

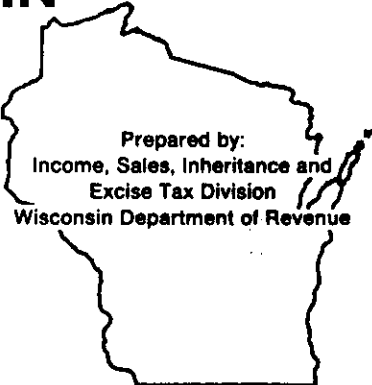
WISCONSIN TAX BULLETIN

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Prepared by:
Income, Sales, Inheritance and
Excise Tax Division
Wisconsin Department of Revenue

NEW WISCONSIN TAX LAWS

The Wisconsin Legislature has enacted several changes to the Wisconsin tax laws. This issue of the Wisconsin Tax Bulletin contains an index and brief descriptions of the major income, corporation franchise/income, homestead credit, farmland preservation credit, sales/use, inheritance, gift and excise tax provisions. All of the provisions described below are contained in 1985 Wisconsin Act 29, published July 19, 1985, except for Item H.5. which is in 1985 Wisconsin Act 15, published February 27, 1985. The description for each item indicates the sections of the statutes affected and the effective date of the new provision.

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A. STATE TAX AMNESTY

The Department of Revenue is directed to establish a tax amnesty program. Amnesty shall apply to all taxes administered by the Department under Chapters 71, 72, 77 (Subchapter III), 78 and 139 of the Wisconsin Statutes. This includes income, franchise, withholding, gift, inheritance, sales and use, motor fuel, cigarette, tobacco, liquor, wine and beer taxes.

The amnesty period begins September 15, 1985 and ends November 22, 1985.

(Note: A brochure containing additional information about amnesty will be available to the public in early September, 1985. A toll-free telephone number will also be available in early September for persons to call for amnesty information. Applications for amnesty may not be filed before September 15, 1985.)

1. Eligible Taxpayers and Benefits of Amnesty.

Amnesty extends to the following taxpayers, including individuals, corporations, partnerships and fiduciaries. (See the exceptions in Part 2.)

- a. For a taxpayer who, during the amnesty period, has a tax liability that was delinquent on the Department's records as of May 15, 1985, 20% of the amount due as of the date of payment shall be forgiven. The maximum reduction allowable is \$5,000.
- b. For a taxpayer who, during the amnesty period, files late or amended returns, along with an application for amnesty, reporting a tax liability that had not been reported or established previously, the Department shall not impose civil penalties and late filing fees or pursue criminal prosecution. In addition, the Department shall reduce delinquent interest due to 1% per month. The addition to the tax for underpayment of taxes may be assessed.
- c. For a taxpayer who, during the amnesty period, has a tax liability that was not delinquent on the Department's records as of May 15, 1985 and is based on an assessment, determination or notice of amount due issued by the Department before or during the amnesty period, the Department shall waive civil penalties (with the exceptions listed in Part 3) and late filing fees. Also, the Department shall reduce delinquent interest due to 1% per month.

2. Ineligible Obligations.

The amnesty program is not available for any tax liability involved in

- a. A civil collection action.
- b. An appeal before the Appellate Bureau, the Tax Appeals Commission or any court unless that appeal is withdrawn by the taxpayer.
- c. An adverse decision of the taxpayer's appeal from the Tax Appeals Commission or any court during the amnesty period.

- d. A criminal tax investigation or pending criminal tax litigation provided the taxpayer has been notified by the date of application for amnesty that he or she is a party to such action.

3. Penalties and Amounts Not Eligible for Waiver.

Except for amounts included in delinquencies described in Part 1.a., the following penalties and amounts assessed by the Department may not be waived.

- s. 71.11(6) attempt to defeat or evade tax
- s. 71.20(5)(a) 100% withholding penalty for failure to withhold or pay over
- s. 71.20(8)(e) false employe information to employer to reduce withholding
- s. 71.20(16) false withholding exemption certificate
- s. 71.20(22)(e) false information to employer to defeat or evade proper withholding
- s. 71.21(11) addition to the tax for underpayment of estimated tax by individuals
- s. 71.22(8) addition to the tax for underpayment of estimated tax by corporations
- s. 72.86(6) false information to evade or defeat gift tax due
- s. 77.60(5) 50% penalty for false or fraudulent sales tax return
- s. 78.22(6) 100% penalty for false or fraudulent motor fuel tax return
- s. 139.25(2) false reports for beverage tax
- s. 139.25(5) violation of beverage statutes
- s. 139.44(2) false or fraudulent cigarette tax report

4. Actions Required to Qualify for Amnesty.

To qualify for amnesty, a taxpayer must meet all of the following conditions:

- a. File an application for amnesty.
- b. File all returns due for all types of taxes.

- c. Make full payment of all obligations included in Part 1 within 90 days after notification by the Department.
- d. Make payment by certified check, cashier's check, money order or cash.

5. Finality.

All amounts paid under amnesty are final and may not be refunded.

B. INCOME TAXES

- 1. Update Reference to Internal Revenue Code for Individuals, Estates, Trusts and Tax-Option Corporations (Renumber s. 71.02(2)(b) to 71.02(2)(d) and amend s. 71.02(2)(d)10 as renumbered, create s. 71.02(2)(d)11 and 12, effective dates are indicated below.)
 - a. For the 1985 tax year, individuals, estates, trusts and tax-option corporations will use the Internal Revenue Code in effect on December 31, 1984 with the following exceptions.
 - (1) Social security and railroad retirement benefits, which are includable in gross income under sections 72(r) and 86 of the Internal Revenue Code, continue to be nontaxable for Wisconsin.
 - (2) Sick pay benefits paid under the Railroad Unemployment Insurance Act, which are includable in gross income under section 105(i) of the Internal Revenue Code, continue to be nontaxable for Wisconsin.
 - (3) The deduction from gross income allowed two-earner married couples, as provided under section 221 of the Internal Revenue Code, does not apply for Wisconsin.
 - (4) The exclusion from gross income allowed for public utility stock dividends which are reinvested in the common stock of the utility, as provided under section 305(e) of the Internal Revenue Code, does not apply for Wisconsin.
 - (5) The charitable contributions deduction allowed to persons who do not claim itemized deductions, as provided under section 170(i) of the Internal Revenue Code, does not apply for Wisconsin.
 - (6) The incentive stock option provisions, as provided under section 422A of the Internal Revenue Code, do not apply for Wisconsin.
 - (7) Political contributions continue to be allowed as an itemized deduction for Wisconsin purposes.
 - (8) The foreign earned income exclusion which was allowed to persons who worked abroad, as provided by the Internal Revenue Code as of December 31, 1977, continues to apply for Wisconsin purposes. (The foreign earned income exclusion limits and deduction provisions enacted in sections 111 and 113 of Public Law 97-34 may not be used for Wisconsin.)

- (9) The disability income exclusion of up to \$5,200 which was allowed to persons under age 65 who retired on disability and received disability income while permanently and totally disabled, as provided under section 105(d) of the Internal Revenue Code immediately prior to its repeal in 1983 by Public Law 98-21, continues to apply for Wisconsin.
 - (10) For tax-option corporations, the Internal Revenue Code applies only to the election and termination of Subchapter S status and not to the computation of net income, etc.
- b. For the 1986 tax year and thereafter, individuals, estates, trusts and tax-option corporations will use the Internal Revenue Code in effect on December 31, 1984 with the following exceptions.
- (1) The depreciation deduction and gain or loss on the sale or other disposition of the following depreciable property placed in service by the taxpayer during the 1986 tax year and thereafter must be computed under the Internal Revenue Code in effect on December 31, 1980 (see Item B.8):
 - (a) Residential real property.
 - (b) Property used in farming, as defined in section 464(e)(1) of the Internal Revenue Code, if the taxpayer's nonfarm Wisconsin adjusted gross income exceeds \$55,000 or gross farm profit exceeds \$155,000 for tax year 1986.
 - (2) Certain entertainment and travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code may not be claimed for Wisconsin (see Item B.7).
 - (3) Railroad retirement benefits continue to be nontaxable for Wisconsin.
 - (4) Sick pay benefits paid under the Railroad Unemployment Insurance Act continue to be nontaxable for Wisconsin.
 - (5) The deduction from gross income allowed two-earner married couples does not apply for Wisconsin.
 - (6) The charitable contributions deduction allowed to persons who do not claim itemized deductions does not apply for Wisconsin.
 - (7) The disability income exclusion of up to \$5,200 which was allowed to persons under age 65 who retired on disability and received disability income while permanently and totally disabled, as provided under section 105(d) of the Internal Revenue Code immediately prior to its repeal in 1983 by Public Law 98-21, continues to apply for Wisconsin.
 - (8) For tax-option corporations, the Internal Revenue Code applies only to the election and termination of Subchapter S status and not to the computation of net income, etc.

2. Eliminate Itemized Deductions (Repeal ss. 71.02(2)(f), 71.05(3)(a) and (f), renumber s. 71.02(2)(d) to 71.02(2)(me) and amend s. 71.02(2)(me) as renumbered, create s. 71.05(1)(b)11, effective for 1986 tax year and thereafter.)
 - a. Beginning with the 1986 tax year, itemized deductions may no longer be claimed to determine Wisconsin taxable income.
 - b. Any amount that is a recovery of a federal itemized deduction for which no tax benefit was received for Wisconsin is not includable in Wisconsin taxable income.
3. Change Standard Deduction (Repeal ss. 71.02(2)(gq)3 and 4, and 71.05(3)(c), (e) and (g), renumber s. 71.02(2)(gq)2 to 71.02(2)(km)2, 71.02(2)(gq)5 to 71.02(2)(km)5 and 71.02(2)(gq)7 to 71.02(2)(km)7 and amend s. 71.02(2)(km)2, 5 and 7 as renumbered, create s. 71.02(2)(km)2m and 8, effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, the low income allowance may no longer be claimed. The Wisconsin standard deduction will be one of the following amounts.

- a. Single persons.
 - (1) If the Wisconsin adjusted gross income is less than \$7,500, the standard deduction is \$5,200.
 - (2) If the Wisconsin adjusted gross income is at least \$7,500 but not more than \$50,830, the standard deduction is the amount obtained by subtracting from \$5,200 12% of Wisconsin adjusted gross income in excess of \$7,500 but not less than \$0.
 - (3) If the Wisconsin adjusted gross income is more than \$50,830, the standard deduction is \$0.
- b. Married persons filing jointly.
 - (1) If their total Wisconsin adjusted gross income is less than \$10,000, the standard deduction is \$7,200.
 - (2) If their total Wisconsin adjusted gross income is at least \$10,000 but not more than \$77,500, the standard deduction is the amount obtained by subtracting from \$7,200 10.667% of total Wisconsin adjusted gross income in excess of \$10,000 but not less than \$0.
 - (3) If their total Wisconsin adjusted gross income is more than \$77,500, the standard deduction is \$0.
- c. Married persons filing separately.
 - (1) If the Wisconsin adjusted gross income is less than \$4,750, the standard deduction is \$3,420.

- (2) If the Wisconsin adjusted gross income is at least \$4,750 but not more than \$36,810, the standard deduction is the amount obtained by subtracting from \$3,420 10.667% of Wisconsin adjusted gross income in excess of \$4,750 but not less than \$0.
- (3) If the Wisconsin adjusted gross income is more than \$36,810, the standard deduction is \$0.

d. Nonresidents and part-year residents of Wisconsin.

The Wisconsin standard deduction is calculated on the basis of federal adjusted gross income and is prorated based on the ratio of Wisconsin adjusted gross income to federal adjusted gross income. For married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse. For married persons filing jointly, "adjusted gross income" means the total adjusted gross income of both spouses.

If a person and that person's spouse are not both domiciled in Wisconsin during the entire tax year, the Wisconsin standard deduction on a joint return is determined by multiplying the Wisconsin standard deduction calculated on the basis of federal adjusted gross income by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

4. Index Standard Deduction (Renumber s. 71.02(2)(gr) to 71.02(2)(kr) and amend s. 71.02(2)(kr) as renumbered, create s. 71.09(2e) and (2f), effective for 1987 tax year and thereafter.)

The standard deduction will not be indexed for tax years prior to 1987.

Beginning with the 1987 tax year, the standard deduction will be indexed for the increase in the consumer price index between June of the current year and June of the previous year that exceeds 3%. The standard deduction may not be increased by more than 7% or decreased by any amount. The percentage change in the consumer price index will be rounded to the nearest one-tenth of a percentage point and the revised standard deduction amounts will be rounded to the nearest \$10.

There will be no indexing if the actual general purpose revenues balance for the preceding fiscal year is less than the required 1% statutory balance (odd-numbered years) or, when substituted for the gross June 30 balance in the general fund summary, yields a biennial closing balance less than the required 1% statutory balance (even-numbered years).

5. Provide Exemption for Capital Gains From Sale of Small Business Stock (Create ss. 71.02(2)(fr) and 71.05(1)(b)12, effective for stock acquired on or after January 1, 1986.)

Net capital gains on small business stock are exempt from Wisconsin taxation provided the taxpayer did not acquire the stock by gift and submits a copy of the certification under s. 71.02(2)(fr)(intro.) with his or her tax return.

