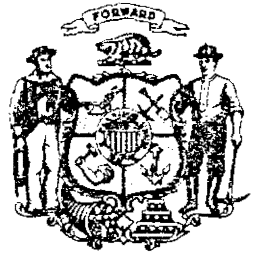


WISCONSIN TAX BULLETIN

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Income, Sales, Inheritance and
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SPECIAL BULLETIN

NEW WISCONSIN TAX LAWS

The 1981-83 budget bill (Chapter 20, Laws of 1981) which was signed by the Governor on July 29 and was published on July 30, 1981, contains a number of changes to the Wisconsin tax laws. This special issue of the WTB contains brief descriptions of the new income, corporation franchise/income, farmland preservation credit, homestead credit, inheritance, sales and use and excise tax provisions.

If you have any questions concerning these new laws, you may contact the Wisconsin Department of Revenue, Technical Services, Post Office Box 8910, Madison, Wisconsin 53708.

TAX LAW PROVISIONS IN BUDGET BILL

INCOME TAXES

Effective Date

- | | |
|---|---------------|
| 1. Update Reference to Internal Revenue Code to December 31, 1980 for Individuals, Estates and Trusts | 1981 tax year |
| 2. Rent Credit Changed | 1981 tax year |
| 3. Work Requirements Changed for Child Care Deduction | 1981 tax year |
| 4. Prorate Personal Exemption Credits on Basis of Months | 1981 tax year |
| 5. Define "Gross Income" Relating to Requirements to File a Tax Return | 1981 tax year |
| 6. Writ of Mandamus to File a Tax Return | July 31, 1981 |
| 7. Define Terms for Declaration of Estimated Tax | July 31, 1981 |
| 8. Exempt Income of Certain Trust Accounts of Nonresidents | 1981 tax year |
| 9. Defer Gain on Sale of Residence - Replacement Outside of Wisconsin | 1982 tax year |
| 10. 5% Minimum Tax | 1981 tax year |
| 11. Capital Gain and Loss Changes | 1982 tax year |
| 12. Accelerated Depreciation for Individuals, Estates and Trusts | 1981 tax year |

CORPORATE FRANCHISE/INCOME TAXES

Effective Date

- | | |
|--|---|
| 1. Update Internal Revenue Code Reference to December 31, 1980 for Insurance Companies, Regulated Investment Companies and Real Estate Investment Trusts | 1981 tax year |
| 2. Clarify That Federal Income Taxes are Not Deductible | 1975 tax year |
| 3. Clarify the Limitation for Deductible Dividends | 1980 tax year |
| 4. Eliminate Deduction for State Taxes | 1981 tax year |
| 5. Eliminate Deduction for Windfall Profits Tax | 1981 tax year |
| 6. Addition to Tax Penalty Not Deductible | 1981 tax year |
| 7. Accrual of Real Estate Taxes | 1981 tax year |
| 8. Involuntary Conversions - Replacement Property Outside Wisconsin | 1981 tax year |
| 9. Imputed Interest | 1981 tax year |
| 10. Capitalize Intangible Drilling Costs | 1981 tax year |
| 11. Eliminate Requirement to File Extension Form 7005 Within Ten Days | 1981 tax year |
| 12. Six Month Extensions for DISCs and Cooperatives | 1981 tax year |
| 13. Corporate Reorganization | 1981 tax year |
| 14. 60% Payment of Tax Liability Required to Meet Exception to Addition to Tax | July 31, 1981, except that amounts that would have been due before July 31, 1981 should be prorated equally among and paid with installments of estimated taxes beginning with the payment for the calendar quarter beginning October 1, 1981 |
| 15. Define Declaration of Estimated Tax Terms | July 31, 1981 |
| 16. Accelerated Depreciation | 1981 tax year |
| 17. Corporate Tax Rate Changed | 1981 tax year |

FARMLAND PRESERVATION CREDIT

Effective Date

1. Farmland Preservation Credit Changes

1981 tax year

HOMESTEAD CREDIT

1. Depreciation Added to Household Income
2. Homestead Credit Formula Changed

claims filed for
the year 1981

claims filed for
the year 1981

INHERITANCE TAXES

1. Update Reference to Internal Revenue Code to December 31, 1980 for Qualified Retirement Plans, Installment Payments and Power of Appointment

transfers because
of death on or
after July 1, 1981
except power of
appointment becomes
effective July 31, 1981

SALES AND USE TAXES

1. Retailers Discount Changed
2. Define When Sales and Use Tax Returns and Other Actions are Timely Filed
3. Exempt All Fuels Converted to Electric Energy, Gas or Steam
4. Exempt Corporate Reorganizations
5. Define "Substantially Similar" in Section 77.51(10)(b)
6. Exemption for Metropolitan Sewerage Districts

sales and use taxes
payable on returns
filed for taxable
years beginning on
or after January
1, 1983

July 31, 1981

October 1, 1981

July 31, 1981

July 31, 1981

October 1, 1981

EXCISE TAXES

1. Motor Fuel and Special Fuel Tax Increase to 13¢ Per Gallon
2. Impose New Excise Tax on Aviation Fuel

August 1, 1981

January 1, 1982

	<u>Effective Date</u>
3. Liquor and Wine Tax Increased	August 1, 1981
4. Cigarette Tax Increased to 20¢ Per Pack	August 1, 1981
5. New Tax on Tobacco Products	October 1, 1981
6. Filing Quarterly Reports-Beer, Liquor, Cigarette and Special Fuel	October 1, 1981

OTHER LAW CHANGES

1. Interest Rate and Addition to Tax Penalty Increased From 9% to 12%	determinations, assessments or other actions made by the Department of Revenue on or after August 1, 1981 regardless of the taxable period to which they pertain
2. Annual Adjustment to Withholding Tables	January 1, 1983
3. Nonacquiescence of Tax Appeals Commission Decisions	July 31, 1981
4. Eliminate Requirement to File Form 10	1981 tax year
5. Fraudulent Homestead Credit, Farmland Credit and Alternative Energy Credit Claims a Felony	claims filed on or after July 31, 1981
6. Time Limit for Refunding Income and Franchise Taxes	returns for the 1981 tax year
7. Lien for Unpaid Taxes - Effective Date	July 31, 1981
8. Application of Non-Delinquent Tax Payments	July 31, 1981
9. Payment of Income Tax Refunds or Tax Credits if a Person Dies	July 31, 1981
10. Property Tax Deferral for Persons 65 or Over	July 31, 1981
11. Reduce Refunds for Debts Owed the State	February 1, 1982

EXPLANATION OF TAX PROVISIONS IN BUDGET BILL

INCOME TAX

1. Update Reference to Internal Revenue Code to December 31, 1980 for Individuals, Estates and Trusts (Amend 71.02(2)(b)6, create 71.02(2)(b)7, effective for 1981 taxable year and thereafter.)

