

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.

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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 employe 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.