"Small business stock" means an equity security that the taxpayer has held for at least five years. The security must be issued by a corporation that, on the December 31 before acquisition by the taxpayer, fulfills all the following requirements and so certifies to the taxpayer upon acquisition:

- a. Has at least 50% of its property and at least 50% of its payroll, both as computed under s. 71.07, in Wisconsin.
 - b. Has no more than 200 employees covered by Wisconsin unemployment insurance, including employees of any corporation that owns more than 50% of the stock of the issuing corporation.
 - c. Derives no more than 25% of its gross receipts from rents, interest, dividends and sales of assets combined.
 - d. Has not issued stock that is listed on the New York Stock Exchange, the American Stock Exchange or the National Association of Security Dealers' Automated Quotation System.
 - e. Has not conducted a trade or business in corporate or noncorporate form or combination thereof for a period exceeding five years. A trade or business is considered to be conducted if a specific or similar group of activities was carried on for the purpose of earning income or profit. "Group of activities" includes but is not limited to the production, distribution and sale of goods, the sale of services, the payment of expenses and the collection of income.
 - f. Has not liquidated its assets in whole or in part for tax purposes only in order to fulfill the requirements of this provision and then reorganized.
6. Limit Deduction for Certain Farm Losses (Create s. 71.05(1)(a)26, effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, combined net losses, exclusive of net gains, from businesses, rents, partnerships, S corporations, estates or trusts incurred in the operation of a farming business, as defined in section 464(e)1 of the Internal Revenue Code, otherwise includable in calculating Wisconsin income, which can be used to offset nonfarm income are limited as follows:

<u>Nonfarm Wisconsin Adjusted Gross Income</u>	<u>Allowable Loss</u>
Less than \$ 55,000	Full Amount
\$ 55,000 - 75,000	\$20,000
75,000 - 100,000	17,500
100,000 - 150,000	15,000
150,000 - 200,000	12,500
200,000 - 250,000	10,000
250,000 - 300,000	7,500
300,000 - 400,000	5,000
400,000 and Over	No Loss

Net losses do not include losses allowable under sections 1211 and 1231 of the Internal Revenue Code.

Beginning with the 1987 tax year, the dollar amounts of nonfarm Wisconsin adjusted gross income shall be indexed under s. 71.09(2) without regard for s. 71.09(2e).

7. Disallow Deduction for Certain Entertainment and Travel Expenses
(Create s. 71.05(1)(a)27, effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, the following expenses may not be claimed for Wisconsin income tax purposes:

- a. Expenses allowable under section 274 of the Internal Revenue Code with respect to an activity, except admissions to an organized athletic event or other public event or performance that takes place in Wisconsin, that is of the type generally considered to constitute entertainment, amusement or recreation, or with respect to a facility used in connection with those activities, except to the extent that food, beverage and facility expenses are allowed as a deduction under Part b.
- b. All business meal expenses allowable under section 274 of the Internal Revenue Code that are not incurred in a clear business setting, and 50% of the excess, including tax and gratuities, over \$25 times the number of persons participating in the meal, except expenses for food and beverages furnished primarily for employees on the taxpayer's premises.
- c. Business travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code for trips lasting one year or more in one city.
- d. Business travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code for travel by luxury water transportation in excess of otherwise available business transportation.
- e. Travel expenses allowable under section 162, 212, or 274 of the Internal Revenue Code for conventions, meetings or seminars held on cruise ships and not treated as income.
- f. Business travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code for travel as a form of education.

8. Disallow ACRS Depreciation on Residential Real Property and on Certain Property Used in Farming (Create ss. 71.02(2)(d)12 and 71.05(2r), (2t) and (2u), effective for 1986 tax year and thereafter.)

For the following property placed in service by the taxpayer during the 1986 tax year and thereafter, depreciation must be computed under the Internal Revenue Code in effect on December 31, 1980:

- a. Residential real property.

- b. Property used in farming, as defined in section 464(e)(1) of the Internal Revenue Code, if the taxpayer's nonfarm Wisconsin adjusted gross income exceeds \$55,000 or gross farm profit exceeds \$155,000 for tax year 1986. For tax year 1987 and thereafter, the two dollar limits shall be indexed under s. 71.09(2) without regard to s. 71.09(2e).

If such property is placed in service by the taxpayer during the 1986 tax year or thereafter but before the property is used in the production of income subject to taxation under Chapter 71, the property's adjusted basis and the depreciation or other deduction schedule are not required to be changed from the amount allowable on the owner's federal income tax returns for any year because the property is used in the production of income subject to taxation under Chapter 71.

If such property is disposed of in the 1986 tax year or thereafter, any difference between the adjusted basis for federal income tax purposes and the adjusted basis under Chapter 71 shall be taken into account in determining net income or loss in the year or years the gain or loss is reportable.

For property acquired in a transaction occurring in the 1986 tax year or thereafter in which the adjusted basis of the property in the hands of the transferee is the same as the adjusted basis of the property in the hands of the transferor, the Wisconsin adjusted basis of that property on the date of transfer is the adjusted basis allowable under the depreciation provisions of the Internal Revenue Code as defined for Wisconsin purposes for the property in the hands of the transferor.

9. Repeal \$1,680 Exclusion for Federal Civil Service Annuity (Repeal s. 71.01(3)(e), effective for 1986 tax year and thereafter.)

Under prior law, persons 62 years of age or over were allowed to exclude up to \$1,680 of the amount reported on their federal return as income received from a federal civil service annuity. Beginning with the 1986 tax year, a federal civil service annuity is taxable for Wisconsin in the same manner as for federal income tax purposes.

10. Repeal \$1,000 Military Pay Exclusion (Repeal s. 71.01(3)(f), effective for 1986 tax year and thereafter.)

Under prior law, the first \$1,000 of compensation received from the United States for service as a reserve or active member of the armed forces was excludable from Wisconsin taxable income. Beginning with the 1986 tax year, all compensation received for service as a reserve or active member of the armed forces is taxable for Wisconsin in the same manner as for federal tax purposes.

11. Repeal Exemption for Awards for Victims of Crime (Repeal s. 71.01(3)(g), effective for 1986 tax year and thereafter.)

Chapter 949, Wis. Stats., provides awards for victims of crimes. Under prior law, these awards were exempt from taxation by Wisconsin. Beginning with the 1986 tax year, the Wisconsin income tax treatment of these awards is the same as the federal treatment.

12. Clarify Exemption for Payments From Certain Retirement Systems (Amend s. 71.03(2)(d), effective for 1985 tax year and thereafter.)

This provision clarifies that the exemption from gross income for all payments received from certain Milwaukee city and county retirement systems and from the Wisconsin state teachers retirement system, which were paid on the account of any person who was a member of the system as of December 31, 1963, or was retired from the system as of December 31, 1963, does not exclude tax sheltered annuity benefits from Wisconsin taxation.

13. Repeal Exemption for Compensation for Well Contamination (Repeal s. 71.03(2)(g), effective for 1986 tax year and thereafter.)

Under Wisconsin's groundwater management law, awards of up to \$9,600 may be made by the Department of Natural Resources to persons who have a contaminated well. Under prior law, the amount of any award was excludable from the recipient's Wisconsin taxable income. Beginning with the 1986 tax year, the Wisconsin income tax treatment of well contamination awards is the same as the federal treatment.

14. Repeal Subtract Modification for Interest Received on Prisoner of War Compensation (Repeal s. 71.05(1)(b)5, effective for 1986 tax year and thereafter.)

Gross income (both federal and Wisconsin) does not include compensation received for active service as a member of the armed forces of the United States for any month during any part of which such member was a prisoner of war. Under prior law, Wisconsin did not tax the interest generated on the accumulated compensation which a person would receive after being released. Beginning with the 1986 tax year, interest earned by a member of the armed forces on the accumulated compensation held by the government while he or she was a prisoner of war is subject to Wisconsin income tax.

15. Repeal Subtract Modification for Adoption Expense (Repeal s. 71.05(1)(b)7, effective for 1986 tax year and thereafter.)

Under prior law, a modification for up to 100% of qualified adoption expenses relating to the adoption of any child could be claimed. Beginning with the 1986 tax year, the Wisconsin deduction for adoption expenses is repealed. However, adoption expenses may be used in the computation of the itemized deductions credit (see Item B.20).

16. Repeal Subtract Modifications for Social Security, Railroad Retirement Benefits and Sick Pay Paid Under the Railroad Retirement Insurance Act (Repeal s. 71.05(1)(b)9 and 10, effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, social security payments, to the extent included in federal adjusted gross income, are includable in Wisconsin taxable income.

Railroad retirement benefits and sick pay paid under the Railroad Retirement Insurance Act will continue to be excluded from Wisconsin taxable income because, under federal law, states are prohibited from imposing a tax on these benefits.

17. Wisconsin Net Operating Loss (Renumber s. 71.02(2)(m) to 71.02(2)(j) and 71.05(1)(d) to 71.05(1)(d)1 and amend ss. 71.02(2)(j) and 71.05(1)(d)1 as renumbered, create s. 71.05(1)(d)2, effective dates are indicated below.)

- a. Beginning with the 1986 tax year, "Wisconsin net operating loss" of persons other than corporations means "federal net operating loss" adjusted as prescribed in s. 71.05(1), (4) and (5), except that no deductions allowable on Schedule A for federal income tax purposes are allowable.

There shall be added to Wisconsin income any amount deducted as a federal net operating loss carryover. There shall be subtracted for the first tax year for which the subtraction may be made any allowable Wisconsin net operating loss carryforward, not to exceed Wisconsin taxable income before the deduction of the Wisconsin net operating loss carryforward.

A Wisconsin net operating loss may be carried forward against Wisconsin taxable incomes of the next 15 years to the extent not offset against other income of the year of the loss and to the extent not offset against Wisconsin modified taxable income of any year between the loss year and the tax year for which the loss carryforward is claimed.

"Wisconsin modified taxable income" means Wisconsin adjusted gross income less the Wisconsin standard deduction, with the following exceptions:

- (1) A net operating loss deduction or offset for the loss year or any tax year thereafter is not allowed.
- (2) The deduction for long-term capital gains under section 1202 of the Internal Revenue Code is not allowed.
- (3) The amount deductible for losses from sales or exchanges of capital assets may not exceed the amount includable in income for gains from sales or exchanges of capital assets.
- (4) Wisconsin modified taxable income may not be less than zero.

- b. The 15-year loss carryforward provision applies to losses incurred in the 1980 tax year and thereafter.

18. Change Personal Exemption Credits (Repeal s. 71.09(6p)(c) and (d)(intro.), consolidate, renumber and amend s. 71.09(6p)(d)1 and 2 to 71.09(6p)(d), amend ss. 71.08(4) and 71.09(6p)(intro.), (a) and (b), effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, the \$20 personal exemption for the taxpayer, the \$20 exemption for the taxpayer's spouse and the \$20 exemption for head of family may no longer be claimed. Exemptions are allowed as follows:

- a. An exemption of \$25 is allowed if the taxpayer has reached the age of 65 prior to the close of the calendar or fiscal year.
- b. An exemption of \$50 is allowed for each person for whom the taxpayer is entitled to an exemption under section 151(e) of the Internal Revenue Code.

- c. Personal exemptions for part year residents and nonresidents are limited to the fraction of the amount so determined that Wisconsin adjusted gross income is of federal adjusted gross income. For married persons filing separately, "adjusted gross income" means the separate adjusted gross income of each spouse. For married persons filing jointly, "adjusted gross income" means the total adjusted gross income of both spouses.

If a person and that person's spouse are not both domiciled in Wisconsin during the entire tax year, their personal exemptions on a joint return are determined by multiplying the personal exemption that would be available to each of them if they were both domiciled in Wisconsin during the entire tax year by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

19. Amend Married Persons' Credit (Amend s. 71.09(7m), effective for 1986 tax year and thereafter.)

Married persons filing a joint return may claim as a credit against, but not to exceed the amount of, Wisconsin net income taxes otherwise due, an amount equal to 2.5% of the earned income of the spouse with the lower earned income. The credit may not exceed \$450.

"Earned income" means wages, salaries, tips, other employee compensation and net earnings from self-employment allocable to Wisconsin under s. 71.07.

Earned income is computed notwithstanding the fact that each spouse owns an undivided one-half interest in the whole of the marital property.

A marital property agreement under s. 766.58 transferring income between spouses has no effect in computing earned income.

20. Provide Itemized Deductions Credit (Create s. 71.09(6r), effective for 1986 tax year and thereafter.)

For the 1986 tax year and thereafter, single persons, married persons filing separately and married persons filing jointly may claim as a credit against, but not to exceed the amount of, Wisconsin net income taxes due, an amount calculated as follows:

a. Add the following amounts:

- (1) The amount of interest allowed as an itemized deduction under section 163 of the Internal Revenue Code and paid on a loan to purchase or refinance a residence in Wisconsin or paid on a land contract in respect to a residence in Wisconsin.
- (2) For members of the United States Congress, the amount of interest allowed as an itemized deduction under section 163 of the Internal Revenue Code and paid to purchase or refinance a residence in or near Washington, D.C. or paid on a land contract in respect to such a residence.

