

No gain or loss will be recognized for Wisconsin franchise/income tax purposes if a corporation exchanges certain business or investment property held for productive use before and after the exchange for property of a like kind, regardless of the situs of the properties.

10. Credit Unions - Only Income from Public Deposits is Taxable (1983 Wis. Act 368, Amend s. 71.01(3)(a)1, effective for 1984 tax year and thereafter.)

Effective with the 1984 taxable year, the limited exemption previously provided credit unions (membership limited to groups having a common bond of occupation, or association, or to groups within a well defined neighborhood, community or rural district) has been expanded to exempt all credit unions.

However, all credit unions are now taxable on income derived from public funds held on deposit for any taxable year in which the credit union is approved as a public depository under ch. 34 and acts as a depository of state or local funds under s. 186.113(20), Stats. The law defines such income as the product of the credit union's gross annual income (before deductions) for the taxable year multiplied by a fraction, the numerator of which is the average monthly balance of public deposits in the credit union during the taxable year, and the denominator of which is the average monthly balance of all deposits in the credit union during the taxable year.

C. HOMESTEAD CREDIT

1. Retroactive 25% Increase in Homestead Credit for 1983 (1983 Wis. Act 212, Create 71.09(7)(gs), effective for 1983 claims filed in 1984.)

Each person who files a 1983 homestead claim by the December 31, 1984 deadline will automatically receive a 25% increase in their credit. The increased amount of credit will be paid in a separate check. It will be equal to 25% of the credit computed using the computation tables appearing in the instructions for the 1983 Schedule H. The maximum increase will be \$220 (\$880 x .25). If the amount of credit a person claims on his or her Schedule H is adjusted by the Department of Revenue, the 25% increase will be based on the adjusted credit.

No additional form or filing is necessary to receive this additional credit. For persons whose 1983 homestead credit was paid or credited by the Department before June 2, 1984 the separate check for the 25% increase in credit is expected to be mailed by the Department in late August, 1984. Persons whose 1983 homestead credit is paid or credited on or after June 2, 1984 will receive their separate check within 90 days after their initial claim was paid or credited.

Example: A person filed a 1983 Schedule H in February, 1984 claiming a credit of \$280. A check for that amount was mailed to the person during March, 1984. During late August, 1984 this person will automatically receive a separate check for \$70 (\$280 credit x 25% increase = \$70).

Regardless of whether a 1983 homestead claim is filed before or after the enactment of this new law, the credit entered on line 19 of the Schedule H claim form must be based on the computation tables provided in the 1983 instructions. The additional credit of 25% will be computed automatically by the Department of Revenue and a separate check will be issued.

2. Household Income Limit Increased to \$16,500 (1983 Wis. Act 212, Amend s. 71.09(7)(gr)(intro.) and create s. 71.09(7)(grm)3, effective for 1984 homestead claims (filed in 1985) and subsequent years' claims.)

Beginning with claims filed for the year 1984, no homestead credit will be allowed if a claimant's household income exceeds \$16,500. For 1983 claims, the limit was \$15,500.

3. "Rent Constituting Property Taxes Accrued" Percentage Changed From 20% to 25% (1983 Wis. Act 212, Amend s. 71.09(7)(a)6, effective for 1984 claims (filed in 1985) and subsequent years' claims.)

In computing homestead credit for claims filed for the year 1984 and thereafter, claimants will be allowed one-fourth (25%) of rent paid for occupancy as "rent constituting property taxes accrued". For 1983 claims the percentage was 20%.

4. Acres Limitation Increased to 120 Acres When Homestead Part of a Farm (1983 Wis. Act 212, Amend s. 71.09(7)(a)8, effective for 1984 claims (filed in 1985) and subsequent years' claims.)

Beginning with claims filed for the year 1984, claimants who have a homestead which is part of a farm will be allowed to claim property taxes on up to 120 acres of land adjoining their residence, including all improvements (e.g., buildings) on this same 120 acres. For 1983 claims, claimants with farms were allowed to claim property taxes on only the first 35 acres adjoining their residence.

