

- h. The qualified rehabilitation expenditures must exceed the greater of \$1,000 or the adjusted basis of the building, if the historic property is a building, or of the entire property, if the historic property is not a building. In addition, the adjusted basis used must be the basis on the date that the physical work of construction, or destruction in preparation for construction, begins.

Under prior law, the qualified rehabilitation expenditures were to exceed the greater of \$1,000 or the adjusted basis of the entire property.

- i. Claimants of the credit must reduce their Wisconsin adjusted basis of the building, if the rehabilitated property is a building, by the amount of credit claimed. If the rehabilitated property is not a building (for example, a burial site or archeological site), the reduction must be made to the Wisconsin adjusted basis of the entire property. Under prior law, the Wisconsin adjusted basis of the entire property was required to be reduced by the amount of the credit.

It is clarified that the Wisconsin adjusted basis of a partner's interest in a partnership or a shareholder's stock in a tax-option corporation must be adjusted to take into account adjustments made to the basis of property held by the partnership or tax-option corporation.

- j. The language specifying that the credit must be claimed on a form prescribed by the Department of Revenue is deleted since the department has sufficient authority to prescribe forms.
- k. The carryforward period for unused rehabilitation credit has been extended from 5 years to 15 years. Reference is made to the 15-year carryforward rule for the credit for increasing research expenditures. In addition, a reference to the annualization rule for the research credit is deleted since the rehabilitation credit is not computed on an annualized basis.
- l. The rehabilitation credit may not be claimed by partnerships or tax-option corporations, but the individual partners or shareholders may claim a credit based on their proportionate share of the eligible rehabilitation costs incurred by the partnership or corporation. The partnership or corporation must compute the amount of credit that can be claimed by each partner or shareholder and must provide that information to the partners or shareholders.
- m. If the property is owned by two or more individuals, the credit may be claimed as follows:
  - (1) For projects benefiting one owner, by that owner based on the costs incurred by that owner.
  - (2) For projects benefiting more than one owner, by each owner based on that person's share of the total costs incurred. The share is determined in proportion to the person's ownership interest in the property.

- n. The credit cannot be claimed for the rehabilitation of a personal residence if the person has claimed a rehabilitation credit for another personal residence within the 5 preceding years.

The credit cannot be claimed for the rehabilitation of any property if the person acquired the property under an agreement which requires the person to sell or otherwise dispose of the property back to the previous owner within 5 years of the acquisition.

- n. The Department of Revenue is given the authority to make assessments to recover credits in cases where the State Historical Society determines that the claimant has not complied with the following requirements:

- (1) Obtain the approval of the State Historical Society for the proposed rehabilitation,
- (2) Complete the rehabilitation work within a specified time period, and
- (3) Place a 20-year easement or covenant on the property to protect the historic features of the property.

The department is allowed a 4-year period after being notified in which to recover the credit. Certain restrictions apply on the period of time within which the State Historical Society must notify the department.

- 23. Farmland Tax Relief Credit Created (1989 Act 31, amend secs. 71.74(8)(a), (b) and (c), 71.80(3) and (3m)(intro.), 71.82(1)(c) and (2)(c), 71.83(2)(b)4, and 71.88(1)(b) and (2)(b); and create secs. 20.835(2)(q), 71.07(3m), 71.28(2m), and 71.47(2m), effective for property taxes accrued during 1989 and thereafter.)

Beginning with property taxes accrued during 1989, a refundable farmland tax relief credit is created. Subject to limitations as described below, the credit is 10% of the property taxes accrued on farmland, exclusive of taxes on the improvements (e.g., buildings) on the land. An additional credit of 4.2% (in addition to the 10% credit) is allowable for property taxes accrued during 1989.

The following limitations apply:

- a. The maximum allowable farmland tax relief credit based on the 10% credit is \$1,000. The maximum allowable farmland tax relief credit based on the supplemental 4.2% credit for 1989 is an additional \$1,000.

Note: The Governor stated in his veto message that he believes the Legislature intended the maximum supplemental credit for 1989 to be \$420 rather than \$1,000, and that he will propose legislation in the fall to correct this.

- b. The farmland tax relief credit when added to farmland preservation credit under subch. IX of ch. 71, Wis. Stats., may not exceed 95% of the property taxes accrued on the farm.

