

6. Research Credits (Amend ss. 71.09(12r)(a), (b) and (g) and 71.09(12rf)(a), effective dates are indicated below.)

a. Increase Carryforward to 15 Years (s. 71.09(12r)(g)).

The carryforward for both research credits (for research expenses and research facilities) is increased to 15 years. (Under prior law, the credit could be carried forward 7 years.) The 15 year carryforward applies to credits available in the 1984 tax year and thereafter.

b. Change Reference to Internal Revenue Code (s. 71.09(12r)(a) and (b), s. 71.09(12rf)(a)).

For the 1985 tax year and thereafter, the reference to the Internal Revenue Code in s. 71.09(12r)(a) and (b) and s. 71.09(12rf)(a) is changed from section 44F to section 30. This amendment, which is required because the federal Tax Reform Act of 1984 changed the reference from section 44F to 30, does not affect the computation of the credits.

c. Eliminate Unneeded Language (s. 71.09(12r)(a)).

The language in s. 71.09(12r)(a) relating to "base period" for 1984 is not needed for 1985 and is therefore eliminated from the Statutes. For 1986 and thereafter, the language relating to "base period" for 1985 is eliminated.

7. Update Reference to Internal Revenue Code for Insurance Companies (Amend s. 71.01(4)(g)8, create s. 71.01(4)(g)9, effective for 1985 tax year and thereafter.)

For the 1985 tax year and thereafter, insurance companies will compute their income under the Internal Revenue Code in effect on December 31, 1984, with certain exceptions. The special rules for safe harbor leases provided by section 168(f)(8) of the Internal Revenue Code may not be used for Wisconsin. Depreciation of out-of-state property placed in service on or after January 1, 1983 must be computed under the Internal Revenue Code as of December 31, 1980.

Beginning with the 1986 tax year, certain entertainment, gift and travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code may not be claimed for Wisconsin (see Item C.4).

8. Update Reference to Internal Revenue Code for Regulated Investment Companies and Real Estate Investment Trusts (Renumber s. 71.02(1)(a) to s. 71.02(1)(c) and amend s. 71.02(1)(c)9 as renumbered, create s. 71.02(1)(c)10, effective for 1985 tax year and thereafter.)

For the 1985 tax year and thereafter, regulated investment companies and real estate investment trusts will compute their net income under the Internal Revenue Code in effect on December 31, 1984, with certain

exceptions. The special rules for safe harbor leases provided by section 168(f)(8) of the Internal Revenue Code may not be used for Wisconsin. Depreciation of out-of-state property placed in service on or after January 1, 1983 must be computed under the Internal Revenue Code as of December 31, 1980.

9. Disallow Deduction for Value of Incentive Stock Option Payments (Amend s. 71.04(1), create s. 71.04(2)(b)10, effective for 1986 tax year and thereafter.)

Corporations will not be allowed a deduction for the value of incentive stock options as defined in section 422A of the Internal Revenue Code as amended to December 31, 1984. (Note: Beginning with the 1986 tax year, stock options will be taxable to the recipient at the time he or she sells the stock which was acquired by exercising the stock option.)

10. Define "Dividends Received" From Foreign Subsidiaries (Create s. 71.04(4)(c), effective for 1985 tax year and thereafter.)

"Dividends received" means gross dividends received minus taxes on those dividends paid to a foreign nation and claimed as a deduction under Chapter 71.

11. Deduction for Forest Croplands and Managed Forest Land (Amend s. 71.04(11), effective January 1, 1986.)

A deduction is allowed to corporations for amounts expended for the purchase of seeds and tree plants for planting, and for preparing land for planting and for planting and caring for, maintenance and fire protection of forest crops on forest croplands and managed forest land under Chapter 77. Previously, forest croplands and managed forest land were called "Forest Crop Lands".

12. Limit Income or Franchise Tax Liability of Domestic Credit Accident and Health Insurers (Create s. 71.01(4)(h), effective for 1985 tax year and thereafter.)

