

A. STATE TAX AMNESTY

The Department of Revenue is directed to establish a tax amnesty program. Amnesty shall apply to all taxes administered by the Department under Chapters 71, 72, 77 (Subchapter III), 78 and 139 of the Wisconsin Statutes. This includes income, franchise, withholding, gift, inheritance, sales and use, motor fuel, cigarette, tobacco, liquor, wine and beer taxes.

The amnesty period begins September 15, 1985 and ends November 22, 1985.

(Note: A brochure containing additional information about amnesty will be available to the public in early September, 1985. A toll-free telephone number will also be available in early September for persons to call for amnesty information. Applications for amnesty may not be filed before September 15, 1985.)

1. Eligible Taxpayers and Benefits of Amnesty.

Amnesty extends to the following taxpayers, including individuals, corporations, partnerships and fiduciaries. (See the exceptions in Part 2.)

- a. For a taxpayer who, during the amnesty period, has a tax liability that was delinquent on the Department's records as of May 15, 1985, 20% of the amount due as of the date of payment shall be forgiven. The maximum reduction allowable is \$5,000.
- b. For a taxpayer who, during the amnesty period, files late or amended returns, along with an application for amnesty, reporting a tax liability that had not been reported or established previously, the Department shall not impose civil penalties and late filing fees or pursue criminal prosecution. In addition, the Department shall reduce delinquent interest due to 1% per month. The addition to the tax for underpayment of taxes may be assessed.
- c. For a taxpayer who, during the amnesty period, has a tax liability that was not delinquent on the Department's records as of May 15, 1985 and is based on an assessment, determination or notice of amount due issued by the Department before or during the amnesty period, the Department shall waive civil penalties (with the exceptions listed in Part 3) and late filing fees. Also, the Department shall reduce delinquent interest due to 1% per month.

2. Ineligible Obligations.

The amnesty program is not available for any tax liability involved in

- a. A civil collection action.
- b. An appeal before the Appellate Bureau, the Tax Appeals Commission or any court unless that appeal is withdrawn by the taxpayer.
- c. An adverse decision of the taxpayer's appeal from the Tax Appeals Commission or any court during the amnesty period.

- d. A criminal tax investigation or pending criminal tax litigation provided the taxpayer has been notified by the date of application for amnesty that he or she is a party to such action.

3. Penalties and Amounts Not Eligible for Waiver.

Except for amounts included in delinquencies described in Part 1.a., the following penalties and amounts assessed by the Department may not be waived.

- s. 71.11(6) attempt to defeat or evade tax
- s. 71.20(5)(a) 100% withholding penalty for failure to withhold or pay over
- s. 71.20(8)(e) false employe information to employer to reduce withholding
- s. 71.20(16) false withholding exemption certificate
- s. 71.20(22)(e) false information to employer to defeat or evade proper withholding
- s. 71.21(11) addition to the tax for underpayment of estimated tax by individuals
- s. 71.22(8) addition to the tax for underpayment of estimated tax by corporations
- s. 72.86(6) false information to evade or defeat gift tax due
- s. 77.60(5) 50% penalty for false or fraudulent sales tax return
- s. 78.22(6) 100% penalty for false or fraudulent motor fuel tax return
- s. 139.25(2) false reports for beverage tax
- s. 139.25(5) violation of beverage statutes
- s. 139.44(2) false or fraudulent cigarette tax report

4. Actions Required to Qualify for Amnesty.

To qualify for amnesty, a taxpayer must meet all of the following conditions:

- a. File an application for amnesty.
- b. File all returns due for all types of taxes.

- c. Make full payment of all obligations included in Part 1 within 90 days after notification by the Department.
- d. Make payment by certified check, cashier's check, money order or cash.

5. Finality.

All amounts paid under amnesty are final and may not be refunded.

B. INCOME TAXES

1. Update Reference to Internal Revenue Code for Individuals, Estates, Trusts and Tax-Option Corporations (Renumber s. 71.02(2)(b) to 71.02(2)(d) and amend s. 71.02(2)(d)10 as renumbered, create s. 71.02(2)(d)11 and 12, effective dates are indicated below.)

