Important Notice for Persons Receiving Unemployment Compensation

On March 11, 2021, the American Rescue Plan Act of 2021 (Public Law 117-2) was enacted. Section 9042 of the Act allows for an unemployment compensation exclusion of up to $10,200 for federal purposes. Wisconsin has not adopted this federal provision. As a result:

- If you already filed your 2020 Wisconsin income tax return and are amending your federal return solely to exclude unemployment compensation, do **NOT** amend your 2020 Wisconsin return because there is no change to the amount of taxable income or tax due to Wisconsin.
- If you have not filed your 2020 Wisconsin return, you must add the amount of unemployment compensation excluded on your federal return on lines 2h, 2i, or 2j of Wisconsin Schedule I. This schedule determines the federal adjusted gross income using the Internal Revenue Code adopted for Wisconsin.

Note: As a result of this addition to federal adjusted gross income for Wisconsin purposes, other Wisconsin computations may be affected. For example, if you claimed the federal earned income tax credit, you must recompute the federal earned income tax credit for Wisconsin purposes before claiming the Wisconsin earned income credit on Form 1 or 1NPR.

Update to Instructions as a Result of 2021 Wisconsin Act 1

On February 18, 2021, Governor Tony Evers signed 2021 Wisconsin Act 1. The law provides the following changes to the 2020 tax year:

Earned Income Tax Credit

Wisconsin adopted section 211 of Division EE of Public Law 116-260, allowing taxpayers to elect to use their 2019 earned income to compute their 2020 federal and Wisconsin earned income tax credits.

Federal Paycheck Protection Programs

Wisconsin adopted sections 276(a) and (b) and 278(a) of Division N of Public Law 116-260, regarding the tax treatment of income and expenses relating to the original and subsequent Paycheck Protection Programs (PPP). Taxpayers may exclude from income the forgiveness of debt on PPP loan proceeds and deduct expenses paid with PPP loan proceeds that are otherwise deductible.

Other Federal Grants, Loans, and Subsidies

Wisconsin adopted section 278(b), (c), and (d) of Division N of Public Law 116-260, regarding the tax treatment of income and expenses relating to certain federal grants, loans, and subsidies. Taxpayers may exclude from income the following federal grants, forgivable loans, and subsidies, and deduct expenses paid with the funds if the expenses are otherwise deductible:

- Section 278(b) - Emergency grants of economic injury disaster loans (EIDL) and targeted EIDL advances
- Section 278(c) - Subsidy for certain loan payments
- Section 278(d) - Grants for shuttered venue operators

Other Federal Provisions Adopted

For an inclusive list of federal provisions adopted under 2021 Wisconsin Act 1, see the Internal Revenue Code update articles under the new tax laws section of *Wisconsin Tax Bulletin* 212, available on the department's website on Monday, February 22, 2021.

State Grant Programs During the COVID-19 Pandemic

The following income is exempt from Wisconsin income and franchise tax:

- Income received from the state of Wisconsin with money received from the coronavirus relief fund authorized under 42 USC 801 to be used for any of the following purposes:

- Grants to small businesses
- A farm support program
- Broadband expansion
- Privately owned movie theater grants
- A nonprofit grant program
- A tourism grants program
- A cultural organization grant program
- Music and performance venue grants
- Lodging industry grants
- Low-income home energy assistance
- A rental assistance program
- Supplemental child care grants
- A food insecurity initiative
- Ethanol industry assistance
- Wisconsin Eye

- Income received in the form of a grant issued by the Wisconsin Economic Development Corporation during and related to the COVID-19 pandemic under the ethnic minority emergency grant program.

Income from these programs is included in federal income pursuant to sec. 61 of the Internal Revenue Code, unless an exception applies. For Wisconsin, this income should be excluded from federal adjusted gross income by making a subtraction modification on Schedule SB, *Form 1 – Subtractions from Income*, line 46, *Other subtractions from income*, or Schedule M (Form 1NPR), *Additions to and Subtractions from Income*, line 29, *Amounts not taxable by Wisconsin* using a description similar to "Wisconsin COVID-19 Program Funds."

Note: Expenses paid for with these programs and deducted in the computation of federal adjusted gross income are not required to be added back on the Wisconsin return.

2020 Wisconsin Schedule I Instructions

General Instructions

Introduction – The computation of taxable income on the 2020 Wisconsin income tax return is based on the Internal Revenue Code (IRC) enacted as of December 31, 2017, with the following exceptions:

- Certain provisions enacted into federal law prior to December 31, 2017, do not apply for Wisconsin
- Only certain provisions enacted into federal law after December 31, 2017, apply for Wisconsin

For example, Wisconsin law has not adopted the federal bonus depreciation provisions for certain business assets or the exclusion from gross income for income from discharge of indebtedness on a qualified principal residence. These differences are a result of Wisconsin adopting a definition of "Internal Revenue Code" that is different than what is in effect for federal income tax purposes. This is also referred to as Wisconsin's definition of the IRC.

As a result, certain income and deduction items may be different for Wisconsin and federal purposes. These differences must be adjusted on Schedule I and are described beginning on the next page.

Who Must File – If the computation of your federal adjusted gross income (FAGI) or itemized deductions reflects any of the differences in Wisconsin and federal law for 2020, you must complete this schedule and attach it to your Wisconsin income tax return, Form 1 or Form 1NPR.