5. Property Taxes Limit Increased to \$1,200 (1983 Wis. Act 212, Amend s. 71.09(7)(h)4 and create s. 71.09(7)(h)5, effective for 1984 claims (filed in 1985) and subsequent years' claims.)

The amount of property taxes or rent constituting property taxes which may be used in computing a homestead credit for claims filed for the year 1984 and thereafter will be limited to \$1,200. For 1983 claims the limit was \$1,100.

6. Homestead Credit Formula Changed (1983 Wis. Act 212, Amend s. 71.09(7)(gr) (intro.) and create s. 71.09(7)(grm)1 and 2, effective for 1984 claims (filed in 1985) and subsequent years' claims.)

Claimants with household income of \$7,400 (prior law was \$7,000) or less will receive a credit equal to 80% of their property taxes accrued and/or rent constituting property taxes accrued. If household income is more than \$7,400, the credit will be 80% of the amount by which property taxes and/or rent constituting property taxes accrued exceed 13.187% (prior law was 12.94%) of household income exceeding \$7,400.

#### D. FARMLAND CREDIT

1. Eliminate Requirement That Claimant be Owner of Land at End of Year (1983 Wis. Act 311, Amend 71.09(11)(a)3, effective April 27, 1984.)

A farmland preservation credit claimant will no longer be required to be the owner at the close of the tax year of the farmland on which a credit is claimed. Thus, assuming both meet the required qualifications, when farmland is sold both the buyer and the seller will be eligible to file for farmland credit on the basis of the portion of the total property taxes each paid. Under prior law, only the buyer (owner at the end of the year) was eligible to file a farmland credit claim. (Note: 1983 Wis. Act 311 also made changes in the Chapter 91 provisions of the Wisconsin Statutes which relate to the farmland credit program. The Chapter 91 provisions pertain to the portion of the farmland program which is administered by the Wisconsin Department of Agriculture, Trade and Consumer Protection.)

E. SALES/USE TAXES

1. Exempt Sales of Raffle Contest Tickets (1983 Wis. Act 510, Amend s. 77.51(10)(a), 77.52(2)(a)2, 77.54(7) and create nonstatutory provision, effective September 1, 1983.)

Under prior law enacted on July 1, 1983 in 1983 Wisconsin Act 27, the sale of raffle contest tickets became subject to sales tax on September 1, 1983. Also, the occasional sales exemption in s. 77.51(10)(a) and s. 77.54(7) did not apply to the sale of raffle contest tickets.

The new law enacted in 1983 Wisconsin Act 510 provides that, effective September 1, 1983, the sale of raffle contest tickets is exempt from sales tax. The new law also eliminates the occasional sale exception in s. 77.51(10)(a) and s. 77.54(7) for the sale of raffle contest tickets.

The nonstatutory provision provides that within 45 days after May 18, 1984, the Department of Revenue shall mail a notice to every person who has applied for a raffle license between September 1, 1982, and May 19, 1984. The notice shall specify that any person who has paid a sales tax on the receipts of a raffle may apply for a refund of that sales tax and shall specify the method of applying for such refund. The notice shall also specify that any person who has applied for and been granted a seller's permit for the sole purpose of conducting a raffle shall have the permit canceled by the Department of Revenue by simply requesting that cancellation. (Note: The notice will likely be mailed by the Department in June, 1984.)

Also, the Department of Revenue may not impose interest or a penalty on any person who failed to apply for a seller's permit from September 1, 1983, to May 19, 1984 if the sole requirement for that application was to sell raffle contest tickets.

2. Exempt Charges for Copying Public Records (1983 Wis. Act 287, Create s. 77.54(32) and nonstatutory provision, effective April 27, 1984.)

Charges by an "authority" defined in s. 19.32(1) for copying a public record under s. 16.61(12) or 19.35(1) are exempt from the sales/use tax. Charges for the search of such records are also exempt.

