



WISCONSIN TAX REPORT

Volume XXI, Number 1

Created Especially for Members of Wisconsin Chapter of NATP

January 2010

SOME IMPORTANT ITEMS TO CONSIDER ON YOUR 2009 WI RETURNS

Advanced earned income credit for Wisconsin may also be received during the year by filing a request with the employer.

Amended Wisconsin returns can be e-filed.

Bonus depreciation is not allowed for Wisconsin

Capital gain exclusion has been reduced from 60% to 30 % (now 70% of the gain is taxable to Wisconsin.) The old rule applies for farm assets inherited or farm assets owned over one year.

Casualty losses directly related to federal declared disaster after January 1, 2009 may be used in computation of the itemized deduction credit.

College savings plan (EdVest or tomorrow's scholar) contributions can be deducted up to \$3000 per student and child no longer needs to be claimed on parent's return.

The **deemed depreciation** for Homestead purposes if the standard mileage rate has been used is 21 cents for 2009.

Discharge of indebtedness, even for personal residence, is taxable income for Wisconsin.

Doing business in Wisconsin now includes any business that does business in Wisconsin for any part of the year. This will constitute doing business for the entire year.

Domestic production activities deduction does not apply.

Donations to military relief fund and second harvest food banks are added to list of available contributions on Wisconsin tax forms.

Educator adjustment for supplies and books purchased do not apply for Wisconsin.

Estimated tax payments may be verified at www.revenue.wi.gov/PaymentInquiry/application. You will need the SSN and amount of one of the last three payments made or amount of WI income from last year's return.

Maximum **179 expensing** deduction is limited to 25,000 for Wisconsin unless the taxpayer is actively engaged in farming when the limit is 120,000.

Financial Record matching program has begun with the DOR entering into agreements with financial institutions operating in Wisconsin for electronic data exchange of account information for delinquent taxpayers.

Head of household filing status if married (abandoned spouse) must include name and Social Security number of spouse.

Health Savings Account is not a deduction for Wisconsin so the contribution as well as interest on the account must be added back for the Wisconsin return and withdrawals for non-medical reasons are not taxed to Wisconsin. Medical withdrawals are eligible for the medical expense deduction on the itemized deduction credit.

IRA distribution transferred to charity is taxable to Wisconsin but then may be used as a charitable contribution for the itemized deduction credit.

Medical care insurance

--If someone receives Cobra assistance for their health insurance, only the premiums not reimbursed are eligible for the medical insurance deduction.

--The rules for last year continue to apply for medical care insurance (increases have been delayed to 2011):

--If the taxpayer is neither an employee nor self-employed, 66.7% of the premiums may be a Wisconsin subtraction.

--If the taxpayer is an employee whose employer pays part of the premiums, 10% of the premiums are used for the subtraction.

--If the taxpayer is an employee whose employer pays none of the premiums, 100% of the premiums are used for the subtraction.

Nonresident spouses of military members who are employed in Wisconsin while accompanying the military person are exempt from Wisconsin withholding on income for services performed in Wisconsin. (Need to submit form W-221 to their employer)

Mortgage insurance premiums cannot be treated as interest and cannot be used in the computation of the Wisconsin itemized deduction credit.

Non and part-year resident returns (1NPR) can be e-filed

continued next page...

IMPORTANT ITEMS... (CONTINUED)

Partnership requirement of married couple who own and operate a business in Wisconsin remains in effect as opposed to the option on federal to file two schedule C's with each person claiming their own share of income and expenses

Retirement benefits or IRA withdrawal of low-income taxpayers are not taxable on the first \$5000. The person must be at least 65 years of age and an AGI on federal of less than \$15,000 (S) and \$30,000 (MFJ). Of course the retirement needs to be first taxable to Wisconsin, e.g. military retirement benefits are already not taxable.

Social Security benefits are not taxable to Wisconsin.

Standard deduction for Wisconsin is the amount from the table with no adjustment available for real estate taxes or sales tax on a new vehicle.

Top tax rate has been increased from 6.75% to 7.75%.

Transportation benefits that increased as tax-free fringes for federal purposes remain the same for Wisconsin. There is no increase for transportation and transit passes and no benefit allowed for bicycle commuting.

Tuition continues to not be an adjustment to income or a credit as allowed by the federal return. Instead there is a tuition subtraction allowed if the student is attending classes in Wisconsin or under the MN-WI reciprocity agreement. This subtraction is increased to a maximum of \$6000 per student but the income phase out limits remain the same (50,000-60,000 for S or HOH, 80,000-100,000 for MFJ and 40,000-50,000 for MFS).

