Wisconsin Corporation Franchise and Income Tax Form 4 Instructions

New . . .

Computing Wisconsin net income

Compute Wisconsin net income for taxable years beginning in 2005 using the federal Internal Revenue Code as amended to December 31, 2004, with certain exceptions. The exceptions are described on page 7.

Computing Wisconsin sales factor

For taxable years beginning on or after January 1, 2005, gross receipts from the use of computer software are Wisconsin sales if the purchaser or licensee uses the software at a location in Wisconsin. Gross receipts from services are Wisconsin sales if the purchaser receives the benefit of the service in Wisconsin. See page 18.

Corporation e-filing

Wisconsin is participating in the Fed/State 1120 Project for the electronic filing of certain corporate franchise and income tax returns for taxable years beginning in 2005. For additional information, see the Department's web site at www.dor.state.wi.us/eserv/corp.html.

Redesign of corporation tax return

The following schedules that had been on the back of Form 4 are now on separate pages: Schedule V – Additions to Federal Income, Schedule W – Subtractions From Federal Income, Schedule Y – Deductible Dividends, and Schedule Z – Manufacturer's Sales Tax Credit. Be sure to attach the appropriate schedules to your Form 4.

Veterans trust fund donation

Corporations may designate any amount of refund due or additional payment for the veterans trust fund. See page 14.

Important. . .

Allocation of income from lottery prizes

All income realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin is allocated to Wisconsin. A multistate corporation includes this income on Form 4B, Part I, line 4. See page 16.

Claiming section 179 expense deduction

A corporation may not claim a section 179 expense deduction for Wisconsin purposes if a federal section 179 deduction is not allowed because the corporation is claiming "bonus" depreciation for federal purposes. See page 8.

Payment of corporation franchise and income tax

Corporations registered to pay by electronic funds transfer (EFT) may pay tax due with the return and bills, except audit assessments, by EFT. See page 5.

Wisconsin use tax

Corporations that purchase taxable tangible personal property or taxable services for storage, use, or consumption in Wisconsin without payment of a state sales or use tax are subject to a Wisconsin use tax. See page 6.

For More Information . . .

Visit the Department of Revenue's Internet web site at www.dor.state.wi.us

At this site you may download tax forms and instructions, Department of Revenue publications, and the *Wisconsin Tax Bulletin*, which is a quarterly newsletter that provides information about new Wisconsin tax laws, administrative rules, court decisions, tax releases, and private letter rulings. The site also provides links to Wisconsin laws and tax rules.

Don't Forget . . .

- Fill in your federal employer ID number
- Fill out the form completely
- Use adjusted or amended carryforward amounts, such as losses, credits, and payments, if changes are made to amounts originally reported
- Attach a copy of your federal return and any other required forms, schedules, or statements
- Attach a copy of any extension
- Sign the return

Printed on Recycled Paper

General Instructions

Purpose of Form 4

Corporations engaged in business in and outside Wisconsin use Form 4 to report their income, gains, losses, deductions, and credits and to compute their franchise or income tax and recycling surcharge liability.

Definition of Corporation

"Corporation" includes corporations, publicly traded partnerships treated as corporations in section 7704 of the Internal Revenue Code (IRC), limited liability companies (LLCs) treated as corporations under the Internal Revenue Code, joint stock companies, associations, common law trusts, and all other entities treated as corporations under IRC section 7701.

A single-owner entity that is disregarded as a separate entity under IRC section 7701 is disregarded as a separate entity for Wisconsin franchise or income tax purposes, and its owner is subject to the tax on or measured by the entity's income.

Franchise or Income Tax

Franchise tax applies to –

- All domestic corporations (those organized under Wisconsin law) and

- Foreign corporations (those not organized under Wisconsin law) doing business in Wisconsin or buying or selling lottery prizes if the winning tickets were originally bought in Wisconsin, except where taxation is exempted by statute or barred by federal law.

The tax rate is 7.9%. Income from obligations of the United States government and its instrumentalities is included in income under the franchise tax law.

Income tax applies only to foreign corporations which are not subject to the franchise tax and which own property in Wisconsin or whose business in Wisconsin is exclusively in foreign or interstate commerce. The tax rate is 7.9%. Income from obligations of the United States government and its instrumentalities isn't included in income under the income tax law.

Recycling Surcharge

The recycling surcharge applies to corporations having gross receipts from all activities of $4 million or more during the taxable year. Corporations that must file Wisconsin franchise or income tax returns must pay the recycling surcharge, with certain exceptions. The surcharge doesn't apply to:

- Domestic corporations that don't have any business activities in Wisconsin.

- Foreign corporations that don't have nexus with Wisconsin.

- Corporations that have less than $4 million of gross receipts from all activities. "Gross receipts from all activities" means gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.

- Nuclear decommissioning trust funds.

For more information, refer to Publication 400, *Wisconsin's Recycling Surcharge.*

Who Must File

- Corporations organized under Wisconsin law.

- Foreign corporations licensed to do business in Wisconsin.

- Unlicensed corporations doing business in Wisconsin.

- Foreign corporations engaged in buying or selling lottery prizes if the winning tickets were originally bought in Wisconsin.

- Foreign corporations issuing credit, debit, or travel and entertainment cards to customers in Wisconsin.

- Foreign corporations owning, directly or indirectly, a general or limited partnership interest in a partnership that does business in Wisconsin, regardless of the percentage of ownership.

- Foreign corporations owning, directly or indirectly, an interest in a limited liability company treated as a partnership that does business in Wisconsin, regardless of the percentage of ownership.

- Foreign corporations that are the sole owner of an entity that is disregarded as a separate entity under IRC section 7701 and does business in Wisconsin.

Who Is Not Required to File

- Corporations and associations exempt under sec. 71.26(1), Wis. Stats., except those with (a) unrelated business taxable income as defined in IRC section 512, (b) income derived from a health maintenance organization or a limited service health organization, or (c) income realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin. Exempt entities include insurers exempt from federal income taxation under IRC section 501(c)(15), town mutuals organized under Chapter 612, Wis. Stats., foreign insurers, domestic insurers engaged exclusively in life insurance business, domestic mortgage insurers, some cooperatives, and religious, scientific, educational, benevolent, or other corporations or associations of individuals not organized or conducted for profit.

- Corporations that are completely inactive in and outside Wisconsin and have filed Form 4H.

- Credit unions that don't act as a public depository for state or local government funds and have filed Form CU.

Which Form to File

Form 4	Corporations (other than tax-option corporations) reporting under the apportionment or separate accounting methods.
Form 4H	Corporations that have been completely inactive in and outside Wisconsin for the entire taxable year and don't anticipate any activity in future years. No other return is required until a corporation is activated, reactivated, or requested to file by the Department of Revenue. **Note:** Foreign corporations licensed to transact business in Wisconsin that have no property or activity in Wisconsin but are active outside Wisconsin may not file Form 4H. They must file Form 4, 5, or 5S but need only check box G "No business transacted in Wisconsin" on the front of the return and attach a copy of their federal return.

Form 4I — Insurance companies, health maintenance organizations, and limited service health organizations.

Form 4T — Exempt corporations and associations of individuals that have unrelated business taxable income as defined in IRC section 512.

Form 5 — Corporations (other than tax-option corporations) whose entire business income is attributable to Wisconsin.

Form 5E — Corporations that have elected and qualified to be S corporations for federal tax purposes but are electing not to be tax-option corporations for Wisconsin franchise or income tax purposes. In addition, such corporations must file Form 4 or 5.

Form 5R — Federal S corporations that elected not to be tax-option corporations for Wisconsin and subsequently are revoking their "opt-out" elections. In addition, such corporations must file Form 5S.

Form 5S — Tax-option (S) corporations.

Form CU — Credit unions that don't act as a public depository for state or local government funds. These credit unions are exempt from taxation by Wisconsin. Once a Form CU has been filed, no other return must be filed unless requested by the Department of Revenue or the credit union subsequently acts as a public depository.

Supplemental Forms and Schedules

Form 4B — Multistate corporations using the apportionment method to compute Wisconsin income. File this form with Form 4, 4T, or 5S.

Form 4B-1 — Multistate corporations using a special apportionment method to compute Wisconsin income. File this form with Form 4, 4T, or 5S.

Form 4BL — Corporations claiming a net business loss carryforward. File this form with Form 4 or 5.

Form 4C — Multistate corporations using the separate accounting method to compute Wisconsin income. File this form with Form 4 or 4T.

Form 4U — Corporations computing underpayment interest, extension interest, delinquent interest, penalties, and late filing fees. File this form with Form 4, 4I, 4T, 5, or 5S.

Sch. 5K-1 — Tax-option (S) corporation shareholder's share of income, deductions, etc. File this schedule with Form 5S.

Sch. CU-1 — Credit unions that act as a public depository. File this schedule with Form 4.

Sch. DC — Corporations claiming a Wisconsin development zones credit. File this schedule with Form 4, 4I, 4T, 5, or 5S.

Sch. DI — Corporations claiming a Wisconsin dairy investment credit. File this schedule with Form 4, 4I, 4T, 5, or 5S.

Sch. FC — Corporations claiming a Wisconsin farmland preservation credit. File this schedule with Form 4, 4I, 4T, or 5.

Sch. FT — Corporations claiming a Wisconsin farmland tax relief credit. File this schedule with Form 4, 4I, 4T, or 5.

Sch. HR — Corporations claiming a Wisconsin historic rehabilitation credit. File this schedule with Form 4, 4I, 4T, 5, or 5S.

Sch. R — Corporations claiming a Wisconsin research credit. File this schedule with Form 4, 4I, 4T, or 5.

Sch. TC — Corporations claiming a Wisconsin technology zone credit. File this schedule with Form 4, 4I, 4T, 5, or 5S.

Sch. V — Corporations reporting additions to federal income. File this schedule with Form 4 or 5.

Sch. VC — Corporations claiming a Wisconsin early stage seed investment credit. File this schedule with Form 4, 4I, 4T, 5, or 5S.

Sch. W — Corporations reporting subtractions from federal income. File this schedule with Form 4 or 5.

Sch. Y — Corporations claiming a deduction for dividends received. File this schedule with Form 4, 4I, or 5.

Sch. Z — Corporations claiming a Wisconsin manufacturer's sales tax credit. File this schedule with Form 4, 4I, 4T, 5, or 5S.

Sch. Z-1 — Corporations claiming a Wisconsin manufacturer's sales tax credit passed through from a partnership. File this schedule with Form 4, 4I, 4T, 5, or 5S.

How to Obtain Forms

If you need forms or publications, you may:

- Download them from the Department's Internet web site at www.dor.state.wi.us
- Use your fax telephone to call the Department's Fax-A-Form Retrieval System at (608) 261-6229
- Request them online at www.dor.state.wi.us/html/formsreq.html
- Call (608) 266-1961
- Write to the Forms Request Office, Wisconsin Department of Revenue, Mail Stop 1-151, P.O. Box 8949, Madison, WI 53708-8949
- Call or visit any Department of Revenue office

How to Obtain Assistance

If you need help in preparing a corporation franchise or income tax return, you may:

- E-mail your question to corp@dor.state.wi.us
- Send a FAX to (608) 267-0834
- Call (608) 266-2772 [TTY (608) 267-1049]
- Write to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 5-144, P.O. Box 8906, Madison, WI 53708-8906
- Call or visit any Department of Revenue office

Period Covered by Return

The return must cover the same period as the corporation's federal income tax return. A 2005 Wisconsin return must be filed by a corporation for calendar year 2005 or a fiscal year that begins in 2005. A fiscal year may end only on the last day of a month. The period covered by the return can't exceed 12 months.

