Wisconsin Tax Bulletin

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Income and Franchise Tax Updates and Reminders

Wisconsin Internal Revenue Code (IRC) Conformity for 2026

Wisconsin generally utilizes static conformity to define the IRC it follows for income and franchise tax purposes. This means Wisconsin adopts a fixed definition of the IRC that is generally unaffected by later law changes by the federal government. Updates to Wisconsin's IRC definition must be passed by the legislature and signed into law by the governor.

Except as specified, Wisconsin currently follows the federal IRC as amended to **December 31, 2022**. This means most of the changes made to the federal IRC by Public Law 119-21 (One Big Beautiful Bill Act) do not apply for Wisconsin. In addition, tax provisions that were temporarily suspended or limited through 2025 by Public Law 115-97 (2017 Tax Cuts and Jobs Act) are restored for Wisconsin purposes in 2026. This article identifies some of those differences.

Wisconsin IRC Definitions: Sections 71.01(6)(n), 71.22(4)(n) and (4m), 71.26(2)(b)15., 71.34(1g), and 71.42(2)(n), Wis. Stats.

Key Differences Between Federal and Wisconsin Tax Law for 2026:

1. Trump Accounts
   - *Federal*: Created a new tax-advantaged savings account for individuals who are less than 18 years old (sec. 530A, IRC). Accounts are first able to accept contributions as of July 4, 2026.
   - *Wisconsin*: The state does not recognize Trump accounts. This includes any income exclusion related to the accounts.
2. Dependent Care Benefits
   - *Federal*: Up to $7,500 ($3,750 if married filing separately) of dependent care assistance may be excluded from income (sec. 129, IRC).
   - *Wisconsin*: Only up to $5,000 ($2,500 if married filing separately) may be excluded from income.
3. Student Loan Forgiveness (Death or Disability)
   - *Federal*: Qualified student loans forgiven due to the death or disability of the student are exempt from income (sec. 108(f)(5), IRC).
   - *Wisconsin*: The death or disability exemption adopted by Wisconsin only applied to amounts discharged during 2018 through 2025. Amounts discharged in 2026 are not automatically exempt but may qualify for other exceptions within sec. 108, IRC.
4. Employer Payments of Student Loans
   - *Federal*: Payments by an employer of principal and interest on an employee's qualified education loans may be treated as qualified education assistance and excluded from income (sec. 127, IRC).
   - *Wisconsin*: These payments do not qualify for the exclusion and are taxable wages to the employee.
5. Moving Expense Reimbursement and Deduction
   - *Federal*: Only members of the U.S. Armed Forces and employees and appointees of the intelligence community are eligible for the employer reimbursement exclusion (sec. 132(g), IRC) and expense deduction (sec. 217, IRC).
   - *Wisconsin*: Follows the exclusion and deduction as existed prior to the 2017 Tax Cuts and Jobs Act. They are not limited solely to members of the U.S. Armed Forces and employees and appointees of the intelligence community.
6. Qualified Hazardous Duty Areas
   - *Federal*: Qualified hazardous duty areas (the Sinai Peninsula of Egypt, Kenya, Mali, Burkina Faso, and Chad) may be treated as combat zones for certain IRC provisions, such as an extension to file under sec. 7508, IRC, and the exclusion for combat pay under sec. 112, IRC (section 11026 of Public Law 115-97 and section 70118 of Public Law 119-21).

- *Wisconsin*: Except for an extension to file under sec. 7508, IRC, Wisconsin does not recognize qualified hazardous duty areas as combat zones. Any income excluded under sec. 112, IRC, for service in a qualified hazardous duty area must be included in income.

7. Mortgage Interest Deduction

- *Federal*: Generally, an itemized deduction is allowed for interest paid on up to $750,000 ($375,000 if married filing separately) of acquisition debt on a qualified residence(s) (sec. 163(h)(3)(F), IRC). In addition, mortgage insurance premiums are treated as deductible mortgage interest.
- *Wisconsin*: Mortgage interest is deductible per sec. 163(h)(3), IRC, excluding subparagraph (F). This also means mortgage insurance premiums are not deductible.

8. Charitable Contribution Limitations

- *Federal*:
  a) Cash contributions by individuals to qualified organizations may be deducted to the extent they do not exceed 60% of the taxpayer's contribution base (generally federal adjusted gross income) (sec. 170(b)(1)(G), IRC).
  b) Gifts by individual taxpayers are only deductible to the extent they exceed 0.5% of the contribution base (sec. 170(b)(1)(I), IRC). Gifts by corporations are deductible to the extent they exceed 1% of taxable income (sec. 170(b)(2)(A), IRC).
- *Wisconsin*: The deduction for qualified gifts by individuals generally cannot exceed 50% of the contribution base. Wisconsin has not adopted the 0.5% (individuals) and 1% (corporations) deduction floors.

9. Gambling Losses

- *Federal*: Gambling losses include any other allowable deductions that are incurred in carrying on the activity, and gambling losses are reduced to 90% of such losses and allowed only to the extent of gains (section 165(d), IRC).
- *Wisconsin*: Other allowable deductions are not treated as gambling losses and such losses are not subject to the 90% limitation.

10. ABLE Accounts (Disability Savings Accounts)

- *Federal*: The computation of the annual limit for contributions to an ABLE account was changed to include an additional year of cost of living adjustments ($20,000 for 2026) and the special limit for contributions by a designated beneficiary is now permanent (sec. 529A, IRC).
- *Wisconsin*: An ABLE account may not receive more than $19,000 in total contributions for 2026 (the annual gift tax limit), regardless of contributor. An account that permits contributions in excess of that amount does not qualify as an ABLE account for Wisconsin tax purposes.