For the taxable year 1981 and thereafter, individuals, estates and trusts will use the Internal Revenue Code in effect on December 31, 1980 with certain exceptions. Examples of such exceptions include:

- (a) Child and dependent care expenses and political campaign contributions will remain an itemized deduction for Wisconsin rather than being a credit as for federal purposes.
- (b) Pollution control facilities must be depreciated over the useful life of the facility for Wisconsin; however, a special one year write-off provision will still be available for such facilities under s. 71.05(1)(h) or (i), Wis. Stats. (For federal, the cost of certain pollution control facilities may be amortized over a five year period.)
- (c) The foreign earned income exclusion of \$15,000 remains in effect for Wisconsin, with no deduction allowed for excess living costs. (For federal, a U.S. citizen working abroad may claim a deduction for excess foreign living costs.)
- (d) Educational assistance plan benefits must be included in Wisconsin taxable income, but the employee may claim an educational expense deduction if the education maintains or improves skills needed in the present job and does not qualify the employee for a new trade or profession. (For federal, benefits received by an employee under an employer's qualified educational plan may be excluded from the employee's federal gross income.)

NOTE: The \$200 exclusion for interest and dividends, which was enacted by the U.S. Congress in 1980 in section 404 of federal Public Law 96-223, will apply to Wisconsin for the 1981 taxable year, however, it will not apply for the 1982 taxable year and thereafter. For 1982 and thereafter, the \$100 dividend exclusion (with no exclusion for interest) will apply.

For federal purposes, single taxpayers may exclude up to \$200 of interest and dividends. Married persons filing a joint federal return may exclude up to \$400 of interest and dividends, regardless of which spouse received the interest and dividends. If married persons file separate federal returns, the exclusion for each spouse is limited to \$200 of interest and dividends received by that spouse. For Wisconsin purposes for 1981, married persons will have to compute the exclusion as if they filed separate federal returns, with each spouse limited to a \$200 exclusion.

2. Rent Credit Changed (Amend 71.53(1)(d), effective for 1981 taxable year and thereafter.)

The rent credit may be based on only rent paid for a person's principal residence and contiguous land. Also, rent paid which is deductible as a trade or business expense may not be used in determining the 12% rent credit.

3. Work Requirements Changed for Child Care Deduction (Amend 71.02(2)(b)6, create 71.02(2)(b)7, effective for 1981 taxable year and thereafter.)

An itemized deduction for work-related child and dependent care expenses will be available to individuals who are employed (including self-employment) on only a part-time basis during the month such expenses are incurred. In the case of married couples, child and dependent care expenses may also be deducted when only one spouse is employed (full-time or part-time), provided the nonworking spouse is a full-time student during at least 5 months of the taxable year.

Under prior law it was necessary for single persons and married couples (both spouses) to work at least on a three-quarter time basis during a month to qualify to deduct work-related child and dependent care expenses.

4. Prorate Personal Exemption Credits on Basis of Months (Amend 71.09(6p)(d)1, effective for 1981 taxable year and thereafter.)

Part-year residents will prorate their personal exemption credits on the basis of the number of months (days were used under prior law) of the taxable year that they were domiciled in Wisconsin. Any month during which a part-year resident is domiciled in Wisconsin for 15 days or more will be considered a full month for purposes of this proration.

5. Define "Gross Income" Relating to Requirements to File a Tax Return (Create 71.10(2)(d), effective for 1981 taxable year and thereafter.)

Existing law in s. 71.10(2) provides that a person must file a Wisconsin income tax return if his or her income exceeds a certain level. The new law in s. 71.10(2)(d) defines gross income which in effect means all income, from whatever source derived and in whatever form realized, whether in money, property, or services, which is not exempt from Wisconsin income tax.

6. Writ of Mandamus to File a Tax Return (Create 71.11(40m), amend 783.07, effective July 31, 1981.)

If a person, including an officer of a corporation, required by Wisconsin law to file a tax return fails to file a return within 60 days after the time required and refuses to file a return within 30 days after being requested by the Department of Revenue to file, the Department of Revenue may petition the Circuit Court to issue a writ of mandamus. Upon receipt of such petition, the Circuit Court shall issue a writ of mandamus requiring that person to file a tax return. Such person shall then respond to the writ of mandamus within 20 days after receiving service of such writ of mandamus. The petition shall be determined by the 20th day or on a later date as the Court determines, having regard for the speediest possible determination of the case.

The petition for a writ of mandamus filed by the Department shall be in the county in which the taxpayer resides.

If a person, without just excuse, refuses or neglects to file a return as instructed by the Court, the Court may impose up to a \$5,000 fine or imprisonment up to 5 years.

The department's filing of a petition for a writ of mandamus does not relieve the taxpayer from any other penalties prescribed by law.

7. Define Terms for Declaration of Estimated Tax (Create 71.21(1m), effective July 31, 1981.)

The terms "tax shown on the return" and "tax for the taxable year" as used in s. 71.21 (relating to declaration of estimated tax and addition to tax penalty for individuals) mean the net tax after reduction for exemptions and credits but before reduction by amounts withheld under s. 71.20 and before reduction for amounts paid as declarations of estimated tax.

For purposes of s. 71.21(16) (relating to an exception to the addition to tax penalty), "tax computed" means net tax after reduction for personal exemption credits and for a prorated amount of all credits shown on the return but before reduction for amounts withheld under s. 71.20 or amounts paid as declarations of estimated tax. The proration for tax credits shall be based on a fraction, the numerator of which is the number of months in a taxable year that end before the month in which the installment is required to be paid and the denominator of which is 12.

8. Exempt Income of Certain Trust Accounts of Nonresidents (Amend 71.07(7)(b)2, effective for 1981 taxable year and thereafter.)

The following trusts shall be considered to be administered in the state of domicile of the corporate trustee (person in whom power is invested to administer the trust) of the trust at any time that the grantor (person who creates the trust) of the trust is not a resident of Wisconsin:

- (a) Trusts that have any assets invested in a common trust fund (as defined in section 584 of the Internal Revenue Code) maintained by a bank or trust company domiciled in Wisconsin that is a member of the same affiliated group (as defined in section 1504 of the Internal Revenue Code, which means 80% ownership test, etc.) as the corporate trustee.
- (b) Trusts the assets of which in whole or part are managed, or about which investment decisions are made, by a corporation domiciled in Wisconsin if that corporation and corporate trustee are members of the same affiliated group, as defined in section 1504 of the Internal Revenue Code.

