



Tax Releases

"Tax releases" are designed to provide answers to the specific tax questions covered, based on the facts indicated. In situations where the facts vary from those given herein, the answers may not apply. Unless otherwise indicated, tax releases apply for

all periods open to adjustment. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.

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- (c) Itemized deduction credit under sec. 71.07(5)
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- (f) State historic rehabilitation credit under sec. 71.07(9r)
- (g) Alternative minimum tax under sec. 71.08
- (h) Married persons credit under sec. 71.07(6)
- (i) Development zone investment credit under sec. 71.07(2di)
- (j) Development zone location credit under sec. 71.07(2dL)
- (k) Payments to other states under sec. 71.07(7).

Section 71.08(1)(intro.), Wis. Stats. (1993-94), imposes an alternative minimum tax on individuals, estates, and trusts if the income tax under sec. 71.02, Wis. Stats., not considering the claim of right credit under sec. 71.07(1), development zone investment, jobs, location, and sales tax credits under secs. 71.07(2di), (2dj), (2dL), and (2ds), 71.28(1di), (1dj), (1dL), and (1ds), and 71.47(1di), (1dj), (1dL), and (1ds), farmers' drought property tax credit under secs. 71.07(2fd), 71.28(1fd), and 71.47(1fd), farmland tax relief credit under secs. 71.07(3m), 71.28(2m), and 71.47(2m), married persons credit under sec. 71.07(6), earned income tax credit under sec. 71.07(9e), homestead credit under subch. VIII, farmland preservation

INDIVIDUAL INCOME TAXES

1 Carryforward of Historic Rehabilitation Credits by Claimants Subject to Alternative Minimum Tax

Statutes: Sections 71.07(9m) and (9r), 71.08, and 71.10(4), Wis. Stats. (1993-94)

Background: Sections 71.07(9m) and (9r), Wis. Stats. (1993-94), provide for a supplement to the feder-

al historic rehabilitation credit and a state historic rehabilitation credit, respectively. Each of these provisions provides for a 15-year carryforward of unused credits.

For individuals, sec. 71.10(4), Wis. Stats. (1993-94), requires computations to be made in the following order:

- (a) Income tax under sec. 71.06
- (b) Dependent credit and senior citizen credit under sec. 71.07(8)

credit under subch. IX, and credit for taxes paid to other states under sec. 71.07(7), is less than the tax under sec. 71.08.

Facts and Question: An individual taxpayer calculates a state historic rehabilitation tax credit of \$10,000 for 1994. The individual computes his 1994 Wisconsin tax liability as follows:

Income tax (gross tax)	\$4,000
Dependent credit	(100)
Itemized deduction credit	(300)
School property tax credit	(200)
State historic rehabilitation credit	<u>(3,400)</u>
Regular income tax	\$ 0
Alternative minimum tax	\$1,600.

How much of the taxpayer's 1994 historic rehabilitation credit is available to be carried forward to 1995?

Answer: Of the taxpayer's \$10,000 1994 historic rehabilitation credit, \$8,200 is available to be carried forward to 1995. Since the historic rehabilitation credit cannot offset the alternative minimum tax, the historic rehabilitation credit is considered utilized to the extent needed to reduce the taxpayer's regular Wisconsin income tax to the alternative minimum tax amount. Thus, \$1,800 [\$4,000 gross tax - \$100 dependent credit - \$300 itemized deduction credit - \$200 school property tax credit - \$1,600 alternative minimum tax = \$1,800] of the historic rehabilitation credit is utilized in 1994. □

HOMESTEAD CREDIT

2 Effect of General Relief on Homestead Credit

Statutes: Section 71.52(5), (6) and (8), Wis. Stats. (1993-94)

Wis. Adm. Code: Sections Tax 14.03(5)(a)3, June 1993 Register, and

Tax 14.05(3)(b), January 1991 Register

Background: General relief is a public assistance program of the state of Wisconsin. The benefits are administered by each county. Counties pay general relief benefits to needy recipients by various methods.

General relief benefits are sometimes paid directly to the recipient, by check. In other instances the benefits are paid, by check or voucher, to the recipient's landlord for rent, or to other providers of goods or services, such as to stores, utility companies, etc.

Some counties require general relief recipients to work on "work relief projects" established by the county, in exchange for the general relief benefits. The time spent working on the work relief project is credited at a specific hourly rate, and the number of hours required to work is proportionate to the amount of general relief benefits the recipient receives (including payments to third parties such as landlords or providers). Sec. 49.05, Wis. Stats. (1993-94).

Facts and Questions 1a and b: For all twelve months of 1994, Claimant A received general relief benefits of \$200 per month from County X, for a total of \$2,400. The checks were issued to Claimant A, who added \$100 per month from other sources, to pay his rent of \$300 per month (\$3,600 for the year).

Question 1a: Are the general relief benefits of \$2,400 paid to Claimant A includable in household income on his 1994 homestead credit claim (Schedule H)?

Answer 1a: Yes. "Household income" includes all income received by a claimant or a member of the claimant's household (sec. 71.52(5), Wis. Stats. (1993-94)), and "income"

includes cash public assistance and general relief (sec. 71.52(6), Wis. Stats. (1993-94)). Since Claimant A received the general relief benefits directly from County X, the benefits must be included as household income on Schedule H.

Question 1b: May Claimant A include in the computation of rent constituting property taxes accrued, the full \$3,600 of rent paid?