However, corporations reporting on a 52-53 week period for federal tax purposes must file on the same reporting period for Wisconsin. A 52-53 week taxable year is deemed to begin on the first day of the calendar month beginning nearest the first day of the 52-53 week taxable year. The taxable year is deemed to end on the last day of the calendar month closest to the last day of the 52-53 week taxable year for purposes of due dates, extensions, and assessments of interest and penalties.

Change in Accounting Period

Any change in accounting period made for federal purposes must also be made for Wisconsin purposes. Attach to the Wisconsin return, for the first taxable year for which the change applies, a copy of the Internal Revenue Service's notice of approval of accounting period change if the IRS's approval is required or an explanation of the change if the IRS's approval isn't required.

Accounting Methods

In computing net income, the method of accounting must be the same method used in computing federal net income. However, if the method used for federal purposes isn't authorized under the Internal Revenue Code in effect for Wisconsin, use a method authorized under the Internal Revenue Code in effect for Wisconsin.

A corporation entitled to use the installment method of accounting must take the unreported balance of gain on installment obligations into income in the taxable year of their distribution, transfer, or acquisition by another person or for the final taxable year for which it files or is required to file a Wisconsin franchise or income tax return, whichever year occurs first.

Change in Accounting Method

A change in accounting method made for federal purposes must also be made for Wisconsin purposes, unless the change isn't authorized under the Internal Revenue Code in effect for Wisconsin. Adjustments required federally as a result of a change made while the corporation is subject to Wisconsin taxation must also be made for Wisconsin purposes, except in the last year that a corporation is subject to taxation by Wisconsin it must take into account all remaining adjustments required.

Attach to the Wisconsin return, for the first taxable year for which the change applies, either a copy of the application for change in accounting method filed with the Internal Revenue Service and a copy of the IRS's consent if the IRS's approval is required or an explanation of the change if the IRS's approval isn't required.

Elections

As explained above, a corporation can't make different elections for federal and Wisconsin purposes with respect to accounting periods and accounting methods, unless the federal method isn't permitted under the Internal Revenue Code in effect for Wisconsin. In situations where a corporation has an option under the Internal Revenue Code and the IRS doesn't consider that option to be a method of accounting, a different election may be made for Wisconsin than that made for federal purposes. If federal law specifies the manner or time period in which an election must be made, those requirements also apply for Wisconsin purposes.

If different elections are made, adjustments are required on the Wisconsin return on Schedule V or Schedule W to account for any differences. Differences in elections could also result in a different contribution deduction since that deduction is limited to 10% of federal taxable income determined for Wisconsin purposes. This would also require an entry on either Schedule V or W.

When to File

Generally, a corporation must file its franchise or income tax return by the 15th day of the 3rd month following the close of its taxable year. If a return is filed late, without an extension, the corporation may be subject to penalties and interest.

Returns for short taxable years (periods of less than 12 months) are due on or before the federal due date. A corporation that becomes, or ceases to be, a member of an affiliated group and as a result must file two short period returns for federal purposes must also file two short period returns for Wisconsin. The Wisconsin returns are due at the same time as the federal returns. Each short period is considered a taxable year, the same as for federal purposes.

Caution: The due date for paying franchise or income tax and recycling surcharge is explained below.

Extension of Time to File

Any extension allowed by the Internal Revenue Service for filing the federal return automatically extends the Wisconsin due date to 30 days after the federal extended due date. *You don't need to submit either a copy of the federal extension or an application for a Wisconsin extension to the Department by the original due date of your return.* However, you must attach a copy of the federal extension to the Wisconsin return that you file.

If you aren't requesting a federal extension, but you need additional time for Wisconsin, you may receive a 30-day extension by submitting Wisconsin Form IC-830, Application for Extension of Time to File, to the Department on or before the original due date of the return. Attach a copy of Form IC-830 to the Wisconsin return that you file.

If your original federal due date is after the 15th day of the 3rd month following the close of the taxable year, you may receive a Wisconsin extension to the federal due date by submitting Wisconsin Form IC-830, Application for Extension of Time to File, to the Department by the original due date of the Wisconsin return. For example, a foreign corporation having no office or place of business in the United States may receive a 3-month extension and a cooperative may receive a 6-month extension. Attach a copy of Form IC-830 to the Wisconsin return that you file.

Where to File

Mail your franchise or income tax return to the Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908.

When to Pay Franchise or Income Tax and Recycling Surcharge

The franchise or income tax and recycling surcharge must be paid by the 15th day of the 3rd month following the close of the taxable period, *regardless of the due date of the return*. Corporations may be required to make quarterly estimated payments to prepay their franchise or income tax and recycling surcharge.

An extension for filing the return doesn't extend the time to pay the franchise or income tax and recycling surcharge. Interest will be charged on the tax and surcharge not paid by the 15th day of the 3rd month following the close of the taxable year. You can avoid interest charges during the extension period by paying the tax and surcharge due by that date. Submit your payment with Wisconsin Form 4-ES, Corporation Estimated Tax Voucher. If you have received a set of vouchers from the Department, use the 5th voucher to make the estimated tax and surcharge extension payment.

During the extension period, 12% annual interest generally applies to the unpaid tax and surcharge. However, if the sum of the net tax and recycling surcharge shown on the return is $500 or more, 12% annual interest applies only to 10% of the net tax and surcharge. Interest of 18% per year applies to the remainder of the unpaid tax and surcharge. See Form 4U, Part II.

Payment of Estimated Tax

If the total of a corporation's franchise or income tax and recycling surcharge due is $500 or more, it generally must make quarterly estimated tax payments using Wisconsin Form 4-ES or by electronic funds transfer. Failure to make required estimated tax payments may result in an interest charge. A corporation that filed Form 4-ES for the current year generally will receive estimated tax vouchers before the first payment of the next year's tax is due.

A corporation that overpaid its estimated tax may apply for a refund ***before*** filing its tax return if its overpayment is (1) at least 10% of the expected Wisconsin tax liability and (2) at least $500. To apply, file Wisconsin Form 4466W, Corporation Application for Quick Refund of Overpayment of Estimated Tax, after the end of the taxable year and before the corporation files its tax return. **Do not** file Form 4466W at the same time as your tax return.

A corporation that has a tax due when filing its tax return as a result of receiving a "quick refund" will be charged 12% annual interest on the amount of unpaid tax from the date the refund is issued to the earlier of the 15th day of the 3rd month after the close of the taxable year or the date the tax liability is paid. Any tax that remains unpaid after the unextended due date of the tax return continues to be subject to 18% or 12% annual interest, as appropriate.

Electronic Funds Transfer Required for Certain Tax Payments

Section Tax 1.12, Wisconsin Administrative Code, requires the payment of certain taxes by electronic funds transfer (EFT). A corporation must pay its estimated franchise or income taxes and recycling surcharge by EFT if its net tax less refundable credits on its prior year return was $40,000 or more. A corporation may also be required to pay sales and use taxes, withholding taxes, fuel taxes, excise taxes, or unemployment insurance using EFT. The Department will notify a corporation when EFT payments are required. The corporation will have 90 days after being notified to register for EFT. The first EFT payment is due on the first tax due date following the end of the 90-day registration period.

Corporations not required to pay by EFT may elect to do so. For more information, visit the Department's web site at www.dor.state.wi.us/eserv/eftgen.html, e-mail eft@dor.state.wi.us, call (608) 264-9918, or write to the EFT Unit, Wisconsin Department of Revenue, P.O. Box 8949, Madison, WI 53708-8949.

Note: For EFT payments of estimated franchise or income tax and recycling surcharge, enter the last day of your **taxable year**, not the last day of the quarterly installment period, for which the payment is being made.

To make EFT payments of corporation franchise or income tax, choose the appropriate tax type code:

• Corporation estimated tax payment	02100
• Corporation tax due with return	02200
• Corporation amended return tax due	02400
• Corporation bill (except audit assessments)	02540

Information Returns That May Be Required

Form 8 Report of stock transfers.

Form 9b Report of rents, royalties, and miscellaneous compensation paid to individuals. (**Note:** You may use federal Forms 1099 instead of Forms 9b. Mail Forms 1099 to the Wisconsin Department of Revenue, P.O. Box 8932, Madison, WI 53708-8932.)

If you must file federal information returns on magnetic media and you file at least 250 Forms 9b with Wisconsin, you generally must file Forms 9b on magnetic media or by electronic transfer. For more information, call (608) 267-3327, e-mail w2data@dor.state.wi.us, or write to the Magnetic Media Coordinator, Audit Bureau, Wisconsin Department of Revenue, Room 232B, 2135 Rimrock Road, P.O. Box 8906, Madison, WI 53708-8906.

Final Return

If the corporation liquidated during the taxable year, check the box on the front of the return marked "Final return." Attach a copy of your plan of liquidation along with a copy of federal Form 966 to the Wisconsin return. Be sure to **enter the date of liquidation as the taxable year ending date** at the top of the return. Generally, the final return is due on or before the federal due date. In most cases, this is the 15th day of the 3rd month after the date the corporation dissolved. The tax is payable by the 15th day of the 3rd month after the date of dissolution, regardless of the due date of the final return.

Internal Revenue Service Adjustments

If any of your federal tax returns are adjusted by the Internal Revenue Service and the adjustments affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must report the adjustments to the Department of Revenue within 90 days after they become final.

Send a copy of the final federal audit reports and any associated amended Wisconsin returns to the Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908. If submitting a federal audit report without an amended return, mail it to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 5-144, P.O. Box 8906, Madison, WI 53708-8906. Don't attach these items to the tax return for the current year.

Amended Returns

After you have filed a complete, original tax return, you may file an amended return to correct a tax return as you originally filed it or as it was later adjusted by an amended return, a claim for refund, or an office or field audit.

If you file an amended federal return and the changes affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must file an amended Wisconsin return with the Department of Revenue within 90 days after filing the amended federal return.

To file an amended Wisconsin return, use Form 4 or 5, as appropriate, and check the "Amended return" box on the front of the return. Attach an explanation of any changes made. Show computations in detail. If the change involves an item of income, deduction, or credit that you were required to support with a form or schedule on your original return, attach the corrected form or schedule. Also attach a worksheet, similar to the one on page 14, showing how you figured your refund or additional amount owed.

General Instructions (continued)

A claim for refund must be filed within 4 years of the unextended due date of the return. However, a claim for refund to recover all or part of any tax or credit paid as a result of an office or field audit must be filed within 4 years after such an assessment. That assessment must have been paid and must not have been protested by filing a petition for redetermination. See section Tax 2.12, Wisconsin Administrative Code, for more information.

Send amended returns to the Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908. Don't attach amended returns to other tax returns that you are filing.

Capital Losses

If a corporation has a net capital loss, the loss must be carried to other taxable years and deducted from capital gains in those years, as provided in IRC section 1212. However, a corporation can't carry back a loss to taxable years before 1987. Losses that can't be carried back may be carried forward 5 years.

Personal Holding Company

Generally, the intangible income of a personal holding company is assigned to its state of incorporation. However, all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes shall be allocated to Wisconsin if the winning tickets were originally bought in Wisconsin. "Personal holding company" has the meaning prescribed in IRC section 542 in effect on December 31, 1974.

Foreign Sales Corporations (FSCs)

For taxable years beginning on or after January 1, 2005, FSCs no longer receive special treatment for Wisconsin. The income and tax of FSCs are computed in the same manner as for other corporations.