"Authority" in s. 19.32(1) means any of the following having custody of a record: a state or local office, elected official, agency, board, commission, committee, council, department or public body corporate and politic created by constitution, law, ordinance, rule or order; a governmental or quasi-governmental corporation; any court of law; the assembly or senate; a nonprofit corporation which receives more than 50% of its funds from a county or a municipality, as defined in s. 59.001(3), and which provides services related to public health or safety to the county or municipality; or a formally constituted subunit of any of the foregoing.

The nonstatutory provision provides that any person, including an "authority" who, on April 27, 1984 has a liability for sales taxes for charges for copying records under s. 19.35(1) is absolved of that liability. However, no refunds may be made of sales taxes paid before April 27, 1984 in respect to such charges.

3. Exempt Periodicals Which are Distributed Without Charge (1983 Wis. Act 496, Amend s. 77.54(15), effective September 1, 1983).

Periodicals (e.g., magazines such as controlled circulation publications) sold to publishers for distribution without charge or regularly distributed by or on behalf of publishers without charge to the recipient are exempt from the sales/use tax.

4. Exempt Certain Vehicles, Machinery and Equipment Used in Waste Reduction or Recycling (1983 Wis. Act 426, Create s. 77.54(5)(c) and (26m), effective July 1, 1984.)

Section 77.54(5)(c) provides a sales/use tax exemption for motor vehicles which are not required to be licensed for highway use and which are exclusively and directly used in conjunction with waste reduction or recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste or recover energy from solid waste. For the purposes of s. 77.54(5)(c), "solid waste" means garbage, refuse, sludge or other materials or articles, whether these materials or articles are discarded or purchased, including solid, semisolid, liquid or contained gaseous materials or articles resulting from industrial, commercial, mining or agricultural operations or from domestic use or from public service activities.

Section 77.54(26m) provides a sales/use tax exemption for the gross receipts from the sale of and the storage, use or other consumption of waste reduction or recycling machinery and equipment, including parts therefor, exclusively and directly used for waste reduction or recycling activities which reduce the amount of solid waste generated, reuse solid waste, recycle solid waste, compost solid waste or recover energy from solid waste. The exemption applies even though an economically useful end product results from the use of the machinery and equipment. For purposes of s. 77.54(26m), "solid waste" means garbage, refuse, sludge or other materials or articles, whether these materials or articles are discarded or purchased, including solid, semisolid, liquid or contained gaseous materials or articles resulting from industrial, commercial, mining or agricultural operations or from domestic use or from public service activities.

5. Increase Dollar Amounts Used to Establish Filing Frequency (1983 Wis. Act 405, Amend s. 77.58(1)(a) and (b), effective for tax years beginning on or after January 1, 1985.)

For tax years beginning on or after January 1, 1985 a retailer's reporting period for sales and use tax purposes will be monthly if the amount of tax due in any one calendar quarter is more than \$600 (prior law was \$500). If a retailer's sales and use tax liability for any calendar quarter exceeds \$3600 (prior law was \$3000), returns will be due by the 20th of the month following the end of the monthly reporting period.

6. Property Purchased Without Tax Subject to Sales Tax if Used in Nonexempt Manner (1983 Wis. Act 405, Amend s. 77.54(3) and s. 77.57, effective May 10, 1984.)

If a purchaser issues an exemption or resale certificate to a seller and then uses the property for a taxable purpose, the purchaser will be liable for payment of the sales tax, rather than a use tax.

Example: A purchaser provides the seller with a resale certificate and therefore buys the desk without payment of any sales or use tax. Rather than reselling the desk, the purchaser ships the desk to its office in Illinois where the desk will be used by the purchaser's employees. Under 1983 Wisconsin Act 405, the purchaser will be liable for payment of Wisconsin sales tax on this desk. Under prior law, the desk would have been subject to use tax except that s. 77.51(16) provided no use tax is owing because the desk was subsequently shipped outside of Wisconsin.

F. INHERITANCE TAXES

1. Increase Inheritance and Gift Tax Exemptions (1983 Wis. Act 194, Amend s. 72.17(1), 72.81, 72.82(1)(b) and 72.85(2), effective dates are indicated below.)

