



# Wisconsin TAX BULLETIN

## New Wisconsin Tax Laws

The Wisconsin Legislature 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, recycling surcharge, homestead credit, sales/use, dry cleaner fees, withholding, and excise tax provisions. These provisions are contained in 1999 Acts 5 and 9.

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

**CAUTION** The legislature is in special session and may make further changes to the Wisconsin tax laws. It is expected that the special session will be completed by November 11, 1999. If additional new laws are enacted, a special issue of the *Wisconsin Tax Bulletin* will be published to provide information about the tax law changes.

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## IN THIS ISSUE

### A. Individual and Fiduciary Income Taxes

|  | Effective Date  | Page |
|--|---|------|
| 1. Internal Revenue Code Reference Updated for 1999 for Individuals, Estates, and Trusts | Taxable years beginning on or after January 1, 1999.  | 5    |
| 2. Federal Laws Enacted During 1998 Apply Simultaneously for Wisconsin Purposes          | Taxable years beginning before January 1, 1999, at the same time as for federal tax purposes. | 5    |
| 3. Income Tax Rates Reduced  | Various effective dates.  | 5    |
| 4. Standard Deduction Increased  | Various effective dates.  | 7    |
| 5. Personal Exemption Deduction Allowed  | Various effective dates.  | 8    |
| 6. Itemized Deduction Credit Revised   | Taxable years beginning on or after January 1, 2000.  | 8    |
| 7. Armed Forces Member Tax Credit Allowed  | Taxable years beginning on or after January 1, 2000.  | 9    |
| 8. Married Couple Credit Increased   | Various effective dates   | 9    |

|  | Effective Date  | Page |
|--|---|------|
| 9. Certain Credits Eliminated  | Various effective dates   | 9    |
| 10. Filing Requirements to be Determined by Department   | Taxable years beginning on or after January 1, 2000.  | 9    |
| 11. Tuition Expense Deduction  | Taxable years beginning on or after January 1, 2000.  | 9    |
| 12. Subtraction for Repayment of Income Previously Taxed   | Taxable years beginning on or after January 1, 2000.  | 10   |
| 13. Repayments of Supplemental Unemployment Benefits: Deduction Allowed to Nonresidents  | Taxable years beginning on or after January 1, 2000.  | 10   |
| 14. Alimony Paid Deduction Allowed to Nonresidents   | October 29, 1999  | 10   |
| 15. Subtraction Allowed for Settlements  | Taxable years beginning on or after January 1, 1999.  | 10   |
| 16. School Property Tax Credit Modified  | Various effective dates   | 10   |
| 17. Refund From a Joint Return   | Effective for a judgment of divorced entered on or after October 29, 1999.                    | 10   |
| 18. Treatment of Lottery Prizes  | Taxable years beginning on or after January 1, 1999.  | 11   |
| 19. Farmland Tax Relief Credit Increased   | Effective for property taxes levied in 1999 and thereafter.                                   | 11   |
| 20. Method of Taxing Certain Trusts Changed  | Taxable years beginning on or after January 1, 1999.  | 11   |
| 21. Development Zone Credits Amended   | Various effective dates   | 12   |
| 22. Development Zone Investment Credit in Development Opportunity Zones  | Taxable years beginning on or after January 1, 2000.  | 12   |
| 23. Eliminate 90-Day Certification Requirement and Modify Definitions for Development Zones Jobs Credit  | Various effective dates.  | 12   |
| <b>B. Corporation Franchise or Income Taxes</b>  |   |      |
| 1. Internal Revenue Code References Updated for 1999 for Corporations, Tax-Option (S) Corporations, Insurance Companies, Nonprofit Organizations, Regulated Investment Companies, Real Estate Mortgage Investment Conduits, Real Estate Investment Trusts, and Financial Asset Securitization Investments Trusts | Taxable years beginning on or after January 1, 1999.  | 12   |
| 2. Federal Laws Enacted During 1998 Apply Simultaneously for Wisconsin Purposes.   | Taxable years beginning before January 1, 1999, at the same time as for federal tax purposes. | 13   |
| 3. Certain Activities Do Not Create Nexus  | Taxable years beginning on or after January 1, 2000.  | 13   |
| 4. Development Zone Credits Amended  | Various effective dates   | 13   |

|  | Effective Date  | Page |
|--|---|------|
| 5. Development Zone Investment Credit in Development Opportunity Zones                                 | Taxable years beginning on or after January 1, 2000.                          | 14   |
| 6. Eliminate 90 Day Certification Requirement and Modify Definitions for Development Zones Jobs Credit | Various effective dates.  | 14   |
| 7. Income, Gain or Loss Presumed Apportionable   | Taxable years beginning on or after January 1, 1999.                          | 14   |
| 8. Endangered Resources Donation Check-off   | Taxable years beginning on or after January 1, 2001.                          | 14   |
| 9. Treatment of Lottery Prizes   | Taxable years beginning on or after January 1, 1999.                          | 14   |
| 10. Exempt Family Care Districts From Taxation   | October 29, 1999  | 15   |
| 11. Farmland Tax Relief Credit Increased   | Effective for property taxes levied in 1999 and thereafter.                   | 15   |
| 12. Definition of "Doing Business" Expanded  | Taxable years beginning on or after January 1, 1999.                          | 15   |
| <b>C. Recycling Surcharge</b>  |   |      |
| 1. Temporary Recycling Surcharge Replaced with Permanent Recycling Surcharge                           | Taxable years beginning on or after January 1, 2000.                          | 15   |
| <b>D. Homestead Credit</b>   |   |      |
| 1. Household Income Limitation Increased, Credit Computation Changed                                   | Various effective dates.  | 16   |
| 2. Property Tax/Rent Reduction Required for "Caretaker of Newborn Child" Payments                      | Effective for 2000 and subsequent years' claims filed in 2001 and thereafter. | 16   |
| <b>E. Sales and Use Taxes</b>  |   |      |
| 1. Exempt Sales of Food and Beverages Given to Restaurant Employees                                    | December 1, 1999  | 16   |
| 2. Exempt Sales of and Admissions to Time-Share Property   | December 1, 1999  | 16   |
| 3. Expand Exemption for Electricity Sold for Use in Farming  | Sales on or after May 1, 2000   | 17   |
| 4. Occasional Sale Exemption for Auctions  | January 1, 2000   | 17   |
| 5. Exempt Certain Sales from Vending Machines  | July 1, 2001  | 17   |
| 6. Late Filing Fee Increased   | Returns for periods beginning after September 30, 1999.                       | 17   |
| 7. Agreements With Direct Marketers  | October 29, 1999  | 18   |
| 8. Transfer of Certain Transmission Facilities Are Not Retail Sales                                    | October 29, 1999  | 18   |
| 9. Exempt Collection of Public Benefit Fees  | October 29, 1999  | 18   |

|  | Effective Date                              | Page |
|--|---|------|
| <b>F. Dry Cleaner Fees</b>   |   |      |
| 1. Dry Cleaning License Fees to be Paid in Installments  | License fee installments due April 25, 2000 | 18   |
| 2. Formal Wear Rental Firms Not Considered Dry Cleaning Facilities                             | October 29, 1999                            | 18   |
| <b>G. Excise Tax</b>   |   |      |
| 1. Active Duty Military Personnel Allowed to Bring Additional Tax-Free Liquor Into Wisconsin   | October 29, 1999                            | 19   |
| 2. Definition of Indian Tribe Modified   | October 29, 1999                            | 19   |
| 3. Trust Land Defined  | October 29, 1999                            | 19   |
| 4. Tobacco Products Tax Changed to Excise Tax  | Various effective dates.                    | 19   |
| 5. Gambling Offenses Not Grounds for License Suspensions                                       | October 29, 1999                            | 20   |
| 6. Alcohol Beverage Sales at Coliseums   | October 29, 1999                            | 20   |
| 7. Wine License for Restaurants  | October 29, 1999                            | 20   |
| 8. Above Quota License for Hotels  | October 29, 1999                            | 20   |
| <b>H. Withholding Tax</b>  |   |      |
| 1. New Withholding Tables Required   | October 29, 1999                            | 20   |
| 2. Withholding Tax Provisions Altered  | Various effective dates.                    | 20   |
| <b>I. Other</b>  |   |      |
| 1. Business Tax Registration - Statement Required When Applicant has No Social Security Number | October 29, 1999                            | 20   |
| 2. Occupational License Revocation Program Changes   | October 29, 1999                            | 21   |
| 3. Installment Agreement Fee Imposed   | October 29, 1999                            | 21   |

## A. Individual and Fiduciary Income Taxes

### 1. Internal Revenue Code Reference Updated for 1999 for Individuals, Estates, and Trusts

(1999 Act 9, amend sec. 71.01(6)(m) and (7r), repeal sec. 71.01(6)(e), and create sec. 71.01(6)(n), effective for taxable years beginning on or after January 1, 1999.)