Interest Charge Domestic International Sales Corporations (IC-DISCs)

IC-DISCs have no special status for Wisconsin tax purposes. An IC-DISC that is a viable corporation with substance and has nexus in Wisconsin is taxed like any other corporation. However, if an IC-DISC doesn't carry on any substantial business activities and does nothing to earn the income that it reports, its net income is allocated to the corporation that earned the income.

Urban Transit Companies

Certain urban transit companies are subject to a special tax under sec. 71.39, Wis. Stats. Contact the Department for further information.

Consolidated Returns

Wisconsin law doesn't permit corporations that are members of an affiliated group, as defined in IRC section 1504, to file consolidated returns. Each corporation organized under Wisconsin law, licensed to do business in Wisconsin, or doing business in Wisconsin must file a separate Wisconsin franchise or income tax return. In addition, each corporation must make its own estimated tax payments.

Wisconsin Use Tax

Use tax is the counterpart of sales tax. All tangible personal property and selected services, taxable under Wisconsin's sales tax law, which are stored, used, or consumed in Wisconsin, are subject to use tax if the proper sales tax is not paid. Examples of purchases that frequently result in a use tax liability include the following:

- Mail order and Internet purchases. You owe Wisconsin use tax if you buy such items as computers, furniture, or office supplies from a vendor who is not registered to collect Wisconsin tax.

- Inventory. If you purchase inventory items without tax for resale, and then use these items instead of selling them, you owe use tax.

- Give-aways. Generally, if you purchase items without tax and then give them away in Wisconsin, you owe use tax.

If you hold a seller's permit, use tax certificate, or consumer's use tax certificate, report your use tax on your sales and use tax return, Form ST-12. Otherwise, complete and file Form UT-5 to report use tax.

For more information or forms, visit the Department's web site at www.dor.state.wi.us/html/sales.html, call (608) 266-2776, e-mail sales10@dor.state.wi.us, or write to the Wisconsin Department of Revenue, Mail Stop 5-77, P.O. Box 8949, Madison, WI 53708-8949.

Penalties for Not Filing or Filing Incorrect Returns

If you don't file a franchise or income tax return that you are required to file, or if you file an incorrect return due to negligence or fraud, interest and penalties may be assessed against you. The interest rate on delinquent taxes is 18% per year. Civil penalties may be as much as 100% of the amount of tax not reported on the return. Criminal penalties for filing a false return include a fine of up to $10,000 and imprisonment.

Line-by-Line Instructions

You must complete pages 1 through 3 of Form 4 and the appropriate schedules to explain the adjustments to federal income and the computation of tax credits. Do not enter "See Attached" instead of completing the entry spaces. If more space is needed, attach separate sheets using the same size and format as the printed forms. (The numbering corresponds with the line numbers on Form 4, pages 1 and 2, unless otherwise indicated.)

Caution: The Internal Revenue Service hasn't finalized the 2005 federal corporation tax forms at the time of this printing. Therefore, federal line numbers referred to on Form 4 and in these instructions may change.

Rounding Off to Whole Dollars

Round cents to the nearest whole dollar by eliminating amounts less than 50 cents and increasing amounts from 50 cents through 99 cents to the next higher dollar.

■ **Period Covered** – File the 2005 return for calendar year 2005 and fiscal years that begin in 2005. For a fiscal year, a 52-53 week period, or a short-period return, fill in the taxable year beginning and ending dates in the taxable year space at the top of the form. If the corporation dissolved, enter the date of dissolution as the ending date.

■ **Name and Address** – Using black ink, print or type the corporation's name and address.

Corporations that change their name must also notify the Department of Financial Institutions to recognize the change. Write to the Corporations Bureau, Division of Corporate and Consumer Services, Department of Financial Institutions, P.O. Box 7846, Madison, WI 53707-7846 or call (608) 261-7577.

■ **A. Federal Employer Identification Number** – Enter the corporation's federal employer identification number (EIN). If you haven't yet applied for a federal EIN, you may do so by filing federal Form SS-4 with the Internal Revenue Service, calling the IRS's toll-free number (800) 829-4933, or applying online at www.irs.gov.

■ **B. Business Activity (NAICS) Code** – Enter the corporation's principal business activity code, based on the North American Industry Classification System (NAICS), from your federal return. If your federal return is a consolidated return, go to www.census.gov/epcd/www/naics.html to find the NAICS code for your principal business activity.

■ **C. State and Year of Incorporation** – Enter the state (or country) under whose laws the corporation is organized and the year of incorporation.

■ **D. First Return, Final Return, Short Period – Change in Accounting Period, and Short Period – Stock Purchase or Sale** – If this is the first year that you are filing a Wisconsin return because the corporation wasn't in existence or didn't do business in Wisconsin in prior years, check the "First return" box. If the corporation ceased to exist or withdrew from Wisconsin during the year, check the "Final return" box. Attach a copy of your plan of liquidation and federal Form 966 if the corporation liquidated. Indicate that a short period return is being filed due to a change in the corporation's accounting period or a stock purchase or sale by checking the appropriate box.

■ **E. Amended Return** – If this is an amended return, check the box. Circle the number in front of the lines that you are changing and attach a detailed explanation of the changes made, including any supporting form or schedule.

For example, if you are amending the manufacturer's sales tax credit, circle the "15" before "Nonrefundable credits" and attach a corrected Schedule Z along with an explanation of the change.

■ **F. Extended Due Date** – If the corporation has an extension of time to file its Wisconsin return, check the box and enter the extended due date.

■ **G. No Business Transacted in Wisconsin** – If the corporation was incorporated under Wisconsin law or licensed to do business in Wisconsin but had no property or activity in Wisconsin for the taxable year, check the box. Attach a complete copy of the corporation's federal return.

■ **H. Federal Consolidated Return** – If the corporation participated in filing a federal consolidated return, check the box and enter the parent corporation's federal employer identification number (EIN).

IMPORTANT – The Wisconsin corporate franchise and income tax law is based on the federal Internal Revenue Code (IRC). Although federal taxable income is indicated as the starting point on the Wisconsin return, Wisconsin net income for taxable years that begin in 2005 must be determined using the Internal Revenue Code as amended to December 31, 2004, with the exceptions listed below. The Internal Revenue Code generally applies for Wisconsin purposes at the same time as for federal purposes.

Computing Federal Taxable Income for Wisconsin Purposes

Exceptions: The following federal law changes ***do not apply*** for Wisconsin franchise and income tax purposes:

- Sections 1, 3, 4, and 5 of Public Law 106-519, FSC Repeal and Extraterritorial Income Exclusion Act of 2000, enacted November 15, 2000, relating to the allowance of an exclusion for extraterritorial income. Foreign sales corporation (FSC) treatment is repealed for Wisconsin for taxable years beginning on or after January 1, 2005.

- Section 162 of Public Law 106-554, Community Renewal Tax Relief Act of 2000, enacted December 21, 2000, and section 308 of Public Law 108-311, Working Families Tax Relief Act of 2004, enacted October 4, 2004, relating to the expensing of environmental remediation costs and the extension of the termination date.

- Section 165 of Public Law 106-554, Community Renewal Tax Relief Act of 2000, enacted December 21, 2000, and section 306 of Public Law 108-311, Working Families Tax Relief Act of 2004, enacted October 4, 2004, relating to the enhanced deduction for corporate donations of computer technology and the extension of the termination date.

- Public Law 106-573, Installment Tax Correction Act of 2000, enacted December 28, 2000, relating to the restoration of the installment method of accounting for accrual basis taxpayers. For Wisconsin purposes, accrual basis taxpayers cannot use the installment method for reporting sales and other dispositions occurring on or after December 17, 1999. Instead, gain from the sale of property must be recognized in the year of the sale, rather than when the payments are received.

- Section 101 of Public Law 107-147, Job Creation and Worker Assistance Act of 2002, enacted March 9, 2002, section 201 of Public Law 108-27, Jobs and Growth Tax Relief Reconciliation Act of 2003, enacted May 28, 2003, and section 403(a) of Public Law 108-311, Working Families Tax Relief Act of 2004, enacted October 4, 2004, relating to the 30% bonus depreciation allowance for qualified property acquired after September 10, 2001.

- Section 201 of Public Law 108-27, Jobs and Growth Tax Relief Reconciliation Act of 2003, enacted May 28, 2003, relating to the 50% bonus depreciation allowance for qualified property acquired after May 5, 2003.

- Section 202 of Public Law 108-27, Jobs and Growth Tax Relief Reconciliation Act of 2003, enacted May 28, 2003, relating to increased section 179 expensing for small business, and section 201 of Public Law 108-357, American Jobs Creation Act of 2004, enacted October 22, 2004, relating to the extension of the termination date.

- Section 1201 of Public Law 108-173, Medicare Prescription Drug, Improvement, and Modernization Act of 2003, enacted December 8, 2003, relating to health savings accounts.

- Section 244 of Public Law 108-357, American Jobs Creation Act of 2004, enacted October 22, 2004, relating to special rules for certain film and television productions.

- Section 336 of Public Law 108-357, American Jobs Creation Act of 2004, enacted October 22, 2004, relating to the depreciation allowance for aircraft.

- Section 337 of Public Law 108-357, American Jobs Creation Act of 2004, enacted October 22, 2004, relating to the modification of the placed in service rule for purposes of bonus depreciation.

- Section 909 of Public Law 108-357, American Jobs Creation Act of 2004, enacted October 22, 2004, relating to sales or dispositions to implement Federal Energy Regulatory Commission or state electric restructuring policy.

- Section 910 of Public Law 108-357, American Jobs Creation Act of 2004, enacted October 22, 2004, relating to the expansion of the limitation on depreciation of certain passenger automobiles.

Federal law changes enacted after December 31, 2004, won't apply for Wisconsin purposes unless subsequently adopted by the Wisconsin Legislature. For example, Public Law 109-58, Energy Tax Incentives Act of 2005, enacted August 8, 2005, Public Law 109-59, Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005, enacted August 10, 2005, and Public Law 109-73, Katrina Emergency Tax Relief Act of 2005, enacted September 23, 2005, do not apply for Wisconsin purposes.

Account for any differences between the amounts reportable for federal and Wisconsin purposes on Schedule V or Schedule W, as appropriate.

Depreciation Differences and Other Modifications

In addition to the above differences, you must modify federal taxable income for other differences between federal and Wisconsin law, such as those listed in secs. 71.26(2) and (3) and 71.30, Wis. Stats. The major differences are explained in the instructions for Schedule V (Additions) and Schedule W (Subtractions). One of the modifications is sec. 71.26(3)(y), Wis. Stats., which provides that for taxable years beginning in 2001 or after, depreciation shall be computed under the Internal Revenue Code as amended to December 31, 2000.

Therefore, for property placed in service in taxable years beginning on or after January 1, 2005, you must compute depreciation or amortization under the Internal Revenue Code as amended to December 31, 2000. For qualified property acquired after September 10, 2001, you may not claim the federal 30% bonus depreciation. The 50% additional first-year depreciation deduction may not be claimed for 50% bonus property acquired after May 5, 2003. Provide a schedule detailing any differences between federal and Wisconsin depreciation amounts.

Show adjustments necessary to account for any modifications to federal income on Schedule V or Schedule W, as appropriate.

