

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

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

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

SUBMITTING PUBLIC COMMENTS

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

DEADLINE FOR SUBMISSION

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

Document Number	Document Title
100214	Claiming Veterans and Surviving Spouses Property Tax Credit - Common Questions

State of Wisconsin
Department of Revenue

Veterans and Surviving Spouses Property Tax Credit - Claiming the Credit

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

1. I was rated as having a 100% service-connected disability by the federal Veterans Administration (VA) in 2019 and now qualify for the credit. If the VA backdated my claim, may I claim the credit for a prior year?
2. I submitted a disability claim to the United States Department of Veterans Administration (USDVA), for which a decision has not yet been made. If the disability is backdated, how do I claim the credit on prior year returns?
3. My spouse was a disabled veteran who qualified for the credit. My spouse died during the year. I am now the unremarried surviving spouse. How do I claim the credit?
4. I am a disabled veteran and qualify for the credit. How does the credit apply if I have a state income tax liability?
5. I just found out about the credit and would have been eligible to claim it before this year. Can I claim the credit for one or more prior years? How far back can I claim the credit and how do I claim it?
6. Is there a deadline for claiming the credit?
7. What do I have to attach to my Wisconsin income tax return when claiming the credit?
8. Is the amount of my veterans and surviving spouses property tax credit taxable on my income tax return for the year in which I receive it?
9. I had a 100% disability rating and qualified for the veterans and surviving spouses property tax credit for 2017 and 2018. My disability rating was reduced on June 1, 2019 and I no longer qualify for the credit. Can I claim the credit on my 2019 Wisconsin income tax return?
10. May the personal representative claim the veterans and surviving spouses property tax credit on a decedent's final individual income tax return?

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- 1. I was rated as having a 100% service-connected disability by the federal Veterans Administration (VA) in 2019 and now qualify for the credit. If the VA backdated my**

claim, may I claim the credit for a prior year?

The Wisconsin Department of Veterans Affairs (WDVA) must determine your eligibility for prior years.

If the WDVA verified your eligibility for a prior year, you may claim the credit on an amended return. Amended returns are filed on the same form on which your original return was filed (for example, Form 1 or Form 1A). Amended returns must be filed within four years of the original due date of the return. For example, an amended return for 2015 (originally due April 15, 2016) must be filed on or before April 15, 2020.

Note: Forms 1A and WI-Z have been eliminated beginning with the 2018 tax year. Amended 2018 and 2019 returns must be filed on Form 1, for resident taxpayers, or Form 1NPR, for part-year resident and nonresident taxpayers.

2. I submitted a disability claim to the United States Department of Veterans Administration (USDVA), for which a decision has not yet been made. If the disability is backdated, how do I claim the credit on prior year returns?

While the decision is pending with the USDVA, you may file amended returns, within four years of the unextended due date of the original tax return, for any prior years for which you may later be eligible for the credit. Send Schedule AR, *Explanation of Amended Return*, check box 12 (protective claim), and provide a detailed description. The department may hold the amended returns until a final decision has been made by the USDVA.

Note: The department may send you an extension agreement request for the amended returns, if necessary.

3. My spouse was a disabled veteran who qualified for the credit. My spouse died during the year. I am now the unremarried surviving spouse. How do I claim the credit?

You must first contact the WDVA to obtain verification of your eligibility for the credit. After you receive the verification, you claim the credit on your Wisconsin income tax return. You must attach a copy of the verification to your return.

4. I am a disabled veteran and qualify for the credit. How does the credit apply if I have a state income tax liability?

The credit will first be applied against any state income tax liability. It will then be applied against any delinquent state and federal taxes, debts owed to other state agencies (for example, delinquent child support), and debts owed to municipalities, if any. Any excess amount will then be refunded.

5. I just found out about the credit and would have been eligible to claim it before this year. Can I claim the credit for one or more prior years? How far back can I claim the credit and how do I claim it?

You must first contact the WDVA for verification of your eligibility. If you are eligible to claim the credit for one or more prior years for which you have already filed a Wisconsin income tax return, you may file an amended Wisconsin return to claim the credit. Amended returns are filed on the

same form on which your original return was filed (for example, Form 1 or Form 1A). An amended return must be filed within four years of the original due date of the return. For example, a return for 2015 was due April 15, 2016. Amended 2015 returns must be filed on or before April 15, 2020.

Note:

- Forms 1A and WI-Z have been eliminated beginning with the 2018 tax year. Amended 2018 and 2019 returns must be filed on Form 1, for resident taxpayers, or Form 1NPR, for part-year resident and nonresident taxpayers.
- If you are amending a prior year return to claim the veterans and surviving spouses property tax credit, you must also delete any school property tax credit, homestead credit, or farmland preservation credit claimed for that prior year. You cannot claim these credits if you are claiming the veterans and surviving spouses property tax credit.