Unemployment Compensation is not eligible for the exclusion of the first \$2400 as provided on the federal return. However, the worksheet to determine taxability of the benefits continues to be available for low income taxpayers.

Volunteer Firefighter and EMS benefits are considered taxable income for Wisconsin purposes.

Willful misclassification of construction contractors will cause a \$25,000 penalty for each violation of misclassification of employee status with intent to evade withholding tax requirement.

LOOKING FORWARD TO 2010 TAX RETURNS

Beginning farmer and farm asset owner credit will be available for tax years beginning on or after January 1, 2011.

Failure to produce records when requested by the DOR will be equal to the greater of \$500 or 25% of additional tax or any adjustment made by the department. (This rule becomes permanent on April 1, 2010.)

No new claims for **Farmland Preservation credit** may be claimed for year beginning after January 1, 2020 unless covered by agreements in effect on July 1, 2010. A new refundable credit with new computations is being developed

Farmland Tax Relief credit has been repealed for tax years beginning on or after January 1, 2010.

Health insurance premiums for the adult child of the insured may be included in the income of the insured if the child is not eligible to be a dependent of the insured. (This should already be included on the W2 received by the insured.) This also applies to domestic partners.

Homestead Credit will be indexed starting for calendar years on or after January 1, 2010.

Jobs tax credit created for Wisconsin for tax years beginning on or after January 1, 2010

Late filing fees of at least \$50 will be in effect for taxable years beginning on or after January 1, 2010.

Wisconsin-Minnesota income tax reciprocity will be ending January 1, 2010 so any of your clients who work in one state and live in the other will need to change their withholding and possibly start paying state tax estimates.

Roth IRA conversions will all be taxable on the 2010 WI return. If the AGI of the taxpayer is over the \$100,000 figure some penalties may also apply. (See the fall 2009 WINATP newsletter for more information.)

WISCONSIN E-FILE UPDATE

Wisconsin taxpayers can continue to electronically file their 2008 individual income tax returns by using the Wisconsin e-file application for the next four years. They would click the link Prior Year Income Tax Forms from the Wisconsin e-file home page. There are some limitations for people who can use the application listed at: www.revenue.wi.gov/wi_efile/geninfo.html.

The Wisconsin e-file application for the 2009 tax year will be available Monday, January 11, 2010. In addition to the Forms WI-Z, 1A and 1, the 2009 Wisconsin e-file application will support the Form 1X (amended return), Schedule H without an income tax return and the Schedule OS-Credit for Net Tax Paid to Another State. Some other things that are new for 2009, the Wisconsin e-file application will be able to confirm whether a taxpayer has an estimated tax payment account with the department and if not, give an error message stating there is no record of any such account; and also, if a person has already filed their 2009 tax return using the application, they will get an error message saying it's a duplicate return. These changes will help reduce the returns that get work listed for these issues.



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The information published in Wisconsin Tax Report is believed to be accurate and authoritative. Independent research is encouraged before application.

JUNETEENTH DAY A LEGAL HOLIDAY

Effective December 16, 2009, Wisconsin Act 91 adds June 19 (Juneteenth Day) to the list of legal holidays for Wisconsin. June 19, 1865, is the day that slaves throughout Texas first received word that all slaves in the United States had been freed by President Lincoln.

Wisconsin laws relating to taxes and credit claims administered by the Department of Revenue (e.g., individual income, corporation income/franchise, estate, sales and use, motor vehicle and general aviation fuel, alcoholic beverage, tobacco, etc.) contain various due dates for filing returns, reports, statements, and other documents and for making payments.

When the due date falls on a Saturday, Sunday, or legal holiday, the filing of returns, reports, statements, or other documents and the making of payments are considered timely if the return, report, statement, or other document is filed or the payment made on the next succeeding day which is not a Saturday, Sunday, or legal holiday.

Example: June 19 falls on a Saturday in 2010. Any payment due on June 19 will be considered timely if paid on or before June 21, which is the next succeeding day which is not a Saturday, Sunday, or legal holiday.

NEW WITHHOLDING TELEFILE

Beginning in January 2010, you may use the new withholding teleFile option to file and pay your WT-6 deposit reports and WT-7 annual withholding reconciliation. The new withholding teleFile is quick, free, and secure. No pre-registration is necessary. Call (608) 261-5340 or (414) 227-3895 to use teleFile.