For taxable years that begin on or after January 1, 1999, “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, 1998, with the exceptions indicated below. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes.

- Section 1311 of federal Public Law 104-188 relating to the elimination of earnings and profits from pre-1983 S corporation years from an S corporation’s accumulated earnings and profits does not apply for Wisconsin.
- Section 13113 of federal Public Law 103-66 relating to the exclusion for 50% of the gain from the sale or exchange of qualified small business stock held for more than five years does not apply for Wisconsin.
- For property placed in service in taxable years beginning on or after January 1, 1999, 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, 1998, at the taxpayer’s option.

### 2. Federal Laws Enacted During 1998 Apply Simultaneously for Wisconsin Purposes

(1999 Act 9, amend sec. 71.01(6)(f), (g), (h), (i), (j), (k), (L), and (m) and create nonstatutory provision, effective for taxable years beginning before January 1, 1999, at the same time as for federal tax purposes.)

The following federal laws enacted during 1998 apply for Wisconsin income tax purposes at the same time as for federal purposes:

- The Transportation Equity Act for the 21st Century (Public Law 105-178), enacted June 9, 1998.
- The Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), enacted July 22, 1998.
- The federal Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277), enacted October 21, 1998.

For example, Public Law 105-206 liberalized the rules for deducting the cost of meals provided to employees on an employer’s premises. If more than one-half of the employees are furnished meals at the employer’s location for the convenience of the employer, all such meals are treated as furnished for the convenience of the employer. The value of all such meals is excludable from the employee’s income and deductible by the employer. This provision also applies for Wisconsin purposes at the same time as for federal purposes (taxable years beginning before, on, or after July 22, 1998).

### 3. Income Tax Rates Reduced

(1999 Act 9, amend secs. 71.06(1m)(intro.), (2)(c)(intro.), and (d)(intro.), (2e) (2m), and (2s)(b), 71.125, 71.17(6), and 71.67(4)(a) and (5)(a), and create sec. 71.06(1n), (1p), (2)(e),(f),(g) and (h), and (2s)(c) and (d), various effective dates.)

#### Taxable Years Beginning in 2000:

- The income tax rates for single persons, heads of households, and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, are as follows:
  - a. On all taxable income from \$0 to \$7,500, 4.73%.
  - b. On all taxable income exceeding \$7,500 but not exceeding \$15,000, 6.33%.
  - c. On all taxable income exceeding \$15,000 but not exceeding \$112,500, 6.55%.
  - d. On all taxable income exceeding \$112,500, 6.75%.

(Note: An electing small business trust is subject to tax at the highest rate that applies to single persons. The above rates also apply to a qualified funeral trust that makes the election under sec. 685 of the Internal Revenue Code.)

- The income tax rates for married persons filing jointly are as follows:

- On all taxable income from \$0 to \$10,000, 4.73%.
- On all taxable income exceeding \$10,000 but not exceeding \$20,000, 6.33%.
- On all taxable income exceeding \$20,000 but not exceeding \$150,000, 6.55%.
- On all taxable income exceeding \$150,000, 6.75%.

- The income tax rates for married persons filing separately are as follows:

- On all taxable income from \$0 to \$5,000, 4.73%.
- On all taxable income exceeding \$5,000 but not exceeding \$10,000, 6.33%.
- On all taxable income exceeding \$10,000 but not exceeding \$75,000, 6.55%.
- On all taxable income exceeding \$75,000, 6.75%.

#### **Taxable Years Beginning On or After January 1, 2001:**

- The income tax rates for single persons, heads of households, and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, are as follows:
  - On all taxable income from \$0 to \$7,500, 4.6%,
  - On all taxable income exceeding \$7,500 but not exceeding \$15,000, 6.15%.

- On all taxable income exceeding \$15,000 but not exceeding \$112,500, 6.5%.

- On all taxable income exceeding \$112,500, 6.75%.

(Note: An electing small business trust is subject to tax at the highest rate that applies to single persons. The above rates also apply to a qualified funeral trust that makes the election under sec. 685 of the Internal Revenue Code.)

- The income tax rates for married persons filing jointly are as follows:

- On all taxable income from \$0 to \$10,000, 4.6%.
- On all taxable income exceeding \$10,000 but not exceeding \$20,000, 6.15%.
- On all taxable income exceeding \$20,000 but not exceeding \$150,000, 6.5%.
- On all taxable income exceeding \$150,000, 6.75%.

- The income tax rates for married persons filing separately are as follows:

- On all taxable income from \$0 to \$5,000, 4.6%.
- On all taxable income exceeding \$5,000 but not exceeding \$10,000, 6.15%.
- On all taxable income exceeding \$10,000 but not exceeding \$75,000, 6.5%.
- On all taxable income exceeding \$75,000, 6.75%.

#### **Nonresidents and Part-Year Residents**

For nonresidents and part-year residents of Wisconsin, the tax brackets are prorated by a fraction. The numerator of the fraction is Wisconsin adjusted gross income and the denominator is federal adjusted gross income.

For married persons filing separately, “adjusted gross income” means the separate adjusted gross income of each spouse. For married persons filing jointly, “adjusted gross income” means the total adjusted gross income of both spouses.

The proration also applies when one spouse is a full-year resident and the other spouse is a non-resident or part-year resident of Wisconsin.

### Indexing

The dollar amounts in each tax bracket are indexed each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the month of August of 1997, as determined by the federal Department of Labor. However, for taxable years beginning January 1, 2001, and after, the dollar amount in the top bracket shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August, 1999.

#### 4. Standard Deduction Increased (1999 Act 4, amend sec. 71.05(22)(dm), (ds), and (f)4.b. and create sec. 71.05(22)(dp) and (dt), various effective dates.)

For taxable years beginning on or after January 1, 2000, the Wisconsin standard deduction will be as follows:

##### *Single Individuals:*

- If Wisconsin adjusted gross income is less than \$10,380, the standard deduction is \$7,200.
- If Wisconsin adjusted gross income is at least \$10,380, the standard deduction is the amount obtained by subtracting from \$7,200, 12% of Wisconsin adjusted gross income in excess of \$10,380, but not less than \$0.

##### *Head of Household:*

- If Wisconsin adjusted gross income is less than \$10,380, the standard deduction is \$9,300.
- If Wisconsin adjusted gross income is at least \$10,380, the standard deduction is the amount obtained by subtracting from \$9,300, 22.515% of Wisconsin adjusted gross income in excess of \$10,380, but not less than \$0, until the adjusted gross income amount at which the standard deduction is equal to the standard deduction for a single individual at the same adjusted gross income amount.
- If Wisconsin adjusted gross income is more than the amount at which the standard deduction is equal to the standard deduction for a single individual at the same adjusted gross income amount, the standard deduction is calculated as if the head of household were a single individual.