The income or franchise tax of domestic insurers on credit accident and health insurance business may not exceed 2% of the insurer's gross premiums on that kind of business in Wisconsin.

D. HOMESTEAD CREDIT

1. Amend Definition of "Income" (Rename s. 71.09(7)(a)1 to 71.09(7)(a)6 and amend s. 71.09(7)(a)6 as renumbered, effective July 20, 1985.)

Under prior law, one of the items included in "income" for homestead credit was "relief" payments. The amendment to s. 71.09(7)(a)6 inserts "general" before "relief" so the new language is "general relief" payments. The reason for this change is that "relief" in s. 49.01(5m) (as amended and renumbered from s. 49.01(8)) is now called "general relief".

2. Amend Definition of "Property Taxes Accrued" (Renumber s. 71.09(7)(a)8 to 71.09(7)(a)7 and amend s. 71.09(7)(a)7 as renumbered, effective January 1, 1986.)

Under prior law, "property taxes accrued" were required to be reduced by the state property tax credit under s. 79.10(3). The amendment to s. 71.09(7)(a)7 inserts "to (5)" so the new language is "under s. 79.10(3) to (5)". The reason for this change is that the state property tax credits provided under Chapter 79 have been revised.

#### E. FARMLAND PRESERVATION CREDIT

1. Increase Credit to 90% for Farmland Subject to Town Zoning Ordinances (Amend s. 71.09(11)(b)3.d, effective for 1985 tax year and thereafter.)

A farmland preservation credit claimant whose farmland is covered under a certified county agricultural preservation plan and is located in an area zoned for exclusive agricultural use under a certified town ordinance is eligible for 90% of the credit, rather than 70% as in prior years.

2. Require Compliance With Soil and Water Conservation Standards (Amend ss. 71.09(11)(h)(intro.), 71.09(11)(o), 91.13(8)(d) and 91.80(1), create ss. 71.09(11)(h)5, 91.13(8)(dm), 91.80(2), 92.104 and 92.105, effective dates are indicated below.)

County land conservation committees will establish soil and water conservation standards applicable to land for which a farmland preservation credit is claimed. Compliance with the standards is required for a claimant to be allowed farmland preservation credit.

The new soil and water conservation standards will apply beginning on July 1, 1986 to new farmland program participants who base their farmland preservation credit claim on new farmland preservation agreements or exclusive agricultural zoning. The new standards will apply beginning on January 1, 1988 to existing farmland participants who base their farmland preservation credit claim on exclusive agricultural zoning.

Under prior law, farmland was required to be in accordance with a soil and water conservation plan approved by the land conservation committee of the county board. Claimants in violation of the county plan were not allowed farmland preservation credit.

#### F. SALES/USE TAXES

1. Impose Sales Tax on Access Services Provided Interexchange Carriers (Amend s. 77.51(7m), create s. 77.51(4)(m) and (7)(p), effective July 20, 1985.)

The sales tax applies to a retailer's gross receipts from providing access services to interexchange (long distance) telecommunication carriers. Access services permit the interexchange carrier to originate and terminate telephone messages between a customer in Wisconsin and one or more points in another telephone exchange. The seller of access services (the local telephone company) is a retailer, and purchasers of services from a retailer are the consumers of such services.

2. Repeal Exemption for Hospital Service Insurance Corporations Organized Under s. 613.80(2) (Amend s. 77.54(9a)(f), effective September 1, 1985.)

The sales/use tax exemption for purchases by hospital service insurance corporations organized under s. 613.80(2) is eliminated.

3. Impose Sales Tax on Motor Fuel or Special Fuel on Which Tax Is Refunded Because of Nonhighway Use (Amend s. 77.54(11), effective for claims for refund filed on or after September 1, 1985.)

If motor fuel or special fuel is purchased exempt from sales taxes under s. 77.54(11) because it is subject to the motor fuel or special fuel tax under Chapter 78, and then the motor fuel or special fuel taxes are later refunded under s. 78.75 because the buyer does not use the fuel in operating a motor vehicle upon public highways, such motor fuel or special fuel will be subject to the sales/use tax.

