

## A. INCOME TAXES

1. Update Reference to Internal Revenue Code for Individuals, Estates and Trusts (1987 Act 27, amend s. 71.02(2)(d)12, create s. 71.02(2)(d)13, effective for taxable year 1987 and thereafter.)

For the 1987 taxable year and thereafter, individuals, estates and trusts, except nuclear decommissioning trust or reserve funds, will use the Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987 and subsequent years, with the following exceptions:

- a. Residential real property and certain farm property placed in service during the 1986 taxable year must be depreciated under the Internal Revenue Code in effect on December 31, 1980. (See Item A.20.)
  - b. Federal treatment of capital gains and losses does not apply for Wisconsin. (See Items A.16. and A.17.)
  - c. Taxable unemployment compensation continues to be computed under section 85 of the Internal Revenue Code as it existed on December 31, 1985. (See Item A.15.)
  - d. Railroad retirement benefits continue to be nontaxable for Wisconsin.
  - e. Sick pay benefits paid under the Railroad Unemployment Insurance Act continue to be nontaxable for Wisconsin.
  - f. 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 501(d) of the Internal Revenue Code immediately prior to its repeal in 1983 by Public Law 98-21, continues to apply for Wisconsin.
2. Revise Standard Deduction for Married Persons (1987 Act 27, amend ss. 71.02(2)(km)2m, 71.09(6r)(b) and 71.10(2)(a)5.a, create s. 71.02(2)(km)2n and 2p, see effective dates below.)
    - a. For the taxable year 1987, the Wisconsin standard deduction for married persons will be as follows.
      - (1) Married persons filing jointly.
        - (a) If their total Wisconsin adjusted gross income is less than \$10,000, the standard deduction is \$7,560.
        - (b) If their total Wisconsin adjusted gross income is at least \$10,000 but not more than \$70,480, the standard deduction is the amount obtained by subtracting from \$7,560 12.5% of total Wisconsin adjusted gross income in excess of \$10,000 but not less than \$0.
        - (c) If their total Wisconsin adjusted gross income is more than \$70,480, the standard deduction is \$0.

- (2) Married persons filing separately.
  - (a) If Wisconsin adjusted gross income is less than \$4,750, the standard deduction is \$3,590.
  - (b) If Wisconsin adjusted gross income is at least \$4,750 but not more than \$33,470, the standard deduction is the amount obtained by subtracting from \$3,590 12.5% of Wisconsin adjusted gross income in excess of \$4,750 but not less than \$0.
  - (c) If Wisconsin adjusted gross income is more than \$33,470, the standard deduction is \$0.
- b. For the taxable year 1988 and thereafter, the Wisconsin standard deduction for married persons will be as follows.
  - (1) Married persons filing jointly.
    - (a) If their total Wisconsin adjusted gross income is less than \$10,000, the standard deduction is \$8,900.
    - (b) If their total Wisconsin adjusted gross income is at least \$10,000 but not more than \$55,000, the standard deduction is the amount obtained by subtracting from \$8,900 19.778% of total Wisconsin adjusted gross income in excess of \$10,000 but not less than \$0.
    - (c) If their total Wisconsin adjusted gross income is more than \$55,000, the standard deduction is \$0.
  - (2) Married persons filing separately.

- (a) If Wisconsin adjusted gross income is less than \$4,750, the standard deduction is \$4,230.
- (b) If Wisconsin adjusted gross income is at least \$4,750 but not more than \$26,140, the standard deduction is the amount obtained by subtracting from \$4,230 19.778% of Wisconsin adjusted gross income in excess of \$4,750 but not less than \$0.
- (c) If Wisconsin adjusted gross income is more than \$26,140, the standard deduction is \$0.

The standard deduction for single persons for 1987 and thereafter remains the same as for the 1986 taxable year.

The filing requirements for married persons for 1987 and thereafter will be adjusted to reflect the changes in the standard deduction.

- 3. Repeal Indexing of Standard Deduction (1987 Act 27, repeal s. 71.02(2)(kr) and amend s. 71.09(2f), effective August 1, 1987.)

The Wisconsin standard deduction will not be indexed. Under prior law, indexing was to begin for the 1987 taxable year.

4. Change Definition of "Small Business Stock" (1987 Act 27, repeal s. 71.02(2)(fr)5, amend s. 71.02(2)(fr)(intro.) and 3, effective for stock acquired on or after August 31, 1987.)

"Small business stock" means an equity security that a taxpayer has held for at least 5 years which was issued by a corporation that meets the requirements on the December 31 before acquisition by the taxpayer, or for a corporation which was incorporated during the calendar year the stock is issued, as of the date of acquisition of the stock. Under prior law, all corporations had to meet the requirements on the December 31 before acquisition by the taxpayer.

The corporation must derive no more than 25% of its gross receipts from rents, interest, dividends, and sales of intangible investment assets combined unless the corporation derives less than \$3,000 of that income and has not been incorporated for more than 2 calendar years. Under prior law, any sales of assets were taken into consideration.

The requirement that the corporation may not have conducted a trade or business in any form for a period exceeding 5 years has been repealed.

5. Broaden Addition Modification for Certain Interest Income (1987 Act 27, amend s. 71.05(1)(a)1, create s. 66.4325(5m), effective for bonds issued after January 28, 1987.)

The amount of any interest which is not included in federal adjusted gross income, except interest which by federal law is exempt from Wisconsin taxation, less related expenses, must be added back to federal adjusted gross income. Previously, only interest, less related expenses, excluded for federal tax purposes under section 103 of the Internal Revenue Code had to be added back to federal adjusted gross income.