##### *Married Filing a Joint Return:*

- If joint Wisconsin adjusted gross income is less than \$14,570, the standard deduction is \$12,970.
- If joint Wisconsin adjusted gross income is at least \$14,570, the standard deduction is the amount obtained by subtracting from \$12,970, 19.778% of joint Wisconsin adjusted gross income in excess of \$14,570, but not less than \$0.

##### *Married Filing a Separate Return:*

- If Wisconsin adjusted gross income is less than \$6,920, the standard deduction is \$6,160.
- If Wisconsin adjusted gross income is at least \$6,920, the standard deduction is the amount obtained by subtracting from \$6,160, 19.778% of Wisconsin adjusted gross income in excess of \$6,920, but not less than \$0.

Nonresidents and part-year residents of Wisconsin continue to calculate the standard deduction on the basis of federal adjusted gross income and to prorate the deduction on the basis of Wisconsin

sin adjusted gross income to federal adjusted gross income.

Under prior law, the dollar amounts of the standard deduction and the dollar amounts of Wisconsin adjusted gross income at which the phase-out of the deduction begins were indexed each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the month of August of the year before the previous year.

Indexing is eliminated for taxable years beginning in 2000. However, for taxable years beginning in 2001, the dollar amounts of the standard deduction and the dollar amounts of Wisconsin adjusted gross income at which the phase-out of the deduction begins will again be indexed each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 1999. Each revised amount shall be rounded to the nearest multiple of \$10.

**5. Personal Exemption Deduction Allowed** (1999 Act 9, amend sec. 71.01(16) and create sec. 71.05(23), various effective dates.)

**Taxable years beginning in 2000:**

A person may deduct the following amounts when computing Wisconsin taxable income:

- A personal exemption of \$600 for himself or herself. A \$600 personal exemption may also be deducted for the person's spouse if a joint return is filed.
- An additional exemption of \$200 if the person has reached the age of 65 before the close of the taxable year. If married filing a joint return, \$200 may also be deducted for the person's spouse if he or she has reached the age of 65 before the close of the taxable year.
- An exemption of \$600 for each individual for whom the person is entitled to claim as a

dependent under sec. 151(c) of the Internal Revenue Code.

**Note:** A personal exemption deduction may not be claimed by a person who qualifies to be claimed as a dependent on another person's income tax return.

*Nonresidents and Part-Year Residents:* For nonresidents and part-year residents, the personal exemptions are prorated by a fraction. The numerator of the fraction is Wisconsin adjusted gross income and the denominator is federal adjusted gross income.

For married persons filing separately, "adjusted gross income" means the separate adjusted gross income of each spouse and for married persons filing jointly, "adjusted gross income" means the total adjusted gross income of both spouses.

The proration also applies when one spouse is a full-year resident and the other spouse is a non-resident or part-year resident of Wisconsin.

**Taxable years beginning in 2001 and thereafter:**

The personal exemption deduction for the person, the person's spouse, and dependents increases from \$600 to \$700.

For persons who have reached the age of 65 before the close of the taxable year, the additional exemption deduction increases from \$200 to \$250.

**6. Itemized Deduction Credit Revised** (1999 Act 9, create sec. 71.07(5)(a)7 and 8, effective for taxable years beginning on or after January 1, 2000.)

The following items may not be used in the computation of the Wisconsin itemized deduction credit:

- Employment-related educational expenses to the extent the expenses were claimed as a deduction for tuition expenses on the Wisconsin income tax return.
- Amounts allowed as miscellaneous itemized deductions for federal tax purposes. This applies to both miscellaneous itemized



deductions that are subject to the 2% of federal adjusted gross income limitation and miscellaneous itemized deductions that are not subject to the limitation.

**7. Armed Forces Member Tax Credit Allowed** (1999 Act 9, create secs. 71.07(6m) and 71.10(4)(cm), effective for taxable years beginning on or after January 1, 2000.)

An active duty member of the U.S. armed forces (as defined in 26 USC 7701(a)(15)) may claim a credit against tax for an amount up to \$200 of military income for services performed while he or she is stationed outside the United States. "Military income" means an amount of basic, special, or incentive pay income received by a claimant from the federal government as those terms are used in 37 USC chapters 3 and 5.

The credit must be claimed within four years of the unextended due date of the return. Part-year residents and nonresidents of Wisconsin are not eligible for the credit. If both spouses of a married couple are active duty members of the U.S. armed forces, each spouse may claim the credit.

The Department of Revenue may enforce the credit and may take any action, conduct any proceeding and proceed as it is authorized in respect to income taxes. The income tax provisions relating to assessments, refunds, appeals, collection, interest, and penalties apply to the armed forces member tax credit.

**8. Married Couple Credit Increased** (1999 Act 9, amend sec. 71.07(6)(am)2.c. and d., various effective dates.)

The married couple credit is increased as follows:

- For taxable years beginning in 2000, the credit is 2.75% of the earned income of the spouse with the lower earned income, but not more than \$440.
- For taxable years beginning on or after January 1, 2001, the credit is 3% of the earned income of the spouse with the lower earned income, but not more than \$480.

**9. Certain Credits Eliminated** (1999 Act 9, create sec. 71.07(8)(d), and (9)(g), various effective dates.)

The following credits may not be claimed for taxable years beginning on or after January 1, 2000:

- Dependent credit.
- Senior citizen credit.

The following credit may not be claimed for taxable years beginning on or after January 1, 2001.

- School property tax credit.

**10. Filing Requirements to be Determined by Department** (1999 Act 9, amend sec. 71.03(2)(a)1, effective for taxable years beginning on or after January 1, 2000.)

An individual domiciled in Wisconsin during the entire taxable year who has a gross income at or above a threshold amount is required to file a Wisconsin income tax return. The threshold amount shall be determined annually by the Department of Revenue.

The department shall establish a threshold amount for each category of individual (single, head of household, married filing jointly, and married filing separately) at an amount at which no individual in that category whose gross income is below that amount has a Wisconsin income tax liability. The threshold amounts shall be determined for each category of individuals based on filing status and age.

**11. Tuition Expense Deduction** (1999 Act 9, amend sec. 71.05(6)(b)28(intro.) and e., effective day after publication, and amend sec. 71.05(6)(b)28.f., effective for taxable years beginning on or after January 1, 2000.)

This provision clarifies that nonresidents and part-year residents must prorate their deduction for tuition expenses by a fraction. The numerator of the fraction is the individual's wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by Wisconsin and the denominator is the individual's total wages, salary, tips, unearned income and net earnings from a trade or business. (Note: This

does not change the Department of Revenue's interpretation regarding the deduction for tuition expenses as reflected in the instructions for the 1998 Form 1NPR.)

Effective for taxable years beginning on or after January 1, 2000, for a full-year resident of Wisconsin, the deduction for tuition expenses cannot be more than the individual's aggregate wages, salary, tips, unearned income, and net earning from a trade or business that are taxable by Wisconsin. Under prior law, this limitation applied only to nonresidents and part-year residents of Wisconsin.

In addition, a statutory reference is changed to reflect the fact that sec. 39.51 is renumbered to sec. 45.54.

**12. Subtraction For Repayment of Income Previously Taxed** (1999 Act 9, create sec. 71.05(6)(b)29, effective for taxable years beginning on or after January 1, 2000.)

A subtraction from federal adjusted gross income is allowed when computing Wisconsin adjusted gross income for repayment of an amount included in income in a previous year. The subtraction is allowed to the extent that the repayment was previously included in Wisconsin adjusted gross income, except that no amount that is used in the calculation of the claim of right credit under sec. 71.07(1) may be subtracted.

