
STATE TAX INCENTIVES FOR ECONOMIC DEVELOPMENT IN WISCONSIN

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December 11, 2015**

The information in this report is current as of December 2015 and through 2015 Wisconsin Act 55. Laws enacted after that date, new administrative rules, and subsequent court decisions may change the interpretations provided in this publication.

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INTRODUCTION

Wisconsin offers a number of tax incentives for corporations and other businesses to locate or expand their operations within the state. This paper summarizes the major taxes imposed on businesses operating in the state and the tax incentives available to them.

Tax incentives available to businesses include exemptions, credits, and other special corporate tax treatment. In addition, the state has designated certain areas as development or enterprise zones and local governments have created tax incremental finance (TIF) districts. Businesses locating or expanding operations within the designated zones are eligible to claim tax credits. Businesses locating operations within a TIF district benefit from infrastructure financed by tax increments. The paper also discusses Wisconsin's preferential treatment of capital gains and other special tax treatments.

In 2015, there are 13 credits available for corporations to claim against the corporate income and franchise tax. An additional 23 credits are no longer able to be claimed, but credits claimed in prior years may be carried forward to offset taxes in the current year. Four other specific tax treatments for Wisconsin corporations are discussed in this paper that include deductions, exemptions, single-sales apportionment, and pass-through business organization. Businesses also may qualify for one of four property tax exemptions, and businesses expanding in Wisconsin may also be able to take advantage of one of three different types of tax incremental financing districts. A business may also qualify for six general sales and use tax exemptions in addition to targeted exemptions for specific industries. Finally, individual taxpayers who own or invest in a Wisconsin business may be eligible to claim one or more of the 14 business income tax credits that are available to individuals or one of five different types of special treatments of capital gains.

I. CORPORATE INCOME AND FRANCHISE TAX

A. DESCRIPTION

Corporations doing business in Wisconsin are subject to either an income or a franchise tax. The corporate income tax is a tax on the net income of corporations doing business in the state. The corporate franchise tax is a tax on the privilege of doing business in the state. The distinction between the two taxes is subtle, relating primarily to the restrictions under federal law on the types of income that states can tax with an income tax (e.g., interest from U.S. obligations). Corporate net income is used as the measure or base for the franchise tax and both taxes are imposed at a rate of 7.9%. The 7.9% flat rate has not been changed since 1981, except for a 10% surtax during the 1982 and 1983 tax years.

Corporate tax collections in state fiscal year (FY) 2015 were \$1,004.9 million, or 6.9% of total general purpose revenue (GPR) taxes of \$14.5 billion.

Computation of net income is federalized; that is, based primarily on the Internal Revenue Code (IRC). The starting point for computing Wisconsin net income is federal gross income, subject to certain modifications. Conformity to the IRC is not automatic in Wisconsin but rather requires adoption by statute of each federal law change. The exceptions are Section 179 expensing and depletion; in both cases, any federal changes are automatically in effect for Wisconsin for all tax years beginning on or after January 1, 2014. Wisconsin applies federal regulations, rules, and court cases interpreting the IRC, when applicable, in determining the proper treatment of an item. For taxable years beginning before January 1, 2014, for purposes of computing amortization and depreciation, Wisconsin follows IRC as of December 31, 2000. For taxable years beginning after December 31, 2013, for purposes of computing amortization and depreciation Wisconsin will follow the IRC in effect on January 1, 2014. Because the federal Tax Increase Prevention Act of 2014 was signed by the President on December 19, 2014, it was not in effect on January 1, 2014, and therefore the depreciation and amortization changes contained in the act generally do not apply for Wisconsin.

For tax years beginning on or after January 1, 2009, corporate groups with common ownership are required to file a combined tax return. Income and deduction items, with inter-company transactions generally removed, are summed for all of members to arrive at the group's income that is apportioned to each member based on the member's sales in Wisconsin.¹

Corporations that conduct business in more than one state must apportion their net income among the states with jurisdiction to tax the income. For most types of corporations, the numerator of the factor is comprised of sales in Wisconsin, while the denominator is total sales without regard to location. For members of corporate groups that are required to file a combined report, each member determines its sales both within Wisconsin as well as total sales. Sales between members of the same corporate group are disregarded. The total sales for each member are summed to derive a common denominator for the sales factor for all members. Total group income is apportioned to each member based on the member's Wisconsin sales as a share of total group sales everywhere. Members with no sales in Wisconsin will have no apportionable income that is taxable to Wisconsin.

¹ More information on Wisconsin's combined reporting law can be found at <http://www.revenue.wi.gov/comb rept/index.html>.

Wisconsin provides for differential tax treatment of business income depending on the form of organization under which a business operates. Wisconsin law permits the formation of Subchapter S corporations and limited liability companies (LLCs).² Both of these entities combine the benefits of limited liability offered to corporations, with the ability to pass-through income to the individual owners. Thus, these entities generally pay no tax at the entity level. Instead, income is passed through to the individual shareholders or members, who pay tax on the income at the lower individual income tax rates. (The individual income tax rates range from 4.5% to 7.75%, compared to the 7.9% corporate income tax rate.) This flow-through aspect of income also avoids the double taxation of C-corporation dividends that occurs when profits are first taxed at the corporate level and then again at the individual level when profits are distributed as dividends to individual shareholders. (See the discussion below of pass-through entities in the section entitled "Other Special Tax Treatments")

In tax year 2010 there were approximately 109,000 corporate returns filed. Of these, approximately 68,000, or 62.4%, were subchapter S corporation returns. The remaining approximately 41,000 were returns filed by C-corporations or LLCs that choose to be treated as corporations for tax purposes, and thus pay tax at the entity level.

For state fiscal years before FY 2012, Wisconsin also imposed a recycling surcharge on all corporations and insurance companies that pay the income and franchise tax with gross receipts exceeding \$4 million at a rate of 3% on gross tax liability. The maximum surcharge is \$9,800 and the minimum is \$25. The surcharge does not apply to entities not required to file an income tax return. Income and franchise tax credits could not be applied to reduce the amount of the recycling surcharge.

Revenue from the recycling surcharge was deposited in the segregated recycling fund and used to fund local government recycling and solid waste management programs and private business efforts to develop recycled products or markets related to these products.

Beginning in state fiscal year 2012, the recycling surcharge was renamed the economic development surcharge. All provisions of the surcharge as they apply to corporations and insurance companies remain the same, except that the revenues are deposited in a segregated economic development fund and are used to fund economic development programs of the Wisconsin Economic Development Corporation (WEDC). The economic development surcharge generated \$27.5 million in revenue in FY 2015.

B. CREDITS

A credit is an amount subtracted directly from the taxpayer's Wisconsin gross tax liability (i.e., the amount determined by applying the Wisconsin tax rate to Wisconsin taxable income) to determine Wisconsin net tax liability. A nonrefundable credit is used only to reduce the amount of tax otherwise due. If the amount of nonrefundable credits exceeds the claimant's tax liability for the year, the unused credit amounts can be carried over to future tax years (generally up to 15 years) to be used to offset tax liabilities in those years. In contrast, a refundable credit is used to offset current taxes due, and the amount of credit in excess of tax due is refunded to the taxpayer. The taxpayer may also choose to apply some or all of any excess refundable credit amount to the following year's tax liability. The descriptions below note whether the credit is refundable or non-refundable.

² Limited liability companies can choose to be treated as a corporation (paying tax at the entity level) or as a partnership or subchapter S corporation (passing through income or losses) for tax purposes.

In general, a non-refundable credit generated by a member of a corporate combined group may only be used by that member to offset its own gross tax liability. Combined group members that claim the research expense and research facilities credits may share those credits with other members of the combined group to offset their tax liability. In tax year 2012, 500 members of combined groups used \$7.7 million in research credits shared by other members of their combined group.

As used in this section, "available credit" includes new credits computed for the 2012 tax year plus the amount of any credit that was claimed in prior years but was not used to offset tax liability in those years. "Used credit" is the amount of this available credit actually applied in the 2012 tax year to offset tax liability. "Carryover credit" is the remaining available credit that is not used in the 2012 tax year and that will be available to offset tax liability in future years. Thus, "available credit" less "used credit" equals "carryover credit."

Credits that provide an incentive for certain business activities are generally available to C-corporations, LLCs that choose to be taxed as corporations, and individual taxpayers. S-corporations, partnerships, and LLCs that choose to be taxed as partnerships in general may not claim these credits. Instead, the credit amounts are passed through to the owners of the entity, who claim the credit on their tax return. For tax year 2012 and before, only C-corporations may claim the research credits. Starting in tax year 2013, individuals may claim the research credit, and S-corporations, LLCs, and partnerships may compute the research credits and pass the credit through to the entity's owners.

Table 1 and Table 2 on the following pages include data from corporate as well as individual income tax filers because the credits are available to both. As shown in Table 1, there was a total of \$590.9 million in available non-refundable credit claimed on individual and corporate returns. Of that total, \$76.3 million (12.9%) was used to offset taxes otherwise due, leaving a total of \$514.6 million to be carried forward to future tax years. In order to protect taxpayer confidentiality, data is not shown in cases where five or fewer taxpayers claimed or used a credit (totals include redacted amounts). Non-refundable credits noted with "cf" are carry-forwards only, no new credits are being granted. Since the table below reflects tax laws that were in effect in 2012, several of the credits that have been eliminated in subsequent years are not reflected as "cf" in the table but will be designated as such in future years.

All of the research credits except the Super Research Credit may be shared among members of a combined group. In the table below, the row for shared research credits shows the number of members of a combined group that received a shared research credit and the total amount of credit that was shared. The available amounts are the sum of the various research credits that may be shared. They are not shown in the "available" column for that row so as to avoid double counting since they are already shown on the lines for the individual credits.

