Purpose of Form 5

Corporations whose entire business income is attributable to Wisconsin use Form 5 to report their income, gains, losses, deductions, and credits and to compute their franchise or income tax and economic development surcharge liability.

Table of Contents

General Franchise or Income Tax Return Instructions

Franchise or Income Tax

Franchise tax applies to:

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

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

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

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

Who Must File

"Corporation" includes corporations, joint stock companies, associations, common law trusts, and all other entities treated as corporations under section 7701 of the Internal Revenue Code (IRC).

Corporations Required to File. The following corporations are required to file a Wisconsin corporation franchise or income tax return:

- Corporations organized under Wisconsin law.
- Foreign corporations licensed to do business in Wisconsin.
- Unlicensed corporations doing business in Wisconsin.
- Foreign corporations engaged in buying or selling lottery prizes if the winning tickets were originally bought in Wisconsin.
- Foreign corporations issuing credit, debit, or travel and entertainment cards to customers in Wisconsin.
- Foreign corporations regularly selling products or services of any kind or nature to customers in Wisconsin that receive the product or service in Wisconsin.
- Foreign corporations regularly soliciting business from potential customers in Wisconsin.
- Foreign corporations regularly performing services outside Wisconsin for which the benefits are received in Wisconsin.
- Foreign corporations regularly engaging in transactions with customers in Wisconsin that involve intangible property and result in receipts flowing to the taxpayer from within Wisconsin.
- Foreign corporations holding loans secured by real or tangible personal property located in Wisconsin.
- Foreign corporations owning, directly or indirectly, a general or limited partnership interest in a partnership that does business in Wisconsin, regardless of the percentage of ownership.
- Foreign corporations owning, directly or indirectly, an interest in a limited liability company treated as a partnership that does business in Wisconsin, regardless of the percentage of ownership.
- Foreign corporations that are the sole owner of an entity that is disregarded as a separate entity under IRC section 7701 and does business in Wisconsin.

Corporations and Other Entities Not Required to File. The following entities are **not** required to file a Wisconsin corporation franchise or income tax return:

- A single-owner entity that is disregarded as a separate entity under IRC section 7701. Instead, the owner of the disregarded entity is subject to the tax on or measured by the entity's income and must file a Wisconsin franchise or income tax return if otherwise required.
- Corporations and associations exempt under sec. 71.26(1), Wis. Stats., except those with (a) unrelated business taxable income as defined in IRC section 512, (b) income derived from a health maintenance organization or a limited service health organization, or (c) income realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin. Exempt entities include insurers exempt from federal income taxation under IRC section 501(c)(15), town mutuals organized under Chapter 612, Wis. Stats., foreign insurers, domestic insurers engaged exclusively in life insurance business, domestic mortgage insurers, some cooperatives, and religious, scientific, educational, benevolent, or other corporations or associations of individuals not organized or conducted for profit.
- Corporations that are completely inactive in and outside Wisconsin and have filed Form 4H.
- Credit unions that don't act as a public depository for state or local government funds and have filed Form CU.

When and Where to File

Generally, a corporation must file its franchise or income tax return by the 15th day of the 3rd month following the close of its taxable year.

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

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

If you aren't requesting a federal extension, Wisconsin law provides an automatic extension of 7 months or until the original due date of the corporation's corresponding federal return, whichever is later.

The fee for filing a late return after the extension date is $150.

CAUTION: An extension for filing the return doesn't extend the time to pay the franchise or income tax. Interest will be charged on the tax not paid by the 15th day of the 3rd month following the close of the taxable year. You can avoid interest charges during the extension period by paying the tax due by that date. Submit your payment with Wisconsin Form 4-ES, *Corporation Estimated Tax Voucher*.

Filing Methods. Corporations are required to file tax returns electronically and may file electronically through the Federal/State E-Filing Program. For a list of software vendors participating in this program, visit the Department's web page at www.revenue.wi.gov/eserv/corp/third.html.

If it is not possible to file the return electronically, a waiver must be obtained in order to file a paper return. Paper filed returns that do not have an electronic filing waiver attached will be returned. More information is available from the Department's web page at http://www.revenue.wi.gov/taxpro/news/110727b.html Also, see s. Tax 2.03(3)(b)(1), Wisconsin Administrative Code, for details.

If an electronic filing waiver is approved, file your return on paper using these mailing instructions:

- **Do not fasten, staple or bind the pages of your return.** Use paper clips instead.
- If you are submitting multiple returns, separate them with **colored separator sheets.**
- Use the mailing address shown on the form.

Period Covered by Return

The return must cover the same period as the corporation's federal income tax return. A 2011 Wisconsin return must be filed by a corporation for calendar year 2011 or a fiscal year that begins in 2011. A fiscal year may end only on the last day of a month. The period covered by the return can't exceed 12 months.

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

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

Accounting Methods and Elections

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

Consolidated Filing Not Permitted. Each corporation organized under Wisconsin law, licensed to do business in Wisconsin, or doing business in Wisconsin must file a separate Wisconsin franchise or income tax return and make its own estimated tax payments unless they qualify to be part of a Wisconsin combined group. If certain qualification are met, the corporations may file a combined Wisconsin Form 4. See the Form 4 combined instructions for further information. Wisconsin law doesn't permit corporations that are members of an affiliated group, as defined in IRC section 1504, to file consolidated returns.

Situations Where Installment Method Not Authorized for Wisconsin. A corporation, including a tax-option (S) corporation, entitled to use the installment method of accounting must take the unreported balance of gain on installment obligations into income in the taxable year of their distribution, transfer, or acquisition by another person or for the final taxable year for which it files or is required to file a Wisconsin franchise or income tax return, whichever year occurs first.

Further, for Wisconsin purposes, accrual basis taxpayers cannot generally use the installment method because Wisconsin did not adopt P.L. 106-573, which restored the installment method for accrual basis taxpayers for federal income tax purposes. See page 8 for further details.

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

For the first taxable year for which the change applies, file with the Wisconsin return either a copy of the application for change in accounting method filed with the IRS and copy of the IRS's consent, if applicable, or an explanation of the change if the IRS's approval isn't required.

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

Payment of Estimated Tax

If the total of a corporation's franchise or income tax and economic development surcharge due is $500 or more, it generally must make quarterly estimated tax payments using Wisconsin Form 4-ES or by electronic funds transfer. Failure to make required estimated tax payments may result in an interest charge. You may download vouchers from the Department's web site at www.revenue.wi.gov, or you may request vouchers by calling any Department of Revenue office.

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

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

Electronic Funds Transfer Required for Certain Payments. Section Tax 1.12, Wisconsin Administrative Code, requires the payment of certain taxes by electronic funds transfer (EFT). A corporation must pay its estimated franchise or income taxes and economic development surcharge by EFT if its net tax less refundable credits on its prior year return was $1,000 or more. The Department will notify a corporation when EFT payments are required. The corporation will have 90 days after being notified to register for EFT. The first EFT payment is due on the first tax due date following the end of the 90-day registration period.