**13. Repayments of Supplemental Unemployment Benefits: Deduction Allowed to Nonresidents** (1999 Act 9, amend sec. 71.05(6)(a)12, effective for taxable years beginning on or after January 1, 2000.)

For nonresidents of Wisconsin, the deduction allowable on the nonresident's federal income tax return for repayments of supplemental unemployment benefits is allowable on the nonresident's Wisconsin income tax return.

**14. Alimony Paid Deduction Allowed to Nonresidents** (1999 Act 9, amend sec. 71.05(6)(a)12, effective October 29, 1999.)

This provision clarifies that for a nonresident of Wisconsin, the deduction allowable on the nonresident's federal income tax return for alimony

paid is also allowable on the nonresident's Wisconsin income tax return.

**15. Subtraction Allowed for Settlements** (1999 Act 9, create sec. 71.05(6)(b)30, effective for taxable years beginning on or after January 1, 1999.)

To the extent included in federal adjusted gross income, a subtraction is allowed for any settlement received for claims against any person for any recovered assets, or any amount of assets or any gain generated on such assets, that were stolen from, hidden from, or otherwise lost by an individual who was persecuted by Nazi Germany or any Axis regime during the period from 1933 to 1945 and that have been recovered, returned or otherwise paid to the original victim or his or her heirs or beneficiaries.

The assets to which this applies include cash, bonds, stocks, deposits in a financial institution, proceeds from a life or other type of insurance policy, jewelry, precious metals, artwork or any other item of value owned by such a victim during any period from 1920 to 1945.

**16. School Property Tax Credit Modified** (1999 Act 9, create sec. 71.07(9)(b)3 and (g), various effective dates.)

For taxable years beginning in 1999, the school property tax credit is 16.4% of the first \$2,000 of property taxes or rent constituting property taxes. For a married person filing separately, the credit is 16.4% of the first \$1,000 of property taxes or rent constituting property taxes. The maximum credit is \$328 (\$164 if married filing separately).

For taxable years beginning in 2000, the school property tax credit is 10% of the first \$2,000 of property taxes or rent constituting property taxes. For a married person filing separately, the credit is 10% of the first \$1,000 of property taxes or rent constituting property taxes. The maximum credit is \$200 (\$100 if married filing separately).

The school property tax credit is eliminated for taxable years beginning on or after January 1, 2001.

**17. Refund From a Joint Return** (1999 Act 9, amend sec. 71.75(8), effective for a judgment of divorce entered on or after October 29, 1999.)

Under this provision, if a judgment of divorce under ch. 767, Wis. Stats., apportions any refund that may be due to one of the former spouses, or between the spouses, the Department of Revenue shall issue the refund to the person to whom the refund is awarded under the terms of the judgment of divorce or the department shall issue one check to each of the former spouses according to the apportionment terms of the judgment. A copy of that portion of the judgment of divorce that relates to the apportionment of their tax refund must be included with their income tax return.

Under prior law, a refund payable on the basis of a joint return is issued jointly to the persons who filed the return.

**18. Treatment of Lottery Prizes** (1999 Act 9, amend secs. 71.04(1)(a) and (9) and 71.05(6)(b)9, effective for taxable years beginning on or after January 1, 1999.)

All income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes is allocated to Wisconsin if the winning tickets were originally bought in Wisconsin. Any expenses incurred by the purchaser of a lottery prize that are directly related to the lottery prize may be deducted in computing taxable income.

If any amounts from the sale or exchange of a lottery prize are treated as capital gain for federal income tax purposes, such amounts do not qualify for the Wisconsin 60% capital gain exclusion.

**19. Farmland Tax Relief Credit Increased** (1999 Act 5, amend secs. 71.07(3m)(c)1. and 3., 71.28(2m)(c)1. and 3., and 71.47(2m)(c)1. and 3., effective for property taxes that are levied in 1999 and thereafter.)

The maximum farmland tax relief credit available for property taxes levied in 1999 and future years is increased from \$1,000 to \$1,500, and the Department of Revenue is directed to annually adjust the percentage rate used to compute a credit. The annual adjustment in the percentage rate is to be based on the estimated number of claims and the amount estimated to be expended from the appropriation under sec. 20.835(2)(q), Wis. Stats., as determined under sec. 79.13, Wis. Stats.

For a farmland tax relief credit computed on the basis of property taxes levied in 1999, the department has set the percentage rate to use to compute the credit at 13%. As a result, the maximum credit allowable (\$1,500) will be determined if the taxes on farmland are \$11,539 or more.

**20. Method of Taxing Certain Trusts Changed** (1999 Act 9, amend secs. 71.02(1) and 71.14(3)(intro.) and create sec. 71.14(3m), effective for taxable years beginning on or after January 1, 1999.)

Tax is required to be paid on all net income of trusts resident within Wisconsin.

Except as provided in secs. 71.04(1)(b)2 and 71.14(2), Wis. Stats., trusts created by contract, declaration of trust or implication of law that are made irrevocable before October 29, 1999, shall be considered resident at the place where the trust is being administered.

Except as provided in secs. 71.04(1)(b)2 and 71.14(2), Wis. Stats., only the following trusts, or portions of trusts, which become irrevocable on or after October 29, 1999, are resident of Wisconsin:

- Trusts, or portions of trusts, the assets of which consist of property placed in the trust by a person who is a resident of Wisconsin at the time that the property was placed in the trust if, at the time that the assets were placed in the trust, the trust was irrevocable.
- Trusts, or portions of trusts, the assets of which consist of property placed in the trust by a person who is a resident of Wisconsin at the time that the trust became irrevocable if, at the time that the property was placed in the trust, the trust was revocable.

A trust is revocable if the person whose property constitutes the trust may revest title to the property in that person.

A trust is irrevocable if the power to revest title does not exist.

(Note: Section 71.04(1)(b)2 provides that the situs of income received by a trustee, which income, under the Internal Revenue Code, is tax-

able to the grantor of the trust or to any person other than the trust, shall be determined as if such income had been actually received directly by such grantor or such other person, without the intervention of the trust.

Section 71.14(2) provides that a trust created at death by will, contract, declaration of trust or implication of law by a decedent who at the time of death was a resident of Wisconsin shall be considered resident at the domicile of the decedent at the time of the decedent's death until transferred by the court having jurisdiction under sec. 72.27, Wis. Stats., to another court's jurisdiction. After jurisdiction is transferred, the trust shall be considered resident at the place to which jurisdiction is transferred.)

- 21. Development Zone Credits Amended** (1999 Act 9, amend sec. 71.07(2dx)(b)(intro.) and 4., (c), and (d), various effective dates.)

See Item B.4.

- 22. Development Zone Investment Credit in Development Opportunity Zones** (1999 Act 9, amend sec. 71.07(2di)(a)(intro.) and 1., (d)1., (f), (g) and (i), effective for taxable years beginning on or after January 1, 2000.)

See Item B.5.

- 23. Eliminate 90-Day Certification Requirement and Modify Definitions for Development Zones Jobs Credit** (1999 Act 9, amend secs. 71.07(2dj)(am)3., effective for taxable years beginning on or after January 1, 1999; and amend sec. 71.07(2dj)(am)1. and 2., effective October 29, 1999.)

See Item B.6.

## **B. Corporation Franchise or Income Taxes**

- 1. Internal Revenue Code References Updated for 1999 for Corporations, Tax-Option (S) Corporations, Insurance Companies, Nonprofit Organizations, Regulated Investment Companies, Real Estate Mortgage Investment Conduits, Real Estate Investment Trusts, and Financial Asset Securitization Investment Trusts** (1999 Act 9, repeal secs. 71.22(4)(e) and (4m)(c), 71.26(2)(b)5., 71.34(1g)(e), and 71.42(2)(d), amend secs. 71.22(4)(m) and

(4m)(k), 71.26(2)(b)13., and (3)(y), 71.34(1g)(m), 71.365(1m), 71.42(2)(L) and 71.45(2)(a)13., and create 71.22(4)(n) and (4m)(L), 71.26(2)(b)14., 71.34(1g)(n), and 71.42(2)(m), and a nonstatutory provision, effective for taxable years beginning on or after January 1, 1999.)