Interest on bonds issued by a Wisconsin community development authority continues to be exempt from Wisconsin taxation.

6. Repeal Surplus Language (1987 Act 27, repeal s. 71.05(1)(a)7 and 17, amend s. 71.05(1)(b)1, effective for taxable year 1987 and thereafter.)

The following modifications are repealed to reflect changes to the Internal Revenue Code:

s. 71.05(1)(a)7 - moving expenses to move from Wisconsin

s. 71.05(1)(a)17 - federal married couple deduction

In addition, s. 71.05(1)(b)1 has been amended to eliminate the requirement that interest which by federal law is exempt from Wisconsin taxation must be reduced by the amount of related expenses allowable as itemized deductions. Instead, the related expenses are not includable in the computation of the Wisconsin itemized deduction credit. (See Item A.26.)

7. Clarify Modification for Farm Losses (1987 Act 27, amend s. 71.05(1)(a)26, effective for taxable year 1986 and thereafter.)

In calculating the amount of farm losses that must be added back to federal adjusted gross income, net gains from the sale or exchange of capital or business assets and net profits may not be offset against farm losses.

In addition, the dollar amounts of nonfarm Wisconsin adjusted gross income will not be indexed. Indexing was to begin with taxable year 1987.

8. Clarify Modifications for Nondeductible 1986 Travel and Entertainment Expenses (1987 Act 27, amend s. 71.05(1)(a)27.a and c to g, effective for taxable year 1986.)

These provisions clarify that certain travel and entertainment expenses allowable under sections 162 or 212 of the Internal Revenue Code and not disallowed under section 274 of the Internal Revenue Code must be added back to federal adjusted gross income.

9. Repeal Modifications for Nondeductible Travel and Entertainment Expenses (1987 Act 27, repeal s. 71.05(1)(a)27, effective for taxable year 1987 and thereafter.)

Beginning with the 1987 taxable year, the provisions requiring addition modifications for certain travel and entertainment expenses are repealed. Instead, the limitations on travel and entertainment expenses provided in the Internal Revenue Code as amended to December 31, 1986, apply for Wisconsin tax purposes.

10. Limit Deductions for Part-Year Residents and Nonresidents (1987 Act 27, create s. 71.05(1)(a)29, effective for taxable year 1987 and thereafter.)

Part-year residents and nonresidents are required to add back to federal adjusted gross income the following amounts deducted for federal tax purposes and paid while a nonresident of Wisconsin: alimony, penalties for early withdrawals from time savings accounts and deposits, repayments of supplemental unemployment compensation benefits and reforestation payments related to property not in Wisconsin.

Part-year residents and nonresidents are required to add back to federal adjusted gross income contributions to individual retirement accounts, simplified employee pension plans and self-employment retirement plans and all deductible employee contributions in excess of the amount deducted for federal tax purposes multiplied by the ratio of the individual's wages and net earnings from a trade or business taxable by Wisconsin to the individual's total wages and net earnings from a trade or business.

Part-year residents and nonresidents are required to add back to federal adjusted gross income contributions to a Keogh plan in excess of the amount deducted for federal tax purposes multiplied by the ratio of the individual's net earnings from a trade or business taxable by Wisconsin to the individual's total net earnings from a trade or business.

11. Provide Modification for Expenses of Administering an Estate (1987 Act 27, create s. 71.05(1)(a)28 and (b)13, effective for returns filed for deaths occurring on or after August 1, 1987.)

Expenses paid by a fiduciary that have been deducted under section 212 of the Internal Revenue Code and have been or will be deducted for inheritance tax purposes may not be deducted for income tax purposes. However, expenses paid by a fiduciary that the fiduciary specifies in writing have not been deducted under section 212 of the Internal Revenue Code and are not or will not be deducted for inheritance tax purposes as administrative expenses may be deducted for income tax purposes.

12. Disallow Deductions on Fiduciary Income Tax Returns for Taxes (1987 Act 27, create s. 71.05(1)(a)30, effective for taxable year 1987 and thereafter.)

The amount claimed by a fiduciary as an itemized deduction for taxes under section 164 of the Internal Revenue Code on the federal fiduciary return is not allowed for Wisconsin tax purposes.

13. Change Modification for Amounts Not Taxable by Wisconsin (1987 Act 27, amend s. 71.05(1)(b)4, effective for taxable year 1987 and thereafter.)

Amounts not taxable by Wisconsin which are subtracted from federal adjusted gross income must be reduced by related expenses, except expenses used to calculate the Wisconsin itemized deduction credit.

14. Clarify Disability Income Exclusion for Married Persons (1987 Act 27, amend s. 71.05(1)(b)8m, effective for taxable year 1986 and thereafter.)

Married persons must file a joint return to be eligible to claim the disability income exclusion. If only one spouse is disabled, the maximum disability income exclusion is the lesser of \$100 for each week that payments are received or the amount of disability pay reported as income.

If persons are divorced during the taxable year, only the disabled spouse may claim a disability income exclusion. The exclusion is limited to the lesser of \$100 for each week that disability pay is received or the amount of disability pay reported as income by the disabled spouse.

15. Provide Subtraction Modification for Unemployment Compensation (1987 Act 27, repeal s. 71.05(1)(km), create s. 71.05(1)(b)15, effective for taxable year 1987 and thereafter.)

