Instructions for Completing Wisconsin Schedule I – 2008

INTRODUCTION – Generally, the Wisconsin Statutes require that the computation of taxable income on the 2008 Wisconsin income tax return is to be based on the Internal Revenue Code enacted as of December 31, 2006. Changes made to the Internal Revenue Code enacted after December 31, 2006, do not apply for Wisconsin income tax purposes.

Wisconsin law also provides that certain provisions of federal law do not apply for Wisconsin purposes (even though the provisions were enacted into federal law prior to December 31, 2006). Some of those provisions are:

- Exclusion for small business stock
- Bonus depreciation
- Health savings accounts
- Installment method for accrual basis taxpayers

As a result, certain income and deduction items may be different for Wisconsin and federal purposes. Any difference must be adjusted on this schedule. A description of items requiring adjustment can be found under ITEMS REQUIRING ADJUSTMENT.

WHO MUST FILE – If the computation of your federal adjusted gross income or itemized deductions reflects any of the differences in Wisconsin and federal law for 2008, you must complete this schedule and attach it to your Wisconsin income tax return, Form 1 or Form 1NPR.

To the extent Schedule I adjustments in a prior year affect income or expense items in 2008 (for example, the special 30% depreciation allowance was not allowed to be claimed on property placed in service after September 10, 2001), you must also make adjustments on Schedule I for 2008.

It also may be necessary to prepare a 2008 Schedule I to adjust the amount of gain or loss reportable from sales of certain assets during 2008. See the instructions for lines 2 and 3 under SPECIFIC INSTRUCTIONS.

PARTNERS, BENEFICIARIES OF ESTATES AND TRUSTS, AND SHAREHOLDERS OF TAX-OPTION (S) CORPORATIONS – The income and deduction items computed on the Wisconsin returns of partnerships, estates and trusts, and tax-option (S) corporations may also be affected by the differences between Wisconsin and federal law for 2008. As a result, the distributive shares of these items which are reportable on the individual Wisconsin income tax returns of the respective partners, beneficiaries, and shareholders may differ for Wisconsin and federal income tax purposes. Such partners, beneficiaries, and shareholders should receive notification from the partnership, estate or trust, or tax-option (S) corporation of the amounts reportable for Wisconsin purposes. By comparing the amounts reportable for Wisconsin and federal purposes, the partner, beneficiary, or shareholder should determine the items which differ and make the appropriate adjustments.

SPECIFIC INSTRUCTIONS

(Numbered to correspond with the line numbers on Schedule I)

INSTRUCTIONS FOR PART I

1. Fill in your 2008 federal adjusted gross income from line 37 of your federal Form 1040 (line 21 of Form 1040A if you claimed the tuition and fees or educator expenses deduction on that form).

2 & 3. If you sold or otherwise disposed of certain property during 2008, the gain or loss reportable from such sale may differ for Wisconsin and federal purposes due to Schedule I adjustments made in the current year or a prior year. This would occur, for example, when different rates of depreciation or amortization were allowable for Wisconsin and federal purposes in 1975 or thereafter.

To properly report such gain or loss on your Wisconsin return, you must first remove all gain or loss included in your federal adjusted gross income. This is done by filling in line 2a or 2b and/or line 3a or 3b. Then fill in the revised gain or loss on line 2c and/or line 3c. Enclose a revised federal Schedule D, Form 4684, or Form 4797 marked "Revised for Wisconsin purposes" with Form 1 or Form 1NPR.

Do not complete lines 2 and 3 if you did not make Schedule I adjustments in the current year or a prior year for the property you sold or otherwise disposed of during 2008.

5. Complete line 5 to make all other adjustments needed to convert 2008 federal adjusted gross income to the amount allowable for Wisconsin. See the listing under Section A of ITEMS REQUIRING ADJUSTMENT.

   When an adjustment is made on line 2, 3, or 5, this may affect other amounts which must then also be adjusted. For example, the amount of social security includable in federal adjusted gross income may be affected when an adjustment is made to an income item. The adjustment to social security includable in federal adjusted gross income should be reported on line 5.

   When completing line 5, if you are adjusting an expense item (for example, depreciation or amounts claimed as Adjustments to Income on lines 23 through 35 of federal Form 1040), fill in the amounts in Col. I and Col. II as negative numbers. Put parentheses around the amounts to show negative numbers.

   If you are adjusting an income item, fill in the amounts in Col. I and Col. II as positive numbers.

