

also due on June 16, 1980, September 15, 1980, and January 15, 1981.

DO YOU HAVE SUGGESTIONS FOR 1980 TAX FORMS?

Each year the Department receives helpful suggestions from the public regarding changes or improvements which can be made to the various Wisconsin income tax reporting forms. We are already taking steps to simplify next year's forms. Because many of the suggestions submitted in the past have been useful in evaluating and updating these forms and instructions, the Department is seeking your comments as we prepare the 1980 forms.

You may wish to communicate your suggestions as to how the Department might improve Forms 1 (individual long form) and 1A (individual short form), Forms 4 and 5 (corporation franchise/income tax returns) and Schedule H (Homestead). You may send them to the Wisconsin Department of Revenue, Division of Income, Sales, Inheritance and Excise Taxes, Director of Technical Services, P.O. Box 8910, Madison, Wisconsin 53708. Because of printing deadlines which must be met for the 1980 forms, please submit your suggestions by July 1, 1980.

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.)

INCOME TAXES

Computing Taxable Unemployment Compensation for Wisconsin

In 1978 a federal law was enacted which taxed unemployment compensation in certain situations. As a result of updating the reference to the Internal Revenue Code to December 31, 1978 in the Wisconsin Statutes, Wisconsin follows the federal law regard-

ing the taxation of unemployment compensation for the 1979 taxable year and thereafter.

For federal purposes, if unemployment benefit payments for the year and the recipient's adjusted gross income (including any disability payments excluded under Code sec. 105 (d)) exceed a "base amount", the recipient must include in gross income the lesser of (1) the amount of unemployment compensation payments received, or (2) one-half of the amount of the excess of the sum of the recipient's unemployment benefit payments and other adjusted gross income over the base amount.

The federal "base amount" is (a) \$25,000 if the recipient is married filing a joint federal return, (b) zero if the recipient is married at the close of the tax year and lived with spouse at any time during the year, but is not filing a joint federal return, or (c) \$20,000 for all other taxpayers.

The base amounts are the same for Wisconsin as for federal. For purposes of determining the amount of taxable unemployment compensation to be included in Wisconsin income, married persons may elect to combine their federal adjusted gross incomes and compute the includable amount of unemployment compensation as persons filing a joint federal return, but each spouse must include in Wisconsin income her or his share of the taxable unemployment compensation (s. 71.05 (1) (k), Wis. Stats.).

The Department has received inquiries as to how the taxable portion of unemployment compensation (UC) is computed for Wisconsin when (1) only one spouse receives UC, (2) both spouses receive UC, and (3) Wisconsin income is different than federal income. The following examples show how to compute the taxable UC for Wisconsin in these 3 situations.

1. Computing Taxable UC When Only One Spouse Receives UC

Example: Husband and wife file a joint federal return reporting federal adjusted gross income, excluding taxable unemployment compensation, of \$24,700. Husband received total unemployment compensation of \$3,500. The portion of the \$3,500 that must be reported as gross income for federal purposes is determined as follows:

Federal adjusted gross income excluding unemployment compensation	\$24,700
Unemployment compensation received	3,500
Sum of FAGI plus unemployment compensation	\$28,200
Less: Base amount for "married filing a joint return"	25,000
Excess over base amount	\$ 3,200
One-half of excess over base amount	\$ 1,600

The taxable portion of the unemployment compensation is the lesser of (1) \$3,500 (amount of payments received), or (2) \$1,600 (one-half of excess over base amount). Since one-half of the excess over the base amount (\$1,600) is the lesser amount, their federal adjusted gross income will be \$26,300 (\$24,700 + \$1,600).

For Wisconsin tax purposes, \$1,600 of taxable UC must be included in the husband's Wisconsin adjusted gross income.

2. Computing Taxable UC When Both Spouses Receive UC

Example: Husband and wife file a joint federal return reporting federal adjusted gross income, excluding taxable unemployment compensation, of \$26,800. Husband received UC payments of \$800 and wife received UC payments of \$1,600 for a total of \$2,400 unemployment compensation received during 1979. The portion of the \$2,400 that must be reported as gross income for federal purposes is computed as follows:

Federal adjusted gross income excluding unemployment compensation	\$26,800
Unemployment compensation received	2,400
Sum of FAGI plus unemployment compensation	\$29,200
Less: Base amount for "married filing a joint return"	25,000
Excess over base amount	\$ 4,200
One-half of excess over base amount	\$ 2,100

As in the first example, one-half of the excess over the base amount is less than the unemployment compensation received. The married couple will report federal adjusted gross income of \$28,900 (\$26,800 + \$2,100).

Husband and wife must report their share of the taxable unemploy-

ment compensation for Wisconsin on line 37 of Form 1. Since the taxable portion is less than the total benefits received, a proration is required to determine the amount to be reported by each spouse. The formula for this proration is as follows:

$$\frac{\text{amount of benefits received by one spouse}}{\text{amount of total benefits received}} \times \text{taxable portion of total benefits}$$

= amount of taxable benefits to be reported by such spouse

(NOTE: This proration is required only when both spouses receive taxable unemployment compensation and the one-half of excess over base amount is less than the total unemployment compensation received.)