The following requirements must be met:

- a. The farmland must be 35 or more acres of Wisconsin land.
- b. The farmland must be in agricultural use and must have produced at least \$6,000 in gross farm profits during the year or \$18,000 in gross farm profits in the past three years, or at least 35 acres must have been enrolled in the Conservation Reserve Program during all or part of the year.
- c. The farmland must have been owned by the claimant or any member of the claimant's household (i.e., the claimant's spouse and minor dependents) during the year.

The claim must be filed within 12 months of the end of the taxable year and may be filed by an individual (must be domiciled in Wisconsin for the full year for which a claim is filed), a partner in a partnership, a shareholder in a tax-option corporation, a corporation, a personal representative of an estate, or a trustee of a trust.

24. Treatment of Incentive Stock Options in Computing Wisconsin Alternative Minimum Taxable Income (1987 Act 31, amend sec. 71.08(1)(c) and create sec. 71.08(1)(bm), effective for taxable years beginning on or after January 1, 1989.)

In computing Wisconsin alternative minimum taxable income, a taxpayer may subtract 20% of the amount of incentive stock options included in federal alternative minimum taxable income under sec. 56(b)(3), IRC.

Subsequently, when the stock purchased under an incentive stock option is disposed of, any adjustment made to federal alternative minimum taxable income for that year as a result of a basis adjustment under sec. 56(b)(3) must also be reduced by 20% in computing Wisconsin alternative minimum taxable income.

25. Alternative Minimum Taxable Income Clarified (1989 Act 31, amend sec. 71.08(1)(a), effective August 9, 1989.)

In computing Wisconsin alternative minimum taxable income, federal alternative minimum taxable income is used as a starting point and is then adjusted by most modifications under sec. 71.05(6) to (21), Wis. Stats. The modifications for certain municipal interest, the state tax refund, and the Wisconsin net operating loss are not adjusted for because they have already been adjusted for when federal alternative minimum taxable income is computed.

It is clarified that the modifications for the federal net operating loss and the state tax deduction of fiduciaries are also not adjusted for in computing Wisconsin alternative minimum tax because they have already been adjusted for when federal alternative minimum taxable income is computed.

26. Effect of Claim of Right Credit, Farmland Tax Relief Credit and Development Zone Credits on Alternative Minimum Tax Computation Clarified (1989 Act 31, amend sec. 71.08(1)(intro.) effective August 9, 1989, for purposes of the claim of right credit and development zone credits and repeal and recreate sec. 71.08(1)(intro.) as amended by 1989 Act 31, effective for property taxes accrued during 1989 and thereafter for purposes of the farmland tax relief credit.)

These provisions clarify that the Wisconsin claim of right credit, the farmland tax relief credit and development zone credits claimed by tax-option (S) corporation shareholders have no effect on the computation of Wisconsin alternative minimum tax.

27. Order of Computation Revised (1989 Act 31, amend sec. 71.10(4)(i), effective for property taxes accrued during 1989 and thereafter for purposes of the farmland tax relief credit, and for taxable years beginning on or after January 1, 1989, for purposes of the earned income credit.)

The order of computing an individual or fiduciary income tax liability has been revised to incorporate two new credits. The farmland tax relief credit (see Item A.23.) is to be applied after the homestead credit and the earned income credit (see Item A.29) is to be applied after the development zone jobs credit and before estimated tax payments.

28. Chapter 71 Rewrite Corrections (1989 Acts 13, 14 and 31, amend secs. 20.835(2)(d), 40.02(26g), 40.23(2m)(b), 40.26(1), 40.86(intro.), 44.02(24), 73.01(4)(i), 73.03(33), 97.29(1)(g)7, 231.01(5)(a)4.c., 560.75(9)(a) and (b), 560.768(1)(a), 565.30(4) and 814.61(5)(c) and repeal and recreate sec. 40.23(1)(a), 73.03(35) and 560.75(8) effective May 16, 1989 for provisions in Act 13, May 19, 1989, for provisions in Act 14, and August 9, 1989, for provisions in Act 31.)

Changes are made to cross references and statutory numbering due primarily to passage of legislative bills after the revision of the income chapter (Chapter 71) of the Wisconsin Statutes in the 1987-88 budget session. No substantive changes are intended.

29. Earned Income Tax Credit (1989 Act 31, create sec. 71.07(9e), effective for taxable years beginning on or after January 1, 1989.)