- a. For the 1985 tax year, individuals, estates, trusts and tax-option corporations will use the Internal Revenue Code in effect on December 31, 1984 with the following exceptions.
 - (1) Social security and railroad retirement benefits, which are includable in gross income under sections 72(r) and 86 of the Internal Revenue Code, continue to be nontaxable for Wisconsin.
 - (2) Sick pay benefits paid under the Railroad Unemployment Insurance Act, which are includable in gross income under section 105(i) of the Internal Revenue Code, continue to be nontaxable for Wisconsin.
 - (3) The deduction from gross income allowed two-earner married couples, as provided under section 221 of the Internal Revenue Code, does not apply for Wisconsin.
 - (4) The exclusion from gross income allowed for public utility stock dividends which are reinvested in the common stock of the utility, as provided under section 305(e) of the Internal Revenue Code, does not apply for Wisconsin.
 - (5) The charitable contributions deduction allowed to persons who do not claim itemized deductions, as provided under section 170(i) of the Internal Revenue Code, does not apply for Wisconsin.
 - (6) The incentive stock option provisions, as provided under section 422A of the Internal Revenue Code, do not apply for Wisconsin.
 - (7) Political contributions continue to be allowed as an itemized deduction for Wisconsin purposes.
 - (8) The foreign earned income exclusion which was allowed to persons who worked abroad, as provided by the Internal Revenue Code as of December 31, 1977, continues to apply for Wisconsin purposes. (The foreign earned income exclusion limits and deduction provisions enacted in sections 111 and 113 of Public Law 97-34 may not be used for Wisconsin.)

- (9) The disability income exclusion of up to \$5,200 which was allowed to persons under age 65 who retired on disability and received disability income while permanently and totally disabled, as provided under section 105(d) of the Internal Revenue Code immediately prior to its repeal in 1983 by Public Law 98-21, continues to apply for Wisconsin.
 - (10) For tax-option corporations, the Internal Revenue Code applies only to the election and termination of Subchapter S status and not to the computation of net income, etc.
- b. For the 1986 tax year and thereafter, individuals, estates, trusts and tax-option corporations will use the Internal Revenue Code in effect on December 31, 1984 with the following exceptions.
- (1) The depreciation deduction and gain or loss on the sale or other disposition of the following depreciable property placed in service by the taxpayer during the 1986 tax year and thereafter must be computed under the Internal Revenue Code in effect on December 31, 1980 (see Item B.8):
 - (a) Residential real property.
 - (b) Property used in farming, as defined in section 464(e)(1) of the Internal Revenue Code, if the taxpayer's nonfarm Wisconsin adjusted gross income exceeds \$55,000 or gross farm profit exceeds \$155,000 for tax year 1986.
 - (2) Certain entertainment and travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code may not be claimed for Wisconsin (see Item B.7).
 - (3) Railroad retirement benefits continue to be nontaxable for Wisconsin.
 - (4) Sick pay benefits paid under the Railroad Unemployment Insurance Act continue to be nontaxable for Wisconsin.
 - (5) The deduction from gross income allowed two-earner married couples does not apply for Wisconsin.
 - (6) The charitable contributions deduction allowed to persons who do not claim itemized deductions does not apply for Wisconsin.
 - (7) The disability income exclusion of up to \$5,200 which was allowed to persons under age 65 who retired on disability and received disability income while permanently and totally disabled, as provided under section 105(d) of the Internal Revenue Code immediately prior to its repeal in 1983 by Public Law 98-21, continues to apply for Wisconsin.
 - (8) For tax-option corporations, the Internal Revenue Code applies only to the election and termination of Subchapter S status and not to the computation of net income, etc.

2. Eliminate Itemized Deductions (Repeal ss. 71.02(2)(f), 71.05(3)(a) and (f), renumber s. 71.02(2)(d) to 71.02(2)(me) and amend s. 71.02(2)(me) as renumbered, create s. 71.05(1)(b)11, effective for 1986 tax year and thereafter.)
 - a. Beginning with the 1986 tax year, itemized deductions may no longer be claimed to determine Wisconsin taxable income.
 - b. Any amount that is a recovery of a federal itemized deduction for which no tax benefit was received for Wisconsin is not includable in Wisconsin taxable income.
3. Change Standard Deduction (Repeal ss. 71.02(2)(gq)3 and 4, and 71.05(3)(c), (e) and (g), renumber s. 71.02(2)(gq)2 to 71.02(2)(km)2, 71.02(2)(gq)5 to 71.02(2)(km)5 and 71.02(2)(gq)7 to 71.02(2)(km)7 and amend s. 71.02(2)(km)2, 5 and 7 as renumbered, create s. 71.02(2)(km)2m and 8, effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, the low income allowance may no longer be claimed. The Wisconsin standard deduction will be one of the following amounts.

a. Single persons.