Schedule I adjustments made in a prior year may require a Schedule I adjustment in 2020. For example, if you claimed federal bonus depreciation on your 2019 return, you must recompute depreciation using the Wisconsin depreciable basis of the asset. The difference between the amount of bonus depreciation claimed on your federal return and the amount of depreciation allowed for Wisconsin purposes must be adjusted on Schedule I for 2019. An additional adjustment on Schedule I is required each year until the asset is fully depreciated for federal and Wisconsin purposes.

An adjustment may also be required on Schedule I to adjust for differences in the amount of gain or loss reportable from sales or dispositions of assets during 2020. *Example:* The following adjustments are required on Schedule I:

- If the Wisconsin adjusted basis of the asset differs from the federal adjusted basis due to Wisconsin's definition of the IRC, an adjustment is required to report the difference in gain or loss
- An adjustment is required when gain from the sale of certain small business stock is taxable for Wisconsin but not for federal tax purposes

Using a Different Federal Election for Wisconsin – Various elections are available under the federal IRC. When an election is available under the IRC adopted for Wisconsin, a taxpayer may choose one election for federal tax purposes and a different election for Wisconsin. For example, a taxpayer may elect to claim different amounts of IRC sec. 179 expense for federal and Wisconsin tax purposes.

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

- Prepare a pro forma federal return based on the election chosen for Wisconsin. This pro forma return is to be attached to the Wisconsin Form 1 or Form 1NPR instead of the actual return filed for federal tax purposes.
- Make the election using Wisconsin Schedule I, *Adjustments to Convert 2020 Federal Adjusted Gross Income and Itemized Deductions to the Amounts Allowable for Wisconsin*.

Example: For federal tax purposes you claim the credit under sec. 45E of the IRC for 50 percent of the startup costs of a small employer pension plan. When claiming the credit, you must reduce your deduction for that portion of the startup costs equal to the credit. However, sec. 45E(e)(3) of the IRC, provides an election to not claim the credit. Because an election is available, you may elect to not claim the credit on your federal return and instead claim the deduction for the startup costs. Use either of the two methods listed above to make a different election for Wisconsin purposes.

Be sure to also adjust any other items on your federal return that are affected by the election. For example, if you claim a different election for sec. 179 expense for Wisconsin purposes, you must also make a Schedule I adjustment to account for any difference in depreciation expense computed for Wisconsin purposes.

Schedule I Adjustment May Require Recomputing Federal Forms and Schedules for Wisconsin Purposes – Any federal forms or schedules affected by Schedule I adjustments must be recomputed and attached to the Wisconsin return. Mark these recomputed federal forms or schedules “Revised for Wisconsin” at the top. For example, federal Form 8582, *Passive Activity Loss Limitations*, must be recomputed for Wisconsin purposes if there is a Schedule I adjustment for the difference in depreciation expense for federal and Wisconsin purposes that pertains to a passive activity.

Partners, Beneficiaries of Estates and Trusts, and Shareholders of Tax-Option (S) Corporations – Individuals that report their distributive share of income and deductions from Wisconsin returns of partnerships, estates and trusts, and tax-option (S) corporations may be required to use Schedule I to adjust for differences between Wisconsin and federal law computed on the entity’s return. Such partners, beneficiaries, and shareholders should receive Schedule 2K-1, Schedule 3K-1, or Schedule 5K-1 from the entity which shows the adjustments between federal and Wisconsin income and the total amounts reportable for Wisconsin purposes.

Caution: If the partnership or tax-option (S) corporation made an election to be taxed at the entity level, differences in federal and Wisconsin law reported on Schedule 3K-1 or 5K-1 must be reported on Schedule I; however the entire amount of income, gain, loss, or deduction reportable for Wisconsin from these entities are removed on the individual’s Wisconsin return as an addition or subtraction modification on lines 29 or 31 of Schedule AD, *Additions to Income* (Form 1), or lines 43 or 45 of Schedule SB, *Subtractions from Income* (Form 1). If filing Form 1NPR, do not include these amounts in column B (Wisconsin column).

Note: When adjusting income or expenses of an entity, additional items may also require adjustment. For example, adjusting depreciation allowed to a partnership would change the amount of income or loss from the entity. If the entity is subject to the passive activity limitations, federal Form 8582, *Passive Activity Loss Limitations,* would need to be recomputed for Wisconsin to substitute the Wisconsin partnership information for the amount determined on the federal Form 8582. Any difference in the amount of passive activity loss allowed for federal tax purposes and the amount allowed from the recomputed federal Form 8582 would also be a Schedule I adjustment. Any other federal schedules or forms affected by the Schedule I adjustment should also be recomputed (for example, federal Schedule E) and attached to the Wisconsin return. Mark these recomputed forms or schedules “Revised for Wisconsin.”

Part I - Line Instructions

Note An adjustment made on a line below may affect the computation of an adjustment amount on another line. For example, if an adjustment is made on line 2b to add to income the discharge of indebtedness on a principal residence (i.e., FAGI computed for Wisconsin purposes changes), the amount of social security includable in FAGI also changes. The additional social security includable in FAGI must be reported on one of the “other” lines (lines 2h, 2i, or 2j).

Line 1

Fill in your 2020 FAGI from line 11 of your federal Form 1040 or 1040-SR. If your FAGI is a loss, place a minus sign (-) in front of the number.

Line 2

Enter any additions to income due to the difference between federal and Wisconsin law on the corresponding line for the adjustments below.

Line 2a - Deduction for Tuition and Fees

Enter the amount of the deduction for tuition and fees from line 21 of federal Schedule 1 (Form 1040 or 1040-SR).

(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 eduction is extended through December 31, 2020. (Public Law 116-94).