As an example, a resident of Arizona (grantor) establishes a trust in an Arizona affiliate of a Wisconsin bank, however, all of the administration of the trust occurs at the Wisconsin bank. This new law provides that the trust is considered to be domiciled in Arizona (state of domicile of trustee), while under prior law the trust was considered domiciled in Wisconsin (the state in which the trust is actually administered).

9. Defer Gain on Sale of Residence - Replacement Outside of Wisconsin
(Amend 71.05(1)(a)5, effective for 1982 taxable year and thereafter.)

Section 1034(a) of the Internal Revenue Code provides that part or all of the gain from the sale of a person's principal residence may be deferred if a replacement home is purchased within a certain period of time and other requirements are met. Prior Wisconsin law provided that if a residence was sold and the replacement residence was located outside Wisconsin, a gain deferred under section 1034(a) had to be included in Wisconsin income.

The new Wisconsin law provides that, beginning with the 1982 taxable year, any deferred gain under section 1034(a) will not have to be included in Wisconsin taxable income even though the replacement residence is located outside Wisconsin.

10. 5% Minimum Tax (Create 71.60, effective for 1981 taxable year and thereafter.)

A 5% minimum tax will be imposed on a natural person, trust and estate if the total of tax preference items and adjusted itemized deductions of the person, trust or estate exceeds \$10,000. The rate of tax is 5%. The tax is payable by the due date for filing the person's, trust's or estate's income tax return.

The minimum tax will be computed as follows:

- (a) Add:
 - (1) Tax preference items
 - (2) Adjusted itemized deductions
- (b) Less: \$10,000
- (c) Subtotal (Amount subject to minimum tax)
- (d) x 5% (multiply 5% times subtotal)
- (e) Amount of Minimum Tax

Tax preference items: The following are tax preference items for purposes of the minimum tax.

- Accelerated depreciation on section 1250 property (Internal Revenue Code section 57(a)(2))
- Accelerated depreciation on leased section 1245 property (Internal Revenue Code section 57(q)(3))
- Bargain element in stock options (Internal Revenue Code section 57(a)(6))
- Depletion (Internal Revenue Code section 52(a)(8))
- Intangible drilling costs (Internal Revenue Code section 57(a)(11))

For partnerships, each partner must include his or her distributive share of partnership deductions that are tax preference items. For shareholders of Sub. S, a shareholder must include his or her proportionate share of corporation deductions that are tax preference items. Tax preference items for part-year residents include only those items which relate to income received while a resident of Wisconsin, income received while a nonresident of Wisconsin but allocable to Wisconsin under s. 71.07, Wis. Stats., and Wisconsin itemized deductions as defined in s. 71.02(2)(f), Wis. Stats. Tax preference items for nonresidents include only those items which relate to income allocable to Wisconsin under s. 71.07, Wis. Stats., income relating to property located in Wisconsin and itemized deductions as defined in s. 71.02(2)(f), Wis. Stats.

Adjusted Itemized Deductions: For purposes of the minimum tax, "adjusted itemized deductions" is computed as follows:

- (a) Total Wisconsin itemized deductions claimed by taxpayer
- (b) Less: Casualty and theft losses deducted as an itemized deduction under Internal Revenue Code section 165(c)(3)
- (c) Less: Medical and dental expenses deducted as an itemized deduction under Internal Revenue Code section 213
- (d) Subtotal (This amount may not be greater than 100% of Wisconsin adjusted gross income.)
- (e) Less: 60% of Wisconsin adjusted gross income
- (f) Adjusted itemized deductions (line (d) minus line (e))

Example 1: For 1981, taxpayer claimed itemized deductions of \$29,500. Casualty and theft losses and medical and dental expenses deducted amounted to \$1,640. Taxpayer reported \$41,000 of Wisconsin adjusted gross income. Adjusted itemized deductions would be determined as follows:

\$29,500	Total Wisconsin Itemized Deductions
(1,640)	Less: Casualty & Theft Losses and Medical & Dental Expenses Deducted
\$27,860	Subtotal
(24,600)	Less: 60% of Wisconsin Adjusted Gross Income (\$41,000 x 60%)
<u>\$ 3,260</u>	Adjusted Itemized Deductions

Example 2: Assume the same facts as in Example 1, except taxpayer reported \$27,000 of Wisconsin adjusted gross income.

\$29,500	Total Wisconsin Itemized Deductions
(1,640)	Less: Casualty & Theft Losses and Medical & Dental Expenses Deducted
<u>\$27,860</u>	Subtotal (Since this amount exceeds 100% of \$27,000, Wisconsin adjusted gross income must be used in this computation.)
\$27,000	Wisconsin Adjusted Gross Income
(16,200)	Less: 60% of Wisconsin Adjusted Gross Income (\$27,000 x 60%)
<u>\$10,800</u>	Adjusted Itemized Deductions

Married persons will determine their "adjusted itemized deductions" as follows:

$$\begin{array}{lcl} \text{Total adjusted itemized} & & \text{Wis. itemized deductions} \\ \text{deductions claimed by} & & \text{claimed by spouse A} \\ \text{both spouses} & \times & \frac{\text{Total Wis. itemized de-}}{\text{ductions claimed by}} \\ & & \text{both spouses} \end{array} = \begin{array}{l} \text{Spouse A's} \\ \text{adjusted} \\ \text{itemized} \\ \text{deductions} \end{array}$$

Example: Married taxpayers filed a 1981 Wisconsin income tax return. Husband reported \$23,900 Wisconsin adjusted gross income; wife reported \$25,300 Wisconsin adjusted gross income. Medical and dental expenses and casualty and theft losses deducted by both spouses totaled \$2,400. Husband deducted \$16,050 of itemized deductions from his Wisconsin total income; wife deducted \$17,450 of itemized deductions from her income.

\$33,500 Total Wisconsin Itemized Deductions Deducted by Both Spouses
 Less: Medical and Dental Expenses and Casualty and Theft Losses of Both Spouses (2,400)
 \$31,100 Subtotal
 Less: 60% of Total Wisconsin Adjusted Gross Income of Both Spouses ((23,900 + 25,300) x 60%) (29,520)
 \$1,580 Total Adjusted Itemized Deductions of Both Spouses

Husband's Adjusted Itemized Deductions are:

$$\begin{array}{rcl} \$1,580 & \times & \frac{\$16,050}{\$33,500} \\ & & = \$757 \end{array}$$

Wife's Adjusted Itemized Deductions are:

$$\begin{array}{rcl} \$1,580 & \times & \frac{\$17,450}{\$33,500} \\ & & = \$823 \end{array}$$

The minimum tax may not be deducted in determining a person's, trust's or estate's Wisconsin taxable income or tax.