Corporations not required to pay by EFT may elect to do so. For more information, visit the Department of Revenue's web site at www.revenue.wi.gov/eserv/eftgen.html, e-mail, sales10@revenue.wi.gov, call (608) 266-2776, or write to the Electronic Funds Transfer Assistance, Wisconsin Department of Revenue, PO Box 8949, Madison, WI 53708-8949.

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

Tax Type	Tax Type Code
Corporation estimated tax payment	02100
Corporation tax due	02200
Corporation amended return tax due	02400
Corporation bill (except audit assessments)	02540

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

Disclosure of Related Entity Expenses and Reportable Transactions

A corporation may be required to separately disclose certain expenses paid, accrued, or incurred to a related entity. A corporation or corporation's material advisor may also be required to separately disclose reportable transactions.

CAUTION: Wisconsin law provides that certain related entity expenses shall not be allowed as deductions if they are not timely disclosed as required by the Department of Revenue. Also, penalties may apply for failure to disclose reportable transactions to the Department.

Disclosure of Related Entity Expenses. If the corporation will be deducting more than $100,000 (after considering the effect of apportionment) of interest, rent, or intangible expenses or management fees paid, accrued, or incurred to a related person or entity, the corporation must generally file Schedule RT, *Wisconsin Related Entity Expenses Disclosure Statement*, with its franchise or income tax return. The Schedule RT instructions explain the reporting requirements.

However, even if you are not required to file Schedule RT, if you are taking deductions for interest, rent, or intangible expenses or management fees paid, accrued, or incurred to related entities, you must add those expenses back to federal income as Wisconsin modification. If the expenses meet the tests for deductibility, you may subtract them out as subtraction modifications. See the Schedule V instructions and Schedule W instructions for details.

Corporation's Disclosure of Reportable Transactions. If a corporation was required to file federal Form 8886, *Reportable Transaction Disclosure Statement*, with the IRS and that form was required to be filed with the IRS after October 27, 2007, you must file a copy of Form 8886 with the Department of Revenue within 60 days of the date you are required to file it for federal income tax purposes. Send a paper copy of Form 8886, separate from your Form 5, to the following address: Wisconsin Department of Revenue, Tax Shelters Program, PO Box 8958, Madison, WI 53708-8958.

See the instructions to federal Form 8886 to determine if you are required to file the form for federal purposes.

Material Advisor's Disclosure of Reportable Transactions. A "material advisor" means any person who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction (as defined in the U.S. Treasury Regulations) and who, directly or indirectly, derives gross income from providing such aid, assistance, or advice in an amount that exceeds the threshold amount.

For a material advisor providing advice to an entity and not an individual, the "threshold amount" is any of the following:

- $25,000 if the reportable transaction is a listed transaction (as defined in the U.S. Treasury Regulations).
- $250,000 if the reportable transaction is not a listed transaction.

For a material advisor providing advice to an individual, the "threshold amount" is any of the following:

- $10,000 if the reportable transaction is a listed transaction (as defined in the U.S. Treasury Regulations).
- $50,000 if the reportable transaction is not a listed transaction.

A material advisor that is required to disclose a reportable transaction to the IRS after October 27, 2007, must file a copy of the disclosure with the Department of Revenue within 60 days of the date it is required for federal income tax purposes, if the reportable transaction affects the taxpayer's Wisconsin income or franchise tax liability. For federal purposes, the form required for this disclosure is Form 8918.

If you are required to file Form 8918 for federal income tax purposes and the reportable transaction to which the form relates affects the taxpayer's Wisconsin income or franchise tax liability, send a paper copy, separate from the Wisconsin return, to the following address: Wisconsin Department of Revenue, Tax Shelters Program, PO Box 8958, Madison, WI 53708-8958.

Uncertain Tax Positions. If you were required to file federal Schedule UTP-Uncertain Tax Position Statement, include a copy of the schedule with your Wisconsin tax return.

Internal Revenue Service Adjustments, Amended Returns, and Claims for Refund

Internal Revenue Service Adjustments. If a corporation's federal tax return is adjusted by the IRS and such adjustments affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must report such adjustments to the Department of Revenue within 90 days after they become final.

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

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

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

To file an amended Wisconsin return, put a check mark in item D1 on the front of the return, complete the return, and include an explanation of any changes made. Show computations in detail, including any applicable supplemental forms or schedules. Also show how you figured your refund or additional amount owed.

Where applicable, the line-by-line instructions in this booklet provide specific instructions for how to compute the amounts on an amended return.

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

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

Final Return

If the corporation liquidated during the taxable year, put a check mark in the space next to item D3 on the front of the return. Enter the date of liquidation as the taxable year ending date at the top of the return. Submit a copy of your plan of liquidation and a copy of federal Form 966 with your Wisconsin return.

Generally, the final return is due on or before the federal due date. In most cases, this is the 15th day of the 3rd month after the date the corporation dissolved. The tax is payable by the 15th day of the 3rd month after the date of dissolution, regardless of the due date of the final return.

Economic Development Surcharge

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

- Domestic corporations that don't have any business activities in Wisconsin.
- Foreign corporations that don't have nexus with Wisconsin, unless the foreign corporation is part of a combined group that has nexus in Wisconsin.
- Corporations that have less than $4 million of gross receipts from all activities. "Gross receipts from all activities" means gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.
- Nuclear decommissioning trust funds.

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

Information Returns

Transfers of Capital Stock. If one or more individual shareholders of the corporation who are Wisconsin residents transfer the corporation's capital stock during the calendar year, the corporation must file Wisconsin Form 8, *Transfers of Capital Stock*, for that calendar year. For more information, see the Form 8 instructions.

Miscellaneous Income. If the corporation paid $600 or more in rents, royalties, or certain nonwage compensation to one or more individuals, the corporation must file an information return to report those payments. You may use Wisconsin Form 9b, *Miscellaneous Income*, or you may use federal Form 1099 instead of Form 9b. For more information, see the Form 9b instructions.

Wisconsin Use Tax

The corporation may be liable for use tax. Use tax is the counterpart of sales tax. All tangible personal property, certain coins and stamps, certain leased properties affixed to real estate, certain digital goods, and selected services, taxable under Wisconsin's sales tax law, which are stored, used, or consumed in Wisconsin, are subject to use tax if the proper sales tax is not paid. Examples of purchases that frequently result in a use tax liability include the following:

- Mail order and Internet purchases. You owe Wisconsin use tax if you buy such items as computers, furniture, or office supplies from a vendor who is not registered to collect Wisconsin tax.
- Inventory. If you purchase inventory items without tax for resale, and then use these items instead of selling them, you owe use tax.
- Give-aways. Generally, if you purchase items without tax and then give them away in Wisconsin, you owe use tax.

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

For more information on use tax, visit the Department's web site at www.revenue.wi.gov/html/sales.html, call (608) 266-2776, e-mail sales10@revenue.wi.gov, or write to the Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8902, Madison, WI 53708-8902.

Penalties for Not Filing or Filing Incorrect Returns

If you don't file a franchise or income tax return that you are required to file, or if you file an incorrect return due to negligence or fraud, interest and penalties may be assessed against you. The interest rate on delinquent taxes is 18% per year. Civil penalties may be as much as 100% of the amount of tax not reported on the return. Criminal penalties for filing a false return include a fine of up to $10,000 and imprisonment. Further, if you fail to disclose reportable transactions, you may be subject to the penalties described in sec. 71.81, Wis. Stats., including a $30,000 penalty for failure to disclose a listed transaction.

