wisconsin tax law changes:** The following tax law changes have taken effect for the 2024 tax year. Unless specified otherwise, see the *New Tax Laws* article in [Wisconsin Tax Bulletin 225](#) (April 2024) for an explanation of the change(s).

- New blind worker transportation services credit. See the [2024 instructions](#) for Form 1 (line 15) or Form 1NPR (line 42).
- Expanded additional child and dependent care credit. Complete the new [2024 Schedule WI-2441](#), *Additional Child and Dependent Care Credit*, to compute the allowable credit.
- Register to become an organ or tissue donor (anatomical gift registration) in Wisconsin on Schedule 3 of the individual income tax return.
- Expanded capital gains exclusion on sale of farm assets to a family member. See Part 3.J. of [Publication 103](#), *Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, and Trusts*.

- Changes to deduction limits on college savings account contributions. Complete the [2024 Schedule CS](#), *College Savings Accounts*, to claim the subtraction.
- Expanded employee college savings account contribution credit. Complete the [2024 Schedule ES](#), *Employee College Savings Account Contribution Credit*, to compute the allowable credit.
- Increase of refundable portion of research credit to 25%. Complete the [2024 Schedule R](#), *Wisconsin Research Credits*, to claim the credit.
- Transferable angel investment tax credit. Complete [2024 Schedule VC](#), *Wisconsin Venture Capital Credits*, if you were involved with a credit transfer during 2024.
- Changes to eligibility requirements to be (re)certified by the Wisconsin Economic Development Corporation (WEDC) as a qualified new business venture for purposes of claiming the angel investment tax credit.
- Changes to eligibility requirements for the business development tax credit and enterprise zone tax credit, which are administered by WEDC.

**D. Other changes for 2024:** The following are other notable changes occurring for the 2024 tax year.

- *Form 1NPR*: Changes to lines 39 through 45 of [Form 1NPR](#), *Nonresident & Part-Year Resident Wisconsin Income Tax*, have been made to add the blind worker transportation services credit and ensure only the itemized deduction credit and school property tax credit are prorated based on the ratio of Wisconsin to federal income.

See the [Form 1NPR instructions](#) for more information.

- *New Schedule 3 for Forms 1 and 1NPR*: Schedule 3 – Financial Donations and Anatomical Gift Registration was added to Forms 1 and 1NPR. Part I of the schedule allows individuals to make financial donations to specific organizations (previously included in the body of the forms). Part II of the schedule allows an individual and/or their spouse to request they be included on Wisconsin's Organ Donor Registry.

See the [instructions](#) for Form 1 or 1NPR for how to complete the new Schedule 3.

- *Tuition*: The Wisconsin subtraction for tuition and fees is increased from \$6,976 to \$7,333. See the [2024 Schedule SB instructions](#).
- *Rollover from 529 Plan to Roth IRA*: Starting in 2024, sec. 529, IRC, permits a rollover of money from a college saving account (CSA) into a Roth IRA for the benefit of the CSA's designated beneficiary. Wisconsin follows sec. 529, IRC. If you are the owner of a Wisconsin Edvest or Tomorrow's Scholar account and this type of rollover was executed during 2024, you must complete Part IV, Section D on the [2024 Schedule CS](#).

## 2. Businesses

**A. Internal Revenue Code update:** For the 2024 taxable year, Wisconsin follows the federal Internal Revenue Code as amended to December 31, 2022, with certain exceptions, for income and franchise tax purposes. See *Conformity with Internal Revenue Code and Exceptions* section on page 10 of the [2024 Form 3 instructions](#) for more details, or read explanations of common differences in the [2024 Schedule I instructions](#). The *New Tax Law* articles in [Wisconsin Tax Bulletin 223](#) (October 2023) also provide the most recent federal public laws that have been adopted for Wisconsin income and franchise tax purposes.

**B. Wisconsin tax law changes:** The following tax law changes have taken effect for the 2024 tax year. Unless specified otherwise, see the *New Tax Laws* article in [Wisconsin Tax Bulletin 225](#) (April 2024) for an explanation of the change(s).