FILING WAGE STATEMENTS AND INFORMATION RETURNS

2009 Wisconsin Act 28 provided that if a person is required to file 50 or more wage statements or 50 or more of any type of information return with the Department of Revenue, the person shall file the statements or the returns electronically. This provision is effective January 1, 2010.

For complete information on Wisconsin wage statement and information return requirements, see Publication 117, Guide to Wisconsin Information Returns. Publication 117 is available from the department's web site at www.revenue.wi.gov/pubs/pb117.pdf.

For information on electronically filing of wage statements and information returns, see Publication 509, *Filing Wage Statements and Information Returns Electronically*. Publication 509 is available from the department's web site at www.revenue.wi.gov/pubs/pb509.pdf.

FAREWELL

Thank you to all who have read the Wisconsin chapter newsletters over the past ten years. Hopefully the information included has been helpful to you and your tax practice. It is time for me to pass on the job to someone else. Tina Heinrich of Lake Geneva, a former WI chapter president, will be taking over the duties of Newsletter Coordinator effective for the spring 2010 copy.

Thank you also to those who contributed information to be included in the newsletter as it helped make my job easier. Hope to see many of you at upcoming state and national NATP events.

Barb Steponkus

VOLUNTEER FIREFIGHTER AND EMERGENCY MEDICAL RESPONDER BENEFITS

For federal income tax purposes, an exclusion from gross income is available to volunteer firefighters and emergency medical responders who are members of a qualified volunteer emergency response organization. For taxable years beginning in 2008 and 2009, gross income does not include:

- Rebates or reductions of property or income taxes provided by a state or local government for providing services as a member of a qualified emergency response organization.
- Qualified payments made by a state or local government for providing services as a member of a qualified emergency response organization. The exclusion is limited to \$30 multiplied by the number of months the member performs such services.

The employer can exclude any qualified state or local tax benefit and any qualified payment from the employee's federal wages.

Wisconsin does not follow the above exclusion from income for the volunteer firefighters and emergency medical responders.

Employers must either (1) include the amount that is taxable for Wisconsin purposes (but not taxable for federal purposes) in Box 16 of the Form W-2, or (2) provide employees with a supplemental "Wisconsin only" Form W-2 with the taxable benefits shown in Box 16.

Individuals filing Form 1 or 1NPR should use Wisconsin Schedule I, Adjustments to Convert Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin, to adjust for the difference between the Wisconsin and federal income tax treatment of the volunteer firefighter and emergency medical responder benefits. Individuals filing Form 1A should fill in the adjusted Wisconsin wages on line 1 of Form 1A.

YEAR-END TAX PLANNING DIFFERENCES

During December, there are many articles published from various sources related to year-end tax planning. Taxpayers are generally reminded of the 2009 federal deductions for bonus depreciation and increased section 179 expense and for the addition to the standard deduction for state and local real estate tax paid and sales tax paid on the purchase of a new motor vehicle.

Wisconsin tax treatment of these items is different than the federal tax treatment.

- Wisconsin does not allow the federal 50% bonus depreciation. All depreciation is instead determined under the Internal Revenue Code in effect on December 31, 2000. Taxpayers must file Wisconsin Schedule I (Adjustments to Convert 2009 Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin) to adjust for this difference.
- For federal tax purposes, the maximum sec. 179 expense deduction under the Internal Revenue Code for 2009 is generally \$250,000. For Wisconsin, the amount that may be expensed under sec. 179 is limited to \$25,000 with one exception. For a taxpayer who is actively engaged in farming, the amount that may be expensed under sec. 179 is limited to \$120,000. As with bonus depreciation, taxpayers must file Wisconsin Schedule I to adjust for this difference.
- For federal purposes, taxpayers who claim the federal standard deduction may add to that standard deduction up to \$500(\$1000) of state and local real estate tax paid in 2009 and state or local sales tax paid that is attributable to the first \$49,500 of the purchase price of a new motor vehicle purchased after February 16, 2009. Wisconsin does not allow any additional amounts to be added to the Wisconsin standard deduction.

INCREASED TUITION SUBTRACTION FOR 2009

For taxable years beginning in 2009, the maximum Wisconsin subtraction for the amount paid for tuition and mandatory student fees is increased from \$5,114 to \$6,000 (per student).

The tuition and fees must have been paid to attend classes in Wisconsin at a university, college, or technical college or other post-secondary school or classes in Minnesota at a public vocational school or institution of higher education under the Minnesota-Wisconsin tuition reciprocity agreement.