Obtaining Forms and Assistance

If you need forms or publications, you may:

- Download them from the Department's Internet web site at www.revenue.wi.gov.
- Request them online at www.revenue.wi.gov.
- Call (608) 266-1961.
- Call or visit any Department of Revenue office.

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

- E-mail your question to corp@revenue.wi.gov.
- Send a FAX to (608) 267-0834.
- Call (608) 266-2772.
(Telephone help is also available using TTY equipment. Call the Wisconsin Telecommunications Relay System at 711 or, if no answer, (800) 947-3529. These numbers are to be used only when calling with TTY equipment)
- Write to the Corporation Franchise/Income Tax Assistance, Wisconsin Department of Revenue, PO Box 8906, Madison, WI 53708-8906.
- Call or visit any Department of Revenue office.

Conformity With Internal Revenue Code and Exceptions

The Wisconsin income and franchise tax law applicable is based on the federal Internal Revenue Code ("IRC"). The IRC generally applies for Wisconsin purposes at the same time as for federal purposes. For taxable years beginning on or after January 1, 2011, Wisconsin's definition of the IRC is the IRC as of December 31, 2010 with numerous exceptions. Some of the exceptions are listed below followed by a listing of the IRC provisions that Wisconsin does follow.

Note: The exceptions and provisions adopted by Wisconsin listed below are those in effect as of the publication date of these instructions. It is possible that subsequent changes in Wisconsin law may add or eliminate some exceptions applicable to taxable years beginning in 2011.

Depreciation and Section 179 Expensing

If the corporation has depreciation deductions or section 179 expense deductions, it is very likely that the amount of deduction will be different for Wisconsin purposes than for federal purposes.

Depreciation or Amortization Provisions Enacted After December 31, 2000. For Wisconsin purposes, depreciation or amortization is determined under the provisions of the IRC in effect on December 31, 2000. For example, the following provisions do not apply for Wisconsin purposes because they were enacted after December 31, 2000:

- 30% bonus depreciation (sec. 101 of P.L. 107-147, sec. 201 of P.L. 108-27, sec. 403(a) of P.L. 108-311)
- 50% bonus depreciation (sec. 201 of P.L. 108-27)
- Accelerated depreciation for Indian reservation property (sec. 316 of P.L. 108-311)
- Modification of application of income forecast method of depreciation (sec. 242 of P.L. 108-357)
- Special expensing provisions for film and television productions (sec. 244 of P.L. 108-357)
- Special rules on depreciation for aircraft (sec. 336 of P.L. 108-357)
- Modification of placed in service rule for bonus depreciation (sec. 337 of P.L. 108-357)
- Expansion of limitation on depreciation of certain passenger automobiles (sec. 910 of P.L. 108-357)
- Treatment of electric transmission property as 15-year property (sec. 1308 of P.L. 109-58)
- Expansion of amortization for certain atmospheric pollution control facilities (sec. 1309 of P.L. 109-58)
- Special expensing provisions for equipment used in refining liquid fuels (sec. 1323 of P.L. 109-58)
- Natural gas distribution lines treated as 15-year property (sec. 1325 of P.L. 109-58)
- Natural gas gathering lines treated as 7-year property (sec. 1326 of P.L. 109-58)
- Special rules for amortization of geological and geophysical expenditures (sec. 1329 of P.L. 109-58, sec. 503 of P.L. 109-222)
- Extension for placed in service rules for bonus depreciation for taxpayers affected by Hurricane Katrina, Rita, and Wilma (sec. 105 of P.L. 109-135)

- Election to amortize musical works and copyrights over a 5-year period (sec. 207 of P.L. 109-222)
- Extension for the increase in section 179 expensing limit and phase out threshold (sec. 201 of P.L. 111-147)
- Increase in section 179 dollar limit and phase-out threshold (sec. 2021 of P.L. 111-240)

Section 179 Expense Limitations. For Wisconsin purposes, different maximum amounts and phase-out thresholds apply than for federal purposes. Additionally, off-the-shelf computer software is not considered qualifying property for Wisconsin purposes, although it is qualifying property for federal purposes.

In general, the maximum section 179 expense and phase out threshold amounts for taxable years beginning in 2011 are as follows:

Section 179 Property in General		
	Wisconsin Law	**Federal Law**
Maximum Section 179 Expense	$25,000	$500,000
Phase-out Threshold (Amt. of qualifying property)	$200,000	$2,000,000

Other Exceptions to Internal Revenue Code

The following federal provisions in effect as of December 31, 2010, are specifically excluded for Wisconsin franchise and income tax purposes:

Small Business Stock. For federal purposes, 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 5 years (sec. 13113 of P.L. 103-66). For Wisconsin purposes, this section does not apply.

Installment Method for Accrual Basis Taxpayers. For federal purposes, accrual basis taxpayers may report income from an installment sale under the installment method (P.L. 106-573). For Wisconsin purposes, accrual basis taxpayers cannot use the installment method. Gain from the sale of property must be recognized the year of the sale. This does not apply to dispositions of property used or produced in farming or for certain dispositions of timeshares or residential lots.

Note: Wisconsin law also provides a modification relating to installment obligations. See page 3 for details.

Domestic Production Activities Deduction. For federal tax purposes, taxpayers may claim a deduction against gross income equal to a percentage of its qualified production activities income or its taxable income without regard to the deduction. For taxable years beginning after December 31, 2004, and before January 1, 2009, the federal domestic production activities deduction also applied for Wisconsin income and franchise tax purposes. Effective for taxable years beginning on or after January 1, 2009, the domestic production activities deduction will no longer apply for Wisconsin purposes (sec. 102 of P.L. 108-357).

Provisions of the Internal Revenue Code Adopted for Wisconsin Purposes:

- Section 209 of P.L. 109-222 and section 425 of Division A of P.L. 109-432 relating to loans to continuing care facilities.
- Section 844 of P.L. 109-280 relating to the treatment of annuities and life insurance contracts with a long-term care insurance feature.
- Section 117 of Division A of P.L. 109-432 relating to the extension of Archer medical savings accounts.
- Section 406 of Division A of P.L. 109-432 relating to whistleblower reforms.
- Section 409 of Division A of P.L. 109-432 relating to Superfund settlement funds.
- Section 410 of Division A of P.L. 109-432 relating to the active business test.
- Section 412 of Division A of P.L. 109-432 relating to capital gains treatment for self-created musical works.
- Section 417 of Division A of P.L. 109-432 and section 113 of P.L. 110-245 relating to gain on the sale of residence by members of the intelligence community.
- Section 418 of Division A of P.L. 109-432 relating to sales of property by judicial officers.
- Section 424 of Division A of P.L. 109-432 relating to unrelated business income for charitable remainder trusts.
- Section 403 of Division C of P.L. 109-432 relating to sale of mineral and geothermal rights to tax-exempt entities.
- Section 8215 of P.L. 110-28 relating to husband and wife partnership election.
- Section 8231 of P.L. 110-28 relating to eliminating gains from sales or exchanges of stock or securities from passive investment income of S-corporations.