(a) Inheritance Tax: The inheritance tax exemption for property transferred to class A distributees other than spouses (e.g., son, daughter, grandchildren, grandparents, son-in-law, daughter-in-law) is increased from \$10,000 to \$25,000 for transfers because of death occurring on April 13, 1984 and thereafter to June 30, 1985 and to \$50,000 for transfers because of deaths occurring on July 1, 1985 and thereafter.

(b) Gift: The lifetime gift tax exemption for property transferred to class A donees other than spouses (e.g., son, daughter, grandchildren, grandparents, son-in-law, daughter-in-law) is increased from \$10,000 to \$25,000 for transfer occurring during January 1, 1985 to December 31, 1985 and to \$50,000 for transfers occurring on January 1, 1986 and thereafter.

The annual gift tax exemption for all donees is increased from \$3,000 to \$10,000, effective for the 1985 calendar year and thereafter. Also, gift tax returns do not have to be filed for the 1985 calendar year and thereafter unless the total value of all gifts during the year from a donor to a donee exceeded \$10,000.

2. Security for Installment Payments of Inheritance Tax (1983 Wis. Act 248, Amend s. 72.22(4)(d) and 72.25(1), effective April 27, 1984.)

Under prior law, persons who inherited property of a closely held business could, upon fulfilling certain requirements, pay the inheritance taxes on their property in installments over a period not to exceed 15 years. One of those requirements was that the taxpayer provide as security a lien on real property or a bond to cover the taxes due on personal property.

The amendments to s. 72.22(4)(d) and 72.25(1) allow liens on personal property also to be used as security.

34.

3. Update Reference to Internal Revenue Code to December 31, 1983 for Qualified Retirement Plans, Installment Payments and Power of Appointment (1983 Wis. Act 212, Amend s. 72.01(17), 72.12(4)(c)1 and 72.22(4)(a), effective for transfers because of deaths on and after May 1, 1984.)

The reference to the Internal Revenue Code relating to power of appointment in s. 72.01(17), qualified retirement plans in s. 72.12(4)(c)1 and installment payments in s. 72.22(4)(a) is updated to December 31, 1983.

G. OTHER

1. Eliminate Form 9C Filing Requirement Regarding Compensation Paid to Nonresident Entertainers (1983 Wis. Act 405, Repeal s. 71.10(18)(a) and (c), effective May 10, 1984.)

Wisconsin persons employing nonresident entertainers in Wisconsin will no longer be required to file the information return, Wisconsin Form 9C. (Note: Wisconsin law continues to require nonresident entertainers to file a surety bond or cash deposit with the Department if the contract price for a performance exceeds \$3,200. If such bond or deposit is not filed, the employer continues to be required to withhold payment from the entertainer in an amount for which a bond or deposit should have been filed.)

2. Increase Income Limitation for Filing Information Return (1983 Wis. Act 259, Amend s. 71.10(8n), effective April 27, 1984.)

Information returns (Wisconsin Form 9b or federal Form 1099-MISC) will be required for payments for services of \$600 or more made in the course of operating a business to persons who are not treated as employees of the business. An example of such payments are fees paid to corporate directors. Prior law required information returns when such payments exceeded \$500.

3. Renumber Definitions in Statutes (1983 Wis. Act 189, Amends various sections in Chapters 71, 72, 77 and 139 of the Wisconsin Statutes, effective April 10, 1984. A complete listing of the statutes which have been renumbered by 1983 Wis. Act 189 appears on pages 35 through 37.)

Various statutes in Chapters 71, 72, 77 and 139 have been renumbered. The statutes affected are those which contain lists of definitions. The purpose of the renumbering is to rearrange listings of several words or terms defined under a single statute section so that they appear in alphabetical sequence. For example, sections 71.09(7)(a)1 through 8 of the Wisconsin Statutes containing definitions for eight items pertaining to the Homestead program have been renumbered so that the items being defined will appear in alphabetical sequence. An example of the result is the definition of "income" which was previously identified as s. 71.09(7)(a)1 but now is numbered s. 71.09(7)(a)6.