A subtraction modification may be made for any difference between the amount of unemployment compensation included in federal adjusted gross income and the amount computed under section 85 of the Internal Revenue Code as it existed on December 31, 1985.

16. Provide Capital Gain Subtraction Modification (1987 Act 27, create s. 71.05(1)(b)16, effective for taxable year 1987 and thereafter.)

A subtraction modification is provided for 60% of capital gains on assets held more than one year.

"Capital gain" means capital gain as computed under the Internal Revenue Code, not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason. The capital gains and capital losses for all assets must be netted before application of the percentage.

17. Limit Capital Loss Deduction (1987 Act 27, create s. 71.05(1)(f)4, effective for taxable year 1987 and thereafter.)

Net capital losses may be offset against ordinary income only to the extent of \$500.

Losses in excess of \$500 may be carried forward to the next taxable year and offset against ordinary income up to the \$500 limit. Losses shall be used in the order they accrue.

18. Clarify Basis Adjustment for Property Acquired From a Decedent (1987 Act 27, amend s. 71.05(1)(g), effective for transfers because of deaths occurring on or after August 1, 1987.)

The Wisconsin basis of property acquired from a decedent is determined under the Internal Revenue Code, but the value used for property is the value properly includable for Wisconsin inheritance tax purposes instead of the value of property includable for federal estate tax purposes.

Where a decedent is gifted appreciated property within one year of his or her death, and the property is reacquired by the donor (or the spouse of the donor), the basis of the property is the adjusted basis in the hands of the decedent prior to the decedent's death. Consequently, there is no basis adjustment on account of the death.

19. Clarify Definition of Wisconsin Adjusted Gross Income (1987 Act 27, create s. 71.05(1)(gm), effective for taxable year 1986 and thereafter.)

An addition or subtraction modification from federal adjusted gross income is required for the following amounts:

- a. The amount necessary to reflect the inapplicability of section 66(a) of the Internal Revenue Code for Wisconsin income tax purposes.
- b. The amount necessary to reflect the applicability of ss. 71.01(1g) and (1r) and 71.11(2m) to the computation of Wisconsin taxable income.
- c. The amount necessary to reflect any other differences between the treatment of marital income for federal income tax purposes and the treatment of marital income for Wisconsin income tax purposes.

20. Provide for Depreciation Continuation (1987 Act 27, amend s. 71.05(2r), (2t) and (2u), create s. 71.05(2s), effective for taxable year 1987 and thereafter.)

Residential real property and certain farm property that under s. 71.02(2)(d)12 is required to be depreciated for the taxable year 1986 under the Internal Revenue Code as amended to December 31, 1980, must continue to be depreciated for the 1987 taxable year and thereafter under the Internal Revenue Code as amended to December 31, 1980.

21. Provide Treatment for Partnership Income or Loss Received by Part-Year Residents and Nonresidents (1987 Act 27, create s. 71.07(1g), effective for any partner's taxable year 1987 and thereafter.)

Partners who are not full-year residents of Wisconsin must compute taxes for that year on their share of partnership income or loss by (a) assigning an equal portion of each item of income, loss or deduction to each day of

the partnership's taxable year, (b) multiplying each daily portion of those items by a fraction that represents the partner's portion, on that day, of the total partnership interest, and (c) netting the items for the days during which the partner was a Wisconsin resident.

General partners who are not full-year Wisconsin residents must compute taxes for that part of the taxable year during which they are nonresidents by recognizing their proportionate share of all items of income, loss or deduction attributable to a business in, services performed in, or rental of property in Wisconsin.

Limited partners who are precluded from management of the partnership and who may not act for the partnership may not recognize any items of income, loss or deduction of the partnership for the part of the taxable year they are nonresidents of Wisconsin.

A partner must disregard all provisions in partnership agreements that do any of the following:

- a. Characterize payments to the partner as being for services or the use of capital.
- b. Allocate to the partner, as income from or gain from sources outside Wisconsin, a greater portion of the partner's distributive share of partnership income or gain than the ratio of partnership income or gain from outside Wisconsin to partnership income or gain from all sources.
- c. Allocate to a partner a greater proportion of a partnership item of loss or deduction from sources in Wisconsin than the partner's proportionate share of total partnership loss or deduction.
- d. Determine a partner's distributive share of an item of partnership income, gain, loss or deduction for federal income tax purposes if the principal purpose is to avoid or evade the tax under Chapter 71.

22. Reduce Income Tax Rates (1987 Act 27, amend ss. 71.09(1e)(intro.) and (1f)(intro.), 71.20(2m) and 71.65(1)(a), create s. 71.09(1g) and (1h), effective for taxable year 1987 and thereafter.)

- a. The tax rates for single persons and all fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, are as follows:
  - (1) On all taxable income from \$0 to \$7,500, 4.9%.
  - (2) On all taxable income exceeding \$7,500 but not exceeding \$15,000, 6.55%.
  - (3) On all taxable income exceeding \$15,000, 6.93%
- b. The tax rates for married persons filing jointly are as follows:
  - (1) On all taxable income from \$0 to \$10,000, 4.9%.

(2) On all taxable income exceeding \$10,000 but not exceeding \$20,000, 6.55%.

(3) On all taxable income exceeding \$20,000, 6.93%

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

(1) On all taxable income from \$0 to \$5,000, 4.9%.

(2) On all taxable income exceeding \$5,000 but not exceeding \$10,000, 6.55%.

