



Reporting Capital Gains and Losses for Wisconsin by Individuals, Estates, and Trusts

For Use in Preparing 2017 Returns

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The publication was revised to improve readability. There are no substantive changes in the text.

CAUTION

The information in this publication reflects the position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature effective on December 15, 2017. Laws effective after that date, administrative rules, and court decisions may change the interpretations in this publication.

1. INTRODUCTION

Gains and losses from sales or other dispositions of capital assets are reportable for both Wisconsin and federal income tax purposes. However, differences exist in the manner in which Wisconsin and federal law treat such income and loss.

This publication explains the differences between Wisconsin and federal law in reporting capital gains and losses on Wisconsin and federal income tax returns. It does not, however, explain all of the details concerning how capital gain and loss are classified and computed under federal income tax law. For further information on federal law, see Internal Revenue Service Publication 544, *Sales and Other Dispositions of Assets*.

The amount of capital gain and loss to include in Wisconsin taxable income is figured on Wisconsin Schedule WD, *Capital Gains and Losses*. You can get Schedule WD from any Department of Revenue office or our website at revenue.wi.gov.

NOTE: The examples in this publication refer only to the Wisconsin Form 1. Although the differences in reporting capital gain income and loss are most likely to affect taxpayers filing Form 1, they can also affect Form 1NPR filers. A Form 1NPR filer would make the required adjustments when completing column B of Form 1NPR.

2. DEFINITIONS

A. Short-term and long-term capital gains and losses

Gains or losses resulting from sales or other dispositions of capital assets are classified as either “short-term” or “long-term.” If a capital asset is owned for more than one year, gain or loss resulting from its disposition is “long-term” gain or loss. Gain or loss from an asset held for one year or less is considered “short-term.”

B. Capital loss carryover

Annual limitations apply as to the amount of net capital loss which may be deducted against other income in any one taxable year. The entire amount of capital loss determined for a taxable year may not always be fully deductible in such year. The amount of loss exceeding the annual limitation is treated as a “carryover” loss which may be deducted in subsequent years. Losses may be carried forward for an unlimited time, until completely used.

3. DIFFERENCES BETWEEN FEDERAL AND WISCONSIN TREATMENT AND HOW TO REPORT

Even though federal adjusted gross income is used as the starting point for computing Wisconsin taxable income, the amounts of capital gain or loss includible in Wisconsin and federal income may differ for a particular taxable year. Differences can occur both in the year a gain or loss is realized and in carryover years. A difference results in 2017 because a deduction for 30% of the net capital gain from assets held more than one year is allowable when

computing Wisconsin taxable income (60% of net capital gain on farm assets). Another difference results in 2017 because of the \$500 limit on the Wisconsin deduction for capital losses.

When an individual's capital gain or loss for Wisconsin differs from the amount includible in federal income, certain adjustments must be made to federal adjusted gross income, the starting point in computing Wisconsin taxable income.

As A through N on pages 4 through 9 illustrate, adjustments to account for differences between the Wisconsin and federal capital gain or loss are to be made in one of five ways, depending on the reason such difference exists. The five methods are:

- By completing Wisconsin Schedule I before federal income is entered on line 1 of Wisconsin Form 1.
- By completing Wisconsin Schedule WD (Schedule WD of Form 2 for estates and trusts) to compute the amount of capital gain or loss to be included in Wisconsin taxable income. Any adjustment computed on Schedule WD is reflected on line 3 or 10 of Form 1 (line 4 or 9 of Schedule A, Form 2).
- By making additions to or subtractions from federal income on lines 3, 4, 10, and 11 of Form 1. These additions and subtractions are called "modifications."
- By completing Wisconsin Schedule T to determine the required adjustment on line 4 or 11 of Form 1 and the required adjustment to use in completing Wisconsin Schedule WD.
- By redoing the federal return based on the election chosen for Wisconsin. This recomputed or "pro forma" return is used as the basis for computing Wisconsin taxable income and should be attached to the Wisconsin return when filed. In lieu of a "pro forma" return, the adjustment may be made on Schedule I.

