



# Wisconsin TAX BULLETIN

## New Wisconsin Tax Laws

The Wisconsin Legislature has enacted a number of 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, farmland preservation credit, temporary recycling surcharge, sales/use, and excise tax provisions.

All of the provisions described are contained in 1993 Wisconsin Act 16, the 1993-95 budget bill.

The description for each provision indicates the sections of the statutes affected, and the effective date of the new provision.

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## A. Individual and Fiduciary Income Taxes

### 1. Internal Revenue Code Reference Updated for 1993 for Individuals, Estates, and Trusts (1993 Act 16, amend sec. 71.01(6)(g) and (7r) and create sec. 71.01(6)(h), effective for taxable years beginning on or after January 1, 1993.)

For taxable years that begin on or after January 1, 1993, "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, 1992. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes.

For example, Public Law 102-486, enacted October 24, 1992, repealed the minimum tax preference for depletion and intangible drilling costs of independent oil and gas producers and royalty owners for taxable years beginning on or after January 1, 1993. That same effective date applies for Wisconsin purposes.

For property placed in service in taxable years beginning on or after January 1, 1993, 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, 1992, at the taxpayer's option.

### 2. Federal Laws Enacted During 1992 Apply Simultaneously for Wisconsin Purposes (1993 Act 16, amend sec. 71.01(6)(f), and (g), effective for taxable years beginning after December 31, 1990 and before January 1, 1993.)

The following federal laws enacted during 1992 apply for Wisconsin income tax purposes at the same time as for federal purposes:

- Unemployment Compensation Amendments of 1992 (Public Law 102-318), enacted July 3, 1992
- Energy Policy Act of 1992 (Public Law 102-486), enacted October 24, 1992

As a result of this amendment to sec. 71.01(6)(f) and (g), Wis. Stats. (1991-92), the following changes in federal law are effective for Wisconsin purposes at the same time as for federal purposes.

- The exclusion for certain employer-provided transportation (up to \$60 per month) and employer-provided parking (up to \$155 a month) benefits provided after December 31, 1992. (Public Law 102-486)
  - The exclusion for certain energy conservation subsidies provided by public utilities after December 31, 1992. (Public Law 102-486)
  - The limitation on the deduction for travel expenses paid or incurred after December 31, 1992, for travel expenses in connection with employment away from home in a single location that lasts for more than one year. (Public Law 102-486)
  - The deduction for certain clean-fuel vehicles and refueling property placed in service after June 30, 1993. (Public Law 102-486)
  - The requirement that a partner who contributes appreciated property to a partnership must include pre-contribution gain in income in the case of certain partnership distributions on or after June 25, 1992. (Public Law 102-486)
  - New rules pertaining to rollovers of partial distributions from retirement plans after December 31, 1992. (Public Law 102-318)
- ### 3. Head of Household Filing Status Created for Wisconsin (1993 Act 16, amend secs. 71.03(2)(a)1, 71.05(22)(d), and 71.06(1)(intro.) and create secs. 71.01(5m) and 71.05(22)(dm), effective for taxable years beginning on or after January 1, 1994.)

#### *Who Qualifies*

A head of household filing status is created for Wisconsin purposes. All persons who qualify for the head of household filing status for federal tax purposes qualify to file as head of household for Wisconsin. In addition, persons who qualify to file their federal return as a qualifying widow(er) with a dependent child may file as head of household for Wisconsin.

*Filing Requirement*

A person who qualifies as head of household and who is a legal resident of Wisconsin for the entire year is required to file a Wisconsin income tax return if he or she has gross income of \$7,040 or more. The filing requirement remains at \$2,000 or more of gross income for a person who is a nonresident or part-year resident of Wisconsin.

*Standard Deduction*

The Wisconsin standard deduction for a person who qualifies as head of household is as follows:

- a. If Wisconsin adjusted gross income is less than \$7,500, the standard deduction is \$7,040.
- b. If Wisconsin adjusted gross income is at least \$7,500 but not more than \$25,000, the standard deduction is the amount obtained by subtracting from \$7,040, 22.515% of Wisconsin adjusted gross income in excess of \$7,500, but not less than \$0.
- c. If Wisconsin adjusted gross income is more than \$25,000 but not more than \$50,830, the standard deduction is the amount obtained by subtracting from \$5,200, 12% of Wisconsin adjusted gross income in excess of \$7,500, but not less than \$0.
- d. If Wisconsin adjusted gross income is more than \$50,830, the standard deduction is \$0.

