

WISCONSIN TAX BULLETIN

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NEW WISCONSIN TAX LAWS

The Wisconsin Legislature has enacted numerous changes to the Wisconsin tax laws. This issue of the Wisconsin Tax Bulletin contains an index and brief descriptions of the major individual and fiduciary income, corporation franchise or income, homestead credit, sales/use, and excise tax provisions.

The majority of the provisions described are contained in 1991 Wisconsin Act 269, the 1992-93 budget adjustment bill, which was published April 30, 1992. However, tax provisions were also enacted in 1991 Wisconsin Acts 119, 190, 195, 208, 219, 232, 292, and 301. Descriptions of those changes are also included.

The description for each item indicates the Act which contains the law change, the sections of the statutes affected, and the effective dates of the new provisions.

	Effective Date	Page
A. INDIVIDUAL AND FIDUCIARY INCOME TAXES		
1. Reference to the Internal Revenue Code updated for 1992 for individuals, estates and trusts	Taxable years beginning on or after January 1, 1992	1
2. Federal laws enacted during 1991 adopted to apply simultaneously for Wisconsin purposes	Taxable years beginning after December 31, 1988 and before January 1, 1992	1
3. Dependent requirement eliminated for earned income credit	Taxable years beginning on or after January 1, 1992	2
4. Extension of time to file provisions federalized	Taxable years beginning on or after January 1, 1992	2
5. Deduction for portion of medical care insurance costs allowed	Various	3
6. Joint returns permitted after separate returns filed	May 14, 1992	4
7. Confidentiality of tax return information amended	May 14, 1992	4

	Effective Date	Page
8. Time period limited for claims for refund of overpayments incorrectly offset against debts	May 14, 1992	4
9. Development zone jobs credit treatment of leased or rented employees changed	Taxable year of a partnership, tax-option (S) corporation, or person that begins on or after January 1, 1992, and for the appropriate taxable year of a partner or tax-option (S) corporation shareholder to conform the partner's or shareholder's treatment of a tax credit that is passed through by the partnership or tax-option (S) corporation to the partnership's or tax-option (S) corporation's treatment of the tax credit	5
B. CORPORATION FRANCHISE OR INCOME TAXES		
1. References to the Internal Revenue Code updated for 1992 for corporations, tax-option (S) corporations, insurance companies, nonprofit organizations, regulated investment companies, real estate investment trusts, and real estate mortgage investment conduits	Taxable years beginning on or after January 1, 1992	5
2. Federal laws enacted during 1991 adopted to apply simultaneously for Wisconsin purposes	Taxable years beginning after December 31, 1988 and before January 1, 1992	6
3. Definition of pari-mutuel wager winnings or purses expanded for apportionment purposes	May 1, 1992	6
4. Development zone jobs credit treatment of leased or rented employees changed	Taxable year of a partnership, tax-option (S) corporation, or corporation that begins on or after January 1, 1992, and for the appropriate taxable year of a partner or tax-option (S) corporation shareholder to conform the partner's or shareholder's treatment of a tax credit that is passed through by the partnership or tax-option (S) corporation to the partnership's or tax-option (S) corporation's treatment of the tax credit	7

	Effective Date	Page
C. SALES AND USE TAXES		
1. Clarify that "tangible personal property" includes computer programs, except custom programs	May 1, 1992	7
2. Revise computation of retailers' discount	Periods ending on or after January 1, 1993	8
3. Clarify that purchasers of vehicles from non-dealers file a sales tax return	May 1, 1992	8
4. Increase penalty to 25% on estimated assessments	July 1, 1992	8
5. Increase negligence penalty to 50% for filing incorrect sales and use tax return when registering a motor vehicle, boat, etc.	For returns filed on or after May 1, 1992	8
6. Conform language in exemption for gross receipts from charges for searching for and copying records	May 1, 1992	9
7. Clarify that Departments of Transportation and Natural Resources may administer county sales and use taxes on transfers of motor vehicles, boats, etc.	May 1, 1992	9
D. EXCISE TAXES		
1. Increase cigarette tax rate	May 1, 1992	9
2. Indexing of motor fuel and special fuel tax rates suspended for 1992	March 28, 1992	9
3. Update Wisconsin Statute reference for alcohol beverage raffles	May 1, 1992	9
4. Allow unaccompanied underage persons on picnic beer premises	May 1, 1992	9
5. Require municipalities to issue provisional operators' licenses	May 1, 1992	10
E. HOMESTEAD CREDIT		
1. Allow full property taxes for certain partially-owned homesteads	Taxable years beginning on or after January 1, 1992	10
F. OTHER		
1. Certain members of the clergy exempted from temporary recycling surcharge	Taxable years beginning on or after January 1, 1992	10