11. Capital Gain and Loss Changes (Amend 71.05(1)(a)2, 5, 6 and 13 and 71.05(1)(j), create 71.05(2m), effective for 1982 taxable year and thereafter.)

The following changes are made in the treatment of capital gain and loss income:

- a. Long-term capital gains will be taxable as follows: 80% in 1982 taxable year, 60% in 1983 taxable year and 40% in 1984 taxable year and thereafter.
- b. Only one-half (50%) of a net long-term capital loss incurred in taxable year 1982 and thereafter will be allowable as a deduction from other income. However, if a long-term capital loss which was incurred prior to taxable year 1982 is carried forward to taxable year 1982 or thereafter, such loss continues to be 100% deductible.

- c. The annual limitation which will apply when pre-1982 capital losses are deducted as a subtraction modification in 1982 and subsequent taxable years is \$3,000 per year for single persons and \$1,500 each for spouses.
- d. The 80%, 60% and 40% taxation of capital gains for 1982, 1983 and 1984 and thereafter, which is described in item "a" above, will also apply to:
 - (1) Nonresidents who must include in Wisconsin income a net long-term capital gain from the involuntary conversion of Wisconsin property which has been replaced with property located outside Wisconsin.
 - (2) Nonresident aliens who must include in Wisconsin income a net long-term gain from the sale of assets having a situs in Wisconsin.

12. Accelerated Depreciation for Individuals, Estates and Trusts (Amend 71.02(2)(b)6 and create 71.02(2)(b)7, effective for 1981 taxable year and thereafter. In certain situations the effective date for fiscal year taxpayers may be the 1980 taxable year, as described below.)

In computing Wisconsin income for the 1981 taxable year and thereafter, an individual, estate or trust may elect to use amendments to the Internal Revenue Code adopted after December 31, 1980 which affect the computation of depreciation or of adjusted basis. (NOTE: The effect of this provision is that if Congress in 1981 enacts changes to depreciation, such changes will also apply to Wisconsin. The federal effective date for such depreciation changes, as provided in the Internal Revenue Code, will also be the effective date for Wisconsin. For example, if federal depreciation changes apply to purchases after July 1, 1981, this July 1 effective date will also apply for Wisconsin. If the federal effective date for depreciation changes applies to purchases made on or after January 1, 1981, then the new federal depreciation provisions will also be available with respect to the 1980 taxable year of individuals, estates and trusts having a 1980 fiscal year ending after the effective date. For example, with an April 1 effective date, the new depreciation rates could be used for taxable year 1980 by fiscal year filers with 1980 taxable years ending in April, May and June of 1981.)

CORPORATE FRANCHISE/INCOME TAXES

1. Update Internal Revenue Code Reference to December 31, 1980 for Insurance Companies, Regulated Investment Companies and Real Estate Investment Trusts (Amend 71.01(4)(g)4 and 71.02(1)(a)5, create 71.01(4)(g)5 and 71.02(1)(a)6, renumber 71.01(4)(g)5 to 71.01(4)(g)9, effective for 1981 taxable year and thereafter.)

For the 1981 taxable year and thereafter, insurance companies, regulated investment companies and real estate investment trusts will compute their income under the Internal Revenue Code in effect on December 31, 1980.

2. Clarify That Federal Income Taxes Are Not Deductible (Amend 71.02 (1)(c), 71.04(3) and 71.11(8)(b), effective for 1975 taxable year and thereafter.)

The statutes are clarified that no deduction is allowed for taxes on income, excess or war profits and capital stock taxes imposed by the federal government.

3. Clarify the Limitation for Deductible Dividends (Create 71.04(4)(intro.), effective for 1980 taxable year and thereafter.)

Under existing law, s. 71.04(4)(a) provides that dividends received by a corporation may be deducted in full if the payor corporation meets certain requirements. Section 71.04(4)(b) permits a corporation to deduct 50% of the cash dividends received from a subsidiary corporation (80% or more ownership).

The new law clarifies that if a dividend qualifies for deduction under both s. 71.04(4)(a) and (b), only one deduction is allowable.

4. Eliminate Deduction for State Taxes (Amend 71.01(4)(a)6, 71.04(3), repeal 71.01(4)(a)8, effective for 1981 taxable year and thereafter.)

No deduction will be allowed to corporations for taxes imposed by any state or the District of Columbia on or measured by net income, gross income, gross receipts or capital stock. Gross receipts taxes assessed in lieu of property taxes will still be deductible from gross income.

5. Eliminate Deduction for Windfall Profits Tax (Amend 71.04(3), effective 1981 taxable year and thereafter.)

No deduction will be allowed to corporations for the federal Windfall Profits Tax.

6. Addition to Tax Penalty Not Deductible (Amend 71.23, effective for 1981 taxable year and thereafter.)

No deduction will be allowed to corporations for any addition to tax penalty imposed under s. 71.22.

7. Accrual of Real Estate Taxes (Amend 71.04(3), effective for 1981 taxable year and thereafter.)

Corporations will be permitted an accrual election for real estate taxes similar to that permitted under the Internal Revenue Code. Under the Internal Revenue Code an accrual basis taxpayer may elect to ratably accrue any real property tax which is related to a definite period of time.

Under prior law, an accrual basis corporation could only accrue real estate taxes after the amount of such taxes had been determined by the local assessing authority. In effect this limited the accrual of current year's real estate taxes to corporations who reported on a calendar year basis or a fiscal year ending November 31. Corporations whose fiscal year ended in any month from January through October could not accrue real estate taxes for any months of the current calendar year.

8. Involuntary Conversions - Replacement Property Outside Wisconsin
(Amend 71.03(1)(g)3, effective for involuntary conversions occurring in 1981 taxable year and thereafter.)

Nonrecognition of gain on involuntarily converted property will apply if the replacement property is outside Wisconsin and the taxpayer is subject to Wisconsin tax jurisdiction both before and after the property has been replaced.

Prior law provided nonrecognition of gain on such property only if the property converted was replaced by similar property located in Wisconsin.

9. Imputed Interest (Create 71.04(15)(h), effective for purchases made in 1981 taxable year and thereafter.)

An interest deduction will be permitted for the amount treated as imputed interest under section 483 of the Internal Revenue Code. The Wisconsin basis shall be reduced by the amount of such interest deduction.