(Note: For nonresidents and part-year residents of Wisconsin, the head of household standard deduction must be calculated on the basis of federal adjusted gross income, rather than Wisconsin adjusted gross income, and then prorated based on the ratio of Wisconsin adjusted gross income to federal adjusted gross income.)

*Tax Rates*

For persons who qualify as head of household, the income tax rates and brackets are as follows:

- a. On taxable income from \$0 to \$7,500 — tax rate is 4.9%.
- b. On taxable income exceeding \$7,500 but not exceeding \$15,000 — tax rate is 6.55%.
- c. On taxable income exceeding \$15,000 — tax rate is 6.93%.

#### 4. Filing Requirements and Standard Deduction for Dependents with Unearned Income Conformed to Federal (1993 Act 16, amend sec. 71.03(2)(a)3, renumber sec. 71.05(22)(f) to 71.05(22)(f)1 and amend as renumbered, and create secs. 71.03(2)(a)4 and 5 and 71.05(22)(f)2 and 3, effective for taxable years beginning on or after January 1, 1993.)

For taxable years beginning in 1993, a person who can be claimed as a dependent on another taxpayer's Wisconsin income tax return is required to file a Wisconsin income tax return if he or she has any amount of unearned income and gross income (including both earned income and unearned income) of \$600 or more (for 1992, the amount was \$550 instead of \$600).

The minimum standard deduction for a dependent with unearned income is increased from \$550 to \$600. (Note: The \$600 filing requirement and minimum standard deduction levels will also apply for federal purposes for the tax year 1993 for dependents having unearned income.)

For taxable years beginning on or after January 1, 1994, the filing requirement and standard deduction for dependents with unearned income will be adjusted annually for inflation in the same manner as for federal tax purposes. This will result in the same filing requirement and standard deduction applying for federal and Wisconsin tax purposes.

#### 5. Earned Income Credit Revised (1993 Act 16, amend sec. 71.07(9e)(a)(intro.) and create sec. 71.07(9e)(ad), (ah), (ap) and (at), various effective dates.)

The computation of the Wisconsin earned income credit is changed for taxable years beginning on or after January 1, 1994. The amount of credit varies depending upon the taxpayer's earned income and federal adjusted gross income.

The maximum Wisconsin earned income credit for taxable years beginning in 1994 is:

- \$91.77 if the person has one qualifying child
- \$498.75 if the person has two qualifying children
- \$1,496.25 if the person has more than two qualifying children

A phase-out of the credit begins when federal adjusted gross income or earned income exceeds \$12,570. The credit is no longer available when federal adjusted gross income or earned income is above \$23,740.

**Example:** A taxpayer has wages of \$15,000. The taxpayer has no other source of income, so federal adjusted gross income is also \$15,000. The taxpayer's 1994 earned income credit will be one of the following:

- \$71.84 if taxpayer has 1 qualifying child.
- \$390.13 if taxpayer has 2 qualifying children.
- \$1,170.63 if taxpayer has more than 2 qualifying children.

For taxable years beginning on or after January 1, 1995, the variables used in computing the credit will be adjusted annually for changes in the U.S. consumer price index.

The tax form booklets for 1994 will likely include tables for computing the credit.

**6. Deduction for Medical Care Insurance Costs Increased for Self-Employed Persons (1993 Act 16, amend secs. 71.05(6)(b)18(intro.) and 71.07(5)(a)15 and create sec. 71.05(6)(b)19 and 20, effective for taxable years beginning on or after January 1, 1995.)**

For taxable years beginning on or after January 1, 1995, the portion of a self-employed person's medical care insurance costs, which can be used in computing a subtraction from federal adjusted gross income in computing Wisconsin taxable income, is increased from 50% to 100%. For a person who is an employee of another person and whose employer pays no amount of money towards the person's medical care insurance, the amount to use in computing the subtraction remains at 50%.

Existing Wisconsin law provides that 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.