Limitations on Certain Federal Deductions

The Internal Revenue Code limits certain deductions, such as the deduction for charitable contributions, to a percentage of federal taxable income. Likewise, the section 179 expense deduction may not exceed the taxpayer's taxable income from trade or business activities during the taxable year. You may have to recompute federal deduction limitations for Wisconsin purposes if the amount of your federal taxable income for federal purposes differs from your federal taxable income as determined under the Internal Revenue Code in effect for Wisconsin. Differences in your federal taxable income for federal and Wisconsin purposes may arise for the following reasons:

a. A provision of the federal Internal Revenue Code is excluded from the definition of "Internal Revenue Code" in effect for Wisconsin under sec. 71.22(4), Wis. Stats.

b. Different elections under the Internal Revenue Code are made for federal and Wisconsin purposes.

Account for any difference in deduction limitations for federal and Wisconsin purposes as an adjustment on Schedule V or Schedule W, as appropriate.

Note: The deduction limitations are applied in computing federal taxable income. Wisconsin modifications prescribed in secs. 71.26(2) and (3) and 71.30, Wis. Stats., are made to the federal taxable income that has been computed for Wisconsin purposes. Therefore, you may not recompute deduction limitations as a result of making the prescribed modifications to federal taxable income. If your section 179 expense deduction was limited in computing federal taxable income as a result of claiming federal bonus depreciation, you may not recompute the section 179 deduction. The Wisconsin modification in sec. 71.26(3)(y), Wis. Stats., disallows bonus depreciation in computing Wisconsin income.

Section 179 Expense Differences

For Wisconsin purposes, the maximum amount of section 179 expense deduction allowable for 2003 and following years is $25,000 per year. This dollar limitation is reduced by a dollar for each dollar of the cost of qualified property placed in service during the taxable year over $200,000. Federal changes to the section 179 expense deduction enacted in 2003 do not apply for Wisconsin. The federal changes include the increase in the section 179 expense deduction from $25,000 to $100,000 ($105,000 for 2005), the increase in the phase-out threshold from $200,000 to $400,000 ($420,000 for 2005), and the treatment of off-the-shelf software as qualifying property. You must provide schedules detailing any differences between the federal and Wisconsin amounts of section 179 expense and depreciation and report the net differences as adjustments to federal income on Schedule V or Schedule W, as appropriate.

Example 1: Corporation A computes federal taxable income of $15,000 for the current taxable year but a Wisconsin net loss of $10,000, both before any section 179 expense deduction. The taxpayer reports a loss on its Wisconsin return because the taxpayer subtracts $25,000 from its federal income for the difference between its allowable federal and Wisconsin depreciation deductions. The taxpayer's Wisconsin depreciation deduction is higher than its federal deduction because the taxpayer had claimed bonus depreciation on its federal return for the prior year. The taxpayer elects to claim a $15,000 section 179 expense deduction to reduce its federal income to zero. On its Wisconsin return, the taxpayer may claim the $15,000 section 179 expense deduction that it is claiming on its federal return. Since the depreciation difference is a modification prescribed in sec. 71.26(3)(y), Wis. Stats., the section 179 deduction is not disallowed for Wisconsin purposes.

Example 2: Corporation B reports federal taxable income of zero for the current taxable year and Wisconsin taxable income of $20,000. The difference results from adding to federal income the $20,000 of state income taxes paid that the taxpayer had deducted on its federal return. For federal purposes, the taxpayer has $25,000 of section 179 expense, but is limited by its business income to claiming a deduction of $5,000 and carrying forward the $20,000 balance. For Wisconsin purposes, the section 179 deduction is limited to $5,000, the federal amount. The Wisconsin section 179 deduction cannot be recomputed since the addback for state income taxes is a modification prescribed in sec. 71.26(3)(g), Wis. Stats.

Example 3: Corporation C reports federal taxable income of zero for the current taxable year and Wisconsin taxable income of $15,000. The taxpayer's Wisconsin income exceeds its federal taxable income because the taxpayer may not claim federal bonus depreciation for Wisconsin. For federal purposes, the taxpayer computes $44,000 of section 179 expense but can use only $17,000 of that amount due to the business income limitation. The $27,000 balance is carried forward. For Wisconsin purposes, the taxpayer's section 179 expense is limited to $25,000. However, the taxpayer may deduct on its current Wisconsin return only the $17,000 that was used for federal purposes and must carry forward the $8,000 Wisconsin balance. The taxpayer must compute Wisconsin depreciation for the current year based on a section 179 deduction of $25,000. The taxpayer must add back to Wisconsin income the $19,000 difference between the $27,000 federal section 179 expense carryforward and the $8,000 Wisconsin carryforward in future years when it is used on the taxpayer's federal return.

Example 4: Corporation D computes $97,000 of section 179 expense deduction on its current federal return but can use only $92,000. The $5,000 balance is carried forward. For Wisconsin purposes, the taxpayer's section 179 expense deduction is limited to $25,000. On its current Wisconsin return, the taxpayer must add back $67,000 of excess 179 deduction ($92,000 claimed - $25,000 allowed). The taxpayer must add the remaining $5,000 of federal section 179 deduction to Wisconsin income in future years when it is used on the taxpayer's federal return.

Example 5: Corporation E claims a $60,000 section 179 expense deduction for federal tax purposes for the current taxable year. Although the maximum section 179 deduction allowable for Wisconsin purposes is $25,000, the taxpayer may elect to claim a section 179 deduction of less than $25,000 for Wisconsin.

Example 6: Corporation F claims no section 179 expense deduction but $16,000 of bonus depreciation on its federal return for the current taxable year. The taxpayer could have elected to claim a section 179 expense deduction on its federal return in addition to or instead of the bonus depreciation. The taxpayer may elect to claim the $16,000 as a section 179 expense deduction on its Wisconsin return so that the computation of its regular MACRS allowance is the same for federal and Wisconsin purposes.

■ **Line 1. Federal Taxable Income** – Enter the amount from federal Form 1120, line 28, or Form 1120-A, line 24. This is federal taxable income before the net operating loss deduction and special deductions.

Note: Show losses by putting the amount in parentheses.

Exceptions

1. RICs, REMICs, REITs, and FASITs

For corporations that qualify as regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), or real estate investment trusts (REITs) under the Internal Revenue Code, enter the net income or loss from federal Form 1120-RIC, line 26; Form 1066, Schedule J, line 4 plus line 9; or Form 1120-REIT, line 22. The special rules for financial asset securitization investment trusts (FASITs) generally do not apply after 2004.

Net income for these corporations means federal taxable income as determined under the Internal Revenue Code as of December 31, 2004, with the exceptions indicated under "Computing Federal Taxable Income for Wisconsin Purposes." In addition, the following depreciation differences apply:

- Depreciation and amortization on property located outside Wisconsin and placed in service on or after January 1, 1983, and before January 1, 1987, were to be determined under the December 31, 1980, Internal Revenue Code.

  However, the Wisconsin Tax Appeals Commission declared this provision unconstitutional in *Beatrice Cheese, Inc. vs. Wisconsin Department of Revenue* (February 24, 1993). Therefore, corporations have the option of (1) claiming the same depreciation deduction as for federal purposes, or (2) continuing their present method of depreciation. Basis differences resulting from the use of different federal and state depreciation methods are accounted for when the assets are disposed of in a taxable transaction.

- IRC section 168(f)(8), relating to a special rule for leases (safe harbor), didn't apply for Wisconsin purposes.

- Depreciation for residential real property and property used in farming (if the corporation's Wisconsin gross farm receipts or sales exceeded $155,000 for the 1986 taxable year), acquired in the 1986 taxable year, but before January 1, 1987, must be determined under the December 31, 1980, Internal Revenue Code.

The only adjustments that RICs, REMICs, REITs, and FASITs must make to federal taxable income to arrive at Wisconsin net income are (1) those necessary to account for the depreciation and amortization differences described above, (2) differences in depreciation because Wisconsin doesn't allow the federal 30% bonus depreciation for qualified property acquired after September 10, 2001, or the 50% additional first-year depreciation deduction for 50% bonus property acquired after May 5, 2003, (3) any difference in the Wisconsin and federal basis of any asset disposed of in a taxable transaction, and (4) any other adjustment needed for changes made to the Internal Revenue Code before or after December 31, 2004, that don't apply for Wisconsin. All other adjustments listed in Schedules V and W don't apply to RICs, REMICs, REITs, and FASITs.

Note: If a wholly-owned REIT subsidiary isn't treated as a separate entity under IRC section 856(i) and all of its assets, liabilities, and items of income and loss are treated as attributes of the REIT, that same treatment applies for Wisconsin purposes.

2. S Corporations That Aren't Tax-Option Corporations

For corporations that are treated as S corporations federally but are not treated as Wisconsin tax-option corporations, enter the ordinary income or loss from federal Form 1120S, line 21. These corporations determine their Wisconsin net income under the Wisconsin corporate franchise and income tax law (secs. 71.22 and 71.26(2) and (3), Wis. Stats.), the same as any other corporation. Therefore, adjustments are required on Schedules V and W for separately stated items of income and expense and any other differences between the federal computation of S corporation items of income and deduction and the Wisconsin computation of a regular (C) corporation's net income.

■ **Line 2. Additions to Federal Income** – Complete Schedule V and enter the total.

Exception: If using the separate accounting method, don't complete Schedule V. Instead, complete Wisconsin Form 4C and enter the amount from Form 4C, line 12, column 3, on Form 4, line 2.

Schedule V – Additions to Federal Income

Line 1. Enter interest income received on state and municipal obligations and any other interest income that is exempt from federal income tax and isn't included in federal taxable income, such as interest on obligations of the government of Puerto Rico.

Exception: Corporations subject to the Wisconsin income tax rather than the franchise tax shouldn't add back interest income that is exempt from state income tax under either Wisconsin or federal law. This includes interest income received on Wisconsin municipal housing authority bonds, Wisconsin municipal redevelopment authority bonds, Wisconsin community development authority bonds, Wisconsin Housing and Economic Development Authority bonds issued to fund multifamily affordable housing or elderly housing projects, and bonds issued by the government of Puerto Rico.

Line 2. Enter taxes imposed by Wisconsin, any other state, and the District of Columbia that are value-added taxes, single business taxes, or taxes on or measured by net income, gross income, gross receipts, or capital stock and that were deducted in computing federal taxable income.

Line 3. Enter the extraterritorial income exclusion (under IRC sections 941 to 943) deducted in computing federal taxable income.

Line 4. Enter expenses deducted in computing federal taxable income that are directly or indirectly related to nontaxable income. Refer to the specific instructions for Schedule W, line 4, for an explanation of "nontaxable income." Examples of expenses related to nontaxable income include taxes, interest, and administrative fees related to the production of such income.

Also include on this line losses deducted in computing federal taxable income from the disposal of assets the gains from which would be nontaxable income if the assets were disposed of at a gain.

Line 5. Enter percentage depletion deducted in computing federal taxable income.

Note: Cost depletion is deductible for Wisconsin and should be entered on Schedule W, line 6, if not deducted on the federal return.

Line 6. Enter the amount by which the federal section 179 expense deduction exceeds the Wisconsin deduction.

Line 7. Enter the amount by which the federal deduction for depreciation or amortization exceeds the Wisconsin deduction. Attach a schedule showing the computation details.

For assets first placed in service in taxable years beginning on or after January 1, 2001, you must compute depreciation or amortization under the Internal Revenue Code as amended to December 31, 2000.

For qualified property acquired after September 10, 2001, you may not claim the federal 30% bonus depreciation. The 50% additional first-year depreciation deduction may not be claimed for 50% bonus property acquired after May 5, 2003.

An asset placed in service before 2005 must continue to be depreciated or amortized under the method allowable for Wisconsin purposes for the year in which it was placed in service.