Table 1
Tax Year 2012 Corporate and Individual Non-Refundable Credits

Credit	Credit Available		Credit Used	
	Count	Amount	Count	Amount
Manufacturer's Sales Tax (cf)	109	\$6,142,807	25	\$119,784
Manufacturing Investment	240	22,170,938	207	2,693,819
Dairy and Livestock	11,653	133,458,349	8,051	23,154,352
Community Rehabilitation Credit	70	48,020	57	17,586
Research Expense	488	240,456,395	247	18,127,861
Engine Research Expense	6	32,424,435	0	0
Energy Efficient Products Research Expense	0	0	0	0
Dev Zone Research (cf)	***	***	***	***
Post-Secondary Education	***	***	***	***
Water Consumption	***	***	***	***
Biodiesel Fuel Production Credit	***	***	***	***
Research Facility	55	23,331,973	6	847,068
Engine Research Facility	***	***	***	***
Energy Efficient Products Research Facility	***	***	***	***
Shared Research Credits Used			500	7,734,267
Super Research	90	65,261,405	34	2,333,411
Health Insurance Risk Pool	31	4,544,032	18	1,338,198
Ethanol and Biodiesel Pump	36	122,544	32	62,041
Dev Zones Jobs	8	5,741,068	***	***
Development Zones Sales Tax (cf)	***	***	***	***
Dev Zone Location (cf)	***	***	***	***
Dev Zone Daycare (cf)	0	0	0	0
Dev Zone Environmental Remediation (cf)	0	0	0	0
Development Zone	220	10,214,549	196	2,792,274
Economic Development	453	25,971,668	420	9,340,534
Technology Zone	23	1,706,783	17	466,823
Early Stage Seed	389	3,885,080	354	2,858,135
Historic Preservation	65	3,628,623	54	2,223,300
Electronic Medical Records Credit	448	3,284,528	412	1,829,887
Film Production Investment (non-refundable)	***	***	***	***
Film Production Services (non-refundable)	***	***	***	***
Totals		\$590,881,918		\$76,309,192

As shown in Table 2, a total of \$60.3 million in refundable credits were claimed in TY 2012. The largest refundable tax credit by dollar amount was the enterprise zone tax credit, followed by the farmland preservation credit for 2010 and beyond.

Table 2
Tax Year 2012 Corporate and Individual Refundable Credits

	<i>Credit Used</i>	
	Count	Amount
Enterprise Zones Jobs	9	\$28,475,721
Dairy Manufacturing Facility	131	600,161
Dairy Co-op Manufacturing Facility	***	***
Meat Processing Facility	103	602,282
Film Production Services (Ref)	13	34,997
Film Production Investment (Ref)	***	***
Woody Biomass Processing	12	108,409
Food Processing and Warehousing	127	559,233
Beginning Farmer and Farm Asset Owner	7	12,271
Jobs Tax Credit	50	10,803,347
Farmland Preservation Credit	2,960	2,022,201
Farmland Preservation 2010 and Beyond	11,799	17,104,683
Total		\$60,340,191

The credits can be grouped into one of five general categories: industry-specific credits, research credits, zone-based credits, credits for economic development, and agricultural credits.

1. Industry-Specific Credits

Manufacturing and Agriculture Credit

For taxable years beginning after December 31, 2012, a non-refundable manufacturing and agriculture credit is available.³ The credit is equal to a specified percentage of the claimant's qualified production activities income that is derived from property assessed as manufacturing or agricultural property in Wisconsin, as defined under state property tax law. Insurance companies may not claim the credit.

"Qualified production activities income" is the amount of the claimant's gross receipts for the taxable year that exceeds the direct and indirect costs that are allocable to such receipts multiplied by the gross receipts factor. "Qualified production activities income" does not include any of the following:

- a. income from film production;

³ More information on the manufacturing and agriculture credit may be found at <http://www.revenue.wi.gov/faqs/ise/manufagr.html>

- b. income from producing, transmitting, or distributing electricity, natural gas, or potable water;
- c. income from constructing real property;
- d. income from engineering or architectural services performed with respect to constructing real property;
- e. income from the sale of food and beverages prepared by the claimant at a retail establishment; or
- f. income from the lease, rental, license, sale, exchange, or other disposition of land.

Under the corporate income and franchise tax, the credit would be the lesser of a specified percentage of the claimant's:

- eligible qualified production activities income;
- income apportioned to Wisconsin for state corporate income and franchise tax purposes; or
- taxable income for corporate income and franchise tax purposes.

The specified tax credit percentages are as follows:

- 1.875% for tax years beginning after December 31, 2012, and before January 1, 2014;
- 3.75% for tax years beginning after December 31, 2013, and before January 1, 2015;
- 5.025% for tax years beginning after January 31, 2014, and before January 1, 2016; and
- 7.5% for tax years beginning after December 31, 2015.

Claimants who have been approved to be classified as manufacturers but are not eligible to be listed on the department's manufacturing roll until January of the following year may claim the credit when approved by the Department.

Unused tax credit amounts may be carried forward for up to 15 years to offset future tax liabilities.

Manufacturing Investment Credit

The manufacturer's sales tax credit was repealed for tax years beginning after December 31, 2005. For tax years beginning on or after January 1, 2008, firms that had more than \$25,000 of unused manufacturer's sales tax credit as of December 31, 2005 may claim a new nonrefundable manufacturing investment credit equal to the total unused manufacturers' sales tax credit carryforwards held before the credit was repealed.⁴ The unused credit must be amortized equally over 15 years. Unused credits can be carried forward for 15 years. Companies would be allowed to take the credit beginning in 2008 only if they were certified by the former Department of Commerce to have met one of the following criteria:

- Retention of 100% of the full-time (at least 35 hours per week) jobs employed by the company as of December 23, 2003.

⁴ Firms that had less than \$25,000 in manufacturer's sales tax credit carryforwards as of December 31, 2005 were allowed to claim 50% of the amount in tax year 2006 and 50% in tax year 2007.

- Average annual investment since January 1, 2003 equal to 2% of total book value of the company's depreciable assets in Wisconsin-based plants/facilities or \$5 million.

Film Production Credits

For tax years beginning after December 31, 2008 and before January 1, 2014, two refundable credits related to expenditures for film production in this state are available.

The film production services income and franchise tax credit is equal to 25% of the salary, wages, or labor-related contract payments paid by the claimant in the taxable year to individuals, including actors, who were residents of this state at the time that they were paid and who worked on an accredited production in this state, not including the salary, wages, or contract payments paid to any individual who was paid more than \$250,000. In addition, a credit equal to 25% of the production expenditures paid in the taxable year is available. "Production expenditures" mean any expenditures that are incurred in this state and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make-up, photography, sound recording/mixing, lighting, editing, film processing, special/visual effects, renting or leasing facilities, equipment or motor vehicles, food, lodging, and any other similar expenditure as determined by the Department of Tourism. "Production expenditures" do not include salary, wages, or labor-related contract payments.

The film production company investment credit is equal to 15% of the purchase price of depreciable, tangible personal property, if the purchase is sourced to this state. In addition, a claimant may claim 15% of the amount expended to acquire, construct, rehabilitate, remodel, or repair real property, if the production company exclusively produces accredited productions.

To be certified for either credit, the production company must apply to the Department of Tourism and pay an application fee equal to 2% of the claimant's budgeted production expenditures or \$5,000, whichever is less. Total film production services and investment credits are limited to \$500,000 in a fiscal year for all claimants.

Credit for Insurance Security Fund Assessments

Chapter 646, Wisconsin Statutes, provides a credit against state taxes, including the corporate income and franchise tax, for certain assessments levied on insurance companies by the Wisconsin Insurance Security Fund. The fund is designed to protect policyholders in cases where their insurance company has failed and is in the process of liquidation. Where the available assets and reserves of failed insurers are inadequate to meet claims, the fund may assess insurance companies doing business in the state, with some exceptions (e.g., fraternal benefit societies). Such assessments are eligible for a 100% tax credit if they cannot be recovered through higher premiums. This can occur if premiums are fixed for a particular line of business. The tax credit is nonrefundable and must be claimed in equal installments over a five-year period, beginning with the year following the one in which the assessment is made.

Health Insurance Risk-Sharing Plan (HIRSP) Assessments Credit

An income and franchise tax credit and a license fee credit are available for insurers that pay assessments for HIRSP. HIRSP offered health insurance to Wisconsin residents who were either unable to find adequate health insurance coverage in the private market

due to their medical conditions or who lost their employer-sponsored group health insurance. The credit is equal to a percentage of the amount of assessments paid by the insurer in the taxable year under the HIRSP. The Department of Revenue, in consultation with the Office of the Commissioner of Insurance, determined the credit percentage for each year, and the insurer's credit amount was the percentage times \$5 million in total credit available. For taxable years beginning after December 31, 2013 and before January 1, 2105, the total amount of credit available is \$1.25 million.

NOTE: The HIRSP assessment credit is repealed for taxable years beginning on or after January 1, 2015. Credits computed for taxable years beginning before January 1, 2015 may be carried forward for 15 years from the taxable year in which they were computed.

Biodiesel Fuel Production Credit

For tax years beginning on or after January 1, 2012 and before January 1, 2014, a nonrefundable credit was available that is equal to 10 cents per gallon for biodiesel fuel produced in Wisconsin for producers that produce at least 2.5 million gallons of biodiesel fuel per year. The maximum credit that a claimant may claim in a taxable year is \$1 million.

Credits computed for taxable years beginning before January 1, 2014 may be carried forward for 15 years from the taxable year in which they were computed.

Ethanol and Biodiesel Pump Credit

An ethanol and biodiesel fuel pump tax credit was available for tax years beginning after December 31, 2007 and before January 1, 2014. The credit was equal to 25% of the amount paid in a tax year to install or retrofit pumps located in Wisconsin that dispense motor fuel consisting of at least 85% ethanol or at least 20% biodiesel fuel or pumps that allow the end user to choose the percentage of gasoline replacement renewable fuel or diesel replacement renewable fuel. The maximum tax credit for a tax year cannot exceed \$5,000 for each service station that claims a credit for an installed or retrofitted pump. Unused credit amounts may be carried forward up to 15 years to offset future tax liabilities.