- Section 8232 of P.L. 110-28 relating to treatment of bank director shares of S-corporation bank stock.
- Section 8234 of P.L. 110-28 relating to sale of interest in qualified subchapter S subsidiary.
- Section 8236 of P.L. 110-28 relating to interest deduction for electing small business trusts.
- P.L. 110-141 relating to payments from the Hokie Spirit Memorial Fund.
- Section 4 of P.L. 110-142 relating to cooperative housing pass-through treatment of interest and real estate taxes.
- Section 7 of P.L. 110-142 relating to the capital gain exclusion on sale of principal residence by surviving spouse.
- P.L. 110-172, except sections 3(b) and 11(b), (e), and (g), relating to technical corrections.
- Section 110 of P.L. 110-245 relating to gain on the sale of residence by Peace Corps volunteers.
- Section 4 of P.L. 110-246 relating to the repeal of P.L. 110-234.
- Sections 15312 – 15314 of P.L. 110-246 relating to Timber Real Estate Investment Trusts.
- Section 15316 of P. L. 110-246 relating to tax credit bonds.
- Section 15342 of P.L. 110-246 relating to the exchange of water rights.
- Sections 3031 – 3033, 3041, 3051, 3052, and 3061 of P.L. 110-289 relating to Real Estate Investment Trust income and asset tests.
- Section 3092 of P.L. 110-289 relating to nonqualified use of a principal residence.
- Section 3093 of P.L. 110-289, section 15 of P.L. 111-92 , and section 551 of P.L. 111-147 relating to delay in application of worldwide allocation of interest.
- Section 9 of P.L. 110-317 relating to the limitation on funeral trusts.
- Sections 116 and 208 of Division B of P.L. 110-343 relating to publicly traded partnership income treatment of alternative fuels.
- Section 211 of Division B of P.L. 110-343 relating to transportation fringe benefit to bicycle commuters.
- Section 301 of Division B of P.L. 110-343 relating to qualified energy conservation bonds.
- Section 313 of Division C of P.L. 110-343 relating to zone academy bonds.
- Section 504 of Division C of P.L. 110-343 relating to Exxon Valdez settlements.
- P.L. 110-351 relating to the uniform definition of a child.
- Sections 1261 and 1262 of Division B of P.L. 111-5 relating to the repeal of Internal Revenue Service Notice 2008-83, which affects section 382 of the Internal Revenue Code.
- Sections 1401, 1402, 1521, 1522, and 1531 of Division B of P.L. 111-5 relating to recovery zone economic development and facility bonds, tribal economic development bonds, school construction bonds, zone academy bonds, and Build America bonds.
- Section 1541 of Division B of P.L. 111-5 relating to the pass through of tax credit bonds by regulated investment companies.
- Section 14 of P.L. 111-92 relating to military base realignment and closure.
- Section 301 of P.L. 111-147 relating to tax credit bonds treated as Build America bonds.
- Sections 531-533 of P.L. 111-147 relating to foreign trusts.
- Section 1322 of P.L. 111-148 relating to nonprofit health insurers.
- Section 1515 of P.L. 111-148 relating to qualified health plan benefits under cafeteria plans.
- Section 9003 of P.L. 111-148 relating to disallowing over-the-counter medicine expenses under a flexible spending arrangement.
- Section 9021 of P.L. 111-148 relating to an income exclusion for Indian health care benefits.
- Section 9022 of P.L. 111-148 relating to cafeteria plans of small employers.
- Section 10108 of P.L. 111-148 relating to an income exclusion for free-choice vouchers to purchase a health plan.
- Section 10908 of P.L. 111-148 relating to loan repayments for health care professionals.
- Section 10909 of P.L. 111-148 relating to the income exclusion for employer-provided adoption assistance.
- Section 1407 of P.L. 111-152 relating to delay in effective date for elimination of the deduction of the subsidy for employers who maintain prescription drug coverage for retirees.

- P.L. 111-192 relating to qualified retirement plans.
- Section 1601 of P.L. 111-203 relating to the section 1256 mark-to-market requirements.
- Section 215 of P.L. 111-226 relating to the treatment of foreign subsidiary redemptions.
- Section 217 of P.L. 111-226 relating to the 80/20 rule for interest and dividends paid by a corporation.
- Section 2014 of P.L. 111-240 relating to the recognition period for S-corporation built-in gain tax.
- Section 2043 of P.L. 111-240 relating to documentation for claiming cell phones as a business expense.
- Section 2111 of P.L. 111-240 relating to allowing a section 457(b) plan to add a designated Roth account and allow rollovers to that account.
- Section 2112 of P.L. 111-240 relating to the treatment of rollovers from a section 401(k) or section 403(b) to a designated Roth account.
- Section 2113 of P.L. 111-240 relating to split annuity contracts.
- P.L. 111-325 relating to a Regulated Investment Company.

Capital Losses

Wisconsin generally follows the capital loss limitations and carryovers provided under the IRC for corporations. If a corporation has a net capital loss, the loss must be carried to other taxable years and deducted from capital gains in those years, as provided in IRC section 1212. However, for Wisconsin purposes, a corporation can’t carry back a loss to taxable years before 1987. Losses that can’t be carried back may be carried forward 5 years.

Limitations on Certain Federal Deductions

You may have to recompute federal deduction limitations for Wisconsin purposes if the amount of your federal taxable income for federal purposes differs from your federal taxable income as determined under the IRC in effect for Wisconsin. Differences in your federal taxable income for federal and Wisconsin purposes may arise for the following reasons:

- A provision of the federal IRC is excluded from the definition of “Internal Revenue Code” in effect for Wisconsin under sec. 71.22(4), Wis. Stats.
- Different elections under the IRC are made for federal and Wisconsin purposes.

The deduction limitations are applied in computing federal taxable income *before* the Wisconsin modifications prescribed in secs. 71.26(2) and (3) and 71.30, Wis. Stats. Therefore, you may not recompute deduction limitations as a result of making Wisconsin modifications. For example, if your federal section 179 expense deduction was limited as a result of claiming federal bonus depreciation, you may not recompute the section 179 deduction because there is a specific Wisconsin modification (sec. 71.26(3)(y), Wis. Stats.), which disallows bonus depreciation in computing Wisconsin income.

The following examples further illustrate how the limitations on federal deductions apply:

Example 1: Corporation B reports federal taxable income of zero for the current taxable year and Wisconsin taxable income of $20,000. The difference results from adding to federal income the $20,000 of state income taxes paid that the taxpayer had deducted on its federal return. For federal purposes, the taxpayer has $25,000 of section 179 expense, but is limited by its business income to claiming a deduction of $5,000 and carrying forward the $20,000 balance. For Wisconsin purposes, the section 179 deduction is limited to $5,000, the federal amount. The Wisconsin section 179 deduction cannot be recomputed since the addback for state income taxes is a modification prescribed in sec. 71.26(3)(g), Wis. Stats.