   Complete Col. III as follows:

   - If the amounts in Col. I and Col. II are positive numbers (or one number is a positive number and the other number is zero) and the amount in Col. II is larger than the amount in Col. I, subtract Col. I from Col. II. Fill in the difference in Col. III.
   - If the amounts in Col. I and Col. II are positive numbers (or one number is a positive number and the other number is zero) and the amount in Col. I is larger than the amount in Col. II, subtract Col. II from Col. I. Fill in the difference as a negative number in Col. III.
   - If the amounts in Col. I and Col. II are negative numbers (or one number is a negative number and the other number is zero) and the amount in Col. II is larger than the amount in Col. I, subtract Col. I from Col. II. Fill in the difference as a negative number in Col. III. Treat both amounts as if they were positive numbers when figuring which amount is larger and when subtracting the amounts in Col. I and Col. II.
   - If the amounts in Col. I and Col. II are negative numbers (or one number is a negative number and the other number is zero) and the amount in Col. I is larger than the amount in Col. II, subtract Col. II from Col. I. Fill in the difference as a positive number in Col. III. Treat both amounts as if they were positive numbers when figuring which amount is larger and when subtracting the amounts in Col. I and Col. II.

6. The amount on line 6 is your recomputed federal adjusted gross income based on the Internal Revenue Code in effect for Wisconsin for 2008. This amount is the starting point for determining Wisconsin taxable income on Form 1.

INSTRUCTIONS FOR PART II

7. Whenever federal adjusted gross income has been increased or decreased in Part I of Schedule I, itemized deductions which are computed using federal adjusted gross income (for example, medical expenses and charitable contributions) may require adjustment. The deductible amounts of any such items used to compute the Wisconsin itemized deduction credit must be determined by using the federal adjusted gross income computed on line 6 of Part I.

See the listing under Section B of ITEMS REQUIRING ADJUSTMENT for other itemized deductions that require adjustment.

ITEMS REQUIRING ADJUSTMENT

Following are brief explanations of differences between federal and Wisconsin law which were known at the time this form was printed.

CAUTION At the time these instructions were printed, Congress was considering further legislation that could affect the 2008 taxable year. If federal law changes are enacted which affect 2008 tax returns, you may obtain information on the Wisconsin treatment of such changes as an addendum to these instructions at www.revenue.wi.gov or from any Wisconsin Department of Revenue office.

The "Federal" explanation indicates how an item is to be treated for federal income tax purposes as of December 31, 2008. The "Wisconsin" explanation indicates how the item is to be treated for Wisconsin.

If you need additional information regarding these items, contact any Wisconsin Department of Revenue office.

A. ITEMS AFFECTING THE COMPUTATION OF FEDERAL ADJUSTED GROSS INCOME

1. Small Business Stock

(a) Federal – An exclusion is allowed for 50% of the gain from the sale or exchange of qualified small business stock issued after August 10, 1993, and held for more than five years. (Public Law 103-66)

(b) Wisconsin – Gain from the sale or exchange of qualified small business stock is included in gross income.

2. Installment Method for Accrual Basis Taxpayers

(a) Federal – Accrual basis taxpayers may report income from an installment sale under the installment method. (Public Law 106-573)

(b) Wisconsin – Accrual basis taxpayers cannot use the installment method for reporting sales and other dispositions. Gain from the sale of property must be recognized in the year of the sale, rather than when payments are received. This does not apply to dispositions of property used or produced in farming or for certain dispositions of timeshares or residential lots.

3. Increase in Section 179 Expensing

(a) Federal – For taxable years beginning in 2008, the amount that may be expensed under sec. 179, Internal Revenue Code, is $250,000. The phase-out threshold is $800,000. Off-the-shelf computer software is considered qualifying property. (Public Law 110-185)

(b) Wisconsin – The amount that may be expensed under sec. 179 is limited to $25,000. The phase-out threshold is $200,000. Off-the-shelf computer software is not considered qualifying property. (**Exception** For a person who is actively engaged in farming, the amount that may be expensed under sec. 179 is limited to $115,000. The phase-out threshold is $460,000.)

4. Health Savings Accounts

(a) Federal – Certain individuals may establish health savings accounts. A deduction is allowed for contributions to the account. Amounts contributed by an employer to an employee's account are excluded from the employee's gross income. (Public Laws 108-173 and 109-432)

(b) Wisconsin – The federal provisions relating to health savings accounts do not apply. For example:

1) a deduction is not allowed for the amount paid to a health savings account,
2) earnings on the health savings account are subject to Wisconsin income tax,
3) amounts distributed from the account are not subject to Wisconsin income tax,
4) rollovers from Archer Medical Savings Accounts result in a taxable transaction, and
5) the amounts contributed by an employer (or contributed pre-tax for federal purposes by an employee) are taxable wages to the employee.

5. Depreciation or Amortization

(a) Federal – Depreciation or amortization is determined under the provisions of the Internal Revenue Code in effect for federal tax purposes.

(b) Wisconsin – Depreciation or amortization is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000. For example, the federal provisions relating to bonus depreciation do not apply for Wisconsin.

6. Film and Television Productions

(a) Federal – A taxpayer may elect to treat the cost of any qualified film or television production as an expense which is not chargeable to capital account. (Public Laws 108-357 and 110-343)

(b) Wisconsin – The treatment of a film or television production is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

7. Modification of Placed in Service Rule for Bonus Depreciation Property

(a) Federal – In the case of multiple units of property subject to the same lease, property will qualify as placed in service on the date of sale if it is sold within three months after the final unit is placed in service, so long as the period between the time the first and last units are placed in service does not exceed 12 months. (Public Law 108-357)

(b) Wisconsin – The special rule for multiple units of property subject to the same lease does not apply for Wisconsin.