(3) On all taxable income exceeding \$10,000, 6.93%

23. Repeal Indexing of Income Tax Brackets (1987 Act 27, repeal s. 71.09(2e), amend ss. 71.09(2) and 71.20(2m), effective August 1, 1987.)

The income tax brackets will not be indexed. Under prior law, indexing was to begin for the 1987 taxable year.

24. Correct References to the Internal Revenue Code (1987 Act 27, amend ss. 71.02(2)(eg) and 71.09(6p)(b), effective for taxable year 1987 and thereafter.)

To reflect changes made to the Internal Revenue Code (IRC) by the federal Tax Reform Act of 1986, the following references to the IRC in the Wisconsin Statutes have been changed:

a. The IRC reference with respect to a married person or spouse is changed from section 143(a) to 7703(a).

b. The IRC reference with respect to a dependent is changed from section 151(e) to 151(c).

25. Permit Repayments of Income Previously Taxed to Be Used in Computing the Itemized Deduction Credit (1987 Act 27, amend s. 71.09(6r)(a), effective for taxable year 1986.)

Federal law provides that if a taxpayer has to repay an amount that had been properly included in the taxpayer's income in an earlier year, the taxpayer may deduct the amount repaid from income for the year in which it was repaid. Repayments of income deductible as an itemized deduction for federal income tax purposes may be included in the computation of the itemized deduction credit, if that income was previously taxed by Wisconsin.

26. Change Itemized Deduction Credit (1987 Act 27, repeal and recreate s. 71.09(6r)(a), effective for taxable year 1987 and thereafter.)

Amounts allowed as itemized deductions under the Internal Revenue Code as amended to December 31, 1986, may be used to calculate the Wisconsin itemized deduction credit, except for the following:

a. Interest paid to purchase or hold securities issued by the federal government or by any of its instrumentalities the interest on which is exempt from taxation under s. 71.05(1)(b)1.



- b. Taxes allowed under section 164 of the Internal Revenue Code.
- c. Casualty and theft deductions allowed under section 165(c)(3) of the Internal Revenue Code.
- d. Expenses to move from this state allowed under section 217 of the Internal Revenue Code.
- e. Interest incurred to purchase a residence that is neither a primary residence nor is in this state and interest incurred to purchase a residence that is a boat.
- f. Interest in excess of \$1,200, or \$600 for married persons filing separately, not paid on a loan to purchase or refinance a residence and not paid on a land contract.

27. Simplify Computation of Itemized Deduction Credit for Part-Year Residents and Nonresidents Who File Joint Returns (1987 Act 27, amend s. 71.09(6r)(d), effective for taxable year 1987 and thereafter.)

If married persons are not both domiciled in Wisconsin during the entire taxable year, they will use the standard deduction actually claimed on their return (based on their federal adjusted gross income) to compute their itemized deduction credit. Under prior law, for purposes of computing their itemized deduction credit, these married persons were to use the standard deduction that would have been available to them if both spouses had been domiciled in Wisconsin all year.

28. Change Definition of "Earned Income" for Married Couple Credit (1987 Act 27, amend s. 71.09(7m), effective for taxable year 1987 and thereafter.)

For purposes of computing the married couple credit, "earned income" means qualified earned income, as defined in section 221(b) of the Internal Revenue Code as amended to December 31, 1985, plus employee business expenses under section 62(2)(B), (C) or (D) of that Code, allocable to Wisconsin under s. 71.07, minus disability income excluded under s. 71.05(1)(b)8m and minus any other amount not subject to Wisconsin individual income tax.

The married couple credit may not be claimed by married persons who reduce their gross income under section 911 or 931 of the Internal Revenue Code.

29. Provide School Property Tax Credit (1987 Act 27, create s. 71.53, effective for taxable year 1987 and thereafter.)

Individuals may claim as a credit against, but not to exceed the amount of, taxes under s. 71.01(1), 6.9% of the first \$2,000 of property taxes or rent constituting property taxes paid on their principal dwelling.

"Rent constituting property taxes" means 25% of rent paid if heat is not included or 20% of rent paid if heat is included, excluding any payment for domestic, food, medical or other services.

Part-year residents must prorate the credit based on the ratio of Wisconsin adjusted gross income to federal adjusted gross income. No credit is allowed to nonresidents of Wisconsin.

30. Impose Penalties on Distributions From Retirement Plans (1987 Act 27, amend s. 71.11(44m), effective for taxable year 1987 and thereafter.)

Any person who is liable for a penalty for premature distributions from annuity contracts under section 72(q) of the Internal Revenue Code or an excise tax on excess distributions from a qualified retirement plan under section 72(t) of the Internal Revenue Code or as provided in section 1133 of the 1986 Tax Reform Act is liable for 33% of the federal penalty for Wisconsin tax purposes.

31. Conform Estimated Tax Law to Federal Law (1987 Act 27, repeal s. 71.21(1m)(a), (2), (5) (intro.) and (a) to (c), (7) and (16); renumber s. 71.21(5)(d) to 71.21(5) and s. 71.21(5)(e) to 71.21(5m) and amend s. 71.21(5) and (5m) as renumbered; amend ss. 71.014, 71.21 (title), (1), (1m)(b), (3), (8), (11), (18), (19)(a) to (c), (20) and 71.23; repeal and recreate s. 71.21(12), (13), (14)(a), (b) and (c) and (15); and create s. 71.21(1m)(am) and nonstatutory provision, effective for taxable year 1988 and thereafter.)

