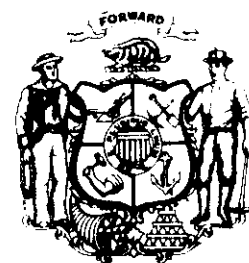


WISCONSIN TAX BULLETIN



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REMINDER OF MAJOR WISCONSIN INCOME TAX CHANGES FOR 1977

The major changes that were made to the individual income tax law for 1977 include updating the reference to the Internal Revenue Code, new filing requirements, a new low-income allowance and additional deductions for dependents to persons with income under \$12,000.

A. Internal Revenue Code Reference Update (s. 71.02 (2) (b))

For the 1977 taxable year, an individual, partnership, estate or trust must use the Internal Revenue Code in effect on December 31, 1976 in computing federal adjusted gross income and itemized deductions for Wisconsin income tax purposes, with 2 exceptions:

1. Child care expenses remain an itemized deduction for Wisconsin tax purposes; and

2. The special tax treatment of certain pollution control facilities as enacted in the federal "Tax Reform Act of 1976" (Section 2112 of P. L. 94-455) will not be allowed.

Three federal income tax provisions were enacted into law in 1977 which may affect a person's federal adjusted gross income or itemized deductions. These three provisions, which were enacted on May 23, 1977 as part of the federal "Tax Reduction and Simplification Act of 1977", do not apply for Wisconsin tax purposes. They are as follows:

1) Federal law permits taxpayers who use their home as a day-care facility to deduct business expenses attributable to the home, even though it is used on only a part-time basis. This is an exception to the "exclusive use" test generally required to be met for purposes of deducting expenses based on the use of the taxpayer's personal residence. Wisconsin law continues to require that a specific portion of the home be used on an exclusive basis for business purposes before the expense may be deducted.

IN THIS ISSUE

	Page
Reminder of Major Wisconsin Income Tax Changes for 1977	1
Reminder of Major Homestead Changes for 1977	1
Common Errors to Avoid on Income Tax Returns	2
Common Errors to Avoid on Home- stead Credit Claims	3
Wisconsin's New Farm Tax Credit Information Reports Are Required for Nonresident Entertainers and Athletes	4
Department Converting TIMS to Administrative Rules	4
Report on Litigation	4
Tax Releases	4
Taxpayer Assistance	8

2) Capital expenditures for a child-care facility placed in use in 1977 may be amortized over a five-year period for federal purposes. For Wisconsin, such expenditures must be depreciated over the useful life of the facility.

3) Federal law permits an itemized deduction for a contribution made anytime during 1977, exclusively for conservation purposes, of a partial interest in real estate. Such contributions made after June 13, 1977 will not be deductible for Wisconsin purposes.

As a result of these differences between Wisconsin and federal law, federal adjusted gross income and itemized deduction amounts may have to be recomputed before the tax is computed on a 1977 Wisconsin income tax return. This recomputation should be done on Wisconsin's "Schedule I". Technical Information Memorandum (TIM) I-36, entitled "Computing 1977 Net Taxable Income with Reference to the Internal Revenue Code in Effect on December 31, 1976", includes a copy of Schedule I and its instructions.

The difference which is likely to affect the greatest number of taxpayers involves child care. If this is the only difference between Wisconsin and federal law for a taxpayer, it is not necessary to complete a Schedule I. Rather, the Wisconsin itemized deduction for child care (as computed on Wisconsin Schedule 2441W) may simply be added to the total federal itemized deduction shown on federal Schedule A, and the resulting grand total entered on line 6 of Wisconsin Form 1.

(Contd. on pg. 2)

REMINDER OF MAJOR HOMESTEAD CHANGES FOR 1977

Increased benefits are available for persons filing 1977 Homestead Credit claims in 1978. For 1977 claims, the household income limitation is \$9,300. However, if either the claimant or the claimant's spouse or dependent was 65 years of age or older on December 31, 1977, the claimant may have income up to \$9,900 and still qualify for a homestead benefit. The maximum property taxes or rent constituting property taxes, recognized in determining a homestead benefit for 1977 claims is \$800. The maximum benefit available to claimants has been increased to \$640 (from \$428 for 1976 claims).