For taxable years that begin on or after January 1, 1999, "Internal Revenue Code" for corporations, tax-option (S) corporations, insurance companies, nonprofit organizations, regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), real estate investment trusts (REITs), and financial asset securitization investment trusts (FASITs) means the federal Internal Revenue Code as amended to December 31, 1998, 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, REMICs, REITs, and FASITs), tax-option (S) corporations, and insurance companies, for property placed in service in taxable years beginning on or after January 1, 1999, 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, 1998, at the taxpayer's option.
- b. For corporations (except nonprofit organizations, RICs, REMICs, REITs, and FASITs), the Internal Revenue Code is modified by sec. 71.26(3), Wis. Stats.
- c. The Internal Revenue Code excludes section 1311 of Public Law 104-188, relating to the elimination of earnings and profits from pre-1983 S corporation years from an S corporation's accumulated earnings and profits.
- d. For tax-option (S) corporations, IRC sec. 1366(f), relating to the reduction in pass-throughs 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.

- e. For insurance companies, the Internal Revenue Code excludes IRC sec. 847, relating to an additional deduction for insurers required to discount unpaid losses.
- f. For RICs, REMICs, REITs, and FASITs, 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 1998 Apply Simultaneously for Wisconsin Purposes (1999

Act 9, amend secs. 71.22(4)(f), (g), (h), (i), (j), (k), (L) and (m) and (4m)(d), (e), (f), (g), (h), (i), (j) and (k), 71.26(2)(b)6., 7., 8., 9., 10., 11., 12. and 13., 71.34(1g)(f), (g), (h), (i), (j), (k), (L) and (m), 71.42(2)(e), (f), (g), (h), (i), (j), (k) and (L) and create a nonstatutory provision, effective for taxable years beginning before January 1, 1999, at the same time as for federal tax purposes.)

The changes made to the Internal Revenue Code by the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105-206), the Transportation Equity Act for the 21<sup>st</sup> Century (Public Law 105-178), and the Omnibus Consolidated and Emergency Supplemental Appropriations Act (Public Law 105-277) apply for Wisconsin franchise and income tax purposes at the same time as for federal purposes.

## 3. Certain Activities Do Not Create Nexus (1999

Act 9, create sec. 71.23(3)(d), effective for taxable years beginning on or after January 1, 2000.)

A foreign corporation will not have nexus with Wisconsin and will not be subject to the corporate income and franchise tax under the following conditions:

The storage for no more than 90 days in Wisconsin in or on property owned by a person, other than the foreign corporation, of the foreign corporation's tangible personal property, if the tangible personal property is transferred to the person and is used in Wisconsin by the person

for fabricating, processing, manufacturing or printing on the parcel of property in or on which the tangible personal property is stored and if the parcel of property has an assessed value, for property tax purposes, of at least \$10 million but no more than \$11 million on January 1, 1999.

## 4. Development Zone Credits Amended (1999

Act 9, repeal secs. 560.75(11), 560.785(1)(b)2., 560.795(3)(e) and 560.797(4)(e), amend secs. 71.07(2dx)(b)(intro.) and 4., (c) and (d), 71.28(1dx)(b)(intro.) and 4., (c) and (d), 71.47(1dx)(b)(intro.) and 4., (c) and (d), 560.70(7), 560.737(1)(b), 560.745(2)(a), 560.785(1)(intro.) and (1)(c)(intro.), 560.785(1)(d) and (e), 560.795(2)(a), (3)(d) and (e), and 560.797(2)(d), create secs. 560.785(1)(bm) and (h), and (2)(c), 560.795(1)(d), (2)(b)4., and (3)(a)3., 560.797(1)(aj) and (2)(bg) and (br), and consolidate, renumber and amend sec. 560.785(1)(b)(intro.) and 1., various effective dates.)

Some of the criteria for claiming the credit and the maximum amount of certain portions of the credit are changed, effective for taxable years beginning on or after January 1, 2000. A person may claim:

- a) The dollar amount, up to \$8,000, determined by the Department of Commerce multiplied by the number of full-time jobs created in a development zone and filled by a member of a targeted group, less the subsidies paid under sec. 49.147(3)(a), Wis. Stats., for those jobs.
- b) The dollar amount, up to \$6,000, determined by the Department of Commerce multiplied by the number of full-time jobs created in a development zone and not filled by a member of a targeted group, less the subsidies paid under sec. 49.147(3)(a), Wis. Stats., for those jobs.
- c) The dollar amount, up to \$8,000, determined by the Department of Commerce multiplied by the number of full-time jobs retained in an enterprise development zone under sec. 560.797, excluding jobs for which the former Wisconsin jobs credit has been claimed, and for which significant capital investment was made, less the subsidies paid under sec. 49.147(3)(a), Wis. Stats., for those jobs.

- d) The dollar amount, up to \$6,000, determined by the Department of Commerce multiplied by the number of full-time jobs retained in a development zone, excluding jobs for which the former Wisconsin jobs credit has been claimed, and not filled by a member of a targeted group, less the subsidies paid under sec. 49.147(3)(a), Wis. Stats., for those jobs.

The law provides for \$7 million in tax credits for a development opportunity zone in the city of Kenosha. Businesses in the zone that submit a project plan to the Department of Commerce by July 1, 2000 are eligible to claim development zone credits on amounts spent on job creation and retention, on environmental remediation and for a new development zone investment credit.

**5. Development Zone Investment Credit in Development Opportunity Zones** (1999 Act 9, amend secs. 71.07(2di)(a)(intro.) and 1., (d)1., (f), (g) and (i), 71.28(1di)(a)(intro.) and 1., (d)1., (f), (g) and (j), 71.47 (1di)(a)(intro.) and 1., (d)1., (f), (g) and (i), 560.70(7) and 560.795(3)(d), effective for taxable years beginning on or after January 1, 2000.)

For taxable years beginning on or after January 1, 2000, persons entitled to claim tax benefits in a development opportunity zone may claim investment credits on the purchase of depreciable tangible personal property. The credit is equal to 2.5% of the purchase price of depreciable tangible personal property or 1.75% of depreciable tangible personal property that has been expensed under section 179 of the internal revenue code. The property must be used at least 50% in the person's business operations at a location in a development zone. If the property is mobile, the base of operations of the mobile property must be at a location in a development zone.

The law provides for \$7 million in tax credits for a development opportunity zone in the city of Kenosha. Businesses in the zone that submit a project plan to the Department of Commerce by July 1, 2000 are eligible to claim development zone credits on amounts spent on job creation and retention and on environmental remediation and for the new development zone investment credit described above.

**6. Eliminate 90-Day Certification Requirement and Modify Definitions for Development**

**Zones Jobs Credit** (1999 Act 9, amend secs. 71.07(2dj)(am)3., 71.28(1dj)(am)3. and 71.47(1dj)(am)3., effective for taxable years beginning on or after January 1, 1999; and amend 71.07(2dj)(am)1. and 2., 71.28(1dj)(am)1. and 2. and 71.47(1dj)(am)1. and 2., effective October 29, 1999.)

The requirement that members of a targeted group be certified by the Department of Commerce within 90 days of the first day of employment of the employee is eliminated, effective January 1, 1999.

Under prior law, to claim the development zones jobs credit, the person or corporation was required to employ members of a targeted group who had been certified by the Department of Commerce within the 90 day period beginning with the first day of employment of the employee.