11. Research and Experimental Expenses

- *Federal*: Public Law 119-21 amended sec. 174, IRC, to address foreign research and experimental expenses and created sec. 174A, IRC, to cover domestic expenditures.
- *Wisconsin*: Follows sec. 174, IRC, as it existed prior to the 2017 Tax Cuts and Jobs Act for both foreign and domestic research and experimental expenses.

12. Itemized Deduction Limitation

- *Federal*: Individual taxpayers who are subject to the highest marginal tax rate must reduce their itemized deductions so they only receive the equivalent of a 35% marginal tax benefit from the deductions (sec. 68, IRC).

- *Wisconsin*: Wisconsin follows sec. 68, IRC, as existed prior to the 2017 Tax Cuts and Jobs Act. The limitation reduces certain itemized deductions by the lesser of 80% or 3% of income exceeding a specified threshold based on filing status. If federal adjusted gross income under the IRC adopted by Wisconsin exceeds $200,000, review the 2026 Schedule I instructions when filing the Wisconsin income tax return.

13. Information Reporting Thresholds

- *Federal*: The information reporting threshold for certain payments to payees is increased to $2,000 for 2026 (secs. 6041(a) and 6041A(a), IRC).

- *Wisconsin*: Reporting is required if Wisconsin tax was withheld or if non-wage payments for services in the state exceeded $600. In addition, Wisconsin has some tax provisions (e.g., sec. 71.26(3)(e), Wis. Stats.) that would disallow deductions if the information was not reported to Wisconsin for payments exceeding $600.

Depreciation and Amortization for 2026

For depreciation and amortization, Wisconsin continues to follow the IRC as of January 1, 2014, except for the amendments below that were adopted. This means Wisconsin does not follow any of the bonus depreciation laws enacted by Congress after January 1, 2014, including those in Public Laws 115-97 and 119-21. However, under secs. 71.98(3) and (4), Wis. Stats., Wisconsin follows the federal law in effect for the taxable year for depletion and sections 179 through 179E of the IRC.

- Sections 13201(f), 13203, 13204, and 13205 of Public Law 115-97
- Section 2307 of Public Law 116-136
- Section 202 of division EE of Public Law 116-260

W-2 Wage Reporting Differences for 2026

Due to differences in the IRC in effect for federal and Wisconsin purposes, the taxable wages reported on 2026 Form W-2 (box 16) for Wisconsin may not be the same as the federal amount if the employee is receiving compensation under any of the following exclusions:

- Section 112, IRC – Certain combat zone compensation of members of the armed forces (for service in qualified hazardous duty areas)
- Section 127, IRC – Education assistance programs (for payments of student loans)
- Section 128, IRC – Employer contributions to Trump accounts
- Section 129, IRC – Dependent care assistance programs (if exceed Wisconsin exemption amount)
- Section 132, IRC – Certain fringe benefits (for qualified moving expense reimbursement or qualified bicycle commuting reimbursement)

Note: This article primarily focuses on differences arising from Public Laws 115-97 and 119-21 and is not intended to be all inclusive of the differences that currently exist. Furthermore, it only reflects the Wisconsin statutes in effect as of July 31, 2026, and does not account for any possible future legislation. When filing a 2026 Wisconsin tax return, refer to the individual income tax Schedule I instructions or the instructions for the relevant form being filed. The department will publish 2026 form and schedule instructions later this year.

Advance Pricing Agreements (APAs)

An advance pricing agreement is a binding agreement between a taxpayer and the Internal Revenue Service (IRS) regarding the arm's-length pricing for present and future intercompany transactions, often as part of a broader agreement with one or more foreign taxing authorities. Authority for and the administration of an APA falls under the Advance Pricing and Mutual Agreement Program of the IRS.

The APA process begins before the due date of the tax return for the first prospective tax year in the APA application. Because the APA may take several years to finalize, the taxpayer may be required to waive restrictions on assessment and collection and file federal protective returns to preserve the right to claim the desired tax treatment. Once the APA is finalized, a federal amended return must be filed to report a change to the transfer pricing method (TPM) that is consistent with the APA. If the taxpayer complies with the terms and conditions of the APA, the IRS will not contest the application of the TPM for an APA covered transaction.

Common questions related to the Wisconsin tax treatment of APAs:

- **Question:**

  Is an APA equivalent to an IRS Revenue Agent's Report (RAR)?

  Answer:

  No. An APA is initiated by the taxpayer, who submits information voluntarily to obtain a desired tax treatment. An RAR shows the adjustments resulting from an IRS examination.

- **Question:**

  If the APA requires a taxpayer to file an amended return with the IRS, is a Wisconsin amended return required to be filed?

  Answer:

  Generally, yes. If a federal amended return is filed, a Wisconsin amended return is required to be filed within 180 days if there is an impact on any of the following Wisconsin items: net tax payable, a tax credit, a net operating/business loss, or a capital loss carryforward. See sec. 71.76(1), Wis. Stats., and secs. Tax 2.105(4)(b) and 2.12(3)(c), Wis. Adm. Code (notwithstanding the regulations providing 90 days to file, this term was superseded by statutory amendment providing 180 days to file as of February 20, 2021).

- **Question:**

  Does an APA extend the Wisconsin statute of limitations to request a refund?