Under prior law, such motor fuel or special fuel was exempt from sales/use tax, even though the motor fuel or special fuel tax was later refunded because of nonhighway use.

4. Exempt Milk House Supplies (Create s. 77.54(34), effective July 1, 1986.)

A sales/use tax exemption is provided for milk house supplies used exclusively in producing and handling milk on dairy farms.

5. Exempt Farm Livestock Medicines (Create s. 77.54(33), effective July 1, 1986.)

A sales/use tax exemption is provided for medicines used on farm livestock, not including workstock.

6. Exempt Material Used for Animal Bedding (Amend s. 77.54(3m), effective July 1, 1986.)

A sales/use tax exemption is provided for animal bedding used exclusively in farming.

7. Exempt 35% of Selling Price of New Mobile Homes and Total Selling Price of Used Mobile Homes (Create ss. 77.51(11)(b)6 and (12)(b)5 and 77.54(31), effective January 1, 1987.)

A sales/use tax exemption is provided for 35% of the total amount for which a new mobile home that is a primary housing unit is sold. No credit may be allowed for trade-ins. The exemption does not apply to lease or rental.

A sales/use tax exemption is also provided for the sale of used mobile homes that are primary housing units.

8. Exempt Boats Purchased Out-of-State but Stored in Wisconsin (Create s. 77.53(17m), effective September 1, 1985.)

A use tax exemption is provided for a boat purchased in a state contiguous to Wisconsin by a person domiciled in that state if the boat is berthed in

Wisconsin's boundary waters adjacent to the purchaser's state of domicile, if the transaction was an exempt occasional sale under the laws of the state in which the purchase was made, if the boat is not located in Wisconsin more than 60 consecutive days, other than while it is in storage, and if Wisconsin is not the state of principal use.

9. Exempt Certain Railroad Crossties (Create s. 77.55(2m), effective July 20, 1985.)

Sales of railroad crossties to a common or contract carrier will be exempt, if they are shipped wholly or in part by way of the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside Wisconsin if the property is transported to the out-of-state destination for use by the carrier in the conduct of its business as a carrier. The exemption will not be invalidated because of interruption of the shipment for storage, drying, processing or creosoting of the railroad crossties in Wisconsin.

10. Exempt Mobile Units Used for Mixing and Processing (Repeal s. 77.51(27)(c), create s. 77.54(5)(d), effective July 20, 1985.)

A sales/use tax exemption is provided for mobile units used for mixing and processing and for the motor vehicle or trailer on which they are mounted. Also exempt are accessories, attachments, parts, supplies and materials for the vehicles, trailers and units.

11. Exempt Motorized Wheelchairs and Scooters (Amend s. 77.54(22)(e), effective September 1, 1985.)

This provision clarifies that motorized wheelchairs are exempt from sales/use tax. A sales/use tax exemption is provided for motorized scooters used by persons who are ill or disabled.

12. Exempt Admission Fees to Circus World Museum (Amend s. 77.54(10), effective July 20, 1985.)

A sales/use tax exemption is provided for admission fees to any museum operated by a nonprofit corporation under a lease agreement with the State Historical Society. The only organization currently meeting these requirements is the Circus World Museum.

13. Exempt Gross Receipts From American Legion Baseball (Create s. 77.54(35), effective September 1, 1985.)

A sales/use tax exemption is provided for the sales of tangible personal property, tickets or admissions by any baseball team affiliated with the Wisconsin Department of American Legion baseball.

14. Renewal of Seller's Permit - \$400 Delinquency Includes All Taxes (Amend ss. 77.52(10)(b) and 77.52(11)(a), effective October 1, 1985.)