Example 2: Corporation C reports federal taxable income of zero for the current taxable year and Wisconsin taxable income of $15,000. The taxpayer’s Wisconsin income exceeds its federal taxable income because the taxpayer may not claim federal bonus depreciation for Wisconsin. For federal purposes, the taxpayer computes $44,000 of section 179 expense but can use only $17,000 of that amount due to the business income limitation. The $27,000 balance is carried forward. For Wisconsin purposes, the taxpayer’s section 179 expense is limited to $25,000. However, the taxpayer may deduct on its current Wisconsin return only the $17,000 that was used for federal purposes and must carry forward the $8,000 Wisconsin balance. The taxpayer must compute Wisconsin depreciation for the current year based on a section 179 deduction of $25,000. The taxpayer must add back to Wisconsin income the $19,000 difference between the $27,000 federal section 179 expense carryforward and the $8,000 Wisconsin carryforward in future years when it is used on the taxpayer’s federal return.

Example 3: Corporation F claims no section 179 expense deduction but $16,000 of bonus depreciation on its federal return for the current taxable year. The taxpayer could have elected to claim a section 179 expense deduction on its federal return in addition to or instead of the bonus depreciation. The taxpayer may elect to claim the $16,000 as a section 179 expense deduction on its Wisconsin return so that the computation of its regular MACRS allowance is the same for federal and Wisconsin purposes.

Line-by-Line Instructions for Form 5

You must complete pages 1 and 2 of Form 5 and the appropriate schedules to explain the adjustments to federal income and the computation of tax credits. Do not enter "See attached" instead of completing the entry spaces. If more space is needed, submit separate sheets using the same size and format as the printed forms.

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

Caution: Federal line numbers referred to on Form 5 and in these instructions may change.

Items A Through H

Before completing items A through H, fill in the corporation's 2011 taxable year at the top of the form and the corporation's name and address. The name and address information should be written on single lines. Do not stack the information on the lines. If more room is needed, abbreviate where possible.

Do not write "None" on the amount lines if there is not an entry for the lines. Instead, leave the lines blank.

If the corporation dissolved, enter the date of dissolution as the ending date of the 2011 taxable year.

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

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

■ **Item C. State and Year of Incorporation** – Enter the 2-letter postal abbreviation for the state (or name of the foreign country) under the laws of which the corporation is organized and the year of incorporation.

■ **D1. Amended Return** – Check here if this is an amended return. Circle the line number of the lines you are changing and submit a detailed explanation of the changes made, including any supporting form or schedule.

■ **D2. First Return** – Check here if this is the first year that you are filing a Wisconsin return because the corporation wasn't in existence or didn't do business in Wisconsin in prior years.

■ **D3. Final Return** – If the corporation ceased to exist or withdrew from Wisconsin during the year, check here and submit a copy of your plan of liquidation and federal Form 966 if the corporation liquidated.

■ **D4-5. Short Period** – Indicate that a short period return is being filed due to a change in the corporation's accounting period or a stock purchase or sale by checking the appropriate line.

■ **Item E. Extended Due Date** – Check here if the corporation has an extension of time to file its Wisconsin return, and enter the extended due date.

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

■ **Item G. Schedule RT Required** – Check here if the corporation is filing Schedule RT, *Wisconsin Related Entity Expenses Disclosure Statement*, with its return. Schedule RT is generally required if the corporation pays, accrues, or incurs more than $100,000 of expenses to a related person or entity in the taxable year. See the Schedule RT instructions for details of the requirement to file Schedule RT.

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

Line 1: Federal Taxable Income

Enter the federal taxable income before the net operating loss deduction and special deductions. Generally, this is the amount from federal Form 1120, line 28. However, for certain types of corporations the applicable line of the federal return may be different. These certain types of corporations and applicable lines include the following:

- Regulated investment companies (RICs) use Form 1120-RIC, line 26.
- Real estate mortgage investment conduits (REMICs) use Form 1066, Schedule J, line 4 plus line 9.

- Real estate investment trusts (REITs) use Form 1120-REIT, line 22.
- Cooperative associations use Form 1120-C, line 25c.
- For corporations that are treated as S corporations federally but are not treated as Wisconsin tax-option corporations, use Form 1120S, line 21.

Line 2: Additions to Federal Income (Schedule V)

Complete Schedule V and enter the total on Form 5, line 2.

Specific instructions for how to complete Schedule V follow:

■ ***Line 1. Interest Income*** – Enter interest income received on state and municipal obligations and any other interest income that is exempt from federal income tax and isn't included in federal taxable income.

Corporations subject to the Wisconsin income tax rather than the franchise tax shouldn't enter interest income on line 1 that is exempt from income tax under both Wisconsin and federal law. This includes interest income on the following types of obligations:

- Public housing authority or community development authority bonds issued by municipalities located in Wisconsin
- Wisconsin Housing Finance Authority bonds
- Wisconsin municipal redevelopment authority bonds
- Wisconsin higher education bonds
- Wisconsin Housing and Economic Development Authority bonds issued on or after December 11, 2003, to fund multifamily affordable housing or elderly housing projects
- Wisconsin Housing and Economic Development Authority bonds issued before January 29, 1987, except business development revenue bonds, economic development revenue bonds, and CHAP housing revenue bonds
- Public housing agency bonds issued before January 29, 1987, by agencies located outside Wisconsin where the interest therefrom qualifies for exemption from federal taxation for a reason other than or in addition to section 103 of the IRC
- Local exposition district bonds
- Wisconsin professional baseball park district bonds
- Bonds issued by the Government of Puerto Rico, Guam, the Virgin Islands or, for bonds issued after October 16, 2004, the Government of American Samoa
- Local cultural arts district bonds
- Wisconsin professional football stadium bonds
- Wisconsin Aerospace Authority bonds
- Bonds issued on or after October 27, 2007, by the Wisconsin Health and Education Facilities Authority to fund acquisition of information technology hardware or software
- Southeast Regional Transit Authority bonds
- Conduit revenue bonds issued under sec. 66.0304, Wis. Stats., if the bonds or notes are used to fund multifamily affordable housing projects or elderly housing projects in Wisconsin and the Wisconsin Health and Education Facilities Authority has the authority to issue the bonds. The bonds or notes are used by a health facility to fund the acquisition of information technology hardware or software in Wisconsin and the Wisconsin Health and Educational Facilities Authority has the authority to issue the bonds. Bonds or notes issued to fund a redevelopment project or housing project in Wisconsin.
- Bonds issued by the Wisconsin Housing and Economic Development Authority to provide loans to a public affairs network.

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

■ ***Lines 3 and 4. Related Entity Expenses –*** A corporation must make an addition modification to "add back" management fees and intangible, interest or rental expenses paid, accrued, or incurred to a related entity. These expenses must generally also be disclosed on Schedule RT. See the Schedule RT instructions for further details of the expenses required to be disclosed on Schedule RT and added back to income on Schedule V.

After the corporation makes this addition modification, the corporation uses Part II of Schedule RT to determine if it is eligible for a deduction for any of the amount added back. The corporation then makes a subtraction modification on Schedule W of the amount for which it is eligible for a deduction.

If the corporation is a partner, member, or beneficiary of a pass-through entity, also include the amount of modification included on line 21a of Schedule 3K-1 and on line 14a of Schedule 2K-1, if applicable.

