

3. Chapter 125 of Wisconsin Statutes Revised (1989 Act 253, repeal 125.04(4)(title), 125.04(4)(b), 125.04(12)(b)3, 125.11(1)(title), 125.11(2) and (3), 125.14(4), 125.15, 125.31(2), 125.32(4)(b), 125.32(5)(b), 125.51(6), 125.59, 125.68(3)(a)(title), 125.68(3)(b), 125.68(6), (7) and (9)(a); renumber 125.04(4)(a) and 125.31(1); renumber and amend 125.07(7), 125.085(3)(a), 125.11(1)(a) and (b), 125.32(5)(a) and 125.68(3)(a); to amend 125.037(intro.), 125.04(5)(a)(intro.), 1 and 2, 125.04(5)(b), 125.06(6) and (9), 125.07(1)(b) 1 and 2.a, 125.07(3)(a)2, 3, 5 and 7, 125.07(4)(a)1, 125.07(4)(bs)3, 125.07(4)(c)1, 125.07(4)(c)2 and 3, 125.07(6)(intro.), (a) and (c), 125.075(title), 125.085(3)(b)2, 125.10(4), 125.27(2)(b), (c) and (e), 125.29(2), 125.32(1)(a)(intro.), 125.32(2), 125.32(3)(c), 125.33(1)(a), 125.33(2)(h) and (j), 125.33(7)(d), 125.33(9), 125.51(1)(a), 125.51(5)(c)2 to 4, 125.52(1) and (5), 125.54(1), 125.58(4), 125.60(1) and (4), 125.65(1) and (2), 125.66(3), 125.67, 125.68(1)(a)(intro.) and (2), 125.68(4)(c)4, 125.68(9)(e), 125.68(10)(bm), 125.69(1)(a), 125.69(4)(d) and 125.69(6); repeal and recreate 125.075(2), 125.27(2)(am), 125.51(5)(c)1m and 125.66(1); and create 125.02(15m), 125.03(3), 125.04(5)(a)4, 125.04(13), 125.07(1)(b)2.c and d, 125.07(3)(a)11, 125.07(4)(a)2, 125.07(4)(bs)4, 125.07(4)(c)4, 125.07(6)(d), 125.07(7)(a)2 and (b), 125.085(3)(a)2 and 3, 125.105, 125.315, 125.32(2m) and 125.68(2m), effective May 3, 1990.)

(Repeal 125.28(1)(title), 125.28(2), 125.28(3) and 125.57; renumber and amend 125.28(1)(a) to (d); amend 125.04(3)(g)(intro.), 125.04(5)(c), 125.045(3), 125.25(1) and (4), 125.26(1), (2) and (4) to (6), 125.27(1)(a) and (c), 125.27(2)(a), 125.275(4), 125.29(3), 125.30(4), 125.51(2)(b), 125.51(3)(c), 125.51(5)(a)1 and 5, 125.51(5)(c)1, 125.62(4), 125.63(4) and 125.65(5); repeal and recreate 125.29(1) and 125.51(5)(b)5; and create 125.51(10), effective July 1, 1990.)

(Repeal 125.32(4)(a); repeal and recreate 125.045(3); and create 125.17(6), effective July 1, 1991.)

Chapter 125 of the Wisconsin Statutes, relating to alcohol beverages, is revised to put the material in a more logical order, delete obsolete material, provide consistent regulatory treatment of the different segments of the industry, update the statutes to reflect the current administrative and industry practices, enhance the licensing authority of municipal governments, and revise certain penalty provisions to make them consistent with the penalties for similar non-alcohol offenses.

#### G. OTHER

1. Distribute Information About Physicians' Medicare Program (1989 Act 294, create sec. 71.55(10), effective May 8, 1990.)

Beginning in 1990, the Department of Revenue must annually distribute enrollment cards and materials explaining a program under which a physician voluntarily agrees to 1) accept assignment of medicare Part B reimbursements for services provided to patients age 65 or older, whose household income for the previous year did not exceed \$18,000, and 2) not require patients to pay amounts in excess of the reimbursements allowed under medicare Part B.