The subtraction is phased out for persons with federal adjusted gross income between \$50,000 and \$60,000 if single or head of household; \$80,000 and \$100,000 if married filing a joint return; or \$40,000 and \$50,000 if married filing a separate return.

For complete information on the subtraction for tuition and mandatory student fees, see the instructions for the 2009 Form 1 (full-year residents) or Form 1NPR (part-year residents and nonresidents).

DOR WILL NO LONGER MAIL FORMS ST-12 OR WT-7

The Wisconsin Department of Revenue has mailed over 162,000 mandate letters to businesses who continue to file paper tax returns. The mandate letters require these businesses to electronically file their sales and use tax return (Form ST-12) and their withholding tax return (WT-7). As part of the initiative to increase electronic filing, the department will no longer mail Form ST-12 (Sales and Use Tax Return) and Form WT-7 (Employers Annual Reconciliation of Wisconsin Income Tax Withheld from Wages) effective immediately. Form ST-12, Schedule CT, Form WT-7, and their instructions remain available on the department's web site at www.revenue.wi.gov/html/formpub.html.

2009 REQUIRED MINIMUM DISTRIBUTIONS FROM IRA OR QUALIFIED RETIREMENT PLAN WAIVED FOR 2009

Under federal law, persons age 70 1/2 or over are generally required to take a minimum distribution each year from their IRA or employer-provided qualified retirement plan. However, the minimum distribution requirement is waived for calendar year 2009 (Public Law 110-458).

Wisconsin has adopted the provisions of Public Law 110-458. Therefore, the waiver of the minimum distribution requirement also applies for Wisconsin for 2009. Persons who are not required to take a minimum distribution for federal tax purposes for 2009 are also not required to take a minimum distribution for Wisconsin tax purposes for 2009.

TRANSPORTATION BENEFITS

For federal income tax purposes, an exclusion from gross income is available for the value of certain transportation benefits provided by an employer to an employee. For 2009, the amount that may be excluded from an employee's wages is limited as follows: For combined commuter highway vehicle transportation and transit passes: \$120 per month for the months of January and February 2009 and \$230 per month for the months of March through December 2009.

- \$230 per month for qualified parking.
- \$20 per qualified bicycle commuting month.

Wisconsin does not follow all provisions of the above federal exclusion for employer-provided transportation benefits. For Wisconsin tax purposes, the amount that may be excluded from an employee's wages for 2009 is limited as follows:

- \$120 per month for combined commuter highway vehicle transportation and transit passes.
- \$230 per month for qualified parking.

The exclusion for qualified bicycle commuting does not apply for Wisconsin.

Employers must either (1) include the amount that is taxable for Wisconsin purposes (but not taxable for federal purposes) in Box 16 of the Form W-2, or (2) provide employees with a supplemental "Wisconsin only" Form W-2 with the taxable benefits shown in Box 16.

Individuals filing Form 1 or 1NPR should use Wisconsin Schedule I, *Adjustments to Convert Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin*, to adjust for the difference between the Wisconsin and federal income tax treatment of transportation benefits. Individuals filing Form 1A should fill in the adjusted Wisconsin wages on line 1 of Form 1A.

MY TAX ACCOUNT VIDEOS

There will be six self-help videos posted on the Department of Revenue's Internet home page to help businesses and tax practitioners with registering for My Tax Account, filing returns and making payments. The videos are each only a few minutes long. They can be run side by side with My Tax Account for real time assistance. The videos are available at: http://www.revenue.wi.gov/media/my_tax_account/index.html.

NOTICE OF PREPAYMENT REQUIRED FOR COPIES OF PREVIOUSLY FILED TAX DOCUMENTS

Effective: September 15, 2009

This notice is to inform you that when requesting copies of previously filed tax documents, payment of appropriate fees charged for copies of returns and documents must accompany the request. The department will no longer invoice for these services. **Requests will not be filled until full payment has been received.**

Certified copies of returns are \$6.00 for each year or period requested. Regular copies of returns are \$5.00 for each year or period requested. Copies of correspondence, notices of refunds, assessments, work papers, etc., are \$.20 per one side of a page.

Additional information on how to obtain copies of previously filed tax returns and documents can be obtained by visiting the department's website at <http://www.revenue.wi.gov/faqs/ise/request.html> or by contacting the Specialized Services Unit of the Wisconsin Department of Revenue at 608-266-2890.