Credits computed for taxable years beginning before January 1, 2014 may be carried forward for 15 years from the taxable year in which they were computed.

Electronic Medical Records Credit

For tax years beginning after December 31, 2011 and before January 1, 2014, a nonrefundable tax credit was available equal to 50% of the amount paid by a health care provider in a tax year for information technology hardware or software that is used to maintain medical records in an electronic form. Tax credits not entirely used to offset income and franchise taxes can be carried forward up to 15 years to offset future tax liabilities. The Department of Revenue allocated \$10 million among all claimants in both 2012 and 2013. The Department of Revenue also certified health care providers as eligible to claim the electronic medical records tax credit.

Community Rehabilitation Program Credit

A community rehabilitation program tax credit that equals 5% of the amount the claimant pays in a tax year to a community rehabilitation program to perform work for the claimant's business is available for tax years beginning on or after July 1, 2011. The maximum tax credit that can be claimed is \$25,000 for each community rehabilitation program that the claimant enters into a contract with, and unused credit amounts can be carried forward up to 15 years to offset future tax liabilities. In order to claim a credit, the claimant is required to submit with the claimant's tax return verification that the claimant has entered into a contract with a community rehabilitation program and that the program has received payment from the claimant for work provided by the program.

Food Processing Plant and Food Warehouse Investment Credit

For taxable years beginning after December 31, 2009 and before January 1, 2014, a refundable credit was available for investments in modernization or expansion of food processing plants and food warehouses. "Food processing plant or food warehouse modernization or expansion" was defined as constructing, improving, or acquiring buildings or facilities, or acquiring equipment if used exclusively for food processing or food warehousing and if acquired and placed in service in this state during taxable years that begin after December 31, 2009, and before January 1, 2014.

The maximum aggregate amount of credits that may be claimed by a claimant is \$200,000 for all tax years. Claimants must be certified by the Department of Agriculture, Trade, and Consumer Protection (DATCP) as eligible for the credit, and the claimant must include a copy of the certification with the tax return when the credit is claimed. DATCP allocates credits among claimants. The maximum amount that could be allocated in fiscal year 2014 was \$700,000.

Woody Biomass Harvesting and Processing Equipment Credit

A refundable woody biomass harvesting and processing tax credit equal to 10% of the amount the claimant paid in the tax year for equipment that is used primarily to harvest or process woody biomass that is used for fuel or as a component of fuel is available for taxable years beginning after December 31, 2009. "Woody biomass" is defined as trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest or woodland or on agricultural land.

Claimants must be certified by DATCP as eligible to receive the credit, and DATCP allocates credits among claimants. The maximum amount of credit that may be allocated in a year is \$900,000, and the maximum aggregate amount of credits that a claimant may claim for all tax years is \$100,000.

NOTE: The woody biomass harvesting and processing equipment credit is repealed for taxable years beginning on or after January 1, 2015.

2. Research Credits

To encourage corporations to carry out research and development (R&D) activities in the state, five tax credits are available: a credit for R&D-related non-capital expenditures, a credit for investments in R&D facilities, an engine research credit, an energy efficient products research credit, and a super research credit. For tax years beginning before January 1, 2013, the credits are only available to C-corporations. For tax years beginning on or after January 1, 2013, all of the research expense and research facilities

credits except for the super research credit are available to individuals, members of an S-corporation, and partners of a partnership.

Research Expenditure Credit

A nonrefundable research expenditure credit for non-capital expenditures related to research activities conducted in Wisconsin is available to corporations. The credit applies only to research expenditures that are undertaken to discover information that is technological in nature and intended to be useful in the development of a new or improved business component. Expenses must be incurred in connection with research conducted in Wisconsin in order to qualify for the credit. Qualifying expenditures are defined by reference to the rules established under Section 41 of the IRC with certain exceptions. Qualified research expenses cover in-house expenses for the taxpayer's own research (wages, supplies, and computer use charges) and 65% of amounts paid or incurred for qualified research done by a person other than an employee of the taxpayer.

For taxable years beginning before January 1, 2015, the credit is equal to 5% of the excess of qualified research expenses for the current year over a base period amount. The "base period amount" is calculated in the same manner as that for the federal credit, except that the gross receipts used in computing the state credit are from sales attributable to Wisconsin (other than throwback sales) for purposes of apportionment.

For taxable years beginning after December 31, 2014, the credit is equal to 5.75 percent of the amount by which the claimant's qualified research expenses for the taxable year exceed 50 percent of the average qualified research expenses for the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit. If the claimant had no qualified research expenses in any of the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit, the claimant may claim an amount equal to 2.875 percent of the qualified research expenses for the taxable year for which the credit is claimed. Unused amounts of the credit can be carried forward for up to 15 years.

Research Facilities Credit

A research facilities credit applies to capital investments to construct and equip new research facilities or expand existing facilities located in Wisconsin. The credit is equal to 5% of the amount of qualified investments in tangible, depreciable property that is not replacement property. The rules relating to the credit are similar to the rules for the research expenditures credit. The credit is nonrefundable and unused amounts of credit may be carried forward and offset against tax liability over the next 15 years.

The research facilities credit is repealed for tax years beginning on or after January 1, 2014. Credit carryforwards from taxable years beginning before January 1, 2014 are allowed for 15 years from the year computed.

Engine Research Credits

For tax years beginning after June 30, 2007 and before January 1, 2015, a credit equal to 10% of qualified research relating to internal combustion engines including research related to designing vehicles powered by such engines and for research on improving production processes for such engines and vehicles is available. In addition, for taxable years beginning after June 30, 2007 and before January 1, 2014, a credit equal to 10%

of qualified facility expenses related to designing internal combustion engines and related substitutes such as fuel cells and electric and hybrid drives are available.

For taxable years beginning after December 31, 2014, the credit is equal to 11.5 percent of the amount by which the claimant's qualified research expenses for the taxable year exceed 50 percent of the average qualified research expenses for the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit. If the claimant had no qualified research expenses in any of the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit, the claimant may claim an amount equal to 5.75 percent of the qualified research expenses for the taxable year for which the credit is claimed.

Expenses under the engine research credits are not eligible for the regular research expenditure and research facilities credits. Unused credits may be carried forward for 15 years.

Energy Efficient Products Research Credits

For tax years beginning after June 30, 2007 and before January 1, 2015, a credit equal to 10% of qualified research relating to energy efficient products is available. In addition, for taxable years beginning after June 30, 2007 and before January 1, 2014, a credit equal to 10% of qualified facility expenses related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use are available.

For taxable years beginning after December 31, 2014, the credit is equal to 11.5 percent of the amount by which the claimant's qualified research expenses for the taxable year exceed 50 percent of the average qualified research expenses for the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit. If the claimant had no qualified research expenses in any of the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit, the claimant may claim an amount equal to 5.75 percent of the qualified research expenses for the taxable year for which the credit is claimed.

Expenses under the energy efficient products research credits are not eligible for the regular research expenditure and research facilities credits. Unused credits may be carried forward for 15 years.

Super Research and Development Credit

A credit is available for tax years beginning on or after January 1, 2011 and before January 1, 2014, for corporations that increase their research expenditures. The credit was equal to the amount of qualified research expenses for research conducted in Wisconsin in a tax year that exceeds 1.25 times the average annual amount of qualified research expenses in the corporation's previous three tax years. Unused credit amounts may be carried forward up to five years to offset future tax liabilities. "Qualified research expenses" are as defined under Section 41 of the IRC, and the research must be done in this state. Expenses for claims under the regular research expenditure credit also qualify for the super research credit as long as they exceed 1.25 times the preceding three-year average. Unused credit amounts may be carried forward for five years.

3. Zone-Based Credits

Prior to the passage of 2009 Act 2, Wisconsin had seven zone-based programs to encourage economic development in certain areas of the state: the Development Zone, Airport Development Zone, Agricultural Development Zone, Enterprise Development Zone, Technology Zone, Development Opportunity Zone, and the Enterprise Zone Jobs credit programs. Act 2 repealed the Development Zone, Airport Development Zone, Agricultural Development Zone, Technology Zone, and Enterprise Development Zone programs and replaced them with a single Economic Development Credit (see the discussion below of the Economic Development Credit), but left in place the Development Opportunity Zone and Enterprise Zone Jobs credits.

Enterprise Zone Jobs Tax Credit

A refundable enterprise zone jobs credit is available for certified businesses located in a designated enterprise zone. The Wisconsin Economic Development Corporation (WEDC) may certify a business for tax credits that begins operations in an enterprise zone if the business offers compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered to its employees working outside the zone. WEDC may also certify a business that expands operations in an enterprise zone, if the business will increase its personnel by at least 10% or the business makes a capital investment in property located in the enterprise zone equal to at least 10% of the business' gross revenues in the preceding tax year attributable to business activities in Wisconsin. Finally, WEDC may certify a business that retains existing jobs in an enterprise zone if the business makes a significant capital investment in property located in the zone, and at least one of the following applies: (1) the business is an original equipment manufacturer with a significant supply chain in Wisconsin, as determined by WEDC; or (2) more than 500 full-time employees are employed by the business in the enterprise zone

WEDC is authorized to designate no more than 30 enterprise zones, with three of the zones being areas comprising political subdivisions whose population totals less than 5,000 and at least two areas comprising political subdivisions whose population is greater than 5,000 but less than 30,000. A designation may be in effect for no more than 12 years. In determining whether to designate an area as an enterprise zone, WEDC must consider indicators of the area's economic need, infrastructure and energy support, the rate of business development, existing resources available to the area, and the effect of designation on other initiatives and programs to promote economic and community development in the area, such as job training and the creation of high-paying jobs.