■ ***Line 5. Expenses Related to Nontaxable Income*** – Enter expenses deducted in computing federal taxable income that are directly or indirectly related to nontaxable income.

Refer to the specific instructions for Schedule W, line 6, for an explanation of "nontaxable income." Examples of expenses related to nontaxable income include taxes, interest, and administrative fees related to the production of such income.

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

■ ***Line 6. Percentage Depletion –*** Enter percentage depletion deducted in computing federal taxable income. **Note:** Cost depletion is deductible for Wisconsin and should be entered on Schedule W, line 8, if not deducted on the federal return.

■ ***Line 7. Section 179 Expense –*** Enter the amount by which the federal section 179 expense deduction exceeds the Wisconsin deduction.

■ ***Line 8. Depreciation/Amortization*** – Enter the amount by which the federal deduction for depreciation or amortization exceeds the Wisconsin deduction. Include a schedule showing the computation details.

These differences can happen because of IRC sections not adopted for Wisconsin purposes and also because of differences that existed between Wisconsin and federal law for assets placed in service before January 1, 1987.

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

An asset must continue to be depreciated or amortized under the method allowable for Wisconsin purposes for the year in which it was placed in service. Thus, the differences in Wisconsin and federal depreciation and amortization that existed before January 1, 1987 continue to exist. These differences are described in items **a.** through **i.** below.

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

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

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

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

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

However, the Wisconsin Tax Appeals Commission declared this provision unconstitutional in *Beatrice Cheese, Inc. vs. Wisconsin Department of Revenue* (February 24, 1993). Therefore, corporations have the option of either claiming the same depreciation deduction as for federal purposes, or continuing their present method of depreciation. For more information, see the tax release in *Wisconsin Tax Bulletin* 84 (October 1993, page 18).

f. A corporation electing to claim an investment tax credit for federal income tax purposes could either claim the credit and reduce the depreciable basis of the property by one-half of the credit, or claim a reduced investment credit and not reduce the depreciable basis of the property. These corporations weren't required to reduce the depreciable basis of the investment credit property for Wisconsin purposes.

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

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

i. For Wisconsin purposes, before the 1987 taxable year, corporations (except regulated investment companies and real estate investment trusts) couldn't claim section

179 expense. Instead, depreciation was allowable on the cost basis of the property, without reduction for the amount the corporation may have elected to expense under section 179 for federal purposes.

■ ***Line 9. Basis Differences for Assets Disposed –*** Enter the amount by which the federal basis of assets disposed of exceeds the Wisconsin basis. If more than one asset is disposed of, you may combine the bases of the assets so that you need only one entry either on this line or Schedule W, line 10. Provide a schedule showing the computation details.

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

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

The amount to enter on Schedule V, line 9, is $10,000. If the Wisconsin bases of the assets had exceeded the federal bases, an entry would be made on Schedule W, line 10, instead.

■ ***Line 10. Addition for Credits Computed –*** Enter the total amount of the credits you computed on your 2010 return from the list provided. These credits are required to be included in the corporation's income in the year computed.

■ ***Line 12. Other Additions*** – Enter any other additions to federal income. These could include:

- Federal capital loss carryovers (if previously deducted for Wisconsin).
- Adjustments required as a result of changes made to the IRC which don't apply for Wisconsin.
- Adjustments required as a result of making different elections for Wisconsin and federal purposes.
- Separately stated items of income and adjustments for differences between the federal and Wisconsin treatment of any items of an S corporation that opts out of Wisconsin tax-option status.

Line 4: Subtractions from Federal Income (Schedule W)

Complete Schedule W and enter the total on Form 5, line 4.

Specific instructions for how to complete Schedule W follow:

■ ***Line 1. Dividends Received Deduction (Schedule Y) –*** Enter, from Schedule Y, line 4, dividends received which are included in the amount on Form 5, line 3, and qualify for deduction for Wisconsin purposes. In general, a dividend is deductible for Wisconsin purposes if it meets the following requirements:

- It is paid on common stock, and
- The corporation receiving the dividend owned at least 70% of the total combined voting stock of the payer corporation for the entire taxable year.

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

Combined groups should use Schedule Y to account for dividends between combined group members and should not account for the dividends on Form 4R.

Instructions for Schedule Y: On line 1, list the names of the payers, the date or dates the stock was acquired, the percentage of the voting stock owned, and the dividends received which meet the above requirements and have been included on Form 5, line 1, or on Schedule V. On line 3, enter taxes paid to a foreign nation on dividends listed on line 1, which were claimed as a deduction in computing federal taxable income or are being included on Schedule W, line 7.

Dividends received from certain subsidiary corporations may be nontaxable. See the instructions for Schedule W, line 6. Don't include such dividends on Schedule Y.

■ ***Line 2. Related Entity Expenses –***A corporation must make an addition modification to "add back" management fees, and intangible, interest or rental expenses paid, accrued, or incurred to a related entity. The "addback" is reported on Schedule V, line 3. After the corporation makes this addition modification, the corporation completes Part II of Schedule RT to determine if it is eligible for a deduction for any of the amount added back. The corporation then makes a subtraction modification on Schedule W, line 2, for the amount for which it is eligible for a deduction. See the Schedule RT instructions for details of the conditions necessary to claim the subtraction modification.

If the corporation is a partner, member, or beneficiary of a pass-through entity, also include the amount of modification included on line 21b of Schedule 3K-1 and on line 14b of Schedule 2K-1, if applicable.

■ ***Line 3. Income from Related Entity Expenses*** – If the corporation has management fees, and intangible, interest or rental income from a related entity which paid, accrued, or incurred the management fees, and intangible, interest or rental expenses to the corporation, and that related entity could not deduct those expenses because the conditions set forth in Schedule RT, Part II, were not met, the corporation may subtract the corresponding management fees, and intangible, interest or rental income from its taxable income.

In order to claim this subtraction, the corporation must obtain Schedule RT-1 from the related entity and submit Schedule RT-1 with its return. See the Schedule RT-1 instructions for further details.

■ ***Line 4. Subpart F Income –*** Enter income from controlled foreign corporations under Subpart F of the IRC as reported on Form 1120, Schedule C, line 14.

■ ***Line 5. Foreign Dividend Gross-Up –*** Enter foreign dividend gross-up reported on Form 1120, Schedule C, line 15.

■ ***Line 6. Nontaxable Income –*** Enter nontaxable income included in computing federal taxable income. Include a schedule with your return showing the payers and amounts of nontaxable income and explaining why that income isn't taxable.

Interest, dividends, and capital gains from the disposition of intangible assets are nontaxable if both of the following are true:

- The operations of the payer are not unitary with those of the payee, and
- The payer and payee are not related as parent company and subsidiary or affiliates and the investment activity from which the income is received is not an integral part of a unitary business.

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

For corporations subject to the Wisconsin income tax rather than the franchise tax, nontaxable income includes interest on United States government obligations. **Note:** Expenses related to nontaxable income aren't deductible and must be added to federal taxable income on Schedule V, line 5.

■ ***Line 7. Foreign Taxes –*** Enter foreign taxes paid or accrued during the year that aren't deducted in computing federal taxable income and aren't included on Schedule W, line 5.

