

## **Clearinghouse Rule 10-093**

### **PROPOSED ORDER OF THE DEPARTMENT OF REVENUE AMENDING AND CREATING RULES**

The Wisconsin Department of Revenue adopts an order to: **amend** Tax 11.01(title), (1)(intro.), (a), (b), and (c), and (2)(a)3., (b), (c)(intro.), and (d)(intro.) and 1., and **create** Tax 4.001, 7.001, 8.001, 9.001, and 11.01(1)(h) and (i) and (2)(bg) and (br), **relating to** motor vehicle, alternate fuels, and general aviation fuel tax return and refund claim forms; fermented malt beverage tax return and refund claim forms; intoxicating liquor report, tax return, and refund claim forms; cigarette and tobacco products report, tax return, and refund claim forms; and sales and use tax, local exposition tax, and premier resort area tax return forms.

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#### ***Analysis by the Department of Revenue***

**Statutes interpreted:** ss. 77.982(2), 77.9941(4), 78.005(6m), 78.39(4m), 78.55 (2r), 139.01(2r), 139.30 (4m), and 139.75 (4m), Stats.

**Statutory authority:** s. 227.11 (2) (a), Stats.

**Explanation of agency authority:** Section 227.11(2)(a), Stats., provides that each agency may promulgate rules interpreting the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute.

**Related statute or rule:** There are no other applicable statutes or rules.

**Plain language analysis:** This rule order expands the returns, reports, and refund claims the department may require be filed electronically.

**Summary of, and comparison with, existing or proposed federal regulation:** There is no existing or proposed federal regulation that is intended to address the activities to be regulated by the rule.

**Comparison with rules in adjacent states:** The department is not aware of a similar rule in an adjacent state.

**Summary of factual data and analytical methodologies:** The department processes hundreds of thousands of refund claims, reports, and returns each year. Each one costs more to process and takes more staff time to handle than if submitted electronically. The department has determined that in order to operate in the most cost effective and efficient manner possible, it is necessary to expand its electronic filing requirements.

**Analysis and supporting documents used to determine effect on small business:** The department provides methods to electronically file with little or no cost. In addition, an exception to the requirements to file electronically for situations where an undue hardship is caused is provided in the rule. Based on this, the department has concluded that this rule order does not have a significant effect on small business.

**Anticipated costs incurred by private sector:** This rule order does not have a significant fiscal effect on the private sector.

**Effect on small business:** This rule order does not have a significant effect on small business.

**Agency contact person:** Please contact Dale Kleven at (608) 266-8253 or [dale.kleven@revenue.wi.gov](mailto:dale.kleven@revenue.wi.gov), if you have any questions regarding this rule order.

**Place where comments are to be submitted and deadline for submission:**

Comments may be submitted to the contact person shown below no later than one week after the public hearing on this proposed rule is conducted. Information as to the place, date, and time of the public hearing will be published in the Wisconsin Administrative Register.

Dale Kleven  
Department of Revenue  
Mail Stop 6-40  
2135 Rimrock Road  
P.O. Box 8933  
Madison, WI 53708-8933

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**SECTION 1.** Tax 4.001 is created to read:

**Tax 4.001 Motor vehicle, alternate fuels, and general aviation fuel tax return and refund claim forms.** (1) FORMS. The department shall provide official forms for filing motor vehicle, alternate fuels, and general aviation fuel tax returns and refund claims. Except as approved by the department, tax returns and refund claims may only be filed using these official forms.

(2) FILING RETURNS. (a) Forms filed with the department shall be submitted by one of the following means:

1. Mailing them to the address specified by the department on the forms or in the instructions.

2. Delivering them to the department or to the destination that the department prescribes.

3. Filing them electronically by means prescribed by the department.

(b) The department may require motor vehicle, alternate fuels, and general aviation fuel tax returns and refund claims be filed electronically. The department shall notify a person at least 90 days prior to the due date of the first return required to be filed electronically of the requirement to file electronically.

(c) The secretary of revenue may waive the requirement to file electronically when the secretary determines that the requirement causes an undue hardship, if the person does all of the following:

1. Requests the waiver in writing.

**Note:** Written requests should be e-mailed to excise@revenue.wi.gov, faxed to (608) 261-7049, or addressed to Mandate Waiver Request, Wisconsin Department of Revenue, Mail Stop 5-107, PO Box 8900, Madison WI 53708-8900.

2. Clearly indicates why the requirement causes an undue hardship.

(d) In determining whether the requirement to file electronically causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances that may prevent the person from filing electronically.