For taxable years beginning in 1993, 25% of the amount paid by the person for medical care insurance can be used in computing the subtraction.

For taxable years beginning in 1994, 50% of the amount paid by the person for medical care insurance can be used in computing the subtraction.

**7. Reference to the Internal Revenue Code for Lump-Sum Distributions Corrected (1993 Act 16, amend sec. 71.05(6)(a)4, effective for lump-sum distributions received on or after January 1, 1993.)**

To reflect a renumbering change made to the Internal Revenue Code (IRC) by Public Law 102-318, the reference to an Internal Revenue Code provision relating to lump-sum distributions in sec. 71.05(6)(a)4, Wis. Stats. (1991-92), is changed from sec. 402(e)(1), IRC, to sec. 402(d)(1), IRC.

**8. Limitation on Costs Used for State Historic Rehabilitation Credit Restored (1993 Act 16, create sec. 71.07(9r)(b)7, effective for taxable years beginning on or after January 1, 1993.)**

Costs for the preservation or rehabilitation of historic property incurred before the State Historical Society approved the proposed preservation or rehabilitation plan cannot be used in the computation of the State Historic Rehabilitation Credit.

(Note: This limitation was in effect for taxable years beginning prior to January 1, 1991. However, it was eliminated by 1991 Act 39 for taxable years beginning in 1991 and 1992.)

**9. Development Zone Credits Amended (1993 Act 16, amend secs. 71.07(2dj)(am)9, 560.71(3)(a), and 560.745(2)(a) and create sec. 71.07(2dj)(am)8m, various effective dates.)**

Effective August 12, 1993, the number of development zones that may be designated by the Department of Development is increased from 12 to 14.

Effective for taxable years beginning on or after January 1, 1993, the development zones jobs credit is expanded. A credit is allowed for each person, whether or not he or she is a member of a targeted group, who is determined by the Department of Development to be a resident of the development zone in which he or she is employed. The credit is equal to 10% of the wages earned by such person during the first year of the person's employment in the development zone, up to a maximum credit of \$600.

## B. Corporation Franchise or Income Taxes

1. **Internal Revenue Code References Updated for 1993 for Corporations, Tax-Option (S) Corporations, Insurance Companies, Nonprofit Organizations, Regulated Investment Companies, Real Estate Investment Trusts, and Real Estate Mortgage Investment Conduits** (1993 Act 16, amend secs. 71.22(4)(g) and (4m)(e), 71.26(2)(b)7 and (3)(y), 71.34(1g)(g), 71.365(1m), 71.42(2)(f), and 71.45(2)(a)13 and create secs. 71.22(4)(h) and (4m)(f), 71.26(2)(b)8, 71.34(1g)(h), and 71.42(2)(g), effective for taxable years beginning on or after January 1, 1993).

For taxable years that begin on or after January 1, 1993, "Internal Revenue Code" for corporations, tax-option (S) corporations, insurance companies, nonprofit organizations, regulated investment companies (RICs), real estate investment trusts (REITs), and real estate mortgage investment conduits (REMICs) means the federal Internal Revenue Code as amended to December 31, 1992, with the exceptions indicated below. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes.

- a. For corporations (except nonprofit organizations, RICs, REITs, and REMICs), tax-option (S) corporations, and insurance companies, for property placed in service in taxable years beginning on or after January 1, 1993, depreciation or amortization may be computed 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, 1992, at the taxpayer's option.

- b. For corporations (except nonprofit organizations, RICs, REITs, and REMICs), the Internal Revenue Code is modified by sec. 71.26(3), Wis. Stats.
- c. For tax-option (S) corporations, IRC sec. 1366(f), relating to the reduction in passthroughs for taxes at the S-corporation level, is modified by substituting the built-in gains tax under sec. 71.35, Wis. Stats., for the taxes under IRC secs. 1374 and 1375.
- d. For insurance companies, the Internal Revenue Code excludes IRC sec. 847, relating to an additional deduction for insurers required to discount unpaid losses.
- e. For RICs, REITs, and REMICs, property depreciated for taxable years 1983 to 1986 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. Additions or subtractions must be made to reflect differences between the depreciation or adjusted basis for federal and Wisconsin tax purposes of property disposed of during the taxable year.