For taxable years beginning on or after January 1, 1989, individuals eligible to claim an earned income credit on their federal income tax return under sec. 32 of the Internal Revenue Code may be eligible to claim an earned income credit against their Wisconsin income tax otherwise due. The Wisconsin earned income tax credit is equal to a percentage of the federal earned income credit as follows:

- a. If the person has one dependent child who has the same principal place of abode as the person, 5% of the federal credit.
- b. If the person has 2 dependent children who have the same principal place of abode as the person, 25% of the federal credit.

- c. If the person has more than 2 dependent children who have the same principal place of abode as the person, 75% of the federal credit.

Married persons must generally file a joint Wisconsin income tax return to claim the credit. However, the credit may be claimed on a separate return if the following conditions are met:

- a. The individual paid more than half the cost of keeping up a home for the year, and
- b. The individual's spouse did not live in such home during the last 6 months of the year, and
- c. The home was, for more than half of the year, the principal home of the individual's child for whom the individual is entitled to claim an exemption for federal tax purposes.

The Wisconsin credit is refundable. Part-year residents and nonresidents are not eligible for the credit.

The credit must be claimed within 4 years of the unextended due date of the person's income tax return. The income tax provisions relating to assessments, refunds, appeals, collection, interest and penalties apply to the credit.

30. One-Time Supplement for 1990 of the School Property Tax Credit (1989 Act 31, create nonstatutory provision, effective for school property tax credit claims for taxable years 1987 and 1988.)

Prior to enactment of 1989 Wisconsin Act 31, the 1987 school property tax credit was equal to 6.9% of the first \$2,000 (\$1,000 if married filing separately) of property taxes or rent constituting property taxes paid during the taxable year. The 1988 school property tax credit was equal to 8.5% of the first \$2,000 (\$1,000 if married filing separately) of property taxes or rent constituting property taxes paid during the taxable year. This Act provides an additional amount of credit by increasing the 1987 school property tax credit from 6.9% to 13.4% and the 1988 school property tax credit from 8.5% to 15%.

For part-year residents, the additional amount of credit for each year must be prorated based on the ratio of their Wisconsin adjusted gross income to federal adjusted gross income for that year. Nonresidents are not eligible for the school property tax credit and therefore will not receive this additional credit.

Persons who claimed the school property tax credit on their 1987 or 1988 Wisconsin income tax return will be sent a refund check equal to the lesser of (a) the additional credit amounts of 6.5% for each year or (b) the person's "net tax liability" as computed on the 1987 and 1988 tax returns.

The maximum amount of additional credit to be refunded is \$260 (\$130 if married filing separately). If a taxpayer dies before receiving his or her additional credit, the amount shall be paid to the taxpayer's estate.

A taxpayer is not required to file a separate claim to obtain the additional credit refund. The Department of Revenue will issue refunds for the additional school property tax credit in April 1990, or as soon as possible after receipt of the taxpayer's 1987 or 1988 income tax return if the return is filed after December 31, 1989.

The department is required to include the following statement with the refund check: "The Governor and Legislature of the State of Wisconsin have provided in 1989 Wisconsin Act 31 that any person who claimed the 1987 or 1988 school property tax/rent credit shall receive an additional amount of credit. The enclosed check is for this additional credit."

31. Endangered Resources Designation (1989 Act 31, amend sec. 71.10(5)(g), effective August 9, 1989.)

The department is required to highlight the endangered resources contribution line on the individual income tax forms by including a symbol chosen by the department that relates to endangered resources.

32. Federal Retirement Benefits Exempt for Certain Persons (1989 Act 31, amend s. 71.05(1)(a), effective for taxable years beginning on and after January 1, 1989.)

For taxable years beginning on or after January 1, 1989, all payments received from a United States government civilian employe or military (including both active and reserve from all branches of the Armed Services and the U.S. Coast Guard) personnel retirement system or fund are exempt from the Wisconsin income tax when paid on the account of any person who was:

- a. A member of such a system or fund as of December 31, 1963, or
- b. Retired from such a system or fund as of December 31, 1963.

(Note: This exemption also would apply to such payments received by a beneficiary of a person who qualified under a or b above.)

33. Federalize Estimated Tax Payment Provisions for Estates and Trusts (1989 Act 31, amend sec. 71.09(2) and (13)(d), effective for taxable years beginning on or after January 1, 1990.)

The following changes are made to the Wisconsin estimated tax provisions relating to estates and trusts:

- a. The requirement to make payments of estimated tax does not apply to any taxable year ending before the date 2 years after the date of a decedent's death with respect to the estate of such decedent or any trust all of which is treated under subpart E of part I of subchapter J of Chapter 1 of the Internal Revenue Code as owned by the decedent and to which the residue of the decedent's estate will pass under his or her will. Under prior law, estimated tax payments were not required for the first or second taxable year of an estate.