These and other differences, along with how to report these differences, are discussed in greater detail in the following paragraphs.

A. A portion of net capital gain from assets held more than one year is deductible for Wisconsin

Federal treatment: Capital gains are generally fully taxable for federal purposes.

Wisconsin treatment: Wisconsin law generally allows a deduction for 30% of the net capital gain from assets held more than one year. The deduction is 60% of net long-term capital gain from farm assets.

How to report: Complete Wisconsin Schedule WD.

Note Schedule WD does not have to be completed if the only capital gain or loss is a capital gain distribution from a mutual fund or real estate investment trust. A subtraction for 30% of the capital gain distribution may be claimed on line 10 of Form 1. See the Form 1A, line 4, instructions for how to account for this subtraction.

B. The amount of net capital loss that can be offset against other income on the Wisconsin return is limited to \$500

Federal treatment: Capital losses are allowed in full against capital gains. If the losses are more than the gains, up to \$3,000 of the excess loss is allowed as a deduction against other income. Capital losses in excess of the amount of the allowable loss may be carried over and used in later years.

Wisconsin treatment: Capital losses are allowed in full against capital gains. If the losses are more than the gains, up to \$500 of the excess loss is allowed as a deduction against other income. Capital losses in excess of the amount of the allowable loss may be carried over and used in later years.

How to report: Complete Wisconsin Schedule WD.

Note: As a result of the difference in the amount of excess loss allowable as a deduction for 2017, a larger capital loss carryover may be available for Wisconsin than for federal in later years.

C. Capital gain or loss may be affected when a different election is chosen for federal and Wisconsin purposes

Federal treatment: Certain elections are allowed regarding the federal tax treatment of some items. For example, gain on an installment sale is generally reported as payments are received, but an election is available to report the entire gain in the year of sale.

Wisconsin treatment: You may choose a different federal election for Wisconsin and federal tax purposes.

How to report: Either of the following two methods may be used to claim a different election for Wisconsin and federal tax purposes:

- Prepare a pro forma federal return based on the election chosen for Wisconsin. This pro forma return is to be attached to the Wisconsin Form 1 or 1NPR instead of the actual return filed for federal tax purposes.
- Make the election using Wisconsin Schedule I, *Adjustments to Convert 2017 Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin*.

Example: You sold real estate in Iowa while an Iowa resident. You reported the gain under the installment method for federal income tax purposes. Subsequently, you became a Wisconsin resident. For Wisconsin purposes, it is assumed that a nonresident individual who sells property located outside Wisconsin elects to report the entire gain in the year of sale, when none of the gain would have been taxable to Wisconsin. Any gain from this installment sale is not taxable for Wisconsin.

If you use the first method, you would prepare a pro forma federal return which doesn't report any installment sale income on federal Schedule D. Therefore, your federal adjusted gross income would not need to be adjusted on Schedule I.

Example: Within certain limits, sec. 179 of the federal Internal Revenue Code allows an individual who places depreciable property in service to expense the cost of that property. As long as the sec. 179 requirements are met, you may elect to claim a different amount of sec. 179 expense for Wisconsin than was claimed for federal purposes. For property placed in service in taxable years beginning on or after January 1, 2014, using a different sec. 179 election may result in a different basis when determining gain or loss on a sale or other disposition of the property.

If you use the second method, you would report the difference in sec. 179 expense and depreciation on Schedule I as an adjustment to federal adjusted gross income.

Note: See the note in paragraph D(2) on page 6 if the election chosen resulted in a difference in the federal and Wisconsin basis of depreciated or amortized assets on the last day of your tax year beginning in 2013.

D. Wisconsin and federal income tax basis of certain assets may differ

Federal treatment: Federal basis is reported according to federal law.

Wisconsin treatment: Because of various differences between Wisconsin and federal law, the Wisconsin basis may not always be the same as the federal basis. As a result, the amount of gain or loss included in income when the asset is disposed of will also differ for Wisconsin and federal purposes.