■ ***Line 8. Cost Depletion –*** Enter cost depletion that wasn't deducted in computing federal taxable income. **Note:** Percentage depletion isn't deductible for Wisconsin and must be added to federal taxable income on Schedule V, line 6.

■ ***Line 9. Depreciation/Amortization –*** Enter the amount by which the Wisconsin deduction for depreciation or amortization exceeds the federal deduction for depreciation or amortization. Refer to the instructions for Schedule V, line 8, for a detailed discussion of depreciation and amortization. Provide a schedule showing the computation details.

■ ***Line 10. Basis Differences –*** Enter the amount by which the Wisconsin basis of assets disposed of exceeds the federal basis. See the instructions for Schedule V, line 9, for an example. Provide a schedule showing the computation details.

■ ***Line 11. Federal Work Opportunity Credit Wages –*** Enter wages not deductible in computing federal income as a result of being used in computing the federal work opportunity tax credit.

■ ***Line 12. Federal Research Credit Expenses –*** Enter research expenses not deductible in computing federal income as a result of being used in computing the federal credit for increasing research activities.

■ ***Line 13. Other Subtractions –*** Enter any other subtractions from federal income. These could include:

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

■ ***Line 15. Job Creation Deduction –*** Enter the job creation deduction from line 7 of Schedule JC. See Schedule JC for further information regarding the job creation deduction.

■ **Line 6. Wisconsin Net Business Loss Carryforward** – Enter the total Wisconsin net business loss carryforward from Form 4BL, line 30. The instructions for Form 4BL are included with the form.

If line 5 is zero or a loss, do not fill in line 6. If the net business loss carryforward from Form 4BL exceeds the income reported on line 5, do not enter more than the amount on line 5. Regulated investment companies, real estate mortgage investment conduits, real estate investment trusts, and financial asset securitization investment trusts enter zero.

■ **Line 7. Wisconsin Net Income (Loss)** – Subtract line 6 from line 5. If line 5 shows a loss, enter the loss from line 5 on line 7.

■ **Line 8. Gross Tax** – Enter 7.9% of the Wisconsin net income reported on line 7.

■ **Line 9. Nonrefundable Credits** – Enter any nonrefundable credits the corporation is claiming from Schedule CR, line 48. However, you may not offset these credits against the economic development surcharge.

To determine if the corporation qualifies for any credits, see Publication 123, *Business Tax Credits for 2010* (available on the Department of Revenue's web site at www.revenue.wi.gov/html/taxpubs.html#business). To claim a credit, complete the appropriate credit schedule as instructed by Publication 123, enter the credit amount on the appropriate line of Schedule CR, and submit the credit schedule and Schedule CR with your return.

If you are claiming more than one credit, you must claim the credits in a specific order. See the Schedule CR instructions for details.

■ **Line 10. Relocated Business Credit** – If qualified to claim the relocated business credit, check the box on line 10 and enter the balance remaining after subtracting line 9 from line 8;. If not qualified to claim the relocated business credit, enter 0. See the Schedule RB instructions for further information.

■ **Line 11. Net Tax** – Subtract lines 9 and 10 from line 8. If lines 9 and 10 are more than line 8, enter zero.

■ **Line 12. Economic Development Surcharge** – Enter the greater of $25 or 3% of the gross tax on line 8, but not more than $9,800. However, the following corporations should enter zero on line 12:

- Domestic corporations that don't have any business activities in Wisconsin
- Foreign corporations that don't have nexus with Wisconsin, unless the foreign corporation is part of a combined group that has nexus in Wisconsin.
- Corporations that have less than $4 million of gross receipts from all activities.
- Nuclear decommissioning trust funds.

■ **Line 13. Endangered Resources Donation** – Your donation supports the preservation and management of more than 200 endangered and threatened Wisconsin plants and animals. It also helps protect Wisconsin's finest remaining examples of prairies, forests, and wetlands.

Support endangered resources in Wisconsin. Fill in line 13 with the amount you wish to donate. Your gift will either reduce your refund or be added to tax due. You can also send a check directly to the Endangered Resources Fund, Department of Natural Resources, PO Box 7921, Madison, WI 53707-7921.

■ **Line 14. Veterans Trust Fund Donation –** You may designate an amount as a veterans trust fund donation. Your donation will be used by the Wisconsin Department of Veterans Affairs for the benefit of veterans or their dependents.

Fill in line 14 with the amount you wish to donate. Your donation will either reduce your refund or be added to tax due.

■ **Line 16. Estimated Tax Payments** – Enter estimated tax payments made by the corporation or overpayments applied from prior years' returns, minus any "quick refund" applied for on Form 4466W. *You cannot claim estimated tax payments that were made by a related corporation.*

■ **Line 17. Wisconsin Tax Withheld –** Enter your share of Wisconsin tax withheld from pass-through entities of which you are a member, as reported on Wisconsin Schedules 3K-1 and 2K-1. Include a copy of the Schedule 3K-1 or 2K-1, as applicable, with the tax return that you file. Also enter the amount of Wisconsin tax withheld from lottery prizes.

If this is an amended return, enter the Wisconsin tax withheld reported on your original return, unless the amount you originally reported was incorrect.

■ **Line 18. Refundable Credits –** Enter any refundable credits the corporation is claiming from Schedule CR, line 51. To determine if the corporation qualifies for any credits, see Publication 123, *Business Tax Credits for 2010* (available on the Department's web site at www.revenue.wi.gov/html/taxpubs.html#business). To claim a credit, complete the appropriate credit schedule as instructed by Publication 123, enter the credit amount on the appropriate line of Schedule CR, and submit the credit schedule and Schedule CR with your return.

■ **Line 19. Amended Return - Amount Previously Paid -** Complete this line only if this is an amended 2011 Form 5. Fill in the amount of tax you paid with your original Form 5 plus any additional amounts paid after it was filed.

If you did not pay the full amount shown on your original Form 5, fill in only the portion that you actually paid. Also, include any additional tax that may have resulted if your original return was changed or audited. This includes additional tax paid with a previously filed 2011 amended return and additional tax paid as a result of a department adjustment to your return. Do not include payments of interest or penalties.

■ **Line 21. Amended Return - Amount Previously Refunded -** Complete this line only if this is an amended 2011 Form 5. Fill in the refund from your original 2011 return (not including the amount applied to your 2012 estimated tax).

If your refund was reduced because you owed underpayment interest or any penalties, fill in the amount of your refund before the reduction for underpayment interest or penalty. If your 2011 return was adjusted by the department, fill in the refund shown on the adjustment notice you received. If the adjustment notice shows a tax due rather than a refund, complete line 19 instead of line 21.

■ **Line 23. Interest, Penalty, and Late Fee Due –** Enter any interest, penalty, and late fee due from Form 4U, line 17 or 26. Check the designated line if you computed underpayment interest using the annualized income installment method on Form 4U, page 2.