HEALTH INSURANCE FOR ADULT CHILDREN UP TO AGE 27

Effective January 1, 2010, Wisconsin law requires health insurers to provide coverage for an adult child of the insured. The child must be:

- Over 17 but less than 27 years of age.
- Unmarried.
- Not eligible for coverage under a group health benefit plan that is offered by the child's employer and for which the amount of the child's premium contribution is no greater than the premium amount for his or her coverage as a dependent.

There may be a tax effect when health insurance coverage is provided to an adult child. Under federal law, the value of employee health insurance paid for by an employer, including coverage for spouses and dependents, is excluded from the employee's gross income. Therefore, employer-provided health insurance for an adult child of an employee is only excludable from the employee's gross income if the adult child qualifies under federal law as a dependent of the employee.

To qualify as a dependent on your federal income tax return, your child must be either your "qualifying child" or "qualifying relative."

Generally, to be a "qualifying child," your child must:

- Be (a) under age 19 at the end of the year, (b) under age 24 at the end of the year and a full-time student, or (c) any age if permanently and totally disabled.
- Have lived with you for more than half of the year.
- Not have provided more than half of his or her own support for the year.

If the child meets the rules to be a qualifying child of more than one person, you must be the person entitled to the exemption.

To be a "qualifying relative," an individual must be:

- A child, brother, sister, stepbrother, or stepsister; the father or mother, or an ancestor of either; a stepfather or stepmother; a son or daughter of a brother or sister of the taxpayer; a brother or sister of the father or mother of the taxpayer; a son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law, or sister-in-law; an individual (other than the spouse) who, for the taxable year of the taxpayer, has the same principal place of abode as the taxpayer and is a member of the taxpayer's household,
- An individual for whom the taxpayer provides over one-half of the individual's support for the calendar year,
- An individual who is not your qualifying child or the qualifying child of any other taxpayer, and
- An individual whose gross income is less than the exemption amount (\$3,650 for 2010).

For purposes of health insurance coverage only, an adult child may meet the definition of a "qualifying relative" even though the adult child's gross income may equal or exceed the exemption amount.

If the adult child does not qualify as a dependent, the fair market value of the adult child's health insurance coverage is income and taxable wages to the employee.

The fair market value of the adult child's health coverage is determined by the employer and insurance provider. Contact your employer for further information. The Department of Revenue cannot determine the fair market value of the coverage.

Because Wisconsin follows the federal Internal Revenue Code, any amount that is taxable on the federal return for the adult child health coverage is also taxable for Wisconsin.

VOLUNTARY DISCLOSURE PROGRAM FOR TAXPAYERS WITH A WISCONSIN FILING REQUIREMENT RELATED TO FOREIGN BANK ACCOUNTS

On March 23, 2009, the Internal Revenue Service (IRS) announced a voluntary disclosure program for taxpayers to report income derived from offshore bank accounts that was previously not reported on the taxpayer's federal income tax returns. Taxpayers were given until October 15, 2009, to declare their intent to participate in the program. Wisconsin is offering a similar program, available to taxpayers with a Wisconsin filing requirement related to unreported income from foreign accounts. To participate in Wisconsin's program, taxpayers must contact the Department of Revenue by January 15, 2010.

Note: On August 19, 2009, the IRS and the U.S. Department of Justice announced that Swiss Bank UBS would provide information to the IRS regarding U.S. holders of accounts in Swiss Bank UBS. The Wisconsin Department of Revenue (DOR) has requested information from the IRS regarding Wisconsin holders of Swiss Bank UBS accounts.

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VOLUNTARY DISCLOSURE PROGRAM...(CONTINUED)

Although it is not illegal for a U.S. citizen to hold a foreign bank account, holding a foreign bank account is considered to be a reportable transaction. A reportable transaction is defined as a transaction, plan or arrangement, including a listed transaction, for which a taxpayer is required to submit information to the department because the taxpayer is required to disclose the transaction, plan, or arrangement for federal income tax purposes for the taxable year in which the transaction occurred, as provided for under U.S. Treasury Regulations. A listed transaction means any reportable transaction that is the same as, or substantially similar to, a transaction, plan or arrangement specifically identified by the U.S. Secretary of the Treasury as a listed transaction for purposes of section 6011 of the Internal Revenue Code and that is specifically identified as a listed transaction on or after the date the transaction occurred.

Wisconsin's disclosure requirements for transactions the Internal Revenue Service has designated as reportable transactions or listed transactions is found in Section 71.81, Wis. Stats. (2007-08). Section 71.81, Wis. Stats. (2007-08), sets forth the penalties applicable for reportable transaction understatements occurring on or after January 1, 2001, and extends the statute of limitations to 6 years after the date on which the return for the taxable year in which the reportable transaction occurred was filed.