The Internal Revenue Code provides that if a part of the purchase price of a depreciable asset is attributable to imputed interest, the basis of the property is reduced by such amount. This also affects the amount of depreciation because of a lower cost basis. Since under prior law Wisconsin did not have a provision similar to section 483 of the Internal Revenue Code, the cost basis of the property was higher for Wisconsin than federal, although the amount of depreciation allowed for Wisconsin was limited to that permitted for federal tax purposes. The difference in basis was then only recoverable in the year in which the asset was disposed of. This new provision will result in the same basis applying for both Wisconsin and federal purposes.

10. Capitalize Intangible Drilling Costs (Create 71.04(2)(b)4, effective for intangible drilling and development costs incurred in 1981 taxable year and thereafter.)

Operators of oil and gas wells and geothermal wells shall capitalize the related intangible drilling and development costs which are deductible under section 263(c) of the Internal Revenue Code. Such taxpayers may recover their Wisconsin adjusted basis through annual deductions for cost depletion or depreciation or, in the case of costs related to nonproductive wells, as a loss, as provided under the December 31, 1980 Internal Revenue Code.

11. Eliminate Requirement to File Extension Form 7005 Within Ten Days
(Amend 71.10(5)(a), effective for 1981 taxable year and thereafter.)

Corporations will no longer be required to submit a copy of federal extension form 7005 (the federal form which is used for an additional three month extension) to the Department of Revenue within ten days after it is received from the Internal Revenue. However, corporations will still be required to furnish a copy of form 7005 with the Wisconsin tax return when it is filed with the Department.

12. Six Month Extensions for DISCs and Cooperatives (Amend 71.10(5)(a), effective for 1981 taxable year and thereafter.)

The Department of Revenue may grant DISCs and cooperatives extensions of time to file a corporate tax return for up to six months. Under prior law, only 30 day extensions could be granted.

13. Corporate Reorganization (Amend 71.358(5), 71.362(2), 71.368(1)(a)2, 71.368(1)(b)3 and 71.368(2), create 71.368(1)(b)4 and 5, effective for 1981 taxable year and thereafter.)

The Wisconsin tax treatment of corporate reorganizations is changed to conform more closely to the federal treatment.

14. 60% Payment of Tax Liability Required to Meet Exception to Addition to Tax (Amend 71.22(10)(a) and (b), and create SECTION 2045(1) of the non-statutory provisions, effective July 31, 1981 except that amounts that would have been due before July 31, 1981 should be pro-rated equally among and paid with installments of estimated taxes beginning with the payment for the calendar quarter beginning October 1, 1981.)

Prior to the amendments to 71.22(10)(a) and (b), a corporation would not be assessed the addition to tax penalty if it paid an amount at least equal to the tax shown on the return of the corporation for the preceding taxable year under 71.22(10)(a) or paid an amount at least equal to the tax computed at the rates applicable to the taxable year, but otherwise on the basis of the return of the corporation for and the law applicable to the preceding year under 71.22(10)(b).

As a result of the amendments to ss. 71.22(10)(a) and (b), a corporation will now have to pay in timely estimated tax payments at least 60% of the tax due for the current taxable year in order to meet the exceptions to the addition to tax penalty in ss. 71.22(10)(a) and (b).

15. Define Declaration of Estimated Tax Terms (Create 71.22(1m), effective July 31, 1981.)

The terms "tax shown on the return" and "tax for the taxable year" in s. 71.22 (relating to declaration of estimated tax by corporations and addition to tax penalty) mean net tax after reduction by credits but before reduction by amounts paid as declaration of estimated tax.

16. Accelerated Depreciation (Amend 71.01(4)(g)4, 71.02(1)(a)5 and 71.04(15)(a), create 71.01(4)(g)5 and 71.02(1)(a)6, effective for 1981 taxable year and thereafter. In certain situations the effective date for fiscal year filers may be the 1980 taxable year, as described below.)

The new law provides that insurance companies, real estate investment trusts and regulated investment companies may apply any federal law changes related to depreciation which are enacted after December 31, 1980 in computing their depreciation.

(IMPORTANT NOTICE: Existing law already provides that corporations, other than insurance companies, real estate investment trusts and regulated investment companies, may compute their depreciation under the current federal law applying to the taxable year. This means that any federal law changes to depreciation enacted in 1981 may be used by such corporations in computing their depreciation for Wisconsin.)

NOTE: The effect of this new law is that if Congress in 1981 enacts changes to depreciation, such changes will also apply to Wisconsin. The federal effective date for such depreciation changes, as provided in the Internal Revenue Code, will also be the effective date for Wisconsin. For example, if federal depreciation changes apply to purchases after July 1, 1981, this July 1 effective date will also apply for Wisconsin. If the federal effective date for depreciation changes applies to purchases made on or after January 1, 1981, then the new federal depreciation provisions will also be available with respect to the 1980 taxable year of those taxpayers which have a 1980 fiscal year ending after the effective date. For example, with an April 1 effective date, the new depreciation rates could be used by fiscal year taxpayers who have 1980 taxable years ending in April, May and June of 1981.

17. Corporate Tax Rate Changed (Amend 71.09(2g)(intro.) and 71.09(2m)(intro.), create 71.09(2h) and 71.09(2n), effective for 1981 taxable year and thereafter.)

The tax rate for corporate franchise/income taxes will be 7.9% on all taxable income. Prior law provided for a graduated rate from 2.3% to 6.8% on taxable income up to \$6,000 and 7.9% on taxable income exceeding \$6,000.

FARMLAND PRESERVATION CREDIT

1. Farmland Preservation Credit Changes (Amend 71.09(11)(a)6.a and b and (b)(intro.)1 and 2, effective for the 1981 taxable year and thereafter.)

In computing income for purposes of the Farmland Preservation Credit, the first \$7,500 of nonfarm wages, tips and salaries earned by the household will no longer be excluded from household income by individuals. Both individual and corporate claimants will be limited to depreciation expenses of \$20,000 in computing household income. Any nonfarm business losses will have to be added back to household income by individual and corporate claimants.

The percentages used in the formula for computing the Farmland Preservation Credit have also been changed.

HOMESTEAD CREDIT

1. Depreciation Added to Household Income (Amend 71.09(7)(a)1, effective for claims filed for the year 1981 and thereafter.)

Depreciation deducted by a claimant in determining Wisconsin adjusted gross income must be added to household income for homestead credit purposes.

2. Homestead Credit Formula Changed (Amend 71.09(7)(a)8 and 71.09(7)(gp)(intro.), create 71.09(7)(gq), effective for claims filed for the year 1981 and thereafter.)