How to report: These differences would be reported on either Schedule T, *Transitional Adjustments*, or Schedule I, depending on the situation. See below for examples and how to report for each:

- (1) Land acquired by inheritance has been valued differently for Wisconsin inheritance and federal estate tax purposes. (For example, for federal purposes the alternate valuation date is used, but for Wisconsin the value as of the date of death is required to be used.) This applies only to deaths that occurred before January 1, 1992.

How to report: In the year of sale, report the difference in basis on Schedule T. This amount will carry over to the Schedule WD.

- (2) Business property has been depreciated at different rates for Wisconsin and federal purposes. This applies to property placed in service in taxable years beginning on or after January 1, 2014. See the note below for the treatment of depreciated or amortized property placed in service in taxable years beginning before January 1, 2014.

Note: This difference in basis does not apply to depreciated or amortized property that was owned on the last day of your tax year beginning in 2013 (December 31, 2013, for calendar-year filers) and sold or otherwise disposed of during the 2017 taxable year. As a result of an adjustment over 5 years that is made on Form 1, 1NPR, or 2, the federal basis and the Wisconsin basis of the depreciated or amortized property is the same as of the first day of your taxable year beginning in 2014 (January 1, 2014, for calendar-year filers).

How to report: Differences in depreciation due to difference between federal and Wisconsin basis should be adjusted on Wisconsin Schedule I.

- (3) A tax-option (S) corporation's pre-1979 federal undistributed taxable income, distributions, and tax losses affect a shareholder's federal basis in the stock, but not the Wisconsin basis, since 1979 was the first year to which the Wisconsin tax-option (S) corporation law applies.

How to report: In the year you sell your tax-option (S) corporation stock, report the difference in basis in Part I of Schedule T. This amount will carry over to the Wisconsin Schedule WD.

- (4) Beginning with the 1979 taxable year, a shareholder's Wisconsin basis in tax-option (S) corporation stock is adjusted each year. The basis adjustment may not be the same for Wisconsin as for federal purposes or, for 1987 and thereafter, the basis adjustment does not apply if the corporation elected to opt out of Wisconsin tax-option status. See [Publication 102](#), *Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders*, for further information.

How to report: If there is a difference in basis for federal and Wisconsin purposes, in the year you sell the stock, report the difference in basis in Part I of Schedule T. This amount will carry over to the Wisconsin Schedule WD. If the corporation elected out of Wisconsin tax-option status, all items of income/loss reported by the S corporation must be reversed. Adjustments must be made on Schedule WD (see Item G).

- (5) You may defer paying tax on the long-term gain on the sale of an asset if the gain is reinvested in a qualified Wisconsin business. Your Wisconsin basis in the investment must be reduced by the deferred gain.

How to report: In the year you sell the asset, on which the basis was reduced by deferred gain, report the difference in basis on Schedule T. This amount will carry over to Wisconsin Schedule WD. See Items M and N for more information.

CAUTION When you sell assets for which the basis has been adjusted on Schedule T, do not change the basis reported on Schedule WD in column (e) of Part I or II. This amount should equal the basis reported on federal Schedule D.

E. Federal capital losses incurred while a taxpayer was a nonresident of Wisconsin are not deductible for Wisconsin

Federal treatment: Federal capital losses would be reported on the federal return.

Wisconsin treatment: Wisconsin law does not permit the deduction of any capital losses incurred prior to the date Wisconsin residence is established.

How to report: For nonresidents and part-year residents, do not include the losses on Wisconsin Schedule WD.

F. Capital gain or loss from the exchange of a marital property interest between a surviving spouse and a distributee is not taxable or deductible for Wisconsin

Federal treatment: A personal representative of an estate may, under certain conditions, exchange all or a part of the decedent's interest in marital property between a surviving spouse and a distributee. The exchange may result in a taxable gain or a deductible loss for federal tax purposes.