Wisconsin will allow residents and other entities with a Wisconsin filing requirement, who have not been contacted by the department regarding a foreign account, until January 15, 2010, to voluntarily disclose information regarding foreign accounts. To voluntarily disclose this information, a completed Form WI-VCP Wisconsin Tax Shelters Voluntary Compliance Program Participation and Agreement, must be filed with the department by January 15, 2010.

Taxpayers are required to file amended or original Wisconsin income or franchise tax returns, for the years 2003 through 2008, to report previously unreported income from foreign accounts within 90 days of a final determination by the IRS regarding the foreign income. A copy of Form WI-VCP (that was previously filed with the department by the January 15, 2010 deadline) must be attached to the amended and/or original Wisconsin returns. In addition, taxpayers must attach complete copies of all amended or original tax returns filed with the IRS, including copies of all paperwork provided to the IRS as a result of the disclosure. Taxpayers must provide an explanation for any differences between the Wisconsin and federal returns regarding the amount of unreported or underreported income or incorrectly claimed deductions or credits related to the foreign accounts.

Use Form 1X to amend individual income tax returns. For corporation franchise or income tax returns (Form 4 or Form 5), fiduciary income tax returns (Form 2), and partnership returns (Form 3), the appropriate box on the form should be checked identifying the return as an amended return.

Wisconsin income tax forms are available at www.revenue.wi.gov/html/formpub.html.

Wisconsin residents and other entities with a Wisconsin filing requirement who do not voluntarily notify the department by January 15, 2010 of income from foreign bank accounts for the years 2003 through 2008 can expect to be contacted by the department.

FOR MORE INFORMATION PLEASE CONTACT:

WISCONSIN DEPARTMENT OF REVENUE

Tax Shelters Program

P.O. Box 8958

Madison, WI 53708-8958

Phone: (608) 266-1235

Fax: (608) 267-0834

Email address: wivoldis@revenue.wi.gov

IRS/WDOR TAX PRACTITIONER MEETING NOVEMBER 19, 2009

By Marlene Dunn Till

Kerstin Lanser, IRS Stakeholder Liaison, called the meeting to order. The representatives from IRS, WDOR, and various associations and franchise tax services introduced themselves. You will see references in this report about practitioner concerns. The purpose of this meeting is to provide a forum for questions, ideas, concerns, and discussion that will assist government agencies and practitioners alike in our common goal – service to taxpayers. Jan Anderson and I attended this meeting representing WINATP.

Kathy Mostowik, IRS Sr. Stakeholder Liaison and Mark Miller, Chief Counsel, Milwaukee discussed IRC 7216, Disclosure or Use of Information by Preparers of Returns. A presentation of the various Notices, Treasury Decisions, Revenue Procedures and Regulations were shown. These new disclosure rules are somewhat difficult to comprehend from the standpoint of when they apply and how to implement them. Kathy directed the practitioners to Aids to Preparing IRC 7216 Consent Forms that is found at www.irs.gov. Mark Miller indicated that the only way the IRS will know of a violation is if there is a complaint made. However, internally every practitioner must know the rules and follow them to safeguard themselves and their clients.

Diane Hardt, Division Administrator Income, Sales, and Excise Tax for the WI Department of Revenue

Diane covered law changes in WI Tax Bulletin #162, Internet/Streamlined Sales Tax, Internet/Combined Reporting, WI Employer's Withholding Tax Guide, and Publication 240, Digital Goods. She urged practitioners to read these publications and reports on the Department of Revenue website. She also mentioned the following:

-- **IRA conversions** – For federal taxpayers who convert their traditional IRA to a Roth IRA are required to report the IRA conversion as income. For conversions made in 2010, the distributions can be reported over two years 2011 and 2012. For Wisconsin, the converted IRA amount will be taxable in 2010 unless the Wisconsin Legislature acts to conform to federal. Also, for Wisconsin, taxpayers who have incomes greater than \$100,000 and convert a traditional IRA to a Roth IRA would be subject to an excess contribution penalty each year they hold a Roth IRA. In addition, taxpayers under age 59 ½ would face an early distribution penalty at the time of conversion of the traditional IRA. The Wisconsin Legislature must act to eliminate conversion penalties.

-- **Voluntary Disclosure Program** – Foreign Bank Accounts – Income derived from offshore bank accounts that was previously not reported should file Form WI-VCP, WI Tax Shelters Voluntary Compliance Program Participation and Agreement, with the WI Dept of Revenue by January 15, 2010. Amended returns for 2003-2008 should be filed within 90 days of a final IRS determination. All federal documents should be attached. WDOR has requested information from IRS regarding Wisconsin holders of Swiss Bank UBS accounts.