8. Expensing for Equipment Used in Refining of Liquid Fuels

(a) Federal – An election is available to treat 50% of the cost of any qualified refinery property as an expense. (Public Law 109-58)

(b) Wisconsin – The election to treat 50% of the cost of any qualified refinery property as an expense is not available.

9. **Section 179 Deduction for GO Zone Property**

   (a) Federal – The maximum allowable sec. 179, Internal Revenue Code, expense allowance is increased by the lesser of $100,000 or the cost of certain qualified sec. 179 Gulf Opportunity Zone property placed in service on or before December 31, 2008. The investment limit is increased by the lesser of $600,000 or the amount of such property placed in service during the tax year. (Public Law 109-135)

   (b) Wisconsin – The amount that may be expensed under sec. 179 is limited to $25,000. The phase-out threshold is $200,000.

10. **Loans to Continuing Care Facilities**

   (a) Federal – The exceptions to the imputed interest rules are revised to eliminate the dollar cap on aggregate outstanding loans and to lower the age of the lender or the lender's spouse to 62. (Public Laws 109-222 and 109-432)

   (b) Wisconsin – The exception to the imputed interest rules applies if the aggregate outstanding loans do not exceed $163,000 and if the lender or the lender's spouse has attained the age of 65 before the close of the calendar year.

11. **Rollovers from Health FSAs and HRAs into HSAs**

   (a) Federal – Certain amounts in a health flexible spending arrangement (FSA) or health reimbursement arrangement (HRA) may be distributed from the FSA or HRA and contributed through a direct transfer to a health savings account (HSA). Amounts contributed to the HSA under this provision are excludable from gross income and are not deductible. (Public Law 109-432)

   (b) Wisconsin – Wisconsin does not recognize HSAs. Any distribution from an FSA or HRA is taxable when rolled over to an HSA.

12. **One-Time Distribution from IRAs to Fund HSAs**

   (a) Federal – Gross income does not include a qualified HSA funding distribution. (Public Law 109-432)

   (b) Wisconsin – Transfers from an IRA to an HSA are taxable transactions.

13. **Partial Expensing for Advanced Mine Safety Equipment**

   (a) Federal – A taxpayer may elect to treat 50% of the cost of any qualified advanced mine safety equipment property as a deduction in the taxable year in which the equipment is placed in service. (Public Laws 109-432 and 110-343)

   (b) Wisconsin – Advanced mine safety equipment is depreciated under the provisions of the Internal Revenue Code in effect on December 31, 2000.

14. **Partnership Election**

   (a) Federal – A married couple who jointly operates an unincorporated business and who files a joint return can elect not to be treated as a partnership for federal tax purposes. Each spouse takes into account his or her share of income, gain, loss, and other items as a sole proprietor. (Public Law 110-28)

   (b) Wisconsin – The election not to be treated as a partnership is not available for Wisconsin. A partnership return must be filed for a married couple who jointly operates an unincorporated business.

15. **Restricted Bank Director Stock**

   (a) Federal – If a director receives a distribution (not in part or full payment in exchange for stock) from an S corporation with respect to any restricted bank director stock, the amount of such distribution is includible in gross income of the director. (Public Law 110-28)

   (b) Wisconsin – The treatment of restricted bank director stock is determined under the provisions of the Internal Revenue Code in effect on December 31, 2006.

16. **Energy Efficient Commercial Buildings Deduction**

   (a) Federal – The deduction for energy-efficient commercial building property expenditures is extended to property placed in service after December 31, 2007, and before January 1, 2009. (Public Law 109-432)

   (b) Wisconsin – The treatment of energy-efficient commercial building property expenditures is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

17. **Depreciation for Cellulosic Biomass Ethanol Plant Property**

   (a) Federal – The depreciation deduction for cellulosic biomass ethanol plant property shall include an allowance equal to 50% of the adjusted basis of such property. (Public Law 109-432)

   (b) Wisconsin – Depreciation for cellulosic biomass ethanol plant property is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

18. **Domestic Production Activities in Puerto Rico**

   (a) Federal – For purposes of determining production gross receipts, Puerto Rico may be treated as part of the United States. (Public Laws 109-432 and 110-343)

   (b) Wisconsin – Puerto Rico may not be treated as part of the United States when determining production gross receipts.

19. **Whistleblower Reforms**

   (a) Federal – An above-the line deduction is allowed for attorneys' fees and costs paid by, or on behalf of, an individual in connection with any award for providing information to the IRS regarding violations of tax laws. (Public Law 109-432)

   (b) Wisconsin – Attorneys' fees and costs can only be claimed as a miscellaneous itemized deduction. Such fees are not allowed in computing the Wisconsin itemized deduction credit.

