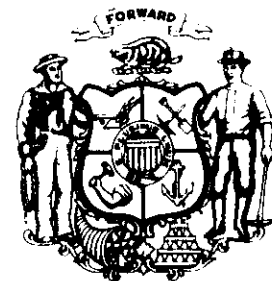


WISCONSIN TAX BULLETIN

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The purpose of this special issue of the Wisconsin Tax Bulletin is to provide information on tax changes which have been made in two recently enacted laws. One of the new laws is the 1977-79 Wisconsin Budget Bill (Chapter 29, Laws of 1977) signed by Governor Lucey on June 28, 1977 and published on June 29, 1977. The other is the federal "Tax Reduction and Simplification Act of 1977" (Public Law 95-30, signed by President Carter on May 23, 1977).

NEW WISCONSIN TAX LAW: 1977-79 BUDGET BILL

The 1977-79 Wisconsin Budget Bill (1977 Senate Bill 77 - Chapter 29, Laws of 1977) provides for many tax law changes in the Wisconsin Statutes. This article contains brief explanations of the provisions regarding individual income, corporation franchise/income, sales and use, homestead credit, inheritance, gift and excise taxes.

**1977 Senate Bill 77 - Chapter 29,
Laws of 1977 (Date Published:
June 29, 1977)**

A. Individual Income Taxes

1. Update Reference to Internal Revenue Code to December 31, 1976. (Amended s. 71.02 (2) (b) 2 and created s. 71.02 (2) (b) 3, effective for the 1977 taxable year and thereafter)

For the 1977 taxable year and thereafter, an individual, partnership, estate or trust will use the Internal Revenue Code in effect on December 31, 1976 in computing federal adjusted gross income and itemized deductions with two exceptions:

- Child care expenses will remain an itemized deduction for Wisconsin purposes; and

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- 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.

The Wisconsin standard deduction will remain at 15% with a \$2,000 maximum and the low-income allowance will remain at \$1,300.

2. Minimum Declaration Requirement Changed from 70% to 80%. (Amended s. 71.21 (12) and (14) (c), effective for the 1978 taxable year and thereafter)

To avoid a penalty for underpayment of estimated tax, individuals are generally required to make quarterly installment payments which, when combined with amounts withheld, equal at least 70% of their total tax liability. For the 1978 taxable year and thereafter, the required percentage will be 80% rather than 70%.

3. Information Reports Required for Nonresident Entertainers. (Created s. 71.02 (1) (e) and (2) (p) and s. 71.10 (18), effective January 1, 1978)

Every Wisconsin employer of a non-resident entertainer or entertainment corporation will be required to file informa-

tional reports containing information such as: name of employer, entertainer's name, address and social security number, stage name of entertainer, name and address of entertainment corporation, amount of remuneration received for each performance and date and place of performance.

This informational report is required from a Wisconsin employer if the contract price for a performance exceeds \$1,950. The report must be filed with the Department within 90 days after the performance.

4. Farmland Preservation Tax Credit. (Created s. 71.09 (11) and Chapter 91, effective for the 1977 taxable year and thereafter)

A refundable tax credit of up to \$2,600 against income taxes, based on property taxes paid on farmland, will be allowed to Wisconsin residents who are owners of farmland. Farmland must be either: 1) located in an area zoned for exclusive agricultural use, or 2) subject to a farmland preservation contract between the owners and the state which restricts the use of land to agricultural purposes. The credit is only available to Wisconsin residents domiciled in Wisconsin for the whole year who, among other criteria, own at least 35 acres of farmland which during the year produced at least \$6,000 in gross farm profits. (The farmland preservation tax credit will also be available to Wisconsin corporations.) The Department of Revenue will issue additional information on the farmland tax credit provision within the next few months.