Also, definitions of "members of a targeted group" and "designated local agency" are modified to reference dislocated workers, as defined in 29 USC 2801(9) and the local workforce development board established under 29 USC 2832, respectively.

**7. Income, Gain or Loss Presumed Apportionable** (1999 Act 9, amend sec. 71.25(5)(a)(intro.), effective for taxable years beginning on or after January 1, 1999.)

Income, gain or loss from items listed in section 71.25(5)(a) of the Wisconsin statutes is presumed apportionable as unitary or operational income or other income that has a taxable presence in Wisconsin.

**8. Endangered Resources Donation Check-off** (1999 Act 9, amend secs. 20.370(1)(fs), 20.566(1)(hp), and 25.29(1)(a), create sec. 71.30(10), effective for taxable years beginning on or after January 1, 2001.)

For taxable years beginning on or after January 1, 2001, a corporation filing an income or franchise tax return will be allowed to designate on the tax form any amount of refund due or additional payment for the endangered resources program.

**9. Treatment of Lottery Prizes** (1999 Act 9, amend secs. 71.23(1) and (2), 71.25(5)(b),

71.26(1)(a), 71.362(1) and (2), 71.43(1), and (2), 71.45(1), and 71.46(3), and create sec. 71.45(2)(a)15 and (3r), effective for taxable years beginning on or after January 1, 1999.)

All income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes is allocated to Wisconsin if the winning tickets were originally bought in Wisconsin. Any expenses incurred by the purchaser of a lottery prize that are directly related to the lottery prize may be deducted in computing taxable income.

**10. Exempt Family Care Districts From Taxation** (1999 Act 9, amend sec. 71.26(1)(b), effective October 29, 1999.)

Income received by family care districts under section 46.2895 are exempt from corporation income or franchise tax, effective October 29, 1999.

**11. Farmland Tax Relief Credit Increased** (1999 Act 5, amend secs. 71.28(2m)(c)1. and 3., and 71.47(2m)(c)1. and 3., effective for property taxes that are levied in 1999 and thereafter.)

See Item A. 19.

**12. Definition of "Doing Business" Expanded** (1999 Act 9, create sec. 71.22(lr), effective for taxable years beginning on or after January 1, 1999).

The definition of "doing business" in Wisconsin is expanded to include issuing credit, debit or travel and entertainment cards to customers in Wisconsin. (Note: Companies "doing business" in Wisconsin are required to file a Wisconsin franchise tax return.)

**C. Recycling Surcharge**

**1. Temporary Recycling Surcharge Replaced with Permanent Recycling Surcharge** (1999 Act 9, amend secs. 77.92(4), 77.93(intro), (1) and (4), 77.94(1)(intro), (a), (b) and (c), and 77.96(6), repeal secs. 77.92(4r), 77.94(3) and (4), and 77.945 and create a nonstatutory provision, effective for taxable years beginning on or after January 1, 2000.)

For taxable years beginning on or after January 1, 2000, the temporary recycling surcharge on all taxpayers engaged in a trade or business (including individuals, partnerships, corporations, estates, trusts, and exempt organizations with unrelated business income) is replaced with a permanent recycling surcharge with the following changes:

- 1) For taxpayers required to file a Wisconsin income or franchise tax return (including individuals, partnerships, corporations, estates, trusts and exempt organizations with unrelated business income) the recycling surcharge is imposed only on entities that have gross receipts exceeding \$4,000,000 for the taxable year (except as indicated in 2 d below).
- 2) The recycling surcharge rate is as follows:
  - a) For corporations and insurance companies with more than \$4,000,000 in gross receipts: 3% of the gross tax liability with a maximum of \$9,800 or \$25, whichever is greater.
  - b) For tax-option corporations with more than \$4,000,000 in gross receipts: 0.2% of net income with a maximum of \$9,800 or \$25, whichever is greater.
  - c) For individuals, estates, trusts and partnerships engaged in a trade or business and statutory employees with more than \$4,000,000 in gross receipts: 0.2% of net business income as allocated or apportioned to Wisconsin with a maximum of \$9,800 or \$25, whichever is greater.
  - d) For individuals, estates, trusts and partnerships engaged in farming with more than \$1,000,000 in gross receipts from farming: \$25.
- 3) The definition of partnership net business income is modified to include taxable state and municipal bond interest (excluding federal government obligations) and guaranteed payments to partners, plus or minus transitional adjustments as appropriate.

A nonstatutory provision is added to require the department of revenue to submit a pro-

posed rule to define “gross receipts” under the recycling surcharge subchapter to the legislative council staff no later than February 1, 2000.

#### D. Homestead Credit

- 1. Household Income Limitation Increased, Credit Computation Changed** (1999 Act 9, amend sec. 71.54(1)(d)(intro.), and create sec. 71.54(1)(e), effective for 1999 claims filed in 2000; and create sec. 71.54(1)(f), effective for 2000 and subsequent years’ claims filed in 2001 and thereafter.)

Effective for 1999 homestead credit claims, the household income limitation is increased from \$19,154 to \$20,290. No credit is allowed if household income exceeds \$20,290. Also, the credit computation is changed to 80% of the amount by which property taxes accrued or rent constituting property taxes accrued exceeds 11.8% (13% for 1998 claims) of household income exceeding \$8,000.

Effective for 2000 and subsequent years’ homestead credit claims, the household income limitation is increased from \$20,290 to \$24,500. No credit is allowed if household income exceeds \$24,500. Also, the credit computation is changed to 80% of the amount by which property taxes accrued or rent constituting property taxes accrued exceeds 8.788% (11.8% for 1999 claims) of household income exceeding \$8,000.

- 2. Property Tax/Rent Reduction Required for “Caretaker of Newborn Child” Payments** (1999 Act 9, amend sec. 71.54(2)(a)(intro.), effective for 2000 and subsequent years’ claims filed in 2001 and thereafter.)

Property taxes accrued or rent constituting property taxes accrued must be reduced by one-twelfth for each month or portion of a month for which a claimant received Wisconsin Works payments as a custodial parent of an infant under sec. 49.148(1m), Wis. Stats. These payments are commonly referred to as “caretaker of a newborn child” payments.

This change results in the same treatment of Wisconsin Works payments for a caretaker of a newborn child as the treatment of Wisconsin

Works payments for community service jobs or for transitional placements.

#### E. Sales and Use Taxes

- 1. Exempt Sales of Food and Beverages Given to Restaurant Employees** (1999 Act 9, create sec. 77.54(20)(c)4m., effective December 1, 1999.)

Sales of the following are exempt from Wisconsin sales or use tax if provided by a restaurant to the restaurant’s employee during the employee’s work hours:

- Soda water beverages as defined in sec. 97.29(1)(i), Wis. Stats., bases, concentrates and powders intended to be reconstituted by consumers to produce soft drinks, and fruit drinks and ades not defined as fruit juices in sec. 97.02(27), 1967 Wis. Stats.
- Meals and sandwiches, whether heated or not.
- Heated food and heated beverages.
- Soda fountain items such as sundaes, milk shakes, malts, ice cream cones, and sodas.
- Candy, chewing gum, lozenges, popcorn, and confections.
- Disposable products that are transferred with the above items, such as paper cups, napkins, straws, etc.

Under prior law, sales of the above items to a restaurant that the restaurant provided to employees without consideration were subject to Wisconsin sales or use tax.

- 2. Exempt Sales of and Admissions to Time-Share Property** (1999 Act 9, repeal sec. 77.51(4)(c)6. and amend sec. 77.52(2)(a)1. and 2., effective December 1, 1999.)

The following are **not** subject to Wisconsin sales or use tax:

1. The furnishing of rooms or lodging to a person for a continuous period of less than one month through the sale of any kind of time-share property.