- (3) For tax years 1986 to 1988 only, the amount of interest allowed as an itemized deduction under section 163 of the Internal Revenue Code and paid by an employee on a loan to purchase stock in an employee-owned business, as defined in s. 560.16(1)(c), from which that employee receives at least 50% of that employee's wage and salary income.
- (4) The amount of interest, up to \$1,200, allowed as an itemized deduction under section 163 of the Internal Revenue Code and not paid on a loan to purchase or refinance a residence or paid on a land contract in respect to a residence or paid to purchase stock in the corporation from which the employee receives at least 50% of that employee's wage and salary income.
- (5) The deduction for charitable contributions under section 170 of the Internal Revenue Code.
- (6) The medical expenses allowed under section 213 of the Internal Revenue Code.
- (7) Any amount expended by an adoptive parent or a prospective adoptive parent in adoption fees, court costs or legal fees relating to the adoption of a child, whether or not the adoption process is completed, to the extent that this amount, when added to allowable medical deductions under section 213 of the Internal Revenue Code, exceeds 5% of the person's federal adjusted gross income.

- b. Subtract the standard deduction under s. 71.02(2)(km)2m from the amount determined under Part a.
- c. Multiply the amount determined under Part b by 5%.
- d. For part year residents and nonresidents of Wisconsin, the credit is limited to the fraction of the amount so determined that Wisconsin adjusted gross income is of federal adjusted gross income. For married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse. For married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses.

21. Child and Dependent Care Credit (Repeal s. 71.09(12c), amend s. 71.09(12c)(a) and (b), effective dates are indicated below.)

- a. For the 1985 tax year, the Wisconsin child and dependent care credit is equal to 30% of the federal credit as computed under section 21 of the Internal Revenue Code in effect on December 31, 1984.

The reference to the Code in s. 71.09(12c)(a) and (b) was changed from section 44A to section 21. This amendment, which is required because the federal Tax Reform Act of 1984 changed the reference from section 44A to 21, does not affect the computation of the credit.

- b. Beginning with the 1986 tax year, the child and dependent care credit may no longer be claimed for Wisconsin purposes.

22. Community Development Finance Authority Credit for Individuals (Amend s. 71.09(12m)(a) and (b), effective dates are indicated below.)

- a. Beginning with credits available in the 1984 tax year, any unused community development credit may be carried forward 15 years. Under prior law, the credit could be carried forward indefinitely until completely used up.
- b. Beginning with the 1986 tax year, an individual may no longer claim a credit against Wisconsin income taxes for making a contribution to the community development finance authority and purchasing common stock or a partnership interest in the community development finance company.

23. Research Credits (Repeal ss. 71.05(1)(a)16 and 71.09(12r)(c), amend ss. 71.09(12r)(a), (b), (c), (g) and (L) and 71.09(12rf)(a), effective dates are indicated below.)

- a. Increase Carryforward to 15 Years (s. 71.09(12r)(g)).

The carryforward for both research credits (for research expenses and research facilities) is increased to 15 years. (Under prior law, the credit could be carried forward 7 years.) The 15 year carryforward applies to credits available in the 1984 tax year and thereafter.

- b. Change Reference to Internal Revenue Code (s. 71.09(12r)(a), (b) and (c), s. 71.09(12rf)(a)).

For the 1985 tax year, the reference to the Internal Revenue Code in s. 71.09(12r)(a), (b) and (c) and s. 71.09(12rf)(a) is changed from section 44F to section 30. This amendment, which is required because the federal Tax Reform Act of 1984 changed the reference from section 44F to 30, does not affect the computation of the credits.

- c. Eliminate Unneeded Language (s. 71.09(12r)(a)).

The language in s. 71.09(12r)(a) relating to "base period" for 1984 is not needed for 1985 and is therefore eliminated from the Statutes.

- d. Deny Credits to Individuals, Partners, Tax-Option Corporation Shareholders (s. 71.09(12r)(L)).

The following changes are effective for the 1986 tax year and thereafter:

- (1) The credits for qualified research expenses and research facility costs may only be claimed by corporations. Individuals may no longer claim these credits.
- (2) The research credits may not be claimed by a partnership or tax-option corporation or by partners or shareholders of a tax-option corporation.

24. Earned Income Credit (Repeal s. 71.09(12t), amend s. 71.09(12t)(a) and (b), effective dates are indicated below.)

- a. For the 1985 tax year, the Wisconsin earned income credit is equal to 30% of the federal credit as computed under section 32 of the Internal Revenue Code in effect on December 31, 1984.

The reference to the Code in s. 71.09(12t)(a) and (b) was changed from section 43 to section 32. This amendment, which is required because the federal Tax Reform Act of 1984 changed the reference from section 43 to 32, does not affect the computation of the credit.

- b. Beginning with the 1986 tax year, the earned income credit may no longer be claimed for Wisconsin purposes.

25. Property Tax and Rent Credits (Repeal s. 71.53, create s. 71.54, effective dates are indicated below.)

- a. Repeal 10% Credit.

Under prior law, full year and part year residents were allowed a 10% credit against Wisconsin net income taxes based on property taxes or rent paid for a principal dwelling. Beginning with the 1986 tax year, this credit is no longer allowed.

- b. Allow 7.9% Credit.

For the 1986 tax year, a one-time credit equal to 7.9% of property taxes or rent constituting property taxes for a principal dwelling may be claimed against, but not to exceed the amount of, Wisconsin net income taxes due. The credit is allowed for up to \$2,000 of property taxes and rent constituting property taxes.

For an unmarried person or a married person filing a separate return who is a part year resident of Wisconsin, the credit is limited to that fraction of the amount determined that Wisconsin adjusted gross income is of federal adjusted gross income. No credit is allowed to nonresidents of Wisconsin. If both spouses are not domiciled in Wisconsin during the entire tax year, the credit on a joint return is determined by multiplying the Wisconsin property tax and rent credit that would be available to them if both spouses were domiciled in Wisconsin during the entire tax year by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

26. Define "Married Person" or "Spouse" (Create s. 71.02(2)(eg), effective for 1986 tax year and thereafter.)

"Married person" or "spouse" means a person considered married under section 143(a) of the Internal Revenue Code. For Wisconsin tax purposes, a decree of divorce, annulment or legal separation terminates the marriage and the application of marital property law to property of the spouses after the date of the decree, unless the decree provides otherwise.

27. Change Filing Requirements for Individuals (Amend s. 71.10(2)(a)5.a, effective for 1986 tax year and thereafter.)

The filing requirements for persons who are domiciled in Wisconsin during the entire tax year are as follows:

a. Single persons.

(1) Under age 65 - gross income of \$5,200 or more.

(2) Age 65 or over - gross income of \$5,700 or more.

b. Married persons filing jointly.

(1) Both spouses under age 65 - joint gross income of \$7,200 or more.

(2) One spouse age 65 or over - joint gross income of \$7,700 or more.

(3) Both spouses age 65 or over - joint gross income of \$8,200 or more.

c. Married persons filing separately - gross income of \$3,420 or more.

The Department of Revenue will annually adjust the dollar amounts of the filing requirements to reflect changes in the standard deduction under s. 71.02(2)(kr).

28. Change Tax Rates and Brackets (Repeal s. 71.09(1c) and (1d), create s. 71.09(1e) and (1f), effective for 1986 tax year and thereafter.)

a. The tax rates for single persons and all fiduciaries are as follows:

(1) On all taxable income from \$0 to \$7,500, 5%.

(2) On all taxable income exceeding \$7,500 but not exceeding \$15,000, 6.6%.

(3) On all taxable income exceeding \$15,000 but not exceeding \$30,000, 7.5%.

(4) On all taxable income exceeding \$30,000, 7.9%.

b. The tax rates for married persons filing jointly are as follows:

(1) On all taxable income from \$0 to \$10,000, 5%.

(2) On all taxable income exceeding \$10,000 but not exceeding \$20,000, 6.6%.

(3) On all taxable income exceeding \$20,000 but not exceeding \$40,000, 7.5%.

(4) On all taxable income exceeding \$40,000, 7.9%.

c. The tax rates for married persons filing separately are as follows:

- (1) On all taxable income from \$0 to \$5,000, 5%.
- (2) On all taxable income exceeding \$5,000 but not exceeding \$10,000, 6.6%.
- (3) On all taxable income exceeding \$10,000 but not exceeding \$20,000, 7.5%.
- (4) On all taxable income exceeding \$20,000, 7.9%.

29. Index Tax Brackets (Repeal s. 71.09(2c), amend s. 71.09(2), create s. 71.09(2e) and (2f), effective dates are indicated below.)

- a. Effective for the 1986 tax year, the provision for indexing the brackets for single and married persons established by 1983 Wisconsin Act 186 is repealed.
- b. Beginning with the 1987 tax year, the income tax brackets will be indexed for the increase in the consumer price index between June of the current year and June of the previous year that exceeds 3%. The brackets may not be increased by more than 7% or decreased by any amount. The percentage change in the consumer price index will be rounded to the nearest one-tenth of a percentage point and the revised income tax brackets will be rounded to the nearest \$10.

There will be no indexing if the actual general purpose revenues balance for the preceding fiscal year is less than the required 1% statutory balance (odd-numbered years) or, when substituted for the gross June 30 balance in the general fund summary, yields a biennial closing balance less than the required 1% statutory balance (even-numbered years).

The income tax brackets for married persons filing separately will be one-half of the brackets for married persons filing jointly.

30. Revise Sections Included in the Order of Computations (Repeal s. 71.65(1)(b), (d), (e), (f), (i), (j) and (k), create s. 71.65(1)(cm) and (dm), effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, the computation of tax liability shall be made in the following order:

- a. Tax under s. 71.09(1b), (1e) or (1f).
- b. Personal exemptions.
- c. Itemized deductions credit.
- d. Property tax and rent credit under s. 71.54.
- e. Married persons' credit.
- f. Minimum tax.
- g. Payments to other states.
- h. The total of farmland preservation credit, homestead credit, estimated tax payments and taxes withheld.

31. Minimum Tax (Amend s. 71.60(1)(c), repeal and recreate s. 71.60(1) and (2), create s. 71.60(4) and (5), effective dates are indicated below.)

a. Update Reference to Internal Revenue Code.

For the 1985 tax year, the term "Internal Revenue Code" as used in the Wisconsin minimum tax provisions means the Internal Revenue Code in effect on December 31, 1984.

b. Modify Minimum Tax Computations.

Effective for the 1986 tax year and thereafter, the 5% add-on minimum tax is repealed and a new Wisconsin minimum tax based on the federal alternative minimum tax is imposed. The new minimum tax applies to natural persons, trusts and estates, and is equal to 55% of the federal alternative minimum tax owed under section 55 of the Internal Revenue Code. The Wisconsin minimum tax is added to the taxpayer's Wisconsin income tax otherwise due.

Married persons who file a joint Wisconsin income tax return must compute the minimum tax jointly. They are jointly and severally liable for the tax due and for interest, penalties, fees, additions to tax and additional assessments with respect to the tax.

Part year residents and nonresidents will determine the minimum tax allocable to Wisconsin by multiplying the federal alternative minimum tax by 55%, and prorating the result in the ratio of Wisconsin adjusted gross income to federal adjusted gross income.

The tax benefit rule contained in section 58(h) of the Internal Revenue Code applies to the Wisconsin minimum tax only to the extent that it determines whether there is a federal minimum tax. No separate tax benefit rule is allowable for the Wisconsin minimum tax.

32. Amend Designation to the Wisconsin Election Campaign Fund (Amend s. 71.095(1) and (2), effective for 1985 tax year and thereafter.)

Every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate \$1 for the Wisconsin election campaign fund. On a joint return, each individual may designate \$1.

33. Repeal Surplus Language (Repeal ss. 71.03(7), 71.05(1)(a)2, 5, 6, 11, 12, 13, 23 and 25, 71.05(1)(b)2, 6 and 8, 71.05(1)(j), (k) and (L) and 71.05(3)(h), effective for 1986 tax year and thereafter.)

The following sections are repealed in order to eliminate surplus language:

- a. 71.03(7) - capital gain exclusion on conversions of marital and individual property
- b. 71.05(1)(a)2 - capital gain exclusion
- c. 71.05(1)(a)5 - gain on sale of principal residence when replacement residence is located out-of-state
- d. 71.05(1)(a)6 - capital gains on involuntary conversions
- e. 71.05(1)(a)11 - all-savers certificates

- f. 71.05(1)(a)12 - public utility dividend reinvestment
- g. 71.05(1)(a)13 - sale of assets with a Wisconsin situs
- h. 71.05(1)(a)23 - partial interest exclusion
- i. 71.05(1)(a)25 - capital loss not recognized under s. 71.03(7)
- j. 71.05(1)(b)2 - interest on accumulation distributions
- k. 71.05(1)(b)6 - 1975 individual retirement account deduction
- l. 71.05(1)(b)8 - capital gain not recognized under s. 71.03(7)
- m. 71.05(1)(j) - capital loss
- n. 71.05(1)(k) - unemployment compensation
- o. 71.05(1)(L) - gain on sale of residence
- p. 71.05(3)(h) - spousal individual retirement account

34. Eliminate Surplus Renewable Energy Resource System Credit Language (Repeal s. 71.09(12), effective July 20, 1985.)

The statutory language relating to the renewable energy resource system credit, which credit was previously allowed to individuals in 1977 and 1978, has been repealed since the credit no longer applies.