The estimated tax requirements have been changed to closely conform to current federal law. The changes, which are effective for the 1988 taxable year and thereafter, are as follows:

- a. The alternative minimum tax is now subject to the estimated tax requirements.
- b. Beginning with the 1987 taxable year, estimated tax payments are not required for either of the first two years of an estate. Under prior law, an estate was exempt from the estimated tax requirements for only its first year of existence.
- c. The "return" on which the estimated tax requirements are based will generally be the last return filed by the due date, including extensions, except that if such return reflects less than 75% of the tax properly due and such understatement results in an addition to the tax of at least \$300, the addition to the tax computation will be based on amounts reported on a subsequent return or on adjusted amounts.
- d. No addition to tax will be due if any of the following conditions apply:
  - (1) The tax shown on the return, or if no return is filed, the tax, minus amounts withheld, is less than \$200.
  - (2) The preceding taxable year was 12 months, the taxpayer had no income tax or alternative minimum tax liability for that year and the taxpayer was a Wisconsin resident for that entire year.
  - (3) The Secretary determines that because of casualty, disaster or other unusual circumstances it is not equitable to impose an addition to tax.
  - (4) The Secretary determines the taxpayer retired during the taxable year or during the preceding taxable year after attaining age 62 or becoming disabled and the underpayment was due to reasonable cause and not willful neglect.

- e. The four exceptions to the addition to the tax allowable for taxable years prior to 1988 have been repealed for 1988 and after.
- f. The required installments for 1988 and after are one-fourth of the lower of the amounts computed under 1 or 2 or the amounts computed under number 3:
  - (1) Ninety percent of the tax shown on the return for the taxable year or, if no return is filed, 90% of the tax for the taxable year.
  - (2) The tax shown on the return for the preceding taxable year, if the taxpayer filed a return for the prior year covering a 12-month period. (See Item A.32. for an exception for estates and trusts.)
  - (3) If 22.5% for the first installment, 45% for the 2nd installment, 67.5% for the 3rd installment and 90% for the 4th installment of the tax for the taxable year computed by annualizing, under methods prescribed by the department, the taxpayer's income for the months in the taxable year ending before the installment's due date is less than the installment under 1 or 2 above, the taxpayer may pay this amount. Any taxpayer who pays an installment computed under this method (annualizing) shall increase the next installment computed under 1 or 2 above by an amount equal to the difference between the amount paid under 3 and the amount that would have been paid under 1 or 2.
- g. The estimated tax payment requirements shall be applied to taxable years of less than 12 months under rules promulgated by the department.
- h. Any increase to required estimated tax payments that would have been due before July 1, 1987, solely because of changes affecting income or franchise tax liability made by 1987 Act 27 must be prorated equally among, and paid with, any payments that are due on or after July 1, 1987, for the taxable year 1987. Any addition to the tax for underpayment of estimated tax must be computed on the basis that the tax due for the 1987 taxable year solely because of changes affecting income tax liability made by 1987 Act 27 was required to be included only with installment payments due on or after July 1, 1987.

32. Provide Exception to Estimated Tax Law for Estates and Trusts (1987 Act 27, create s. 71.21(14)(bm), effective for taxable years beginning on or after September 1, 1987.)

In determining required installments for estimated tax purposes, estates and trusts may not use the tax shown on the return for the preceding year if their taxable income for the current year is \$20,000 or more.

33. Clarify Reference to Internal Revenue Code for 1986 Minimum Tax (1987 Act 27, amend s. 71.60(1), effective for taxable year 1986.)

The minimum tax for Wisconsin tax purposes for the 1986 taxable year is equal to 55% of the federal alternative minimum tax owed under section 55 of the Internal Revenue Code as amended to December 31, 1986.

34. Replace Minimum Tax With Alternative Minimum Tax (1987 Act 27, repeal s. 71.60(5), amend s. 71.65(1)(g), repeal and recreate s. 71.60(1) and (4), effective for taxable year 1987 and thereafter.)

If the tax imposed for Wisconsin tax purposes under s. 71.01(1), not considering the homestead credit, married couple credit, farmland preservation credit and taxes paid to other states, is less than the Wisconsin alternative minimum tax, the Wisconsin alternative minimum tax is imposed.

The alternative minimum tax is computed as follows:

- a. Adjust the federal alternative minimum taxable income by the modifications claimed under s. 71.05, except for the subtraction modification for the Wisconsin net operating loss.
- b. Adjust the result of a. by the amounts needed to modify the federal alternative tax net operating loss deductions to reflect differences between Wisconsin net operating loss deductions and federal net operating loss deductions for minimum tax purposes.
- c. Subtract the amount of the federal tax-exempt interest tax preference from the result of b.
- d. Nonresidents and part-year residents adjust the result of c. so that itemized deductions and personal exemptions included in federal alternative minimum taxable income are prorated on the basis of the ratio of Wisconsin adjusted gross income to federal adjusted gross income.
- e. Subtract from the result of d., the exemption amount provided under section 55(d)(1) and (3). In calculating the phase-out of the exemption, the result of d., not the federal alternative minimum taxable income, should be used. Nonresidents and part-year residents will prorate their exemption based on the ratio of Wisconsin adjusted gross income to federal adjusted gross income.
- f. Multiply the result of e. by 6.5%.

The department must promulgate rules to provide that alternative minimum taxable income may be reduced to prevent the inclusion of any amounts that do not reflect a benefit in respect to the tax imposed under s. 71.01(1).