Answer 1b: Yes. "Rent constituting property taxes accrued" is based on rent actually paid by the claimant and his or her household (sec. 71.52(8), Wis. Stats. (1993-94)). Since Claimant A received the general relief benefits from County X and he directly paid the entire rent of \$3,600 to his landlord, the full amount may be claimed.

Facts and Questions 2a and b: Assume the same facts as in Facts and Question 1, except that Claimant A lived in County Y, and County Y paid the general relief benefits by issuing a voucher or a check to Claimant A's landlord.

Question 2a: Are Claimant A's general relief benefits of \$2,400 includable in household income?

Answer 2a: No. The general relief benefits are not received by the claimant as provided under sec. 71.52(5), Wis. Stats. (1993-94). Income does not include relief in kind supplied by a governmental agency, such as payments made directly to a supplier of goods or services, including rent (sec. 71.52(6), Wis. Stats. (1993-94), and sec. Tax 14.03(5)(a)3, Wis. Adm. Code). General relief benefits are not includable in income on Schedule H if paid to another party or if paid to the claimant and a third party.

Question 2b: May the \$2,400 of rent paid through general relief bene-

fits which were paid to Claimant A's landlord by County Y be included in the calculation of Claimant A's rent constituting property taxes accrued?

Answer 2b: No. The \$2,400 was paid by County Y rather than by the claimant as required under sec. 71.52(8), Wis. Stats. (1993-94). Indirect payments of rent may not be included (sec. Tax 14.05(3)(b), Wis. Adm. Code).

Note: In this situation, Claimant A's total rent for 1994 is \$3,600. The \$1,200 paid directly by Claimant A may be included in the calculation of his rent constituting property taxes accrued.

Question 3: Would the answers to Questions 2a and 2b differ if Claimant A had been required to work under a work relief project?

Answer 3: No. Rent paid to Claimant A's landlord by County Y is not includable in household income and may not be included in the calculation of rent constituting property taxes accrued, even if Claimant A participates in a work relief project. Wisconsin statutes do not differentiate between assistance payments requiring the performance of services and payments without such a condition. There is no basis for differential treatment between the two types of situations. The performance of work as part of a work relief project has no bearing on either household income or rent constituting property taxes accrued on a homestead credit claim. □

HOMESTEAD, FARMLAND PRESERVATION CREDITS

3 Proceeds From the Surrender of an Insurance Policy

Statutes: Sections 71.52(6) and 71.58(7), Wis. Stats. (1993-94)

Wis. Adm. Code: Section Tax 14.03(4)(intro.) and (b)(intro.) and 8 and (5)(a)(intro.) and 4, June 1993 Register

Background: Under sec. 71.52(6), Wis. Stats. (1993-94), "income," for homestead credit purposes, includes "the gross amount of any pension or annuity." Section 71.58(7), Wis. Stats. (1993-94), references the homestead credit definition of income for farmland preservation credit purposes.

"Income" is further defined in the Administrative Rules. Section Tax 14.03(4)(b)8, Wis. Adm. Code, provides that proceeds from a personal endowment insurance policy or annuity contract purchased by the recipient of the proceeds are includable in income for homestead credit purposes. Specifically excluded from income, however, under sec. Tax 14.03(5)(a)4, Wis. Adm. Code, are lump sum insurance proceeds received for a recipient's disability or loss of limb and lump sum life insurance proceeds received by a beneficiary. These same provisions apply for farmland preservation credit purposes.

Facts and Question 1: Claimant A is filing a 1994 Wisconsin farmland preservation credit claim. Claimant A owned a whole life insurance policy, which he cashed in or "surrendered" in 1994. He received the total cash value of the policy, which was \$8,000, consisting of \$6,000 in premiums that he had paid in, plus \$2,000 of accrued interest.

Are the \$8,000 of proceeds that Claimant A received from the surrender of his whole life insurance policy includable in income on his 1994 farmland preservation credit claim?

Answer 1: The \$2,000 of accrued interest is taxable income and thus includable on the farmland preserva-

tion credit claim (Schedule FC). However, the amount constituting the premiums he paid (\$6,000) is not includable on Schedule FC. A whole life policy is not an endowment insurance policy or an annuity contract, and thus sec. Tax 14.03(4)(b)8, Wis. Adm. Code, which provides for the inclusion of proceeds from those sources, is not applicable to Claimant A.

Facts and Question 2: Several years ago, Claimant B purchased a combination term life insurance and annuity policy. The annuity portion of her policy generated a cash value, but the term insurance portion of the policy did not. In 1994, Claimant B surrendered the entire policy and received the cash value of \$4,000. During the life of the policy Claimant B had paid premiums totaling \$5,000, consisting of \$2,000 for the term insurance portion and \$3,000 for the annuity portion.

Is any portion of the \$4,000 proceeds that Claimant B received from the surrender of her policy includable in income on her 1994 homestead credit claim?

Answer 2: The entire proceeds of \$4,000 must be included in income on Claimant B's 1994 homestead credit claim (Schedule H). The proceeds she received are all attributable to the annuity portion of the policy; \$1,000 of that amount (the \$4,000 of proceeds minus the \$3,000 of premiums she paid for the annuity) is accrued interest, which is taxable and thus includable as income on Schedule H (on line 9 or 10a). The \$3,000 representing the repayment of her premiums for the annuity portion of the policy must be included as income on Schedule H (on line 11e), as an annuity contract purchased by the recipient, per sec. Tax 14.03(4)(b)8, Wis. Adm. Code.