C. CORPORATION FRANCHISE/INCOME TAXES

1. Increase Net Business Loss Carryforward to 15 Years (Amend s. 71.06(1), effective for losses incurred in 1980 tax year and thereafter.)

The net operating loss carryforward for corporations is increased to 15 years. Under prior law, the net business loss carryforward was 5 years.

2. Increase Manufacturer's Sales Tax Credit Carryforward to 15 Years (Amend s. 71.043(3), effective for credits accrued in 1980 tax year and thereafter.)

The manufacturer's sales tax credit carryforward for corporations is increased to 15 years. Under prior law, the carryforward was 5 years.

3. Limit Community Development Finance Authority Credit Carryforward to 15 Years (Amend s. 71.09(12m)(b), effective for credits available in 1984 tax year and thereafter.)

The community development finance authority credit may be carried forward 15 years. Under prior law, the credit could be carried forward indefinitely until completely used up.

4. Disallow Deduction for Certain Entertainment, Gift and Travel Expenses (Create ss. 71.01(4)(a)6m and 71.04(2)(b)11 to 17, effective for 1986 tax year and thereafter.)

Beginning with the 1986 tax year, the following expenses may not be claimed for Wisconsin income tax purposes:

- a. Expenses allowable under section 274 of the Internal Revenue Code with respect to an activity, except admissions to an organized athletic event or other public event or performance that takes place in Wisconsin, that is of the type generally considered to constitute entertainment, amusement or recreation, or with respect to a facility

used in connection with those activities, except to the extent that food, beverage and facility expenses are allowed as a deduction under Part c.

- b. Business gifts allowable as a deduction under section 274 of the Internal Revenue Code, except for gifts of Wisconsin agricultural commodities, as defined under s. 96.01(3), made directly or indirectly to any individual to the extent that those gifts of Wisconsin agricultural commodities when added to prior expenses of the taxpayer for gifts of Wisconsin agricultural commodities made to that individual during the same tax year do not exceed \$15.
 - c. All business meal expenses allowable under section 274 of the Internal Revenue Code that are not incurred in a clear business setting, and 50% of the excess, including tax and gratuities, over \$25 times the number of persons participating in the meal, except expenses for food and beverages furnished primarily for employees on the taxpayer's premises.
 - d. Business travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code for trips lasting one year or more in one city.
 - e. Business travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code for travel by luxury water transportation in excess of otherwise available business transportation.
 - f. Travel expenses allowable under section 162, 212, or 274 of the Internal Revenue Code for conventions, meetings or seminars held on cruise ships and not treated as income.
 - g. Business travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code for travel as a form of education.
5. Disallow ACRS Depreciation on Residential Real Property and on Certain Property Used in Farming (Amend s. 71.04(15)(b) and (fm), create s. 71.04(15)(br) and (ep), effective for property acquired in 1986 tax year and thereafter.)

For the following property acquired in the 1986 tax year and thereafter, depreciation must be computed under the Internal Revenue Code in effect on December 31, 1980:

- a. Residential real property.
- b. Property used in farming, as defined in section 464(e)(1) of the Internal Revenue Code, if the corporation's Wisconsin gross farm receipts or sales exceeds \$155,000 for tax year 1986. For tax year 1987 and thereafter, the dollar amount shall be indexed under s. 71.09(2) without regard to s. 71.09(2e).

For such property acquired in 1986 and thereafter by any corporation that has, in any year before it derives any income with a Wisconsin situs for Wisconsin income or franchise tax purposes, taken depreciation or amortization for federal tax purposes, the Wisconsin adjusted basis, as of the beginning of the income year in which the corporation begins operations in Wisconsin, shall be the adjusted basis that would have been computed under the depreciation provisions of the Internal Revenue Code in effect on December 31, 1980.

6. Research Credits (Amend ss. 71.09(12r)(a), (b) and (g) and 71.09(12rf)(a), effective dates are indicated below.)

a. Increase Carryforward to 15 Years (s. 71.09(12r)(g)).

The carryforward for both research credits (for research expenses and research facilities) is increased to 15 years. (Under prior law, the credit could be carried forward 7 years.) The 15 year carryforward applies to credits available in the 1984 tax year and thereafter.

b. Change Reference to Internal Revenue Code (s. 71.09(12r)(a) and (b), s. 71.09(12rf)(a)).

For the 1985 tax year and thereafter, the reference to the Internal Revenue Code in s. 71.09(12r)(a) and (b) and s. 71.09(12rf)(a) is changed from section 44F to section 30. This amendment, which is required because the federal Tax Reform Act of 1984 changed the reference from section 44F to 30, does not affect the computation of the credits.

c. Eliminate Unneeded Language (s. 71.09(12r)(a)).

The language in s. 71.09(12r)(a) relating to "base period" for 1984 is not needed for 1985 and is therefore eliminated from the Statutes. For 1986 and thereafter, the language relating to "base period" for 1985 is eliminated.

7. Update Reference to Internal Revenue Code for Insurance Companies (Amend s. 71.01(4)(g)8, create s. 71.01(4)(g)9, effective for 1985 tax year and thereafter.)

For the 1985 tax year and thereafter, insurance companies will compute their income under the Internal Revenue Code in effect on December 31, 1984, with certain exceptions. The special rules for safe harbor leases provided by section 168(f)(8) of the Internal Revenue Code may not be used for Wisconsin. Depreciation of out-of-state property placed in service on or after January 1, 1983 must be computed under the Internal Revenue Code as of December 31, 1980.

Beginning with the 1986 tax year, certain entertainment, gift and travel expenses allowable under section 162, 212 or 274 of the Internal Revenue Code may not be claimed for Wisconsin (see Item C.4).

8. Update Reference to Internal Revenue Code for Regulated Investment Companies and Real Estate Investment Trusts (Rename s. 71.02(1)(a) to s. 71.02(1)(c) and amend s. 71.02(1)(c)9 as renumbered, create s. 71.02(1)(c)10, effective for 1985 tax year and thereafter.)

For the 1985 tax year and thereafter, regulated investment companies and real estate investment trusts will compute their net income under the Internal Revenue Code in effect on December 31, 1984, with certain

exceptions. The special rules for safe harbor leases provided by section 168(f)(8) of the Internal Revenue Code may not be used for Wisconsin. Depreciation of out-of-state property placed in service on or after January 1, 1983 must be computed under the Internal Revenue Code as of December 31, 1980.

9. Disallow Deduction for Value of Incentive Stock Option Payments (Amend s. 71.04(1), create s. 71.04(2)(b)10, effective for 1986 tax year and thereafter.)

Corporations will not be allowed a deduction for the value of incentive stock options as defined in section 422A of the Internal Revenue Code as amended to December 31, 1984. (Note: Beginning with the 1986 tax year, stock options will be taxable to the recipient at the time he or she sells the stock which was acquired by exercising the stock option.)

10. Define "Dividends Received" From Foreign Subsidiaries (Create s. 71.04(4)(c), effective for 1985 tax year and thereafter.)

"Dividends received" means gross dividends received minus taxes on those dividends paid to a foreign nation and claimed as a deduction under Chapter 71.

11. Deduction for Forest Croplands and Managed Forest Land (Amend s. 71.04(11), effective January 1, 1986.)

A deduction is allowed to corporations for amounts expended for the purchase of seeds and tree plants for planting, and for preparing land for planting and for planting and caring for, maintenance and fire protection of forest crops on forest croplands and managed forest land under Chapter 77. Previously, forest croplands and managed forest land were called "Forest Crop Lands".

12. Limit Income or Franchise Tax Liability of Domestic Credit Accident and Health Insurers (Create s. 71.01(4)(h), effective for 1985 tax year and thereafter.)

The income or franchise tax of domestic insurers on credit accident and health insurance business may not exceed 2% of the insurer's gross premiums on that kind of business in Wisconsin.

D. HOMESTEAD CREDIT

1. Amend Definition of "Income" (Renumber s. 71.09(7)(a)1 to 71.09(7)(a)6 and amend s. 71.09(7)(a)6 as renumbered, effective July 20, 1985.)

Under prior law, one of the items included in "income" for homestead credit was "relief" payments. The amendment to s. 71.09(7)(a)6 inserts "general" before "relief" so the new language is "general relief" payments. The reason for this change is that "relief" in s. 49.01(5m) (as amended and renumbered from s. 49.01(8)) is now called "general relief".

2. Amend Definition of "Property Taxes Accrued" (Renumber s. 71.09(7)(a)8 to 71.09(7)(a)7 and amend s. 71.09(7)(a)7 as renumbered, effective January 1, 1986.)

Under prior law, "property taxes accrued" were required to be reduced by the state property tax credit under s. 79.10(3). The amendment to s. 71.09(7)(a)7 inserts "to (5)" so the new language is "under s. 79.10(3) to (5)". The reason for this change is that the state property tax credits provided under Chapter 79 have been revised.

E. FARMLAND PRESERVATION CREDIT

1. Increase Credit to 90% for Farmland Subject to Town Zoning Ordinances (Amend s. 71.09(11)(b)3.d, effective for 1985 tax year and thereafter.)

A farmland preservation credit claimant whose farmland is covered under a certified county agricultural preservation plan and is located in an area zoned for exclusive agricultural use under a certified town ordinance is eligible for 90% of the credit, rather than 70% as in prior years.

2. Require Compliance With Soil and Water Conservation Standards (Amend ss. 71.09(11)(h)(intro.), 71.09(11)(o), 91.13(8)(d) and 91.80(1), create ss. 71.09(11)(h)5, 91.13(8)(dm), 91.80(2), 92.104 and 92.105, effective dates are indicated below.)

County land conservation committees will establish soil and water conservation standards applicable to land for which a farmland preservation credit is claimed. Compliance with the standards is required for a claimant to be allowed farmland preservation credit.

The new soil and water conservation standards will apply beginning on July 1, 1986 to new farmland program participants who base their farmland preservation credit claim on new farmland preservation agreements or exclusive agricultural zoning. The new standards will apply beginning on January 1, 1988 to existing farmland participants who base their farmland preservation credit claim on exclusive agricultural zoning.

Under prior law, farmland was required to be in accordance with a soil and water conservation plan approved by the land conservation committee of the county board. Claimants in violation of the county plan were not allowed farmland preservation credit.

F. SALES/USE TAXES

1. Impose Sales Tax on Access Services Provided Interexchange Carriers (Amend s. 77.51(7m), create s. 77.51(4)(m) and (7)(p), effective July 20, 1985.)

The sales tax applies to a retailer's gross receipts from providing access services to interexchange (long distance) telecommunication carriers. Access services permit the interexchange carrier to originate and terminate telephone messages between a customer in Wisconsin and one or more points in another telephone exchange. The seller of access services (the local telephone company) is a retailer, and purchasers of services from a retailer are the consumers of such services.

2. Repeal Exemption for Hospital Service Insurance Corporations Organized Under s. 613.80(2) (Amend s. 77.54(9a)(f), effective September 1, 1985.)

The sales/use tax exemption for purchases by hospital service insurance corporations organized under s. 613.80(2) is eliminated.

3. Impose Sales Tax on Motor Fuel or Special Fuel on Which Tax Is Refunded Because of Nonhighway Use (Amend s. 77.54(11), effective for claims for refund filed on or after September 1, 1985.)

If motor fuel or special fuel is purchased exempt from sales taxes under s. 77.54(11) because it is subject to the motor fuel or special fuel tax under Chapter 78, and then the motor fuel or special fuel taxes are later refunded under s. 78.75 because the buyer does not use the fuel in operating a motor vehicle upon public highways, such motor fuel or special fuel will be subject to the sales/use tax.

Under prior law, such motor fuel or special fuel was exempt from sales/use tax, even though the motor fuel or special fuel tax was later refunded because of nonhighway use.

4. Exempt Milk House Supplies (Create s. 77.54(34), effective July 1, 1986.)

A sales/use tax exemption is provided for milk house supplies used exclusively in producing and handling milk on dairy farms.

5. Exempt Farm Livestock Medicines (Create s. 77.54(33), effective July 1, 1986.)

A sales/use tax exemption is provided for medicines used on farm livestock, not including workstock.

6. Exempt Material Used for Animal Bedding (Amend s. 77.54(3m), effective July 1, 1986.)

A sales/use tax exemption is provided for animal bedding used exclusively in farming.

7. Exempt 35% of Selling Price of New Mobile Homes and Total Selling Price of Used Mobile Homes (Create ss. 77.51(11)(b)6 and (12)(b)5 and 77.54(31), effective January 1, 1987.)

A sales/use tax exemption is provided for 35% of the total amount for which a new mobile home that is a primary housing unit is sold. No credit may be allowed for trade-ins. The exemption does not apply to lease or rental.

A sales/use tax exemption is also provided for the sale of used mobile homes that are primary housing units.

8. Exempt Boats Purchased Out-of-State but Stored in Wisconsin (Create s. 77.53(17m), effective September 1, 1985.)

A use tax exemption is provided for a boat purchased in a state contiguous to Wisconsin by a person domiciled in that state if the boat is berthed in

Wisconsin's boundary waters adjacent to the purchaser's state of domicile, if the transaction was an exempt occasional sale under the laws of the state in which the purchase was made, if the boat is not located in Wisconsin more than 60 consecutive days, other than while it is in storage, and if Wisconsin is not the state of principal use.

