

Capital gains from assets held one year or less do not qualify for the deduction.

For federal purposes, a 6-month holding period was prescribed for 1987 for computing short-term versus long-term capital gains and losses. The difference in the holding periods used for Wisconsin and federal income tax purposes for 1987 created some difficulties for taxpayers who received capital gains as the result of investments in other entities, typically mutual funds.

A difference in the length of the Wisconsin and federal long-term capital gain and loss holding period will continue to exist through 1988. Although federal law has changed for 1988 and now also prescribes a "more than one year" holding period, the same as Wisconsin law, the change in the federal holding period requirement applies only to assets acquired after December 31, 1987. Assets acquired before January 1, 1988, continue to have a 6-month holding period for federal purposes.

Even though a difference continues to exist in the Wisconsin and federal holding period for 1988, it is anticipated that fewer filing difficulties will result. Mutual funds were alerted of this difference in a letter sent to each fund in January of 1988.

## 1988 PACKAGE WI-X WILL BE AVAILABLE

The department will again be offering Package WI-X which will contain actual size copies of most 1988 Wisconsin individual, fiduciary, and corporation income tax, gift tax, inheritance tax, motor fuel tax, sales tax, and withholding tax forms.

Package WI-X should be available by December 31, 1988. The cost is \$5.00 per copy. It may be ordered on the bulk order blank (Form P-744). The bulk order blank was mailed in September. See the following article for more information on bulk orders.

If you do not receive an order blank and wish to purchase copies of 1988 Package WI-X, requests indicating the number of copies along with the amount due should be mailed to: Wisconsin Department of Revenue, Shipping and Mailing Section, Post Office Box 8903, Madison, Wisconsin 53708.

## BULK ORDERS OF TAX FORMS

In late September, the department mailed the order blank (Form P-744) which tax preparers should use to request bulk orders of 1988 Wisconsin income tax forms. There is a handling charge on their orders.

In late September, the department also mailed order blanks (Forms P-744b and P-744L) which banks, post offices, and libraries should use to request bulk orders of 1988 Wisconsin income tax forms. No charge is made for forms used for distribution to the general public (for example, in a bank, library, or post office).

This year's mailing list for bulk order blanks contains the names of all persons and organizations who placed orders for 1987 forms. If you are not on this mailing list and do not receive a Form P-744, P-744b, or P-744L you may request the bulk order blank by contacting any department office or by writing to the Wisconsin Department of Revenue, Central Services Section, Post Office Box 8903, Madison, Wisconsin 53708. You may also call the Shipping and Mailing Section at (608) 267-2025.

Orders should be placed as early as possible after you receive the order blank. Orders received by December 1, 1988, will be mailed early in January.

## TAX RETURN STATISTICS FOR 1988

There were 2,357,000 Wisconsin individual income tax returns filed during the period July 1, 1987, to June 30, 1988. This compares to 2,256,000 income tax returns filed for the prior 12 months. The 2,357,000 returns were filed by 3,415,000 individuals.

There were 263,000 homestead credit claims and 23,000 farmland credit claims filed during the year. This compares to 265,000 homestead credit claims and 23,000 farmland credit claims filed for the prior year.

Taxpayers were issued a total of 1,711,600 income tax refunds during the 12 months ending June 30, 1988, for an average refund of \$329. The average refund for the prior year was \$314.

Homestead credit refunds averaged \$399 per claimant, an increase from the average refund of \$392 issued last year. About 49% of the claimants were age 65 or older. Of all individuals claiming homestead credit, 47% were renters and 53% were homeowners.

An average farmland preservation credit of \$1,286 was issued to each claimant. The average payment for 1986 was \$1,557.

An itemized deduction credit was claimed by 18% of the taxpayers on 1987 tax returns. The average credit allowed was \$242.13.

## CONTRIBUTIONS TO ENDANGERED RESOURCES PROGRAM INCREASE

The 1987 Wisconsin income tax returns, Forms 1, 1A, 1NPR, and WI-Z included a line for taxpayers to contribute to the Wisconsin Endangered Resources Fund. These donations either reduce a taxpayer's income tax refund or increase the

amount of income tax owed. Amounts contributed go to the Wisconsin Department of Natural Resources to help protect and care for Wisconsin's endangered species, nongame wildlife, and rare plant and animal habitats.