2. Charges associated with a time-share property, including the annual fees for the owner's pro rata share of real estate taxes, maintenance, and repairs.
3. The sale or furnishing of the use of recreational facilities on a periodic basis or other recreational rights, including but not limited to membership rights, vacation services, and club memberships, in connection with the sale or use of time-share property.

Under prior law, the sale of time-share property and associated charges were subject to Wisconsin sales or use tax if both of the following conditions were met:

- the time-share property was the type described in sec. 707.02(32), and
- the use of the rooms or lodging was not fixed at the time of the sale as to the starting day or lodging unit.

**3. Expand Exemption for Electricity Sold for Use in Farming** (1999 Act 9, amend sec. 77.54(30)(a)3., effective for sales on or after May 1, 2000.)

The sales and use tax exemption for electricity sold for use in farming, including but not limited to agriculture, dairy farming, floriculture, and horticulture, is expanded to include sales of electricity during the entire year.

Under prior law, the exemption was limited to electricity sold during the months of November, December, January, February, March, and April.

**4. Occasional Sale Exemption for Auctions** (1999 Act 9, amend sec. 77.51(9)(e), effective January 1, 2000.)

The definition of "occasional sales," in regard to auctions, is amended to include five or fewer auctions that are the sale of personal farm property or household goods and that are held by the same auctioneer at the same location during the year. For indoor locations, "location" means a building, except that in the case of a shopping center or a shopping mall, "location" means a store.

**5. Exempt Certain Sales From Vending Machines** (1999 Act 9, amend sec. 77.54(20)(c)6., effective July 1, 2001.)

Sales of food, food products, and beverages from a vending machine are considered to be sold for consumption off the seller's premises. Therefore, sales from a vending machine of food, food products, and beverages for human consumption (e.g., fruit, potato chips, cookies, milk) are exempt from Wisconsin sales or use tax, except for the following:

- Medicines, tonics, vitamins, and medicinal preparations in any form.
- Fermented malt beverages as defined in sec. 125.02, Wis. Stats. (e.g., beer).
- Intoxicating liquors as defined in sec. 139.01(3), Wis. Stats.
- Soda water beverages as defined in sec. 97.29(1)(i), Wis. Stats., bases, concentrates and powders intended to be reconstituted by consumers to produce soft drinks, and fruit drinks and ades not defined as fruit juices in sec. 97.02(27), 1967 Wis. Stats.
- Meals and sandwiches, whether heated or not.
- Heated food and heated beverages.
- Soda fountain items such as sundaes, milk shakes, malts, ice cream cones, and sodas.
- Candy, chewing gum, lozenges, popcorn, and confections.

Under prior law, sales from a vending machine of any food, food products, and beverages were considered to be for on-premises consumption and were subject to Wisconsin sales or use tax, unless an exemption applied (e.g., occasional sales).

**6. Late Filing Fee Increased** (1999 Act 9, amend sec. 77.60(2)(intro.), effective for returns filed for periods beginning after September 30, 1999.)

The late filing fee for sales and use tax returns filed after the due date (or extended due date, if

an extension is obtained) is increased from \$10 to \$20.

**7. Agreements With Direct Marketers** (1999 Act 9, create sec. 77.63, effective October 29, 1999.)

The Department of Revenue may enter into agreements with out-of-state direct marketers to collect Wisconsin state, county, and stadium sales and use taxes. Sales and use tax provisions relating to returns and payments, deficiency and refund determinations, and interest and penalties provided in secs. 77.58, 77.59, and 77.60, Wis. Stats., apply to these agreements, except that the department may negotiate payment schedules and audit procedures with the out-of-state direct marketers.

An out-of-state direct marketer that collects Wisconsin state, county, and stadium sales and use taxes under such an agreement may retain 5% of the first \$1,000,000 of the taxes collected in a year and 6% of the taxes collected in excess of \$1,000,000 in a year. The retailer's discount under sec. 77.61(4)(c), Wis. Stats., does not apply to the direct marketer agreements.

One-eleventh of the taxes collected from out-of-state direct marketers under this provision must be distributed each July 31 to the Department of Health and Family Services for grants to counties.

**Note:** This provision does not apply to out-of-state direct marketers who are required to collect Wisconsin state, county, and stadium sales and use taxes imposed under subch. III and V of ch. 77, Wis. Stats.

**8. Transfer of Certain Transmission Facilities Are Not Retail Sales** (1999 Act 9, create sec. 77.51(14g)(fm), effective October 29, 1999.)

Excluded from the definition of "sale," for sales and use tax purposes, is the transfer of transmission facilities, as defined in sec. 196.485(1)(h), Wis. Stats., to a transmission company, as defined in sec. 196.485(1)(ge), Wis. Stats., after the organizational start-up date, as defined in sec. 196.485(1)(dv), Wis. Stats., of such company in exchange for securities, as defined in sec. 196.485(1)(fe), Wis. Stats.

**9. Exempt Collection of Public Benefit Fees** (1999 Act 9, create sec. 77.54(44), effective October 29, 1999.)

Gross receipts from the collection of public benefits fees that are charged under sec. 16.957(4)(a) or (5)(a), Wis. Stats., are exempt from Wisconsin sales or use tax.

**F. Dry Cleaner Fees**

**1. Dry Cleaning License Fees to be Paid in Installments** (1999 Act 9, amend sec. 77.9961(1) and (2), renumber sec. 77.9961(4) to 77.9961(4)(a), and create sec. 77.9961(4)(b), effective for license fee installment payments due April 25, 2000.)

Dry cleaning license fees are due in installments payable on or before April 25, July 25, October 25, and January 25, in amounts equal to 1.8% of the previous 3 months' gross receipts from dry cleaning apparel and household fabrics, but not from formal wear the facility rents to the general public.

The department shall issue a license to each person who pays the January 25 installment and the previous 3 installments and submits a form that the department prescribes. The license is valid for the year in which the January 25 installment is due.

Any person who operates a dry cleaning facility, and who pays the installment after the due date of the installment, must pay to the department \$5 for each day from the date that the installment is due to the date that the installment is paid.

Under prior law, the dry cleaning license fees, which were equal to 1.8 % of the previous year's gross receipts from dry cleaning, were due on or before January 15.

**2. Formal Wear Rental Firms Not Considered Dry Cleaning Facilities** (1999 Act 9, create secs. 77.996(2)(i), (4), and (5) and 77.9964(4), effective October 29, 1999.)

"Formal wear rental firms" are excluded from the definition of who is considered a "dry cleaning facility." Therefore, "formal wear rental firms" are not subject to the dry cleaning license and solvents fees.

A “formal wear rental firm” is defined to mean a facility that rents formal wear to the general public and dry cleans only the formal wear that it rents to the general public. “Formal wear” includes tuxedos, suits, and dresses, but does not include costumes, table linens, or household fabrics.

The department will reimburse the owner or operator of a “formal wear rental firm” any dry cleaning license or solvent fees paid by the owner or operator prior to April 25, 2000.

## G. Excise Tax

- 1. Active Duty Military Personnel Allowed to Bring Additional Tax-Free Liquor Into Wisconsin** (1999 Act 9, renumber sec. 139.03(5)(b) to 139.03(5)(b)1., and amend as renumbered, and create 139.03(5)(b)2., effective October 29, 1999.)

An active duty member of the military who has been out of the country for more than 48 hours for duty or training is allowed to bring 6 liters of intoxicating liquor and wine into Wisconsin without paying tax. The limit under prior law was only 4 liters.

- 2. Definition of Indian Tribe Modified** (1999 Act 9, amend sec. 139.30(5), effective October 29, 1999.)

The definition of “Indian tribe” is modified to mean “a federally recognized American Indian tribe or band in this state.”