(b) Wisconsin – The federal deduction does not apply for Wisconsin. **Note:** Although the federal deduction for tuition and fees does not apply 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 4 of the Schedule SB instructions or page 6 of the Schedule M instructions for more information about claiming the Wisconsin tuition deduction.

Line 2b - Discharges of Indebtedness on Principle Residence

(a) Federal – Gross income does not include any amount which would be includable in gross income by reason of discharge of indebtedness if the indebtedness discharged is qualified principal residence indebtedness which is discharged before January 1, 2021. (Public Law 116-94).

(b) Wisconsin – The exclusion from gross income for income does not apply for Wisconsin.

Lines 2c and 4b - Depreciation

Complete these lines only if there is a difference in the amount of depreciation allowed for federal income tax purposes and for Wisconsin tax purposes based on the Wisconsin definition of the IRC. For example, you would have a difference in depreciation if you claimed the federal special 100 percent additional depreciation for assets placed in service in 2020.

In addition, if you had a depreciation difference on Schedule I for property placed in service on or after January 1, 2014, or the first day of your taxable year beginning in 2014, you will continue to have a difference in depreciation to report on Schedule I each year until the property is fully depreciated or until you sell or otherwise dispose of the property.

To adjust for any difference, you must first add back your federal depreciation by entering the federal amount on line 2c of Schedule I. You may then subtract the revised depreciation allowed for Wisconsin on line 4b. Complete a revised federal Form 4562 and any accompanying forms and schedules. Mark these revised forms and schedules “Revised for Wisconsin.”

Certain differences in the Wisconsin and federal definition of the IRC that apply for 2020 related to depreciation can be found in Part IA on page 5 under **Other Differences Between Federal and Wisconsin Law**.

Lines 2d, 2f, 4c and 4e - Capital Gains and Losses from Line 7 of Federal Form 1040 or 1040-SR

Complete these lines only if there is a difference in the amount of capital gains or losses allowed for federal and Wisconsin income tax purposes based on the Wisconsin definition of the IRC.

Note If you sold or disposed of a depreciable or amortizable asset in tax year 2020 that was placed in service before January 1, 2014, no adjustment is required on Schedule I to account for a difference in federal gain or loss as a result of depreciation or amortization differences claimed on Schedule I in prior years. The Wisconsin basis of all depreciable or amortizable assets placed in service before January 1, 2014, is the same as the federal basis.

To properly report differences in gain or loss on your Wisconsin return, you must first remove all federal gain or loss included on line 7 of your federal Form 1040 or 1040-SR. If the amount on line 7 of federal Form 1040 or 1040-SR is a gain, fill in that amount on line 4e of Schedule I. If the amount on line 7 of federal Form 1040 or 1040-SR is a loss, fill in that amount as a positive number on line 2d of Schedule I.

Next, complete a revised federal Schedule D, federal Form 8949, and any accompanying forms and schedules. Mark these revised forms and schedules “Revised for Wisconsin.”

If the revised forms show a capital gain on line 7 of federal Form 1040 or 1040-SR, fill in the revised gain on line 2f of Schedule I. If the revised forms show a capital loss on line 7 of federal Form 1040 or 1040-SR, fill in the revised loss on line 4c of Schedule I as a positive number.

Attach the revised federal Schedule D, federal Form 8949, and any accompanying forms and schedules with Form 1 or Form 1NPR.

CAUTION The amount on line 2f must also be included on Wisconsin Schedule WD, line 29a. The amount on line 4c must also be included on Wisconsin Schedule WD, line 29e.

Certain differences in the Wisconsin and federal definition of the IRC that apply for 2020 related to capital gains and losses can be found in Part IA on page 5 under **Other Differences Between Federal and Wisconsin Law**.

Lines 2e, 2g, 4d, and 4f - Ordinary Gains and Losses from Line 4 of Federal Schedule 1 (Form 1040 or 1040-SR)

Complete these lines only if there is a difference in the amount of ordinary gain or loss allowed for federal and Wisconsin income tax purposes based on the Wisconsin definition of the IRC.

To properly report such gain or loss on your Wisconsin return, you must first remove all ordinary gain or loss reported on line 4 of your federal Schedule 1 (Form 1040 or 1040-SR). This is done by filling in line 2e or 4f. If the amount on line 4 of federal Schedule 1 (Form 1040 or 1040-SR) is a gain, fill in that amount on line 4f of Schedule I. If the amount on line 4 of federal Schedule 1 (Form 1040 or 1040-SR) is a loss, fill in that amount as a positive number on line 2e of Schedule I.

Next, complete a revised federal Form 4797, federal Form 4684, and any accompanying forms and schedules. Mark these revised forms and schedules "Revised for Wisconsin."

If the revised forms show an ordinary gain for Wisconsin on line 4 of federal Schedule 1 (Form 1040 or 1040-SR), fill in the revised gain on line 2g. If the revised forms show an ordinary loss for Wisconsin, fill in the revised loss on line 4d as a positive number.

Enclose the revised federal Form 4797, federal Form 4684, and any accompanying forms and schedules with Form 1 or Form 1NPR.

Lines 2h, i, and j and 4g, h, and i - Other

These lines are used to report any other differences between the amounts allowed for federal and Wisconsin income tax purposes based on the Wisconsin definition of the IRC. They are also used to report other items that need to be adjusted because of adjustments made on other lines of Schedule I. For example, passive activity losses may have to be adjusted on these lines because of a depreciation adjustment made on lines 2c and 4b. Enter a description of the item being adjusted on the lines provided.