**Example:** The person does not have access to a computer that is connected to the internet.

2. Any other factor that the secretary determines is pertinent.

**Note:** Section Tax 4.001 interprets ss. 78.005 (6m), 78.39 (4m), and 78.55 (2r), Stats.

**SECTION 2.** Tax 7.001 is created to read:

**Tax 7.001 Fermented malt beverage tax return and refund claim forms. (1) FORMS.** The department shall provide official forms for filing fermented malt beverage tax returns and refund claims. Except as approved by the department, tax returns and refund claims may only be filed using these official forms.

**(2) FILING RETURNS.** (a) Forms filed with the department shall be submitted by one of the following means:

1. Mailing them to the address specified by the department on the forms or in the instructions.

2. Delivering them to the department or to the destination that the department prescribes.

3. Filing them electronically by means prescribed by the department.

(b) The department may require fermented malt beverage tax returns and refund claims be filed electronically. The department shall notify a person at least 90 days prior to the due date of the first return required to be filed electronically of the requirement to file electronically.

(c) The secretary of revenue may waive the requirement to file electronically when the secretary determines that the requirement causes an undue hardship, if the person does all of the following:

1. Requests the waiver in writing.

**Note:** Written requests should be e-mailed to excise@revenue.wi.gov, faxed to (608) 261-7049, or addressed to Mandate Waiver Request, Wisconsin Department of Revenue, Mail Stop 5-107, PO Box 8900, Madison WI 53708-8900.

2. Clearly indicates why the requirement causes an undue hardship.

(d) In determining whether the requirement to file electronically causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances that may prevent the person from filing electronically.

**Example:** The person does not have access to a computer that is connected to the internet.

2. Any other factor that the secretary determines is pertinent.

**Note:** Section Tax 7.001 interprets s. 139.01 (2r), Stats.

**SECTION 3.** Tax 8.001 is created to read:

**Tax 8.001 Intoxicating liquor report, tax return, and refund claim forms. (1) FORMS.**

The department shall provide official forms for filing intoxicating liquor reports, tax returns, and refund claims. Except as approved by the department, reports, tax returns, and refund claims may only be filed using these official forms.

**(2) FILING FORMS.** (a) Forms filed with the department shall be submitted by one of the following means:

1. Mailing them to the address specified by the department on the forms or in the instructions.
2. Delivering them to the department or to the destination that the department prescribes.
3. Filing them electronically by means prescribed by the department.

(b) The department may require intoxicating liquor reports, tax returns, and refund claims be filed electronically. The department shall notify a person at least 90 days prior to the due date of the first report or tax return required to be filed electronically of the requirement to file electronically.

(c) The secretary of revenue may waive the requirement to file electronically when the secretary determines that the requirement causes an undue hardship, if the person does all of the following:

1. Requests the waiver in writing.

**Note:** Written requests should be e-mailed to [excise@revenue.wi.gov](mailto:excise@revenue.wi.gov), faxed to (608) 261-7049, or addressed to Mandate Waiver Request, Wisconsin Department of Revenue, Mail Stop 5-107, PO Box 8900, Madison WI 53708-8900.

2. Clearly indicates why the requirement causes an undue hardship.

(d) In determining whether the requirement to file electronically causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances that may prevent the person from filing electronically.

**Example:** The person does not have access to a computer that is connected to the internet.

2. Any other factor that the secretary determines is pertinent.

**Note:** Section Tax 8.001 interprets s. 139.01 (2r), Stats.

**SECTION 4.** Tax 9.001 is created to read:

**Tax 9.001 Cigarette and tobacco products report, tax return, and refund claim forms.** **(1) FORMS.** The department shall provide official forms for filing cigarette and tobacco products reports, tax returns, and refund claims. Except as approved by the department, reports, tax returns, and refund claims may only be filed using these official forms.

**(2) FILING FORMS.** (a) Forms filed with the department shall be submitted by one of the following means:

1. Mailing them to the address specified by the department on the forms or in the instructions.

2. Delivering them to the department or to the destination that the department prescribes.

3. Filing them electronically by means prescribed by the department.

(b) The department may require cigarette and tobacco products reports, tax returns, and refund claims be filed electronically. The department shall notify a person at least 90 days prior to the due date of the first report or return required to be filed electronically of the requirement to file electronically.

(c) The secretary of revenue may waive the requirement to file electronically when the secretary determines that the requirement causes an undue hardship, if the person does all of the following:

1. Requests the waiver in writing.

**Note:** Written requests should be e-mailed to excise@revenue.wi.gov, faxed to (608) 261-7049, or addressed to Mandate Waiver Request, Wisconsin Department of Revenue, Mail Stop 5-107, PO Box 8900, Madison WI 53708-8900.

