

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, 1996, 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, 1995, 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 1995 Apply Simultaneously for Wisconsin Purposes** (1995 Act 380, amend secs. 71.22(4)(i) and (j) and (4m)(g) and (h), 71.26(2)(b)9 and 10, 71.34(lg)(i) and (j), and 71.42(2)(h) and (i), effective for taxable years beginning after December 31, 1993, and before January 1, 1996.)

The federal Act Dealing With Self-Employed's Health Insurance Deduction and Other Provisions (Public Law 104-7) applies for Wisconsin franchise and income tax purposes at the same time as for federal purposes. For example, the Act prohibits C corporations and certain partnerships from deferring gain on certain involuntary conversions that occur on or after February 6, 1995, if the replacement property or stock is purchased from a related person. This provision also applies for Wisconsin purposes for involuntary conversions on or after February 6, 1995.

3. **Development and Enterprise Zone Credits Amended** (1995 Act 209, repeal secs. 71.28(1dj)(d) and (1ds)(c) and 71.47(1dj)(d) and (1ds)(c), amend secs. 71.28(1dd)(a)1 and 2, (1dj)(am)1, 3, and 8m and (h), (1dL)(ar), and (1ds)(h), 71.30(3)(eb), (ec), and (f), 71.47(1dd)(a)1 and 2, (1dj)(am) 1, 3, and 8m and (h), (1dL)(ar), and (1ds)(h), and 71.49(1)(eb), (ec), and (f), and create secs. 71.28(1dj)(am)4h and 4i and 71.47(1dj)(am)4h and 4i, effective dates are listed below.)

#### *Changes to Day Care Credit*

- a. For taxable years beginning on or after January 1, 1995, "day care center benefits" means benefits provided at a facility for persons who are physically or mentally incapable of caring for themselves as well as benefits provided at a day care facility that is licensed under sec. 48.65 or 48.69, Wis. Stats., and that for compensation provides care for at least 6 children.
- b. For taxable years beginning on or after January 1, 1997, "employment-related day care expenses" means amounts paid or

incurred by a claimant, during the 2-year period beginning with the day that the member of the targeted group begins work for the claimant, for providing or making day care center benefits available to a qualifying individual in order to enable a member of a targeted group to be employed by the claimant.

### *Changes to Jobs Credit*

- a. For taxable years beginning on or after January 1, 1996, the term "member of a targeted group" is defined in sec. 51(d) of the Internal Revenue Code as amended to December 31, 1995, with certain exceptions.
- b. Beginning April 25, 1996, for an employer to qualify for the jobs credit, its employees must be certified as members of a targeted group within 90 days after they begin employment. Under prior law, the deadline for receiving certification was 30 days.
- c. For taxable years beginning on or after January 1, 1997, the amount of the jobs credit is (a) 25% of the qualified first-year wages if the wages are paid to an applicant for a Wisconsin works employment position for service either in an unsubsidized position or in a trial job under sec. 49.147(3), Wis. Stats., and (b) 20% of the qualified first-year wages paid to persons who are not applicants for Wisconsin works employment positions. Under prior law, the amount of credit was 40% of the qualified first-year wages paid.
- d. For taxable years beginning on or after January 1, 1997, the amount of qualified first-year wages that may be taken into account in calculating the jobs credit is increased from \$6,000 to \$13,000.
- e. For taxable years beginning on or after January 1, 1997, an additional 10% credit may be claimed for qualified second-year wages paid to a person who is a resident of the development zone in which he or she is employed, up to a maximum credit

of \$600. Under prior law, the additional credit was limited to 10% of qualified first-year wages paid to a person who is a resident of the development zone in which he or she is employed, up to a maximum credit of \$600.

- f. For taxable years beginning on or after January 1, 1997, the development zones jobs credit is a nonrefundable credit, instead of a refundable credit, except in the case of an Indian business located on an Indian reservation.

The credit, including any credits carried over, may be offset only against the amount of the tax attributable to income from the business operations of the claimant in the development zone and against the tax attributable to income from the claimant's directly related business operations.

Partnerships, limited liability companies, and tax-option corporations may not claim the credit, but the eligibility for, and amount of, the credit shall be determined based on the entity's economic activity. The corporation, partnership, or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners, or members. Partners, members of limited liability companies, and tax-option corporation shareholders may claim the jobs credit in proportion to their ownership interest and may offset it against the tax attributable to their income from the entity's business operations in the development zone and against the tax attributable to their income from the entity's directly related business operations.

If a credit computed is not entirely offset against Wisconsin franchise or income tax otherwise due, the unused balance may be carried forward and credited against Wisconsin franchise or income taxes otherwise due for the following 15 taxable years to the extent not offset by these taxes otherwise due in all intervening years between the year in which the expense was in-

curred and the year in which the carryforward credit is claimed.