As a result of the amendments to s. 77.52(10)(b) and s. 77.52(11)(a), the seller's permit will not be renewed if on the date the permit expires, the permittee has any delinquent taxes of \$400 or more for any taxes under

Chapter 71, 72, 76, 77, 78 or 139. This includes income, franchise, withholding, gift, inheritance, utility, sales and use, motor fuel, cigarette, tobacco, liquor, wine and beer taxes. "Taxes" includes taxes, costs, penalties and interest. (Prior law only included delinquent sales and use taxes.)

Also, the Department may revoke a seller's permit if a person is delinquent for any of the taxes in Chapters 71, 72, 76, 77, 78 or 139 or fails to timely file any return or report after having been requested to do so by the Department of Revenue.

15. Increase Sales Tax Security to \$15,000 (Amend s. 77.61(2), effective October 1, 1985.)

In order to protect the state's revenues, the Department of Revenue may request security up to \$15,000 from any person who is or will be liable to it for sales and use taxes. (Maximum security was \$5,000 under prior law.)

Also, in determining the amount of security to require, the Department may consider the person's payment of all other taxes (income, corporation, withholding taxes, etc.) administered by the Department and any other relevant facts.

16. Increase Seller's Permit Fee to \$5 (Amend s. 77.52(8)(a) and (b), effective July 20, 1985.)

The fee for obtaining a seller's permit is increased from \$2 to \$5.

17. Sales/Use Tax Determinations Against Dissolved Corporations (Amend ss. 77.59(3)(intro.) and 180.787, effective for corporate dissolutions occurring on and after July 20, 1983.)

If there is dissolution of a corporation, the Department of Revenue may issue a determination for sales and use tax liability within 4 years (2 years under prior law) of the date of dissolution of the corporation.

18. Impose 25% Penalty for Failure to Keep Sales/Use Tax Records (Amend s. 77.61(4)(a), effective July 20, 1985.)

If the Department of Revenue has given notice to a person to keep certain sales and use tax records and thereafter additional sales/use taxes are assessed on the basis of information not contained in the records, the Department shall impose a penalty of 25% of the amount of tax so assessed. This penalty is in addition to all other penalties. (Under prior law, the penalty was a misdemeanor.)

19. Amend County Sales Tax (Repeal s. 77.76(4)(a) and (b), renumber s. 77.76(4) (intro.) to 77.76(4) and amend s. 77.76(4) as renumbered, effective July 20, 1985.)

Any county desiring to impose a local sales tax at the rate of one-half of 1% under Subchapter V of Chapter 77 may do so by the adoption of an ordinance. The county sales tax would be collected by the state in addition to the state sales tax. The county may retain the amount it receives from the

Department of Revenue, or it may distribute all or a portion of the amount it receives to the towns, villages, cities and school districts in the county. (Prior law required the Department to distribute all amounts collected to the cities, villages and towns in the county.)

G. INHERITANCE AND GIFT TAXES

- 1. Reduce Inheritance and Gift Tax Rates (Amend s. 72.18(2), (3) and (4), effective for deaths occurring on or after January 1, 1986 and gifts occurring on or after January 1, 1986.)

The top marginal tax rate for class B, class C and class D distributees (e.g., brother, sister or their descendents; uncle, aunt or their descendents; other persons) is reduced from 30% to 20%. All marginal tax rates greater than 20% are reduced to 20%.

Inheritance and Gift Tax Rates

	<u>Over Exemption to \$25,000</u>	<u>\$25,000 to \$50,000</u>	<u>\$50,000 to \$100,000</u>	<u>Over \$100,000</u>
Class B	5%	10%	15%	20%
Class C	7.5%	15%	20%	20%
Class D	10%	20%	20%	20%

- 2. Eliminate Inheritance Tax on Transfers From Decedent Missing in Action and Declared Dead (Amend s. 16.007(6)(b)2, create s. 72.15(6), effective July 20, 1985.)

No tax is imposed on the transfer of property from a decedent who was missing in action during the Vietnam era and declared dead by the federal government.