On 1987 Wisconsin income tax returns filed, 55,662 taxpayers contributed \$533,712 to the Endangered Resources Fund. This compares with 1986 income tax returns where 57,825 taxpayers contributed \$515,965.

### **TAXPAYERS DESIGNATE \$449,211 TO STATE ELECTION CAMPAIGN FUND**

The 1987 Wisconsin income tax returns, Forms 1, 1A, INPR, and WI-Z, included a box for taxpayers to designate \$1 to the State Election Campaign Fund. If the box was checked "yes," there was no increase in tax liability or reduction in refund for making the designation.

During the period July 1, 1987, to June 30, 1988, taxpayers designated \$449,211 to the election campaign fund on their Wisconsin tax returns. This compares to \$396,700 for the prior twelve months ending June 30, 1987.

### **REMINDER: EMPLOYERS MUST SUBMIT COPIES OF CERTAIN EMPLOYEE WITHHOLDING EXEMPTION CERTIFICATES**

Wisconsin law requires employers to submit copies of employee withholding exemption certificates to the department whenever they are required to provide such information to the Internal Revenue Service (IRS). The copies must be sub-

mitted to the department within 15 days after they are filed with the IRS.

For both federal and Wisconsin purposes, employers are required to submit copies of any employee's withholding exemption certificate if (1) the number of exemptions claimed is more than 10 or (2) the employee is claiming complete exemption from withholding and he or she earns more than \$200 per week.

### **REMINDER: NOTIFY DEPARTMENT OF FEDERAL ADJUSTMENTS AND AMENDED RETURNS**

If a taxpayer's federal income tax return is adjusted by the Internal Revenue Service (IRS), and the adjustments affect the amount of Wisconsin income reportable or tax payable, such adjustments must be reported to the Wisconsin Department of Revenue within 90 days after they become final.

In addition, taxpayers filing an amended return with the IRS or another state must also notify the department within 90 days of filing if information in the amended return affects the amount of Wisconsin income reportable or tax payable.

For taxable years prior to 1987, if a taxpayer does not report adjustments made by the IRS or amended returns are not filed in the time period specified above, the department may make an assessment against the taxpayer or a refund to the taxpayer within 10 years after the date which the original tax return was filed or within 2 years after the date when the federal determination of tax became final, whichever is later.

For taxable years 1987 and thereafter, if a taxpayer does not report adjustments made by the IRS or amended returns are not filed in the time period specified above, the department may make an assessment against the taxpayer or a refund to the taxpayer within 4 years after discovery by the department.

An amended Wisconsin return or copy of the federal audit report should be sent to the Wisconsin Department of Revenue, Audit Bureau, Post Office Box 8906, Madison, Wisconsin 53708.

### **REMINDER: FILING DEADLINES FOR 1987 HOMESTEAD AND FARMLAND PRESERVATION CREDIT CLAIMS**

January 3, 1989, is the deadline for filing a 1987 homestead credit claim. Farmland preservation credit claims for 1987 must be filed no later than 12 months after the farmland owner's 1987 taxable year ends. January 3, 1989, is the deadline for filing a 1987 farmland preservation credit claim for farmland owners who are calendar year taxpayers.

No extensions of time are available for filing claims for these two credits.

### **REMINDER: NONRESIDENT ENTERTAINERS REQUIRED TO FILE SURETY BOND OR CASH DEPOSIT**

A "nonresident" entertainer who performs in Wisconsin for a contract price that exceeds \$3,200 is required to file a surety bond or cash deposit with the Department of Revenue in an amount of 6% of his or her total contract price.

If the bond or deposit is not filed, the "employer" at the event is required to withhold 6% from the nonresident entertainer's payment. If the employer fails to withhold the required amount, the employer will be held liable for the amount that should have been withheld.