In the case of a change in ownership or business of a corporation, sec. 383 of the Internal Revenue Code applies to the carryover of unused credits.

#### *Changes to Location Credit*

Effective April 25, 1996, if the development zones location credit is claimed for an amount expended to acquire property, the property must have been acquired by the claimant after the place where the property is located was designated a development zone and the completed project must be placed in service after the claimant is certified for development zone tax benefits. In addition, the property must not have been previously owned by the claimant or a related person during the 2 years prior to the designation of the development zone.

Under prior law, the property had to be acquired by the claimant after the claimant was certified for tax benefits and the property must not have been previously owned by the claimant or a related person during the period the development zone was in existence or during the 2 years prior to the designation of the development zone.

#### *Changes to Sales Tax Credit*

For taxable years beginning on or after January 1, 1997, the development zones sales tax credit is a nonrefundable credit, instead of a refundable credit, except in the case of an Indian business located on an Indian reservation.

The credit, including any credits carried over, may be offset only against the amount of the tax attributable to income from the business operations of the claimant in the development zone and against the tax attributable to income from the claimant's directly related business operations.

Partnerships, limited liability companies, and tax-option corporations may not claim the

credit, but the eligibility for, and amount of, the credit shall be determined based on the entity's economic activity. The corporation, partnership, or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners, or members. Partners, members of limited liability companies, and tax-option corporation shareholders may claim the sales tax credit in proportion to their ownership interest and may offset it against the tax attributable to their income from the entity's business operations in the development zone and against the tax attributable to their income from the entity's directly related business operations.

If a credit computed is not entirely offset against Wisconsin franchise or income tax otherwise due, the unused balance may be carried forward and credited against Wisconsin franchise or income taxes otherwise due for the following 15 taxable years to the extent not offset by these taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carryforward credit is claimed.

In the case of a change in ownership or business of a corporation, sec. 383 of the Internal Revenue Code applies to the carryover of unused credits.

#### **4. Corporations Required to Report Nontaxable Income** (1995 Act 428, amend secs. 71.24(l) and 71.44(l)(a), effective for taxable years beginning on or after January 1, 1996.)

Every corporation, which is required to file a Wisconsin franchise or income tax return and has income that is not subject to Wisconsin taxation, must include with its return a report that identifies each item of its nontaxable income.

#### **5. Exemption for Certain Income from Viatical Settlement Contracts** (1995 Act 371, renumber sec. 71.26(3)(a) to sec. 71.26(3)(ar) and create secs. 71.26(3)(ag) and 71.45(2)(a)14, effective for taxable years beginning on or after January 1, 1996.)

Income received by the original policyholder or original certificate holder from the sale of a life insurance policy or certificate, or the sale of the death benefit under a life insurance policy or certificate, under a viatical settlement contract is exempt from Wisconsin franchise or income tax.

A viatical settlement contract is a written agreement providing for the payment to the policyholder of a life insurance policy, or to the certificate holder of a group life insurance certificate, insuring the life of a person who has a catastrophic or life-threatening illness or condition, in an amount that is less than the expected death benefit under the policy or certificate, for assigning, selling, devising, or otherwise transferring the ownership of or the death benefit under the policy or certificate to the person paying the viatical settlement.

**6. Deduction for Certain Telephone Company Taxes** (1995 Act 351, amend sec. 71.26(3)(f) and repeal and recreate sec. 71.26(3)(f), effective dates are listed below.)

The changes to sec. 71.26(3)(f) modify sec. 164(a) of the Internal Revenue Code so that the license fees imposed on the gross receipts of telephone companies under sec. 76.38, Wis. Stats., are deductible until the license fees are discontinued on May 15, 1998. Beginning with taxes due in 1998, the tax imposed under sec. 76.81, Wis. Stats., on the real property and tangible personal property of telephone companies and the transitional adjustment fee imposed under sec. 76.91, Wis. Stats., on cellular mobile radio communications utilities and on each person that provides basic local exchange service on the effective date of this section are deductible.

**7. Deduction Denied for Wages Paid to Entertainers if Withholding Requirements Are Not Met** (1995 Act 428, renumber sec. 71.26(3)(e) to sec. 71.26(3)(e)(intro.) and amend sec. 71.26(3)(e)(intro.) as renumbered and create secs. 71.26(3)(e)3 and 71.34(1)(h), effective for taxable years beginning on or after January 1, 1996.)

A corporation or tax-option (S) corporation may not deduct payments for wages, salaries, bonuses, interest, or other expenses paid to an entertainer or entertainment corporation unless it has complied with secs. 71.63(3)(b), 71.64(4) and (5), and 71.80(15)(e), Wis. Stats., relating to withholding from payments made to entertainers.