Persons who have paid inheritance taxes on a transfer from such a person may before July 20, 1991 file with the claims board a claim for refund. The claim shall set forth specifically the basis of the claim and shall include documents showing that the requirements for the person from whom the property is transferred are fulfilled.

- 3. Update Reference to Internal Revenue Code for Power of Appointment, Qualified Retirement Plans and Installment Payments (Amend ss. 72.01(17), 72.12(4)(c)1 and 72.22(4)(a), effective dates are indicated below.)

For deaths occurring on or after July 20, 1985, the reference to the Internal Revenue Code relating to power of appointment (s. 72.01(17)) is updated to December 31, 1984.

For deaths occurring on or after January 1, 1985, the reference to the Internal Revenue Code relating to qualified retirement plans (s. 72.12(4)(c)1) is updated to December 31, 1984.

For deaths occurring on or after July 18, 1984, the reference to the Internal Revenue Code relating to installment payments (s. 72.22(4)(a)) is updated to December 31, 1984.

4. Clarify Inheritance Tax Liens (Amend s. 72.25(intro.), effective for deaths occurring on or after July 20, 1985.)

This provision clarifies that until the inheritance tax imposed upon all transfers to a distributee is paid, it is a lien upon the property transferred to that distributee, except as provided in s. 72.25(1) and (2).

#### H. EXCISE TAXES

1. Eliminate Motor Fuel Tax Refund on Motorboats (Amend s. 78.75(1)(a)2 and 3, effective for motor fuel used for motorboats which is purchased on or after January 1, 1986.)

Consumers of motor fuel used in motorboats will no longer be entitled to a motor fuel tax refund. Also, the claims for filing a motor fuel or special fuel tax refund shall indicate that refunds are not available for motor fuel used for motorboats.

2. Limit Motor Fuel Tax Refund for All-Terrain Vehicles (Amend s. 78.75(1)(a)1 and 3, create s. 78.75(1)(a)2m, effective for motor fuel and special fuel purchased on or after July 1, 1986.)

Consumers of motor fuel or special fuel used in all-terrain vehicles will not be entitled to a motor fuel or special fuel tax refund unless the all-terrain vehicle is registered for private use under s. 23.33(2)(d).

The claims for filing a motor fuel or special fuel tax refund shall indicate that refunds are not available for gas used for all-terrain vehicles unless the all-terrain vehicle is registered for private use under s. 23.33(2)(d) and shall indicate that estimated all-terrain vehicle gas tax payments are used for all-terrain vehicle trails and areas.

3. Exempt Industrial Fermented Malt Beverages (Create ss. 125.275 and 139.04(7m), effective September 1, 1985.)

An excise tax exemption is provided for the sale of fermented malt beverages to industrial permittees to be used for industrial purposes.

The Department of Revenue is authorized to issue an industrial malt beverages permit which authorizes the permittee to purchase and use fermented malt beverages for industrial purposes only. Permits may be issued only to persons who prove to the Department that they use alcohol for industrial purposes. Industrial fermented malt beverages permits may be issued to any person qualified under s. 125.04(5), except a person acting as agent for or in the employ of another. Shipments of industrial fermented malt beverages shall be conspicuously labeled "for industrial purposes". The annual fee for an industrial fermented malt beverages permit is \$10.

4. Permit Underage Persons in Private Soccer Clubs (Amend s. 125.07(3)(a)5, effective July 20, 1985.)

An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may enter a liquor-licensed private soccer club.



5. Amend Tied-House Law (1985 Wisconsin Act 15, Create ss. 125.33(2s) and 125.69(2)(bs), effective May 22, 1985.)

Brewers, alcohol beverage wholesalers, liquor manufacturers and rectifiers may contribute money or other items of value to trade associations whose principal income is derived from dues from retail beer or liquor licensees.

6. Increase Cigarette Tax Rate (Create s. 139.31(1)(c) and (d), effective July 20, 1985.)

The federal cigarette tax rate is scheduled to decrease as of October 1, 1985. If this occurs (which is unknown as of July 31, 1985) the Wisconsin cigarette tax rates will be increased by the amount of any federal tax rate decrease.