B. Homestead Credit

1. Benefits Changed. (Created s. 71.09 (7) (go), s. 71.09 (7) (h) 3 and s. 71.09 (7) (t) and amended s. 71.09 (7) (a) 3 and 8, s. 71.09 (7) (h) 1, s. 71.09 (7) (i) and s. 71.09 (7) (gn), effective for the taxable year 1977 and thereafter)

The changes in the Homestead Credit Program will be as follows:

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a. The maximum homestead benefit payable to claimants will increase from \$428 to \$640.

b. If a claimant, spouse or dependent is 65 or older, the claimant may reduce household income by a total of \$600. The reduction is limited to \$600, regardless of whether one or more of such persons are 65 or older.

c. The maximum household income will be increased from \$7,500 to \$9,300, except if the claimant or spouse or dependent of the claimant is 65 or older, the maximum will be \$9,900.

d. The maximum property taxes will be increased from \$535 to \$800.

e. No claim for homestead credit will be allowed to any claimant who at the time of filing the claim: (1) Resides in housing which is exempt from property taxes under ch. 70, except housing for which payments in lieu of taxes are made under s. 66.40 (22), or (2) Resides in a privately owned nursing home and receives assistance under s. 49.45 (federal Title XIX).

f. A space will be provided on the homestead form for the claimant to enter the county and city, village or town in which he or she resides.

C. Corporation Franchise/Income Taxes

1. Deduction for Sales and Use Tax Penalties Eliminated. (Amended s. 71.23, effective for 1977 taxable year and thereafter)

A corporation will not be allowed a deduction for sales and use tax penalties.

2. Minimum Declaration Requirement Changed from 70% to 80%. (Amended s. 71.22 (9) and (10) (c), effective for the 1978 taxable year and thereafter)

To avoid a penalty for underpayment of estimated tax, corporations are generally required to make quarterly installment payments which equal at least 70% of their total tax liability. For the 1978 taxable year and thereafter, the required percentage will be 80% rather than 70%.

3. Update Reference to Internal Revenue Code. (Created s. 71.01 (4) (g) 2 and s. 71.02 (1) (a) 3, and amended s. 71.01 (4) (g) 1 and s. 71.02 (1) (a), effective for the 1977 taxable year and thereafter)

For the 1977 taxable year and thereafter, the net income of real estate investment trusts (REITs), regulated investment companies and certain domestic insurance companies will be determined under the Internal Revenue Code in effect on December 31, 1976, or the Code effective for the taxable year, at the option of the taxpayer.

4. Farmland Preservation Tax Credit. (Created s. 71.09 (11) and Chapter 91, effective for the 1977 taxable year and thereafter)

A refundable tax credit of up to \$2,600 will be allowed against corporation franchise/income taxes, based on property taxes paid on farmland. Only Wisconsin corporations organized under the laws of this state are eligible. Many of the eligibility provisions for corporations are similar to the provisions for individuals.

D. Sales and Use Taxes

1. Occasional Sales - Snowmobiles, Mobile Homes, Trailers and Semitrailers. (Amended s. 77.51 (7) (am), s. 77.53 (17), s. 77.54 (7) and s. 77.61 (1) (a) and (c), effective for sales occurring on or after August 1, 1977)

The occasional sales of snowmobiles, mobile homes, trailers and semitrailers required to be registered or titled under the laws of Wisconsin will be taxable beginning August 1, 1977.

NOTE: TIM S-45.1, "Occasional Sales", will be revised and distributed prior to August 1, 1977 to reflect this provision.

2. Computer and Data Processing Services. (Created s. 77.52 (2) (a) 13, effective for sales occurring on or after August 1, 1977)

Computer and data processing services, including time sharing, designing or converting systems, programming, consulting, training, reformatting of data and computer printing, will be taxable beginning August 1, 1977.

NOTE: TIM S-38.1, "Automatic Data Processing", will be revised and distributed prior to August 1, 1977 to reflect this provision. Questions regarding the taxation of computer and data processing services should be directed to Charles Branton, Technical Services

Staff, Madison, Wisconsin 53702 (telephone (608) 266-3873).