	Effective Date	Page
2. Increase late filing fee	Assessments, determinations, or other actions taken on or after May 1, 1992	10
3. Change late filing fee procedure	Taxable years beginning on or after January 1, 1992	11
4. Absolve certain taxpayers of liability for interest and penalties	May 7, 1992	11
5. References to Lottery Board and related statutes changed	May 1, 1992	11
6. Modify guidelines for distributing information about physician acceptance of Medicare assignment	May 7, 1992	11
7. Controlled substances tax revised for dealers of marijuana plants	July 1, 1992	11
8. Administration of property tax deferral loan program transferred to Department of Administration	July 1, 1992	12

A. INDIVIDUAL AND FIDUCIARY INCOME TAXES

1. **Reference to the Internal Revenue Code Updated for 1992 for Individuals, Estates, and Trusts** (1991 Act 269, amend secs. 71.01(6)(f) and 71.01(7r) and create sec. 71.01(6)(g), effective for taxable years beginning on or after January 1, 1992.)

For taxable years that begin on or after January 1, 1992, "Internal Revenue Code" for individuals, estates, and trusts (except nuclear decommissioning trust or reserve funds) means the federal Internal Revenue Code as amended to December 31, 1991, with the exceptions indicated below. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes.

The following provisions of the Internal Revenue Code, although enacted before the December 31, 1991 cutoff date prescribed by Wisconsin law, may not be used for Wisconsin purposes:

- a. Section 127 of the Internal Revenue Code relating to the exclusion from gross income for up to \$5,250 of educational assistance benefits furnished by an employer under an educational assistance program.
- b. Section 120 of the Internal Revenue Code relating to the exclusion from gross income for employer contributions to a qualified group legal services plan or the value of legal services provided under a qualified group legal services plan.
- c. Section 162(L) of the Internal Revenue Code relating to the deduction for 25% of amounts paid for health insurance costs by self-employed individuals. However, see Part A. 5 for a description of a deduction relating to health insurance costs which will be available for taxable years beginning on or after January 1, 1993.

For property placed in service in taxable years beginning on or after January 1, 1992, individuals and fiduciaries may compute depreciation or amortization under either the federal Internal Revenue Code in effect for the taxable year for which the return is filed or the federal Internal Revenue Code as amended to December 31, 1991, at the taxpayer's option.

Property required to be depreciated for taxable year 1986 for Wisconsin purposes under the Internal Revenue Code as amended to December 31, 1980, must continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.

2. **Federal Laws Enacted During 1991 Adopted to Apply Simultaneously for Wisconsin Purposes** (1991 Act 269, amend sec. 71.01(6)(d), (e), and (f), effective for taxable years beginning after December 31, 1988 and before January 1, 1992.)

The following federal laws enacted during 1991 apply for Wisconsin income tax purposes at the same time as for federal purposes:

- Legislative Branch Appropriations Act, 1992 (Public Law 102-90), enacted August 14, 1991
- Tax Extension Act of 1991 (Public Law 102-227), enacted December 11, 1991

The only tax provision in Public Law 102-90 relates to the treatment of amounts contributed to a charity on behalf of a U.S. Senator. This provision was first effective for amounts contributed on or after January 1, 1992.

The only change in Public Law 102-227 which affects taxable years beginning after December 31, 1988, and before January 1, 1992, relates to the allocation of research expenditures under Internal Revenue Code section 864(f)(5). This change applies for Wisconsin purposes at the same time as for federal purposes.