The items must be distributed to persons age 65 or older whose household income for the previous year, if known by the department, did not exceed \$18,000. In this section, "household income" has the same meaning as in sec. 71.52(5).

Beginning in 1991, the department must annually submit a report to the Legislature, indicating the number of persons, by county, to whom it distributed enrollment cards.

2. Recycling Fee Imposed on Certain Corporations, Partnerships, and Sole Proprietorships (1989 Act 335, amend secs. 73.01(4)(a), 73.03(27)(intro.), and ch. 77 (title), repeal and recreate sec. 73.01(4)(a), and create sec. 73.03(36) and subch. VII of ch. 77, effective for taxable years ending after April 1, 1991, and before April 1, 1993.)

For taxable years ending after April 1, 1991, and ending before April 1, 1993, corporations, partnerships, and sole proprietorships that operate in Wisconsin are subject to a recycling fee. The fee is imposed on an entity's taxable gross receipts during the taxable year and ranges from \$63 on receipts of at least \$1 million to \$2,170 on receipts of \$4 million or more.

Who Is Subject to the Fee

- Corporations that are required to file a Wisconsin franchise or income tax return, Form 4 or 5, except those which have gross receipts only from farming
- Tax-option (S) corporations that are required to file a Wisconsin franchise or income tax return, Form 5S, except those which have gross receipts only from farming
- Insurance companies that are required to file a Wisconsin franchise tax return, Form 4I
- Exempt organizations that are subject to the tax on unrelated business taxable income and must file Form 4T, except those which have gross receipts only from farming
- Partnerships that are required to file a Wisconsin income tax return, Form 3, except those which have gross receipts only from farming
- Individuals who are required to file a Wisconsin income tax return, Form 1 or 1NPR, and who have a profit or loss from a trade or business, as defined in IRC sec. 1402(c), not including farming, for federal income tax purposes
- Trusts and estates that are required to file a Wisconsin income tax return, Form 2, and that have a profit or loss from a trade or business, as defined in IRC sec. 1402(c), not including farming, for federal income tax purposes

Note: The fee is imposed on the gross receipts of tax-option (S) corporations and partnerships at the entity level. The shareholders or partners are not subject to an additional fee on their pro rata share of the gross receipts which the entity passes through to them.

### What Are Gross Receipts

"Gross receipts" means total receipts, less returns and allowances, from all activities. This includes:

- For corporations, the gross receipts reportable for franchise or income tax purposes, except gross receipts from farming
- For insurance companies, the gross receipts reportable for federal income tax purposes
- For exempt organizations, the gross receipts from unrelated businesses the income from which is reportable under sec. 71.24(1m)
- For partnerships, the gross receipts, except from farming, reportable on the federal income tax return
- For individuals, the aggregate gross receipts reportable in calculating the profit or loss from all of the trades or businesses, as defined in IRC sec. 1402(c), not including farming, for federal income tax purposes
- For estates and trusts, the aggregate gross receipts reportable in calculating the profit or loss from all of the trades or businesses, as defined in IRC sec. 1402(c), not including farming, for federal income tax purposes

### What Are Taxable Gross Receipts

"Taxable gross receipts" means gross receipts as apportioned or allocated to Wisconsin by means of the methods used to apportion and allocate income for Wisconsin franchise or income tax purposes under sec. 71.04 for individuals, estates, trusts, and partnerships; under sec. 71.25 for corporations; and under sec. 71.45(3) for insurance companies. In the case of an individual, estate, or trust, income from business activities conducted outside Wisconsin by a resident individual, estate, or trust, shall not be allocated to Wisconsin for purposes of determining the recycling fee.

### What Is a Trade or Business

For purposes of the recycling fee, "trade or business" is defined in IRC sec. 1402(c), relating to self-employment income. In that section, "trade or business" has the same meaning, with certain exceptions, as when used in IRC sec. 162, relating to the deduction of trade or business expenses in computing taxable income.

### What Is Farming

For purposes of the recycling fee, farming is defined in IRC sec. 464(e)1. "Farming" means the cultivation of land or the raising or harvesting of any agricultural or horticultural commodity including the raising, shearing, feeding, caring for, training, and management of animals. Trees, other than trees bearing fruit or nuts, are not treated as an agricultural or horticultural commodity.