The credit has five components:

- 1) A credit based on changes in the claimant's zone payroll over a base year, up to 7% of the base change. Eligible wages are those paid to new employees whose annual wages are greater than the amount determined by multiplying \$2,080 by 150 percent of the federal minimum wage in a Tier I county or municipality, or greater than \$30,000 in a Tier II county or municipality.
- 2) An additional credit based on up to 7% of wages paid to existing zone employees. Eligible wages are those paid to employees whose annual wages are greater than the amount determined by multiplying \$2,080 by 150 percent of the federal minimum wage in a Tier I county or municipality, or greater than \$30,000 in a Tier II county or

municipality. The total number of employees must be equal to or greater than the number of employees in the base year. Credit claims are limited to five consecutive years.

- 3) A credit based on the amount paid for training to upgrade the job-related skills of full-time employees who work in the enterprise zone;
- 4) A credit of up to 10% of significant capital expenditures in the zone.
- 5) For taxable years beginning after December 31, 2009, a credit equal 1% of the amount the claimant paid in the taxable year for goods or services from Wisconsin vendors, not including capital expenditures for which the credit is claimed.

Development Opportunity Zone Credit

Under the development opportunity zone program, businesses conducting economic activities in a zone may claim nonrefundable development opportunity zone credits allocated to them by WEDC. Nine zones with a total of \$46.4 million in tax credits have been authorized. Of those, six zones have expired. A zone in Janesville and one in Kenosha were authorized in 2009 Act 28 with a total credit available of \$5 million each over a five-year period. In addition, 2011 Act 37 authorized an additional zone for the City of Beloit, also for a total credit amount of \$5 million over the life of the zone. For all three of these new zones, if the original \$5 million is allocated within five years, the zones can be extended for an additional five years with an additional \$5 million each. The designation for the new zones will be effective for 60 months from the date of designation. To date, only the Janesville zone has been allocated the additional \$5 million and five additional years.⁵

Businesses locating or expanding their operations within the development opportunity zones are eligible to claim a job creation credit based on the number of new, full-time positions created; an environmental remediation credit that equals up to 50% of eligible environmental remediation costs; and an investment credit equal to 2.5% of the purchase of depreciable tangible personal property (or 1.75% of the price if the property has been expensed under section 179 of the IRC).

A capital investment credit is also available for certain businesses located in the new Kenosha, Janesville, and Beloit zones equal to 3% of qualified purchases of depreciable tangible personal property and amounts expended to acquire, construct, rehabilitate or remodel qualified real property.

4. Credits for Economic Development

Business Development Credit

For taxable years beginning on or after January 1, 2016, a refundable business development tax credit is available. The credit replaces the non-refundable Economic Development and refundable Jobs Tax credits. The business development credit is equal to all of the following, as determined by WEDC:

⁵ The new zone in Janesville was designated in March, 2010, and the designation was extended through February, 2020. The Kenosha zone was designated in March 2011 and is currently set to expire in February, 2016. The Beloit zone was designated as of August 2, 2011, the effective date of 2011 Act 37, and is currently set to expire in July, 2016.

- 1) The amount of wages the claimant paid to an eligible employee in the taxable year, not to exceed 10 percent of such wages.
- 2) In addition to any amount claimed for an eligible employee under 1., the amount of wages that the claimant paid to the eligible employee in the taxable year, not to exceed 5 percent of such wages, if the eligible employee is employed in an economically distressed area.
- 3) An amount equal to up to 50 percent of the claimant's training costs incurred to undertake activities to enhance an eligible employee's general knowledge, employability, and flexibility in the workplace; to develop skills unique to the claimant's workplace or equipment; or to develop skills that will increase the quality of the claimant's product.
- 4) The amount of the personal property investment, not to exceed 3 percent of such investment, and the amount of the real property investment, not to exceed 5 percent of such investment, in a capital investment project that involves a total capital investment of at least \$1,000,000 or, if less than \$1,000,000, involves a capital investment equal to at least \$10,000 per eligible employee employed on the project.
- 5) An amount equal to a percentage of the amount of wages that the claimant paid to an eligible employee in the taxable year if the position in which the eligible employee was employed was created or retained in connection with the claimant's location or retention of the claimant's corporate headquarters in Wisconsin and the job duties associated

WEDC may certify a person to receive tax benefits if the person is operating or intends to operate a business in Wisconsin and the person applies and enters into a contract with WEDC. The certification may remain in effect for no more than 10 cumulative years. A person is eligible to receive tax benefits if, in each year for which the person claims tax benefits, the person increases net employment in Wisconsin in the person's business above the net employment in Wisconsin in the person's business during the year before the person was certified, as determined by WEDC under its policies and procedures.

Subject to a reallocation of early stage seed investment credits (see below), WEDC may allocate up to \$17,000,000 in tax benefits in 2016 and up to \$22,000,000 per year thereafter. Any unused allocation may be carried forward. WEDC may require a person to repay any tax benefits the person claims for a year in which the person failed to employ an eligible employee required by an agreement.

Economic Development Credit

For tax years beginning after December 31, 2008 and before January 1, 2016, an economic development tax credit is available. The nonrefundable credit may be claimed against the corporate income and franchise tax or against the insurance premiums tax. The amount of credit available is limited to \$103.2 million, which is the amount of available credit that had not been allocated by the former Department of Commerce in the five zone-based programs that this credit replaces, plus an additional \$100 million. Commerce's successor, WEDC, is authorized to award up to \$164.2 million in credit, with WEDC able to request an additional \$39 million from the Joint Committee on Finance. Unused tax credit amounts may be carried forward up to 15 years to offset future tax income and franchise tax liabilities.

Under the program, a business may apply to WEDC for certification to claim tax benefits. WEDC may certify a business that conducts or intends to conduct at least one eligible activity. The eligible activities include:

- Creating and maintaining, for a period of time established by WEDC, full-time jobs in addition to any existing full-time jobs.
- Making a significant investment in new equipment, machinery, real property, or depreciable personal property.
- Making significant investments in the training or reeducation of employees for the purpose of improving the productivity or competitiveness of the business.
- Locating or retaining a corporate headquarters in Wisconsin, or retaining employees holding full-time jobs in Wisconsin.

WEDC may authorize additional tax benefits for certified claimants if the claimant conducts at least one eligible activity in an area designated by WEDC as economically distressed, or if the claimant creates, retains, or trains members of certain targeted groups.⁶

For taxable years beginning on or after January 1, 2014, the credit may be transferred to another taxpayer who can use the transferred credit to offset income and franchise taxes under Chapter 71 or insurance premium fees under Chapter 76. The credit may only be transferred in exchange for a non-monetary consideration. The claimant seeking to transfer the credit must apply to WEDC. No transfers have occurred as of November 1, 2015.

The economic development tax credit may not be computed for taxable years beginning on or after January 1, 2016; however, if the Wisconsin Economic Development Corporation has allocated tax benefits to the claimant in a contract executed before December 31, 2015, or in a letter of intent to enter into a contract before that date, the claimant may compute the credit for taxable years beginning after December 31, 2015 for as long as the contract specifies.

Jobs Tax Credit

2009 Act 28 created a refundable jobs tax credit for tax years beginning after December 31, 2009. In order to claim the credit, a business must be certified by WEDC, which may certify the business to receive credits for up to ten years. The credit is equal to 10% of the wages paid to an eligible employee and/or the amount of costs incurred to undertake training activities in a tax year. WEDC may award jobs credits of up to 10% of wages of an employee who is paid at least \$20,000 but not more than \$100,000 in a Tier I county or municipality, and at least \$30,000 but not more than \$100,000 in a Tier II county or municipality. WEDC may also award credit for costs incurred by the business to undertake training activities.

⁶ “Member of a targeted group” means a person who resides in an area designated by the federal government as an economic revitalization area, a person who is employed in an unsubsidized job but meets the eligibility requirements for a Wisconsin Works employment position, a person who is employed in a trial job, as defined in s. 49.141 (1) (n), Wis. Stats., or in a trial employment match program job as defined in s. 49.141(1)(n), a person who is eligible for child care assistance, a person who is a vocational rehabilitation referral, an economically disadvantaged youth, an economically disadvantaged veteran, a supplemental security income recipient, a general assistance recipient, an economically disadvantaged ex-convict, a dislocated worker, as defined in 29 USC 2801 (9), or a food stamp recipient, if the person has been certified in the manner under 26 USC 51 (d) (13) (A) by a designated local agency, as defined in 26 USC 51 (d) (12).

WEDC may allocate up to \$10 million in jobs tax credits in a calendar year, except that the maximum total amount that may be awarded does not apply to amounts transferred from the angel investment credit or the early stage seed investment credit (see below).

The jobs tax credit may not be computed for taxable years beginning on or after January 1, 2016; however, if the Wisconsin Economic Development Corporation has allocated tax benefits to the claimant in a contract executed before December 31, 2015, or in a letter of intent to enter into a contract before that date, the claimant may compute the credit for taxable years beginning after December 31, 2015 for as long as the contract specifies.

Early Stage Seed Investment Credit

Effective for taxable years beginning after 2004, an early stage seed investment credit is available equal to 25% of investments paid to a fund manager that invests the funds in qualified new business ventures that are certified by WEDC. The credit may be claimed against the income and franchise tax as well as against the insurance premiums tax. The maximum annual amount that may be claimed by all claimants is \$6.0 million for calendar years beginning before January 1, 2010, and \$8.0 million for calendar year 2010. For calendar years beginning on or after January 1, 2011, the maximum annual amount increased to \$20.5 million for all claimants, plus an additional \$250,000 per year for investments in nanotechnology businesses, although no certifications for the nanotechnology portion have occurred as of November 1, 2015. If the investment is held for less than three years, any previously claimed credits must be repaid to the Department of Revenue, unless during the three-year period the investment becomes worthless as determined by WEDC, or if a bona fide liquidity event occurs after the investment has been held for 12 months. In addition, if the investor has invested in the business prior to the business being certified as a qualified new business venture, investments after certification by this investor are not eligible for credit. WEDC may reallocate unused credits in any calendar year, through 2015, to the Jobs Tax Credit. For calendar years 2016 and after, WEDC may reallocate unused credits to the Business Development Credit, subject to approval of the Joint Committee on Finance.