- Increase of refundable portion of research credit to 25%. Complete the [2024 Schedule R, Wisconsin Research Credits](#), to claim the credit.
- Changes to the financial institution commercial loan income exemption. To qualify for the exemption, the loan proceeds must be used primarily for a business or agricultural purpose in Wisconsin. See the [Commercial Loan Income Exemption](#) common questions.
- Changes to the certification due date and filing method for qualifying funds to file [Form WQOF, Wisconsin Qualified Opportunity Fund Certificate](#). For more information, see Wisconsin [Fact Sheet 1121, Capital Gain Exclusion – Investment in a Wisconsin Qualified Opportunity Fund, Qualified Opportunity Zones](#) common questions, and the [Form WQOF instructions](#).
- Expanded employee college savings account contribution credit. Complete the [2024 Schedule ES, Employee College Savings Account Contribution Credit](#), to compute the allowable credit.
- Changes to eligibility requirements to be (re)certified by the Wisconsin Economic Development Corporation (WEDC) as a qualified new business venture for purposes of claiming the angel investment tax credit.
- Changes to eligibility requirements for the business development tax credit and enterprise zone tax credit, which are administered by WEDC.
- Withholding requirement threshold increase for nonresidents. See the department's [General Withholding Tax Questions](#) and [Pass-Through Entity Withholding](#) common questions for more information.

## Individual Income Tax Forms Filing Methods

The department encourages taxpayers to electronically file individual income tax returns. Benefits include:

- Faster refunds using direct deposit
- Accuracy – tax preparation software does the calculations
- Confirmation that tax returns have been filed
- Secure transfer of personal information
- Timely electronic payments – if you owe, you can choose direct debit/withdrawal from your financial institution and choose the date you want to pay (up to April 15) without worrying about mailing a paper check by the due date

Options for electronic filing:

- Use a tax professional. You can search the Internal Revenue Service's [e-file provider locator](#) website for authorized providers.
- Use [third-party software](#) approved to transmit returns to the department.
- Use the Volunteer Income Tax Assistance or Tax Counseling for the Elderly program. More information, including who may qualify, is available in the department's [Volunteer Income Tax Assistance \(VITA\) Tax Counseling for the Elderly \(TCE\)](#) common questions.
- File for free with Wisconsin's [WisTax](#) application or [My Tax Account](#) (requires registration with a username and password). See [WisTax Common Questions](#) and [Using My Tax Account for Personal Use](#) common questions for qualifications and more information.

If filing on paper, view and print Wisconsin individual income tax forms and instructions from the department's [2024 Individual Income Tax Forms](#) web page. Paper forms and instructions may also be available at your local library or contact the department at (608) 266-2486. You may also email the department at [DORFormsRequests@wisconsin.gov](mailto:DORFormsRequests@wisconsin.gov).

## New Form 1099 Submission Method – Information Returns Intake System (IRIS) Schema

The Internal Revenue Service (IRS) has a new method to electronically file information returns, the Information Returns Intake System Application to Application (IRIS A2A). If you have a third-party software or service or are developing software, you can use IRIS A2A to electronically file thousands of returns (up to 100 MB at a time).

Starting with tax year 2024, the department is accepting Form 1099 submissions using the IRIS schema. Organizations that make software that generates xml files to the specifications in the IRIS schema must contact [DORDeveloperRelations@wisconsin.gov](mailto:DORDeveloperRelations@wisconsin.gov) for access to Letters of Intent (LOI) and testing parameters. Annual acceptance testing is required before filing.

**Caution:** Wisconsin has additional filing requirements which must be included with the Form 1099 submission (e.g., state specific data). These requirements are documented on the state exchange. You will gain access to the state exchange once you have submitted an LOI and it has been approved.

For more information, see [Publication 172, Annual W-2, W-2C, 1099-R, 1099-MISC, 1099-NEC, 1099-K, and W-2G Electronic Reporting](#), published schema information on the state exchange, or contact [DORDeveloperRelations@wisconsin.gov](mailto:DORDeveloperRelations@wisconsin.gov).