20. **Exclusion of Gain on Sale of Residence by Members of the Intelligence Community**

   (a) Federal – To be eligible to exclude gain on the sale of a principal residence, the taxpayer must have owned and used the residence as a principal residence for at least two of the five years ending on the sale or exchange. For sales and exchanges after December 20, 2006, specified employees of the intelligence community may elect to suspend the running of the five-year test period during any period in which they are serving on extended duty. (Public Law 109-432)

   (b) Wisconsin – Taxpayers must meet the five-year test period to qualify to exclude gain on the sale of a principal residence.

21. Sale of Property by Judicial Officers

(a) Federal – Under prior law, employees of the executive branch of the federal government (and their spouses and minor or dependent children) who are required to divest property in order to comply with conflict of interest requirements may elect to postpone the recognition of gains by investing in certain replacement property within 60 days. This postponement is extended to judicial officers. (Public Law 109-432)

(b) Wisconsin – The election to postpone recognition of gain applies to an officer or employee of the executive branch of the Federal Government and their spouses and minor or dependent children.

22. Sale of Mineral and Geothermal Rights to Tax-Exempt Entities

(a) Federal – Gross income does not include 25% of the qualifying gain from a conservation sale of a qualifying mineral or geothermal interest to an eligible entity. (Public Law 109-432)

(b) Wisconsin – The gain from a conservation sale of a qualifying mineral or geothermal interest is included in income.

23. Amortization of Geological and Geophysical Expenditures for Certain Major Integrated Oil Companies

(a) Federal – In the case of a major integrated oil company, any geological and geophysical expenses paid or incurred after December 19, 2007, in connection with the exploration for, or development of, oil or gas within the United States shall be allowed as a deduction ratably over a 7-year period. (Public Law 110-140)

(b) Wisconsin – Amortization is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

24. Exclusion from Income for Payments from the Okie Spirit Memorial Fund

(a) Federal – Gross income does not include any amount received from the Virginia Polytechnic Institute & State University, out of amounts transferred from the Hokie Spirit Memorial Fund if such amount is paid on account of the events on April 16, 2007, at such university. (Public Law 110-141)

(b) Wisconsin – Amounts received from the Virginia Polytechnic Institute & State University, out of amounts transferred from the Hokie Spirit Memorial Fund, are included in gross income.

25. Discharges of Indebtedness on Principal Residence

(a) Federal – Gross income does not include any amount which would be includible in gross income by reason of discharge of indebtedness if the indebtedness discharged is qualified principal residence indebtedness which is discharged before January 1, 2010. (Public Law 110-142)

(b) Wisconsin – The exclusion from gross income for income from discharge of indebtedness on a qualified principal residence does not apply for Wisconsin.

26. Exclusion for Certain Post-Marriage Sale of Principal Residence by Surviving Spouse

(a) Federal – In the case of a sale or exchange of property after December 31, 2007, by an unmarried individual whose spouse is deceased on the date of such sale, the amount of gain excluded from gross income with respect to any sale or exchange of the property shall not exceed $500,000 if such sale occurs not later than two years after the date of death of the spouse and all other requirements were met before such date of death. (Public Law 110-142)

(b) Wisconsin – The exclusion of gain on the sale of a principal residence by a surviving spouse is determined under the provisions of the Internal Revenue Code in effect on December 31, 2006.

27. Benefits to Volunteer Firefighters and Emergency Medical Responders

(a) Federal – For a member of a qualified volunteer emergency response organization, gross income does not include any qualified State and local tax benefit, and any qualified payment. A qualified payment shall not exceed $30 multiplied by the number of months during the year that the taxpayer performs such services. (Public Law 110-142)

(b) Wisconsin – Payments to a member of a qualified volunteer emergency response organization are included in gross income.

28. Distribution of Stock and Securities of a Controlled Corporation

(a) Federal – For purposes of distributions of stock and securities of a controlled corporation, special rules are provided for determining active conduct of a trade or business in the case of affiliated groups. (Public Law 110-172)

(b) Wisconsin – The treatment of distributions of stock and securities of a controlled corporation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2006.

29. Special Depreciation Allowance

(a) Federal – A special 50% depreciation allowance applies to property placed in service after December 31, 2007, and before January 1, 2009. (Public Law 110-185)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

30. Deduction for Endangered Species Recovery Expenditures

(a) Federal – For amounts paid or incurred after December 31, 2008, endangered species recovery expenditures qualify for a deduction under sec. 175 of the Internal Revenue Code as soil and water conservation expenditures. (Public Law 110-234)

(b) Wisconsin – Endangered species recovery expenditures do not qualify for a deduction as soil and water conservation expenditures.

31. Exchange of Like-Kind Property

(a) Federal – Exchanges of shares in certain mutual ditch, reservoir, or irrigation companies qualify for tax deferral as like-kind exchanges. (Public Law 110-234)

(b) Wisconsin – The like-kind exchange provisions do not apply to the exchange of water rights in the form of mutual ditch, reservoir, and irrigation company stock.