3. Renewal of Seller's Permits. (Created s. 77.52 (10) and s. 77.52 (11) (b), renumbered s. 77.52 (8) and (10) to s. 77.52 (8) (a) and (b), and s. 77.52 (11) to s. 77.52 (11) (a), and amended s. 77.52 (11) (a) and (12) and s. 77.58 (5), effective August 31, 1979)

Sales tax seller's permits will be automatically renewed every 2 years without reapplication by the retailer and without any additional fee. However, renewals will not be issued to permittees who owe \$400 or more in delinquent taxes, any part of which has been delinquent for 5 months or longer. Any permittee denied renewal may petition the Department for a hearing on the denial.

For permits issued before September 1, 1977, renewals will occur every 2 years on the last day of the month of their original issuance; however, such renewals will not begin until August 31, 1979. For permits issued on or after September 1, 1977, renewals will occur every 2 years on the last day of the month of their original issuance.

E. Inheritance and Gift Taxes

1. Gift Tax Credit Against Inheritance Tax. (Repealed and recreated s. 72.87 (1), effective for inheritance tax returns filed on or after June 30, 1977 and returns filed prior to that date for which closing certificates have not been issued)

When a transfer of property is taxable as a gift and then such property becomes taxable for inheritance tax purposes, the gift tax paid shall apply as a credit against the inheritance tax, with the excess, if any, to be refunded.

2. Interest Rates Increased. (Amended s. 72.23 (1), s. 72.85 (3) and s. 72.86 (1), effective August 1, 1977)

Inheritance and gift taxes which are not paid by the due date will be subject to interest at 9% per year (prior rate was 8%). Interest will be computed on inheritance and gift taxes due prior to August 1, 1977 at 8% per year from the due date to August 1, 1977, and at 9% per year thereafter until paid.

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F. Excise Taxes

1. Motor Fuel and Special Fuel Tax Collection Procedures. (Repealed and recreated s. 78.70 (1), effective June 30, 1977)

The Department will be able to collect delinquent motor fuel and special fuel taxes in the same manner as provided for delinquent income taxes in s. 71.13 and s. 71.135, including the use of warrants and installment agreements.

2. Motor Fuel and Special Fuel Interest Rates. (Repealed and recreated s. 78.68 (4), effective June 30, 1977)

Interest on delinquent motor fuel and special fuel taxes will be imposed at 18% per year. (Under prior law there was no delinquent interest.)

3. Exemption for Fuel Used in Taxicabs. (Amended s. 78.75 (1) (a), effective for purchases made on and after August 1, 1977)

A tax exemption is provided for motor fuel or special fuel consumed by a taxicab.

4. Beer, Liquor and Cigarette Interest Rates. (Amended s. 139.05 (6), s. 139.07 and s. 139.32 (7), effective August 1, 1977)

The interest rate on taxes not paid by the due date will increase from 12% to 18% per year.

HOW FEDERAL TAX REDUCTION AND SIMPLIFICATION ACT OF 1977 AFFECTS WISCONSIN TAX RETURNS

The enactment of the federal "Tax Reduction and Simplification Act of 1977" (Act) results in some differences in Wisconsin and federal tax law. Although certain provisions of the Act apply retroactively to 1976 for federal purposes and may necessitate the filing of an amended 1976 federal income tax return, it is not necessary to file an amended 1976 Wisconsin income tax return. Since Wisconsin income and deductions for 1976 were computed by using the federal Internal Revenue Code (IRC) in effect on December 31, 1975, the changes made by the Act do not affect the amount of Wisconsin income or deductions reportable for 1976. It is also, therefore, not necessary to notify the Department of Revenue (per s. 71.11 (21m), Wis. Stats., of an amended federal return filed as a result of these

federal law changes in the Act which were retroactive to 1976.