## Wisconsin Identity Protection PIN

The Wisconsin Identity Protection PIN prevents fraudsters from using an individual's personal information to file a return and receive a Wisconsin tax refund.

Individuals must register for My Tax Account (MTA) to receive the Wisconsin Identity Protection PIN. After registration is complete and a PIN is received, taxpayers:

- Will have comfort in knowing their Wisconsin tax accounts are secure and no one else can file a tax return with their information
- Can quickly and easily renew their PIN each year

Practitioners: Taxpayers must sign up for MTA themselves, so they have Master access. **Do not** register for MTA and sign up for the PIN on your clients' behalf.

Participation in the Identity Protection PIN program is voluntary, but once an individual is assigned a PIN, the PIN must be listed on all future returns. Visit the department's [WI Identity Protection PIN](#) common questions for more information.

## Tax Return Donations

Wisconsin law allows taxpayers to make donations to certain organizations listed on the Wisconsin individual income tax return. The organizations for 2024 are the same as on the 2023 Wisconsin individual income tax return.

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Donations made by taxpayers on returns filed between July 2023 through June 2024 equaled:

Fund	Donation Amount	Use of Donations
Endangered Resources Fund	\$254,846	Protect and manage native plant and animal species, natural communities, and other natural features
Cancer Research Fund	\$146,246	Donations divided equally between the Medical College of Wisconsin, Inc., and University of Wisconsin Carbone Cancer Center for cancer research projects
Veterans Trust Fund	\$92,899	Used by the Wisconsin Department of Veterans Affairs for the benefit of veterans or their dependents
Multiple Sclerosis Fund	\$53,697	Forwarded to the National Multiple Sclerosis Society for distribution to Wisconsin entities that operate health-related programs for people in Wisconsin with multiple sclerosis
Military Family Relief Fund	\$88,512	Used by the Wisconsin Department of Military Affairs to provide financial aid to eligible immediate family members of Wisconsin residents on active duty in the U.S. Armed Forces or National Guard
Second Harvest/Feed America Fund	\$149,608	Donations divided as follows: 65% to Feeding America Eastern Wisconsin (located in Milwaukee); 20% to Second Harvest Foodbank of Southern Wisconsin (located in Madison); and 15% to Feed My People (located in Eau Claire). The food banks provide food to food pantries, meal programs, shelters, and soup kitchens throughout the state.
American Red Cross Badger Chapter	\$101,653	Used by the American Red Cross for Wisconsin disaster relief
Special Olympics Wisconsin Fund	\$82,905	Forwarded to Special Olympics Wisconsin, Inc.

## Individual Income Tax Reminders

### Extensions

Extensions available under federal law may be used for Wisconsin purposes, even if you do not need an extension to file your federal return or have already filed your federal return. To obtain a 6-month extension to file your Wisconsin individual income tax return, submit one of the following items with your Wisconsin return:

- A copy of federal Form 4868 with only Part I completed
- A statement indicating which federal extension provision you are using for Wisconsin

If you plan to file your return using one of the federal 6-month extension provisions, you must file your Wisconsin return by October 15, 2025, for it to be considered timely. Returns filed after October 15, 2025, are assessed a \$50 late filing fee.



There is no extension to pay an amount due. Interest accrues on any unpaid taxes starting April 15, 2025. If you will owe tax and plan to file under an extension, you should make a 2024 estimated payment by April 15 using one of the options listed on the [Make a Payment](#) page.

Additional information about extensions is on page four of the [Form 1 instructions](#).

## **Adjustments**

If the department adjusts your tax return, a notice is mailed explaining the changes made. If you disagree with the changes, you must file an appeal within 60 days of receipt of the notice. If an appeal is not made within 60 days, the changes become final. For faster processing, file your appeal online using the department's secure [Appeal Bill or Notice](#) portal and upload any relevant documents to show why you believe the changes are incorrect. Refer to your notice for additional options and instructions to file your appeal.