7. Exempt Retailers From Cigarette Inventory Tax (Amend s. 139.315(1), effective July 20, 1985.)

Retailers of cigarettes are exempted from the imposition of the cigarette inventory tax.

8. Require Cigarette Stamps (Create s. 139.32(2m), effective October 1, 1985.)

A separate distinctive cigarette tax stamp is to be affixed to all packages of cigarettes which are subject to the refund provisions of s. 139.323.

9. Cigarette Retailers (Create s. 139.32(9), effective July 20, 1985.)

Cigarette retailers are prohibited from possessing cigarettes purchased from any person except a manufacturer, distributor or jobber who holds a valid permit.

10. Refunds to Indian Tribes (Create s. 139.323(5), effective July 20, 1985.)

An additional requirement for qualifying under the refund provisions of s. 139.323 is that the retailer has not sold the cigarettes to another retailer or to a jobber.

- I. JOINT RETURN/MARITAL PROPERTY IMPLEMENTATION

1. Limit Effect of Marital Property Agreements (Create s. 71.01(1g), effective for 1986 tax year and thereafter.)

A marital property agreement does not affect the determination of income taxable by Wisconsin, or of the person required to report taxable income, during the period of time that one or both spouses are not domiciled in Wisconsin.

Also, a marital property agreement is effective for tax purposes for any period both spouses are domiciled in Wisconsin only if it is filed with the Department before any assessment resulting from an audit is issued.

2. Computation of Tax Liability of Part Year Residents and Nonresidents (Create s. 71.01(1r), effective for 1986 tax year and thereafter.)

The tax liability and reporting obligation for both spouses during the period a spouse is not domiciled in Wisconsin is determined without regard to marital property law.

3. Amend Definition of "Wisconsin Taxable Income" (Amend s. 71.02(2)(me) as renumbered, effective for 1986 tax year and thereafter.)

Losses, depreciation, recapture of benefits, offsets, depletion, deductions, penalties, expenses and other negative income items are treated in the same manner that income is or would be allocated for tax purposes.

4. Limit Capital Loss Carryforwards (Amend s. 71.05(2m), effective for 1986 tax year and thereafter.)

Under prior law, married persons were subject to the annual limitation for a capital loss deduction under the separate return provisions of section 1211(b)(2) of the Internal Revenue Code. Beginning with the 1986 tax year, the annual limitation for a capital loss carryforward is the same for federal and Wisconsin purposes. The maximum annual carryforward for capital losses is \$1,500 on a separate return and \$3,000 on a joint return.

5. Modify Computation of Basis of Marital Property Acquired From Decedent (Amend s. 71.05(1)(g), effective for deaths occurring on or after January 1, 1986.)

If at least 50% of the marital property held by the decedent and the decedent's surviving spouse is includable for purposes of computing the federal estate tax on the decedent's estate, all of the decedent's property and all of the decedent's spouse's marital property shall be deemed property properly includable for inheritance tax purposes.

6. Joint Return Requirements (Repeal and recreate s. 71.10(19), create s. 71.10(22), effective for 1986 tax year and thereafter.)

A husband and wife may file a joint income tax return for Wisconsin income tax purposes even though one spouse has no income or no deductions. However, there are certain exceptions and elections which are discussed below.

- a. Nonresident Aliens and Dual-Status Aliens.

A joint return may not be filed if either the husband or wife at any time during the tax year is a nonresident alien, unless an election is in effect for the tax year under section 6013(g) or (h) of the Internal Revenue Code.

- b. Husband and Wife With Different Tax Years.

A joint return may not be filed if the husband and wife have different tax years. However, if they have different tax years because of the death of either or both spouses, see Part c below.

- c. Effect of Death of a Spouse.

If the death of either or both spouses occurs during the tax year, and the spouses would have had the same tax year except for the death of one or both of them, a joint return may be filed for the tax year of each. However, a joint return may not be filed if the surviving spouse