Enter adjustments for the difference between amounts allowed for federal and Wisconsin income tax purposes as follows:

- If the difference between the federal amount and the Wisconsin amount results in an increase in Wisconsin income, enter the amount of the difference as an addition to income on lines 2h, i, or j. Enter the amount as a positive number.
- If the difference between the federal amount and the Wisconsin amount results in a decrease in Wisconsin income, enter the amount of the difference as a subtraction from income on lines 4g, h, or i. Enter the amount as a positive number.

Descriptions of certain differences in the Wisconsin and federal definition of the IRC that apply for 2020 can be found in Part IA on page 5 under **Other Differences Between Federal and Wisconsin Law.**

Line 2k

Add the amounts on lines 2a through 2j. Fill in the total on line 2k.

Line 3

If the amount on line 1 is a positive amount, add the amount on line 1 and line 2k. Fill in the total as a positive number on line 3.

CAUTION If the amount on line 1 is a negative amount, treat the amount as a positive amount and figure the amount for line 3 as follows:

- If the amount on line 1 is greater than the amount on line 2k, subtract line 2k from line 1 and fill in the result as a negative number on line 3.
- If the amount on line 1 is less than the amount on line 2k, subtract line 1 from line 2k and fill in the result as a positive number on line 3.

Line 4

Enter, as a positive amount, any subtraction from income due to the difference between federal and Wisconsin law on the corresponding line for the adjustments listed below.

Line 4a - Health Savings Accounts Adjustment

(a) Federal – Certain individuals may establish health savings accounts (HSAs). 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 HSAs apply for Wisconsin for 2011-2020. However, an adjustment may be required if you withdrew from the account in 2020, you had an HSA prior to 2011 for which you were not allowed a deduction for Wisconsin for contributions to that account, and you reported the earnings on the account as income on your Wisconsin return. If this is the case, complete the worksheet on the next page.

2020 HSA Worksheet

1. Balance of HSA as of December 31, 2010, less amount distributed in 2011-2019. (This is the amount from line 3 of the worksheet in the 2019 Schedule I instructions.)	1.	______________
2. 2020 distributions from the HSA. Do not fill in more than the amount on line 1	2.	______________
3. Subtract line 2 from line 1	3.	______________
4. Portion of the distribution on line 2 that was used for medical expenses. This amount can be used as an itemized deduction for medical expenses. See "Medical Expense Deduction" in Part II	4.	______________
5. Portion of the distribution on line 2 that was not used for medical expenses and is included in federal income. This amount would be taxable for federal purposes but not for Wisconsin. Include on line 4a of Schedule I*	5.	______________

* This amount may also be subject to a federal penalty, but would not be subject to a Wisconsin penalty.

Note: An adjustment will be required each year until the amount shown on line 3 is zero. Distributions from HSAs are to be allocated first to the pre-2011 balance.

Line 4b - Wisconsin Depreciation

See the instructions for lines 2c and 4b on page 3.

Line 4c - Wisconsin Capital Losses

See the instructions for lines 2d, 2f, 4c, and 4e on page 3.

Line 4d - Wisconsin Ordinary Losses

See the instructions for lines 2e, 2g, 4d, and 4f on page 3.

Line 4e - Federal Capital Gains

See instructions for lines 2d, 2f, 4c, and 4e on page 3.

Line 4f - Federal Ordinary Gains

See the instructions for lines 2e, 2g, 4d, and 4f on page 3.

Line 4g, h, and i

See the instructions for lines 2h, i, and j and lines 4g, h, and i on page 4.

Line 4j

Add lines 4a through 4i. Fill in the total on line 4j.

Line 5

If the amount on line 3 is a negative amount, add the amount on line 4j to the amount on line 3. Fill in the total as a negative number on line 5. If the amount on line 3 is a positive amount, complete line 5 as follows:

- If line 3 is greater than line 4j, subtract line 4j from line 3 and fill in the result as a positive number on line 5.
- If line 4j is greater than line 3, subtract line 3 from line 4j and fill in the result as a negative number on line 5.

Part IA - Other Differences Between Federal and Wisconsin Law

Following are brief explanations of certain differences between federal and Wisconsin law.

The "Federal" explanation indicates how an item is to be treated for federal income tax purposes as of December 31, 2020. 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.

1. **Federal Farm Loss Limitations**

   (a) Federal – The amount of farm losses that may be used to reduce other non-farming business income is limited to the greater of $300,000 or the net farm income for the previous five years if the taxpayer receives any direct or counter-cyclical payments under Title I of the Food, Conservation, and Energy Act of 2008 or Commodity Credit Corporation loans. Any disallowed loss is treated as a deduction of the taxpayer attributable to farming business in the next taxable year. (Public Law 110-246).

   (b) Wisconsin – This farm loss limitation does not apply for Wisconsin.

2. **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 – This provision does not apply for Wisconsin. .

3. **Income Sourcing of Guarantees**

   (a) Federal – Amounts received for guarantees of indebtedness is U.S. source income if paid by a U.S. person or by a foreign person and the amount is connected with income which is effectively connected to the conduct of a trade or business in the U.S. (Public Law 111-240).

   (b) Wisconsin – This provision does not apply for Wisconsin.

4. **District of Columbia Investments**

   (a) Federal – Gross income does not include qualified capital gain from the sale or exchange of any DC Zone asset acquired after January 1, 1998, and before January 1, 2012, and held for more than five years. (Public Law 111-312).