9. Exempt Certain Railroad Crossties (Create s. 77.55(2m), effective July 20, 1985.)

Sales of railroad crossties to a common or contract carrier will be exempt, if they are shipped wholly or in part by way of the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside Wisconsin if the property is transported to the out-of-state destination for use by the carrier in the conduct of its business as a carrier. The exemption will not be invalidated because of interruption of the shipment for storage, drying, processing or creosoting of the railroad crossties in Wisconsin.

10. Exempt Mobile Units Used for Mixing and Processing (Repeal s. 77.51(27)(c), create s. 77.54(5)(d), effective July 20, 1985.)

A sales/use tax exemption is provided for mobile units used for mixing and processing and for the motor vehicle or trailer on which they are mounted. Also exempt are accessories, attachments, parts, supplies and materials for the vehicles, trailers and units.

11. Exempt Motorized Wheelchairs and Scooters (Amend s. 77.54(22)(e), effective September 1, 1985.)

This provision clarifies that motorized wheelchairs are exempt from sales/use tax. A sales/use tax exemption is provided for motorized scooters used by persons who are ill or disabled.

12. Exempt Admission Fees to Circus World Museum (Amend s. 77.54(10), effective July 20, 1985.)

A sales/use tax exemption is provided for admission fees to any museum operated by a nonprofit corporation under a lease agreement with the State Historical Society. The only organization currently meeting these requirements is the Circus World Museum.

13. Exempt Gross Receipts From American Legion Baseball (Create s. 77.54(35), effective September 1, 1985.)

A sales/use tax exemption is provided for the sales of tangible personal property, tickets or admissions by any baseball team affiliated with the Wisconsin Department of American Legion baseball.

14. Renewal of Seller's Permit - \$400 Delinquency Includes All Taxes (Amend ss. 77.52(10)(b) and 77.52(11)(a), effective October 1, 1985.)

As a result of the amendments to s. 77.52(10)(b) and s. 77.52(11)(a), the seller's permit will not be renewed if on the date the permit expires, the permittee has any delinquent taxes of \$400 or more for any taxes under

Chapter 71, 72, 76, 77, 78 or 139. This includes income, franchise, withholding, gift, inheritance, utility, sales and use, motor fuel, cigarette, tobacco, liquor, wine and beer taxes. "Taxes" includes taxes, costs, penalties and interest. (Prior law only included delinquent sales and use taxes.)

Also, the Department may revoke a seller's permit if a person is delinquent for any of the taxes in Chapters 71, 72, 76, 77, 78 or 139 or fails to timely file any return or report after having been requested to do so by the Department of Revenue.

15. Increase Sales Tax Security to \$15,000 (Amend s. 77.61(2), effective October 1, 1985.)

In order to protect the state's revenues, the Department of Revenue may request security up to \$15,000 from any person who is or will be liable to it for sales and use taxes. (Maximum security was \$5,000 under prior law.)

Also, in determining the amount of security to require, the Department may consider the person's payment of all other taxes (income, corporation, withholding taxes, etc.) administered by the Department and any other relevant facts.

16. Increase Seller's Permit Fee to \$5 (Amend s. 77.52(8)(a) and (b), effective July 20, 1985.)

The fee for obtaining a seller's permit is increased from \$2 to \$5.

17. Sales/Use Tax Determinations Against Dissolved Corporations (Amend ss. 77.59(3)(intro.) and 180.787, effective for corporate dissolutions occurring on and after July 20, 1983.)

If there is dissolution of a corporation, the Department of Revenue may issue a determination for sales and use tax liability within 4 years (2 years under prior law) of the date of dissolution of the corporation.

18. Impose 25% Penalty for Failure to Keep Sales/Use Tax Records (Amend s. 77.61(4)(a), effective July 20, 1985.)

If the Department of Revenue has given notice to a person to keep certain sales and use tax records and thereafter additional sales/use taxes are assessed on the basis of information not contained in the records, the Department shall impose a penalty of 25% of the amount of tax so assessed. This penalty is in addition to all other penalties. (Under prior law, the penalty was a misdemeanor.)

19. Amend County Sales Tax (Repeal s. 77.76(4)(a) and (b), renumber s. 77.76(4) (intro.) to 77.76(4) and amend s. 77.76(4) as renumbered, effective July 20, 1985.)

Any county desiring to impose a local sales tax at the rate of one-half of 1% under Subchapter V of Chapter 77 may do so by the adoption of an ordinance. The county sales tax would be collected by the state in addition to the state sales tax. The county may retain the amount it receives from the

Department of Revenue, or it may distribute all or a portion of the amount it receives to the towns, villages, cities and school districts in the county. (Prior law required the Department to distribute all amounts collected to the cities, villages and towns in the county.)

G. INHERITANCE AND GIFT TAXES

1. Reduce Inheritance and Gift Tax Rates (Amend s. 72.18(2), (3) and (4), effective for deaths occurring on or after January 1, 1986 and gifts occurring on or after January 1, 1986.)

The top marginal tax rate for class B, class C and class D distributees (e.g., brother, sister or their descendants; uncle, aunt or their descendants; other persons) is reduced from 30% to 20%. All marginal tax rates greater than 20% are reduced to 20%.

Inheritance and Gift Tax Rates

	<u>Over Exemption to \$25,000</u>	<u>\$25,000 to \$50,000</u>	<u>\$50,000 to \$100,000</u>	<u>Over \$100,000</u>
Class B	5%	10%	15%	20%
Class C	7.5%	15%	20%	20%
Class D	10%	20%	20%	20%

2. Eliminate Inheritance Tax on Transfers From Decedent Missing in Action and Declared Dead (Amend s. 16.007(6)(b)2, create s. 72.15(6), effective July 20, 1985.)

No tax is imposed on the transfer of property from a decedent who was missing in action during the Vietnam era and declared dead by the federal government.

Persons who have paid inheritance taxes on a transfer from such a person may before July 20, 1991 file with the claims board a claim for refund. The claim shall set forth specifically the basis of the claim and shall include documents showing that the requirements for the person from whom the property is transferred are fulfilled.

3. Update Reference to Internal Revenue Code for Power of Appointment, Qualified Retirement Plans and Installment Payments (Amend ss. 72.01(17), 72.12(4)(c)1 and 72.22(4)(a), effective dates are indicated below.)

For deaths occurring on or after July 20, 1985, the reference to the Internal Revenue Code relating to power of appointment (s. 72.01(17)) is updated to December 31, 1984.

For deaths occurring on or after January 1, 1985, the reference to the Internal Revenue Code relating to qualified retirement plans (s. 72.12(4)(c)1) is updated to December 31, 1984.

For deaths occurring on or after July 18, 1984, the reference to the Internal Revenue Code relating to installment payments (s. 72.22(4)(a)) is updated to December 31, 1984.

4. Clarify Inheritance Tax Liens (Amend s. 72.25(intro.), effective for deaths occurring on or after July 20, 1985.)

This provision clarifies that until the inheritance tax imposed upon all transfers to a distributee is paid, it is a lien upon the property transferred to that distributee, except as provided in s. 72.25(1) and (2).

H. EXCISE TAXES

1. Eliminate Motor Fuel Tax Refund on Motorboats (Amend s. 78.75(1)(a)2 and 3, effective for motor fuel used for motorboats which is purchased on or after January 1, 1986.)

Consumers of motor fuel used in motorboats will no longer be entitled to a motor fuel tax refund. Also, the claims for filing a motor fuel or special fuel tax refund shall indicate that refunds are not available for motor fuel used for motorboats.

2. Limit Motor Fuel Tax Refund for All-Terrain Vehicles (Amend s. 78.75(1)(a)1 and 3, create s. 78.75(1)(a)2m, effective for motor fuel and special fuel purchased on or after July 1, 1986.)

Consumers of motor fuel or special fuel used in all-terrain vehicles will not be entitled to a motor fuel or special fuel tax refund unless the all-terrain vehicle is registered for private use under s. 23.33(2)(d).

The claims for filing a motor fuel or special fuel tax refund shall indicate that refunds are not available for gas used for all-terrain vehicles unless the all-terrain vehicle is registered for private use under s. 23.33(2)(d) and shall indicate that estimated all-terrain vehicle gas tax payments are used for all-terrain vehicle trails and areas.

3. Exempt Industrial Fermented Malt Beverages (Create ss. 125.275 and 139.04(7m), effective September 1, 1985.)

An excise tax exemption is provided for the sale of fermented malt beverages to industrial permittees to be used for industrial purposes.

The Department of Revenue is authorized to issue an industrial malt beverages permit which authorizes the permittee to purchase and use fermented malt beverages for industrial purposes only. Permits may be issued only to persons who prove to the Department that they use alcohol for industrial purposes. Industrial fermented malt beverages permits may be issued to any person qualified under s. 125.04(5), except a person acting as agent for or in the employ of another. Shipments of industrial fermented malt beverages shall be conspicuously labeled "for industrial purposes". The annual fee for an industrial fermented malt beverages permit is \$10.

4. Permit Underage Persons in Private Soccer Clubs (Amend s. 125.07(3)(a)5, effective July 20, 1985.)

An underage person not accompanied by his or her parent, guardian or spouse who has attained the legal drinking age may enter a liquor-licensed private soccer club.

5. Amend Tied-House Law (1985 Wisconsin Act 15, Create ss. 125.33(2s) and 125.69(2)(bs), effective May 22, 1985.)

Brewers, alcohol beverage wholesalers, liquor manufacturers and rectifiers may contribute money or other items of value to trade associations whose principal income is derived from dues from retail beer or liquor licensees.

6. Increase Cigarette Tax Rate (Create s. 139.31(1)(c) and (d), effective July 20, 1985.)

The federal cigarette tax rate is scheduled to decrease as of October 1, 1985. If this occurs (which is unknown as of July 31, 1985) the Wisconsin cigarette tax rates will be increased by the amount of any federal tax rate decrease.

7. Exempt Retailers From Cigarette Inventory Tax (Amend s. 139.315(1), effective July 20, 1985.)

Retailers of cigarettes are exempted from the imposition of the cigarette inventory tax.

8. Require Cigarette Stamps (Create s. 139.32(2m), effective October 1, 1985.)

A separate distinctive cigarette tax stamp is to be affixed to all packages of cigarettes which are subject to the refund provisions of s. 139.323.

9. Cigarette Retailers (Create s. 139.32(9), effective July 20, 1985.)

Cigarette retailers are prohibited from possessing cigarettes purchased from any person except a manufacturer, distributor or jobber who holds a valid permit.

10. Refunds to Indian Tribes (Create s. 139.323(5), effective July 20, 1985.)

An additional requirement for qualifying under the refund provisions of s. 139.323 is that the retailer has not sold the cigarettes to another retailer or to a jobber.

I. JOINT RETURN/MARITAL PROPERTY IMPLEMENTATION

1. Limit Effect of Marital Property Agreements (Create s. 71.01(1g), effective for 1986 tax year and thereafter.)

A marital property agreement does not affect the determination of income taxable by Wisconsin, or of the person required to report taxable income, during the period of time that one or both spouses are not domiciled in Wisconsin.

Also, a marital property agreement is effective for tax purposes for any period both spouses are domiciled in Wisconsin only if it is filed with the Department before any assessment resulting from an audit is issued.

2. Computation of Tax Liability of Part Year Residents and Nonresidents (Create s. 71.01(1r), effective for 1986 tax year and thereafter.)

The tax liability and reporting obligation for both spouses during the period a spouse is not domiciled in Wisconsin is determined without regard to marital property law.

3. Amend Definition of "Wisconsin Taxable Income" (Amend s. 71.02(2)(me) as renumbered, effective for 1986 tax year and thereafter.)

Losses, depreciation, recapture of benefits, offsets, depletion, deductions, penalties, expenses and other negative income items are treated in the same manner that income is or would be allocated for tax purposes.

4. Limit Capital Loss Carryforwards (Amend s. 71.05(2m), effective for 1986 tax year and thereafter.)

Under prior law, married persons were subject to the annual limitation for a capital loss deduction under the separate return provisions of section 1211(b)(2) of the Internal Revenue Code. Beginning with the 1986 tax year, the annual limitation for a capital loss carryforward is the same for federal and Wisconsin purposes. The maximum annual carryforward for capital losses is \$1,500 on a separate return and \$3,000 on a joint return.

5. Modify Computation of Basis of Marital Property Acquired From Decedent (Amend s. 71.05(1)(g), effective for deaths occurring on or after January 1, 1986.)

If at least 50% of the marital property held by the decedent and the decedent's surviving spouse is includable for purposes of computing the federal estate tax on the decedent's estate, all of the decedent's property and all of the decedent's spouse's marital property shall be deemed property properly includable for inheritance tax purposes.

6. Joint Return Requirements (Repeal and recreate s. 71.10(19), create s. 71.10(22), effective for 1986 tax year and thereafter.)

A husband and wife may file a joint income tax return for Wisconsin income tax purposes even though one spouse has no income or no deductions. However, there are certain exceptions and elections which are discussed below.

a. Nonresident Aliens and Dual-Status Aliens.