- 3. Trust Land Defined** (1999 Act 9, create sec. 139.30(13m), effective October 29, 1999.)

“Trust land” is defined to mean any lands in this state held in trust by the U.S. government for the benefit of a tribe or member of a tribe.

- 4. Tobacco Products Tax Changed to Excise Tax** (1999 Act 9, amend sec. 139.76(1) and (2), and create secs. 139.803, 139.805 and 139.82(8), effective for claims for refunds of tobacco products taxes filed and tobacco products taxes imposed on and after December 1, 1999. Amend sec. 139.85(1), and create secs. 139.75(4d), (4p), (6m) and (12m), and 139.82(7), effective October 29, 1999.)

The tobacco products tax is changed from an occupational tax to an excise tax. This change allows the state to tax authorized retailers’ tobacco products sold on reservations or trust lands by Native Americans to persons who are not Native Americans.

Definitions in the cigarette tax law for the terms “enrolled member,” “Indian tribe,” “reservation,” and “trust lands” also apply for purposes of the tobacco products tax. These definitions are located in sec. 139.30(4), (5), (9), and (13m), respectively, of the cigarette tax law.

Tobacco products distributors are required to collect and remit the excise tax on all sales of tobacco products, except sales made to or by post exchanges of the U.S. armed forces, federally or state-operated veterans’ hospitals in Wisconsin, an interstate carrier of passengers for hire to be resold to bona fide passengers actually being transported, and tobacco products sold for shipment outside Wisconsin in interstate commerce. Tobacco products distributors who fail to collect and remit the excise tax will be subject to a fine of not less than \$1,000 nor more than \$5,000 or imprisoned for not less than 90 days nor more than one year, or both.

The Department of Revenue may refund the tobacco products taxes collected in respect to sales on the reservation or trust land of an Indian Tribe to the Tribal Council of the Tribe having jurisdiction over the reservation or trust land on which the sale is made, if all of the following conditions are fulfilled:

- 1) The Tribal Council has filed a claim for the refund with the Department of Revenue.
- 2) The Tribal Council has approved the retailer.
- 3) The land on which the sale occurred was designated a reservation or trust land on or before January 1, 1983.
- 4) The tobacco products were not delivered by the retailer to the buyer by means of common carrier, a contract carrier, or the U.S. Postal Service.
- 5) The retailer has not sold the tobacco products to another retailer or to a subjobber.

The Department of Revenue is authorized to enter into agreements with Indian Tribes to provide for refunding 50% of the tobacco products tax imposed on tobacco products sold on the tribal reservations to persons who are not enrolled members of the Tribe residing on the tribal reservation.

The Department of Revenue may inspect the business records of any retailer doing business on a reservation or on an Indian Tribe's trust land.

**5. Gambling Offenses Not Grounds for License Suspensions** (1999 Act 9, amend sec. 125.12(1)(a), and create sec. 125.12(1)(c), effective October 29, 1999.)

Neither a municipality or the Department of Revenue may consider an arrest or conviction for a violation of commercial gambling in any action to revoke, suspend or renew a Class B (on-sale) license or permit.

**6. Alcohol Beverage Sales at Coliseums** (1999 Act 9, create secs. 125.26(2s) and 125.51(3)(bs) effective October 29, 1999.)

A person operating a coliseum or a concessionaire is authorized to furnish the holder of a coliseum suite who has attained the legal drinking age with a selection of alcohol beverages in the coliseum suite that is not part of the Class B (on-sale) premises. The alcohol beverages shall be furnished in original packages and stored in a secure storage place.

**7. Wine License for Restaurants** (1999 Act 9, amend sec. 125.51(3m)(c), effective October 29, 1999.)

The requirement is removed that a municipality has to be up to quota before issuing a "Class C" wine license. The license may be issued to a restaurant for which the sale of alcohol beverages accounts for less than 50% of gross receipts, whether or not the premises has a barroom.

**8. Above Quota License for Hotels** (1999 Act 9, amend sec. 125.51(4)(v)2, effective October 29, 1999.)

The number of rooms with sleeping accommodations a hotel must have to qualify for an above

quota liquor license is changed from 100 to 50 rooms.

## H. Withholding Tax

**1. New Withholding Tables Required** (1999 Act 9, renumber sec. 71.64(9)(b) to 71.64(9)(b)(intro.) and amend as renumbered, create sec. 71.64(9)(b)2, October 29, 1999.)

The Department of Revenue is directed to adjust the Wisconsin withholding tax tables to reflect changes in the income tax rates and tax brackets made by 1999 Act 9. The new tables are to be effective on July 1, 2000

**2. Withholding Tax Provisions Altered** (1999 Act 9, amend sec. 71.67(4)(a), effective for taxable years beginning on and after January 1, 1999, and 71.67 (5)(a), effective October 29, 1999.)

Beginning January 1, 1999, the amount of Wisconsin tax required to be withheld from lottery prizes of \$2,000 or more is to be calculated by multiplying the amount of the prize by the highest rate applicable to the **person** who claims the prize (under prior law the calculation was to be made using the highest rate applicable to **individuals**). (Note: As a result of this change, Wisconsin tax will be required to be withheld from prizes payable to corporations.)

Withholding from pari-mutuel wager winnings exceeding \$1,000 must be based on the highest tax rate applicable to individuals under sec. 71.06(1)(a) to (c), (1m), (1n) or (1p). (Note: 1999 Act 9 added the references to sec. 71.06(1n) and (1p) to reflect the changes in the individual income tax rates that will take effect for taxable years 2000 and 2001.)

## I. Other

**1. Business Tax Registration - Statement Required When Applicant has No Social Security Number** (1999 Act 9, renumber sec. 73.03(50) to 73.03(50)(intro.) and amend as renumbered; create sec. 73.03(50)(c), effective October 29, 1999.)

An applicant for a business tax registration certificate who is an individual and who does not have a social security number is required to submit a statement made or subscribed under

oath or affirmation that the applicant does not have a social security number. The form of the statement shall be prescribed by the Department of Workforce Development. A business tax registration certificate issued in reliance upon a false statement submitted by an individual will be invalid.

**2. Occupational License Revocation Program Changes** (1999 Act 9, amend sec. 73.0301(1)(d)6, (2)(c)1.a and 2, and create 73.0301(2)(c)1.am, effective October 29, 1999.)

The occupational license revocation program (a program that prohibits various Wisconsin state agencies from issuing or renewing specified occupational licenses) is expanded to apply to licenses that the Wisconsin Department of Financial Institutions issues to nondepository small business lenders. (Note: The nondepository small business lender license is a new category of occupational license required by sec. 224.93, as created by 1999 Act 9.)

Under prior law, licensing agencies were permitted to require license holders who were individuals to provide the license holder's social security number. 1999 Act 9 amended this provision to provide that if an applicant for a license does not have a social security number, the licensing agency may instead require a statement

made or subscribed under oath or affirmation that indicates the applicant does not have a social security number. The form of the statement is to be prescribed by the Wisconsin Department of Workforce Development. A license issued in reliance upon a false statement will be invalid.

A licensing agency is prohibited from disclosing a license holder's social security number or federal employer identification number received under sec. 73.0301(2)(c)1.a. or b. to any person except the Department of Revenue and the Department of Workforce Development.

**3. Installment Agreement Fee Imposed** (1999 Act 9, create sec. 73.03(33p), effective October 29, 1999.)

The Department of Revenue is to collect, as taxes under Chapter 71 of the Wisconsin Statutes are collected, from each person who owes to the department delinquent taxes, fees, interest or penalties, a \$20 fee for each delinquent taxpayer who enters into an agreement with the department to pay in installments the taxpayer's delinquent taxes, including fees, interest or penalties and to collect costs incurred to the department for court actions that are related to the collection of delinquent taxes.