A. Changes Retroactive to Taxable Year 1976—

1. Sick Pay

Prior Federal Law - A disability pay exclusion was allowed to persons under the age of 65 only if such individual was retired due to a permanent and total disability and had not yet reached mandatory retirement age. The amount of allowable exclusion was reduced on a dollar for dollar basis by the amount of federal adjusted gross income in excess of \$15,000.

Change - For the taxable year 1976 only, the requirements for claiming a sick pay exclusion revert to those which were in effect immediately prior to the Tax Reform Act of 1976. As a result, individuals who were only temporarily absent from work during 1976 due to sickness or injury, may qualify to exclude all or part of their sick pay from income, and any exclusion available does not have to be reduced if adjusted gross income exceeds \$15,000.

Effect for Federal Purposes - Additional individuals who received sick pay during 1976 will be able to exclude all or part of such amounts from income. Also, certain individuals who previously claimed a sick pay exclusion and had an income exceeding \$15,000 may now be entitled to a greater amount of exclusion. These individuals may apply for refunds of federal taxes based on such exclusion by filing amended 1976 federal income tax returns.

Effect for Wisconsin Purposes - None. It will not be necessary to file an amended Wisconsin return for 1976 for this federal change in sick pay. For purposes of determining Wisconsin taxable income, the requirements for claiming a sick pay exclusion which are now applicable for federal purposes for 1976 were already recognized at the time an original 1976 Wisconsin return was to be filed.

2. Business Use of Residence

Prior Federal Law - A deduction was not allowable for expenses attributable to the business use of an individual's personal residence unless all or a portion of the dwelling was used exclusively and on a regular basis for business purposes.

Change - Beginning with the taxable year 1976 and for all years thereafter, the exclusive use requirement for deducting expenses attributable to the business use of a personal residence is eliminated when the residence is used as a day care facility.

Effect for Federal Purposes - Individuals who operated day care facilities in 1976 but were unable to meet the exclusive use test for purposes of claiming deductions for the use of their residence, can now apply for refunds based on such expenses by filing amended 1976 federal income tax returns.

Effect for Wisconsin Purposes - None. It will not be necessary to file an amended

Wisconsin return for 1976. The exclusive use test formerly imposed by federal law was not recognized for purposes of determining Wisconsin taxable income for 1976.

3. Exclusion of Income Earned Abroad

Prior Federal Law - U. S. citizens employed in foreign countries were permitted to exclude amounts of earned income of up to \$15,000 (\$20,000 for employees of charitable organizations).

Change - For the taxable year 1976 only, the limitations for this exclusion revert to those which were in effect immediately prior to the Tax Reform Act of 1976. Thus for 1976 the general limitation is \$20,000 and a limit of \$25,000 is provided for those individuals overseas for more than 3 years.

Effect for Federal Purposes - Certain individuals who were employed abroad during 1976 and earned more than \$15,000 will be able to exclude a greater amount of earned income from their taxable income. These individuals may apply for refunds based on such exclusion by filing amended 1976 federal income tax returns.

Effect for Wisconsin Purposes - None. It will not be necessary to file an amended Wisconsin return for 1976. For purposes of determining Wisconsin taxable income, the exclusion limits for income earned abroad which are now applicable for federal purposes were already recognized at the time an original 1976 Wisconsin return was to be filed.

B. Changes First Effective in 1977

The Tax Reduction and Simplification Act of 1977 also makes certain changes which apply to taxable years 1977 and thereafter. Three of those changes will affect the preparation of a 1977 Wisconsin return as they will produce differences in the manner in which certain deduction items are treated for Wisconsin and federal purposes. The items affected are:

- (1) Charitable contributions of conservation easements
- (2) Amortization of costs of child care facilities
- (3) Expenses for business use of personal residence

These and other 1977 federal law changes will be summarized and their effect on Wisconsin income and deductions will be described in a future issue of the Wisconsin Tax Bulletin.