2. **Federal Laws Enacted During 1992 Apply Simultaneously for Wisconsin Purposes** (1993 Act 16, amend secs. 71.22(4)(f) and (g) and (4m)(d) and (e), 71.26(2)(b)6 and 7, 71.34(1g)(f) and (g), and 71.42(2)(e) and (f), effective for taxable years beginning after December 31, 1990, and before January 1, 1993).

The federal Unemployment Compensation Amendments of 1992 (Public Law 102-318) and Energy Policy Act of 1992 (Public Law 102-486) apply for Wisconsin franchise and income tax purposes at the same time as for federal purposes. For example, the rules relating to the recognition of precontribution gain in the case of certain distributions to contributing partners apply for both federal and Wisconsin purposes for distributions on or after June 25, 1992.

**3. Dividends Received Deduction Modified** (1993 Act 16, amend secs. 71.26(3)(j) and 71.45(2)(a)8, effective for taxable years beginning on or after January 1, 1993).

**a. Dividends Deductible if 70% Ownership of Stock of Payor**

In calculating its net income, a corporation or insurance company may deduct dividends that it receives from another corporation with respect to its common stock if the corporation receiving the dividends owns, directly or indirectly, during the entire taxable year at least 70% of the total combined voting stock of the payor corporation. For insurance companies, the deduction is no longer limited to dividends received from payor corporations that are organized under Wisconsin law.

Under prior law, the corporation or insurance company receiving the dividend had to own, directly or indirectly, during the entire taxable year at least 80% of the total combined voting stock of the payor corporation. Additionally, for dividends received by insurance companies to be deductible, the payor corporation had to be a Wisconsin corporation.

**b. Eliminate Dividend Deduction Based on Payor's Activity in Wisconsin**

A corporation may no longer take a deduction for dividends received based on the amount of activity of the payor corporation in Wisconsin. Under prior law, a deduction was available if the payor corporation was subject to Wisconsin franchise or income tax law, filed a Wisconsin return, and did not deduct the dividends for Wisconsin tax purposes, and 50% or more of the payor corporation's net income or loss, after adjustment for tax purposes, was used in computing Wisconsin taxable income for the year preceding the payment of the dividends.

**4. Development Zone Credits Amended** (1993 Act 16, amend secs. 71.28(1dj)(am)9, 71.47(1dj)(am)9, 560.71(3)(a), and 560.745(2)(a) and create secs. 71.28(1dj)(am)8m, and 71.47(1dj)(am)8m, various effective dates.)

Effective August 12, 1993, the number of development zones that may be designated by the

Department of Development is increased from 12 to 14.

Effective for taxable years beginning on or after January 1, 1993, the development zones jobs credit is expanded. A credit is allowed for each person, whether or not he or she is a member of a targeted group, who is determined by the Department of Development to be a resident of the development zone in which he or she is employed. The credit is equal to 10% of the wages earned by such person during the first year of the person's employment in the development zone, up to a maximum credit of \$600.

**C. Farmland Preservation Credit**

**1. Lien Provisions for Land Released From Farmland Preservation Program Changed** (1993 Act 16, amend secs. 91.17(2) and 91.19(7) and (8) and create sec. 91.19(1m) and (13), effective for farmland preservation agreements or transition area agreements relinquished on or after August 12, 1993.)

When the owner of land subject to a farmland preservation agreement has died or is certified by a physician to be totally and permanently disabled, land released from the farmland preservation program is not subject to the lien provisions of sec. 91.19(8), Wis. Stats., in the amount of farmland preservation credits received in the past 10 years, plus interest. Under those circumstances, the Department of Agriculture, Trade and Consumer Protection shall relinquish the agreement when requested to do so.

The lien provisions of sec. 91.19(7) and (8), Wis. Stats., also do not apply to land covered by a farmland preservation agreement or transition area agreement which has been relinquished under sec. 91.19(1) or (1m), Wis. Stats., if the owner has satisfied all of the requirements relating to the agreement up to the date of the relinquishment.

Under prior law, the lien provisions did apply to land released as a result of the relinquishment of an agreement under sec. 91.19(7) or (8), Wis. Stats., even if the owner died or became disabled, or if the owner had satisfied the agreement requirements up to the date of the relinquishment.