- (1) If the Wisconsin adjusted gross income is less than \$7,500, the standard deduction is \$5,200.
- (2) If the Wisconsin adjusted gross income is at least \$7,500 but not more than \$50,830, the standard deduction is the amount obtained by subtracting from \$5,200 12% of Wisconsin adjusted gross income in excess of \$7,500 but not less than \$0.
- (3) If the Wisconsin adjusted gross income is more than \$50,830, the standard deduction is \$0.

b. Married persons filing jointly.

- (1) If their total Wisconsin adjusted gross income is less than \$10,000, the standard deduction is \$7,200.
- (2) If their total Wisconsin adjusted gross income is at least \$10,000 but not more than \$77,500, the standard deduction is the amount obtained by subtracting from \$7,200 10.667% of total Wisconsin adjusted gross income in excess of \$10,000 but not less than \$0.
- (3) If their total Wisconsin adjusted gross income is more than \$77,500, the standard deduction is \$0.

c. Married persons filing separately.

- (1) If the Wisconsin adjusted gross income is less than \$4,750, the standard deduction is \$3,420.

- (2) If the Wisconsin adjusted gross income is at least \$4,750 but not more than \$36,810, the standard deduction is the amount obtained by subtracting from \$3,420 10.667% of Wisconsin adjusted gross income in excess of \$4,750 but not less than \$0.
- (3) If the Wisconsin adjusted gross income is more than \$36,810, the standard deduction is \$0.

d. Nonresidents and part-year residents of Wisconsin.

The Wisconsin standard deduction is calculated on the basis of federal adjusted gross income and is prorated based on the ratio of Wisconsin adjusted gross income to federal adjusted gross income. For married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse. For married persons filing jointly, "adjusted gross income" means the total adjusted gross income of both spouses.

If a person and that person's spouse are not both domiciled in Wisconsin during the entire tax year, the Wisconsin standard deduction on a joint return is determined by multiplying the Wisconsin standard deduction calculated on the basis of federal adjusted gross income by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

4. Index Standard Deduction (Renumber s. 71.02(2)(gr) to 71.02(2)(kr) and amend s. 71.02(2)(kr) as renumbered, create s. 71.09(2e) and (2f), effective for 1987 tax year and thereafter.)

The standard deduction will not be indexed for tax years prior to 1987.

Beginning with the 1987 tax year, the standard deduction will be indexed for the increase in the consumer price index between June of the current year and June of the previous year that exceeds 3%. The standard deduction may not be increased by more than 7% or decreased by any amount. The percentage change in the consumer price index will be rounded to the nearest one-tenth of a percentage point and the revised standard deduction amounts will be rounded to the nearest \$10.

There will be no indexing if the actual general purpose revenues balance for the preceding fiscal year is less than the required 1% statutory balance (odd-numbered years) or, when substituted for the gross June 30 balance in the general fund summary, yields a biennial closing balance less than the required 1% statutory balance (even-numbered years).

5. Provide Exemption for Capital Gains From Sale of Small Business Stock (Create ss. 71.02(2)(fr) and 71.05(1)(b)12, effective for stock acquired on or after January 1, 1986.)

Net capital gains on small business stock are exempt from Wisconsin taxation provided the taxpayer did not acquire the stock by gift and submits a copy of the certification under s. 71.02(2)(fr)(intro.) with his or her tax return.