  Answer:

  No. Entering into an APA does not extend the Wisconsin statute of limitations to file a refund claim. Claims for refund may be made if the claim is filed within four years of the unextended due date of the original return. See sec. 71.75(2), Wis. Stats., and sec. Tax 2.12(4)(a), Wis. Adm. Code.

- **Question:**

  Can the Wisconsin statute of limitations for filing an amended return to request a refund be extended?

  Answer:

  No. However, a taxpayer can preserve their right to claim a refund for periods beyond four years after the unextended due date by filing an amended Wisconsin income or franchise tax return as a protective claim. The request must be received by the department within four years of the unextended due date of the original return. For additional information, see page 12 of *Wisconsin Tax Bulletin* 204 (January 2019).

Common Errors Determining Apportionment Sales Factor

Corporations, partnerships, tax-option (S) corporations and nonresident estates, trusts, and individuals that are engaged in business both in and outside Wisconsin generally determine their Wisconsin share of apportionable income by multiplying the apportionable income earned everywhere by the sales factor ratio, which consists of total sales in Wisconsin (numerator) divided by total sales everywhere (denominator).

Section 71.25(9)(f), Wis. Stats., lists specific items that are not considered "sales" for purposes of calculating a taxpayer's Wisconsin apportionment percentage. Common errors identified by the department for items that should be excluded from the apportionment sales factor (list is not all-inclusive):

- Gross receipts and gain or loss from the sale of tangible business assets, except gross receipts which are from the 1) sale of inventory, 2) operation of farms, mines and quarries, or 3) sale of scrap or by-products
- Proceeds and gain or loss from the redemption or sale of securities, such as hedging transactions
- Foreign exchange gain or loss
- Interest income, except interest income on trade accounts and trade notes receivable (See *Example 3* below)
- Dividend income, including dividends deductible by a corporation in determining net income
- Refunds, rebates and recoveries of amounts previously expended or deducted
  - Cash discounts or rebates earned on purchases
  - Proceeds received from an affiliate for reimbursement of costs for which there is no markup or intent to produce business income (See *Examples 1 and 2* below)
- Other items that may be reported as income by the taxpayer but are not considered "sales" related to the production of business income, such as:
  - Insurance proceeds which reimburse the insured for certain losses
  - Adjustments associated with an accounting method change unrelated to items includable as "sales" in the sales factor
  - Other items included in the sales factor that are unidentified or unsubstantiated by the taxpayer

In addition, the following is a common audit adjustment for interstate financial institutions, broker-dealers, investment advisors, investment companies and underwriters that calculate the Wisconsin apportionment percentage using a receipts factor under secs. Tax 2.49 and 2.495, Wis. Adm. Code.

- Interest, dividends, gross receipts or net gains from sales of securities held for investment purposes or other income from investment assets held by the taxpayer in the taxpayer's investment account are not included in the receipts factor according to secs. Tax 2.49(4) and 2.495(4), Wis. Adm. Code.

Example 1 – Reimbursement of administrative costs charged to an affiliate without markup:

Facts:

- Corporations X, Y, and Z are combined group members that file a Wisconsin combined corporate income/franchise tax return.

- Corporation X incurs $10,000,000 of administrative costs on behalf of Corporations Y, Z, and Controlled Foreign Corporation F, a related affiliate who is not included in the Wisconsin combined group.
- Corporation X receives $10,000,000 reimbursement from Corporations Y, Z, and Controlled Foreign Corporation F for the administrative costs it incurred. Corporation X records the $10,000,000 as management fee income in its books and records as follows:
  - Corporation Y - $3,000,000
  - Corporation Z - $3,000,000
  - Controlled Foreign Corporation F - $4,000,000

Question:

Should the $10,000,000 of management fee income be included in the Wisconsin sales factor?

Answer:

No.

The $6,000,000 received from Corporations Y and Z is excluded from the sales factor. Intercompany transactions are eliminated from the sales factor as provided in sec. Tax 2.61(7)(d), Wis. Adm. Code, because Corporations X, Y, and Z are all members of the same Wisconsin combined group.

Because Controlled Foreign Corporation F is not a member of the combined group, the general rules of apportionment apply. The $4,000,000 received from Controlled Foreign Corporation F is excluded from the sales factor because it is not considered sales relating to the production of business income; it is a reimbursement of costs incurred on behalf of their affiliate for which there is no markup (sec. 71.25(9)(e), Wis. Stats.).

Example 2 – Reimbursement of administrative costs charged to an affiliate with markup:

Facts:

- Corporations X, Y, and Z are combined group members that file a 2024 Wisconsin combined corporate income/franchise tax return.
- Corporation X incurs $10,000,000 of administrative costs on behalf of Corporations Y, Z, and Controlled Foreign Corporation F, a related affiliate who is not included in the Wisconsin combined group.
- Corporation X executes a written contract on January 1, 2023, with Corporations Y, Z, and Controlled Foreign Corporation F to provide management services. The parties agree Corporation X will be paid at cost plus a 15% markup. The transaction has economic substance under sec. 71.30(2m), Wis. Stats., and uses terms that reflect an arm's-length relationship under sec. 71.80(23)(a)3., Wis. Stats.
- Corporation X receives $11,500,000 from Corporations Y, Z, and Controlled Foreign Corporation F for the management services ($10,000,000 costs plus a 15% markup). Corporation X records the $11,500,000 as management fee income in its books and records as follows:
  - Corporation Y - $3,450,000
  - Corporation Z - $3,450,000
  - Controlled Foreign Corporation F - $4,600,000

Question:

Should the $11,500,000 management fee income be included in the Wisconsin sales factor in 2024?