If you are filing an amended return and you were previously assessed interest for underpayment of estimated taxes, complete an amended Form 4U, Part I, based on the total of the amounts shown on lines 11 and 12. Enter the difference between the underpayment interest from the amended Form 4U, line 17, and the amount you previously paid on line 23. Show an overpayment as a negative number. File Form 4U with your amended return. Otherwise, leave line 23 blank. The Department will compute interest on the amount of refund approved or tax owed.

■ **Line 24. Tax Due –** If the total of lines 15 and 23 is larger than line 22, subtract line 22 from the total of lines 15 and 23. Pay by electronic funds transfer or mail your check with a 2011 Form 4-ES, *Corporation Estimated Tax Voucher,* to the address shown on the voucher. **Otherwise, use paper clips to fasten your check to the front of Form 5**.

■ **Line 25. Overpayment –** If line 22 is larger than the total of lines 15 and 23, subtract the total of lines 15 and 23 from line 22.

NOTE: If you must recapture development zones investment credit because the property is disposed of or ceases to be qualified property before the end of the recapture period, add the amount from Schedule DC, line 34, to the tax due on line 24 or reduce the overpayment on line 25.

■ **Line 26. 2012 Estimated Tax –** Enter the amount of any overpayment from line 25 that is to be credited to the corporation's 2012 estimated tax. The balance of any overpayment will be refunded. An overpayment shown on a corporation's final return will be refunded to the corporation that made the payments. You cannot claim these payments on the surviving corporation's return in a merger situation.

If this is an amended return and you have already filed your 2012 return, enter the overpayment that you claimed as a credit on your 2012 return from your previously filed original or amended 2011 return. Otherwise, you may allocate the overpayment from line 25 between line 26 and line 27 as you choose.

Lines 28 through 32

■ **Line 28. Gross Receipts –** Enter total company gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.

■ **Line 29. Total Assets –** Enter the total company assets from the federal return.

■ **Lines 30 and 31 –** Provide the requested information and answer the question.

■ **Line 32. Uncertain Tax Positions.** If you were required to file federal Schedule UTP-Uncertain Tax Position Statement, include a copy of the schedule with your Wisconsin tax return.

Additional Information, Signatures, and Supplemental Schedules

■ **Additional Information –** Provide the requested information. For item 3 (relating to use tax) and item 4 (relating to IRS adjustments) refer to the general instructions earlier in this booklet.

■ **Signatures –** An officer of the corporation must sign the form at the bottom of page 2. If the return is prepared by someone other than an employee of the corporation, the individual who prepared the return must sign the form, by hand, in the space provided for the preparer's signature and furnish the preparing firm's federal employer identification number. A self-employed individual must enter "SSN" or "PTIN" and the social security number or preparer tax identification number in the space for the preparer's federal employer identification number.

■ **Supplemental Schedules** – File the following items as supplemental schedules to your Form 5:

- Your federal return with all supporting schedules.
- If you are filing a federal consolidated return, a breakdown by individual company or a copy of the pro forma federal return for each corporation in the consolidated group.
- A list of your solely owned LLCs.
- Any extension of time to file your return.
- Supporting schedules for Form 5 (supporting schedules that are not Department-prescribed forms may be submitted as Portable Document Files (*.pdf) with electronic returns).

If you have an approved electronic filing waiver and must file Form 5 on paper, **do not staple, fasten or bind these supplemental schedules to your return. Use paper clips instead.**

Special Instructions for Certain Entities

Personal Holding Companies and Lottery Prizes

For taxable years beginning prior to January 1, 2009, the intangible income of a personal holding company was generally allocated to the personal holding company's state of incorporation. The 2009 Wisconsin Act 2 repealed this particular treatment for personal holding companies effective for taxable years beginning on or after January 1, 2009. "Personal holding company" has the meaning prescribed in IRC section 542 in effect on December 31, 1974.

The treatment of lottery prizes has not changed. Income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes shall be allocated to Wisconsin if the winning tickets were originally bought in Wisconsin.

Foreign Sales Corporations (FSCs)

FSCs no longer receive special treatment for Wisconsin. The income and tax of FSCs are computed in the same manner as for other corporations.

Interest Charge Domestic International Sales Corporations (IC-DISCs)

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

RICs, REMICs, REITs, and FASITs

Depreciation Differences. For corporations that qualify as regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), or real estate investment trusts (REITs) under the IRC, the following depreciation differences apply:

- Depreciation and amortization on property located outside Wisconsin and placed in service on or after January 1, 1983, and before January 1, 1987, were to be determined under the December 31, 1980, IRC. However, the Wisconsin Tax Appeals Commission declared this provision unconstitutional in *Beatrice Cheese, Inc. vs. Wisconsin Department of Revenue* (February 24, 1993). Corporations have the option of either claiming the same depreciation deduction as for federal purposes, or continuing their present method of depreciation.
- IRC section 168(f)(8), relating to a special rule for leases (safe harbor), didn't apply for Wisconsin purposes.
- Depreciation for residential real property and property used in farming (if the corporation's Wisconsin gross farm receipts or sales exceeded $155,000 for the 1986 taxable year), acquired in the 1986 taxable year, but before January 1, 1987, must be determined under the December 31, 1980, IRC.

Other Federal-Wisconsin Adjustments. The only adjustments that RICs, REMICs, qualified REITs, and FASITs must make to federal taxable income to arrive at Wisconsin net income are:

- Those necessary to account for the depreciation and amortization differences described above,
- Differences in depreciation because Wisconsin follows the federal depreciation and amortization provisions in effect as of December 31, 2000,
- Any difference in the Wisconsin and federal basis of any asset disposed of in a taxable transaction, and
- Any other adjustment needed for changes made to the IRC that don't apply for Wisconsin.

All other adjustments listed on Schedules V and W don't apply to RICs, REMICs, qualified REITs, and FASITs.

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

FASITs. The special rules for financial asset securitization investment trusts (FASITs) generally do not apply after 2004.

S Corporations That Aren't Wisconsin Tax-Option (S) Corporations

For corporations that are treated as S corporations federally but have elected not to be treated as Wisconsin tax-option (S) corporations, enter the ordinary income or loss from federal Form 1120S, line 21 on line 1 of Form 5.

These corporations determine their Wisconsin net income under the Wisconsin corporate franchise and income tax law (secs. 71.22 and 71.26(2) and (3), Wis. Stats.), the same as any other corporation. Therefore, adjustments are required on Schedules V and W for separately stated items of income and expense and any other differences between the federal computation of S corporation income and deduction items and the Wisconsin computation of a regular (C) corporation's net income.

Obtaining Forms and Assistance

If you need forms or publications, you may:

- Download them from the Department's Internet web site at www.revenue.wi.gov.
- Request them online at www.revenue.wi.gov.
- Call (608) 266-1961.
- Call or visit any Department of Revenue office.

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

- E-mail your question to corp@revenue.wi.gov.
- Send a FAX to (608) 267-0834.
- Call (608) 266-2772.
  (Telephone help is also available using TTY equipment. Call the Wisconsin Telecommunications Relay System at 711 or, if no answer, (800) 947-3529. These numbers are to be used only when calling with TTY equipment)
- Write to the Corporation Franchise/Income Tax Assistance, Wisconsin Department of Revenue, PO Box 8906, Madison, WI 53708-8906.
- Call or visit any Department of Revenue office.