3. **Dependent Requirement Eliminated for Earned Income Credit** (1991 Act 269, amend sec. 71.07(9e)(a) 1 to 3, effective for taxable years beginning on or after January 1, 1992.)

The requirement that an individual have one or more dependent children in order to qualify to claim the Wisconsin earned income credit has been eliminated. Thus, a child who is a "qualifying child" for purposes of the federal earned income credit, is also a qualifying child for purposes of the Wisconsin earned income credit.

Under prior Wisconsin law, in addition to the "qualifying child" requirement which applied for federal purposes, a child must also have been a dependent of the claimant in order for the claimant to qualify for the Wisconsin earned income credit.

4. **Extension of Time To File Provisions Federalized** (1991 Act 269, amend sec. 71.03(7), effective for taxable years beginning on or after January 1, 1992.)

1991 Act 269 makes the following changes with respect to extensions of time for filing Wisconsin returns:

- a. Wisconsin tax estimated to be due on a return for which an extension is being obtained must be paid by the original due date, in the manner prescribed by federal law for federal income taxes.
- b. The provision in Wisconsin law which allowed a 30-day extension of time to file Wisconsin individual, fiduciary, and partnership income tax returns is repealed.
- c. The requirement in Wisconsin law relating to attaching a copy of the federal extension application to the taxpayer's Wisconsin return is modified to apply only if the Internal Revenue Service requires an application for extension. (Note: Under a "paperless" extension program currently being studied by IRS, it would not be necessary to apply for an extension.)

Prior Wisconsin law provided that any extension of time which federal law or the Internal Revenue Service granted for filing an individual, fiduciary or partnership federal income tax return, also extended the time for filing the corresponding Wisconsin income tax return, provided a copy of the federal extension application was attached to the Wisconsin return. In addition, prior Wisconsin law contained a separate "Wisconsin only" 30-day extension provision.

As a condition to receiving an extension of time to file, federal law requires that the tax estimated to be due on the return be paid by the original due date. If it is subsequently determined that an estimate was not reasonable, the extension is null and void. Under prior Wisconsin law, there was no similar payment requirement imposed as a condition for receiving an extension of time to file, regardless of whether federal or Wisconsin law was being used to obtain the extension.

5. Deduction for Portion of Medical Care Insurance Costs Allowed (1991 Act 269, create secs. 71.05(6)(b) 17 and 18, and 71.07(5)(a) 15, see effective dates below.)

For taxable years beginning after December 31, 1992, and before January 1, 1994, (i.e., the 1993 taxable year), certain persons may be able to claim a subtraction for a portion of the amount paid for medical care insurance for the person, his or her spouse, and dependents. The subtraction is available to (1) a self-employed person, or (2) a person who is an employee of another person if the employer pays no amount of money toward the person's medical care insurance.

"Medical care insurance" means a medical care insurance policy that covers the person, his or her spouse, and dependents, and provides surgical, medical, hospital, major medical or other health service coverage. It includes payments made for medical care benefits under a self-insured plan, but does not include hospital indemnity policies or policies with auxiliary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness, or injury.

The amount of the subtraction is calculated as follows:

- (a) Multiply the amount paid by the person for medical care insurance by 25%.
- (b) From the amount calculated in (a), subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.
- (c) A nonresident or part-year resident of Wisconsin must modify the amount calculated in (b) by multiplying the amount by a fraction, the numerator of which is the person's net earnings from a trade or business taxable by Wisconsin and the denominator of which is the person's total net earnings from a trade or business.
- (d) Reduce the amount calculated in (b) (full-year residents) or (c) (nonresidents and part-year residents) to the person's aggregate net earnings from a trade or business that are taxable by Wisconsin.

The amount paid for medical care insurance which is claimed as a subtraction cannot be used in the computation of the Wisconsin itemized deduction credit.

For taxable years beginning on or after January 1, 1994, 50% of the amount paid by the person for medical care insurance can be used in Step (a) in computing the credit.