## **Processing Time**

Most individual income tax returns are processed within 12 weeks. The department is required to hold refunds from individual income tax returns until March 1 if the employers have not submitted their Forms W-2 to the department. If the department sends a letter requesting additional information to process your return; timely response to such letter ensures your return will be processed efficiently and accurately. Ask your employer or payer if you need an additional copy of your 2024 Form W-2 or 1099. The department will not provide copies of 2024 Forms W-2 or 1099 until March 1, or later. See [Requesting Copies of Tax Records](#) common questions for more information.

Amended returns filed between January 1 and May 31 may take additional time to process due to the high volume of returns the department processes during this time.

## **Get Ready for Tax Season**

Several resources are available on the department's website to help you get ready to file individual income tax returns.

- Use the [Form 1099-G lookup](#)\* to view your Form 1099-G issued by the department (if any) reporting your state refund from last year.

**Note:** Contact the payer of your unemployment compensation (if any) for a copy of your Form 1099-G from unemployment. For Wisconsin unemployment compensation, visit the Department of Workforce Development (DWD)'s website at <https://dwd.wisconsin.gov/uiben/1099.htm> to view your Form 1099-G or call (608) 266-2999.

- Use the [Estimated Payment Lookup](#)\* to view your estimated income tax payments and overpayments carried over from last year's return. Payments are displayed as "pending" until the return is filed.
- View the [Individual Income Tax](#) web page to access information about individual income tax, earned income credit, homestead credit, filing and payment information, and much more.
- Review the list of [Individuals Common Questions](#) to find answers to your questions. Also view our [publications](#), [fact sheets](#), and [tax form instructions](#). If you do not find the answers you need, [contact us](#) for assistance.

[Where's My Refund](#) provides real-time, accurate refund status information. **Note:** Statuses for amended returns and appeals are not available in Where's My Refund.



## Amended Returns

Remember to identify an amended return by indicating in the space provided on the return. If you electronically file a return and immediately identify an error, wait 24 hours before electronically filing an amended return. Your amended return is rejected if submitted within 24 hours of the prior return.

**\*Practitioners:** The estimated payment and 1099-G lookups were moved to a new platform with stricter lockout rules. The lockout counts the number of unsuccessful attempts from the same IP address and will lock the IP address for 24 hours after a set number of attempts. If several practitioners are working from the same IP address, unsuccessful attempts by one person will lock the IP address for everyone. If you cannot wait the 24 hours for the account to unlock, call our My Tax Account support line at (608) 261-5338 for assistance.

## Withholding Tax Updates and Reminders

### Reminder: Pass-Through Withholding Exemption Requests (Form PW-2)

A nonresident of Wisconsin who is an owner (partner, member, shareholder, or beneficiary) of a pass-through entity may request an exemption from Wisconsin's pass-through withholding tax by filing [Form PW-2, Wisconsin Nonresident Partner, Member, Shareholder, or Beneficiary Pass-Through Withholding Exemption Affidavit](#).

Form PW-2 must be (1) filed electronically through [My Tax Account](#), unless a [waiver](#) is approved by the department, and (2) filed by the due date. The due date to file Form PW-2 depends on the type of pass-through entity for which the owner is requesting the exemption.

Type of Pass-Through Entity	Due Date to File Form PW-2
Tax-Option (S) Corporation	Last day of the 1 <sup>st</sup> month following the close of the pass-through entity's taxable year.
Partnership	
Limited Liability Company Treated as a Tax-Option (S) Corporation or Partnership	
Estate	Last day of the 2 <sup>nd</sup> month following the close of the pass-through entity's taxable year.
Trust	

**Note:** If the due date falls on a weekend or holiday, the due date becomes the business day immediately following the weekend or holiday.

### Examples:

- For a 2024 calendar-year tax-option (S) corporation, Form PW-2 is due by January 31, 2025.
- For a partnership with a fiscal year from October 1, 2024, to September 30, 2025, Form PW-2 is due by October 31, 2025.
- For a 2024 calendar-year trust, Form PW-2 is due by February 28, 2025.

- For an estate with a fiscal year from October 1, 2024, to September 30, 2025, Form PW-2 is due by December 2, 2025.