**Note:** This provision does not apply to insurance companies.

**8. Extensions for Filing Corporate Franchise or Income Tax Returns** (1995 Act 428, amend secs. 71.24(7) and 71.44(3), effective for taxable years beginning on or after January 1, 1996.)

A corporation that has not received an extension of time to file its federal income tax return from the Internal Revenue Service may receive an extension to file its Wisconsin return of 30 days or until the original due date of the corporation's federal return, whichever is later.

Under prior law, extensions of time to file generally could not exceed 30 days. However, the department could allow a 6-month extension to cooperatives and domestic international sales corporations and a 3-month extension to foreign corporations that do not have an office or place of business in the United States.

Any extension of time granted by federal law or the Internal Revenue Service for the filing of the corresponding federal return continues to extend the time for filing the Wisconsin return to 30 days after the federal due date.

**9. Define Date a Franchise or Income Tax Return is Considered Filed** (1995 Act 428, amend sec. 71.77(8) and create secs. 71.22(5s), 71.42(2s), and 71.738, effective June 21, 1996.)

Under current law, sec. 71.77(2), Wis. Stats., requires the department to give notice of assessments within 4 years of the date the taxpayer's franchise or income tax return was

filed. Prior to being amended in Act 428, sec. 71.77(8), Wis. Stats., provided that for purposes of sec. 71.77, Wis. Stats., a return filed before the last day prescribed by law for filing the return is considered filed on such last day.

The amendment to sec. 71.77(8) and the creation of secs. 71.22(5s), 71.42(2s), and 71.738 in Act 428 define the "last day prescribed by law" as the unextended due date of the return. A return filed on or before the last day prescribed by law for the filing of the return is considered as filed on such last day, and a return filed after the last day prescribed by law is considered as filed on the date that the return is received by the Department of Revenue.

### C. Homestead Credit

#### 1. Wisconsin Works Benefits May Reduce Rent or Property Taxes (1995 Act 289, amend sec. 71.54(2)(a)(intro.), effective May 10, 1996.)

A provision in the Homestead Credit statutes requires property tax or rent constituting property taxes to be reduced by one-twelfth for each month or portion of a month for which a claimant received certain public assistance payments. This provision is amended so it also applies if a claimant participated in Wisconsin Works ("W-2") in the community service job program or the transitional placement program.

### D. Sales and Use Taxes

#### 1. Retailers' Discount Changed (1995 Act 280, repeal sec. 77.61(4)(b) and amend secs. 25.40(1)(a)1 and 77.61(4)(c), effective for taxes payable on returns filed for periods that end on or after January 1, 1997.)

The retailer's discount deducted on a sales and use tax return (e.g., Form ST-12) is computed by multiplying the sales and use tax payable on retail sales by 0.5%, with the following exception.

**Exception:** If multiplying the sales and use tax payable on retail sales by 0.5% results in \$10 or less, the retailer's discount is the lesser of the following:

1. \$10, or
2. Sales or use tax payable on retail sales

**Example 1:** Company A files its sales and use tax return (Form ST-12) on a monthly basis. On Form ST-12 for the month ending January 31, 1997, Company A reports taxable receipts of \$60,000. The sales tax payable on those receipts is \$3,000 ( $\$60,000 \times 5\%$ ).

Multiplying the sales tax payable (\$3,000) by 0.5% equals \$15. Since this amount (\$15) is more than \$10, the exception described above does not apply. Company A may deduct a retailer's discount of \$15.

**Example 2:** Company B files its sales and use tax return (Form ST-12) on an annual basis. On Form ST-12 for the year ending December 31, 1997, Company B reports taxable receipts of \$1,120. The sales tax payable on those receipts is \$56 ( $\$1,120 \times 5\%$ ).

Multiplying the sales tax payable (\$56) by 0.5% equals 28¢. Since this amount (28¢) is \$10 or less, the exception described above applies. Company B may deduct a retailer's discount of \$10 (the lesser of \$10 or the \$56 of sales tax payable on retail sales).

**Example 3:** Company C files its sales and use tax return (Form ST-12) on a quarterly basis. On Form ST-12 for the quarter ending March 31, 1997, Company C reports taxable receipts of \$120. The sales tax payable on those receipts is \$6 ( $\$120 \times 5\%$ ).

Multiplying the sales tax payable (\$6) by 0.5% equals 3¢. Since this amount (3¢) is \$10 or less, the exception described above applies. Company C may deduct a retailer's discount of \$6 (the lesser of \$10 or the \$6 sales tax payable on retail sales).