Homestead claims covering the 1977 taxable year are not allowed to any claimant who, at the time of filing a claim, resides in housing that is exempt from property taxes. Common examples include non-profit nursing homes, dormitories owned by the state or a college and YMCAs. The only exception to this requirement is for persons who rent living quarters from a housing authority. Such persons will continue to qualify for a homestead benefit if the housing authority

(Contd. on pg. 2)

WISCONSIN TAX BULLETIN

REMINDER OF MAJOR WISCONSIN INCOME TAX CHANGES FOR 1977 (CONTINUED)

B. Filing Requirements (s. 71.10 (7) (a) (5))

The new filing requirements for the taxable year 1977 for full-year Wisconsin residents are as follows:

Marital Status and Age	Required to File If Gross Income of Single Person (or if Married if Combined Gross Income of Both Spouses) was :
Single, under 65	\$3,200 or over
Single, 65 or over	\$4,200 or over
Married, both under 65	\$5,200 or over
Married, one spouse 65 or over	\$6,200 or over
Married, both spouses 65 or over	\$7,200 or over

Non-year and part-year residents are required to file if the single persons or married couple's gross income is \$2,000 or more.

C. Low-Income Allowance and Additional Deduction for Dependents (s. 71.02 (2) (gp))

The low-income allowance which was \$1,300 for 1976, has been increased for many taxpayers for 1977. The new low-income allowance ranges from \$1,300 to \$5,700 (exclusive of the additional deduction for dependents) depending on the taxpayer's income, age and marital status. The 1977 Wisconsin income tax booklets have a table which allows persons to easily determine their low-income allowance. Husband and wife may split the low-income allowance between them as desired.

Another new provision for the 1977 taxable year allows certain persons to add an additional amount to their standard deduction or low-income allowance for dependents. Single persons with total income (Line 5 of Form 1 and Form 1A) under \$12,000 and married couples with combined total income under \$12,000 may increase their percentage standard deduction or low-income allowance for each dependent claimed on their tax return. These additions for dependents may be split between a husband and wife as they desire.

Married taxpayers claiming either the low-income allowance or the additional deduction for dependents (which may be added to the percentage standard deduction or the low-income allowance) will be required to determine the allow-

able amount of such deductions on the basis of both spouses' income. The income of each spouse (if any) which appears on line 5 of Wisconsin Form 1 or 1A must be added together, with the resulting "combined" income being used to determine the above deductions. (For example, if one spouse has an income of \$15,000 and the other a loss of \$7,000, on Line 5 of Form 1 or Form 1A, their combined income for purposes of determining the low-income allowance or the additional deduction for dependents would be \$8,000.)

REMINDER OF MAJOR HOMESTEAD CHANGES FOR 1977 (CONTINUED)

(s. 66.40 (22), Wis. Stats.) pays amounts in lieu of real estate taxes to the municipality in which it is located.

Homestead Credit is also not allowed to any claimant who, at the time of filing a claim, resides in a privately owned nursing home and receives medical assistance (federal Title XIX benefits) under s. 49.45, Wis. Stats.

COMMON ERRORS TO AVOID ON INCOME TAX RETURNS

Each year, the processing of many thousands of income tax returns is delayed because the returns are either incomplete or incorrectly prepared.

To help speed up the handling of income tax returns, the Department offers the following suggestions:

1. Attach to the return the proper wage statements showing the wages and the amount of Wisconsin income tax withheld.
2. A complete copy of the federal income tax return (Form 1040 and all accompanying schedules) must be included with the Wisconsin Form 1. Itemized deductions will not be allowed without the federal Schedule A or a separate listing which itemizes the deductions claimed.

Taxpayers using Wisconsin Form 1A, do not have to attach a copy of their 1977 federal tax form, unless they were part-year or nonresidents during 1977.

3. Part-year residents and nonresidents should include a schedule showing their computation of the itemized deductions, low-income allowance or personal exemptions which require proration on the Wisconsin return.
4. If both husband and wife have income, both spouses must sign the return.
5. Including a taxpayer's telephone number will permit the Department to contact the taxpayer quickly if additional information is needed.
6. The municipality and county in which the taxpayer lived in 1977 should be entered on the front of Form 1 or Form 1A. This is done by checking the proper box and entering the name of the taxpayer's city, village, or township and county. If the taxpayer operated a business or practiced a profession, the name of the municipality and county in which the taxpayer lived should be shown, not the place where the office or business was located. Persons who were nonresidents for all of 1977 should insert the word "NONRESIDENT" instead of the municipality.
7. The taxpayer's school district number should be entered on the appropriate line. School district numbers are listed in the instruction booklets.
8. If there is a tax due, a check for the tax due should be made payable to the Wisconsin Department of Revenue and stapled to the Wisconsin return. The check and return should be sent to the Department at P. O. Box 268, Madison, Wisconsin 53790.

WISCONSIN TAX BULLETIN

9. If a refund is due or if no amount is due, the return should be addressed to the Department at P. O. Box 59, Madison, Wisconsin 53785.