**Caution:** An owner's exemption request must be approved by the department to be valid. After the nonresident owner files Form PW-2 with the department, the department notifies the nonresident owner whether the withholding exemption is approved within approximately 30 days. The department mails the approved withholding exemption letter or the denial letter to the nonresident owner. The department's determination may not be appealed. The nonresident owner is responsible for notifying its pass-through entities when an exemption is approved. A pass-through entity is required to withhold taxes until it receives the approved Form PW-2 from the nonresident owner.

## Sales and Use Tax Updates and Reminders

### Manitowoc and Racine County Sales and Use Tax

Reminder: Beginning January 1, 2025, the 0.5% county sales and use tax is in effect in Manitowoc County. See the article in [Wisconsin Tax Bulletin 226](#) (July 2024).

Additionally, beginning April 1, 2025, the 0.5% county sales and use tax is in effect in Racine County.

Sellers registered to collect Wisconsin sales and use tax must also collect county tax if making sales to a location in a county that has adopted the county sales and use tax (e.g., Manitowoc and Racine), regardless of whether the seller is located in the county. See [Fact Sheet 2414](#), *Milwaukee Sales and Use Taxes*, for special county tax rules and transitional provisions.

Only two counties have not adopted the county tax (Waukesha and Winnebago). See the [sales tax rate chart](#) on our website for current sales and use tax rates in Wisconsin.

### Updating Wisconsin Seller's Permit Locations

Persons operating in and making taxable sales in Wisconsin must have a seller's permit for each business location. A seller's permit is not assignable and is valid only for the person in whose name it is issued and for the transactions occurring at the location designated in it. The seller's permit must be conspicuously displayed at all times at the place for which it was issued.

Persons that do not have a fixed business location are also required to keep and display a copy of their seller's permit while operating at the temporary location. A printable copy of your seller's permit is available through [My Tax Account](#) (MTA), or a copy can be mailed to you upon request.

You must notify the department if you are adding or removing business locations.

- Remove inactive business locations in MTA under your sales tax account. From your MTA home page, select 'More...', then 'Names and Addresses', then use the 'Addresses' tab, and go to Sales and Use tax site address.
- Adding new business locations (i.e., applying for additional seller's permits) must be done through our [Online Business Tax Registration](#).

Keeping your seller's permit business locations up-to-date is important because the department uses the information to process and review sales and use tax returns. Failure to update your business locations may cause unnecessary notices and/or assessments from the department.

**Note:** Only one sales and use tax return is filed to report transactions that have occurred at all business locations. Also, if you are unsure of the correct sales tax rate for transactions that occur at a specific business location, use our online [sales tax rate lookup](#).

If you have sales tax questions or questions about updating your seller's permit business locations, contact our Customer Service Bureau at (608) 266-2776 or [DORSalesandUse@wisconsin.gov](mailto:DORSalesandUse@wisconsin.gov).

## Updated Sales and Use Tax Publications

Several publications have been updated and posted on the department's website. The updated publications and important changes include:

- [Publication 203](#), *Sales and Use Tax Information for Manufacturers*
  - Part 5.B.(2): Describes how the definition of plant applies to the scope of manufacturing.
  - Appendix A, Example 6: Clarifies machinery and equipment used in the scope of manufacturing at an asphalt, cement, or concrete plant must be used exclusively on a parcel of land that is leased or owned by the manufacturer and is not engaged in a real property construction activity. The example also describes a new exemption effective June 1, 2024 for certain portable machinery and equipment used in road and commercial surface lot construction or resurfacing.
- [Publication 220](#), *Grocers*
  - Parts 1.F. and 2.D: Includes information about marketplace providers.
  - Part 2.A: Updates the definition of candy.
  - Part 2.D.(2)(c): Clarifies prepared foods that are sold by volume or weight.
- [Publication 240](#), *Digital Goods*
  - Part 2: Clarifies that digital goods may include prewritten computer software.
  - Part 13.E: Provides information about the exemption for certain real estate broker memberships.

## Excise Tax Updates and Reminders

### Reminder – Electric Vehicle Charging Tax and Registration

[2023 Wis. Act 121](#) created a new electric vehicle charging tax and requires certain persons to register for the new tax.