Claimants with household income of \$6,000 (prior law was \$5,000) or less will receive a homestead credit for 80% of their property taxes accrued and/or rent constituting property taxes accrued. If household income is more than \$6,000, the credit will be 80% of the amount by which property taxes and/or rent constituting property taxes accrued exceed 12.5% (prior law was 11.1%) of household income exceeding \$6,000.

INHERITANCE TAXES

1. Update Reference to Internal Revenue Code to December 31, 1980 for Qualified Retirement Plans, Installment Payments and Power of Appointment (Amend 72.01(17), 72.12(4)(c)1 and 72.22(4)(a), effective for transfers because of death on or after July 1, 1981 except that the amendment to 72.01(17) relating to power of appointment becomes effective July 31, 1981.)

The reference to the Internal Revenue Code relating to power of appointment in s. 72.01(17), qualified retirement plans in s. 72.12(4)(c)1 and installment payments in s. 72.22(4)(a) is updated to December 31, 1980.

SALES AND USE TAXES

1. Retailers Discount Changed (Create 77.61(4)(c), effective for sales and use taxes payable on returns filed for taxable years beginning on or after January 1, 1983.)

Retailers will receive a 2% discount on the first \$10,000 of their sales and use tax payable during the taxable year, a 1% discount on the 2nd \$10,000 of tax payable and a .5% discount on sales and use tax payable which exceeds \$20,000 during the taxable year, if the payment of the taxes was not delinquent.

For example, if a person had \$8,000 of sales and use tax payable for the entire taxable year, such retailer would be entitled to a total discount of \$160 for the entire year, assuming the entire \$8,000 was paid by the due date (\$8,000 x 2% = \$160 discount). If only \$3,000 was paid timely and \$5,000 was delinquent, the retailer would only be entitled to a 2% discount on the \$3,000 which was paid timely.

If a retailer had tax payable of \$60,000 for the entire taxable year the retailer's discount would be as follows, assuming all \$60,000 was paid by the due date:

\$10,000	\$10,000	\$40,000
x 2%	x 1%	x .5%
<u>\$ 200</u>	<u>\$ 100</u>	<u>\$ 200</u>

The total discount allowed this retailer for the entire taxable year would be \$500 (\$200 on the first \$10,000 of tax payable, \$100 on the 2nd \$10,000 of tax payable and \$200 on the remaining \$40,000). However, if \$6,000 of the first \$10,000 of tax payable during the year was delinquent, the retailer would only get the 2% discount on \$4,000 of the first \$10,000 of sales and use tax payable, plus the 1% on the 2nd \$10,000 and .5% discount on the \$40,000 which was paid by the due date.

2. Define When Sales and Use Tax Returns and Other Actions are Timely Filed (Amend 77.52(11)(b), 77.58(1)(b) and 77.59(4) and (6), create 77.58(2)(c) and 77.61(14), effective July 31, 1981.)

Sales and use tax returns, payments, claims for refund and appeals will be considered timely furnished, filed or made if they are mailed in a properly addressed envelope with the postage duly prepaid, if the envelope is postmarked before midnight of the due date and if the document or payment is received by the Department of Revenue within five days after the prescribed date.

3. Exempt All Fuels Converted to Electric Energy, Gas or Steam (Amend 77.54(6)(c), effective October 1, 1981.)

All fuels converted to electric energy, gas or steam by utilities and that portion of the amount of fuel converted to steam for purposes of resale by persons other than utilities will be exempt from the sales/use tax. Prior law limited such exemption to coal, oil and gas and nuclear material, rather than all fuels.

4. Exempt Corporate Reorganizations (Amend 77.51(4g)(e) and (f), create 77.51(4g)(g), effective for transfers occurring on or after July 31, 1981.)

The transfer of property in a reorganization in which no gain or loss is recognized for Wisconsin franchise or income tax purposes under ss. 71.301 to 71.368 will also be exempt from the sales and use tax.

5. Define "Substantially Similar" in Section 77.51(10)(b) (Renumber 77.51(10)(b) to 77.51(4g)(h) and amend 77.51(4g)(h), effective July 31, 1981.)

Under existing law, any transfer of all or substantially all of property held or used by a person in the course of an activity requiring the holding of a seller's permit is exempt from sales and use taxes if after the transfer the ownership of property is "substantially similar" to that which existed before the transfer. The new law defines "substantially similar" in s. 77.51(4g)(h) to mean "80% or more of ownership".

6. Exemption for Metropolitan Sewerage Districts (Amend 77.54(9a)(d), effective October 1, 1981.)

A metropolitan sewerage district organized in a county having 500,000 or more population (pursuant to s. 59.96) may purchase tangible personal property or taxable services without paying the sales or use tax.

EXCISE TAXES

1. Motor Fuel and Special Fuel Tax Increased to 13¢ Per Gallon (Amend 78.01(1), 78.14 and 78.40(1), create 78.22, effective August 1, 1981.)

The excise tax on motor fuel and special fuel will increase from 9¢ to 13¢ per gallon. A floor tax of 4¢ per gallon will be imposed on the tax-paid inventory of motor fuel (gasoline) in the possession of retailers and wholesalers on August 1, 1981.

2. Impose New Excise Tax on Aviation Fuel (Amend 25.40(1)(b), 77.54(11), 78.04(1), 78.13(2), 78.43, 78.65(1) and (2), 78.66 (title)(1) and (2), 78.68(1),(2),(4)(intro.) and (5), 78.70(1)(intro.), 78.70(2) and (4), 78.71, 78.73(1)(e), 78.77, 78.78(1), 78.80, 78.84, create 78.55 to 78.62, effective January 1, 1982.)

A new 6¢ per gallon excise tax will be imposed on aviation fuel sold for general aviation use. Sale of this fuel for such purpose will no longer be subject to the 4% sales/use tax.

Dealers and users must obtain licenses from the Department and pay the tax on all general aviation fuel placed in the fuel supply tank of aircraft or sold into bulk storage facilities for aircraft after the effective date. Air carrier companies and the U.S. Government and its agencies are exempt from this tax.

3. Liquor and Wine Tax Increased (Amend 139.03(2m) and 139.03(2n), effective August 1, 1981.)

The tax rate for intoxicating liquor will increase from \$2.60 per gallon to \$3.25 per gallon. The tax rate for wine containing 14% or less alcohol will increase from 19.5¢ to 25¢ per gallon. The tax on wine containing more than 14% but not more than 21% of alcohol will increase from 39¢ to 45¢ per gallon. A floor tax measured by the rate of increase will be imposed on the tax-paid inventory of such merchandise in the possession of retailers, wholesalers and manufacturers on August 1, 1981.