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

5. **Depreciation of Race Horses (over 2 years old)**

   (a) Federal – A race horse placed in service after December 31, 2016, and which is more than 2 years old at the time placed in service by the purchaser, is treated as 3-year property. (Public Law 114-113). In addition, race horses placed in service before January 1, 2021, are treated as three-year property. (Public Law 116-94).

   (b) Wisconsin – This provision does not apply for Wisconsin. Depreciation is determined under the provisions of the IRC in effect on January 1, 2014.

6. **Small Business Stock**

   (a) Federal – An exclusion is allowed for the amount of gain from the sale or exchange of qualified small business stock held for more than five years. (Public Law 114-113).

   - 50% exclusion for stock acquired after August 10, 1993, and on or before February 17, 2009
   - 75% exclusion for stock acquired after February 17, 2009, and on or before September 27, 2010
   - 100% for stock acquired after September 27, 2010

   (b) Wisconsin – Gain from the sale or exchange of qualified small business stock in 2020 that was held for more than five years is treated as follows:

   - Gain from the sale of stock acquired **before** December 31, 2013, is included in income.
   - 50% exclusion for stock acquired on or after January 1, 2014 (sec. 71.98(5), Wis. Stats.).

7. **Tax-Favored Withdrawal from Retirement Plans for Hurricane Harvey, Irma, and Maria Relief**

   (a) Federal – For distributions on or after August 23, 2017, for Hurricane Harvey, September 4, 2017, for Hurricane Irma, and September 16, 2017, for Hurricane Maria, and before January 1, 2019, hurricane victims may withdraw up to $100,000 from a qualified retirement plan without penalty. Taxpayers who are able to repay the distributions have three years to repay the funds to qualify for rollover treatment. Otherwise, they will be taxed on their distribution over three years. (Public Law 115-63).

(b) Wisconsin – This provision applies for Wisconsin purposes for taxable years beginning after December 31, 2018. However, for withdrawals occurring before this date, an adjustment may need to be made for distributions which are taxed over the three-year period for federal purposes.

8. Bonus Depreciation for Certain Business Assets

(a) Federal – For property placed in service after September 27, 2017, 100% expensing is allowed for qualified property, qualified property with longer production periods, and plants bearing fruit and nuts. This percentage is phased down for property placed in service after December 31, 2022, and for property acquired before September 27, 2017. (Public Law 115-97).

(b) Wisconsin – This provision does not apply for Wisconsin. Depreciation is determined under the provisions of the IRC in effect on January 1, 2014.

9. Excess Business Loss Limitation

(a) Federal – Excess business losses of a taxpayer determined under IRC sec. 461(l) are not allowed. The disallowed loss is treated as a net operating loss carryover. (Public Law 115-97). However, this excess business loss limitation does not apply for taxable years beginning before January 1, 2021. (Public Law 116-136).

(b) Wisconsin – The excess business loss limitation does not apply for Wisconsin.

10. Film and Television Production and Live Theatrical Production

(a) Federal – The definition of qualified property for purposes of the special depreciation (bonus depreciation) allowance includes film or television production and live theatrical production. (Public Law 115-97).

(b) Wisconsin – This provision does not apply for Wisconsin. Depreciation is determined under the provisions of the IRC in effect on January 1, 2014.

11. Accrual Method Income Recognition

(a) Federal – Accrual method taxpayers must recognize income no later than the tax year in which the item is recognized as revenue on an applicable financial statement. (Public Law 115-97).

(b) Wisconsin – This provision does not apply for Wisconsin.

12. Business Interest Expense Deduction Limitation

(a) Federal – The deduction for business interest expense is limited to the sum of business interest income, 30% of adjusted taxable income, and floor plan financing interest. Any amount disallowed is carried forward to the next taxable year. (Public Law 115-97). The 30% is increased to 50% for 2019 and 2020. (Public Law 116-136).

(b) Wisconsin – The business interest expense deduction limitation does not apply for Wisconsin.

13. Entertainment, Amusement, and Recreation Expenses

(a) Federal – No deduction is allowed for entertainment, amusement, or recreation expenses described under IRC sec. 274. (Public Law 115-97).

(b) Wisconsin – A deduction is allowed for entertainment, amusement, and recreation expense equal to 50% of the amount of qualified expenses.

14. Certain Meals Provided by an Employer

(a) Federal – The 50% limitation on the deduction for food and beverage expenses under IRC sec. 274(n) applies to certain meals provided by an employer, including eating facilities located on or near the business premises of the employer and meals furnished on the business premises of the employer for the convenience of the employer. (Public Law 115-97).

(b) Wisconsin – The 50% limitation under IRC sec. 274(n) does not apply for Wisconsin. The deduction for food and beverage expenses for certain meals provided by an employer is allowed at 100% for Wisconsin.

15. **Federal Deposit Insurance Corporation Premiums Limitation**

   (a) Federal – A limitation under IRC sec. 162(r) applies to the deduction for premiums paid as the result of an assessment by the Federal Deposit Insurance Corporation. (Public Law 115-97).

   (b) Wisconsin – This limitation does not apply for Wisconsin.

16. **Deduction Limitation for Highly-Paid Employees**

   (a) Federal –A publicly-held corporation may not deduct more than $1,000,000 of compensation paid to any covered employee for the performance of services as provided in IRC sec. 162(m). The definition of a covered employee is expanded to include the principal executive officer and principal financial officer. (Public Law 115-97).

   (b) Wisconsin – This modified definition of "covered employee" does not apply for Wisconsin.

17. **Global Intangible Low-Taxed Income Inclusion**

   (a) Federal – A United States shareholder of a controlled foreign corporation must include in income its "global intangible low-taxed income" as provided in IRC sec. 951A. (Public Law 115-97).