"Small business stock" means an equity security that the taxpayer has held for at least five years. The security must be issued by a corporation that, on the December 31 before acquisition by the taxpayer, fulfills all the following requirements and so certifies to the taxpayer upon acquisition:

- a. Has at least 50% of its property and at least 50% of its payroll, both as computed under s. 71.07, in Wisconsin.
 - b. Has no more than 200 employees covered by Wisconsin unemployment insurance, including employees of any corporation that owns more than 50% of the stock of the issuing corporation.
 - c. Derives no more than 25% of its gross receipts from rents, interest, dividends and sales of assets combined.
 - d. Has not issued stock that is listed on the New York Stock Exchange, the American Stock Exchange or the National Association of Security Dealers' Automated Quotation System.
 - e. Has not conducted a trade or business in corporate or noncorporate form or combination thereof for a period exceeding five years. A trade or business is considered to be conducted if a specific or similar group of activities was carried on for the purpose of earning income or profit. "Group of activities" includes but is not limited to the production, distribution and sale of goods, the sale of services, the payment of expenses and the collection of income.
 - f. Has not liquidated its assets in whole or in part for tax purposes only in order to fulfill the requirements of this provision and then reorganized.
6. Limit Deduction for Certain Farm Losses (Create s. 71.05(1)(a)26, effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, combined net losses, exclusive of net gains, from businesses, rents, partnerships, S corporations, estates or trusts incurred in the operation of a farming business, as defined in section 464(e)1 of the Internal Revenue Code, otherwise includable in calculating Wisconsin income, which can be used to offset nonfarm income are limited as follows:

<u>Nonfarm Wisconsin Adjusted Gross Income</u>	<u>Allowable Loss</u>
Less than \$ 55,000	Full Amount
\$ 55,000 - 75,000	\$20,000
75,000 - 100,000	17,500
100,000 - 150,000	15,000
150,000 - 200,000	12,500
200,000 - 250,000	10,000
250,000 - 300,000	7,500
300,000 - 400,000	5,000
400,000 and Over	No Loss

Net losses do not include losses allowable under sections 1211 and 1231 of the Internal Revenue Code.

Beginning with the 1987 tax year, the dollar amounts of nonfarm Wisconsin adjusted gross income shall be indexed under s. 71.09(2) without regard for s. 71.09(2e).

7. Disallow Deduction for Certain Entertainment and Travel Expenses
(Create s. 71.05(1)(a)27, effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, the following expenses may not be claimed for Wisconsin income tax purposes:

- a. Expenses allowable under section 274 of the Internal Revenue Code with respect to an activity, except admissions to an organized athletic event or other public event or performance that takes place in Wisconsin, that is of the type generally considered to constitute entertainment, amusement or recreation, or with respect to a facility used in connection with those activities, except to the extent that food, beverage and facility expenses are allowed as a deduction under Part b.
- b. All business meal expenses allowable under section 274 of the Internal Revenue Code that are not incurred in a clear business setting, and 50% of the excess, including tax and gratuities, over \$25 times the number of persons participating in the meal, except expenses for food and beverages furnished primarily for employes on the taxpayer's premises.
- c. Business travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code for trips lasting one year or more in one city.
- d. Business travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code for travel by luxury water transportation in excess of otherwise available business transportation.
- e. Travel expenses allowable under section 162, 212, or 274 of the Internal Revenue Code for conventions, meetings or seminars held on cruise ships and not treated as income.
- f. Business travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code for travel as a form of education.

8. Disallow ACRS Depreciation on Residential Real Property and on Certain Property Used in Farming (Create ss. 71.02(2)(d)12 and 71.05(2r), (2t) and (2u), effective for 1986 tax year and thereafter.)

For the following property placed in service by the taxpayer during the 1986 tax year and thereafter, depreciation must be computed under the Internal Revenue Code in effect on December 31, 1980:

- a. Residential real property.

- b. Property used in farming, as defined in section 464(e)(1) of the Internal Revenue Code, if the taxpayer's nonfarm Wisconsin adjusted gross income exceeds \$55,000 or gross farm profit exceeds \$155,000 for tax year 1986. For tax year 1987 and thereafter, the two dollar limits shall be indexed under s. 71.09(2) without regard to s. 71.09(2e).

If such property is placed in service by the taxpayer during the 1986 tax year or thereafter but before the property is used in the production of income subject to taxation under Chapter 71, the property's adjusted basis and the depreciation or other deduction schedule are not required to be changed from the amount allowable on the owner's federal income tax returns for any year because the property is used in the production of income subject to taxation under Chapter 71.