4. Cigarette Tax Increased to 20¢ Per Pack (Amend 139.31(1)(a) and (b), create 139.31(2), effective August 1, 1981.)

The tax rate for cigarettes will increase from 16¢ to 20¢ per pack. A floor tax of 4¢ per pack will be imposed on the tax-paid inventory of cigarettes in the possession of retailers and distributor, jobber, multiple retailer and vending machine operator permittees on August 1, 1981.

5. New Tax on Tobacco Products (Create 139.75 through 139.85, effective October 1, 1981.)

An occupational tax will be imposed on the sale of tobacco products, which includes cigars, chewing type tobacco, snuff type tobacco and other tobacco products (it will not include cigarettes). The tax rate will be 20% of the manufacturer's established list price to distributors without any decrease for volume or other discounts.

A floor tax at the effective rate will be imposed on inventory in the possession of distributors on October 1, 1981. Distributors must obtain permits from the Department and file monthly returns and pay the tax with them; subjobbers must obtain permits and file quarterly returns.

6. Filing Quarterly Reports - Beer, Liquor, Cigarette and Special Fuel (Renumber 78.49(1) to 78.49(1)(a) and amend 78.49(1)(a), amend 78.49(3), 78.68(1)(a) and (b) and (2), 139.11(2), renumber 139.38(2) to 139.38(2)(a) and amend 139.38(2)(a), create 78.49(1)(b) and 139.38(2)(b), effective October 1, 1981.)

Persons currently required to file beer, liquor, cigarette or special fuel reports on a monthly basis will be able to file such reports quarterly if their tax liability is less than \$500 per quarter.

OTHER LAW CHANGES

1. Interest Rate and Addition to Tax Penalty Increased From 9% to 12% (Amend 71.09(5)(a), 71.09(13)(a), 71.10(5)(a) and (b), 71.13(1)(b), 71.20(5)(c), 71.21(11), 71.22(8), 72.22(4)(a), 72.23(1), 72.85(3), 72.86(1) and 77.60(1), effective for determinations, assessments or other actions made by the Department of Revenue on or after August 1, 1981 regardless of the taxable period to which they pertain.)

The interest rate will change from 9% to 12% on (1) assessments and determinations for additional income, franchise, sales/use, withholding and gift taxes, and reductions of homestead credit and farmland credit; (2) taxes payable during an extension of time to file a tax return; (3) reduction of interest where fair and equitable; (4) addition to tax penalty for individuals and corporations; (5) interest on inheritance tax installment payments; (6) inheritance tax not paid within one year of a decedent's death; and (7) interest on gift tax which is not paid by the due date.

2. Annual Adjustment to Withholding Tables (Amend 71.20(2), create 71.20(2m), effective January 1, 1983.)

Beginning January 1, 1983 and each January 1 thereafter, the withholding tables shall be adjusted by the Department of Revenue to reflect any changes in the income tax rates, or changes in the income tax brackets resulting from the required annual indexing under s. 71.09(2), or from changes in such brackets resulting from new laws. Withholding tables will not be adjusted for annual indexing unless the annual indexing rate (the percentage change in the U.S. Consumer Price index for all urban consumers, U.S. city average in the month of June in the preceding year to the month of June of the current year) is 4% or more.

3. Nonacquiescence of Tax Appeals Commission Decisions (Amend 73.01(4)(e), create 73.01(4)(e)2, effective July 31, 1981.)

The Department of Revenue may choose not to appeal a decision of the Tax Appeals Commission and still nonacquiesce in the decision (i.e., the decision of the Commission will be binding upon that particular case; however, it will not be binding upon other similar cases). If the Department chooses to nonacquiesce, it will send a notice of

nonacquiescence to the clerk of the Wisconsin Tax Appeals Commission, to the Revisor of Statutes for publication in the Wisconsin Administrative Register and to the taxpayer or taxpayer's representative before the time expires for seeking an appeal of the Tax Appeals Commission decision.

Prior law provided that a decision of the Tax Appeals Commission was final and binding upon the Department and the taxpayer unless one of the parties appealed that decision. If the Commission construed the statute adversely to the Department, the Department was deemed to acquiesce in the construction of the statute unless it appealed the decision.

4. Eliminate Requirement to File Form 10 (Repeal 71.10(7), effective for 1981 taxable year and thereafter.)

Form 10, "Report of Inventory Location", will no longer have to be filed with income or franchise tax returns, beginning with 1981 returns.

5. Fraudulent Homestead Credit, Farmland Credit and Alternative Energy Credit Claims a Felony (Repeal 71.09(13)(c), create 71.09(13)(cm), effective for claims filed on or after July 31, 1981.)

A person who claims a homestead credit, farmland credit, or alternative energy credit which is false or excessive and is filed with fraudulent intent, shall be guilty of a felony and may be fined \$10,000 or imprisoned up to 5 years or both, together with the cost of prosecution. Any person who assisted in the preparation or filing of such claim or supplied information upon which the false or excessive claim was prepared, with fraudulent intent, shall also be guilty of a felony. (Note: Alternative energy credit claims were filed with the Department of Revenue for 1978; for 1979 and thereafter such claims are filed with the Department of Industry, Labor and Human Relations.)

6. Time Limit for Refunding Income and Franchise Taxes (Amend 71.10(10)(bn), effective for the returns for the 1981 taxable year and thereafter.)

Under the new law, a person may claim a refund of income or corporate franchise/income taxes only if the claim is filed within four years of the statutory unextended due date of a return. This applies regardless of whether the payment of taxes was by declaration of estimated taxes, withholding or any other method.

Prior law provided that for taxes paid by withholding or declaration of estimated tax, a claim for refund of such taxes could be filed within four years of the due date of the return. However, if a return was filed after the due date and taxes were paid with the return or thereafter, a claim for refund of such late tax payments could be filed within four years of the date such return was filed.

7. Lien for Unpaid Taxes - Effective Date (Create 71.13(2m), amend 71.13(3)(a) and (b), effective July 31, 1981.)

The Department of Revenue's tax lien will become effective as of (1) the assessment date if an assessment is issued, or (2) the due date of the return for taxes self-assessed on a return.

Under prior law (s. 71.13(3), Wis. Stats.), a Wisconsin tax lien did not become effective and the department could not file a tax warrant for unpaid taxes until 30 days after the taxes became delinquent.

8. Application of Non-Delinquent Tax Payments (Create 71.11(50) and 77.60(1m), effective July 31, 1981.)

The statutes are clarified to provide that payments which are not delinquent will first be applied to penalties, interest and then to the tax liability. (Note: Existing law in s. 71.13(4)(g) provides that delinquent payments will be applied in the following order: costs, penalties, interest and then to the tax liability.)