2. Clearly indicates why the requirement causes an undue hardship.

(d) In determining whether the requirement to file electronically causes an undue hardship, the secretary of revenue may consider the following factors:

1. Unusual circumstances that may prevent the person from filing electronically.

**Example:** The person does not have access to a computer that is connected to the internet.

2. Any other factor that the secretary determines is pertinent.

**Note:** Section Tax 9.001 interprets ss. 139.30 (4m) and 139.75 (4m), Stats.

**SECTION 5.** Tax 11.01(title) and (1) (intro.), (a), (b), and (c) are amended to read:

Tax 11.01(title) **Sales and use tax, local exposition tax, and premier resort area tax return forms.**

Tax 11.01(1) (intro.) For filing sales and use tax, local exposition tax, and premier resort area tax returns, the following forms shall be used:

(a) Form MV-1. A department of transportation form for occasional and dealer sales of motor vehicles, ~~mobile homes~~ recreational vehicles as defined in s. 348.01 (48r), Stats., trailers, and semi-trailers.

(b) Form S-012. Also called form ST-12. The monthly, quarterly, or annual return used to report state, county, and stadium taxes by persons holding a Wisconsin seller's permit, use tax registration certificate, or consumer's use tax registration certificate. This form is also used to file refund claims or report additional taxes for prior periods.

(c) Form SU-050. Also called form UT-5. For consumers other than persons holding a Wisconsin seller's permit, use tax registration certificate, or consumer's use tax registration certificate.

**SECTION 6.** Tax 11.01(1) (h) and (i) are created to read:

Tax 11.01(1) (h) Form EX-012. The return used to report local exposition taxes. This form is also used to file refund claims or report additional taxes for prior periods.

Tax 11.01(1) (i) Form PRA-012. The return used to report premier resort area taxes. This form is also used to file refund claims or report additional taxes for prior periods.

**SECTION 7.** Tax 11.01(2) (a) 3. and (b) are amended to read:

Tax 11.01(2) (a) 3. Filing them electronically ~~via the department's sales internet process, or "SIP," or some other electronic means~~ as prescribed by the department.

**Note to LRB:** Remove the note at the end of Tax 11.01(2) (a) 3.

(b) ~~The Except as provided in par. (c), the~~ department may require a person registered or required to be registered for Wisconsin sales and use tax purposes to file its sales and use tax return ~~by electronic means electronically~~. The department shall notify the person at least 90 days prior to the due date of the first sales and use tax return required to be filed ~~by electronic means electronically~~ of the requirement to file ~~by electronic means electronically~~. In its notice, the department shall indicate the period covered for the first return to be filed ~~by electronic means electronically~~.

**SECTION 8.** Tax 11.01(2) (bg) and (br) are created to read:

Tax 11.01(2) (bg) Except as provided in par. (c), the department may require a person registered or required to be registered for Wisconsin sales and use tax purposes to file its premier resort area tax return electronically. The department shall notify the person at least 90 days prior to the due date of the first premier resort area tax return required to be filed electronically of the requirement to file electronically. In its notice, the department shall indicate the period covered for the first return to be filed electronically.

Tax 11.01(2) (br) Except as provided in par. (c), the department may require a person registered or required to be registered for Wisconsin local exposition tax purposes to file its local exposition tax return electronically. The department shall notify the person at least 90 days prior to the due date of the first local exposition tax return required to be filed electronically of the requirement to file electronically. In its notice, the department shall indicate the period covered for the first return to be filed electronically.

**SECTION 9.** Tax 11.01(2) (c) (intro.) and (d) (intro.) and 1. are amended to read:

Tax 11.01(2) (c) (intro.) The secretary of revenue may waive the requirement ~~for a person to file by electronic means electronically~~ when the secretary determines that the requirement causes an undue hardship, if the person does all of the following:

**Note to LRB:** Replace the note at the end of Tax 11.01(2) (c) 1. with the following:

**Note:** Written requests should be e-mailed to DORWaiverRequest@revenue.wi.gov, faxed to (608) 264-7776, or addressed to Mandate Waiver Request, Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8949, Madison WI 53708-8949.

Tax 11.01(2) (d) (intro.) In determining whether the electronic ~~means filing~~ requirement causes an undue hardship, the secretary of revenue may consider the following factors:

Tax 11.01(2) (d) 1. Unusual circumstances that may prevent the person from ~~using electronic means filing electronically~~.

**Note to LRB:** Replace the notes at the end of Tax 11.01(2) (d) 2. with the following:

**Note:** Section Tax 11.01 interprets ss. 77.51(3r), 77.58, 77.75, 77.982(2), and 77.9941(4), Stats.

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The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats.

### **Initial Regulatory Flexibility Analysis**

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

### DEPARTMENT OF REVENUE

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Roger M. Ervin  
Secretary of Revenue