A "nonresident entertainer" is a nonresident person who furnishes amusement, entertainment or public speaking services, or performs in one or more sporting events, and includes a foreign corporation (one not organized under the laws of Wisconsin) not regularly engaged in business in Wisconsin which derives income from any of these activities or from these services performed by a nonresident person.

An "employer" is any Wisconsin resident person or firm which contracts for the services of a nonresident entertainer. In the absence of such resident contracting person, the employer is the last resident person or firm to have receipt, custody, or control of the proceeds of the event. If there is neither a resident contracting person nor a resident with control of the proceeds, the employer is any nonresident person or firm who contracts for or has control of the proceeds of the event.

Amounts of cash deposited with the Department of Revenue with Form WT-10 (Nonresident Entertainer's Application & Receipt for Surety Bond or Cash Deposit) and amounts withheld by employers and reported on Form WT-11 (Nonresident Entertainer's Receipt for Withholding by Employer) may be claimed as a credit by the nonresident entertainer on his or her Wisconsin individual income tax return or on the corporation's franchise or income tax return for the year in which the appearance was made. Any amounts deposited or withheld that are in excess of the nonresident entertainer's Wisconsin tax liability per the return will be refunded.

Surety bonds filed with the Department of Revenue with Form WT-10 will be released upon request when the nonresident entertainer's tax liability for the year involved has been satisfied.

Additional information may be obtained by requesting Publication 508, "Wisconsin Tax Requirements Relating to Nonresident Entertainers."

Copies of Publication 508, Form WT-10, Form WT-11, and the Nonresident

Entertainer's Surety Bond may be obtained from the Wisconsin Department of Revenue, Central Services Section, P. O. Box 8903, Madison, Wisconsin 53708.

Any questions about the requirements of this law may be directed to Karl Foss, Wisconsin Department of Revenue, P. O. Box 8906, Madison, Wisconsin 53708, telephone (608) 266-3645.

## CRIMINAL ENFORCEMENT ACTIVITIES

### Excise Tax

Raymond DeChant, 2655 Highway 51, McFarland, was referred to Dane County's First Offender Program on March 23, 1988, for possessing 229 packs of Indian stamped cigarettes at his retail establishment, Ra Dar's 4077.

DeChant paid a \$50 fine and is required to do 80 hours of community service. Charges had been brought by the department's Alcohol & Tobacco Enforcement Section, which had seized 229 packs of Indian stamped cigarettes from DeChant's tavern.

## NEW ISI&E DIVISION RULES AND RULE AMENDMENTS IN PROCESS

Listed below, under Part A are proposed new administrative rules and amendments to existing rules that are currently in the rule adoption process. The rules are shown at their state in the process as of October 30, 1988. Part B lists rules approved by Legislative Standing Committee but not yet effective. Part C lists new rules and amendments which are adopted. ("A" means amendment, "NR" means new rule, "R" means repealed and "R&R"

means repealed and recreated.)

### A. Rules at Legislative Council Rules Clearinghouse

- 2.16 Change in method of accounting for corporations-A
- 2.19 Installment method of accounting for corporations-A
- 2.20 Accounting for acceptance corporations, dealers in commercial paper, mortgage discount companies and small loan companies-A
- 2.21 Accounting for incorporated contractors-A
- 2.22 Accounting for incorporated dealers in securities-R&R
- 2.24 Accounting for incorporated retail merchants-A
- 2.25 Corporation accounting generally-A
- 2.26 "Last in, first out" method of inventorying for corporations-A
- 2.45 Apportionment in special cases-A
- 2.50 Apportionment of net business income of interstate public utilities-A
- 2.505 Apportionment of net business income of interstate professional sport clubs-A
- 2.53 Stock dividends and stock rights received by corporations-A
- 2.56 Insurance proceeds received by corporations-A
- 2.65 Interest received by corporations-A
- 2.72 Exchanges of property by corporations generally-A
- 2.721 Exchanges of property held for productive use or investment by corporations-A
- 2.83 Requirements for written elections as to recognition of gain in certain corporation liquidations-A
- 2.88 Interest rates-A
- 3.44 Organization and financing expenses—corporations-R&R
- 3.45 Bond premium, discount and expense—corporations-A
- 11.05 Governmental units-A
- 11.09 Medicines-A
- 11.10 Occasional sales-A
- 11.16 Common or contract carriers-A
- 11.18 Dentists and their suppliers-A