9. Payment of Income Tax Refunds or Tax Credits if a Person Dies (Amend 71.09(7)(b), create 71.10(10)(i), effective July 31, 1981.)

If an income tax refund or tax credit is payable to a person who died, the Department shall pay the refund or credit to the decedent's personal representative. If there is no personal representative, the payment shall be to a surviving relative, giving preference to relatives in the following order: surviving spouse, child, parent, brother or sister, or to a creditor of the decedent, as determined by the Department. If no claim is made for the amount within two years of the due date of the return or claim or the date of filing, whichever is later, the amount escheats to the state.

10. Property Tax Deferral for Persons 65 or Over (Create 20.566(8), 77.63, 77.64, 77.65, 77.655, 77.66 and 77.67, amend 74.03(4) and (6) and 74.031(3), (5) and (6), effective July 31, 1981.)

Persons 65 years of age or older who meet certain conditions may receive a loan from the state to pay property taxes on their residence. The money for the loans is generated by bonding administered by the Wisconsin Building Commission. The Department of Revenue will administer the loan program.

Who is Eligible -

- a. Age: Person must be 65 years of age or older (called a "participant" if eligible for a loan).
- b. Ownership of a "Qualified Dwelling Unit": Person must own (either individually or with his or her spouse, or with other co-owners age 60 or over at the time of the participant's initial application) a "qualified dwelling unit" and live in it more than 6 months of the year preceding each year of participation in the program.

"Qualifying dwelling unit" is the participant's permanent residence located in Wisconsin and up to 1 acre of land appertaining to it. It includes (a) a single unit dwelling, (b) a unit in a multi-unit dwelling with 4 or less units, or (c) a unit in a condominium or in a cooperative. It does not include mobile homes defined in s. 66.058.

- c. Insurance: Person must keep a fire and extended casualty insurance policy on the qualified dwelling unit satisfactory to the Department and permit the Department to be named as an insured on the policy.
- d. Limited Debt: The amount of outstanding liens and judgments on the qualified dwelling unit must be \$5,000 or less (loans under this program and housing and rehabilitation loans under s. 560.06 are not considered a part of the \$5,000 debt limitation).
- e. Income: Person must have "income" of \$20,000 or less in the year prior to the year in which the property taxes for which the loan is made are due. "Income" is determined the same as for homestead credit "household income" in s. 71.09(7)(a)3.

How to Apply - A person must apply on forms prescribed by the Department by June 30 of the year in which the taxes are payable on a qualified dwelling unit. Taxes payable on a qualified dwelling unit in 1982 will be the first taxes for which a loan may be received. The application deadline for a loan for such 1982 taxes is June 30, 1982.

Loan Payments to Participants - The amount of loan for any one year is \$1,800 or the amount of property tax levied on the qualified dwelling unit, whichever is less. Loans shall bear interest at a rate determined by the Department to meet all expenses of operating the program. (Rate may be changed at any time.)

Repayment of Loans - The participant must agree to repay the loan (1) upon the transfer of the qualifying dwelling unit by any means (except by a transfer of interest as mentioned below); (2) through the participant's estate upon death if the participant is the sole owner; (3) through the estate of the last surviving co-owner who owns the qualifying dwelling unit; (4) upon discovery by the Department that a participant or co-owner has made a false statement on the application or otherwise in respect to the program; (5) upon condemnation or involuntary conversion of the qualifying dwelling unit; (6) if a participant ceases to meet the eligibility requirements except that the Department, rather than demanding repayment may (a) allow the participant to continue in the program, (b) may allow the participant to continue in the program but be ineligible for additional loans, or (c) may require partial settlement; or (7) if a participant fails to comply with the provisions of this program. A participant or co-owner may also elect to repay the loan at any time before any of the 7 events enumerated above occurs.

Transfer of Interest- If a participant no longer resides in a qualifying dwelling unit, and if the participant's total ownership interest in the qualifying dwelling unit is transferred to one or more co-owners in that unit, a co-owner may assume the participant's account by applying to the Department if the co-owner resides in the qualified dwelling unit. Upon approval of the application, and if the co-owner is 65 years of age or older, the co-owner shall become a participant in the program and shall qualify for program loans. A co-owner who has not attained the age of 65 at the time of application may assume the account of a participant but shall not become a participant or qualify for program loans until the co-owner attains age 65. Additional co-owners may not be added to the loan agreement after the initial application has been accepted by the Department.

Penalties - Any person who files intentionally fraudulent information for obtaining a loan may be fined up to \$10,000 or imprisoned up to five years, or both, together with the cost of prosecution.

Appeals - Person who disagrees with a decision of the Department may appeal that decision to Circuit Court of the county where the person resides. The appeal must be filed within 60 days after receiving notification of the Department's decision.

Rules - The Department shall promulgate rules regarding applications, repayment of loans, settling of disputes and maintaining of records. Rules may also be promulgated to provide more restrictive eligibility requirements or additional security.

Bonding Authority - The Building Commission will issue revenue obligations to provide funds for the loans.

11. Reduce Refunds for Debts Owed the State (Amend 71.10(10)(a) and 71.12(1)(a), create 20.566(1)(h), 20.855(7), 46.255, 71.10(10)(h), 71.105, 71.11(44)(gm) and 71.137, effective February 1, 1982.)

The Department of Revenue shall reduce a person's (debtor's) refund by the amount of debt that person owes to a state agency, as certified by the agency to the Department of Revenue. A "refund" means the excess amount by which any payments, refundable credits, or both, exceed a debtor's Wisconsin tax liability or any other liability owed the Department.

The Department of Health and Social Services is required to certify delinquent child support payments to the Department of Revenue, while certification of debts by other state agencies is voluntary.

The Department of Revenue shall first reduce a debtor's refund by any debt or any other amount the debtor owes to the Department of Revenue. Any remaining refund shall then be offset against the debt owed the state agency, provided the remaining refund is still in excess of \$10. If more than one debt exists for any debtor, a refund shall first be offset against the earliest debt certified.

Any debtor who objects to the reduction of his or her refund does not appeal to the Department of Revenue, but appeals to the state agency which certified the debt.

In addition to using "refunds" to pay a person's debt to a state agency, the Department of Revenue, upon request by a state agency, may enter into an agreement with a debtor (if the debtor consents) to have the Department arrange with the debtor's employer to withhold an additional amount from the debtor's pay to be applied against the person's debt.

The furnishing of information to a state agency relating to debts certified is not a violation of the confidentiality provisions for income taxes, inheritance, sales tax, motor fuel and cigarette taxes in s. 71.11(44), 72.06, 77.61(5), 78.80(3) and 139.38(6).