Answer:

Only the $4,600,000 received from Controlled Foreign Corporation F is included in the sales factor, because it is not a member of the Wisconsin combined group. Under the general rules for apportionment, gross management fees related to the production of business income are included in "sales" by sec. 71.25(9)(e)(9), Wis. Stats., unless the transaction lacks economic substance or has terms not reflecting an arm's-length relationship.

Because Corporations X, Y, and Z are all members of the same Wisconsin combined group, they are subject to the special rules for combined reporting set forth in sec. 71.255, Wis. Stats., and secs. Tax 2.60 to 2.67, Wis. Adm. Code. The $6,900,000 received from Corporations Y and Z are intercompany transactions, which are excluded from the sales factor according to sec. Tax 2.61(7)(d), Wis. Adm. Code.

Example 3 – Income from investment assets:

Facts:

- Taxpayer is an interstate financial organization with 30 members that file a Wisconsin combined corporate income/franchise tax return.
- Taxpayer uses sec. Tax 2.49, Wis. Adm. Code, to calculate the receipts factor for its Wisconsin apportionment percentage.
- Taxpayer is required by federal banking regulations to maintain a certain ratio of highly liquid assets to cover cash outflows during a crisis.
- Taxpayer earns interest on deposits it holds to satisfy the liquidity levels required by federal regulations.

Question:

Should the interest earned on deposits held to satisfy federal regulations be included in the receipts factor?

Answer:

No.

Interest, dividends, gross receipts or net gain from sales of securities held for investment purposes, and other income from investment assets may not be included in the receipts factor as provided in sec. Tax 2.49(4), Wis. Adm. Code.

Although interest earned from credit cards receivables and loans to customers may be included in the receipts factor, the interest from investments held to satisfy federal regulations may not be included in the receipts factor.

Clarification On Applying Overpayments to Future Tax Periods and Claiming Refunds

2025 Wis. Act 137, enacted on March 27, 2026, added pass-through withholding and nonresident entertainer deposits to the tax computation order under secs. 71.10(4)(i) and 71.30(3)(f), Wis. Stats. This was a remedial change to the statutes; the department has allowed pass-through withholding and nonresident entertainer deposits to be applied to a taxpayer's tax liability since the time those requirements were enacted into law.

The Act did not make changes to the requirement under sec. 71.775(4)(j), Wis. Stats., for partners, shareholders, and beneficiaries to report the withholding on the correct year's return in order to receive credit for the withholding tax, nor did it make any changes to the four-year statute of limitations for filing a claim for refund under sec. 71.75(2), Wis. Stats.

Caution: In order to carry forward an overpayment to the following tax year's estimated taxes, an election to carry forward the overpayment must be made by the appropriate deadline as follows:

- For individual and fiduciary income tax, as provided in sec. 71.09(7), Wis. Stats., an election must occur on or before the due date of the final estimated tax installment payment for the following tax year. For example, January 15, 2027, is the deadline for a calendar-year filer to submit an election to apply an overpayment from a 2025 tax return to estimated taxes for a 2026 tax return.
- For corporation franchise and income tax, as provided in sec. 71.29(3), Wis. Stats., an election must occur on or before the unextended due date of the following year's tax return or the date the following year's tax return is filed, whichever is earlier. For example, April 15, 2027, is the deadline for a corporation filing on a calendar-year to submit an election to apply a refund from a 2025 tax return to estimated taxes for a 2026 tax return, or before the 2026 tax return is filed, whichever is earlier.

The following results if a taxpayer does not make the election by the deadline described above:

- Any overpayment for the taxable year computed after the deadline is refunded to the taxpayer. Interest is added to the refund of tax, if applicable.
- The estimated payments for the following taxable year do not include the overpayment of tax from the prior taxable year computed after the deadline. This may result in underpayment interest or a higher amount of underpayment interest due in the following taxable year, if applicable.

How to Submit an Election

Notification of an election must be in writing. This includes the filing of an amended return or sending an email, fax, or letter to:

Individuals

DORIncomeAdjUnt@wisconsin.gov

Fax: (608) 224-5758

Wisconsin Department of Revenue
PO Box 8903
Madison WI 53708-8903

Corporations

DORCorporationTaxUnit@wisconsin.gov

Fax: (608) 327-0232

Wisconsin Department of Revenue
PO Box 8908
Madison WI 53708-8908

Fiduciaries

DORIncomePTE@wisconsin.gov

Fax: (608) 224-5756

Wisconsin Department of Revenue
PO BOX 8966
Madison WI 53708-8966

Reminder: Report Wisconsin Department of Financial Institutions Identification Number

In general, a business must register with the Wisconsin Department of Financial Institutions (DFI) if they are operating or conducting business in Wisconsin. The business receives an identification number (WI DFI Number) from DFI after registration is complete.

The Wisconsin Department of Revenue requests the WI DFI Number be reported on certain Wisconsin income or franchise tax returns.

The following tax forms request the WI DFI Number:

- Form 3, *Wisconsin Partnership Return*
- Form 4, *Wisconsin Non-Combined Corporation Franchise or Income Tax Return*
- Form 4H, *Wisconsin Corporation Declaration of Inactivity*
- Form 4T, *Wisconsin Exempt Organization Business Franchise or Income Tax*
- Form 5S, *Wisconsin Tax-Option (S) Corporation Franchise or Income Tax Return*
- Form 6, *Wisconsin Combined Corporate Franchise or Income Tax Return*
- Schedule DE, *Disregarded Entity Schedule*

For information on registering with DFI, visit DFI's website at DFI Business Entity Frequently Asked Questions.