A joint return may not be filed if either the husband or wife at any time during the tax year is a nonresident alien, unless an election is in effect for the tax year under section 6013(g) or (h) of the Internal Revenue Code.

b. Husband and Wife With Different Tax Years.

A joint return may not be filed if the husband and wife have different tax years. However, if they have different tax years because of the death of either or both spouses, see Part c below.

c. Effect of Death of a Spouse.

If the death of either or both spouses occurs during the tax year, and the spouses would have had the same tax year except for the death of one or both of them, a joint return may be filed for the tax year of each. However, a joint return may not be filed if the surviving spouse

remarries before the close of his or her tax year. In addition, a joint return may not be filed if the tax year of either spouse is a fractional part of a year as a result of a change of accounting period under section 443(a)(1) of the Internal Revenue Code.

A joint return may be filed and must be signed by both the decedent's personal representative and the surviving spouse, if any, if a personal representative is appointed before the last day prescribed by law, including extensions, for filing the return of the surviving spouse.

A joint return may be filed by the surviving spouse with respect to that spouse and the decedent if no return for the tax year has been filed by the decedent and no personal representative is appointed at the time the joint return is filed or before the last day prescribed by law, including extensions, for filing the return of the surviving spouse.

If a personal representative of the decedent is appointed after a surviving spouse has filed a joint return, the personal representative may disaffirm that return by filing a separate return for the deceased spouse within one year after the last day prescribed by law for filing the return of the surviving spouse. If the joint return is disaffirmed, the return filed by the survivor is the survivor's separate return, and the tax will be recomputed by excluding all items properly includable in the decedent's return and using the married filing separately tax rates.

d. Spouse of Individual Missing in Action.

The spouse of an individual missing in action in a designated combat zone may file a joint return even though the return is not filed with the missing spouse, if the requirements of section 6013(f) of the Internal Revenue Code are met.

7. Filing Joint Return After Filing Separate Return (Create s. 71.10(20), effective for 1986 tax year and thereafter.)

A husband and wife may file a joint return after they have filed separate returns even though the time prescribed by law for timely filing the return for that tax year has expired. All payments, credits, refunds or other repayments made or allowed on the separate return of either spouse for that tax year are taken into account in determining to what extent the tax shown on the joint return has been paid.

a. Elections Made on Separate Returns.

If a joint return is filed, any election, other than the election to file a separate return, made by either spouse in his or her separate return for that tax year with respect to the treatment of any income, deduction or credit of that spouse may not be changed in the filing of the joint return if the election would have been irrevocable if the joint return had not been filed.

b. Effect of Death of a Spouse.

In the tax year in which the death of one or both spouses occurs, a joint return may be filed by the decedent's personal representative and the surviving spouse, if any, after one or both spouses filed a separate return for a tax year for which a joint return could have been filed.

c. Requirements to File a Joint Return.

The election to file a joint return may not be made

- (1) Unless the tax due on the joint return is paid in full at or before the time the joint return is filed.
- (2) After four or more years from the last date prescribed by law for filing the return for that tax year, determined without regard to any extension of time granted to either spouse.
- (3) After a notice of adjustment for that tax year has been mailed to either spouse and the spouse files a petition for redetermination.
- (4) After either spouse has brought suit in any court for the recovery of any part of the tax for that tax year.
- (5) After either spouse has entered into a closing agreement for that tax year.
- (6) After any civil or criminal case against either spouse for that tax year has been compromised.

d. When Joint Return Is Deemed Filed.

- (1) For purposes of s. 71.10(9) and s. 71.11, relating to limitations on assessments and collections, a joint return is deemed to have been filed under this provision as follows:
 - (a) If both spouses filed separate returns before filing the joint return - on the date the last separate return was filed but not earlier than the last day prescribed by law for filing the return of either spouse.
 - (b) If only one spouse filed a separate return before filing the joint return and the other spouse had less than \$3,420 of gross income for that tax year - on the date of filing that separate return but not earlier than the last day prescribed by law for filing that separate return.
 - (c) If only one spouse filed a separate return before filing the joint return and the other spouse had \$3,420 or more of gross income for that tax year - on the date the joint return was filed.

- (2) For purposes of s. 71.10(10), relating to limitations on claims for refunds, a joint return is deemed to have been filed on the last day prescribed by law for filing the return for that tax year, determined without regard to any extension of time granted to either spouse.
- (3) The periods of limitations under s. 71.11 and s. 71.13 on the making of assessments and the beginning of a levy or of a proceeding in court for collection includes one year immediately after the date of the filing of that joint return, computed without regard to Part d(1).

e. Penalties on Joint Return.

If the amount of tax shown on the joint return exceeds the sum of the amounts of tax shown on the separate return of each spouse, and if any part of that excess is attributable to negligence at the time of filing the separate returns, then 25% of the total amount of that excess shall be added to the tax. If any part of that excess is attributable to fraud with intent to evade tax at the time of filing the separate returns, then 50% of the total amount of that excess shall be added to the tax.

8. Filing Separate Returns After Filing Joint Return (Create s. 71.10(21), effective for 1986 tax year and thereafter.)

If a joint return has been filed for a tax year, the spouses may file separate returns for that year on or before the last day prescribed by law for timely filing the return of either spouse has elapsed. If a husband and wife change from a joint return to separate returns within the time prescribed, the tax paid on the joint return shall be allocated between them in proportion to the tax liability shown on each separate return. A separate return may not be filed unless the amount shown on that separate return is paid in full on or before the time the separate return is filed.

In the tax year in which the death of one or both spouses occurs, either the surviving spouse or the decedent's personal representative may file a separate return after a joint return had been filed by the surviving spouse, or by the personal representative and surviving spouse, as follows:

- a. The surviving spouse may file a separate return on or before the last day prescribed by law for timely filing that spouse's return has elapsed.
- b. The personal representative may file a separate return for the decedent within one year after the last day prescribed by law for filing the return of the surviving spouse, including extensions.

If a separate return is filed by the surviving spouse or by the decedent's personal representative, the joint return previously filed shall be the separate return of the surviving spouse or the decedent for whom the separate return was not filed, unless both the surviving spouse and the decedent's personal representative file separate returns. The tax on the separate return of the surviving spouse is determined by excluding all items properly includable in the separate return of the decedent. The tax on the separate return of the decedent is determined by excluding all items properly includable in the return of the surviving spouse.

The time allowed a personal representative to disaffirm the joint return by the filing of a separate return for a deceased spouse does not establish a new due date for the deceased spouse's return.

9. Joint Return Liability (Amend s. 71.11(2), effective for 1986 tax year and thereafter.)

Persons filing a joint return are jointly and severally liable for the tax, interest, penalties, fees, additions to tax and additional assessments applicable to the return.

A person shall be relieved of liability in regard to a joint return in the manner specified in section 6013(e) of the Internal Revenue Code, notwithstanding the amount or percentage of the understatement.

10. Separate Return Liability (Create s. 71.11(2m), effective for 1986 tax year and thereafter.)

A spouse filing a separate return may be relieved of liability for the tax, interest, penalties, fees, additions to tax and additional assessments with regard to unreported marital property income in the manner specified in section 66(c) of the Internal Revenue Code. The Department may not apply marital property law in assessing a taxpayer with respect to marital property income the taxpayer did not report if that taxpayer failed to notify the taxpayer's spouse about the amount and nature of the income before the due date, including extensions, for filing the return for the tax year in which the income was derived. The Department shall include all of that marital property income in the gross income of the taxpayer and exclude all of that marital property income from the gross income of the taxpayer's spouse.

11. Claims for Refunds by Spouses (Amend s. 71.10(10)(f), create s. 71.10(10)(gm), effective for 1986 tax year and thereafter.)

A claim for refund relating to a joint return must be signed by both spouses. If the claim relates to a separate return, the spouse who filed the separate return must sign the claim for refund. A marital property agreement between spouses has no effect on claims for refund.

A refund relating to the separate return of a spouse shall be issued to the spouse who filed the return. For joint returns, a refund shall be issued jointly to both spouses.

12. Credit Overpayments or Refunds Against Tax Liabilities (Renumber s. 71.09(10) to 71.09(10)(intro.) and amend s. 71.09(10)(intro.) as renumbered, amend s. 71.09(9), create s. 71.09(10)(a) and (b), effective for 1986 tax year and thereafter.)

a. Offsetting Refund of One Spouse Against Tax Owed by the Other Spouse.

Under prior law, if a combined return was filed, all or part of a refund computed by one spouse could be offset against a tax due computed by the other spouse, at the election of the spouses. Beginning with the 1986 tax year, a spouse filing a separate return may not credit a refund computed on such return against a tax due computed on the separate return of the other spouse.

b. Offsetting Refunds Against Delinquencies.

A refund resulting from a joint return may be applied by the Department as follows:

- (1) Against a tax liability of either spouse or both spouses that was incurred during marriage by a spouse after December 31, 1985, or after establishment of a marital domicile in Wisconsin, whichever is later.
- (2) Against a tax liability of a spouse that was incurred before January 1, 1986, or before marriage, whichever is later, to the extent the refund was based on taxable income and the deductions and credits associated with the taxable income which would have been the property of that spouse if he or she had been single for the tax year.

13. Notice of Additional Assessment (Amend s. 71.11(22), effective for 1986 tax year and thereafter.)

If married persons have filed a joint return, a notice of additional assessment may be a joint notice, and a notice received by one spouse is proper notice to both spouses. If the spouses have different addresses at the time the notice of additional assessment is sent and if either spouse notifies the Department of Revenue in writing of those addresses, the Department shall send a duplicate notice to the spouse whose address differs from the address to which the original notice was sent, if no appeal has been commenced or finalized. For the spouse who did not receive the original notice, appeal rights begin when the duplicate notice is received.

A notice of additional assessment shall be served in the same manner as a Circuit Court summons (i.e., personal service or service by publication), or by registered mail, or by regular mail, if receipt is admitted or there is satisfactory evidence of receipt.

14. Notice of Incorrect Claims for Refund (Amend s. 71.09(13)(a), effective for 1986 tax year and thereafter.)

Whenever an audit of any claim filed under s. 71.09(7), (7m), (11) or (12m) indicates that an incorrect claim was filed, the Department shall determine the correct amount and notify the claimant under s. 71.11(22).

15. Establish Procedure for Appeals by Spouses (Amend s. 71.12(1), create s. 71.02(2)(fg), effective for 1986 tax year and thereafter.)

"Person feeling aggrieved" and "person aggrieved" include

- a. The spouse of a person against whom an additional assessment was made or who was denied a claim for refund for a tax year for which a separate return was filed.
- b. Either spouse for a tax year for which a joint return was filed or, if no return was filed, a joint return could have been filed.

A spouse may appeal an assessment or a denial of a claim for refund issued with respect to a separate return filed by the other spouse. Either spouse may appeal an action relating to a joint return. An appeal by one spouse is an appeal by both spouses.

The Department shall notify spouses jointly that they may deposit with the Department the amount of an additional assessment being appealed to stop the further accrual of interest. If the spouses have different addresses and if either spouse notifies the Department in writing of those addresses, the Department shall send a duplicate notice regarding the deposit procedure.

16. Date Tax Obligations Are Incurred (Create s. 71.13(1)(c) and (d), effective for 1986 tax year and thereafter.)

- a. Any tax obligation, including interest, penalties and costs, to the Department of Revenue is incurred on the date of the Department's initial assessment or notice of the amount due of that tax.
- b. All tax obligations to this state, including interest, penalties and costs, incurred during marriage by a spouse after December 31, 1985, or after the establishment of a marital domicile in Wisconsin, whichever is later, are incurred in the interest of the marriage or family and may be satisfied only under ss. 766.55(2)(b) and 859.18. However, if one spouse is relieved of liability under s. 71.11(2) or (2m), the tax obligation to this state of the other spouse may be satisfied only under s. 766.55(2)(d).

17. Permit Spouse or Former Spouse to Obtain Tax Return Information (Create s. 71.11(44)(c)11, effective for 1986 tax year and thereafter.)

A spouse or former spouse of a taxpayer may request and receive information from a return (or claim for credit) filed by the taxpayer. The information may be obtained only if the spouse or former spouse making the request could be subject to a collection action with respect to a delinquency relating to the return (or claim for credit) from which information is being requested.

18. Six Year Statute of Limitations (Amend s. 71.11(21)(g)1, effective for 1986 tax year and thereafter.)

In order for the six year statute of limitations to apply in the case of married persons filing a joint return, the tax on the additional income must exceed \$200. For single persons or married persons filing separate returns, the tax on the additional income must exceed \$100.

19. Impose Penalty for Filing a False or Fraudulent Return (Amend s. 71.11(42), effective for 1986 tax year and thereafter.)

A person who files a false or fraudulent income tax return with intent to defeat or evade tax shall be guilty of a felony and may be fined not more than \$10,000 or imprisoned not more than five years or both, together with the cost of prosecution. "Return" includes

- a. A separate return filed by a spouse for a tax year for which a joint return is filed under s. 71.10(20) after the filing of that separate return.
- b. A joint return filed by the spouses for a tax year for which a separate return is filed under s. 71.10(21) after the filing of that joint return.