4. Miscellaneous Changes Made to Statutes (1983 Wisconsin Act 192, Amend s. 71.03(1)(g)2, 71.312(8), 71.346(3), 71.355(1)(a)3, 71.357(2)(a), 71.358(2)(b), 71.358(3), 71.362(1), 77.54(20)(a), 77.54(20)(b)4, 125.32(4)(b)3, create s. 71.09(12r)(title), 71.09(12rf)(title), 125.33(2m)(title), s. 125.33(1)(cm) is renumbered 125.33(2m) and is amended, effective April 10, 1984.)

A number of changes were made to amend and revise various provisions of the statutes for the purpose of removing unnecessary words, clarifying language and references and changing punctuation.

STATUTES RENUMBERED BY 1983 WISCONSIN ACT 189

The following is a listing of the various sections in Chapters 71, 72, 77 and 139 of the Statutes which have been renumbered by 1983 Wisconsin Act 189, effective April 10, 1984.

<u>Definition</u>	<u>Old Reference</u>	<u>New Reference Per 1983 Wis. Act 189</u>
<b>I. INCOME AND FRANCHISE TAXES</b>		
<b>A. Corporations</b>		
Net income	71.02(1)(a)	71.02(1)(c)
Person	71.02(1)(b)	71.02(1)(f)
Paid	71.02(1)(c)	71.02(1)(e)
Fiscal year	71.02(1)(d)	71.02(1)(b)
Entertainment corporation	71.02(1)(e)	71.02(1)(a)
Tax-Option corporation	71.02(1)(f)	71.02(1)(g)
Net income or loss of S Corp.	71.02(1)(g)	71.02(1)(d)
Federal taxable income	71.02(2)(a)	71.02(2)(c)
<b>B. Individuals, Estates and Trusts</b>		
Internal Revenue Code	71.02(2)(b)	71.02(2)(d)
Wisconsin taxable income - estates & trusts	71.02(2)(c)	71.02(2)(L)
Wisconsin taxable income - natural persons	71.02(2)(d)	71.02(2)(m)
Wisconsin adjusted gross income	71.02(2)(e)	71.02(2)(i)
Itemized deductions	71.02(2)(f)	71.02(2)(e)
Wisconsin standard deduction - 1970	71.02(2)(g)	71.02(2)(k)
Wisconsin standard deduction - 1971	71.02(2)(gh)	71.02(2)(kb)
Wisconsin standard deduction - 1972	71.02(2)(gn)	71.02(2)(kd)
Wisconsin standard deduction - 1973-76	71.02(2)(gp)	71.02(2)(kf)
Wisconsin standard deduction - 1977-78	71.02(2)(gq)	71.02(2)(kh)
Indexing standard deduction	71.02(2)(gr)	71.02(2)(ki)
Taxable income	71.02(2)(h)	71.02(2)(gm)
Person, fiduciary, income	71.02(2)(i)	71.02(2)(f)
Person	71.02(2)(j)	71.02(2)(g)
Taxable year	71.02(2)(k)	71.02(2)(h)
Federal net operating loss	71.02(2)(L)	71.02(2)(b)
Wisconsin net operating loss	71.02(2)(m)	71.02(2)(j)
Entertainer	71.02(2)(p)	71.02(2)(a)
Transitional date	71.05(2)(a)1	71.05(2)(a)6
Federal adjusted basis	71.05(2)(a)2	71.05(2)(a)4
Wisconsin adjusted basis	71.05(2)(a)3	71.05(2)(a)7
Adjusted basis	71.05(2)(a)4	71.05(2)(a)1
Constant basis assets	71.05(2)(a)5	71.05(2)(a)3
Changing basis assets	71.05(2)(a)6	71.05(2)(a)2
Owner	71.05(2)(a)7	71.05(2)(a)5
<b>II. HOMESTEAD CREDIT</b>		
Income	71.09(7)(a)1	71.09(7)(a)6
Rent constituting property taxes accrued	71.09(7)(a)6	71.09(7)(a)8
Property taxes accrued	71.09(7)(a)8	71.09(7)(a)7
Household	71.09(7)(a)2	71.09(7)(a)4
Household income	71.09(7)(a)3	71.09(7)(a)5
Homestead	71.09(7)(a)4	71.09(7)(a)3
Claimant	71.09(7)(a)5	71.09(7)(a)1
Gross rent	71.09(7)(a)7	71.09(7)(a)2