If a business is already registered, they may locate their WI DFI Number on DFI's website at WI Corporate Records Search.

Community Development Entity Investment Credit Guidance Updates

Wisconsin offers a tax credit against income or franchise tax under subch. VII of ch. 71, Wis. Stats., or certain license and other fees provided under sec. 76.633(2), Wis. Stats., to insurance companies who invest in qualified community development entities (CDEs) that provide financing to businesses in low-income communities in the state. A partnership, tax-option (S) corporation, or limited liability company (LLC), may allocate credits to its partners, shareholders, or members, based on their ownership interest or distribution agreement.

Additional information can be found on the department's Community Development Entity Investment Credit web page.

Reporting Requirements: Self-Directed Individual Retirement Account Invests in a Partnership

Self-Directed Individual Retirement Account (SDIRA) Reporting

An SDIRA is an individual retirement account (IRA) structured under secs. 408 or 408A, and 4975, of the Internal Revenue Code (IRC). An SDIRA allows for investments in alternative assets, approved by the Internal Revenue Service (IRS), beyond conventional stocks, bonds, and mutual funds. An SDIRA may invest in assets such as real estate, certain digital and tangible assets (e.g., precious metals), and certain private entities (e.g., partnerships).

In general, income generated by an SDIRA may be tax-deferred like a traditional IRA (sec. 408, IRC) or Roth IRA (sec. 408A, IRC). However, income generated by an SDIRA may be taxable if it is deemed as "unrelated business taxable income" (UBTI) under sec. 512, IRC, or "unrelated debt-financed income" (UDFI) under sec. 514, IRC.

An SDIRA may inadvertently generate UBTI and/or UDFI through investment in a partnership.

- In general, if an SDIRA invests in a partnership operating an active trade or business (e.g., retail or service business), income from the partnership is considered UBTI.
- In general, if an SDIRA invests in a real estate partnership, income from the partnership generated by property purchased with a non-recourse loan is considered UDFI.

An SDIRA must file Form 4T, *Wisconsin Exempt Organization Business Franchise or Income Tax Return*, if all of the following are met:

- The SDIRA has income from Wisconsin sources, such as business transacted or property located in Wisconsin,
- The SDIRA has at least $1,000 of gross income from an unrelated trade or business for federal income tax purposes (UBTI and/or UDFI), and
- The SDIRA is required to file federal Form 990-T, *Exempt Organization Business Income Tax Return*, or federal Form 4720, *Return of Certain Excise Taxes Under Chapters 41 and 42 of the Internal Revenue Code*.

Partnership Reporting

A partnership is required to compute UDFI as provided under sec. 514, IRC. If a partnership has an SDIRA partner receiving Wisconsin-sourced UBTI or UDFI from the partnership, they must complete the following:

- File Form 3, *Wisconsin Partnership Return*;
- Prepare a Schedule 3K-1, *Partner's Share of Income, Deductions, Credits, etc.*, for the SDIRA and include the SDIRA partner's information (i.e., name and federal employer identification number) in Part II under the second information section titled, *If the partner is a disregarded entity or trust, enter the partner's information*; and
- Pay withholding tax as provided under sec. 71.775, Wis. Stats., and file Form PW-1, *Wisconsin Nonresident Income or Franchise Tax Withholding on Pass-Through Entity Income*, if the following apply:
    - The SDIRA partner is a nonresident of Wisconsin (in general, an SDIRA's residency is determined by the domicile of the SDIRA owner);
    - The Wisconsin-sourced UBTI and/or UDFI is $2,000 or more; and
    - The SDIRA partner has not provided the partnership with a department-approved Form PW-2, *Wisconsin Nonresident Partner, Member, Shareholder, or Beneficiary Pass-Through Withholding Exemption Affidavit*, or department-issued continuous exemption letter.

Most Commonly Used Wisconsin Franchise and Income Tax Credits

Wisconsin tax law provides a wide variety of franchise and income tax credits.

Below are statistics of the most commonly used credits by corporations for tax year 2023 and individuals for tax year 2024.

Commonly Used Corporate Franchise/Income Tax Credits, Tax Year 2023 (Statistics as of June 26, 2026)				
Corporate Tax Credit	**Number of Claims**	**Amount of Credit Used**	**Credit Available**	**Credit Carried Forward**
Manufacturing credit	515	$144,032,685	$374,308,992	$230,276,307
Nonrefundable research expense credit	504	$59,346,891	$637,394,578	$578,047,687
Enterprise zone jobs credit	12	$35,276,262	Refundable	
Historic rehabilitation credit	10	$27,139,566	$57,098,548	$29,958,982
Refundable research expense credit	644	$20,803,078	Refundable	
Business development credit	27	$15,698,036	Refundable	
Agriculture Credit	134	$6,089,504	$9,846,231	$3,756,727
Internal combustion engines research credit	45	$5,490,851	$96,135,401	$90,644,550

Commonly Used Individual Franchise/Income Tax Credits, Tax Year 2024 (Statistics as of June 19, 2026)				
Individual Income Tax Credits	**Number of Claims**	**Amount of Credit Used**	**Credit Available**	**Credit Carried Forward**
School property tax credit	2,056,906	$466,422,625	$538,640,549	No carryforward
Taxes paid to other states credit	79,592	$369,667,327	$386,156,195	No carryforward
Itemized deduction credit	598,478	$335,921,388	$735,205,964	No carryforward
Manufacturing credit	8,762	$312,438,314	$726,791,239	$414,352,925
Married couple credit	623,070	$257,710,597	$262,527,365	No carryforward
Additional child and dependent care credit	102,114	$131,495,911	$139,341,318	No carryforward
Earned income credit	196,296	$94,232,541	Refundable	
Veterans and surviving spouses property tax credit	17,474	$68,090,142	Refundable	
Homestead credit	71,256	$34,428,478	Refundable	
Agriculture credit	12,486	$30,227,550	$134,095,547	$103,867,997

Reminder: Due Date for Partnerships and Tax-Option (S) Corporations Making the Entity-Level Tax Election

An election for partnerships and tax-option (S) corporations to pay tax at the entity level, including any revocation of an election, must be made for each taxable year by the extended due date of the entity's income or franchise tax return.