Period Covered by the Fee

The fee is imposed for the same period covered by the taxpayer's Wisconsin franchise or income tax return. The fee is first imposed for taxable years ending after April 1, 1991.

Due Date of the Fee

The recycling fee is due on the date on which the entity's Wisconsin franchise or income tax return is due.

<u>Type of Entity</u>	<u>Due Date of Return</u>
Corporation	15th day of 3rd month following close of taxable year
Tax-option corporation	15th day of 3rd month following close of taxable year
Insurance company	15th day of 3rd month following close of taxable year
Exempt corporation	15th day of 5th month following close of taxable year
Publicly-traded partnership taxed as a corporation	15th day of 3rd month following close of taxable year
Partnership (except publicly-traded partnership)	15th day of 4th month following close of taxable year
Individual	15th day of 4th month following close of taxable year
Estate or trust	15th day of 4th month following close of taxable year
Exempt employe's trust or IRA	15th day of 4th month following close of taxable year

Payment of Estimated Fees

Entities are not required to make quarterly estimated payments to prepay the recycling fee.

Interest and Penalties

The interest and penalty provisions in chapter 71 that apply to the Wisconsin franchise and income taxes also apply to the recycling fee.

### Administrative Provisions

The administrative provisions, including those relating to audits and assessments, claims for refund, statutes of limitations, Internal Revenue Service adjustments, confidentiality, appeals, and collections, that apply for Wisconsin franchise and income tax purposes also apply to the recycling fee.

### Use of Recycling Fees

The Department of Revenue is required to deposit recycling fees, interest, and penalties collected in the recycling fund under sec. 25.49.

### Computation of the Recycling Fee

The recycling fee is imposed on the entity's taxable gross receipts during the taxable year.

If an entity begins to do business in Wisconsin after the beginning of the taxable year, or ceases to do business in Wisconsin before the end of the taxable year, the fee is calculated as follows:

- a. Multiply the taxable gross receipts for the taxable year by a fraction the numerator of which is 365 and the denominator of which is one of the following:
  - 1) the number of days from the day the entity begins to do business in Wisconsin until the end of its taxable year, if the entity begins to do business in Wisconsin after the beginning of its taxable year,
  - 2) the number of days from the beginning of the entity's taxable year until the day that it ceases to do business in Wisconsin, if the entity ceases to do business in Wisconsin before the end of its taxable year, or
  - 3) the number of days from the day that the entity begins to do business in Wisconsin to the day that it ceases to do business in Wisconsin, if the entity both begins to do business in Wisconsin after the beginning of its taxable year and ceases to do business in Wisconsin before the end of its taxable year.
- b. Determine the fee that would be imposed on the taxable gross receipts calculated in a.
- c. Divide the fee calculated in b. by the fraction under a.

"Begins to do business" includes but is not limited to a change in corporate form and the occurrence of any event that creates a short taxable year for Wisconsin franchise or income tax purposes.

"Ceases to do business" includes but is not limited to a change in corporate form, the death of an individual, and the occurrence of any event that creates a short taxable year for Wisconsin franchise or income tax purposes.

Amount of Fee

If taxable gross receipts are at least --	but less than --	Recycling fee is --
\$ 0	\$1,000,000	\$ 0
1,000,000	2,000,000	63
2,000,000	3,250,000	430
3,250,000	3,500,000	590
3,500,000	3,750,000	780
3,750,000	4,000,000	970
4,000,000		2,170

3. Withholding-Statutory Reference Updated (1989 Act 278, amend  
sec. 71.63(6)(L), effective May 4, 1990.)

The Wisconsin withholding tax law (sec. 71.63(6)) lists several specific types of payments which are excluded from the definition of "wages" subject to withholding. One type of payment excluded from the definition of wages is retirement benefits. To identify these payments, the withholding law referred to a description found in section 815.18(31)(a). This reference has been changed to section 815.18(3)(j) to reflect the repeal and recreation of section 815.18 by 1989 Act 278. Also, the words "or contract" have been added to section 71.63(6)(L) to reflect the use of the word contract in section 815.18(3)(j).