<u>Definition</u>	<u>Old Reference</u>	<u>New Reference From 1983 Wis. Act 189</u>
<b>III. WITHHOLDING TAX</b>		
Wages	71.19(1)	71.19(5)
Payroll period	71.19(2)	71.19(4)
Employee	71.19(3)	71.19(6)
Employer	71.19(4)	71.19(7)
Department	71.19(5)	71.19(8)
<b>IV. INHERITANCE TAX</b>		
District Attorney	72.01(5)	72.01(9m)
<b>V. SALES AND USE TAX</b>		
Sales tax	77.51(1)	77.51(16)
Use tax	77.51(2)	77.51(23)
Person	77.51(3)	77.51(10)
Sale	77.51(4)	77.51(14)
Sale - does not include	77.51(4g)	77.51(14g)
Time of sale	77.51(4r)	77.51(14r)
Tangible personal property	77.51(5)	77.51(20)
Retailer	77.51(7)	77.51(13)
Retailer - doing business in Wisconsin	77.51(7g)	77.51(13g)
Consumer	77.51(7m)	77.51(13r)
Business	77.51(8)	77.51(1)
Seller	77.51(9)	77.51(17)
Occasional sale	77.51(10)	77.51(9)
Gross receipts	77.51(11)	77.51(4)
Sales price	77.51(12)	77.51(15)
Purchase	77.51(13)	77.51(12)
Storage	77.51(14)	77.51(18)
Use	77.51(15)	77.51(22)
Storage and use	77.51(16)	77.51(19)
Vending machine receipts	77.51(17)	77.52(1m)
Contractors, construction activities	77.51(18)	77.51(2)
Department	77.51(19)	77.51(3)
Taxpayer	77.51(20)	77.51(21)
Medicines	77.51(21)	77.54(14g)
Insulin and equipment	77.51(22)	77.54(14r)
Hospital	77.51(22r)	77.54(14r)
Lease	77.51(23)	77.51(7)
Service provider resale	77.51(24)	77.52(2m)
Printing	77.51(25)	77.51(11)
Tax paid to governmental unit	77.51(26)	77.51(4)(a) & and 77.51(15)(a) &
Manufacturing	77.51(27)	77.54(14n)
Cable television	77.51(28)	77.52(2)(a) &
Incidental	77.51(29)	77.51(5)
Newspaper	77.51(30)	77.51(8)



<u>Definition</u>	<u>Old Reference</u>	<u>New Reference Per 1983 Wis. Act 189</u>
VI. EXCISE TAXES		
A. Beverage Taxes		
Brewer	139.01(1)	139.01(2)
Bottler	139.01(2)	139.01(1)
License	139.01(3)	139.01(4)
Intoxicating liquors	139.01(4)	139.01(3)
Wholesaler	139.01(7)	139.01(10)
Retailer	139.01(8)	139.01(7)
Secretary	139.01(10)	139.01(8)
B. Cigarette Taxes		
Secretary	139.30(3)	139.30(11)
Sell or sale	139.30(4)	139.30(12)
Vending machine	139.30(5)	139.30(14)
Manufacturer	139.30(6)	139.30(7)
Distributor	139.30(7)	139.30(3)
Jobber	139.30(8)	139.30(6)
Vending machine operator	139.30(9)	139.30(15)
Multiple retailer	139.30(10)	139.30(8)
Retailer	139.30(11)	139.30(10)
Warehouse	139.30(12)	139.30(16)
Indian tribe	139.30(14)	139.30(5)
Reservation	139.30(15)	139.30(9)
Enrolled member	139.30(16)	139.30(4)