- b. A trust that is subject to the Wisconsin tax on unrelated business taxable income is subject to the estimated tax provisions which apply to corporations. Under prior law, such trusts were subject to the estimated tax provisions applying to individuals and fiduciaries.
- c. When installments of estimated tax are computed by annualizing income, the income of an estate or trust for the months in the taxable year ending before the date one month before the due date for the installment shall be annualized in calculating the installments (e.g., for an installment due April 16, 1990, an estate's or trust's income to February 28, 1990 would be annualized). Under prior law, income for the months in the taxable year ending before the due date of the installment was annualized in calculating the installments. In the example in the preceding sentence, income to March 31, 1990, would have been annualized under old law.

34. Penalties on Retirement Plans (1989 Act 31, amend sec. 71.83(1)(a)6, effective August 9, 1989.)

This provision provides that any natural person who is liable for a penalty for federal income tax purposes under secs. 72(q) and (t), 4973, 4975, or 4980A of the Internal Revenue Code is liable for 33% of the federal penalty. This statute previously referred to "any person" and included obsolete references.

B. CORPORATION FRANCHISE OR INCOME TAXES

1. Definition of Internal Revenue Code Updated for Corporations for 1989 (1989 Act 31, create sec. 71.22(4)(d), effective for taxable years beginning after December 31, 1988.)

For corporations other than insurance companies, tax-option corporations, regulated investment companies (RICs), real estate investment trusts (REITs), real estate mortgage investment conduits (REMICs), and nonprofit organizations subject to a tax on unrelated business taxable income, for taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1988, except as modified by sec. 71.26(3), Wis. Stats.

In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to the general effective dates of the amendments to the Internal Revenue Code. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of

accounting under IRC sec. 481 do not apply for Wisconsin purposes (secs. 803(d)(2)(B), 805(d)(2), 812(c)(2), 821(b)(2), and 823(c)(2) of P.L. 99-514 and section 1008(g)(5) of P.L. 100-647). For Wisconsin purposes, these five items should have been treated as transitional adjustments.

2. Exceptions to Definition of Internal Revenue Code for Corporations for 1987 and 1988 (1989 Act 31, amend secs. 71.22(4)(a), (b), and (c), see effective dates below.)

The law changes described below apply to corporations other than insurance companies, tax-option corporations, regulated investment companies (RICs), real estate investment trusts (REITs), real estate mortgage investment conduits (REMICs), and nonprofit corporations subject to a tax on unrelated business taxable income.

a. For taxable year 1987 (years that end after July 1, 1987, and before July 1, 1988), "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987, with the following exceptions:

- (1) For 1987 taxable years that end after July 1, 1987, and before December 31, 1987, "Internal Revenue Code" does not include changes to the federal Internal Revenue Code made by secs. 142 (limitations on deductions for meals, travel, and entertainment), 801 (limitations on use of cash method of accounting), 802 (simplified dollar-value LIFO method for certain small businesses), and 803 (capitalization and inclusion in inventory costs of certain expenses) of the Tax Reform Act of 1986 (P.L. 99-514).
- (2) Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
- (3) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes. Instead, these five items should have been treated as Wisconsin transitional adjustments.
- (4) The Internal Revenue Code is modified as provided in sec. 71.26(3), Wis. Stats.

b. For taxable years that end after July 1, 1988, and before December 31, 1988, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, with the following exceptions:

- (1) Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
  - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes. Instead, these five items should have been treated as Wisconsin transitional adjustments.
  - (3) The Internal Revenue Code is modified as provided in sec. 71.26(3), Wis. Stats.
- c. For taxable years that begin after December 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the following exceptions:
- (1) Changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
  - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes. Instead, these five items should have been treated as Wisconsin transitional adjustments.
  - (3) The Internal Revenue Code is modified as provided in sec. 71.26(3), Wis. Stats.
3. Definition of Internal Revenue Code Updated for Regulated Investment Companies, Real Estate Investment Trusts, and Real Estate Mortgage Investment Conduits for 1989 (1989 Act 31, create sec. 71.26(2)(b)4., effective for taxable years that begin after December 31, 1988.)

For regulated investment companies (RICs), real estate investment trusts (REITs), and real estate mortgage investment conduits (REMICs), for taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" means the federal Internal