#### ***Electric Vehicle Charging Tax***

The excise tax is effective January 1, 2025, and is imposed at the rate of 3 cents per kilowatt-hour on the electricity delivered or placed into the battery or other energy storage device of an electric vehicle by:

- A Level 3 charger of an electric vehicle charging station.
- A Level 1 or Level 2 charger installed on or after March 22, 2024, of an electric vehicle charging station.

The excise tax does not apply to electricity delivered or placed by a charger of an electrical vehicle charging station located at a residence.

**Caution:** The excise tax applies to the electricity regardless of whether a person charges the consumer or makes the chargers available to the public.

## ***Electric Vehicle Charging Station Registration***

Prior to delivering or placing, or offering to deliver or place, electricity from an electric vehicle charging station owned, operated, managed, or leased by a person, the person must register with the department. Registrants must provide the location of all their charging stations in Wisconsin. Persons do not need to register if their charging stations are not subject to the excise tax, as described above.

Register online using the department's [Online Business Tax Registration](#).

See the new tax law article, *Electric Vehicle Charging Station Registration and Excise Tax*, in [Wisconsin Tax Bulletin 225](#) (April 2024) and [Publication 305](#), *Electric Vehicle Charging Tax Information* for additional information.

## **Enforcement Report**

### **Racine County Resident Convicted of Allowing Gambling on Premises, Selling Alcohol Without a License and Selling Tobacco Products Without a License**

Ricco K. Farrell was charged on December 27, 2022, with one felony count of setting up commercial gambling machines, one misdemeanor count of allowing gambling on premises, one misdemeanor count of selling alcohol without a license, one misdemeanor count of allowing alcohol consumption in a public place without a license, and one misdemeanor count of selling tobacco products without a license.

Farrell had been operating an illegal bar, a night club known as "Dream Lounge," in the City of Racine. In mid to late 2020, Farrell began operations without obtaining licenses from the City of Racine. Following a high volume of police calls for service, Farrell was told by the city officials that a retail alcohol beverage license is required to sell alcohol. In January 2021, Farrell then submitted a retail alcohol beverage license application and a retail cigarette/tobacco license application to the City of Racine clerk's office. However, due to the high volume of police activity at this business, the City of Racine denied the licenses. Despite this denial, Farrell continued to operate the business, which included selling alcohol, tobacco, and food. On August 2, 2022, a search warrant was executed at the business and criminal charges were subsequently referred to the Racine County District Attorney's Office. On October 17, 2022, Racine County Circuit Court declared this property a nuisance property and all business operations stopped at that time.

Farrell plead guilty on September 20, 2024, to the misdemeanor count of allowing gambling on premises, the misdemeanor count of selling alcohol without a license and the misdemeanor count of selling tobacco without a license. Farrell was ordered to pay \$3,090 in fines, court costs and other surcharges.

Farrell's charges are the result of an investigation conducted by the Wisconsin Department of Revenue, Office of Criminal Investigation.

To report complaints about alcohol and tobacco regulations, use the [Alcohol Beverage Complaint Form](#) or the [Cigarette, Tobacco, and Vapor Products Complaint Form](#).

## Report on Litigation

Summarized below are recent significant Wisconsin Tax Appeals Commission (The Commission) and Wisconsin Court decisions.

### Individual Income Tax

#### Gambling Losses - Business Expenses Limited to Gambling Winnings

*Daniel and Debra Scheider v. Wisconsin Department of Revenue* (Brown County Circuit Court, October 31, 2024).

See [Wisconsin Tax Bulletin 226](#) (July 2024), page 13, for a summary of the Wisconsin Tax Appeals Commission's decision.

The issue in this case is whether or not business expenses related to gambling activities are allowed to be deducted in excess of the gambling winnings associated with those gambling activities.

Because the petitioners failed to meet the requirement under sec. [227.53\(1\)\(a\)1.](#), Wis. Stats., to timely serve the Wisconsin Tax Appeals Commission with a copy of their petition, the Circuit Court dismissed the case with prejudice as a final order for purposes of the petitioners' appeal of the Wisconsin Tax Appeals Commission's decision.