-- **Section 179** – WI has a different maximum amount for Section 179 expense deduction than the IRS. The maximum is \$25,000 with a phase-out of \$200,000. There is an exception for farmers who have Sect. 179 deduction of \$120,000 and phase-out of \$480,000.

-- **WI/MN Reciprocity Agreement** – Minnesota has canceled this agreement which effects approximately 33,500 Wisconsin residents and 13,000 Minnesota residents.

-- **2009 WI Tax Benefits for Medical Care Insurance** – Employed persons whose employers do not pay any part of the cost of the employee's medical care insurance may subtract 100% of the insurance. An employee whose employer pays part of the insurance costs may subtract 10% of the amount paid for insurance in 2009 (increases to 25% for 2011, 45% for 2012, and 100% for 2013 and thereafter). If no employer and not self-employed, a person may subtract 66.7% of medical care insurance (increases to 100% in 2011). Self-employed person may deduct 100% but is limited to net earnings from the trade or business taxable to Wisconsin.

-- **COBRA** – Under federal law the employer is reimbursed through a credit against federal payroll taxes (employee pays 35% and 65% is the employers credit against payroll taxes). For Wisconsin, the 35% of premium actually paid by an individual is the amount the individual may use in the computation of the subtraction for medical care insurance.

-- **Ponzi Schemes and Theft Losses** – For federal these losses are considered theft losses and not capital losses. The loss is claimed as a miscellaneous itemized deduction on the federal Schedule A. For Wisconsin, no subtraction for itemized deductions is allowed. Theft losses are not included in the computation of the Wisconsin itemized deduction credit. An amended return must be filed for open years to exclude "phantom" income previously reported. Proof of loss is required. A partnership or S Corporation may directly incur a theft loss from a Ponzi Scheme. The theft loss is treated as an ordinary loss and flows through to partners or shareholders as ordinary loss (not a capital loss).

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IRS/DOR MEETING...(CONTINUED)

-- **Penalty for Failure to Produce Records** – An administrative rule has established standard response times in audit, standards for noncompliance and penalty waivers. The penalty disallows deductions, credits, or exemptions or includes income. This penalty is referred to as an Adjustment Penalty. The penalty assessed is equal to the greater of \$500 or 25% of additional tax resulting from any adjustment that was a result of failure to produce requested records (additional penalty on tax). These penalties are in addition to other statutory penalties (negligence, etc.) The standard response times are 15 days after the 1st request and 30 days after the 2nd request. The 2nd request must include a warning about the penalties. Waivers may be given for illness or injury, records destroyed due to events beyond the control of the taxpayer, unusual circumstances that department believes is pertinent.

-- **WI/Banks to Share Information** – Wisconsin and Banks will now be matching for delinquent taxpayers each quarter. The information will be used as a tool to levy delinquent accounts. This should assist the department since the state is looking for funds in this economy.

Dan Sostock, Collections & Audit – Dan indicated that there will be a few more auditors hired in 2010. The NRP audits for individuals 2008 returns have started. These audits have replaced the TCMP audits of the past.

Nancy Christensen, Tax Operations Bureau Director for the WI Department of Revenue

Nancy stated that Form 1X, Amended Return and Form 1NPR, Nonresident and Part Year Resident Income Tax Return can now be e-filed. Beginning February 17, 2010, MeF will accept pdf files.

If you have any questions or comments for the WI Department of Revenue, please send an e-mail to Diane Hardt, Administrator, at diane.hardt@revenue.wi.gov or Nancy Christensen, Director, Tax Operations Bureau, at nancy.christensen@revenue.wi.gov.

Crystal Brinson, IRS Criminal Investigation Special Agent

Crystal is the new CI contact for the Return Preparer Program and Questionable Refund Program. Please contact her at (414) 231-2464 or at crystal.brinson@ci.irs.gov with any information regarding questionable preparers. You may also contact Diane Hardt or Nancy Christensen from the WI Department of Revenue if you have any information on a questionable preparer. Their respective email addresses are listed above.

Tim Sherrill, IRS Collection Territory Manager

At the last Practitioner Liaison Meeting Tim went into great detail regarding the economic assistance relief for taxpayers. Collection is continuing to work with financially distressed taxpayers.