32. Depreciation of Race Horses

(a) Federal – Race horses placed in service after December 31, 2008, are treated as three-year property. (Public Law 110-234)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

33. Additional First-Year Depreciation for Property in Kansas Disaster Area

(a) Federal – Property located in the Kansas Disaster Area is allowed additional first-year depreciation equal to 50% of the adjusted basis. (Public Law 110-234)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

34. Increased Section 179 Expensing for Property in Kansas Disaster Area

(a) Federal – Increased sec. 179 expensing is allowed for property located in the Kansas Disaster Area. (Public Law 110-234)

(b) Wisconsin – The amount that may be expensed under sec. 179 is limited to $25,000. The phase-out threshold is $200,000.

35. Expensing for Demolition and Clean-Up Costs

(a) Federal – A 50% deduction is allowed for the amount paid or incurred from May 4, 2007 through December 31, 2009, for the removal of debris from, or the demolition of structures on, real property located in the Kansas disaster area. (Public Law 110-234)

(b) Wisconsin – The cost of debris removal must be capitalized.

36. Recontributions of Withdrawals for Home Purchases

(a) Federal – Persons in the Kansas disaster area who received a distribution from a qualified retirement plan after May 4, 2007, and before January 1, 2009, to be used to construct a principal residence in the Kansas disaster area may recontribute such amount. (Public Law 110-234)

(b) Wisconsin – The recontribution provision does not apply for Wisconsin.

37. Loans from Qualified Plans

(a) Federal – An exception to the income inclusion rule for loans from a qualified employer plan is provided if the loan is to an individual whose principal place of abode on May 4, 2007, was located in the Kansas disaster area. (Public Law 110-234)

(b) Wisconsin – The exception to the income inclusion rule does not apply for Wisconsin.

38. Extension of Replacement Period

(a) Federal – The replacement period for gain deferral for an involuntary conversion is extended from two to five years for losses incurred on or after May 4, 2007, in the Kansas disaster area. (Public Law 110-234)

(b) Wisconsin – The replacement period for gain deferral for an involuntary conversion is two years.

39. Qualified Reservist Retirement Plan Distributions

(a) Federal – Reservists ordered or called to active duty are allowed penalty-free distributions from retirement plans. The amount distributed may be repaid within two years after the end of the active duty period. (Public Law 110-245)

(b) Wisconsin – The rules allowing penalty-free distributions and repayments do not apply for Wisconsin.

40. Military Death Benefits Contributed to Roth IRA or Coverdell ESA

(a) Federal – For deaths occurring on or after June 17, 2008, an individual who receives a military death gratuity or payment under the Servicemembers' Group Life Insurance program may contribute such amount to a Roth IRA or a Coverdell ESA, regardless of annual contribution limits. The amount is treated as a qualified rollover. (Public Law 110-245)

(b) Wisconsin – The annual contribution limits apply to military death benefits contributed to a Roth IRA or Coverdell ESA. The amounts contributed are not treated as a qualified rollover.

41. Exclusion of Gain on Sale of Residence for Peace Corps Members

(a) Federal – Individuals can elect to suspend the running of the five-year ownership and use testing period for the exclusion of gain on the sale or exchange of a principal residence during the time that they or their spouses are serving outside the United States in the Peace Corps. (Public Law 110-245)

(b) Wisconsin – To qualify for the exclusion of gain from the sale or exchange of a principal residence, the property must be owned and used by the taxpayer as the taxpayer's principal residence for two years or more during the five-year testing period ending on the date of the sale or exchange.

42. State or Local Bonuses for Combat Veterans

(a) Federal – State or local bonus payments to members of the U.S. uniformed services or their dependents are excluded from gross income if the payment was made by reason of the member's service in a combat zone. (Public Law 110-245)

(b) Wisconsin – State or local bonus payments to members of the U.S. uniformed services or their dependents are included in income.

43. Exclusion of Gain on Sale of Residence by Members of the Intelligence Community

(a) Federal – The election available to certain intelligence community employees to suspend the five-year testing period for exclusion of gain from the sale of a principal residence is now permanent (see Item A.20). The requirement that an intelligence community employee serve a duty at a duty station located outside the United States in order to qualify for the election has been eliminated. (Public Law 110-245)

(b) Wisconsin – Taxpayers must meet the five-year test period to qualify to exclude gain on the sale of a principal residence.

44. Depreciation on GO Zone Property

(a) Federal – The start-construction deadline for certain property eligible for bonus depreciation in the Gulf Opportunity Zone is waived. (Public Law 110-289)

(b) Wisconsin – Bonus depreciation does not apply. Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

45. Nonqualified Use of a Principal Residence

(a) Federal – Gain on the sale of a principal residence allocated to periods of nonqualified use is not excluded from gross income. This applies to sales and exchanges after December 31, 2008. (Public Law 110-289)

(b) Wisconsin – The gain that may be excluded on the sale of a principal residence is determined under the provisions of the Internal Revenue Code in effect on December 31, 2006.