20. Impose Penalty for Filing an Incomplete or Incorrect Return (Amend s. 71.11(47), effective for 1986 tax year and thereafter.)

If a person files an incomplete or incorrect return, unless the filing was due to good cause and not due to neglect, there shall be added to the person's tax 25% of the amount otherwise payable on any income subsequently discovered or reported. "Return" includes

- a. A separate return filed by a spouse for a tax year for which a joint return is filed under s. 71.10(20) after the filing of that separate return.
- b. A joint return filed by the spouses for a tax year for which a separate return is filed under s. 71.10(21) after the filing of that joint return.

21. Declaration of Estimated Tax Requirements for Farmers and Fishers (Amend s. 71.21(2)(intro.), (3) and (8), effective for 1986 tax year and thereafter.)

- a. Commercial fishers are accorded the same treatment as farmers. Fishers may avoid the penalty for underpayment of estimated tax either by paying their entire estimated tax on or before the 15th day of the first month following the close of the tax year, or by filing their tax return and paying the tax due on or before the first day of the third month following the close of the tax year.
- b. If a person files a joint return, both the income of that person and that person's spouse must be considered to determine if two-thirds of their income is from farming or fishing.
- c. Individuals will qualify as farmers or fishers if their gross income from farming or fishing for the preceding tax year was at least two-thirds of the total gross income from all sources shown on that return.

22. Joint and Separate Declarations of Estimated Tax (Amend s. 71.21(20), effective for 1986 tax year and thereafter.)

- a. Joint Declaration of Estimated Tax.

Married persons may file a joint declaration of estimated tax unless either spouse is a nonresident alien or the spouses have different tax years. If they do file a joint declaration, the provisions of s. 71.21 apply to the married persons jointly.

If a married person files a separate return for a tax year for which a joint declaration of estimated tax was previously filed, the payments under the joint declaration may be allocated between the spouses as they choose. If the spouses do not agree on an allocation, the Department of Revenue shall allocate the payments to each spouse on the basis of the ratio of taxes shown on their separate returns or pursuant to default assessment under s. 71.11(4) and (5).

b. Separate Declaration of Estimated Tax.

If either spouse files a separate declaration of estimated tax, no part of the payment on one declaration may be allocated to the other spouse.

23. Exceptions to the Underpayment Penalty (Amend s. 71.21(14)(a) and (b), effective for 1986 tax year and thereafter.)

a. Exception Number One (s. 71.21(14)(a)).

If a husband and wife who filed separate returns for the preceding tax year file a joint return, the tax shown on the return for the preceding year is the sum of the taxes shown on the separate returns of the husband and wife.

If a husband and wife who filed a joint return for the preceding tax year file separate returns, the tax shown on the return for the preceding tax year is the husband's or wife's proportion of that tax based on their respective tax liabilities for that year had they filed separately.

b. Exception Number Two (s. 71.21(14)(b)).

Married persons shall follow the procedures under, and the regulations interpreting, section 6654 of the Internal Revenue Code as that section existed before it was affected by Public Law 98-369, the Tax Reform Act of 1984. (Public Law 98-369 eliminated this exception for federal purposes.)

24. Requests for Extension of Time to File Tax Returns (Amend s. 71.10(5)(b), effective for 1986 tax year and thereafter.)

In the case of a joint return, a request for an extension must be signed by both spouses or authorized representatives.

25. Provide That Marital Property Agreements Have No Effect Upon Homestead Credit (Amend s. 71.09(7)(a)6, 7 and 8 as renumbered, effective for 1986 tax year and thereafter.)

A marital property agreement under s. 766.58 has no effect in computing "income", "rent constituting property taxes accrued" or "property taxes accrued" for a person whose homestead is not the same as the homestead of that person's spouse.

26. Inheritance Tax Exclusion - Survivorship Marital Property (Amend s. 72.12(6)(a) and (b)(intro.), effective for deaths occurring on or after January 1, 1986.)

Survivorship marital property is excluded from being considered as a survivorship interest for inheritance tax purposes. The removal of survivorship marital property from the computation of a taxable joint tenancy to the extent survivorship marital property constitutes all or a portion of a joint tenancy leaves s. 71.05(1)(g), as amended, controlling for the computation of basis.

27. Claim for Refund - Marital Property Gift (Amend s. 72.86(4), effective for gifts occurring on or after January 1, 1986.)

A claim for refund of gift tax may be filed within one year after entry of judgment or receipt of the recovery of marital property or compensation from the donee under s. 766.53(1). Under s. 766.53, a spouse acting alone may gift marital property to a third person only if the property given does not exceed \$500 in a calendar year or a larger amount if, when the gift is made, the gift is reasonable in amount considering the economic position of the spouses. If the limits are exceeded, the nondonor spouse may recover the property or a compensatory judgment for the amount in excess of the limits, with the action being against the donor spouse, the donee or both.

J. OTHER

1. Set Off of Payments to Vendors (Create ss. 16.767, 16.875 and 73.12, effective July 20, 1985.)

Upon request by the Department of Revenue, the Department of Administration shall set off amounts owed by the state to vendors, against any delinquent state taxes the vendor owes the Department of Revenue. The setoff may only be requested against vendors whose contracts with the state are \$3,000 or more.

If the Secretary of Administration determines, within 30 days after receipt of a request for setoff, that the vendor is either an essential supplier of critical commodities or the only vendor from whom the necessary goods or service can be obtained, the Secretary of Administration can notify the Secretary of Revenue of that determination and may waive the right of setoff.

The Department of Administration may collect from vendors and provide to the Department of Revenue any tax identification information that the Department of Revenue requires to administer this provision.

The Department of Administration shall, within 30 days after the end of each quarter, transfer to the Department of Revenue the taxes set off during the previous calendar quarter.

The exchange of information under this provision between the Department of Revenue and the Department of Administration does not violate any of the confidentiality provisions of ss. 71.11(44), 72.06, 77.61(5), 78.80(3) or 139.38(6).

2. Officer Liability for Taxes (Amend ss. 71.20(21), 77.60(9) and 78.70(6), effective dates are indicated below.)

The amendments to s. 71.20(21) and s. 77.60(9) provide that "other responsible persons" can be held liable for payment of withholding and sales/use taxes. This provision becomes effective July 20, 1985.

Section 78.70(6) imposes personal liability on officers, employes, fiduciaries and agents who are responsible for paying motor fuel, special fuel or aviation fuel taxes incurred by another person. This provision becomes effective for payments due on July 20, 1985.

3. Provide for Levy Upon Property for Delinquent Taxes (Create s. 71.133, effective December 1, 1985.)

- a. Powers of Levy and Distrainment.

If any person who is liable for any tax administered by the Department of Revenue neglects or refuses to pay that tax within ten days after that tax becomes delinquent, the Department may collect that tax and the expenses of the levy by levy upon, and sale of, any property belonging to that person or any property on which there is a lien as provided by s. 71.13(2m) in respect to that delinquent tax.

"Levy" means all powers of distrainment and seizure. "Property" includes real and personal property, tangible and intangible property and rights to property at the time of levy. "Taxes" means the principal amount, interest, penalties and costs.

Whenever any property that has been levied upon is not sufficient to satisfy the claim of the Department, the Department may levy upon any other property of the person until the taxes and expenses of the levy are fully paid.

- b. Duty to Surrender.

Any person in possession of, or obligated with respect to, property upon which a levy has been made shall, upon demand of the Department, surrender that property unless it is subject to attachment or execution under judicial process, or discharge that obligation, to the Department. Special rules are provided for levying upon a life insurance or endowment contract.

- c. Failure to Surrender; Discharge.

Any person, including an officer or employe, who fails to surrender property that is subject to levy upon demand of the Department is liable to the Department for an amount equal to the value of the property not surrendered. However, this amount may not exceed the amount of taxes for the collection of which that levy was made, together with costs and interest at the rate of 18% per year from the date of that levy. Any amount, other than costs, recovered shall be credited against the tax liability.

In addition, if any person required to surrender property fails or refuses to surrender that property without reasonable cause, that person is liable for a penalty equal to 50% of the amount recoverable. No part of the penalty may be credited against the tax liability for the collection of which that levy was made.

Any person in possession of, or obligated with respect to, property upon which a levy has been made who surrenders that property, or discharges that obligation, to the Department or who pays a liability is discharged from any liability to the delinquent taxpayer or, in the case of payments from insurance contracts, to a beneficiary, with respect to that property arising from that surrender or payment.

d. Actions Against the State.

If the Department has levied upon or sold property, any person, other than the person who is assessed the tax out of which the levy arose, who claims an interest in or lien on that property and claims that that property was wrongfully levied upon may bring a civil action against the state in the Circuit Court of Dane County. No other action to question the validity of or restrain or enjoin a levy by the Department may be maintained.

If a levy or sale would irreparably injure rights to property, the court may enjoin the enforcement of that levy or prohibit that sale. If the court determines that the property has been wrongfully levied upon, it may order the return of specific property that the Department possesses or grant a judgment for the amount of money obtained by levy. If the property was sold, the court may grant a judgment for an amount not exceeding the amount received by the Department from the sale. If the property was purchased by the state, the state shall be treated as having received an amount equal to the minimum price determined or the amount received by the state from the resale of that property, whichever is larger.

For purposes of such an action against the state, the assessment of the tax upon which the interest or lien of the Department is based is conclusively presumed to be valid. Interest shall be allowed for judgments at the rate of 12% per year from the date the Department receives the money wrongfully levied upon to the date of payment of the judgment or from the date of sale to the date of payment.

e. Notice and Sale.

As soon as practicable after obtaining property, the Department shall notify, in writing, the owner of any real property, and the possessor of any personal property, obtained by the Department. That notice may be left at the person's usual place of residence or business. If the owner cannot be located or has no dwelling or place of business in Wisconsin, the Department may mail a notice to the owner's last-known address. That notice shall specify the sum demanded. It shall also contain, in the case of personal property, an account of the property obtained and, in the case of real property, a description with reasonable certainty of the property seized.

The Department shall also publish a notice of the sale in a newspaper published or generally circulated within the county where the property was obtained. If there is no newspaper published or generally circulated in that county, the Department shall post that notice at the city, town or village hall nearest the place where the property was obtained and in at least two other public places. That notice shall specify the property to be sold and the time, place, manner and conditions of the sale.

If any property liable to levy is not divisible so the Department can sell a part to raise the whole amount of the tax and expenses, the whole property shall be sold.

The sale shall occur not less than 10 days and not more than 40 days after the notice has been published or posted. The Department may interrupt the sale, but not for a period longer than 90 days. The sale shall be in the county in which the property is levied upon or in Dane County.

Before the sale, the Department shall determine a minimum price for which the property shall be sold. If no person offers at least the minimum price, the state shall purchase the property for the minimum price. Otherwise, the property shall be sold to the highest bidder. In determining the minimum price, the Department shall take into account the expense of making the levy and sale in addition to the value of the property. If payment in full is required at the time of acceptance of a bid and is not paid then, the Department shall sell the property in the manner provided. If part of the payment may be deferred and if that part is not paid within the prescribed period, the Department may sue the purchaser in the Circuit Court of Dane County for the unpaid part of the purchase price and interest at the rate of 12% per year from the date of the sale. In the alternative, the Department may declare the sale void and may sell the property again. If the property is sold again, the second purchaser shall receive it free of any claim of the defaulting purchaser and the amount paid upon the bid price by the defaulting purchaser is forfeited.

No property of any person is exempt from levy and sale.

f. Redemption.

Any person whose property has been levied upon may pay the amount due and the expenses of the proceeding to the Department at any time before the sale. Upon that payment, the Department shall restore the property to that person and stop all proceedings related to the levy.

The owners of real property sold, their heirs, executors or administrators, any person having an interest in or a lien on the real property, or any person in behalf of one of these persons may redeem the real property within 120 days after the sale. Redemption is accomplished by paying the purchaser the amount paid by the purchaser plus interest at the rate of 18% per year. If the purchaser cannot be found in the county in which the property to be redeemed is located, payment shall be made to the Department, for the use of the purchaser.

g. Certificate of Sale.

The Department shall give the purchaser a certificate of sale upon payment in full of the purchase price. In the case of real property sold and not redeemed, the Department shall execute a deed to the purchaser, upon surrender of the certificate of sale. The deed of sale of real property is prima facie evidence of the facts stated in it and conveys all of the right, title and interest the delinquent party had to the property.

The certificate of sale for personal property is prima facie evidence of the right of the Department to make the sale and conclusive evidence of the regularity of the proceedings of the sale. That certificate transfers to the purchaser all right, title and interest of the delinquent party to the property sold. If that property is stocks, that certificate is notice, when received, to any person of that transfer and authority to record the transfer on books and records as if the stocks were transferred or assigned by the party holding them, and all prior certificates are void. If the subject of sale is securities or other evidence of debt, the certificate is valid against any person possessing or claiming to possess the securities or other evidence of debt. If the property is a motor vehicle, the certificate is notice, when received, to the Department of Transportation as if the certificate of title were transferred or assigned by the party holding that certificate of title, and any prior certificate is void.

A certificate of sale of personal property given or a deed to real property executed by the Department discharges that property from all liens, encumbrances and titles subordinate to the Department's lien.

h. Use of Proceeds.