35. Revise Order of Computation (1987 Act 27, renumber s. 71.65(1)(fm) to 71.65(1)(gm), amend s. 71.65(1)(a) and (g) and create s. 71.65(1)(d), effective for taxable year 1987.)

All persons other than corporations shall compute their tax liability in the following order for the 1987 taxable year and thereafter.

- a. Tax under s. 71.09(1b), (1e), (1f), (1g) or (1h)
- b. Personal exemptions under s. 71.09(6p)
- c. Itemized deduction credit under s. 71.09(6r)

- d. School property tax credit under s. 71.53
- e. Alternative minimum tax under s. 71.60
- f. Married couple credit under s. 71.09(7m)
- g. Payments to other states under s. 71.09(8)
- h. The total of farmland preservation credit under s. 71.09(11), homestead credit under s. 71.09(7) estimated tax payments under s. 71.21 and taxes withheld under s. 71.19

B. CORPORATION FRANCHISE/INCOME TAXES

1. Federalize Definition of "Net Income" (1987 Act 27, repeal ss. 71.02(1)(b), 71.03(1), (2)(a), (2)(b), (2)(f), (5) and (6), 71.035, 71.04, 71.041, 71.045, 71.046, 71.047, 71.11(9) and 71.301 to 71.372; amend ss. 70.375(4)(e) and (4)(k)(intro.), 70.40(3), 70.41(3), 70.415(3), 70.42(3), 70.421(3), 71.01(1) and (2), 71.02(1)(c)(intro.) and (2)(intro.), 71.03(title), 71.06(1), 71.07(2)(intro.) and (2)(cr)8, 71.08(1), 71.09(2h), (2n), (11)(a)6.b and (13)(cm), 71.10(3m)(a), 71.135(1m) and (3), 77.51(14g)(g), 97.28(2m)(e) and 895.51(1)(b); repeal and recreate ss. 71.02(1)(intro.), 71.11(8)(a) and (8)(b); create ss. 71.02(1)(bc), (bg), (bi), (dm), (fm) and (m), 71.10(1)(am), 71.11(8m) and nonstatutory provisions, effective for taxable year 1987 and thereafter.)

Effective for the 1987 taxable year, Wisconsin net income of a corporation, except insurance companies, real estate investment trusts (REITs), regulated investment companies (RICs) and real estate mortgage investment conduits (REMICs), means gross income as computed under the Internal Revenue Code (IRC), plus the amount of manufacturer's sales tax credit, community development credit and research credits computed, plus the amount of losses from the sale or disposition of assets the gain from which would be wholly exempt if the asset had been sold or disposed of at a gain, minus deductions, as computed under the IRC, plus or minus, as appropriate, an amount equal to the difference between the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed of in a taxable transaction during the taxable year.

The Internal Revenue Code for the taxable year 1987 means the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987 and subsequent years, with certain modifications. These modifications include the following:

- a. Excluding section 78, IRC (relating to deemed dividends).
- b. Excluding section 103, IRC (relating to the exclusion for interest income on governmental obligations).
- c. Modifying section 108, IRC (relating to income from the discharge of indebtedness) to provide that the Wisconsin net operating loss under s. 71.06, not the federal net operating loss, and Wisconsin credits, not federal credits, are applied in the reduction of tax attributes.
- d. Excluding section 133, IRC (relating to the exclusion of interest income on certain loans used to acquire employer securities).

- e. Modifying section 162, IRC (relating to trade and business expenses) to provide that payments for wages, salaries, commissions and bonuses of employes and officers may be deducted only if the name, address and amount paid to each resident of this state, who has been paid compensation of \$500 or more during the taxable year, is reported to the department or if the department is satisfied that failure to report has resulted in no revenue loss to Wisconsin, and so that payments for rent may be deducted only if the amount paid, together with the names and addresses of the parties to whom rent has been paid, is reported as provided under s. 71.10(1).
- f. Modifying section 164(a), IRC (relating to the deduction of foreign taxes) to provide that the taxes are not deductible unless the income on which the tax is based is taxable by Wisconsin, gross receipts taxes assessed in lieu of property taxes are deductible, license fees under s. 76.28 and 76.38 are deductible and taxes allocable to mines are deductible.
- g. Modifying section 164(a)(3), IRC (relating to the deduction of state and local income taxes) to provide that state taxes and taxes of the District of Columbia on or measured by all or a portion of net income, gross income, gross receipts or capital stock are not deductible.
- h. Excluding section 164(a)(4), IRC (relating to the deduction for windfall profits tax).
- i. Excluding section 172, IRC (relating to loss carryforwards) and replacing it with s. 71.06.
- j. Excluding sections 243, 244, 245, 246 and 246A, IRC (relating to deductible dividends) and replacing them with the rule that corporations may deduct from income dividends received from a corporation with respect to its common stock if the corporation receiving the dividends owns, directly or indirectly, during the entire taxable year at least 80% of the total combined voting stock of the payor corporation and dividends received from a corporation that filed a return with Wisconsin, that is subject to taxation by Wisconsin, that did not deduct the dividends for Wisconsin and 50% or more of the net income or loss of which, after adjustment for tax purposes, was used in computing Wisconsin taxable income. "Dividends received" means gross dividends minus taxes on those dividends paid to a foreign nation and claimed as a deduction in computing Wisconsin net income.
- k. Excluding section 247, IRC (relating to the deduction for dividends paid on certain preferred stock of public utilities).
- l. Excluding section 265, IRC (relating to expenses and interest related to tax-exempt income) and replacing it with the rule that any amount otherwise deductible for Wisconsin that is directly or indirectly related to income wholly exempt from taxes imposed by Wisconsin or to losses from the sale or other disposition of assets the gain from which would be exempt for Wisconsin if the assets were sold or otherwise disposed of at a gain is not deductible. "Wholly exempt income" for corporations subject to franchise or income taxes includes amounts received from affiliated or subsidiary corporations for interest, dividends or capital gains that, because of the degree