46. Dispositions of Transmission Property to Implement Federal Regulatory Commission or State Electric Restructuring

(a) Federal – Taxpayers may elect to recognize gain from qualifying electric transmission transactions ratably over an eight-year period if the amount realized is used to purchase exempt utility property. (Public Laws 108-357 and 110-343)

(b) Wisconsin – Gain is recognized to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property, unless the gain is deferred or not recognized under a special tax provision.

47. Archer Medical Savings Accounts (MSA)

(a) Federal – The cut-off year for purposes of the Archer MSAs is extended through calendar year 2007. (Public Law 109-432)

(b) Wisconsin – No deduction is allowed for contributions to Archer MSAs established after calendar year 2005.

48. Bonus Depreciation for Biomass Ethanol Plant Property

(a) Federal – Fifty percent bonus depreciation is allowed for cellulosic biomass ethanol plant property. For purposes of the bonus depreciation, "cellulosic biofuel" means any liquid fuel that is produced from any lignocellulosic or hemicellulosic matter that is available on a renewable or recurring basis. (Public Law 110-343)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

49. Extension of Election to Expense Certain Refineries

(a) Federal – The election to expense 50% of the cost of any qualified refinery property is extended to property placed in service before January 1, 2014. In the case of the construction of property subject to a written binding contract, the election is extended to property placed in service before January 1, 2010. (Public Law 110-343)

(b) Wisconsin – The election to expense refinery property does not apply for Wisconsin.

50. Small Refiner Exception to Oil Depletion Deduction

(a) Federal – The small refiner exception to the oil depletion deduction is extended to taxable years beginning before January 1, 2010. (Public Law 110-343)

(b) Wisconsin – The extension of the small refiner exception does not apply for Wisconsin.

51. Accelerated Depreciation for Smart Electric Meters and Smart Grid Systems

(a) Federal – The cost of smart electric meters and smart grid systems may be recovered over a 10-year period. (Public Law 110-343)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

52. Bonus Depreciation for Reuse and Recycling Property

(a) Federal – Fifty percent bonus depreciation is allowed for qualified reuse and recycling property placed in service after August 31, 2008. (Public Law 110-343)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

53. Educator Expenses

(a) Federal – The deduction from gross income for up to $250 of expenses paid or incurred by an eligible educator in connection with books, supplies, computer equipment and other equipment, and supplementary materials used by an educator in the classroom is extended through taxable years beginning in 2009. (Public Law 110-343)

(b) Wisconsin – The deduction from gross income for educator expenses is not allowed.

54. Deduction for Tuition and Fees

(a) Federal – The deduction for up to $4,000 of qualified tuition and fees paid during the taxable year in connection with enrollment at an institute of higher education is extended through December 31, 2009. (Public Law 110-343)

(b) Wisconsin – The federal deduction for up to $4,000 of qualified tuition and fees does not apply for Wisconsin. (**Note** Although the federal deduction for tuition and fees cannot be claimed for Wisconsin, you may qualify for a tuition deduction provided by Wisconsin law. If you claim the federal tuition and fees deduction, you must complete Schedule I to remove the federal deduction. See page 15 of the Form 1 instructions (page 17 of Form 1NPR instructions) for more information on the Wisconsin deduction for tuition paid.

55. IRA Distribution Transferred for Charitable Purposes

(a) Federal – Up to $100,000 of the amount directly transferred from an IRA to a qualified charitable organization is not included in gross income. (Public Law 110-343)

(b) Wisconsin – The amount distributed from an IRA and transferred to a qualified charitable organization is included in income.

56. Qualified Leasehold Improvements and Qualified Restaurant Property

(a) Federal – The 15-year recovery period for qualified leasehold improvement property and qualified restaurant property is extended to apply to property placed in service in 2008 and 2009 (Public Law 110-343)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

57. Accelerated Depreciation for Indian Reservation Property

(a) Federal – The provision allowing accelerated depreciation for business property on Indian reservations is extended. It will expire for property placed in service after December 31, 2009. (Public Law 110-343)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

58. Motorsports Racing Track Facility

(a) Federal – The seven-year cost recovery period for motorsports entertainment complexes is extended to apply to property placed in service before January 1, 2010. (Public Law 110-234)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

59. Environmental Remediation Costs

(a) Federal – The election to expense environmental remediation costs is extended through December 31, 2009. (Public Law 110-343)

(b) Wisconsin – A taxpayer may not elect to treat environmental remediation costs as an expense that is not chargeable to capital account.

60. District of Columbia Investments

(a) Federal – Gross income does not include qualified capital gain from the sale or exchange of any DC Zone asset held for more than five years. (Public Law 110-343)

(b) Wisconsin – Capital gain from the sale or exchange of DC Zone assets is included in Wisconsin income.