The Department shall apply all money realized first against the expenses of the proceedings and then against the liability in respect to which the levy was made or the sale was conducted and any other liability owed to the Department by the delinquent person. The Department may refund or credit any amount left to the person entitled to that amount.

i. Release of Levy.

The Department may release the levy upon all or part of property levied upon to facilitate the collection of the liability, but that release does not prevent any later levy.

j. Wrongful Levy.

If the Department determines that property has been wrongfully levied upon, the Department may return the property, an amount of money equal to the amount of money levied upon or an amount of money equal to the amount of money received by the state from the sale of that property.

The Department may return property at any time. The Department may return an amount of money equal to the amount of money levied upon or received from sale within 9 months after the levy.

k. Preservation of Remedies.

The availability of levy does not abridge the right of the Department to pursue other remedies.

l. Evasion.

Any person who removes, deposits or conceals or aids in removing, depositing or concealing any property upon which a levy is authorized with intent to evade or defeat the assessment or collection of any tax administered by the Department may be fined not more than \$5,000 or imprisoned not more than three years or both, together with the costs of prosecution.

4. Eliminate Requirement That Warrants Be "Returned Not Satisfied" (Amend s. 71.13(3)(d), effective July 20, 1985.)

The amendment to s. 71.13(3)(d) eliminates archaic and unnecessary language from the Statutes. It does not result in any change in interpretation of the law.

5. Require Additional Employer Withholding (Renumber s. 71.135(1) to 71.135(1m) and amend s. 71.135(1m) as renumbered, create s. 71.135(1g), effective July 20, 1985.)

Prior law provided that the Department may require an employer to withhold (in addition to regular withholding of Wisconsin income taxes) from "compensation due" an employee, additional amounts to be applied towards an employee's tax delinquency owing the Department of Revenue. This provision provides that "employee" for purposes of this provision includes any subcontractor. "Compensation due" includes wages, salaries, income advances or other consideration paid for future services.

6. Index Withholding Tax Tables (Amend s. 71.20(2m), effective for 1986 tax year and thereafter.)

Section 71.20(2m) provides for indexing of the withholding tables to reflect any changes in the income tax rates or income tax brackets. The amendments to s. 71.20(2m) include a reference to s. 71.09(1e) and (1f), which are the new tax tables for single persons and married persons for the 1986 tax year and thereafter.

7. Increase Fee for Obtaining Tax Return Information to \$4 (Amend s. 71.11(44)(b), effective July 20, 1985.)

Under prior law, a person could obtain the amount of Wisconsin net income tax, franchise tax or gift tax paid or payable of another person by filling out a form and paying a \$1 fee. The fee for obtaining this information has been increased from \$1 to \$4 for each return.

8. Clarify Disclosure of Tax Return Information (Amend ss. 71.11(44)(a) and 77.61(5)(a), effective July 20, 1985.)

The amendments to s. 71.11(44)(a) and s. 77.61(5)(a) clarify that Department of Revenue employees or agents are not prohibited from offering or submitting any tax return or related information into the record of any contested matter involving the Department in proceedings or litigation on state tax matters if that evidence has reasonable probative value.

9. Increase Late Filing Fee (Amend s. 71.11(40), effective for returns required to be filed on or after July 20, 1985.)

A \$20 late filing fee shall be added to the tax if an income or franchise tax return is 60 or more days late.

10. Increase Penalty for Attempt to Defeat or Evade Tax (Amend s. 71.11(6)(b), effective for 1985 tax year and thereafter.)

Any person filing an incorrect return or failing to file a return with intent to defeat or evade the income or franchise tax, shall have added to the tax an amount equal to 100% of the tax on the entire underpayment. (For 1969 through 1984, the additional assessment was 50% of the tax.)

Included is a separate return filed by a spouse for a tax year for which a joint return is filed under s. 71.10(20) after the filing of that separate return, and a joint return filed by the spouses for a tax year for which a separate return is filed under s. 71.10(21) after the filing of that joint return.

11. Increase Penalties for Failure to File a Return or Filing a False or Fraudulent Return (Amend s. 71.11(41), effective July 20, 1985.)

Under prior law, any person who willfully failed or refused to make a return at the required time, willfully failed or refused to make required deposits or payments, or willfully rendered a false or fraudulent statement, deposit report or withholding report was guilty of a misdemeanor and could be fined not more than \$500 or imprisoned not to exceed six months or both, together with the cost of prosecution. Effective July 20, 1985 the penalty is increased to not more than a \$10,000 fine or imprisonment not to exceed nine months or both, together with the cost of prosecution.

12. Impose Penalties for False Documents (Create s. 71.11(42m), effective July 20, 1985.)

Any person who willfully makes and subscribes any return, claim, statement or document that that person does not believe to be true and correct as to every material matter or willfully aids in or advises the preparation of a document that is false or fraudulent may be fined not more than \$10,000 or imprisoned not more than nine months or both, together with the cost of prosecution.

13. Battery or Threat to Department Employee (Create s. 940.205, effective July 20, 1985.)

Whoever intentionally causes bodily harm or threatens to cause bodily harm to any Department of Revenue official, employee or agent or a member of his or her family is guilty of a Class D felony under the following circumstances:

- a. At the time of the act or threat, the actor knows or should have known that the victim is a Department of Revenue official, employee or agent or a member of his or her family.

- b. The official, employee or agent is acting in an official capacity at the time of the act or threat, or the act or threat is in response to any action taken in an official capacity.
- c. There is no consent by the person harmed or threatened.

14. Change Tax Appeals Commission Procedures (Amend ss. 73.01(1), (3)(a), (4)(b), (c), (dn) and (e)(intro.), 73.015(1) and (2), create s. 73.01(1)(b), (4)(am) and (4m), effective July 20, 1985.)

a. Small Claims Cases.

"Small claims" is a matter in which the amount in controversy, including any penalty, after the Department of Revenue takes final action on the petition for redetermination is less than \$2,500. A case will not be heard as a small claims case if the Commission determines that it should not be treated as such or if the Department of Revenue determines that the case has statewide significance.

Small claims cases shall be decided by one Commissioner assigned by the chairperson prior to the hearing. An oral decision or a written decision shall be provided within two weeks after the hearing.

Decisions in small claims cases are not precedents. Except in respect to small claims decisions, if the Commission construes a statute adversely to the contention of the Department of Revenue, the Department shall be deemed to acquiesce unless the Department seeks review of the decision or unless the Department issues a notice of nonacquiescence.

b. Frivolous Appeals.

Whenever it appears to the Commission, or to the Commissioner conducting a hearing, that proceedings have been instituted or maintained by the taxpayer primarily for delay or that the taxpayer's position is frivolous or groundless, the Commission or Commissioner may assess the taxpayer up to \$1,000 at the time the deficiency is assessed. Those damages shall be paid upon notice from the Department of Revenue and shall be collected as part of the tax.

c. Deadline for Decisions.

The final decision of the Commission shall be issued within 90 days after the date on which the last document necessary to the decision is received or the date on which a hearing is closed, whichever is later, unless good cause is shown or unless the parties and the Commission agree to an extension.

No member of the Commission, including the chairperson, or its hearing examiner may receive any salary unless he or she first executes an affidavit at the end of each salary period stating that he or she has complied with the deadlines.

If a member of the Commission, including the chairperson, or its hearing examiner is unable to comply with the deadline, that person shall so certify for the record, and the period is then extended for one additional period not to exceed 90 days.

15. Implement Property Tax Deferral Loan Program (Amend ss. 77.66(1), 77.67(1), (2) and (5), create ss. 25.38 and 77.67(2m), effective for property taxes assessed for 1985 and payable in 1986.)

As part of the 1981-83 budget bill (Chapter 20, Laws of 1981) the legislature created the property tax deferral loan program to make loans available to persons 65 years of age or older to pay property taxes on their residence. The money for the loans was to be generated by bonding administered by the Wisconsin Building Commission. The Department of Revenue would administer the loan program. However, implementation of the program was delayed due to high interest rates and technicalities in the sale of revenue bonds to fund the program.

To implement the property tax deferral loan program, s. 25.38 establishes an elderly property tax deferral fund consisting of a general fund loan, all amounts collected under the 1985 state tax amnesty program and amounts received from repayments of loans.

Beginning with property taxes assessed for 1985 and payable in 1986, the Department of Revenue shall enter into agreements with program participants and co-owners of a qualifying dwelling unit to loan funds to pay property taxes on the dwelling unit. (Note: This loan program does not replace the homestead credit program. Participants in the loan program may still qualify for homestead credit.)

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. The application deadline for a loan for the 1985 taxes is June 30, 1986. Additional information about the property tax deferral loan program will be included in a future issue of the Wisconsin Tax Bulletin.

16. Require School District Information on Income Tax Forms (Create s. 73.03(29) and (30), effective July 20, 1985.)

The Department of Revenue is required to provide a place on income tax forms for taxpayers to indicate the school district in which they reside.

17. Renumber Definitions in Statutes (Renumbers various sections in Chapter 71, effective for 1986 tax year and thereafter, and two sections in Chapter 77, effective January 1, 1987.)

<u>Definition</u>	<u>Old Reference</u>	<u>New Reference</u>
a. Corporation Franchise/Income Taxes		
Life insurance	71.01(4)(g)9	71.01(4)(g)20
Net income	71.02(1)(a)	71.02(1)(c)
Person	71.02(1)(b)	71.02(1)(f)
Paid	71.02(1)(c)	71.02(1)(e)
Fiscal year	71.02(1)(d)	71.02(1)(b)
Entertainment corporation	71.02(1)(e)	71.02(1)(a)
Tax-option corporation	71.02(1)(f)	71.02(1)(g)
Net income or loss	71.02(1)(g)	71.02(1)(d)

<u>Definition</u>	<u>Old Reference</u>	<u>New Reference</u>
b. Individual Income Taxes		
Federal taxable income	71.02(2)(a)	71.02(2)(c)
Internal Revenue Code	71.02(2)(b)	71.02(2)(d)
Wisconsin taxable income - estates & trusts	71.02(2)(c)	71.02(2)(mb)
Wisconsin taxable income - natural persons	71.02(2)(d)	71.02(2)(me)
Wisconsin adjusted gross income	71.02(2)(e)	71.02(2)(i)
Wisconsin standard deduction - 1970	71.02(2)(g)	71.02(2)(mj)
Wisconsin standard deduction - 1971	71.02(2)(gh)	71.02(2)(mp)
Wisconsin standard deduction - 1972	71.02(2)(gn)	71.02(2)(ms)
Wisconsin standard deduction - 1973 to 1976	71.02(2)(gp)	71.02(2)(kg)
Wisconsin standard deduction - 1977 & 1978	71.02(2)(gq)1	71.02(2)(km)1
Wisconsin standard deduction - 1979 to 1985	71.02(2)(gq)2	71.02(2)(km)2
Standard deduction - fiscal filer	71.02(2)(gq)5	71.02(2)(km)5
Standard deduction - dependent	71.02(2)(gq)6	71.02(2)(km)6
Standard deduction - part year and nonresidents	71.02(2)(gq)7	71.02(2)(km)7
Index standard deduction	71.02(2)(gr)	71.02(2)(kr)
Taxable income	71.02(2)(h)	71.02(2)(g)
Person, fiduciary, income	71.02(2)(i)	71.02(2)(f)
Person	71.02(2)(j)	71.02(2)(en)
Taxable year	71.02(2)(k)	71.02(2)(h)
Federal net operating loss	71.02(2)(L)	71.02(2)(b)
Wisconsin net operating loss	71.02(2)(m)	71.02(2)(j)
Entertainer	71.02(2)(p)	71.02(2)(a)
Transitional date	71.05(2)(a)1	71.05(2)(a)6
Federal adjusted basis	71.05(2)(a)2	71.05(2)(a)4
Wisconsin adjusted basis	71.05(2)(a)3	71.05(2)(a)7
Adjusted basis	71.05(2)(a)4	71.05(2)(a)1
Constant basis assets	71.05(2)(a)5	71.05(2)(a)3
Changing basis assets	71.05(2)(a)6	71.05(2)(a)2
Owner	71.05(2)(a)7	71.05(2)(a)5
c. Homestead Credit		
Income	71.09(7)(a)1	71.09(7)(a)6
Household	71.09(7)(a)2	71.09(7)(a)4
Household income	71.09(7)(a)3	71.09(7)(a)5
Homestead	71.09(7)(a)4	71.09(7)(a)3
Claimant	71.09(7)(a)5	71.09(7)(a)1
Rent constituting property taxes accrued	71.09(7)(a)6	71.09(7)(a)8
Gross rent	71.09(7)(a)7	71.09(7)(a)2
Property taxes accrued	71.09(7)(a)8	71.09(7)(a)7

d. Withholding of Taxes

<u>Definition</u>	<u>Old Reference</u>	<u>New Reference</u>
Wages	71.19(1)	71.19(5)
Payroll period	71.19(2)	71.19(4)
Employee	71.19(3)	71.19(2)
Employer	71.19(4)	71.19(3)
Department	71.19(5)	71.19(1)

e. Sales/Use Taxes

Sale - services to interexchange carrier	77.51(4)(m)	77.51(14)(m)
Retailer - telephone company	77.51(7)(p)	77.51(13)(p)