



Wisconsin TAX BULLETIN

New Wisconsin Tax Laws

The Wisconsin Legislature enacted a number of changes to the Wisconsin tax laws in its November, 1997 session. This issue of the *Wisconsin Tax Bulletin* contains an index and brief descriptions of the major individual and fiduciary income, corporation franchise or income, sales/use, withholding, and excise tax provisions. These provisions are contained in the following Acts:

- 1997 Wisconsin Act 35 - Publication Date 12/30/97
- 1997 Wisconsin Act 37 - Publication Date 12/30/97
- 1997 Wisconsin Act 41 - Publication Date 12/15/97

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A. Individual and Fiduciary Income Taxes

1. Portions of Federal Public Laws 105-33 and 105-34 Apply for Wisconsin (1997 Act 37, amend secs. 71.01(6)(e), (f), (g), (h), (i), (j), (k), and (L) and (7r) and 71.77(3) and (5) and create sec. 71.01(6)(m), effective at the same time as for federal tax purposes, except as indicated below.)

The changes made to the Internal Revenue Code by the federal Balanced Budget Act of 1997 (Public Law 105-33) and Taxpayer Relief Act of 1997 (Public Law 105-34) that affect taxable years which begin before January 1, 1998, apply for Wisconsin income tax purposes at the same time as for federal purposes. The changes made by these federal Acts that first affect taxable years beginning on or after January 1, 1998, have not been adopted for Wisconsin purposes.

For property placed in service in taxable years beginning on or after January 1, 1997, individuals and fiduciaries may compute depreciation or amortization as follows:

- For property first placed into service on or after January 1, 1997, and before August 6, 1997, 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, 1996, at the taxpayer's option.
- For property first placed into service on or after August 6, 1997, 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 August 5, 1997, at the taxpayer's option.

As a result of the passage of 1997 Wisconsin Act 37, a number of new federal provisions that take effect for the 1997 taxable year also apply for Wisconsin purposes

at the same time. Some examples of these new provisions are:

1. The exclusion for up to \$5,250 of educational assistance benefits received by an employee with respect to courses beginning on or after July 1, 1997.
2. The \$250,000 exclusion (\$500,000 if married filing a joint return) for gain from the sale of a personal residence after May 6, 1997.
3. Elections relating to income from the sale of livestock sold on account of weather-related conditions.

Note: The last issue of the Wisconsin Tax Bulletin (Number 104, dated November, 1997) also described changes in Wisconsin individual and fiduciary tax laws which affect the 1997 taxable year. The law changes described in Wisconsin Tax Bulletin 104 were made by 1997 Wisconsin Act 27.

2. Taxation of Nonresidents and Part-Year Residents (1997 Act 41, amend sec. 71.06(2s)(a), effective December 31, 1997.)

The manner in which nonresidents and part-year residents compute the amount of Wisconsin income tax payable on their Wisconsin taxable income was changed by 1997 Wisconsin Act 27. A description of that change can be found on page 8 of issue 104 of the Wisconsin Tax Bulletin. As created by 1997 Wisconsin Act 27, sec. 71.06(2s)(a) provided that the new method of computation first applied to taxable years beginning after December 31, 1996, and ending before January 1, 1998.

1997 Wisconsin Act 41 changes the initial applicability so that the new calculation method first applies to taxable years beginning after December 31, 1996 and before January 1, 1998. (Note: As amended, the new calculation method applies to all 1997 taxable years, both calendar and fiscal years.)

B. Corporation Franchise or Income Taxes

1. **Portions of Federal Public Laws 105-33 and 105-34 Apply for Wisconsin** (1997 Act 37, amend secs. 71.22(4)(e), (f), (g), (h), (i), (j), (k), and (L) and (4m)(c), (d), (e), (f), (g), (h), (i), and (j), 71.26(2)(b)5., 6., 7., 8., 9., 10., 11., and 12., and (3)(y), 71.34(1g)(e), (f), (g), (h), (i), (j), (k), and (L), 71.365(1m), 71.42(2)(d), (e), (f), (g), (h), (i), (j), and (k), and 71.45(2)(a)13., and 71.77(3) and (5) and create secs. 71.22(4)(m) and (4m)(k), 71.26(2)(b)13., 71.34(1g)(m), and 71.42(2)(L), effective at the same time as for federal tax purposes, except as indicated below.)

The changes made to the Internal Revenue Code by the federal Balanced Budget Act of 1997 (Public Law 105-33) and Taxpayer Relief Act of 1997 (Public Law 105-34) that affect taxable years which begin before January 1, 1998, apply for Wisconsin franchise and income tax purposes at the same time as for federal purposes. The changes made by these federal Acts that first affect taxable years beginning on or after January 1, 1998, have not been adopted for Wisconsin purposes.

For property placed in service in taxable years beginning on or after January 1, 1997, corporations (except nonprofit organizations, RICs, REMICs, REITs, and FASITs), tax-option (S) corporations, and insurance companies may compute depreciation or amortization as follows:

- For property first placed into service on or after January 1, 1997, and before August 6, 1997, 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, 1996, at the taxpayer's option.

- For property first placed into service on or after August 6, 1997, 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 August 5, 1997, at the taxpayer's option.