If such property is disposed of in the 1986 tax year or thereafter, any difference between the adjusted basis for federal income tax purposes and the adjusted basis under Chapter 71 shall be taken into account in determining net income or loss in the year or years the gain or loss is reportable.

For property acquired in a transaction occurring in the 1986 tax year or thereafter in which the adjusted basis of the property in the hands of the transferee is the same as the adjusted basis of the property in the hands of the transferor, the Wisconsin adjusted basis of that property on the date of transfer is the adjusted basis allowable under the depreciation provisions of the Internal Revenue Code as defined for Wisconsin purposes for the property in the hands of the transferor.

9. Repeal \$1,680 Exclusion for Federal Civil Service Annuity (Repeal s. 71.01(3)(e), effective for 1986 tax year and thereafter.)

Under prior law, persons 62 years of age or over were allowed to exclude up to \$1,680 of the amount reported on their federal return as income received from a federal civil service annuity. Beginning with the 1986 tax year, a federal civil service annuity is taxable for Wisconsin in the same manner as for federal income tax purposes.

10. Repeal \$1,000 Military Pay Exclusion (Repeal s. 71.01(3)(f), effective for 1986 tax year and thereafter.)

Under prior law, the first \$1,000 of compensation received from the United States for service as a reserve or active member of the armed forces was excludable from Wisconsin taxable income. Beginning with the 1986 tax year, all compensation received for service as a reserve or active member of the armed forces is taxable for Wisconsin in the same manner as for federal tax purposes.

11. Repeal Exemption for Awards for Victims of Crime (Repeal s. 71.01(3)(g), effective for 1986 tax year and thereafter.)

Chapter 949, Wis. Stats., provides awards for victims of crimes. Under prior law, these awards were exempt from taxation by Wisconsin. Beginning with the 1986 tax year, the Wisconsin income tax treatment of these awards is the same as the federal treatment.

12. Clarify Exemption for Payments From Certain Retirement Systems (Amend s. 71.03(2)(d), effective for 1985 tax year and thereafter.)

This provision clarifies that the exemption from gross income for all payments received from certain Milwaukee city and county retirement systems and from the Wisconsin state teachers retirement system, which were paid on the account of any person who was a member of the system as of December 31, 1963, or was retired from the system as of December 31, 1963, does not exclude tax sheltered annuity benefits from Wisconsin taxation.

13. Repeal Exemption for Compensation for Well Contamination (Repeal s. 71.03(2)(g), effective for 1986 tax year and thereafter.)

Under Wisconsin's groundwater management law, awards of up to \$9,600 may be made by the Department of Natural Resources to persons who have a contaminated well. Under prior law, the amount of any award was excludable from the recipient's Wisconsin taxable income. Beginning with the 1986 tax year, the Wisconsin income tax treatment of well contamination awards is the same as the federal treatment.

14. Repeal Subtract Modification for Interest Received on Prisoner of War Compensation (Repeal s. 71.05(1)(b)5, effective for 1986 tax year and thereafter.)

Gross income (both federal and Wisconsin) does not include compensation received for active service as a member of the armed forces of the United States for any month during any part of which such member was a prisoner of war. Under prior law, Wisconsin did not tax the interest generated on the accumulated compensation which a person would receive after being released. Beginning with the 1986 tax year, interest earned by a member of the armed forces on the accumulated compensation held by the government while he or she was a prisoner of war is subject to Wisconsin income tax.

15. Repeal Subtract Modification for Adoption Expense (Repeal s. 71.05(1)(b)7, effective for 1986 tax year and thereafter.)

Under prior law, a modification for up to 100% of qualified adoption expenses relating to the adoption of any child could be claimed. Beginning with the 1986 tax year, the Wisconsin deduction for adoption expenses is repealed. However, adoption expenses may be used in the computation of the itemized deductions credit (see Item B.20).

16. Repeal Subtract Modifications for Social Security, Railroad Retirement Benefits and Sick Pay Paid Under the Railroad Retirement Insurance Act (Repeal s. 71.05(1)(b)9 and 10, effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, social security payments, to the extent included in federal adjusted gross income, are includable in Wisconsin taxable income.

Railroad retirement benefits and sick pay paid under the Railroad Retirement Insurance Act will continue to be excluded from Wisconsin taxable income because, under federal law, states are prohibited from imposing a tax on these benefits.