For tax years beginning on or after January 1, 2009, a claimant may transfer unused credits to another entity. The transferor will be required to obtain prior authorization from the fund manager, and the fund manager would be required to notify the Department of Revenue and WEDC.

In order to receive investments that are eligible for the credit, a qualified new business venture, at the time of certification, must have its headquarters in the state; have less than 100 employees, at least 51% of whom are employed in the state; and have been in business for not more than ten consecutive years, and must not have received aggregate private equity investments in cash of more than \$10 million. A qualified new business venture must also be engaged in one of the following:

- manufacturing;
- biotechnology;
- nanotechnology;
- communications;
- agriculture;
- clean energy creation or storage technology;

- processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, any other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying differentiating technology;
- pre-commercialization activity related to differentiating technology that includes conducting research, developing a new product or business process; or
- developing a service that is principally reliant on applying differentiating technology.

The business may not be primarily engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable resource.

Supplement to the Federal Historic Rehabilitation Credit

A nonrefundable credit is available to encourage the rehabilitation of certified historic structures in Wisconsin.⁷ This supplement to the federal historic rehabilitation credit can be claimed only for projects that are eligible for the federal historic rehabilitation credit. The rehabilitation work must meet historic preservation standards and the expenditures must exceed the taxpayer's adjusted basis in the building. Unused amounts of the credit can be carried forward for up to 15 years. For taxable years beginning before January 1, 2013, the state supplemental credit is equal to 5% of qualified rehabilitation expenditures, as defined under Section 48 (g) of the IRC, to substantially rehabilitate certified historic buildings for use in a trade or business.

For taxable years beginning after December 31, 2012 and before January 1, 2014, the credit is equal to 10% of qualified rehabilitation expenditures. For taxable years that begin on or after January 1, 2014 the credit is equal to 20% of the qualified rehabilitation expenditures if the cost of the expenditures is at least \$50,000, the property is placed in service after December 31, 2013, and the claimant is certified by WEDC. To be certified by WEDC, the claimant must submit evidence to WEDC that the rehabilitation was recommended by US Secretary of the Interior before physical work of construction, or destruction in preparation for construction, began and the rehabilitation was approved by the state historic preservation officer

Credits certified for taxable years beginning on or after January 1, 2014 for 20% of the qualified rehabilitation expenditures may be sold or transferred to any other Wisconsin taxpayer if the transferor notifies the Department in writing and submits a copy of the transferring documents. The Department must certify ownership of the credit with each transfer. Non-profit entities may be awarded credits and may transfer those credits to other entities with a Wisconsin tax liability.

Rehabilitation Tax Credit

For taxable years beginning on or after January 1, 2014, a non-refundable rehabilitation tax credit is available. The credit is equal to 20% of the cost of qualified rehabilitation expenditures for qualified rehabilitated buildings as defined in Section 47(c)(1) of the

⁷ The credit applies to rehabilitation projects begun after December 31, 1988, and for rehabilitated property placed in service after June 30, 1989.

IRC, if the cost of the person's qualified rehabilitation expenditures is at least \$50,000 and the rehabilitated property is placed in service after December 31, 2013. The credit cannot be claimed for property listed as a contributing building in the state register of historic places or in the national register of historic places. In addition, no credit may be claimed for nonhistoric, nonresidential property converted into housing if the property has been used for housing previously. Claimants must be certified by WEDC.⁸

Unused credit may be carried forward for 15 years. The credit may be sold or transferred to any other Wisconsin taxpayer if the transferor notifies the Department in writing and submits a copy of the transferring documents. The Department must certify ownership of the credit with each transfer. Non-profit entities may be awarded credits and may transfer those credits to other entities with a Wisconsin tax liability.

Water Consumption Credit

A non-refundable credit was available for taxable years that begin after December 31, 2009 and before January 1, 2014 for claimants who are an industrial customer of a municipal water utility that is located in a federal renewal community zone in this state, and whose average annual water consumption from that utility for a 24-month period exceeds 100 million cubic feet. The credit is calculated by subtracting the claimant's water usage costs in taxable year 2009 from the claimant's water usage costs in the taxable year and multiplying by 0.5. The maximum amount that a claimant may claim in a taxable year is \$300,000.

Credits computed for taxable years beginning before January 1, 2014 may be carried forward for 15 years from the taxable year in which they were computed.

Post-Secondary Education Credit

For taxable years beginning on or after January 1, 2010 and before January 1, 2014, a credit was available for businesses that pay tuition for their employees at a qualified post-secondary institution if the individual was eligible for a grant from the Federal Pell Grant Program and is a resident of this state. A qualified post-secondary institution is defined as a University of Wisconsin System institution, a Wisconsin Technical College System institution, a regionally-accredited four-year non-profit college or university having its regional headquarters and principal place of business in this state, or a school approved by the Educational Approval Board if the delivery of education occurs in this state. The credit is equal 25% of the tuition paid, or 30% if the individual is enrolled in a course of instruction that relates to a worker shortage in this state as determined by the local Workforce Development Board. The business claims the credit for the taxable year in which the individual graduates for costs incurred or paid for all taxable years. A claimant may not claim the credit for tuition amounts paid or incurred for a family member unless the family member was employed an average of 20 hours per week at the claimant's business in the one-year period commencing participation in the education program, and if the family member is enrolled in a course of instruction that substantially relates to the claimant's business.

Credits computed for taxable years beginning before January 1, 2014 may be carried forward for 15 years from the taxable year in which they were computed.

⁸ Effective June 24, 2014, WEDC has placed a moratorium on accepting applications for the Rehabilitation Tax Credit. As of this writing, the moratorium is still in place.

Relocated Business Credit

For taxable years beginning after December 31, 2010 and before January 1, 2014, a nonrefundable credit was available for businesses that relocated to this state from another state or country. The credit was equal to the net Wisconsin tax liability of the businesses after taking into account all other allowable credits, deductions, and exclusions, and could be claimed for two taxable years beginning with the year in which the business relocated to Wisconsin. To be eligible for the credit, the claimant must not have done business in this state in the any of the two preceding taxable years.

NOTE: The relocated business credit is repealed for taxable years beginning on or after January 1, 2014, except that a business first eligible to claim a credit for taxable years beginning after December 31, 2012 and before January 1, 2014 may claim the credit in the following taxable year.

5. Agricultural Credits

Dairy and Livestock Farm Investment Credit

A nonrefundable credit is available for 10% of expenses to modernize or expand a dairy or livestock farm. Dairy animals include heifers raised as replacement dairy animals. Livestock includes cattle (not including dairy animals), swine, poultry (including farm-raised pheasants but not including other farm-raised game birds or ratites), fish that are raised in aquaculture facilities, sheep, and goats. The aggregate amount of credit that a taxpayer may claim is \$75,000 for expenses to construct, improve, and acquire buildings or facilities and equipment, for dairy animal housing, confinement, feeding, milk production, and waste management, except that no more than \$50,000 may be based on expenses that are incurred prior to May 27, 2010. The credit may be claimed for dairy farm modernization or expansion for taxable years beginning after December 31, 2003, and for livestock farm modernization or expansion for taxable years beginning after December 31, 2005. Both credits are repealed for tax years beginning on or after January 1, 2014. A taxpayer may carryforward credits for 15 years for those credits computed for taxable years beginning before December 31, 2013.

Farmland Preservation Credit

Corporations are eligible for Farmland Preservation Credits and must generally meet the same requirements as individual taxpayers. Income for corporations is defined as the sum of net corporate income, any business loss carryforward allowed under section 71.26 (4), Wis. Stats., and the household income of each corporate shareholder including the income of spouse, dependents, and other members of the household. Corporations must include in income farm depreciation in excess of \$25,000, all nonfarm depreciation, and nonfarm business losses. The credit is refundable.

The credit is available for tax years through 2009, although the credit may still be claimed for tax years after 2009 for preservation agreements entered into before July 1, 2009. For tax years 2010 and after, the Farmland Preservation Credit and the Farmland Tax Relief Credit have been replaced with a single program called the Farmland Preservation Credit, 2010 and Beyond (see below).

Farmland Preservation Credit, 2010 and Beyond

Beginning in tax year 2010, a refundable per-acre farmland preservation credit is available under which a claimant may claim as a credit against income taxes an amount calculated by multiplying the claimant's qualifying acres by one of the following amounts:

- \$10 if the qualifying acres are located in a farmland preservation zoning district and are also subject to a farmland preservation agreement that is entered into after July 1, 2009;
- \$7.50 if the qualifying acres are located in a farmland preservation zoning district but are not subject to a farmland preservation agreement that is entered into after July 1, 2009; or
- \$5 if the qualifying acres are subject to a farmland preservation agreement that is entered into after July 1, 2009 but are not located in a farmland preservation zoning district.

Dairy Manufacturing Facility Investment Credit

For tax year beginning after December 31, 2006 and before January 1, 2014, a refundable credit was available based on expenses incurred for modernization or expansion of a dairy manufacturing facility in this state. The maximum annual amount of credit that was allocated to all claimants was \$700,000. The maximum aggregate amount a single C-corporation could claim for all years is \$200,000. S-corporations, partnerships, and limited liability companies could claim a maximum of \$200,000 for each of its manufacturing facilities. "Dairy manufacturing modernization or expansion" is defined as constructing, improving, or acquiring buildings or facilities, or acquiring equipment, if used exclusively for dairy manufacturing.

Dairy manufacturers must be certified as eligible for the credit by DATCP. In the event that the total dollar amount of applications for the credit exceeded the annual limit, DATCP allocated the credit on a pro-rata basis to the applicants.

Dairy Cooperative Manufacturing Facility Investment Credit

For tax years beginning after December 31, 2008 and before January 1, 2014, a refundable credit was available to dairy cooperatives based on expenses incurred for modernization or expansion of the cooperative's dairy manufacturing facility in this state. A member of a dairy cooperative could claim the credit in the year after the year in which the modernization or expansion occurred. The maximum amount of credit allocated to all cooperatives is \$600,000 in FY 2010 and \$700,000 in FY 2011 through 2014. The maximum aggregate amount a single cooperative could claim for all years is \$200,000 for each of its manufacturing facilities. The dairy cooperative must apply to DATCP for the credit but does not claim the credit itself. Instead, the cooperative passed the credit through to its members. The definition of "dairy manufacturing facility" and other terms are the same as for the dairy manufacturing facility credit outlined above.