Wisconsin treatment: Any gain or loss on such an exchange is not taxable or deductible for Wisconsin.

How to report: Any gain or loss from the exchange reported on federal Schedule D should be removed when completing Wisconsin Schedule WD. Any adjustment from Schedule WD will be included on line 3 or line 10 of Form 1.

Note: The exchange results in a different basis in the property for Wisconsin and federal tax purposes. When the property is sold, account for this basis difference on Schedule T.

G. Capital gain or loss from a federal S corporation that elects not to be treated as a Wisconsin tax-option corporation is not reportable to Wisconsin

Federal treatment: Capital gain or loss from a federal S corporation is taxable or allowed as a deduction for federal purposes.

Wisconsin treatment: A shareholder of a federal S corporation that elects not to be treated as a Wisconsin tax-option corporation must reverse all items of S corporation income, loss, or deduction included on the federal return and then add his/her pro rata share of any distributions made by the corporation of earnings and profits accumulated during a year in which the corporation was not a tax-option corporation.

How to report: Complete Wisconsin Schedule WD. Do not include on Schedule WD any capital gain or loss distributed by the S corporation. The differences between Wisconsin and federal capital gain or loss will be adjusted in Part IV of Schedule WD which will carry over to Form 1, line 3 or line 10. (Also see Item D.4)

H. Capital gain treatment not available for Wisconsin purposes for a lump-sum distribution from a retirement plan or profit-sharing plan

Federal treatment: A taxpayer may elect on federal Form 4972 to compute the tax on the capital gain portion of a lump-sum retirement or profit-sharing plan distribution at a 20% rate.

Wisconsin treatment: This election is not available for Wisconsin. For Wisconsin purposes, the capital gain portion of a lump-sum distribution reported on federal Form 4972 is treated as ordinary income.

How to report: The amount is included as an addition to income on Form 1, line 4, code 03.

I. Amounts considered long-term capital gain for federal purposes may be short-term capital gain for Wisconsin purposes

Federal treatment: Gain from the sale of property acquired after June 22, 1984, and before January 1, 1988, is considered long-term capital gain if the property is held for more than 6 months.

Wisconsin treatment: Gain from the sale of property qualifies for a 30% capital gain exclusion only if the property is held for more than one year (60% if the gain is from the sale of farm assets). Therefore, any gain from an installment sale which occurred prior to 2017 which is long-term capital gain for federal purposes is short-term capital gain for Wisconsin if, at the time of sale, the property had been held for one year or less.

How to report: This amount would be reported on Wisconsin Schedule WD as a short-term capital gain in Part I.

J. Gain on the disposition of small business stock

Federal treatment: An exclusion is allowed for 50%, 75%, or 100% (depending on date of acquisition) of the gain on the disposition of certain small business stock (as defined in the Internal Revenue Code) issued after August 10, 1993, and held for more than five years.

Wisconsin treatment: The federal exclusion does not apply for Wisconsin for 2017. The exclusion, as allowed under the Internal Revenue Code as amended to December 31, 2012, will apply for stock acquired after December 31, 2013, and held for more than five years.

How to report: Report the federal exclusion for the small business stock as an adjustment to federal adjusted gross income on Wisconsin Schedule I.

K. Capital loss carryover may be adjusted when the taxpayer excludes income from discharge of indebtedness

Federal treatment: Income from discharge of indebtedness (cancellation of debts) may be excluded from gross income when the debt is cancelled in a bankruptcy case or during insolvency, or when the debt that is cancelled is qualified farm debt or qualified real property business debt. The excluded amount must generally be used to reduce certain tax attributes in the following order: net operating losses, general business credit carryovers, minimum tax credit, capital loss carryovers, basis of property, passive activity loss and credit carryovers, and foreign tax credit carryovers.

Wisconsin treatment: A taxpayer who excludes income from discharge of indebtedness from gross income must use the amount of the Wisconsin net operating loss, Wisconsin carryover credits, and the Wisconsin capital loss carryover instead of the federal amounts to reduce tax attributes. As a result, a different amount of capital loss carryover may be available for Wisconsin than for federal purposes.