In addition, many differences in Wisconsin and federal depreciation and amortization existed before January 1, 1987, including the following:

a. IRC section 168(f)(8), relating to a special rule for leases (safe harbor), didn't apply for Wisconsin purposes. See *Wisconsin Tax Bulletin* 84 (October 1993, page 22) for further details about Wisconsin's treatment of safe harbor leases.

b. Telegraph, pipeline, gas, electric, steam, and telephone companies (defined under secs. 76.02(4), Wis. Stats. (1983-84), 76.02(5b), 76.28(1)(e)1., 3., and 4., and 76.38(1)(c), Wis. Stats. (1985-86), except for specialized common carriers) had to compute depreciation under the Internal Revenue Code in effect on December 31, 1980, for assets acquired during the period beginning with the 1981 taxable year and ending on December 31, 1986. **Note:** The *Beatrice Cheese, Inc.* decision described in item e below doesn't apply to these companies.

c. Waste treatment and pollution abatement plants and equipment could be deducted or amortized pursuant to sec. 71.04(2b) or (2g), Wis. Stats. (1985-86).

d. Alternative energy systems could be deducted or amortized pursuant to sec. 71.04(16), Wis. Stats. (1985-86).

e. The federal accelerated cost recovery system (ACRS) wasn't allowable for Wisconsin purposes for property located outside Wisconsin and first placed in service from January 1, 1983, through December 31, 1986. Instead, depreciation was to be computed under a method permitted by the Internal Revenue Code as of December 31, 1980, or, in the alternative, the Internal Revenue Code applicable to the calendar year 1972.

   However, the Wisconsin Tax Appeals Commission declared this provision unconstitutional in *Beatrice Cheese, Inc. vs. Wisconsin Department of Revenue* (February 24, 1993). Therefore, corporations have the option of (1) claiming the same depreciation deduction as for federal purposes, or (2) continuing their present method of depreciation. Basis differences resulting from the use of different federal and state depreciation methods are accounted for when the assets are disposed of in a taxable transaction. For more information, see the tax release in *Wisconsin Tax Bulletin* 84 (October 1993, page 18).

f. Wisconsin and federal depreciation may have been different in the case of investment credit property. A corporation electing to claim an investment tax credit for federal income tax purposes could either (1) claim the credit and reduce the depreciable basis of the property by one-half of such credit, or (2) in the case of regular investment tax credit property, claim a reduced investment credit and not reduce the depreciable basis of the property.

   Corporations that claimed an investment tax credit on their federal return (and reduced the federal basis of the assets) weren't required to reduce the basis of the investment credit property for Wisconsin purposes and could either (1) claim the same depreciation for Wisconsin as that claimed for federal purposes (except for item e above) and receive a deduction for the basis difference in the year the property is disposed of, pursuant to sec. 71.04(15)(e), Wis. Stats. (1985-86), or (2) claim depreciation on the asset's full (unreduced) basis for Wisconsin. (The second method required separate depreciation records for Wisconsin purposes.)

g. Intangible drilling costs incurred after the 1980 taxable year are deductible for federal purposes under IRC section 263(c). Before the 1987 taxable year, the amount of depletion, depreciation, or write-off allowable for Wisconsin purposes was limited to that allowable under the Internal Revenue Code in effect on December 31, 1980, or, in the alternative, the Internal Revenue Code applicable to the calendar year 1972.

h. For the following property acquired in the 1986 taxable year, but before January 1, 1987, depreciation must be computed under the December 31, 1980, Internal Revenue Code: (1) residential real property, and (2) property used in farming, as defined in IRC section 464(e)(1), if the corporation's Wisconsin gross farm receipts or sales exceeded $155,000 for the 1986 taxable year.

i. For federal tax purposes, corporations may elect to expense, under IRC section 179, a portion of the cost of "section 179" property placed in service after the 1981 calendar year. For Wisconsin purposes, before the 1987 taxable year, corporations (except regulated investment companies and real estate investment trusts) couldn't claim this expense. Instead, depreciation was allowable on the cost basis of the property, without reduction for the amount the corporation may have elected to expense under section 179 for federal purposes.

For assets placed in service before January 1, 1987, these differences in depreciation (items a through i) continue to exist. Therefore, the depreciation deduction may be different for Wisconsin and federal purposes.

Line 8. Enter the amount by which the federal basis of assets disposed of exceeds the Wisconsin basis. If more than one asset is disposed of, you may combine the bases of the assets so that you need only one entry either on this line or Schedule W, line 8. Attach a schedule showing the computation details.

For example, a corporation sold the following assets during the current taxable year:

	Federal Basis	Wisconsin Basis	Difference
Truck	$ 1,500	$ 500	$ 1,000
Equipment	1,000	2,000	(1,000)
Building	20,000	10,000	10,000
Net Difference			$ 10,000

The amount to enter on Schedule V, line 8, is $10,000.

If the Wisconsin bases of the assets had exceeded the federal bases, an entry would be made on Schedule W, line 8, instead.

Line 9. Enter the sum of the corporation's manufacturer's sales tax credit computed (from Schedule Z, line 10) plus the credits passed through from other entities (the total from Schedule Z-1, column e).

Line 10. Enter the dairy investment credit computed (from 2005 Schedule DI, line 7).

Line 11. Enter the research credits computed (from 2005 Wisconsin Schedule R, line 15 or 28 and line 32).

Line 12. Enter the development zones credits computed (from 2005 Wisconsin Schedule DC, lines 5, 13, and 21).

Line 13. Enter the community development finance credit computed (from Schedule C1, line 6).

Line 14. Enter the technology zone credit computed (from 2005 Schedule TC, line 6).

Line 15. Enter the early stage seed investment credit computed (from 2005 Schedule VC, line 8).

Line 16. Enter the amount of farmland preservation credit received during the taxable year that isn't included in federal income.

Line 17. Enter the amount of farmland tax relief credit received during the taxable year that isn't included in federal income.

Line 18. Enter any other additions to federal income. These could include:

- Federal capital loss carryovers (if previously deducted for Wisconsin).
- Adjustments required as a result of changes made to the Internal Revenue Code before or after December 31, 2004, which don't apply for Wisconsin. See page 7 for details.
- Adjustments required as a result of making different elections for Wisconsin and federal purposes.
- Separately stated items of income and adjustments for differences between the federal and Wisconsin treatment of any items of an S corporation that opts out of Wisconsin tax-option status.

■ **Line 4. Subtractions From Federal Income** – Complete Schedule W and enter the total.

Exception: If using the separate accounting method, don't complete Schedule W. Instead, complete Form 4C and enter the amount from Form 4C, line 15, column 3, on Form 4, line 4.

Schedule W – Subtractions From Federal Income

Line 1. Enter, from Schedule Y, line 4, dividends received which are included in the amount on Form 4, line 3, and qualify for deduction for Wisconsin. See the Schedule Y instructions on page 12.

Line 2. Enter income from controlled foreign corporations under Subpart F of the Internal Revenue Code as reported on Form 1120, Schedule C, line 14.

Line 3. Enter foreign dividend gross-up reported on Form 1120, Schedule C, line 15.

Line 4. Enter nontaxable income included in computing federal taxable income. Attach a schedule to your return showing the payers and amounts of nontaxable income and explaining why that income isn't taxable.

- Interest, dividends, and capital gains from the disposition of intangible assets are nontaxable if –

  (a) the operations of the payer are not unitary with those of the payee, and

  (b) the payer and payee are not related as parent company and subsidiary or affiliates and the investment activity from which the income is received is not an integral part of a unitary business.

  Note: Such income may also be nontaxable under the principles of the U.S. Supreme Court decision in *Allied-Signal v. Director, Div. of Taxation*, 504 U.S. 768 (1992), if the investment is passive and does not serve an operational function.

- For corporations subject to the Wisconsin income tax rather than the franchise tax, nontaxable income includes interest on United States government obligations.

Note: Expenses related to nontaxable income aren't deductible and must be added to federal taxable income on Schedule V, line 4.

Line 5. Enter foreign taxes paid or accrued during the year that aren't deducted in computing federal taxable income and aren't included on Schedule W, line 3.

Line 6. Enter cost depletion that wasn't deducted in computing federal taxable income.

Note: Percentage depletion isn't deductible for Wisconsin and must be added to federal taxable income on Schedule V, line 5.

Line 7. Enter the amount by which the Wisconsin deduction for depreciation or amortization exceeds the federal deduction for depreciation or amortization. Refer to the instructions for Schedule V, line 7, for a detailed discussion of depreciation and amortization. Attach a schedule showing the computation details.

Line-by-Line Instructions (continued)

Line 8. Enter the amount by which the Wisconsin basis of assets disposed of exceeds the federal basis. See the instructions for Schedule V, line 8, for an example. Attach a schedule showing the computation details.

Line 9. Enter wages not deductible in computing federal income as a result of being used in computing the federal work opportunity tax credit.

Line 10. Enter research expenses not deductible in computing federal income as a result of being used in computing the federal credit for increasing research activities.

Line 11. Enter any other subtractions from federal income. These could include:

- Adjustments required as a result of changes made to the Internal Revenue Code before or after December 31, 2004, which don't apply for Wisconsin. See page 7 for details.
- Adjustments required as a result of making different elections for Wisconsin and federal purposes.
- Separately stated items of expense and adjustments for differences between the federal and Wisconsin treatment of any items of an S corporation that opts out of Wisconsin tax-option status.
- Development zones investment credit recaptured because the property is disposed of or ceases to be qualified property before the end of the recapture period.

Schedule Y – Deductible Dividends

Dividends are deductible for Wisconsin purposes if received during the year from payer corporations that meet the following requirements:

1. The dividend must be paid on common stock, and
2. The corporation receiving the dividend must have owned at least 70% of the total combined voting stock of the payer corporation for the entire taxable year.

Note: "Dividends received" means gross dividends minus any taxes paid to a foreign nation on those dividends and claimed as a deduction for Wisconsin purposes.

Line 1. List the names of the payers, the date or dates the stock was acquired, the percentage of the voting stock owned, and the dividends received which meet the above requirements and have been included on Form 4, line 1, or on Schedule V.

Line 3. Enter taxes paid to a foreign nation on dividends listed on line 1, which were claimed as a deduction in computing federal taxable income or are being included on Schedule W, line 5.

Dividends received from certain subsidiary corporations may be nontaxable. See the instructions for Schedule W, line 4. Don't include such dividends on Schedule Y.

■ **Lines 6 through 11. Apportionment Data** – If using the apportionment method, complete Wisconsin Form 4B or Form 4B-1, if appropriate, and enter the amounts requested. See the instructions for Forms 4B and 4B-1. If using the separate accounting method, don't complete lines 6 through 10. Instead, complete Wisconsin Form 4C and enter the amount from Form 4C, line 16, column 1, on Form 4, line 11.

Note: If you are a public utility or you are using a special apportionment formula on Form 4B-1, be sure to check the box on line 8.

■ **Line 12. Wisconsin Net Business Loss Carryforward** – Enter the total Wisconsin net business loss carryforward from Form 4BL, line 30. The instructions for Form 4BL are printed on the form.

Note: If line 11 is zero or a loss, do not fill in line 12. If the net business loss carryforward from Form 4BL exceeds the income reported on line 11, do not enter more than the amount on line 11.

Exception: Regulated investment companies, real estate mortgage investment conduits, real estate investment trusts, and financial asset securitization investment trusts must enter zero.