Meat Processing Facility Investment Credit

2009 Act 2 created a refundable meat processing facility investment tax credit equal to 10% of the amount the claimant paid in the tax year for meat processing modernization or expansion related to the claimant's meat processing operation. The tax credit could

be claimed for tax years beginning after December 31, 2008 and before January 1, 2014. The maximum aggregate amount of meat processing facility investment tax credits that could be claimed by a claimant in all years is \$200,000. The total amount of tax credits that could be claimed is limited to \$300,000 in fiscal year 2010 and \$700,000 in fiscal years 2011 to 2013.

"Meat processing modernization or expansion" is defined as constructing, improving, or acquiring buildings or facilities or acquiring equipment for meat processing if acquired and placed in service in this state during taxable years that begin after December 31, 2008, and before January 1, 2014.

Meat processors must be certified as eligible for the credit by DATCP. In the event that the total dollar amount of applications for the credit exceeded the annual limit, DATCP allocated the credit on a pro-rata basis to the applicants.

Farm Asset Owner Credit

Available for tax years beginning after December 31, 2010 and before January 1, 2014, the refundable farm asset owner tax credit was equal to 15% of the lease amount received by an established farmer in the year to which the claim related. "Lease amount" is defined as the amount of the cash payment paid by a beginning farmer to an established farmer each year for leasing the established farmer's agricultural assets. The credit could only be claimed for the first three years of any lease of the established farmer's assets to a beginning farmer. An individual is a beginning farmer if they have:

- a net worth of less than \$200,000;
- farmed for fewer than ten years out of the preceding 15 years;
- entered into a lease for a term of at least three years with an established farmer for the use of the established farmer's agricultural assets by the beginning farmer; and
- used the leased agricultural assets for farming.

C. OTHER SPECIAL TAX TREATMENTS

Wisconsin offers additional tax incentives in the form of deductions, exemptions, apportionment provisions, and organizational form of entity.

1. Deduction for Corporate Dividends Received

A deduction is allowed for 100% of dividends received from subsidiaries in which the parent company owns at least 70% of the voting stock. The deduction is also allowed for dividends received by one member of a combined group that are paid by another member of the same combined group if the dividends are paid out of the earnings and profit reported on the combined return. The ownership threshold for membership in a combined group is at least 50% of the voting stock.

The rationale for the deduction is that corporations are required to treat their investment income, including dividends, as business income subject to the multistate apportionment formula. In the case of dividends received from unitary subsidiaries, the transactions do not constitute the realization of income but merely the transfer of funds among branches of a unitary business entity. The deduction provides the same treatment as that for similar transfers of funds among unincorporated divisions, which are not taxed.

2. Exemption for Disaster Relief Work

For taxable years beginning on or after January 1, 2015, an exemption from the state income and franchise taxes is available for out-of-state businesses and out-of-state employees that perform work to repair or service infrastructure in Wisconsin that has been damaged in connection with a state of emergency declared by the Governor.

The exemption applies during a disaster relief period that begins ten days before the start of a state of emergency and ends 60 days after the state of emergency ends. An out-of-state business means a business, whether operated for profit or not for profit, that is not organized under the laws of Wisconsin, and that, except for performing qualified disaster relief work, was not doing business in Wisconsin during the three taxable years immediately preceding the disaster period or the taxable year in which the declared state of emergency occurs.

3. Apportionment Formula

Corporations that conduct business in more than one state must apportion their net income among the states with jurisdiction to tax the income. For taxable years 2007 and before, the Wisconsin portion of taxable income for businesses that operated in multiple states was determined by using a formula that had three factors – sales, payroll, and property. For tax years 2008 and after, a single sales factor formula is used, with the numerator being Wisconsin sales and the denominator being total companywide sales.

The change to a single sales factor did not affect equally all corporations with income apportionable to Wisconsin. Individual companies could have had a tax increase or a tax decrease depending on the organization of their business compared to prior law. A multi-state company based in Wisconsin (and therefore having a larger share of its total property and payroll in the state) with relatively greater sales outside Wisconsin benefits from a single sales factor formula. For example, a company with 80% of its property and 60% of its payroll attributed to Wisconsin and in-state sales of 20% would have apportioned 45% of its income to Wisconsin under the double-weighted sales factor formula $((80\% + 60\% + 20\% + 20\%) / 4 = 45\%)$. If income were apportioned with a single sales factor formula, the company would apportion 20% of its income to Wisconsin.

At the other extreme, a non-Wisconsin corporation with 1% of its property and 0.5% of its payroll in Wisconsin and Wisconsin sales of 2% would have a Wisconsin apportionment factor of 1.38% under the present double-weighted sales formula. This company would apportion 2% of its income to the state under the single sales factor formula. While the difference between 2% and 1.38% may not appear to be overly significant, when applied to the apportionable income of a large multi-state or multinational corporation, the difference in Wisconsin corporate tax liability can be substantial.

For most types of corporations, the numerator of the factor is comprised of sales in Wisconsin, while the denominator is total sales without regard to location. For members of corporate groups that are required to file a combined report, each member determines its sales both within Wisconsin as well as total sales. Sales between members of the same corporate group are disregarded. The total sales for each member are summed to derive a common denominator for the sales factor for all members. Total group income

is apportioned to each member based on the member's Wisconsin sales as a share of total group sales everywhere. Members with no sales in Wisconsin will have no apportionable income that is taxable to Wisconsin.

Like most states, Wisconsin uses special apportionment formulas for certain industries. The following table shows the special industry factors used in the apportionment formula. Each factor measures the share of Wisconsin activity to total activity, e.g., Wisconsin payroll to total payroll. In each case where multiple factors are listed, the apportionment percentage for the specific industry is the arithmetic average of the factors listed.

**Table 3
Special Industry Apportionment Factors**

Industry	Factors
Interstate Pipeline Companies	Three equally-weighted factors - property, payroll, and traffic units
Interstate Financial Institutions	Single receipts factor
Interstate Telecommunications Companies	Three equally-weighted factors - property, payroll, and sales
Insurance Companies	Single premiums factor
Interstate Air Carriers	Three equally-weighted factors - revenue tons, originating revenues, and arrivals and departures
Interstate Motor Carriers	Two equally-weighted factors - gross receipts and ton miles of carriage
Interstate Railroads, Sleeping Car Companies, Car Line Companies	Two equally-weighted factors - gross receipts and revenue ton miles
Interstate Broker-Dealers, Investment Advisers, Investment Companies, and Underwriters	Single receipts factor

In calculating the sales factor under the multi-state apportionment formula, taxpayers are required to treat certain "throwback" sales as being the equivalent of Wisconsin sales. Throwback sales are shipments to the federal government or to customers located in states where the seller is not subject to tax due to the nexus standards defined by federal law (P.L. 86-272) and further clarified by the Wisconsin Administrative Code.

Under nexus standards, a corporation must have some type of operations in a state in the form of property or employees before its income can be taxed by that state. A corporation cannot be taxed by a state in which it does not have nexus. The purpose of the throwback rule is to ensure that 100% of a multi-jurisdictional corporation's income is apportioned to states with jurisdiction to tax it (it does not matter if the state actually imposes a corporate income tax). In the absence of a throwback rule, sales to destinations where the seller does not have nexus would not be included in the numerator of the sales factor of any state. This would result in a company paying tax on less than its entire income.

4. Exemption for Activities of Out-Of-State Publishers and Certain Other Foreign Corporations

Certain foreign corporations are exempt from the state nexus guidelines and, therefore, are not required to file a Wisconsin tax return. In particular, out-of-state publishing companies that contract with Wisconsin printing firms for the printing, storage and distribution of books, magazines, and other publications are exempt from income and franchise tax. As a result, foreign publishers, often with no payroll, plant or equipment in Wisconsin, are not liable for Wisconsin tax simply because they purchase raw materials and store inventory on the premises of in-state printers. This exemption removes a disincentive for the publishers to do business with in-state printers.

In addition, the temporary storage of inventory on the premises of Wisconsin firms when the intent is to distribute all of the goods outside the state does not create nexus for the out-of-state firms.

5. Pass-Through Entities

Wisconsin provides for differential tax treatment of business income depending on the form of organization under which a business operates. Business income of S-corporations, partnerships, and limited liability companies that choose to be treated as partnerships is reported and taxed on the individual income tax returns of the owners (shareholders, partners or members) of the business.

Wisconsin law permits the formation of Subchapter S-corporations and limited liability companies. Both of these entities combine the benefits of limited liability offered to corporations with pass-through of income to the individual owners. Thus, these entities generally pay no tax at the entity level. Instead, income is passed through to the individual shareholders or members who pay tax on the income at the lower individual income tax rates. (The individual income tax rates range from 4.0% to 7.65%, compared to the 7.9% corporate income tax rate.) This flow-through aspect of income also avoids the double taxation of C-corporation dividends that occurs when profits are first taxed at the corporate level and then again at the individual level when profits are distributed as dividends to individual shareholders.

Wisconsin has a number of provisions that give preferable treatment of capital gains for investment in Wisconsin businesses. Members of an S-corporation or limited liability corporation and partners of a partnership may be able to take advantage of these provisions. They are discussed in the section individual income tax section of this paper beginning on page 34.

a. *Subchapter S-Corporations*⁹

Wisconsin has federalized its treatment of Subchapter S-corporations. Subchapter S, or "tax-option" corporations, elect to have their income exempted from the corporate income tax. The net profit or loss of these companies, with certain exceptions, is instead attributed to stockholders on a prorated basis and taxed under the individual income tax. Interest income on debt issued by federal, state, and

⁹ For more information on Wisconsin tax treatment of Subchapter S corporations, see Publication 102, "Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders," available at <http://www.revenue.wi.gov/pubs/pb102.pdf>.

municipal governments is taxable at the entity level. In addition, S corporations with more than \$4 million in gross receipts are also subject to the economic development surcharge. Finally, S corporations are subject to a tax on certain built-in gains (gains on sale of assets held at the time of conversion to an S corporation).