How to report: Report the Wisconsin capital loss carryover amount on Wisconsin Schedule WD, line 7 or line 16, as appropriate.

L. Gain on the sale or disposition of business assets or assets used in farming to a related person

Federal treatment: Net capital gain from the sale or other disposition of business assets or assets used in farming to a related person is taxable.

Wisconsin treatment: Net capital gain from the sale or other disposition of business assets or assets used in farming to a related person may be deducted when computing Wisconsin taxable income. The deduction only applies to amounts treated as long-term capital gain for federal income tax purposes; it does not apply to gain treated as ordinary income.

The deduction applies to gain on shares in a corporation or trust if, at the time of the sale or disposition, the following standards are met:

- Shareholders of the corporation or beneficiaries of the trust do not exceed 15 in number.
- The corporation or trust does not have more than two classes of shares.
- All shareholders or beneficiaries, other than any estate, are natural persons.

How to report: Report as a subtraction on Form 1, line 11, code 17. See the Form 1 instructions for more details on this subtraction.

M. Long-term capital gain may be deferred if gain reinvested

Federal treatment: A long-term capital gain deferral is not allowed.

Wisconsin treatment: Under Wisconsin law, the long-term capital gain realized on the sale of an asset may be deferred if the person, within 180 days, invests the gain in a “qualified Wisconsin business.” See Wisconsin Schedule CG for further information.

How to report: Complete Wisconsin Schedule CG and Wisconsin Schedule WD. Do not include the deferred gain on the Schedule WD. (Also see Item D.5)

N. Exclusion of gain on the sale of an investment in a qualified Wisconsin business

Federal treatment: A long-term capital gain exclusion is not allowed on the sale of an investment in a qualified Wisconsin business.

Wisconsin treatment: Long-term capital gain on the sale of an investment in a qualified Wisconsin business held for at least five uninterrupted years may qualify to be excluded from Wisconsin income. The business must have been a qualified Wisconsin business for the year of the investment and for at least two of the four subsequent years.

How to report: Complete Wisconsin Schedule QI and line 15a of Wisconsin Schedule WD. Also complete Schedule T if the basis of the investment was reduced because gain was previously deferred from the sale of an asset (see Item M). See Wisconsin Schedule QI for further information. (Also see Item D.5)

4. HOW SPOUSES SHOULD REPORT CARRYOVER LOSSES ON A 2017 RETURN

A. Spouses file joint return

If you are married and filing a joint return, you and your spouse must combine your capital loss carryovers. On a joint 2017 Wisconsin return, your yearly capital loss deduction limit is \$500.

Example: As the result of losses incurred prior to their marriage in 2017, a married couple has the following long-term capital loss carryovers to 2017:

Wife’s loss carryover to 2017	\$200
Husband’s loss carryover to 2017	\$800

The couple has no capital gain or loss transactions in 2017. On a joint 2017 Wisconsin return the separate loss carryovers of each spouse are combined. A total carryover loss of \$1,000 (\$200 plus \$800) is available. The deduction allowable in computing this couple’s 2017 Wisconsin taxable income is \$500.

B. Spouses file separate returns

If you are married and filing a separate return, your yearly capital loss deduction is limited to \$500. If (1) you and your spouse are filing separate returns for 2017 but filed a joint return for the year in which the capital loss was incurred, or (2) you are a widow(er) and your spouse died before the beginning of your 2017 tax year, you can only deduct the portion of the capital loss carryover that belongs to you. For a capital loss carryover incurred during a year before the Wisconsin marital property law applies to you, title to the property must be used to determine what portion of the loss is yours. For a capital loss carryover incurred during a year to which the marital property law applies, the classification of the property must be used to determine what portion of the loss is yours.

5. ADDITIONAL INFORMATION

If you have additional questions or need copies of tax forms, you may visit any Department of Revenue office or:

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