■ **Line 13. Wisconsin Net Income (Loss)** – Subtract line 12 from line 11. If line 11 shows a loss, enter the loss from line 11 on line 13.

■ **Line 14. Gross Tax** – Enter 7.9% of the Wisconsin net income reported on line 13.

■ **Line 15. Nonrefundable Credits** – Complete Schedule C1, page 2, and enter the available credit.

For purposes of determining the carryover (if any) of each credit, they must be applied against gross tax in the following order:

1. Manufacturer's sales tax credit
2. Dairy investment credit
3. Research expense credit
4. Development zones research credit carryforward
5. Research facilities credit
6. Community development finance credit
7. Development zones jobs credit carryforward
8. Development zones sales tax credit carryforward
9. Development zones investment credit, including development opportunity zone investment credit
10. Development zones location credit carryforward
11. Development opportunity zone or agricultural development zone capital investment credit
12. Development zones day care credit carryforward
13. Development zones environmental remediation credit carryforward
14. Development zones credit
15. Technology zone credit
16. Early stage seed investment credit
17. Supplement to federal historic rehabilitation tax credit

Schedule C1 – Nonrefundable Credits

Line 1. Manufacturer's Sales Tax Credit – Enter the manufacturer's sales tax credit from Schedule Z, line 13.

Corporations engaged in manufacturing in Wisconsin may claim a credit. See the Schedule Z instructions on page 13.

Line 2. Dairy Investment Credit – Enter the dairy investment credit from Schedule DI, line 9.

Corporations that pay certain amounts for dairy farm modernization or expansion of their dairy farm in Wisconsin may claim a credit.

Line 3. Research Expense Credit – Enter the research expense credit from Schedule R, line 30.

Corporations that increase qualified research expenses in Wisconsin may claim a credit.

Line 4. Development Zones Research Credit – Enter the development zones research credit carryforward.

Line 5. Research Facilities Credit – Enter the research facilities credit from Schedule R, line 34.

Corporations that incur expenses to construct and equip new research facilities in Wisconsin or to expand existing facilities in Wisconsin may claim a credit.

Line 6. Community Development Finance Credit – Enter the available community development finance credit.

Corporations that make contributions to the Wisconsin Housing and Economic Development Authority and, in the same year, purchase common stock in the Wisconsin Community Development Finance Company may claim a credit.

The credit is nonrefundable and is equal to 75% of the purchase price of the stock, but may not exceed 75% of the amount that was contributed to the Wisconsin Community Development Finance Authority. Any unused credit may be offset against tax liabilities of the subsequent years, up to 15 years.

Line 7. Development Zones Jobs Credit – Enter the development zones jobs credit carryforward.

Line 8. Development Zones Sales Tax Credit – Enter the development zones sales tax credit carryforward.

Line 9. Development Zones Investment Credit – Enter the total of the development opportunity zone investment credit and any development zones investment credit carryforward from Schedule DC, line 15.

Line 10. Development Zones Location Credit – Enter the development zones location credit carryforward.

Line 11. Development Zone Capital Investment Credit – Enter the development opportunity zone or agricultural development zone capital investment credit from Schedule DC, line 23.

Line 12. Development Zones Day Care Credit – Enter the development zones day care credit carryforward.

Line 13. Development Zones Environmental Remediation Credit – Enter the development zones environmental remediation credit carryforward.

Line 14. Development Zones Credit – Enter the development zones credit from Schedule DC, line 7.

Corporations doing business in Wisconsin development, development opportunity, enterprise development, or agricultural development zones may be eligible for tax credits based on expenditures for environmental remediation and job creation or retention. The Wisconsin Department of Commerce administers the Wisconsin development zones programs. For more information about the programs, visit the Department of Commerce web site at www.commerce.wi.gov/CD/CD-bed.html or write to the Wisconsin Department of Commerce, P.O. Box 7970, Madison, WI 53707-7970.

Line 15. Technology Zone Credit – Enter the technology zone credit from Schedule TC, line 8.

Corporations doing business in Wisconsin technology zones may be eligible for a tax credit based on the property taxes paid, capital investments made, and jobs created. The Department of Commerce administers the Wisconsin technology zone program. For more information about the program, visit the Department of Commerce web site at www.commerce.wi.gov/CD/CD-bed.html or write to the Wisconsin Department of Commerce, P.O. Box 7970, Madison, WI 53707-7970.

Line 16. Early Stage Seed Investment Credit – Enter the early stage seed investment credit from Schedule VC, line 8.

Corporations making payments to a qualified fund manager for investment in a qualified new business venture may be eligible for a tax credit. The Department of Commerce administers the early stage business investment program. For more information about this program, visit the Department of Commerce web site at www.commerce.wi.gov/Act255/ or write to the Wisconsin Department of Commerce, P.O. Box 7970, Madison, WI 53707-7970.

Note: The above credits (items 1 through 16) must be included as income in the year computed.

Line 17. Supplement to the Federal Historic Rehabilitation Tax Credit – Enter the supplement to the federal historic rehabilitation tax credit from Schedule HR, line 7.

Corporations that rehabilitate certified historic structures located in Wisconsin and used for business purposes may claim a credit. The Wisconsin Historical Society administers the historic preservation program. For more information about this program, visit the Historical Society's web site at www.wisconsinhistory.org/hp/buildings, write to the Division of Historic Preservation, Wisconsin Historical Society, 816 State Street, Madison, WI 53706-1488, or call (608) 264-6490.

Line 18. Add lines 1 through 17. This is the total available nonrefundable credits.

Schedule Z – Manufacturer's Sales Tax Credit

Corporations engaged in manufacturing in Wisconsin may claim a credit for Wisconsin state, county, and baseball and football stadium sales and use taxes paid on fuel and electricity consumed in manufacturing tangible personal property.

In addition, a corporation that owns an interest in a pass-through entity, such as a partnership, which is engaged in manufacturing in Wisconsin may claim its share of the entity's manufacturer's sales tax credit computed for the entity's taxable years beginning on or after January 1, 1998. The pass-through credit may be offset only against the tax imposed on the corporation's share of the entity's net income. Use Schedule Z-1 to figure the allowable credit from pass-through entities.

Manufacturing has the meaning designated in sec. 77.54(6m), Wis. Stats., which states in part that "manufacturing" is the production by machinery of a new article with a different form, use, and name from existing materials by a process popularly regarded as manufacturing.

Manufacturing includes the assembly of finished units of tangible personal property and packaging when it is a part of an operation performed by the producer of the product or by another on his or her behalf and the package or container becomes a part of the tangible personal property as such unit is customarily offered for sale by the manufacturer.

It includes the conveyance of raw materials and supplies from plant inventory to the work point of the same plant, conveyance of work in progress directly from one manufacturing operation to another in the same plant, and conveyance of finished products to the point of first storage on the plant premises. It includes the testing or inspection throughout the production cycle.

Manufacturing does not include storage, delivery to or from the plant, repairing or maintaining facilities, or research and development.

The credit is a nonrefundable credit. To the extent that the credit cannot be used to reduce the tax liability for the current year, it may be offset against the tax liability of the subsequent year and each succeeding year up to 20 years, for credits computed by corporations for taxable years beginning on or after January 1, 1988. The 20-year carryforward period applies to credits computed by pass-through entities for taxable years beginning on or after January 1, 1998.

Line 1. Enter the total cost (including Wisconsin state, county, and baseball and football stadium sales and use taxes) of all fuel and electricity purchased during the taxable year for use in Wisconsin.

Line 2. Enter the cost of fuel and electricity included on line 1 (including Wisconsin state, county, and baseball and football stadium sales and use taxes) that wasn't or won't be used for manufacturing. This includes fuel and electricity for heating and lighting office space and warehousing space for raw materials and finished goods and for other nonmanufacturing purposes.

Line 4. Enter any county and baseball and football stadium sales and use taxes included on line 3. (The county tax rate is 0.5% (0.005) in Wisconsin counties that have adopted the county tax. The baseball stadium tax rate is 0.1% (0.001) in Wisconsin counties where the baseball stadium tax applies and the football stadium tax rate is 0.5% (0.005) in Brown County.)

Line 6. Enter purchases included on line 5 on which no Wisconsin sales or use taxes were paid. An example is the portion of coke purchased without tax by a foundry that becomes an ingredient or component part of a manufactured article.

Line 10. Add lines 8 and 9. This is the 2005 manufacturer's sales tax credit based on the corporation's manufacturing activities.

Line 11. Enter the amount of manufacturer's sales tax credit passed through from other entities from Schedule Z-1, column f.

Note: The amount from line 10 plus the total from Schedule Z-1, column e, must be included on Schedule V, line 9.

Line 12. Enter any unused manufacturer's sales tax credit from 1988 through 2004. Attach a schedule showing credits carried forward from pass-through entities.

Line 13. Add lines 10 through 12. This is the available manufacturer's sales tax credit.

Note: Beginning January 1, 2006, sales of fuel and electricity consumed in manufacturing tangible personal property are exempt from sales and use tax. The 2006 treatment of any unused manufacturer's sales tax credit will depend on whether the unused credit is $25,000 or less or more than $25,000.

■ **Line 16. Net Tax** – Subtract line 15 from line 14. If line 15 is more than line 14, enter zero.

■ **Line 17. Recycling Surcharge** – Enter the greater of $25 or 3% of the gross tax on line 14, but not more than $9,800.

Note: Domestic corporations that don't have any business activities in Wisconsin, foreign corporations that don't have nexus with Wisconsin, corporations that have less than $4 million of gross receipts from all activities (as defined on page 2), and nuclear decommissioning trust funds enter zero on line 17.

■ **Line 18. Endangered Resources Donation** – Your donation supports the preservation and management of more than 200 endangered and threatened Wisconsin plants and animals. It also helps protect Wisconsin's finest remaining examples of prairies, forests, and wetlands.

Support endangered resources in Wisconsin. Fill in line 18 with the amount you wish to donate. Your gift will either reduce your refund or be added to tax due. You can also send a check directly to the Endangered Resources Fund, Department of Natural Resources, P.O. Box 7921, Madison, WI 53707-7921.

■ **Line 19. Veterans Trust Fund Donation –** You may designate an amount as a veterans trust fund donation. Your donation will be used by the Wisconsin Department of Veterans Affairs for the benefit of veterans or their dependents.

Fill in line 19 with the amount you wish to donate. Your donation will either reduce your refund or be added to tax due.

■ **Line 21. Estimated Tax Payments** – Enter estimated tax payments made, including EFT payments, or overpayments applied from prior years' returns, minus any "quick refund" applied for on Form 4466W.

Note: You can't claim estimated tax payments that were made by a related corporation.

Amended Return: If this is an amended return, compute the tax to enter on line 21 as follows:

Estimated tax payments made for 2005	$
Plus:	
Tax carried forward from 2004	
Additional tax paid on previous returns filed for 2005	
Additional tax assessed by the Department for 2005 (whether or not paid)	
Subtotal	$
Minus:	
Tax refunded on 2005 Form 4466W	( )
Tax refunded to you on previous returns filed for 2005	( )
Overpayment from your previously filed 2005 return claimed on your 2006 return, if you already filed your 2006 return	( )
Tax previously paid to enter on line 21	$

■ **Line 22. Wisconsin Tax Withheld From Pass-Through Entities –** Enter your share of Wisconsin tax withheld from pass-through entities of which you are a member, as reported on Wisconsin Schedule 3K-1. Attach a copy of the Schedule 3K-1 to the tax return that you file.