- 11.19 Printed material exemptions-A
- 11.26 Other taxes in taxable gross receipts and sales price-A
- 11.32 "Gross receipts" and "sales price"-A
- 11.40 Exemption of machines and processing equipment-A
- 11.41 Exemption of property consumed or destroyed in manufacturing-A
- 11.51 Grocers' guidelist-A
- 11.57 Public utilities-A
- 11.61 Veterinarians and their suppliers-A
- 11.66 Communications and CATV services-A
- 11.67 Service enterprises-A
- 11.68 Construction contractors-A
- 11.84 Aircraft-A
- 11.85 Boats, vessels and barges-A
- 14.01 Administrative provisions - R&R
- 14.02 Qualification for credit - R&R
- 14.03 Household income - R&R
- 14.04 Property taxes accrued - R&R
- 14.05 Rent constituting property taxes accrued - R&R

**B. Rules Approved by Legislative Standing Committee But Not Yet Effective**

- 11.12 Farming, agriculture, horticulture and floriculture - A

**C. Rules Adopted in 1988**

- 3.095 Interest income from federal obligations-R&R (effective 5/1/88)
- 11.10 Occasional sales-A (effective 1/1/88)

## 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 last paragraph of each WTAC decision in which the department's determination has been reversed will indicate one of the following: (1) "the department appealed," (2) "the department has not appealed but has filed a notice of nonacquiescence" or (3) "the department has not appealed" (in this case the department has acquiesced to the Commission's decision).*

The following decisions are included:

### Individual Income Taxes

Capital Preservation Fund, Inc., et al. (p. 8)

Interest income—mutual funds

Allen M. Taylor (p. 9)

Foreign taxes

### Homestead Credit

David A. Jensen (p. 9)

Filing deadline

### Corporation Franchise or Income Taxes

Hammermill Paper Company (p. 9)

Equitable recoupment

Northern States Power Company (p. 10)

Appeals—timely

### Sales/Use Taxes

Bank Equipment Lease, Inc. (p. 10)

Leases and rentals

International Business Machines Corporation (p. 11)

Computer and data processing—programs

## INDIVIDUAL INCOME TAXES

**Interest income—mutual funds.** *Capital Preservation Fund, Inc., Trust for Short Term U.S. Government Securities, Lee V. Hribar, Urquhart L. Meeter, Barbara C. Meeter, and James E. Bartelt vs. Wisconsin Department of Revenue* (Court of Appeals, District IV, July 21, 1988). The Wisconsin Department of Revenue appeals from a summary judgment declaring that dividend distributions from the Capital Preservation Fund (the Fund) and the Trust for Short Term U.S. Government Securities (the Trust) are not subject to the Wisconsin income tax. The issue is whether 31 U.S.C., §3124(a), which declares "obligations of the United States Government are exempt from [State] taxation," precludes Wisconsin from taxing the distributions insofar as this results from (a) investments in direct obligations of the federal government, and (b) transactions under repurchase agreements involving federal securities.

The Fund and the Trust are mutual or "money market" funds. They are diversified investment companies which invest in various types of interest-bearing securities and sell their shares to individual and institutional investors in Wisconsin and elsewhere. They distribute substantially all of the income earned from these investments to their shareholders.

The Fund invests solely in direct obligations of the federal government — U.S. Treasury bills, notes, and zero coupon securities. The Trust also invests exclusively in treasury obligations and those of other federal agencies, such as the Federal Home Loan Banks. The Trust also enters into "repurchase agreements" through which it purchases government obligations from a third party — normally a bank — pursuant to a contract in which the bank agrees to repurchase the obligations from the Trust on a specified date (usually within a day or so of the initial sale to the Trust) and at a set price and rate of interest.