   (b) Wisconsin – This inclusion does not apply for Wisconsin.

18. **Definition of United States Shareholder**

   (a) Federal – The definition of a United States shareholder in IRC sec. 951(b) includes a United States person who owns at least 10% of the value of the shares of the foreign corporation. (Public Law 115-97).

   (b) Wisconsin – This change in definition does not apply for Wisconsin.

19. **Related Party Transactions**

   (a) Federal – The deduction for any disqualified related-party amount paid or accrued pursuant to a hybrid transaction or by, or to, a hybrid entity is disallowed under IRC sec. 267A. (Public Law 115-97).

   (b) Wisconsin – This disallowance does not apply for Wisconsin.

20. **Unused Overall Domestic Loss**

   (a) Federal – A taxpayer may elect to recapture a pre-2018 unused overall domestic loss for any applicable tax year by substituting a percentage greater than 50%. (Public Law 115-97).

   (b) Wisconsin – This recapture provision does not apply for Wisconsin.

21. **Tax-Favored Withdrawal from Retirement Plans for California Wildfire Relief**

   (a) Federal – For distributions on or after October 8, 2017, and before January 1, 2019, California wildfire victims may withdraw up to $100,000 from a qualified retirement plan without penalty. Taxpayers who are able to repay the distributions have three years to repay the funds to qualify for rollover treatment. Otherwise, they will be taxed on their distribution over three years. (Public Law 115-123).

   (b) Wisconsin – Early distributions from a qualified retirement plan are included in Wisconsin gross income and are subject to a penalty.

22. **Qualified Disaster Zone for Hurricanes Harvey and Irma**

   (a) Federal – The definition of a qualified disaster zone for hurricanes Harvey and Irma has been modified to include an area with respect to which a major disaster has been declared by the President before October 17, 2017. (Public Law 115-123).

   (b) Wisconsin – The definition of a qualified disaster zone for hurricanes Harvey and Irma is an area with respect to which a major disaster has been declared by the President before September 21, 2017.

23. **Deduction for Attorney Fees and Court Costs**

   (a) Federal – A qualifying deduction under IRC sec. 62 for attorney fees and court costs paid by, or on behalf of, a taxpayer in connection with a reward, is expanded to include rewards under section 21F of the Securities Exchange Act of 1934, a state false claims act, and section 23 of the Commodity Exchange Act. (Public Law 115-123).

   (b) Wisconsin – This expanded deduction does not apply for Wisconsin.

24. Qualified Opportunity Zone

(a) Federal – Low-income communities in Puerto Rico are deemed to be certified and designated as a qualified opportunity zone under IRC sec. 1400Z-1. (Public Law 115-123).

(b) Wisconsin – This qualified opportunity zone designation does not apply for Wisconsin.

25. Tax Home in Foreign Country

(a) Federal – A taxpayer is not treated as having a tax home in a foreign country for any period for which his home is within the United States, unless the taxpayer is serving in an area designated as a combat zone zone under IRC sec. 911. (Public Law 115-123).

(b) Wisconsin – The tax home exception for taxpayers serving in an area designated as a combat zone does not apply for Wisconsin.

26. Domestic Production Activities Deduction

(a) Federal – The repeal of the domestic production activities deduction under IRC sec. 199A does not apply to a qualified payment received by a patron from a specified agricultural or horticultural cooperative. (Public Law 115-123).

(b) Wisconsin – This deduction does not apply for Wisconsin.

27. Qualifying Small Power Production Facility

(a) Federal – A 5-year recovery period applies for qualifying small power production facilities under IRC sec. 168. (Public Law 115-141).

(b) Wisconsin – This provision does not apply for Wisconsin. Depreciation is determined under the provisions of the IRC in effect on January 1, 2014.

28. Unlawful Discrimination Suits and Attorney Fees

(a) Federal – A deduction from gross income is allowed under IRC sec. 62 for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination. The definition of unlawful discrimination is expanded to include an act that is unlawful under section 207 of the Congressional Accountability Act of 1995, relating to rights and protections relating to criminal history inquiries. (Public Law 116-92).

(b) Wisconsin – Wisconsin allows the deduction from gross income for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination. However, the definition of unlawful discrimination does not include an act that is unlawful under section 207 of the Congressional Accountability Act of 1995, relating to rights and protections relating to criminal history inquiries.

29. Motorsports Racing Track Facility

(a) Federal – The seven-year cost recovery period under IRC sec. 168 for motorsports entertainment complexes is extended through December 31, 2020. (Public Law 116-94).

(b) Wisconsin – This provision does not apply for Wisconsin. Depreciation is determined under the provisions of the IRC in effect on January 1, 2014.

30. Accelerated Depreciation for Indian Reservation Property

(a) Federal – The provision allowing accelerated depreciation for business property on Indian reservations under IRC sec. 168 is extended through December 31, 2020. (Public Law 116-94).

(b) Wisconsin – This provision does not apply for Wisconsin. Depreciation is determined under the provisions of the IRC in effect on January 1, 2014.

31. Film and Television Productions

(a) Federal – For productions commencing before January 1, 2021, a taxpayer may elect under IRC sec. 181 to treat the cost of any qualified film or television production as an expense which is not chargeable to a capital account. (Public Law 116- 94).

(b) Wisconsin – The federal expensing of a film or television production does not apply for Wisconsin.