61. Charitable Deduction for Contributions of Food Inventory

(a) Federal – The enhanced charitable deduction for contributions of food inventory is extended to contributions made before January 1, 2010. (Public Law 110-343)

(b) Wisconsin – The extension of the enhanced charitable deduction for contributions of food inventory does not apply for Wisconsin tax purposes.

62. Charitable Deduction for Contributions of Book Inventory

(a) Federal – The enhanced charitable deduction for contributions of book inventory to public schools is extended to contributions made before January 1, 2010. (Public Law 110-343)

(b) Wisconsin – The extension of the enhanced charitable deduction for contributions of book inventory does not apply for Wisconsin tax purposes.

63. Deduction for Domestic Production Activities

(a) Federal – For purposes of the domestic production activities deduction, "wages" includes compensation for services performed in the United States by actors, production personnel, directors, and producers. A qualified film includes any copyrights, trademarks, or other intangibles with respect to such film. (Public Law 110-343)

(b) Wisconsin – The changes related to the definition of "wages" for purposes of the domestic production activities deduction do not apply for Wisconsin.

64. Exxon Valdez Settlements

(a) Federal – A qualified taxpayer who receives Exxon Valdez settlement income may, before the end of the taxable year, contribute the lesser of $100,000 or the amount of the settlement income, to an eligible retirement plan. The amount of the contribution is not included in taxable income except if the amount is contributed to a Roth IRA. (Public Law 110-343)

(b) Wisconsin – Amounts received from an Exxon Valdez settlement are included in taxable income.

65. Depreciation of Farming Business Machinery and Equipment

(a) Federal – Five-year property includes any machinery or equipment (other than any grain bin, cotton ginning asset, fence, or other land improvement) which is used in a farming business. The original use must begin after December 31, 2008. (Public Law 110-343)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

66. Tax Relief for Areas Damaged by 2008 Midwestern Storms, Tornados, and Flooding

(a) Federal – Certain tax benefits for the Gulf Opportunity Zone apply for the Midwestern Disaster Area: expensing for certain demolition and clean-up costs; extension of expensing for environmental remediation costs; exclusion for the value of any lodging furnished in-kind to an employee; tax-favored withdrawals from retirement plans; recontributions of withdrawals for home purchases; treatment of loans from qualified plans; and temporary suspension of limitations on charitable contributions. (Public Law 110-343)

(b) Wisconsin – The extension of Gulf Opportunity Zone tax benefits to the Midwestern Disaster Area does not apply for Wisconsin.

67. Tax Relief for Areas Damaged by 2008 Midwestern Storms, Tornados, and Flooding

(a) Federal – Certain tax benefits from the Katrina Emergency Tax Relief Act of 2005 apply for the Midwestern Disaster Area: additional exemption for housing displaced individual; increase in standard mileage rate for charity work to 70% of business standard mileage rate; reimbursements to charitable volunteers excluded from gross income; exclusion of certain discharged debt on principal residence in disaster area; and extension of replacement period for nonrecognition of gain to five years.(Public Law 110-343)

(b) Wisconsin – The extension of tax benefits from the Katrina Emergency Tax Relief Act of 2005 to the Midwestern Disaster Area does not apply for Wisconsin.

68. Expensing of Qualified Disaster Expenses

(a) Federal – A taxpayer may elect to treat any qualified disaster expense as a deduction for the taxable year in which it is paid or incurred. A "qualified disaster expense" means any expenditure which is paid or incurred in connection with a trade or business or with business-related property, which is (a) for the abatement or control of hazardous substances that were released on account of a federally declared disaster occurring before January 1, 2010, (b) for the removal of debris from, or the demolition of structures on, real property damaged or destroyed as a result of a federally declared disaster, or (c) for the repair of business-related property damaged as a result of a federally declared disaster, and (d) otherwise chargeable to capital account. (Public Law 110-343)

(b) Wisconsin – The election to treat qualified disaster expense as a deduction is not available for Wisconsin.

69. Net Operating Losses Attributable to Federally Declared Disasters

(a) Federal – In the case of a taxpayer who has a qualified disaster loss, such loss shall be a net operating loss carryback to each of the five taxable years preceding the loss. (Public Law 110-343)

(b) Wisconsin – Net operating losses may not be carried back for Wisconsin.

70. Special Depreciation Allowance for Qualified Disaster Property

(a) Federal – Fifty percent bonus depreciation may be claimed on qualified disaster assistance property for the taxable year such property is placed in service. (Public Law 110-343)

(b) Wisconsin – Depreciation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

71. Increased Expensing for Qualified Disaster Assistance Property

(a) Federal – The maximum dollar limitation for the IRC sec. 179 expensing of depreciable qualified disaster assistance property is increased by the lesser of (a) $100,000, or (b) the cost of the qualified sec. 179 disaster assistance property placed in service during the year. The phase-out amount is increased by the lesser of (a) $600,000, or (b) the cost of the qualified sec. 179 disaster assistance property placed in service during the taxable year. (Public Law 110-343)

(b) Wisconsin – The amount that may be expensed under sec. 179 is limited to $25,000. The phase-out threshold is $200,000.