10. Proper verification of any credit claimed for tax paid to other states must be enclosed. The instructions in the income tax booklet describe the verification needed.

COMMON ERRORS TO AVOID ON HOMESTEAD CREDIT CLAIMS

To avoid unnecessary correspondence and delays in processing 1977 Homestead Claims, we make the following suggestions:

1. Be sure the claimant's name and address is complete and legible. Use the mailing label when possible. Also, 1977 claims require the entering of the claimant's municipality and county on the Schedule H.
2. Answer all questions on Schedule H. This information is necessary to determine eligibility.
3. Enter all household income. Note that for 1977, there is a deduction of \$600 if a claimant or the claimant's spouse or dependent is 65 years of age or older.
4. If the claim is based on property taxes, a copy of the property tax bill for taxes accrued in 1977 must be attached to Schedule H. The tax bill must be for the year 1977 and must refer to the year 1977 on the bill itself.
5. If the claim is based on rent paid, a fully completed certification of rent paid must be attached to Schedule H.
6. If the claimant wants the Department to compute the amount of Homestead Credit, make sure the total household income and the amount of taxes accrued or rent paid have been entered on the appropriate lines.
7. If the claimant or spouse is required to file a Wisconsin income tax return, attach the completed Schedule H to that return. If a claimant has already filed an income tax return and later wishes to file a Homestead Credit Claim, the person should attach a copy of the tax return to Schedule H. The claimant should write the words "income tax return previously filed" at the top of Schedule H and the word "duplicate" at the top of the tax return.

8. Claimants are not eligible for Farmland Preservation Credit for any year for which they or their spouse claimed Homestead Credit.

9. Be sure that both the claimant and the spouse sign the Homestead Claim.

WISCONSIN'S NEW FARM TAX CREDIT

A refundable farm tax credit of up to \$2,600 is allowed against the 1977 income tax of an individual, estate or trust, and the 1977 franchise/income tax of a corporation. The 1977 credit will be based on property taxes levied on farmland in 1977. This credit, which is new for the 1977 taxable year, was enacted as part of the Farmland Preservation Program in Chapter 29, Laws of 1977 (the Budget Act).

WHO MAY QUALIFY

To qualify for the farm tax credit, a person must meet all of the following qualifications:

1. The person must have been the owner of the Wisconsin farmland for which the credit is being claimed at the close of the 1977 taxable year.
2. The person must have properly reported farm income on a 1977 farm business schedule (federal Schedule F, "Farm Income and Expenses", for individuals and, for others, a statement prepared in accordance with federal Schedule F).
3. An individual must have been a resident of Wisconsin for the entire 1977 taxable year. A corporation must have been organized under the laws of Wisconsin and must have been in existence for the entire 1977 taxable year. A trust or estate must have been in existence for the entire 1977 taxable year.
4. The person and the person's spouse must not claim homestead credit for 1977.
5. The farmland on which the claim is based must be at least 35 acres.
6. Prior to March 2, 1978, (a) the farmland must be subject to a certified zoning ordinance, or (b) the claimant must have applied for a farmland preservation agreement. If a farmland preservation agreement has been

applied for, the application must be approved before a person may receive any farmland preservation credit. The approval must be given by the County Board of the county in which the land is located and by the Wisconsin Department of Agriculture, Trade and Consumer Protection and must occur prior to January 1, 1979 in order for any farmland credit to be granted for 1977.

7. The farmland on which the claim is based must have produced at least \$6,000 of gross farm profits during 1977 or at least a total of \$18,000 in gross farm profits for 1975, 1976 and 1977 combined. Gross farm profit must be determined in accordance with federal Schedule F ("Farm Income and Expenses").

8. Net farm income (for individuals: line 54, federal Schedule F) plus other household income must be less than \$35,000, as calculated on Schedule FC.

WHO MAY FILE

The farm tax credit may be applied for by individuals (including guardians and partners), corporations incorporated in this state, estates and trusts. Only one member of a household (husband, wife and dependent child while under age 18) may claim the credit.

HOW TO FILE

The farm tax credit should be calculated on Schedule FC. This schedule should be attached to a taxpayer's 1977 Wisconsin income tax return. However, taxpayers who file an income tax return and later wish to file Schedule FC may file the schedule, together with a copy of the previously filed income tax return.

WHEN TO FILE

Schedule FC must be filed no later than 12 months after the end of a taxpayer's 1977 taxable year. For 1977 calendar year taxpayers, the 1977 Schedule FC must be filed by December 31, 1978. No credit will be allowed for 1977 to persons filing Schedule FC after December 31, 1978.