Sandy McQuin, IRS Supervisory Associate Taxpayer Advocate

Sandy announced that she will be retiring at the end of December. She will be missed. Sandy was a great advocate for taxpayers and was a very visible advocate at many of our education sessions. Taxpayer Advocate Service (TAS) is working on an information gathering project pertaining to electronic services and the transcript delivery system. TAS is looking for input from practitioners on particular problems and/or opinions on how the e-services system is working for you. It is very important for practitioners to assist in this project. Please send your comments to: July Blair, Taxpayer Advocate Service, HQ Senior Tax Analyst, 320 Federal Place Room 125, Greensboro, NC 27401, office – 336-378-2284, cell 336-312-0769, fax 336-378-2153.

Roy Block, IRS Supervisory Taxpayer Advocacy Panel

#1. TAP revised Form 9452 and asked IRS to use this document for taxpayers to use in prevention of ID Theft. In essence the form allows IRS to block a social security number from being processed. IRS issues more than \$100 million dollars in ID Theft refunds each year. (Savings 100 Plus Million dollars) – Please see the attached 2009 TAC Report.

#2. A revenue procedure allows IRS to forgive a late filing penalty on partnership returns (Partnerships 10 or less partners) if all the partners filed their 1040 returns in a timely fashion. The panel is recommending that since the late filing penalty abatement is almost automatic they revised the Form 1065 and add a check box to request abatement for late filed returns before the penalties are even assessed. Since it cost the IRS \$24.97 each and every time a taxpayer sends a letter to IRS, the panel estimates this check a box format will save some 30,000 taxpayers from having to correspond with IRS. (Total savings \$24.97 X 30,000 &.4 Million Dollars).

The Form 990 allows for these taxpayers to file two requests for an extension of time to file. The panel is recommending IRS to drop the first extension Form 8868. It is projected that IRS will process some 400,000 of these returns by 2011. If IRS agrees with the panel recommendations, the projected processing dollars saved could be several million dollars.

Those at the meeting were provided with a copy of the Taxpayer Assistance Center (TAC) 2009 report. This year IRS requested the panel members to study the payment process in the 401 TAC offices across the country. The panel is making 5 specific recommendations to IRS. One of them is to provide an easy method for making payments at the centers by including a drop box so a taxpayer would not have to “take a number” and wait to leave their payment.

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IRS/DOR MEETING...(CONTINUED)

Michelle Benson, IRS Area Manager Stakeholder Liaison

Michelle introduced herself as the new area manager for Stakeholder Liaison. She talked about the importance of fostering IRS relationships with the practitioners. Any comments or concerns can be directed to her at michelle.p.benson@irs.gov.

Kerstin Lanser, IRS Sr. Stakeholder Liaison

Kerstin gave a brief overview of:

- Modernized e-File (MeF) for Form 1040. Her power point included the rollout for Phases I, II, and III and certain forms and schedules that will be available beginning February 17, 2010. Modernized E-File is “real time” filing, not in batch drain time filing. Acknowledgments will arrive much quicker and soon returns may be filed all year long, even after extensions are past.
- EITC Toolkit for Tax Preparers that is available at www.eitcfortaxpreparers.com
- Details of the new legislation that was signed into law on November 6, 2009, extending and expanding the first-time homebuyer credit.
- Education Credits for 2009: The American Opportunity Credit vs. Midwest Disaster Legislation
- Savings Initiative: All or part of a refund may be used to purchase U.S. Savings Bonds by designating it on Form 8888, Direct Deposit of Refund.
- New Form 1040X, Amended U.S. Individual Income Tax Return effective January 1, 2010. The form will no longer have 3 columns, just the corrected numbers will appear as the form will be scannable and the explanation section is now on the front page
- Inserts usually sent with Notices mailed to CAF and RAF representatives will no longer be sent, only the correspondence itself.

Kerstin mentioned that the new tax calendars for 2010 were available.

Kerstin stated that E-Filing begins January 15, 2010.

Issues & Status

- Can the old Form 1040X still be used?
- Practitioners are continuing to have a problem with the automated collection system (ACS) and CP2000s. It is increasingly difficult to navigate through the menu to actually talk to a “live” person. (This is an issue that I presented. When calling ACS, the menus are terrible and one can easily get “bounced” from ACS to another area, or from the CP2000 area to another area. I questioned why the Service puts a particular phone number on a notice, and then the call is not answered by the section on the notice. Practitioners ought to be able to handle some of these issues through the Practitioner Hotline to avoid the huge wait time we experience.

Roundtable and Comments – None

Meeting adjourned.