The extended due date of a 2025 Form 3, *Wisconsin Partnership Return*, for a calendar-year partnership is September 15, 2026, and the extended due date of a 2025 Form 5S, *Wisconsin Tax-Option (S) Corporation Franchise or Income Tax Return*, for a calendar-year tax-option (S) corporation is October 15, 2026.

For additional information on making the entity-level tax election, see the following:

- Article titled *Election to Pay Tax at Entity Level for Tax-Option (S) Corporations and Partnerships*, on pages 2 and 3 of *Wisconsin Tax Bulletin 204* (January 2019)
- *Pass-Through Entity-Level Tax: Partnerships* common questions
- *Pass-Through Entity-Level Tax: Tax-Option (S) Corporation* common questions

2024 Tax Year
(Statistics as of June 15, 2026)

Tax-Option (S) Corporations (Form 5S) Filing Stats	
Tax-Option (S) Corporation returns filed	92,535
Tax-Option (S) Corporation entity-level tax elections filed	10,057
Percent of entity-level tax elections filed	10.87%

Partnership (Form 3) Filing Stats	
Partnership returns filed	92,157
Partnership entity-level tax elections filed	4,792
Percent of entity-level tax elections filed	5.20%

Pass-Through Entity Filing Stats – TOTAL	
Pass-Through entity returns filed	184,692
Entity-level tax elections filed	14,849
Percent of entity-level tax elections filed	8.04%

Sales and Use Tax Updates and Reminders

Free In-Person Sales and Use Tax Seminars for Wisconsin and Minnesota Businesses

Are you a business owner, bookkeeper, purchasing agent, or accountant who operates in both Wisconsin and Minnesota? Don't miss your chance to attend free in-person seminars covering the essentials of sales and use tax laws in both states.

The Wisconsin and Minnesota Departments of Revenue have partnered to offer an overview of each state's sales and use tax laws, specifically designed for professionals who need a working knowledge of their obligations in both states.

- September 15, 2026 – Duluth, MN
- September 30, 2026 – La Crosse, WI

- October 22, 2026 – Hudson, WI

The specific dates, times, locations, and registration information are available on the Training page of the department's website. Seats are limited, so be sure to secure your spot as soon as possible.

Reminder: Exemption for Persons Engaged in Contract Research Services

2025 Wis. Act 190 modified the sales and use tax exemption for qualified research under sec. 77.54(57d)(b), Wis. Stats., by doing the following:

- Expands the exemption to include persons engaged in contract research services in Wisconsin.
- Defines contract research services to mean research conducted by a person on behalf of a customer that, if performed by employees of the customer, would constitute qualified research.
- Modifies the definition of qualified research to include qualified research funded by customers for whom contract research services are provided.

The following publications have been updated for the law changes:

- Publication 131, *Tax Incentives for Conducting Qualified Research in Wisconsin*
- Fact Sheet 2101-2, *Sales and Use Tax Exemption for Qualified Research On and After July 2, 2013*, has been renamed as *Sales and Use Tax Exemption for Qualified Research*.
- Fact Sheet 2101-1, *Sales and Use Tax Exemption for Qualified Research from January 1, 2012 through July 1, 2013*, has been discontinued.

Reminders: New Premier Resort Area Taxes Effective July 1 and Wisconsin's State and Local Sales Tax Rate Lookup

The city of Sturgeon Bay and town of Minocqua began imposing a 0.5% premier resort area tax on July 1, 2026.

The Wisconsin State and Local Sales Tax Rate Lookup uses street address information to determine the proper jurisdiction and tax rate that applies to a transaction. Users must enter either a street address and 5-digit zip code or 9-digit zip code to determine the proper jurisdiction and state, county, and city sales and use tax rates.

The look-up also determines if the street address and 5-digit zip code are located in a premier resort area or local exposition district. **Note:** Not all sellers are subject to Premier Resort Area Tax or Local Exposition Taxes. See Publication 403, *Premier Resort Area Tax*, and Publication 410, *Local Exposition Taxes*, for additional information.

Pool Cleaning and Maintenance Services

Swimming pools are being used regularly during this hot summer. This article is a reminder that charges for cleaning, maintenance, repairs, and other services performed on swimming pools are taxable, unless an exemption applies (e.g., services purchased by an exempt municipal government). These charges for labor are taxable regardless of whether the pool is above, below, or partially in ground. Examples include:

- Vacuuming, brushing, and skimming
- Removing leaves, debris, algae, stains, or scale

- Adding chemicals
- Cleaning or backwashing a filter
- Draining or refilling a pool
- Inspecting the pool or diagnosing a problem
- Repairing leaks, cracks, liners or drains
- Replacing pool components

Pool Chemicals, Parts, and Supplies

Retail sales of pool chemicals, parts, and supplies are taxable, unless an exemption applies. Examples include chlorine, algaecide, stabilizer, salt, shock treatment, filter cartridges, pool covers, brushes, nets, vacuums, and replacement parts.