Typically, "tax-option" corporations are small businesses with fairly simple capital structures. The IRC restricts the number of shareholders to a maximum of 100. It also imposes a number of other limitations, such as the amount of passive investment income that can be earned and the types of stock that can be issued.

Tax liability is determined as of the end of each stockholder's tax year and must be paid regardless of whether or not the corporate income has been distributed. A major impact of exempting S-corporation income at the entity level is that capital gains realized by the S-corporation qualify for the state net capital gain exclusion for individuals when the gains are passed through to the shareholders. Up until tax year 2009, this exclusion was 60% for long term gains; 2009 Act 28 reduced the exclusion to 30%.¹⁰

b. *Limited Liability Companies (LLCs)*¹¹

Owners (called members) of limited liability companies (LLCs) are taxed on the flow-through income of the company at lower individual income tax rates rather than at the higher corporate rate if the LLC elects to be treated for tax purposes as a partnership or S-corporation. LLCs allow for greater flexibility than S-corporations in the way they can be structured. For example, while S-corporations allow only individuals to be owners, LLC members can include corporations, partnerships, foreign entities, trusts, and charitable organizations as well as individuals. An LLC can have an unlimited number of members as owners and profits and losses can be more freely allocated among the members.

An LLC may be classified for federal income tax purposes as a partnership, a corporation, a subchapter S-corporation, or as an entity disregarded as a separate entity from its owner. If an LLC is classified as a partnership for federal income tax purposes, it is treated as a partnership for Wisconsin purposes. An LLC classified as a corporation for federal income tax purposes is treated as a corporation by Wisconsin. An LLC disregarded as a separate entity for federal income tax purposes is also disregarded as a separate entity for Wisconsin income tax purposes.

c. *Partnerships*

A partnership is an association of two or more persons to carry on as co-owners a trade or business for profit. The term "partnership" includes a limited partnership, registered limited liability partnership, syndicate, group, pool, joint venture, or other unincorporated organization, through or by means of which any business, financial operation, or venture is carried on, and is not, within the meaning of the Wisconsin income tax law, a corporation, trust, estate, or sole proprietorship.

¹⁰ Long-term capital gains of farm assets retain the 60% exclusion. Farm assets include farm livestock, farm real property, farm depreciable property or farm equipment.

¹¹ For more information on Wisconsin tax treatment of limited liability companies, see Publication 119, "Limited Liability Companies," available at <http://www.revenue.wi.gov/pubs/pb119.pdf>.

As with S-corporations and LLCs that elect to be treated as partnerships for tax purposes, income and losses generated by the partnership are passed through to the partners and will be reported on the partner's individual returns.

II. PROPERTY TAX

A. DESCRIPTION

All real and tangible personal property is subject to taxation unless expressly exempt. Except for farmland, agricultural forest, and undeveloped land, real property is assessed at full market value, i.e., the full value ordinarily obtained through an arms-length transaction. Personal property is assessed at true cash value. Classes of real property include: residential, commercial, manufacturing, agricultural, agricultural forest, undeveloped, productive forest land, and other (defined as farm buildings and improvements to land). Intangible property is not subject to the property tax.

In general, municipal assessors are responsible for property valuation, except for valuation of manufacturing, telecommunication, and utility properties. Property is assessed on the value as of January 1. The Department of Revenue (DOR) assesses manufacturing, telephone, and utility properties. Manufacturers annually submit, on or before March 1, self-reporting forms of the original installed costs of all property owned that is still in operation. DOR conducts field appraisals of each parcel once every five years.

Property tax incentives include specific exemptions and tax incremental financing.

B. EXEMPTIONS

1. Machinery and Equipment Used in Manufacturing

Machinery and equipment used exclusively and directly in the manufacturing process is exempt from property taxes. Typically, the exemption greatly reduces the property tax burden on manufacturers. Machinery and equipment used for nonmanufacturing purposes, furniture, fixtures, other office equipment, and other personal property, such as supplies or leasehold improvements, are still taxable. As of 2012, there were approximately 15,000 manufacturing establishments in Wisconsin.¹² DOR conducts property assessment for approximately 8,140 manufacturers in the state.¹³ For the 2015/16 property tax year, \$2.99 billion (or approximately 24.3 percent of the total taxable personal property) of manufacturing machinery and equipment was taxable. DOR does not have information regarding the value of the tax-exempt manufacturing machinery and equipment.

2. Merchants' and Manufacturers' Inventories

Inventories of manufacturers and merchants are fully exempt from personal property taxes. A tax on inventories is viewed as inequitable, because businesses differ in their annual inventory cycle, making a fixed date of assessment a poor measure of average

¹² Preliminary Statistics for All U.S. Firms by Sector, Gender, Ethnicity and Race for the U.S. and States: 2012. U.S. Census Bureau. The figure reflects all firms in Wisconsin that are categorized as manufacturers under the North American Industry Classification System (NAICS, 31-33).

¹³ As of January 2015, DOR registered 9,633 accounts associated with companies that are classified as manufacturers per sec. 70.995 for the purpose of DOR property assessment. A company may have multiple accounts registered with DOR. 8,140 accounts resulted after duplicate accounts under the same company name had been removed.

inventory levels. In addition, taxing inventories is considered penalizing businesses for storing products in Wisconsin.

3. Waste Treatment Facilities

Certain facilities used to treat wastes are exempt from general property taxation. A waste treatment facility is property (land, improvements, and machinery) used for the treatment of industrial waste materials, including particulates, gas, solids, liquids, and other superfluous products. Qualifying facilities must remove, alter, or store waste materials. The exemption is available to utilities, manufacturers, and commercial businesses. An estimate of the total tax-exempt waste treatment property value is not available.

4. Computer Equipment

Wisconsin provides property tax exemptions for certain computer equipment. Exempt from tax are the following:

- mainframe computers, minicomputers, personal computers, networked personal computers;
- servers, terminals;
- monitors, disk drives, electronic peripheral equipment, tape drives, printers;
- basic operational programs, systems software, prewritten software; and
- fax machines, cash registers

The exemption does not apply to copiers, custom software, equipment embedded with computerized components or telephone systems. Affected local taxing jurisdictions receive computer aid payments as compensation for the lost tax base. For the 2014/15 property tax year, approximately \$2.88 billion in computer equipment was property tax-exempt, and the statewide total of the computer aid payments was approximately \$70.48 million.

C. TAX INCREMENTAL FINANCING

Wisconsin allows the use of tax incremental financing (TIF) as a development tool for cities, villages, large towns, and, for limited projects, small towns and counties. The purpose of TIF is to encourage economic development that would not occur without public assistance. A municipality may form a TIF district (TID) for purposes specified by statute. These purposes, as well as other statutory requirements and restrictions, vary by type of municipality and are discussed below.

A review board made up of representatives from the overlying taxing jurisdictions and a public member must approve the creation of the district and the district's project plan. The project plan must show that the development would not occur without the TIF district. This board may request DOR review of objective facts regarding a proposed TID. The project plan must include, but is not limited to, the description of boundaries, the finding that the TID satisfies territorial limits, and the finding that the proposed TID is blighted, in need of rehabilitation, or suited for industrial or mixed use.

When a TIF district is created, the current value in the district is set as its "base value." Improvements and development that occur after the district's creation may lead to

increases in its value over the base value, referred to as "increment value." The TID uses property tax revenues on the increment values (incremental tax revenues) to pay for the costs of development. In this way, all taxing jurisdictions, instead of the municipality as a sole provider, share the financial burden of developing the infrastructure for the district.

Typical public improvements in a district include land acquisition, sewer and storm water construction, and street improvements. Property owners in the district pay the same amount of property taxes as they would outside a TID; however, the taxes paid on the value increases go directly to paying for the public improvements made within the district. The tax on the base value continues to go to the taxing jurisdictions that levy the tax. After a TID terminates, all taxing jurisdictions share property tax levied on the entire taxable properties, both the base value and the increment value, within the TID.

1. TIF for Cities and Villages

Cities and villages that create a TID must declare the type of district created: "blighted," "rehabilitation or conservation," "industrial" or "mixed-use." The declaration is based on the type of real property that makes up at least 50 percent of the area in the district, or which of the four types is predominant in the district. Each type of TID must meet specific requirements for its designation and adhere to defined project expenditure and maximum life periods.

A city or village may create a TID as long as the equalized value of the proposed TID, plus the increments of all existing TIDs in the municipality, do not exceed 12 percent of a municipality's total value. The 12-percent test does not apply if, simultaneously, a new TID is created and territory of equal or greater value is subtracted from an existing TID. In addition, annexed land may not be included in a TID until three years after its annexation, unless there is a border agreement or tax payment to the town by the annexing municipality. A municipality may amend a TID project plan up to four times after its creation.

As of November 2015, there are 1,113 active city and village TIDs in Wisconsin.

2. Town TIF

A town whose total equalized value is at least \$500 million and population is at least 3,500, has the same power and authority of a city or village to create a TID¹⁴.

A town that does not meet the criteria noted above may use city powers to create a TID, if the town has entered into a cooperative plan with a city or village for annexation of the town or part of a town in a future. The annexing city or village must approve the creation of the town TID. In addition, the small towns can create TIDs for limited projects that fall within the following North American Classification System (NAICS) codes:

- Agricultural: crop production (111), agricultural production (112), support activities for agriculture (1151) or animal production (1152), and refrigerated farm product warehousing and storage (493120).
- Forestry: forestry and logging (113) and support activities for forestry (1153).

¹⁴ The town is also required to have a sewer service provided within a newly created TID.