#### Effect of Capital Gain Exclusion on Credit for Taxes Paid to Other States

*Wolfgang and Terry Hemschik v. Wisconsin Department of Revenue* (Wisconsin Tax Appeals Commission, October 14, 2024).

The issue in this case is the computation of the credit for taxes paid to other states (TPOS credit) when the income tax paid is on net long-term capital gains and Wisconsin only taxes 70% of such capital gains.

The taxpayers filed their 2021 Wisconsin individual income tax return in May 2022. The return claimed a TPOS credit of \$57,568. Based on the [Schedule OS, Credit for Net Tax Paid to Another State](#), filed with the return, the taxpayers paid \$56,504 in taxes to the State of Colorado on roughly \$1.3 million of capital gain and \$1,064 in taxes to the State of Arizona on roughly \$59,000 of capital gain. Thus, the taxpayers claimed a TPOS credit for 100% of the capital gain taxes paid to Arizona and Colorado.

The Wisconsin Department of Revenue adjusted the TPOS credit on the return and issued a Notice of Amount Due on July 8, 2022. The department's notice explained that the credit was adjusted because Wisconsin taxes 70% of [net long-term] capital gain income, which is less than the capital gain income that was taxed by the other states. The taxpayers filed a petition for redetermination with the department on July 15, 2022. The department denied the petition on December 28, 2022, which the taxpayers timely appealed to the Commission on February 13, 2023.

The Commission noted the dispute primarily involved the interpretation of the sentence "The credit may not be allowed unless the income taxed by the other state is also considered income for Wisconsin income tax purposes" in sec. [71.07\(7\)\(b\)1.](#), Wis. Stats. The department interprets the sentence to mean the TPOS credit is only allowed if the income taxed by the other state is also taxed by Wisconsin. The taxpayers said the department's interpretation impermissibly changes the plain meaning of the statute and contended that they must be allowed TPOS credit for every dollar paid in income tax to Arizona and Colorado for the capital gains. They further argued that the department has no basis to require the use of Schedule OS to

calculate the allowable TPOS credit since there is no basis in Wisconsin law to reduce the credit unless it exceeds the tax due to Wisconsin for the out-of-state income under sec. [71.07\(7\)\(c\)](#), Wis. Stats.

Since the phrase "considered income for Wisconsin income tax purposes" is not defined under sec. 71.07(7)(b)1, Wis. Stats., the Commission looked elsewhere in ch. 71, Wis. Stats., for guidance. The definition of "Wisconsin adjusted gross income" (sec. [71.01\(13\)](#), Wis. Stats.) specifically excludes amounts excluded under sec. 71.05(6), Wis. Stats. The subtraction for 30% of net long-term capital gains falls under sec. [71.05\(6\)\(b\)9.](#), Wis. Stats. The definition of "Wisconsin taxable income" (sec. [71.01\(16\)](#), Wis. Stats.) incorporates "Wisconsin adjusted gross income" in its definition and so it also excludes the income excluded under sec. 71.05(6), Wis. Stats. This analysis was previously reviewed and affirmed by the Dane County Circuit Court in *Arthur and Katherine Garst v. Wisconsin Department of Revenue*, which reviewed an earlier version of sec. 71.07(7)(b)1., Wis. Stats. (See footnote 4 of the Commission's decision.)

The Commission concluded that since Wisconsin's definition of income specifically excludes capital gains that are not considered income under sec. 71.05(6)(b)9., Wis. Stats., the amount of gain excluded from Wisconsin income cannot be considered as being taxed by both Wisconsin and another state. Wisconsin only taxes 70% of [net-long term] capital gains. Accordingly, the Commission held that the taxpayers' TPOS credit must be prorated based on the income actually taxed by both states and upheld the department's reduction of the TPOS credit.

The taxpayer did not appeal this decision.

### Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of January 31, 2025: chs. 16, 66, 71, 77, and 196, [Wis. Stats.](#), and chs. Tax 1, 2, 3, and 11, [Wis. Adm. Code](#). Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to this date that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis. Stats.

### Public Comments

The public may [submit comments on guidance documents](#) at any time.