32. Empowerment Zone Tax Incentives

(a) Federal – The empowerment zone tax incentives under IRC sec. 1391 are extended through December 31, 2020. This includes a wage credit, increased section 179 expensing, expanded tax-exempt financing, elective rollover of capital gain from the sale or exchange of any qualified empowerment zone asset, and partial exclusion of capital gains on certain small business stock. (Public Law 116-94).

(b) Wisconsin – With the exception of increased section 179 expensing, the extension for empowerment zone tax incentives does not apply for Wisconsin.

33. Depreciation of Second Generation Biofuel Plant Property

(a) Federal – The provision allowing a 50% depreciation allowance on second generation biofuel plant property under IRC sec. 168 is extended through December 31, 2020. (Public Law 116-94).

(b) Wisconsin – This provision does not apply for Wisconsin. Depreciation is determined under the provisions of the IRC in effect on January 1, 2014.

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

(a) Federal – For sales and dispositions before January 1, 2021, taxpayers may elect under IRC sec. 451 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 Law 116-94).

(b) Wisconsin – This provision does not apply for 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 another tax provision.

35. Tax-Favored Withdrawal from Retirement Plans for Qualified Disaster Areas

(a) Federal – For distributions on or after the first day of the incident period of a qualified disaster and before the date which is 180 days after December 20, 2019, qualified disaster victims may withdraw up to $100,000 from a qualified retirement plan without penalty. Taxpayers who are able to repay the distributions have three years to repay the funds to qualify for rollover treatment. Otherwise, they will be taxed on their distribution over three years. (Public Law 116-94).

(b) Wisconsin – This provision does not apply for Wisconsin. Early distributions from a qualified retirement plan are included in Wisconsin gross income and are subject to a penalty.

36. Recontributions of Withdrawal for Home Purchase for Qualified Disaster Areas

(a) Federal – Taxpayers who withdrew funds from a qualified retirement plan after the date which is 180 days before the first day of the incident period of such qualified disaster and ending on the date which is 30 days after the last day of such incident period, for a first-time home purchase, but who could not complete that purchase because of a qualified disaster, may put the funds back in their qualified retirement plan without penalty. (Public Law 116-94).

(b) Wisconsin – The treatment of distributions made during the above time period from a qualified retirement plan is determined under the provisions of the IRC as amended to December 31, 2017.

37. Loans from Qualified Plans for Qualified Disaster Areas

(a) Federal – For loans made during the 180-day period beginning on December 20, 2019, qualified disaster area victims can borrow up to $100,000 from a qualified employer plan. Any required payment due date for outstanding loans may be delayed for one year. (Public Law 116-94).

(b) Wisconsin – The maximum amount that may be borrowed from a qualified employer plan is $50,000. The treatment of loans made as a result of a qualified disaster occurring during the period January 1, 2018, through February 18, 2020, is determined under the provisions of the IRC as amended to December 31, 2017.

38. Tax-Favored Withdrawal from Retirement Plans for Qualified Disaster Areas

(a) Federal – For distributions on or after the first day of the incident period of a qualified disaster and before June 25, 2021, qualified disaster victims may withdraw up to $100,000 from a qualified retirement plan without penalty.

Taxpayers who are able to repay the distributions have three years to repay the funds to qualify for rollover treatment. Otherwise, they will be taxed on their distribution over three years. (Public Law 116-260).

(b) Wisconsin – This provision does not apply for Wisconsin. Early distributions from a qualified retirement plan are included in Wisconsin gross income and are subject to a penalty.

39. Recontributions of Withdrawal for Home Purchase for Qualified Disaster Areas

(a) Federal – Taxpayers who withdrew funds from a qualified retirement plan after the date which is 180 days before the first day of the incident period of such qualified disaster and ending on the date which is 30 days after the last day of such incident period, for a first-time home purchase, but who could not complete that purchase because of a qualified disaster, may put the funds back in their qualified retirement plan without penalty. (Public Law 116-260).

(b) Wisconsin – This provision does not apply for Wisconsin. The treatment of distributions made during the above time period from a qualified retirement plan is determined under the provisions of the IRC as amended to December 31, 2017.

40. Loans from Qualified Plans for Qualified Disaster Areas

(a) Federal – For loans made during the 180-day period beginning on December 27, 2020, qualified disaster area victims can borrow up to $100,000 from a qualified employer plan. Any required payment due date for outstanding loans may be delayed for one year. (Public Law 116-260).

(b) Wisconsin – The maximum amount that may be borrowed from a qualified employer plan is $50,000. The treatment of loans made as a result of a qualified disaster is determined under the provisions of the IRC as amended to December 31, 2017.

41. Unemployment Compensation Exclusion

(a) Federal – Under IRC sec. 85, up to $10,200 of unemployment compensation per individual may be excluded from federal adjusted gross income. (Public Law 117-2).

(b) Wisconsin – This provision does not apply for Wisconsin. Unemployment compensation must be included in federal adjusted gross income for Wisconsin purposes.

Part II Instructions

Whenever FAGI has been increased or decreased in Part I of Schedule I, itemized deductions which are computed using FAGI (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 FAGI computed on line 5 of Part I.

Enter the amount for federal income tax purposes in Column I and the amount determined under Wisconsin's definition of the IRC in Column II. For example, if there is a difference in gifts to charity allowed for federal and Wisconsin purposes, enter the federal amount in Col. 1 and the Wisconsin amount in Col. 2 on line 1c. If the itemized deduction allowable for Wisconsin purposes is not listed on lines 1a through 1c, enter a brief description on lines 1d and 1e and enter the federal and Wisconsin amounts in Col. 1 and Col. 2

The amounts in Column II are used to compute your Wisconsin itemized deduction credit on Schedule 1 of Form 1 or Form 1NPR.