WISCONSIN TAX BULLETIN

FOR ADDITIONAL INFORMATION

A copy of Schedule FC and its instructions are attached to this Bulletin. For additional information or assistance in completing Schedule FC, you may call or visit one of the Department of Revenue's district offices (in Appleton, Eau Claire, Madison or Milwaukee) or the branch office nearest you. The addresses and telephone numbers of the district offices and branch offices are listed in this Bulletin.

For information regarding land preservation (non-tax) aspects of the farmland preservation program, you may write or call:

Dept. of Agriculture, Trade &
Consumer Protection
801 West Badger Road
Madison, WI 53713
Telephone (608) 266-1721

INFORMATION REPORTS ARE REQUIRED FOR NONRESIDENT ENTERTAINERS AND ATHLETES

Beginning January 1, 1978, every Wisconsin employer of an entertainment corporation or nonresident entertainer or athlete is required to report to the Department certain information about each Wisconsin performance within 90 days of the performance. This law covers performances for which the contract price exceeds \$1,950. The reporting requirement was enacted in the 1977-79 Budget Act (Chapter 29, Laws of 1977).

Under the law, an "employer" is any Wisconsin resident person or firm which engages the services of a nonresident entertainer or athlete or an entertainment corporation. In the absence of such "employer", the person required to report to the Department is the resident person last having receipt, custody or control of proceeds of the entertainment event.

The law defines "entertainment corporation" as a domestic or foreign corporation which derives income from amusement, entertainment or sporting events in this state or from the services of an entertainer.

The information report (Form 9C) requires such information as the name, address and Wisconsin tax identification number (if any) of the employer; the entertainer's stage name, true name, address and social security number or the name and address of the entertainment corporation; and the date, place and total amount of remuneration received for each performance.

Copies of Form 9C may be obtained by writing:

Wisconsin Department of Revenue
Central Services Section
P.O. Box 8903
Madison, Wisconsin 53708

Any questions about the requirements of this law may be directed to:

Wisconsin Department of Revenue
Compliance Bureau
P.O. Box 8902
Madison, Wisconsin 53708
Telephone (608) 266-2776

DEPARTMENT CONVERTING TIMS TO ADMINISTRATIVE RULES

Technical Information Memoranda (TIMs) have been issued by the Department since 1968. TIMs have been a convenient, informal way of providing tax practitioners, members of the business community and other members of the public with interpretations of specific provisions of Wisconsin tax statutes.

During 1976, the Department began converting TIMs to administrative rules. The procedures for adopting administrative rules are contained in Ch. 227, Wis. Stats.. Whenever a TIM is adopted in rule form, the TIM is withdrawn and a notice of the withdrawal is sent to TIM subscribers.

Administrative rules of the Department are part of the Wisconsin Administrative Code and are available on a subscription basis. The charge for a booklet containing current Department rules is \$1.20 and the annual calendar year subscription service to keep the booklet current is presently \$1.20.

For information on how to obtain a subscription to the Department's administrative rules, you may write:

Document Sales Section
Department of Administration
202 South Thornton Avenue
Madison, WI 53702

REPORT ON LITIGATION

(This portion of the WTB summarizes recent significant Tax Appeals Commission and Wisconsin court decisions. In cases which decisions adverse to the Department's position are rendered, it will be noted whether or not the Department acquiesces or will appeal.)

Department of Revenue vs. Milwaukee Refining Corp. (80 Wis. 2d 44, Wisconsin Supreme Court, October 4, 1977).

The taxpayer was in the business of selling gold to dentists for use in patient care. The taxpayer does not manufacture or refine the gold, but rather purchases it from third parties in the form of small bars and sells the bars, unaltered, to dentists. Dentists then use the gold in rendering professional services, such as providing inlays and bridges, to their patients. The Department took the position that the dentists are the ultimate users and consumers of the gold and assessed sales tax against the taxpayer based on the gross receipts from the sales.

The Court held that the sales of gold to dentists made by the taxpayer were not sales made "at retail" by a "retailer" as the terms are used in s. 77.52 (1), Wis. Stats.. The sales are, therefore, not subject to Wisconsin's sales tax.

TAX RELEASES

("Tax Releases" are designed to provide answers to the specific tax questions covered, based on the facts indicated. However, the answers may not apply to all questions of a similar nature. In situations where the facts vary from those given herein, it is recommended that advice be sought from the Department. Unless otherwise indicated, Tax Releases apply for all periods open to adjustment. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.

NOTE: Many of these were formerly distributed to Department personnel as sales tax memos or reports. It is thought that these positions would be of help to taxpayers and tax practitioners.)