A service provider may purchase chemicals and parts transferred to the customer as part of a taxable service without tax for resale. The service provider must pay tax on tools, equipment, and supplies that are not transferred to the customer as part of a service.

Excise Tax Updates and Reminders

Sale of Electronic Vaping Devices in Wisconsin

As of July 2, 2026, all electronic vaping devices must be listed on the Wisconsin Electronic Vaping Device Directory if they are sold or offered for sale in Wisconsin. Manufacturers, distributors, and retailers that sell electronic vaping devices not listed on the Directory are engaging in unfair and deceptive trade practice in violation of Wisconsin law, sec. 100.20, Wis. Stats., and such products may be seized and destroyed.

Manufacturers and retailers that sell or offer for sale an electronic vaping device that is not listed on the Directory are subject to a $1,000 forfeiture per day for each device. Beginning September 1, 2026, the forfeiture also applies to devices containing hemp, as defined in sec. 94.55(1), Wis. Stats., and not containing nicotine.

An electronic vaping device that is required to be listed on the Directory includes a component, part, or accessory of an electronic vaping device and the liquids or other substances that may be aerosolized or vaporized by such device. See the department's *Electronic Vaping Device Directory Common Questions* for more information.

Additional information about the Directory is found in sec. 995.15, Wis. Stats., and Publication 304, *Cigarette, Tobacco, and Vapor Products Tax and Regulatory Information*.

For questions about the Directory, email DORExcise@wisconsin.gov or call (608) 266-6701.

Unclaimed Property Updates and Reminders

Updated Unclaimed Property Holder Report Guide

Publication 82, *Unclaimed Property Holder Report Guide,* has been updated and posted to the department's website. An important change to the publication is the updated name and contact information for the department's securities custodian. See Part 3.D.(2) for the new information.

Holder Reporting Reminder: Attempt to Locate Owners

Wisconsin law (sec. 177.0501(1), Wis. Stats.) requires unclaimed property holders to make a good faith effort to locate owners of abandoned property so that the holder can return the property to the owners rather than remit it to the department. Holders must send notification letters to owners of properties valued at $50 or more. Letters must include the information required under sec. 177.0502, Wis. Stats., and must be sent between July and September.

See Part 3 in Publication 82, *Unclaimed Property Holder Report Guide*, for additional information on the holder reporting process, and Appendix 3 for a sample letter.

Report on Litigation

Summarized below are recent significant Wisconsin Tax Appeals Commission (Commission) and Wisconsin Court decisions.

Individual Income Tax

Nonresidents – Wisconsin Net Operating Loss

Fatemah Panahi and Majid Aksari. v. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, July 2, 2026)

The issue in this case is whether the 2022 business loss incurred by Fatemah Panahi and Majid Aksari (Taxpayers) could be treated as a Wisconsin net operating loss (NOL) and carried back to offset their 2020 Wisconsin income.

Taxpayers filed as Wisconsin residents for 2020, part-year residents for 2021, and nonresidents of Wisconsin for 2022. During each of these years Taxpayers had a securities trading business and reported gain and loss under the mark-to-market rules. The business reported an overall gain for 2020 and losses in 2021 and 2022.

Taxpayers reported part of their 2022 business loss as sourced to Wisconsin and filed a 2020 Form X-NOL to offset the NOL from that business loss against their 2020 income. The department reviewed the Form X-NOL and disallowed the claim in its Notice of Changes – Individual Income Tax. The NOL carryback was disallowed because Taxpayers incurred the underlying loss while they were nonresidents and Wisconsin law (sec. 71.04(1)(a), Wis. Stats.) sources the income or loss from securities to the individual's state of residence. Taxpayers filed a petition for redetermination with the department that was ultimately denied. A timely appeal of that decision was filed with the Commission.

Taxpayers made the following arguments to support their claim to use the 2022 securities losses against their 2020 Wisconsin income because:

1) The losses arose from deemed mark-to-market losses, and not "sales" of securities, so sec. 71.04(1)(a), Wis. Stats., does not apply.
2) By sourcing the 2022 losses to Washington State, the department deprives Taxpayers of the carryback provided in sec. 71.05(8)(b), Wis. Stats.
3) It is absurd for a taxpayer to be unable to "use" a loss incurred while a taxpayer is a nonresident of Wisconsin merely because the taxpayer incurred that loss while residing in a state which has no income tax.

Upon reviewing the relevant facts and laws, the Commission ruled as follows for each of Taxpayers' arguments:

1) The application of the sourcing statute is not limited solely to "sales." All income and loss derived from stocks, bonds, and securities is sourced to the individual's state of residence.
2) Taxpayers' argument is factually correct, but that also appears to be the intent of the statute. The legislature specifically limited the deduction to "Wisconsin net operating losses." As such, only losses sourced to Wisconsin are eligible for the net operating loss carryback and carryforward.
3) In order to be carried back, an NOL must be a "Wisconsin NOL" (sec. 71.05(8)(b), Wis. Stats.). The department's position regarding NOLs is accurate and faithful to the plain language of the statutes, not absurd.

Ultimately, the Commission concluded that Taxpayers did not provide sufficient evidence to show the department's notice was incorrect. The 2022 loss is not sourced to Wisconsin and cannot be carried back to offset Taxpayers' 2020 Wisconsin income. Accordingly, the Commission upheld the department's determination and notice.