6. Is there a deadline for claiming the credit?

The veterans and surviving spouses property tax credit must be claimed within four years of the unextended due date of the Wisconsin income tax return. For example, the 2015 Wisconsin income tax return was due April 15, 2016. The 2015 veterans and surviving spouses property tax credit must be claimed by April 15, 2020.

7. What do I have to attach to my Wisconsin income tax return when claiming the credit?

When claiming the veterans and surviving spouses property tax credit on the Wisconsin income tax return, you must attach to your income tax return a copy of the verification of your eligibility that you receive from the Wisconsin DVA and a copy of your property tax bills showing the amount of taxes paid during the year and proof of payment. A copy of the verification must be attached only to the return for the first year for which you are claiming the credit.

8. Is the amount of my veterans and surviving spouses property tax credit taxable on my income tax return for the year in which I receive it?

Federal treatment:

The amount of the credit may be taxable for federal income tax purposes. The credit is considered a refund of property taxes (real estate taxes).

If you itemized deductions for federal tax purposes on Schedule A and claimed a deduction for the amount of real estate taxes paid, the amount of veterans and surviving spouses property tax credit received during the year is taxable on your federal income tax return to the extent you received a tax benefit from the deduction.

If you did not itemize deductions for federal tax purposes, the amount of veterans and surviving spouses property tax credit received during the year is not taxable on your federal income tax return.

Example 1:

You paid real estate taxes of \$3,000 on your principal residence in 2019. You claimed the veterans and surviving spouses property tax credit of \$3,000 which was refunded to you when you filed your Wisconsin income tax return in 2020. You deducted the \$3,000 as a federal itemized deduction on your 2019 Schedule A. Your total itemized deductions were \$8,000. Your federal

standard deduction for 2019 would have been \$6,300. Therefore, your tax benefit from the itemized deductions was \$1,700 (\$8,000 less \$6,300). The \$1,700 must be reported as income on your 2020 federal income tax return as a recovery of an itemized deduction.

Example 2:

The facts are the same as in Example 1 except that your total itemized deductions were \$10,000 for 2019. Your tax benefit from the itemized deductions was \$3,700 (\$10,000 less \$6,300). The entire \$3,000 must be reported as income on your 2020 federal income tax return as a recovery of an itemized deduction.

Note: Use Worksheet 2 in federal [Publication 525](#), *Taxable and Nontaxable Income*, to determine the taxable amount of your veterans and surviving spouses property tax credit. Contact the federal Internal Revenue Service (IRS) if you have questions about the federal treatment of the credit. The IRS toll-free number is 1-800-829-1040.

Wisconsin treatment:

The amount of the veterans and surviving spouses property tax credit is not income on your Wisconsin income tax return. Wisconsin law allows a subtraction from federal adjusted gross income for any amounts that are recoveries of federal itemized deductions for which no tax benefit was received. Because no deduction has been allowed for property taxes and the property taxes cannot be used in the computation of the Wisconsin itemized deduction credit, no tax benefit was received for Wisconsin income tax purposes.

9. I had a 100% disability rating and qualified for the veterans and surviving spouses property tax credit for 2017 and 2018. My disability rating was reduced on June 1, 2019, and I no longer qualify for the credit. Can I claim the credit on my 2019 Wisconsin income tax return?

Yes, you may claim the credit on your 2019 Wisconsin income tax return based on property taxes you paid on your principal residence during the period January 1 through May 31, 2019. Taxes paid on your principal residence after May 31, 2019, cannot be claimed for the veterans and surviving spouses property tax credit.

10. May the personal representative claim the veterans and surviving spouses property tax credit on a decedent's final individual income tax return?

If the property tax payments were paid to the municipality before the date of death, then the credit may be claimed on the decedent's final individual income tax return, assuming they otherwise qualified for the credit. If the property tax payments were paid to the municipality after the date of death and there is no eligible unremarried surviving spouse, the credit may not be claimed on the decedent's final individual income tax return. The property tax payments paid after death may be reported as a property tax expense on the decedent's federal Form 1041, *U.S. Income Tax Return for Estates and Trusts*. See the Form 1041 instructions available at www.irs.gov.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of March 25, 2020: Sections 71.07(6e), 71.75 and 73.03, Wis. Stats., sec. Tax 2.12, Wis. Adm. Code, and 26 U.S. Code § 111.

Laws enacted and in effect after March 25, 2020, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to March 25, 2020, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

FOR QUESTIONS OR COMMENTS CONTACT:

MS 5-77

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