Using this formula, the husband will report \$700 in Column B, line 37 of Form 1

$$\frac{\$800}{\$2,400} \times \$2,100 = \$700.$$

The wife will report \$1,400 in Column C, line 37 of Form 1

$$\frac{\$1,600}{\$2,400} \times \$2,100 = \$1,400.$$

3. Computing Taxable UC When Wisconsin Income Different Than Federal Income

Example: Facts are the same as in 2 above, except that the married couple received \$1,000 of state and municipal bond interest taxable for Wisconsin but not for federal. For federal purposes the taxable portion of unemployment compensation is still \$2,100 because the municipal bond interest (or any other source of income which affects Wisconsin income but not federal adjusted gross income) of \$1,000 does not enter into the calculations.

The taxable portion of unemployment compensation is the same for both federal and Wisconsin. No adjustments are made to federal adjusted gross income for any differences between Wisconsin and federal law which are adjusted for on the Wisconsin return via a modification. (However, see "NOTE" below regarding instances when adjustments are required.)

Section 71.05 (1) (k) of the Wisconsin Statutes provides that married persons may elect (in order to avail themselves of the \$25,000 base amount) "to combine their federal

adjusted gross incomes and compute the includable amount as persons filing a joint federal return." The same method of prorating taxable unemployment compensation between a husband and wife would be used as is set forth in example 2 above.

(NOTE: Federal adjusted gross income as computed for Wisconsin purposes may not always be the same as that reported on a taxpayer's federal return filed with IRS. For example, this may occur because Wisconsin's reference date to the Internal Revenue Code (IRC) does not permit new federal tax laws to be used for Wisconsin purposes (thus requiring Wisconsin Schedule I adjustments). It may also result from the fact that a taxpayer elects (under provisions of the IRC) to report an item of income differently for Wisconsin and federal purposes (e.g., electing installment reporting for Wisconsin purposes but not federal).

In these types of situations, the federal adjusted gross income determined for Wisconsin purposes must be used to determine the amount of unemployment compensation taxable for Wisconsin purposes.)

COMPUTING 1979 RENT CREDIT FOR APARTMENT MANAGERS

During 1979 a person lived in an apartment and acted as resident manager for the owner of the building. For his services he received a reduction in rent. Assume the normal rent of \$300 per month was reduced to \$100 per month, and he made 12 payments of \$100 each to the landlord in 1979. In this situation, what amount of rent may be used to compute the 1979 rent credit on Form 1 or 1A.

This person is considered to have paid rent of \$3,600 in 1979. The total of both the rent paid in cash (\$100 × 12 = \$1,200) and the amount represented by services performed (\$200 × 12 = \$2,400) may be used to compute the 1979 rent credit.

REPORT ON LITIGATION

(This portion of the WTB summarizes recent significant Tax Appeals Commission and Wisconsin court decisions. The last paragraph of each decision indicates whether the case has been appealed to a higher court.)

The following decisions are included:

Income and Franchise Taxes

Exxon Corporation vs. Wisconsin Department of Revenue
Theodore A. Gernaey vs. Wisconsin Department of Revenue
Wisconsin Department of Revenue vs. Romain A. Howick
Wisconsin Department of Revenue vs. William B. Riley
Eldon H. Roesler vs. Wisconsin Department of Revenue
Wisconsin Department of Revenue vs. Hide Service Corp.
Raymond W. Koch vs. Wisconsin Department of Revenue
Albert O. Peterson vs. Department of Revenue
North Central Airlines, Inc. vs. Wisconsin Department of Revenue

Homestead Credit

Marvin J. Schwirtz vs. Wisconsin Department of Revenue

Sales/Use Taxes

Jane H. Caryer, Inc., d/b/a Caryer Interiors vs. Wisconsin Department of Revenue
Gene E. Greiling vs. Wisconsin Department of Revenue
Leicht Transfer & Storage Co., Inc. vs. Wisconsin Department of Revenue
Sargento Cheese Company, Inc. vs. Wisconsin Department of Revenue
Alyce N. Leutermann vs. Wisconsin Department of Revenue
Wisconsin Department of Revenue vs. Bailey-Bohrman Steel Corporation

Gift Tax

Estate of John F. Stratton, et al vs. Wisconsin Department of Revenue

INCOME AND FRANCHISE TAXES

Exxon Corporation vs. Wisconsin Department of Revenue (Docket # 79-509) The U. S. Supreme Court noted probable jurisdiction on November 26, 1979 over Exxon's appeal of a Wisconsin Supreme Court decision holding that the Wisconsin marketing operations of a company (Exxon) in the business of producing, refining, and marketing petroleum products constituted an integral part of a unitary business, and the income therefrom was thus subject to statutory apportionment.

Theodore A. Gernaey vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, December 14, 1979.) Taxpayer received an as-