For taxable years beginning in 2005, pass-through entities are subject to withholding tax on Wisconsin income allocable to a nonresident partner, member, shareholder, or beneficiary. A nonresident includes a corporation whose commercial domicile is not in Wisconsin.

■ **Line 23. Refundable Credits** – Complete Schedule C2, page 2, and enter the total available credit.

Schedule C2 – Refundable Credits

Line 1. Farmland Preservation Credit – Enter the farmland preservation credit from Schedule FC, line 18.

Corporations organized under the laws of Wisconsin that own and operate Wisconsin farmland subject to agricultural use restrictions in the form of a zoning ordinance or a farmland preservation agreement, as provided in Chapter 91, Wis. Stats., may claim a credit.

Line 2. Farmland Tax Relief Credit – Enter the farmland tax relief credit from Schedule FT, line 6.

Corporations organized under the laws of Wisconsin that own farmland located in Wisconsin may claim a credit.

Note: The farmland credits must be included in income in the year of receipt.

Line 3. Add lines 1 and 2. This is the total available refundable credits.

■ **Line 25. Interest, Penalty, and Late Fee Due** – Enter any interest, penalty, and late fee due from Form 4U, line 17 or 26. Check the box if you figured underpayment interest using the annualized income installment method on Form 4U, page 2.

Amended Return: If you previously were assessed interest for underpayment of estimated taxes, complete an amended Form 4U, Part I, based on the total of the amounts shown on lines 16 and 17. Enter the difference between the underpayment interest from the amended Form 4U, line 17, and the amount you previously paid on line 25. Show an overpayment in parentheses. Attach Form 4U to your amended return. Otherwise, leave line 25 blank. The Department will compute interest on the amount of refund approved or tax owed.

■ **Line 26. Tax Due** – If the total of lines 20 and 25 is larger than line 24, enter the amount owed. Pay by electronic funds transfer or mail your check with a 2005 Form 4-ES, Corporation Estimated Tax Voucher, to the address shown on the voucher. Otherwise, paper clip your check to the front of Form 4.

■ **Line 27. Overpayment** – If line 24 is larger than the total of lines 20 and 25, enter the overpayment.

Note: If you must recapture development zones investment credit because the property is disposed of or ceases to be qualified property before the end of the recapture period, add the amount from Schedule DC, line 34, to the tax due on line 26 or reduce the overpayment on line 27.

■ **Line 28. 2006 Estimated Tax** – Enter the amount of any overpayment from line 27 that is to be credited to the corporation's 2006 estimated tax. The balance of any overpayment will be refunded.

Note: An overpayment shown on a corporation's final return will be refunded to the corporation that made the payments. You cannot claim these payments on the surviving corporation's return in a merger situation.

Amended Return: If you have already filed your 2006 return, enter the overpayment that you claimed as a credit on your 2006 return from your previously filed original or amended 2005 return. Otherwise, you may allocate the overpayment from line 27 between line 28 and line 29 as you choose.

■ **Line 30.** Enter total company gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income before apportionment for Wisconsin franchise or income tax purposes.

■ **Line 31.** Enter the total company assets from the federal return.

■ **Lines 32, 33, and 34.** Enter the appropriate apportionment percentage on lines 32a, 33a, and 34a for each factor. These are the percentages from Form 4B, lines 17, 23, and 36. Also enter on lines 32b and 32c, 33b and 33c, and 34b and 34c the appropriate amounts from Form 4B.

Note: If a special apportionment percentage is computed on Form 4B-1, or the corporation is a public utility or carline company, do not fill in these lines.

■ **Additional Information Required** – Answer questions 1 through 9 on Form 4, page 3.

■ **Signatures** – An officer of the corporation must sign the form on page 3. If the return is prepared by someone other than an employee of the corporation, the individual who prepared the return must sign the form, by hand, in the space provided for the preparer's signature and furnish the preparing firm's federal employer identification number. A self-employed individual must enter "SSN" and the social security number in the space for the preparer's federal employer identification number.

■ **Attachments** – Attach a copy of each of the following documents:

- Your federal return with all supporting schedules.

  If the federal return is a consolidated return, you must –

  (1) check box H and enter the parent corporation's federal employer identification number in the space provided on page 1, and

  (2) include a breakdown by individual company or attach a copy of the unconsolidated federal return together with all supporting schedules.

- Any other required Wisconsin forms, schedules, or statements. Include a list of your solely owned LLCs.

- Any extension of time to file your return.

Amended Return: If this is an amended return, attach an explanation of the changes made and any supporting forms or schedules. Also attach a worksheet showing how you figured your additional refund or additional amount owed. Send the amended return to the Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908.

Forms 4B and 4B-1 – Apportionment Data

What Is Apportionment

Under the apportionment method, a corporation shows all income and deductions for the company as a whole and then assigns a part to Wisconsin according to a formula that determines Wisconsin net income.

Who Must Use Apportionment

A corporation engaged in business in and outside Wisconsin is required to report a portion of its total company net income to Wisconsin using the apportionment method if its Wisconsin operations are a part of a unitary business, unless the Department gives permission to use separate accounting. To use the apportionment method, a corporation must have business activity sufficient to create nexus in Wisconsin and at least one other state or foreign country.

"Nexus" means that a corporation's business activity is of such a degree that the state or foreign country has jurisdiction to impose an income tax or franchise tax measured by net income. Under Public Law 86-272, a state can't impose an income tax or franchise tax based on net income on a corporation selling tangible personal property if the corporation's only activity in the state is the solicitation of orders, which orders are approved outside the state and are filled by delivery from a point outside the state.

What Is a Unitary Business

A unitary business is one that operates as a unit and can't be segregated into independently operating divisions or branches. The operations are integrated, and each division or branch is dependent upon or contributory to the operation of the business as a whole. It isn't necessary that each division or branch operating in Wisconsin contribute to the activities of all divisions or branches outside Wisconsin.

What Is Nonapportionable Income

Nonapportionable income is that income which is allocable directly to a particular state. It includes income or loss derived from the sale of nonbusiness real or tangible personal property or from rentals and royalties from nonbusiness real or tangible personal property. This income is assigned to the state where the property is located.

All income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in **Wisconsin** shall be allocated to Wisconsin.

Except for the income from lottery prizes described above, the intangible income of a personal holding company is nonapportionable and is assigned to the state of incorporation.

Total nonapportionable income (loss) is removed from total company net income before the apportionment percentage is applied. The Wisconsin nonapportionable income (loss) is then combined with the Wisconsin apportionable income to arrive at Wisconsin net income.

What Is the Apportionment Percentage

For unitary, multistate businesses (except air carriers, motor carriers, railroads and sleeping car companies, pipeline companies, financial organizations, and public utilities whose incomes are apportioned by special rules of the Department), the apportionment percentage is determined by the weighted average of the following three ratios:

1. Wisconsin tangible property to total company tangible property.

2. Wisconsin payroll to total company payroll.

3. Wisconsin sales to total company sales. (This ratio is double-weighted.)

Air carriers, motor carriers, railroads and sleeping car companies, pipeline companies, and financial organizations (except insurance companies) should see the Form 4B-1 instructions.

Corporate Partners or LLC Members

A corporation that is a general or limited partner includes its share of the numerator and denominator of the partnership's apportionment factors in the numerator and denominator of its apportionment factors. A corporation that is a member of a limited liability company (LLC) treated as a partnership for federal tax purposes includes its share of the numerator and denominator of the LLC's apportionment factors in the numerator and denominator of its apportionment factors.

Note: Income from a partnership or LLC may be nontaxable under the principles of the U.S. Supreme Court decision in *Allied-Signal v. Director, Div. of Taxation*, 504 U.S. 768 (1992), if the investment is passive and does not serve an operational function. In this case, the corporation would not include its share of the partnership's or LLC's apportionment factors in the numerator and denominator of its apportionment factors.

Line-by-Line Instructions for Form 4B

Part I - Nonapportionable Income (Loss)

■ **Line 1.** Enter rents and royalties received on nonbusiness tangible property in the appropriate column or columns. These are nonapportionable and follow the situs of the property.

■ **Line 2.** Enter any expenses that are directly or indirectly related to rents and royalties reported on line 1. Since such income is nonapportionable, the related expenses are nonapportionable.

■ **Line 4.** Enter all profits and losses from disposals of nonbusiness tangible property in the appropriate column or columns. Such profits and losses are nonapportionable and follow the situs of the property.

Also enter on line 4 all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in **Wisconsin**. This income is nonapportionable and must be allocated to Wisconsin.

■ **Line 5.** Enter the total net nonapportionable income or loss for both Wisconsin and the total company. Also, enter on Form 4, line 6, the total company net nonapportionable income from column b. Enter on Form 4, line 10, the Wisconsin net nonapportionable income from column a.

Part II – Apportionment Percentage

■ **Box A.** Check the box if the corporation is a public utility, other than a telecommunications company. Fill in Part II, but equally weight the property, payroll, and sales factors. Check the box on Form 4, line 8. Do not fill in Form 4, lines 32a through 34c.

■ **Box B.** Check the box if the corporation is a telecommunications company. Fill in Part II, except lines 30 through 33. Include receipts from the use of computer software and services on line 34. Equally weight the property, payroll, and sales factors. Check the box on Form 4, line 8. Do not fill in Form 4, lines 32a through 34c.

■ **Box C.** Check the box if the corporation is a carline company. Fill in Part II. Check the box on Form 4, line 8. Do not fill in Form 4, lines 32a through 34c.

■ **Lines 6 through 13.** Enter the undepreciated original cost of tangible property owned and used in producing apportionable income at the beginning and at the end of the taxable year. Group the property into the general categories listed for both Wisconsin and the total company.

Don't include construction in progress, idle property, or property used in producing nonapportionable income. Such property isn't used in the production of apportionable income and, therefore, isn't includable in the property factor.

Note: If any major acquisitions or dispositions occurred within the taxable year, the average monthly balances of property may be used (or required by the Department) instead of the average of the beginning and ending balance. In this case, attach a separate schedule showing the calculation rather than completing lines 6 through 13.

■ **Line 15.** Multiply the net annual rental for property used in the production of apportionable income by 8 and enter the result. "Net annual rental" is the annual rental paid less any annual rental received from subrentals unless this results in a negative or clearly inaccurate valuation. Net annual rental doesn't include incidental day-to-day expenses such as hotel or motel accommodations, daily rentals of autos, or royalties based on extraction of natural resources.

If the taxable year covers a period of less than 12 months, the net rent paid for the short period must be annualized. However, if the rental term is for less than 12 months, the rent must be adjusted accordingly.

Leases are given the same treatment in computing the property factor as they are in computing net income. Leases that have been capitalized in computing net income are included as property owned and used for property factor purposes. All other lease payments are included in the rentals times 8 computation.

■ **Line 20.** Enter, for Wisconsin and the total company, the compensation paid to the company's own employees for the performance of personal services. The compensation must be related to the production of apportionable income. Compensation related to the operation, maintenance, protection, or supervision of property used in the production of both apportionable and nonapportionable income or losses must be prorated, and only the portion related to the production of apportionable income is included for Wisconsin and the total company. Compensation includes wages, salaries, commissions, and any other form of remuneration paid to employees.