In addition to adjustments required as a result of differences in FAGI computed in Part 1 of Schedule I, adjustments may be required for the following itemized deduction differences between federal and Wisconsin law.

1. Medical Expense Deduction

(a) Federal – Any payment or distribution out of an HSA 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 – Wisconsin follows the federal treatment of distributions from an HSA for 2011-2020. However, if a portion of your distribution was allocated to the balance in your HSA as of December 31, 2010, you may be able to treat all or part of the distribution as a medical expense. See the Worksheet for line 4a on page 5.

2. Medical Expense Itemized Deduction Floor

(a) Federal – The medical expense deduction floor under IRC sec. 213 is 7.5% of FAGI. This provision expires January 1, 2021. (Public Law 116-94).

(b) Wisconsin – The medical expense deduction floor is 10% of FAGI computed using Wisconsin's definition of the IRC.

3. **Mortgage Insurance Premiums**

   (a) Federal – Mortgage insurance premiums paid in connection with acquisition indebtedness for a qualified residence is treated as interest under IRC sec. 63. This does not apply to mortgage insurance contracts issued before January 1, 2007, or to amounts paid or accrued after December 31, 2020. (Public Law 116-94).

   (b) Wisconsin – Mortgage insurance premiums cannot be treated an intemized deduction for purposes of Wisconsin's itemized deduction credit.

4. **Charitable Deduction for Relief Efforts for Qualified Disaster Areas**

   (a) Federal – Qualified charitable contributions are allowed to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's contribution base over the amount of all other charitable contributions. These contributions are not subject to the limitation provided in section 68 of the IRC. The contributions must be made before February 19, 2020, for relief efforts in one or more qualified disaster areas. (Public Law 116-94).

   (b) Wisconsin – Charitable contribution limitations are determined under the provisions of the IRC as amended to December 31, 2017.

5. **Charitable Deduction for Relief Efforts for Virginia Beach, VA Mass Shooting**

   (a) Federal – Cash contributions made for the relief of the families of the dead or wounded victims of the mass shooting in Virginia Beach, VA are treated as charitable contributions even if the contribution is for the exclusive benefit of the families. (Public Law 116-98).

   (b) Wisconsin – Charitable contributions for relief efforts identified above are determined under the provisions of the IRC as amended to December 31, 2017.

6. **Personal Casualty Loss for California Wildfire Relief**

   (a) Federal – The amount of the personal casualty loss due to California wildfires is increased. The standard deduction is increased by the amount of the net disaster loss. For purposes of alternative minimum tax, the standard deduction provision does not include the increase due to the net disaster loss. (Public Law 115-123).

   (b) Wisconsin – Casualty losses are allowed to the extent related to a presidentially declared disaster under 26 USC 7508A. The Wisconsin standard deduction is not increased by a casualty loss.

7. **Personal Casualty Loss for Qualified Disaster Areas**

   (a) Federal – The amount of the personal casualty loss due to qualified disasters is increased. The standard deduction is increased by the amount of the net disaster loss. For purposes of alternative minimum tax, the standard deduction provision does not include the increase due to the net disaster loss. (Public Law 116-94).

   (b) Wisconsin – Casualty losses are allowed only to the extent related to a presidentially declared disaster under 26 USC 7508A. The Wisconsin standard deduction is not increased by a casualty loss.

8. **Charitable Deduction for Relief Efforts for Qualified Disaster Areas**

   (a) Federal – Qualified charitable contributions are allowed by corporations to the extent that the aggregate of such contributions does not exceed the excess of 100% of the taxpayer's taxable income over the amount of all other charitable contributions and by treating charitable contributions other than qualified disaster relief contributions as qualified charitable contributions. The limitation of 25% for corporations shall be applied first to qualified contributions without regard to any qualified disaster relief contributions and then separately to such qualified disaster relief contribution. The contributions must be made beginning on January 1, 2020, and ending on February 25, 2021, and is made for relief efforts in one or more qualified disaster areas (Public Law 116-260).

   (b) Wisconsin – Charitable contribution limitations are determined under the provisions of the IRC as amended to December 31, 2017.

9. **Personal Casualty Loss for Qualified Disaster Areas**

   (a) Federal – The amount of the personal casualty loss due to qualified disasters is increased. The standard deduction is increased by the amount of the net disaster loss. For purposes of alternative minimum tax, the standard deduction provision does not include the increase due to the net disaster loss. (Public Law 116-260).

   (b) Wisconsin – Casualty losses are allowed only to the extent related to a presidentially declared disaster under 26 USC 7508A. The Wisconsin standard deduction is not increased by a casualty loss.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of March 19, 2021:

26 USC 62, 26 USC 108, 26 USC 151, 26 USC 153, 26 USC 162, 26 USC 163, 26 USC 168, 26 USC 181, 26 USC 199A, 26 USC 213, 26 USC 221, 26 USC 222, 26 USC 223, 26 USC 267A, 26 USC 274, 26 USC 451, 26 USC 457A, 26 USC 460, 26 USC 461, 26 USC 501, 26 USC 529, 26 USC 529A, 26 USC 824, 26 USC 856, 26 USC 861, 26 USC 904, 26 USC 911, 26 USC 951, 26 USC 951A, 26 USC 1202, 26 USC 1361, 26 USC 1391, 26 USC 1400, 26 USC 1400Z-1, 26 USC 6662, and ch. 71, Wis. Stats.