It is unknown at the time of publishing whether the taxpayers will appeal this decision.

Corporation Franchise and Income Taxes

Intercompany Transactions – Valid Business Purpose and Economic Substance

Skechers USA, Inc. v. Wisconsin Department of Revenue

Skechers USA, Inc. petitioned the Wisconsin Supreme Court to review the adverse decision they received from the Wisconsin Court of Appeals as provided in sec. 808.10, Wis. Stats.

The taxpayer claimed a corporate franchise deduction for royalties paid to an affiliate for the use of intellectual property, including the Skechers brand. The department denied the deduction as a sham transaction, lacking in business purpose and economic substance. The Wisconsin Court of Appeals affirmed the circuit court's order upholding the Commission's conclusion that the department properly applied sec. 71.30(2), Wis. Stats., "Allocation of gross income, deductions, credits between 2 or more businesses."

The Wisconsin Supreme Court denied review, so as determined by the Wisconsin Court of Appeals, the decision of the Tax Appeals Commission stands.

See *Wisconsin Tax Bulletin 221* (April 2023), pages 10-12, for a summary of the Wisconsin Tax Appeals Commission's decision.

See *Wisconsin Tax Bulletin 225* (April 2024), pages 17-18, for a summary of the Dane County Circuit Court's decision.

See *Wisconsin Tax Bulletin 230* (July 2025), page 15, for a summary of the Wisconsin Court of Appeals decision.

Sales and Use Tax

Remote Sales by an Out-of-State Business

Tekton, Inc. v. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, April 23, 2026)

The issue in this case is the application of Wisconsin sales and use tax to sales into Wisconsin made by an out-of-state business with no physical presence in the period immediately following the United States Supreme Court decision in *South Dakota v. Wayfair, Inc.*

As a result of the *Wayfair* decision, out-of-state retailers without a physical presence in Wisconsin (remote sellers) are required to collect and remit Wisconsin sales or use tax on sales of taxable products and services in Wisconsin on and after October 1, 2018. A small seller exception was provided by emergency

rule and applied to remote sellers that had $100,000 or less in annual gross sales and less than 200 separate sales transactions in Wisconsin in both the previous year and current year effective October 1, 2018. 2017 Wis. Act 368, amended Wisconsin sales and use statutes to provide the small seller exception by law, consistent with the *Wayfair* decision.

Taxpayer is an online seller of hand tools and is incorporated and located in Michigan. Through its website, or via phone or email, the taxpayer accepts orders from purchasers in any U.S. state and Canada, including Wisconsin. During the period reviewed, the taxpayer did not have a physical presence in Wisconsin, but admitted their sales sourced to Wisconsin exceeded $100,000 in every year of the audit period. The taxpayer thus did not qualify for the small seller exemption; however, they did not register, collect, or remit Wisconsin sales or use taxes until September 1, 2021.

The department issued estimated assessments for unpaid sales tax for the periods prior to the taxpayer's registration back to October 1, 2018, based on the department's determination that the taxpayer had over $100,000 in Wisconsin sales for each year. The taxpayer appealed these assessments, asserting that the due process clause of the U.S. Constitution precluded the assessment.

In the Joint Stipulation of Facts, the taxpayer agreed that during the audit period they engaged in substantial and non-isolated activities into Wisconsin by selling to Wisconsin residents and retailers within the meaning of Wisconsin's personal jurisdiction statute, sec. 801.05(1)(d), Wis. Stats.

However, in the appeal, the taxpayer argued that Wisconsin does not have personal jurisdiction over the taxpayer because they don’t purposefully direct any of their activities into Wisconsin outside of making goods available for Wisconsin residents to purchase online. Furthermore, the taxpayer asserted that it is a Due Process violation for the department to make retroactive estimates that the taxpayer must pay on taxes that could have been collected from 2018 to 2021. Lastly, the taxpayer held that it is fundamentally unfair for a small, family-owned company to be presented with a bill for taxes which the taxpayer did not collect from the purchaser at the time of sale.

The Commission concluded that the taxpayer already explicitly stipulated that it engaged in substantial and non-isolated activities by selling to Wisconsin residents under Wisconsin's personal jurisdiction statute. The Commission noted it does not have the legal power to declare a Wisconsin statute unconstitutional, and the taxpayer provided no evidence that the tax laws were unconstitutional as they apply to them. The Commission also rejected the taxpayer's argument that the look-back assessment was an illegal retroactive tax by clarifying that the taxes were legally due at the time of the sales under Wisconsin's post-*Wayfair* emergency rules and statutes. The taxpayer's failure to collect them at the time did not make the department's subsequent assessment "retroactive."

Furthermore, the Commission dismissed the taxpayer's plea of fundamental unfairness as a small business as the taxpayer's amount of revenue and employees disqualified it from Wisconsin's statutory definition of "small business," which is 25 or fewer employees or under $5 million in sales. In addition, the Commission noted it has no equitable authority to waive taxes as Wisconsin law mandated that the department shall estimate and collect unpaid taxes and apply the 25% penalty for failure to file. Lastly, the Commission states that the taxpayer failed to provide clear and satisfactory evidence providing that the department's calculations or estimated amounts due were factually inaccurate. Therefore, the assessments were sustained.

The taxpayer did not appeal this decision.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of July 31, 2026: chs. 71, 76, 77, 94, 100, 177, 801, 808, and 995, Wis. Stats., and chs. Tax 1, 2, 3, 10, and 11, Wis. Adm. Code. Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to this date that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis. Stats.

Public Comments

The public may submit comments on guidance documents at any time.