of common ownership, control or management between the payor and payee, are not subject to taxation by Wisconsin. "Wholly exempt income" for corporations subject to income taxation under this chapter also includes interest on obligations of the United States. "Wholly exempt income" does not include income excludable, not recognized, exempt or deductible under specific provisions for Wisconsin. If any expense or amount otherwise deductible is indirectly related both to wholly exempt income or loss and to other income or loss, a reasonable proportion of the expense or amount shall be allocated to each type of income or loss, in light of all the facts and circumstances.

- m. Modifying section 267, IRC (relating to transactions between related parties) to provide that gains may be reduced only if the corresponding loss was incurred while the corporation was subject to taxation by Wisconsin.
- n. Modifying sections 381, 382 and 383, IRC (relating to carryovers in certain corporate acquisitions) to provide that they apply to loss carryforwards under s. 71.06 and credits under ss. 71.043, 71.09(12r) and 71.09(12rf) instead of federal credits and federal net operating losses.
- o. Modifying section 468A, IRC (relating to nuclear decommissioning trust and reserve funds) to provide that a deduction is allowed only if the fund is subject to taxation by Wisconsin. (Note: A Wisconsin corporate franchise/income tax is imposed on the net income of nuclear decommissioning trust or reserve funds as defined in section 468A, IRC.)
- p. Excluding section 501(c)14, IRC (relating to an exemption for credit unions) and replacing it with s. 71.01(3) which provides that credit unions must report income which is derived from public deposits for any taxable year in which the credit union is approved as a public depository and acts as a depository of state or local funds.
- q. Excluding sections 511 to 515, IRC (relating to taxation of unrelated business income of exempt organizations).
- r. Excluding sections 613 and 613A, IRC (relating to the deduction of percentage depletion).
- s. Excluding sections 921 to 927, IRC (relating to foreign sales corporations).
- t. Excluding sections 951 to 964, IRC (relating to controlled foreign corporations).
- u. Excluding sections 991 to 995 and 999, IRC (relating to domestic international sales corporations).
- v. Modifying section 1017, IRC (relating to adjustments to basis because of discharge of indebtedness) to reflect the modifications as indicated in item c. above.

- w. Modifying section 1033, IRC (relating to involuntary conversions) to provide that this section does not apply to involuntary conversions of property in Wisconsin that produces nonbusiness income and that is replaced with similar property outside Wisconsin, and to involuntary conversions of property in Wisconsin that produces business income and that is replaced with property outside Wisconsin if at the time of replacement the taxpayer is not subject to taxation by Wisconsin.
- x. Modifying section 1366(f), IRC (relating to pass-through of items to shareholders) by substituting the tax under s. 71.016 for tax under section 1374, IRC.
- y. Excluding sections 1501 to 1505, 1551, 1552, 1563 and 1564, IRC (relating to consolidated returns).
- z. Modifying the deduction for depreciation or amortization to provide that a corporation may compute the deduction under either the IRC as amended to December 31, 1986, as it applies to taxable year 1987, or the IRC in effect for the taxable year for which the return is filed, except that property that was placed in service prior to January 1, 1987, must continue to be depreciated under the method allowable by Wisconsin for the year in which it was placed in service.

Taxpayers are required to use a method of accounting authorized under the IRC and shall use the same method used for federal income tax purposes if that method is authorized under the IRC.

The reporting period for Wisconsin must be the same as the period for federal income tax purposes.

Any change in accounting method or reporting period made for federal income tax purposes must also be made for Wisconsin if that method is authorized under the IRC in effect for Wisconsin. Notification of such a change should accompany the return for the first taxable year affected by such a change.

As a result of the federalization of Wisconsin net income, transitional adjustments may be required in order to prevent the duplication or omission of any item of income or expense. If the total of such transitional adjustments is \$25,000 or less, the entire adjustment is to be made during the 1987 taxable year. If the total is greater than \$25,000, the adjustment is to be amortized ratably over 5 years, starting in 1987.

Under prior law, Wisconsin net income was determined under Wisconsin statutes with limited references to the IRC.

2. Update Reference to Internal Revenue Code for Insurance Companies (1987 Act 27, repeal s. 71.01(4)(a)2 and 6m, amend s. 71.01(4)(a)(intro.), 7 and 9 and (g)7 to 10, create s. 71.01(4)(a)6g and 6j and (g)11, effective for taxable year 1987 and thereafter.)

For the 1987 taxable year and thereafter, insurance companies will compute their net income under the Internal Revenue Code (IRC) as amended to December 31, 1986, as it applies to taxable year 1987 and subsequent years, with certain modifications.