- Manufacturing: animal slaughtering (3116), wood product manufacturing (321), paper manufacturing (322), and ethyl alcohol manufacturing (325193).
- Tourism: recreational and vacation camps (721214), recreational vehicle parks and campgrounds (721211), racetracks (711212), dairy product stores (part of 445299), and public golf courses (part of 71391).

Town TIDs allow limited residential development, including sleeping quarters for employees, but specifically prohibit hotels and general residential development. Also, town TIDs may include retail development only for products that are produced as a result of an agricultural or forestry project. Town TIDs also are subject to many of the provisions that apply for TIDs in cities and villages.

As of November 2015, there are nine active TIDs located in towns.

3. Environmental Remediation TIF

Since 1997, cities, villages, towns, and counties have the authority to create environmental remediation (ER) TIDs to recover the costs of remediation of environmental pollution. The funding mechanism is the same as other TIDs; however, there are several differences between the two financing tools.

Project expenditures for ER TIDs are limited to costs associated with environmental remediation, such as professional services associated with the investigation, containment, removal, and monitoring of contaminants. An ER TID may incur expenditures prior to the creation of the district.

As of June November 2015, there are 15 active ER TIDs in Wisconsin.

III. SALES AND USE TAX

A. DESCRIPTION

Wisconsin imposes a 5% tax on the sale or use of tangible personal property that is not specifically exempted from the tax, and on selected services that are explicitly listed as subject to tax. Taxable services include hotel or other temporary lodging, event admission fees, certain telecommunications and telephone answering services, laundry and dry cleaning, photographic services, parking, repair and other services to tangible personal property, certain printing and production services, cable television services, and landscaping services.¹⁵

Counties may impose a 0.5% local sales and use tax on the same tax base as the state sales tax. As of July 1, 2015, 62 of the state's 72 counties impose the additional tax. A 0.5% professional football stadium district sales and use tax was imposed only in Brown County. Proceeds of this tax were used to finance the renovation of Lambeau Field in Green Bay. After meeting certain reserve fund requirements, the district repealed the tax effective September 30, 2015. A 0.1% professional baseball park district sales and use tax is imposed in five counties (Milwaukee, Ozaukee, Racine, Washington, and Waukesha). Proceeds of this tax are used to finance Miller Park in Milwaukee.

B. EXEMPTIONS

The following exemptions from the sales and use tax apply to a wide number of industries. In addition, Wisconsin provides exemptions targeted at specific industries, including construction, farming, manufactured home production, printing, newspapers, and logging.

1. Manufacturing Machinery and Equipment

Wisconsin allows a comprehensive sales and use tax exemption for purchases of machinery and equipment used directly and exclusively in a manufacturing process. Manufacturing is defined as the production of a new item of tangible personal property using machinery. The new article must be of a different form or have a different use or name than the material from which it was created. Machinery and equipment used in activities such as the storage or delivery of finished products or research and development are not exempt. In FY14, the sales and use tax exemption for manufacturing machinery and equipment reduced sales and use taxes by an estimated \$198.7 million for the approximately 11,600 filers that classified themselves as manufacturers.

2. Manufacturers' Materials

Wisconsin exempts from sales and use tax tangible personal property that becomes an ingredient or component part of an item of tangible personal property. Wisconsin also exempts sales of tangible personal property that is consumed or loses its identity in the process of manufacturing tangible personal property.

3. Fuel and Electricity Used in Manufacturing

¹⁵ More information can be found in Department of Revenue sales tax publications, available at <http://www.revenue.wi.gov/html/taxpubs.html#sales>

Beginning January 1, 2006, fuel and electricity used in manufacturing is exempt from sales tax. This exemption replaced the income and franchise tax credit for sales and use taxes paid for fuel and electricity used in manufacturing. In FY14, this exemption is estimated to have reduced sales and use taxes by \$116.4 million.

4. Pollution Abatement, Waste Treatment, and Recycling Equipment

Wisconsin exempts from sales and use tax pollution abatement equipment and waste treatment facilities. Also exempted are replacement parts, chemicals, and supplies used for pollution abatement or waste treatment.

5. Trucks, Tractors, and Buses sold to Common or Contract Carriers

Sales of trucks, truck tractors, buses, trailers and semi-trailers and accessories, parts and supplies sold to common or contract carriers are exempt from sales tax. This exemption applies to urban mass transportation, bus and trucking companies, and other contract carriers. This exemption is estimated to have reduced sales and use taxes by \$31.3 million in FY14.

6. Biotechnology and Manufacturing Research

2009 Wisconsin Act 28 (the 2009-2011 budget bill) created exemptions from the sales and use tax for purchases of machinery and equipment and tangible personal property used exclusively and directly in, or consumed in, qualified research in manufacturing or biotechnology. 2013 Wisconsin Act 20 (the 2013-2015 budget bill) extended this exemption to non-biotechnology, non-manufacturer members of combined groups performing qualified research on a behalf of a biotechnology business or manufacturer in the combined group. 2009 Act 28 also created exemptions for machines, equipment, and tangible personal property used exclusively and directly in raising animals sold to a biotechnology business, a public or private institution of higher education, or a governmental unit for exclusive use in qualified research. These exemptions are estimated to reduce sales and use taxes by \$15.0 million annually.

IV. INDIVIDUAL INCOME TAX

A. DESCRIPTION

Wisconsin imposes an individual income tax on a tax base that conforms closely to the federal personal income tax base. Although Wisconsin law is based largely on federal law, the Legislature must actively adopt federal law changes in order for them to apply for Wisconsin tax purposes.

Wisconsin income tax liability is computed by:

- applying Wisconsin modifications to Federal Adjusted Gross Income,
- reducing total income by deductions or exemptions permitted under Wisconsin law,
- applying the tax rates to the remaining income, and
- reducing tax by any credits allowed against tax liability.

The 2015 tax rates are shown in the following table. For all tax years beginning after 2001, all personal income tax brackets are indexed each year based on the consumer price index.

**Table 4
Tax Rates and Brackets, 2015**

Single	Married, Joint	Married, Separate	Marginal Tax Rates
\$0 - \$11,090	\$0 - \$14,790	\$0 - \$7,400	4.00%
\$11,091 - \$22,190	\$14,791 - \$29,580	\$7,401 - \$14,790	5.84%
\$22,191 - \$244,270	\$29,581 - \$325,700	\$14,791 - \$162,850	6.27%
\$244,271 +	\$325,701 +	\$162,851 +	7.65%

Wisconsin also imposes an alternative minimum tax on taxpayers who excessively reduce their regular income tax liability through the use of deductions or credits. The alternative minimum tax equals 6.5% of alternative minimum taxable income. Less than one percent of individual filers paid Wisconsin alternative minimum tax in 2013. Wisconsin's alternative minimum tax will adopt the federal income limits and phase-outs beginning in 2016.

B. CAPITAL GAINS TREATMENTS

1. Exclusion for Long-Term Capital Gains

Wisconsin allows individual taxpayers to exclude 30% of the net capital gain on non-farm assets held more than one year and 60% of the net capital gain on farm assets held more than one year. This exclusion is intended to encourage capital investment. The amount of the exclusion is also excluded from the tax base for the state alternative minimum tax.

2. Special Capital Gains Treatment for Wisconsin Small Businesses

For stock acquired after December 31, 2013, Wisconsin has conformed to the federal small business stock exclusion.

3. Capital Gains Exclusion for Intergenerational Transfers of Farming and Business Assets

Wisconsin excludes from income all capital gains from intergenerational transfers of farming and business assets that are held more than one year and are sold, or otherwise disposed of, to persons related to the seller within the third degree of kinship. The exclusion applies to a limited number of transfers each year.

4. Income Tax Deferral for Capital Gain Reinvested in Wisconsin Businesses

Beginning in 2011, Wisconsin allows an income tax deduction for the full amount of the net capital gain on an investment held more than one year if the gain is reinvested in a qualified Wisconsin business. The investor's basis in the new investment is reduced by the amount of the subtraction. Qualified Wisconsin businesses must have at least 50% of their payroll and property in Wisconsin and must register with DOR.

5. Capital Gain Exclusion for Wisconsin Businesses

Beginning with investments made in 2011, Wisconsin allows individual taxpayers to exclude the net capital gain from investments in Wisconsin businesses held for at least five uninterrupted years. Qualified Wisconsin businesses must have at least 50% of their payroll and property in Wisconsin and must register with DOR.

C. CREDITS AND DEDUCTIONS

The business credits described in the Corporate Income and Franchise Tax section are generally also available to individual filers. Typical individual filers who claim these credits are sole proprietors or owners of pass-through entities. The data in Table 2 and Table 3 include individual income tax filers where applicable. The remainder of this section describes those items that are unique to individual filers.

1. Angel Investment Credit

Individuals who invest in qualified new business ventures may claim the Angel Investment Credit. The Angel Investment Credit is equal to 25% of the claimant's bona fide angel investment made directly in a qualified new business venture in a tax year. The qualified new business venture must be certified by the WEDC and the angel investor must have the investment verified by the WEDC to claim the credit. The maximum aggregate amount of Angel Investment Credits and Early Stage Seed Investment Credits that may be claimed for a tax year is \$30.0 million. Unused credit amounts can be carried forward for up to 15 years to offset future tax liabilities.

In tax year 2013, 522 individuals had \$9.1 million in Angel Investment Credits available. Of that amount, 440 individuals used \$3.9 million to offset tax liability, leaving \$5.2 million available to be used to offset tax liability in future years.

2. Manufacturing and Agriculture Credit Limitation

As with corporations, individuals may claim the Manufacturing and Agriculture Credit for tax years beginning after December 31, 2012. However, current law specifies that individuals' credit claims may not exceed the amount of tax paid on the income on which the credit is based. This limitation is effective for tax years beginning after December 31, 2013.

3. Net Operating Loss Deductions

Individuals with a business net operating loss (NOL) may elect to carry back the entire NOL for two years and any unused loss can be carried forward for up to 20 years. Wisconsin NOLs may differ from federal NOLs, so taxpayers may need to make adjustments to modify the federal NOL carry over for state purposes.