Compensation is paid in Wisconsin (included in the numerator of the payroll factor) if –

- The individual's service is performed entirely in Wisconsin.
- The individual's service is performed in and outside Wisconsin, but the service performed outside Wisconsin is incidental to the individual's service in Wisconsin.
- A portion of the service is performed in Wisconsin and the base of operations of the individual is in Wisconsin.
- A portion of the service is performed in Wisconsin and, if there is no base of operations, the place from which the individual's service is directed or controlled is in Wisconsin.
- A portion of the service is performed in Wisconsin and neither the base of operations of the individual nor the place from which the service is directed or controlled is in any state in which some part of the service is performed, but the individual's residence is in Wisconsin.
- The individual is neither a resident of nor performs services in Wisconsin but is directed or controlled from an office in Wisconsin and returns to Wisconsin periodically for business purposes and the state in which the individual resides doesn't have jurisdiction to impose franchise or income taxes on the employer.

An individual is considered to be performing a service in Wisconsin during the year if that individual spends any portion of at least 5 days during the corporation's taxable year in Wisconsin performing services.

■ **Line 21.** Enter management or service fees paid to a related corporation for the performance of personal services. The fees must be related to the production of apportionable income. Payments made to independent contractors aren't includable.

■ **Lines 26 through 35.** For purposes of the sales factor, sales include, but aren't limited to, the following items related to the production of business income:

- Gross receipts from the sale of inventory.
- Gross receipts from the operation of farms, mines, and quarries.
- Gross receipts from the sale of scrap or by-products.
- Gross commissions.
- Gross receipts from personal and other services.
- Gross rents from real property or tangible personal property.
- Interest on trade accounts and trade notes receivable.
- A partner's share of the partnership's gross receipts or a member's share of the limited liability company's gross receipts.
- Gross management fees.
- Gross royalties from income producing activities.
- Gross franchise fees from income producing activities.

"Gross receipts" means gross sales less returns and allowances, plus service charges, freight, carrying charges, or time-price differential charges incidental to the sales. Federal and state excise taxes, including sales and use taxes, are included as part of the receipts if the taxes are passed on to the buyer or included as part of the selling price of the product.

The following items are among those not included for sales factor purposes:

- Gross receipts and gain or loss from the sale of tangible business assets, except receipts from the sale of inventory, scrap, or by-products or from the operation of a farm, mine, or quarry.
- Gross receipts and gain or loss from the sale of nonbusiness real or tangible personal property.
- Gross rents and rental income or loss from real property or tangible personal property if that real property or tangible personal property isn't used in the production of business income.
- Royalties from nonbusiness real property or nonbusiness tangible personal property.
- Proceeds and gain or loss from the redemption of securities.
- Interest, except interest on trade accounts and trade notes receivable, and dividends.
- Gross receipts and gain or loss from the sale of intangible assets, except inventory.
- Dividends deductible in determining net income.
- Gross receipts and gain or loss from the sale of securities.
- Proceeds and gain or loss from the sale of receivables.
- Refunds, rebates, and recoveries of amounts previously expended or deducted.
- Foreign exchange gain or loss.
- Royalties and income from passive investments in patents, copyrights, trademarks, trade names, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals, and technical know-how.
- Pari-mutuel wager winnings and purses.
- Other items not includable in apportionable income.

Enter on lines 26a and 26b the appropriate Wisconsin destination sales. Gross receipts from the sales of tangible personal property, except sales to the federal government, are Wisconsin sales if the property is deliv-

Line-by-Line Instructions (continued)

ered or shipped to a purchaser in Wisconsin. Sales of tangible personal property picked up by the purchaser, or the purchaser's agent, at the seller's Wisconsin business location and immediately transported to the purchaser's out-of-state business location aren't Wisconsin sales. However, if the seller doesn't have nexus with the state in which the purchaser's business is located, the sales are "thrown back" to Wisconsin as discussed later. Wisconsin sales include sales of tangible personal property that are picked up by the purchaser, or the purchaser's agent, at the seller's out-of-state business location and immediately transported to the purchaser's Wisconsin business location.

Enter on line 27a sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, in Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin. Sales to federal government locations in Wisconsin, which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin, aren't Wisconsin sales.

Enter on line 27b sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, outside Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and the seller doesn't have nexus in the destination state. These sales are included in the numerator of the sales factor at 50%.

Enter on line 27c sales, other than sales to the federal government, that are "thrown back" to Wisconsin. These are sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin to a state in which the seller doesn't have nexus. "Throwback" sales are included in the numerator of the sales factor at 50%.

Enter on line 28 the "double throwback" sales. These are sales, other than sales to the federal government, of tangible personal property by an office in Wisconsin to a purchaser in another state, but not shipped or delivered from Wisconsin, if the taxpayer doesn't have nexus in (1) the state from which the property is delivered or shipped, or (2) the destination state. "Double throwback" sales are included in the numerator of the sales factor at 50%.

Note: For purposes of throwback sales and double throwback sales, "state" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States. A foreign country isn't a state.

Enter on line 30a gross receipts from the use of computer software that the purchaser or licensee uses at a location in Wisconsin. Computer software is used in Wisconsin if the purchaser or licensee uses the software in the regular course of business operations in Wisconsin, for personal use in Wisconsin, or if the purchaser or licensee is an individual whose domicile is in Wisconsin. If the purchaser or licensee uses the computer software in more than one state, the gross receipts are divided among those states having jurisdiction to impose an income tax on the taxpayer in proportion to the use of the computer software in those states. To determine computer software use in Wisconsin, the Department may consider the number of users in each state where the software is used, the number of site licenses or workstations in Wisconsin, and any other factors that reflect the use of computer software in Wisconsin.

Enter on line 30b gross receipts from the use of computer software if the taxpayer is not subject to income tax in the state in which the gross receipts are considered received, but the taxpayer's commercial domicile is in Wisconsin. "Commercial domicile" means the location from which a trade or business is principally managed and directed, based on any factors the Department determines are appropriate, including the location where the greatest number of employees of the trade or business work, have their office or base of operations, or from which the employees are directed or controlled. These gross receipts are included in the numerator of the sales factor at 50%.

Enter on line 32a gross receipts from services if the purchaser of the service received the benefit of the service in Wisconsin. The benefit of the service is received in Wisconsin if any of the following applies:

- The service relates to real property that is located in Wisconsin.
- The service relates to tangible personal property that is located in Wisconsin at the time that the service is received or tangible personal property that is delivered directly or indirectly to customers in Wisconsin.
- The service is provided to an individual who is physically present in Wisconsin at the time that the service is received.
- The service is provided to a person engaged in a trade or business in Wisconsin and relates to that person's business in Wisconsin.

If the purchaser of a service receives the benefit of the service in more than one state, the gross receipts from the service are included in the numerator of the sales factor according to the portion of the service received in Wisconsin.

Enter on line 32b gross receipts from services, if the taxpayer is not subject to income tax in the state in which the benefit of the service is received, to the extent that the taxpayer's employees or representatives performed services from a location in Wisconsin. These gross receipts are included in the numerator of the sales factor at 50%.

Enter on line 34, for both Wisconsin and the total company, other gross receipts of apportionable income that are includable in the sales factor.

These gross receipts are attributable to Wisconsin if the income producing activity that gives rise to the receipts is performed in Wisconsin. If the income producing activity is performed partly in and partly outside Wisconsin, assign receipts to Wisconsin based on the ratio of direct costs of performance in Wisconsin to the direct costs of performance in all states having jurisdiction to tax the business.

■ **Line 39.** Add lines 19, 25, and 38. Enter the resulting percentage here and on Form 4, line 8.

Where it is shown to the satisfaction of the Department that the use of any one of the three factors gives an unreasonable or inequitable final average ratio because the corporation does not employ the factor to any appreciable extent in its trade or business in producing the income taxed, this factor may, with the Department's approval, be omitted in obtaining the final percentage which is to be applied to the apportionable income.

If both the numerator and the denominator of a factor are zero, the factor shall be eliminated from the apportionment formula. If the numerator of the sales factor is a negative number and the denominator is a positive number, a negative number, or zero, the sales factor is zero. If the numerator of the sales factor is a positive number and the denominator of the sales factor is zero or a negative number, the sales factor is one.

Line-by-Line Instructions for Form 4B-1

Interstate air carriers, motor carriers, railroads and sleeping car companies, pipeline companies, and finance companies must complete the appropriate part of Form 4B-1. Enter the apportionment percentage computed on Form 4, line 8, and check the box. Do not fill in Form 4, lines 32a through 34c.

Part III – Apportionment Percentage for Interstate Air Carriers

The apportionment percentage is the average of the following three ratios:

1. Aircraft arrivals and departures within Wisconsin scheduled by the carrier to total aircraft arrivals and departures scheduled.
2. Revenue tons handled by the carrier at airports within Wisconsin to total revenue tons handled.
3. Originating revenue within Wisconsin to total originating revenue.

See section Tax 2.46, Wisconsin Administrative Code.

Part IV – Apportionment Percentage for Interstate Motor Carriers

The apportionment percentage is the average of the following two ratios:

1. Gross receipts from carriage of persons or property first acquired for carriage in Wisconsin to total gross receipts from carriage of persons or property everywhere.
2. Ton miles of carriage in Wisconsin to ton miles of carriage everywhere.

If the above information isn't available, the Department may authorize or direct the substitution of a similar factor (for example, gross tonnage instead of gross receipts or revenue miles instead of ton miles).

See section Tax 2.47, Wisconsin Administrative Code.

Part V – Apportionment Percentage for Interstate Railroads and Sleeping Car Companies

The apportionment percentage is the average of the following two ratios:

1. Gross receipts from carriage of property or persons, or both, first acquired for carriage in Wisconsin to total gross receipts from carriage of property or persons, or both, everywhere.
2. Revenue ton miles of carriage in Wisconsin to revenue ton miles of carriage everywhere.

See section Tax 2.475, Wisconsin Administrative Code.

Part VI – Apportionment Percentage for Interstate Pipeline Companies

The apportionment percentage is the average of the following three ratios:

1. Net cost (for Wisconsin tax purposes) of tangible property owned and used in Wisconsin to produce apportionable income to total net cost of such property everywhere.
2. Traffic units (for example, barrel miles, cubic foot miles, or other appropriate measure of product movement) in Wisconsin to total company traffic units.
3. Total compensation paid to employees located in Wisconsin to total compensation paid to employees everywhere.

See section Tax 2.48, Wisconsin Administrative Code.

Part VII – Apportionment Percentage for Interstate Finance Companies

The apportionment percentage is the average of the following two ratios:

1. Gross receipts in Wisconsin to total gross receipts. Gross receipts include all business income associated with the lending of money in the normal course of business such as interest, discounts, finance charges or fees, and service charges or fees. Gains from sales of assets, charges to a related corporation for personal services of employees, and miscellaneous income aren't includable in gross receipts for purposes of this factor. Gross receipts are assigned to Wisconsin if the transaction producing the income was principally negotiated in Wisconsin.
2. Total compensation paid to employees located in Wisconsin to total compensation paid to employees everywhere. Compensation paid includes deductible management or service fees paid to a related corporation for the performance of personal services.

See section Tax 2.49, Wisconsin Administration Code.

Form 4C – Separate Accounting Data

Who Must Use

A corporation engaged in a nonunitary business in and outside Wisconsin is required to determine the amount of income attributable to Wisconsin by separate accounting. A nonunitary business is one in which the operations in Wisconsin aren't dependent upon or contributory to the operations outside Wisconsin.

A unitary business may use separate accounting only with the approval of the Department. An application for such approval must set forth, in detail, the reasons why separate accounting will more clearly reflect the corporation's Wisconsin net income. It should be mailed to the Wisconsin Department of Revenue, Mail Stop 5-144, P.O. Box 8906, Madison, WI 53708-8906 before the end of the taxable year for which the use of separate accounting is desired.

You may obtain Form 4C from any Department of Revenue office.