72. Nonqualified Deferred Compensation from Certain Tax Indifferent Parties

(a) Federal – Nonqualified deferred compensation plans maintained by foreign corporations will generally become taxable, unless the compensation is deferred 12 months or less after the end of the year that the compensation vests. The tax can also apply to partnerships with foreign partners. Deferred compensation will be taxable when the amount is determinable. (Public Law 110-343)

(b) Wisconsin – The treatment of nonqualified deferred compensation is determined under the provisions of the Internal Revenue Code in effect on December 31, 2006.

B. ITEMS AFFECTING THE COMPUTATION OF ITEMIZED DEDUCTIONS

1. Medical Expense Deduction

(a) Federal – Any payment or distribution out of a health savings account for qualified medical expenses shall not be treated as an expense paid for medical care for purposes of claiming an itemized deduction for medical and dental expenses. (Public Law 108-173)

(b) Wisconsin – Payments or distributions out of a health savings account that are used for qualified medical expenses are an allowable itemized deduction in the year the medical expenses are paid.

2. Mortgage Insurance Premiums

(a) Federal – Mortgage insurance premiums paid in connection with acquisition indebtedness for a qualified residence is treated as interest. This does not apply to mortgage insurance contracts issued before January 1, 2007, or to amounts paid or accrued after December 31, 2010. (Public Laws 109-432 and 110-142)

(b) Wisconsin – Mortgage insurance premiums cannot be treated as interest and cannot be used in the computation of the Wisconsin itemized deduction credit

3. Cooperative Housing Corporation

(a) Federal – The definition of a cooperative housing corporation is revised for purposes of allowing a deduction to a tenant-stockholder for interest and real estate taxes. (Public Law 110-142)

(b) Wisconsin – The definition of a cooperative housing corporation is as provided under the provisions of the Internal Revenue Code in effect on December 31, 2006.

4. Donation of Conservation Property

(a) Federal – The provision allowing individuals a deduction for up to 50% of their contribution base for the donation of conservation property (100% if a qualified farmer or rancher) is extended through taxable years beginning in 2009. (Public Law 110-234)

(b) Wisconsin – The deduction for donations of conservation property is determined under the provisions of the Internal Revenue Code in effect on December 31, 2005.

5. IRA Transferred for Charitable Purposes

(a) Federal – A deduction is not allowed for amounts directly transferred from an IRA to a qualified charitable organization and excluded from income. (Public Law 110-343)

(b) Wisconsin – The amount transferred from an IRA to a qualified charitable organization is allowed as an itemized deduction for purposes of computing the Wisconsin itemized deduction credit.

6. Limitations on Charitable Contributions

(a) Federal – Taxpayers who itemize deductions may deduct contributions up to 100% of adjusted gross income for contributions to a public charity for disaster relief in the Midwest Disaster Area. (Public Law 110-343).

(b) Wisconsin – Total contributions are limited to 50% of federal adjusted gross income.

RECENT FEDERAL LAW CHANGES DO NOT APPLY FOR WISCONSIN

For taxable years beginning in 2008, Wisconsin generally follows the Internal Revenue Code enacted as of December 31, 2006. Unless later adopted by the Wisconsin Legislature, changes to federal law enacted after December 31, 2006, do not apply for Wisconsin. Taxpayers who file Form 1 or 1NPR must use 2008 Wisconsin Schedule I to adjust for Wisconsin and federal differences in the definition of the Internal Revenue Code. Schedule I provides a listing of the various items that must be adjusted.

An additional federal law was enacted after the 2008 Schedule I was sent to the printer. Listed below are additional changes to federal law that must be considered when completing Schedule I. These law changes were made by Public Law 110-458, enacted December 23, 2008.

1. Rollover of Amounts Received in Airline Carrier Bankruptcy to Roth IRAS

(a) Federal – For transfers after December 23, 2008, an airline employee whose defined benefit pension plan was terminated or frozen due to bankruptcy filed after September 11, 2001 and before January 1, 2007 may roll over bankruptcy payments intended to replace lost retirement income to a Roth IRA. (Public Law 110-458)

(b) Wisconsin – The rollover provision does not apply for Wisconsin.

2. State/Local Health Insurance Reimbursements

(a) Federal – For purposes of the exclusion from income for amounts received from accident and health plans (sec. 105, IRC), amounts paid (directly or indirectly) from certain governmental accident and health plans to a taxpayer (including employees, former employees and dependents and beneficiaries of the employees or former employees) will not fail to qualify for the gross income exclusion solely because the plan provides for reimbursements of health care expenses of a deceased plan participant's beneficiaries on or before January 1, 2008. (Public Law 110-458)

(b) Wisconsin – Payments from plans that allow payment of amounts upon the death of the employee or retired employee to a designated beneficiary other than the employee's spouse or dependent in the form of a reimbursement of medical expenses do not qualify for the exclusion.