Note: The last issue of the Wisconsin Tax Bulletin (Number 104, dated November, 1997) also described changes in Wisconsin corporation franchise and income tax laws which affect the 1997 taxable year. The law changes described in Wisconsin Tax Bulletin 104 were made by 1997 Wisconsin Act 27.

C. Sales and Use Taxes

1. **Exemption Modified for Meals, Food, and Beverages Furnished by Institutions of Higher Education** (1997 Act 41, amend sec. 77.54(20)(c)5, effective December 31, 1997.)

Section 77.54(20)(c)5, Wis. Stats. (1995-96), as amended by 1997 Act 27, provided an exemption for meals, food, food products or beverages furnished in accordance with any contract or agreement by a public or private institution of higher education to:

- a. an undergraduate student, a graduate student, or a student enrolled in a professional school if the student is enrolled for credit at that institution and if the items are consumed by that student, or
- b. a National Football League team.

1997 Act 41 modifies the exemption to also include meals, food, food products or beverages paid for to such institution through the use of an account of such institution, if the meals, etc., are furnished by the institution, and the sales meet either condition a. or b. above.

Example: College A issues a debit card to Student B, who is an undergraduate student enrolled for credit at College A. Student B deposits funds into his debit card account with College A. As Student B uses the debit card to pay for meals and beverages purchased from College A, Student B's debit card account is charged for such meals and beverages. The meals and beverages are consumed by Student B.

These sales of meals and beverages by College A to Student B are exempt from sales and use tax.

D. Dry Cleaner's License Fee

1. Calculation of Dry Cleaner's License Fee for 1998 (1997 Act 41, create a nonstatutory provision, effective December 31, 1997.)

The dry cleaning facility license fee that is due on January 15, 1998, is equal to 1.8% of the dry cleaning facility's gross receipts from dry cleaning for the period October 14, 1997 through December 31, 1997.

The dry cleaning facility license fee that is due for years after 1998 is equal to 1.8% of the dry cleaning facility's gross receipts from dry cleaning for the previous year.

E. Withholding Tax

1. Withholding Tables (1997 Act 41, amend sec. 71.64(9)(b), as affected by 1997 Wisconsin Act 27, effective December 31, 1997.)

The Department of Revenue is directed to not adjust the Wisconsin withholding tax tables for any taxable year that begins before January 1, 2000 to reflect the following:

1. Changes in the dollar amounts of the Wisconsin income tax brackets which

result from the brackets being indexed under sec. 71.06(2e), Wis. Stats., as created by 1997 Wisconsin Act 27. (Note: Section 71.06(2e), as created by 1997 Wisconsin Act 27, provides that dollar amounts of the Wisconsin tax brackets are to be indexed for inflation for taxable years beginning on or after January 1, 1999.)

2. Changes in the dollar amounts of the Wisconsin standard deduction which result from indexing under sec. 71.05(22)(ds), Wis. Stats., as created by 1997 Wisconsin Act 27. (Note: Section 71.05(22)(ds), as created by 1997 Wisconsin Act 27, provides that the dollar amounts of the Wisconsin standard deduction are to be indexed for inflation for taxable years beginning on or after January 1, 1999.)

F. Excise Taxes

1. Reserve Licenses (1997 Act 41, amend sec. 125.51(3)(e)3 and (4)(br)1.b., c., and d., effective December 31, 1997.)

1997 Wisconsin Act 27 created a reserve "Class B" license, which authorizes the sale of intoxicating liquor to be consumed on the premises where sold, and established a quota on the number of these licenses which a municipality may issue. 1997 Wisconsin Act 41 corrects cross-references relating to a municipal clerk's duty to record certain information required for determining the municipality's quota of reserve "Class B" licenses. Act 41 also clarifies that a fee that is payable only upon the initial issuance of a "Class B" license is not an "annual" fee.

2. Computation of General Aviation Fuel Tax (1997 Act 41, amend sec. 78.58(3), effective January 1, 1998.)

Each general aviation fuel licensee at the time of making the monthly or quarterly

report shall compute and pay the full amount of the general aviation fuel tax for the next preceding month or quarter, which shall be computed as follows: the number of gallons of general aviation fuel placed into fuel supply tanks of an aircraft or into bulk storage facilities by the general aviation fuel licensee, multiplied by 0.06 and the resulting figure expressed in dollars.

A copy of 1997 Act 35 can be obtained via the Internet from www.legis.state.wi.us, by calling (608)266-2400, or by writing to:

Legislative Documents Room
Wisconsin State Legislature
P.O. Box 8952
Madison, WI 53708

G. Other

1. **Revisor's Correction Bill** (1997 Act 35, effective December 31, 1997.)

1997 Wisconsin Act 35 is a revisor's correction bill which repeals, consolidates, renumbers, amends and revises various provisions of the statutes for the purpose of correcting errors, supplying omissions, correcting and clarifying references, eliminating defects, anachronisms, conflicts, ambiguities and obsolete provisions, deleting, replacing or otherwise modifying language which discriminates on the basis of sex, reconciling conflicts and correcting unintended repeals. The following sections of the statutes administered by the Department of Revenue are affected by 1997 Act 35:

71.05(6)(b)22
71.07(5)(a)7
71.54(1)(c)1
71.54(2)(a)(intro.)
72.30(1)
77.54(7m)
77.54(20)(a)7
78.005(16)
78.55(1)
125.07(4)(cg)1
125.085(3)(bh)1
125.12(2)(ag)5
139.39(6)