These modifications include the following:

- a. Adding to federal taxable income the amount of any loss carryforward or carryback, including any capital loss carryforward or carryback, deducted in the calculation of federal taxable income (s. 71.01(4)(a)1).
- b. Adding to federal taxable income, if not already included, the amount of any federal tax refund or portion thereof previously applied to reduce the amount of tax payable under Chapter 71 (s. 71.01(4)(a)3).
- c. Adding to federal taxable income an amount equal to interest income received or accrued during the taxable year to the extent such interest income was used as a deduction in determining the company's federal taxable income (s. 71.01(4)(a)4).
- d. Adding to federal taxable income an amount equal to dividend income received during the taxable year to the extent such dividend income was used as a deduction in determining federal taxable income (s. 71.01(4)(a)5).
- e. Adding to federal taxable income the amount of taxes imposed by this or any other state or the District of Columbia on or measured by net income, gross income, gross receipts or capital stock, if any, deducted in the calculation of federal taxable income except that gross receipts taxes assessed in lieu of property taxes are deductible from gross income (s. 71.01(4)(a)6).
- f. Adding or subtracting, as appropriate, the difference between the federal basis and the Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed of in a taxable transaction during the taxable year (s. 71.01(4)(a)6g).
- g. Adding or subtracting, as appropriate, the amount required to reflect the fact that property which was required to be depreciated for taxable years 1983 to 1986 under the IRC as amended to December 31, 1980, shall continue to be depreciated under the IRC as amended to December 31, 1980 (s. 71.01(4)(a)6j).
- h. Subtracting from federal taxable income dividends received from Wisconsin corporations that are deductible under s. 71.02(1)(bg)11 and are included in federal taxable income (s. 71.01(4)(a)7).
- i. Subtracting from federal taxable income any net capital losses not offset against capital gains to the extent that subtraction is allowed to other corporations in computing net income under s. 71.02(1)(c)(intro.) (s. 71.01(4)(a)9).

An insurance company may compute depreciation or amortization under either the IRC as amended to December 31, 1986, as it applies to taxable year 1987, or the IRC in effect for the taxable year for which the return is filed, except that property that was placed in service prior to January 1, 1987, must continue to be depreciated under the method allowable by Wisconsin for the year in which it was placed in service.

3. Permit Carryforward of Net Business Loss by Insurance Companies (1987 Act 27, repeal s. 71.06(3), renumber s. 71.01(4)(a)10 to 71.01(4)(dm) and amend s. 71.01(4)(dm) as renumbered, effective for losses incurred during taxable years ending after June 30, 1987, and for returns filed for taxable year 1987 and thereafter.)

Domestic insurance companies with nonlife business may carry forward the Wisconsin net business losses generated from their nonlife business and offset such losses against Wisconsin net business income of any year between the loss year and the income year for which an offset is claimed, limited to the amount of net income. The loss must be computed without regard to s. 71.01(4)(a)7 and 9 (See Items B.2.h and i above). Such losses may be carried forward for 15 years.

4. Clarify Computation of Multiplier for Insurers (1987 Act 27, amend s. 71.01(4)(b)1, effective for taxable year 1987 and thereafter.)

The multiplier for determining income or loss from nonlife lines of insurance sold by domestic insurers will be one of the following:

- a. Zero, if the numerator is negative and adjusted federal taxable income is positive.
  - b. Zero, if the numerator is positive and adjusted federal taxable income is negative.
  - c. Zero, if the numerator is zero.
  - d. Greater than zero but not more than one, if the numerator is positive, the denominator is positive and adjusted federal taxable income is positive.
  - e. Greater than zero but not more than one, if the numerator is negative, the denominator is negative and adjusted federal taxable income is negative.
  - f. One, if the numerator is positive, the denominator is zero or negative and adjusted federal taxable income is positive.
  - g. One, if the numerator is negative, the denominator is zero or positive and adjusted federal taxable income is negative.
5. Change Maximum Tax Liability for Certain Insurers (1987 Act 27, amend s. 71.01(4)(h) effective for taxable year 1987 and thereafter.)

Effective for the 1987 taxable year, the income and franchise tax imposed on each domestic insurer on or measured by its entire net income attributable to all lines of insurance in this state may not exceed 2% of the gross premiums, as defined in s. 76.62, received during the year on all policies on those lines of insurance if the subject of that insurance was resident, located or to be performed in Wisconsin.

6. Update Reference to Internal Revenue Code for Regulated Investment Companies, Real Estate Mortgage Investment Conduits and Real Estate Investment Trusts (1987 Act 27, amend s. 71.02(1)(c)8 to 11, create s. 71.02(1)(c)12, effective for taxable year 1987 and thereafter.)

For the 1987 taxable year and thereafter, regulated investment companies, real estate mortgage investment conduits and real estate investment trusts will compute their net income under the Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987 and subsequent years, except that property depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, must continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.

7. Clarify Nondeductible Gift, Travel and Entertainment Expenses (1987 Act 27, amend ss. 71.01(4)(a)6m.a to g and 71.04(2)(b)11 to 17, effective for taxable year 1986.)

These provisions clarify that certain gift, travel and entertainment expenses allowable under sections 162 or 212 of the Internal Revenue Code and not disallowed under section 274 of the Internal Revenue Code may not be deducted for Wisconsin tax purposes.

8. Repeal Adjustments for Nondeductible Gift, Travel and Entertainment Expenses (1987 Act 27, repeal ss. 71.01(4)(a)6m and 71.04(2)(b)11 to 17, effective for taxable year 1987 and thereafter.)

Beginning with the 1987 taxable year, the Wisconsin restrictions on certain gift, travel and entertainment expenses are repealed. Instead, the limitations on gift, travel and entertainment expenses provided in the Internal Revenue Code as amended to December 31, 1986, apply for Wisconsin tax purposes.

9. Clarify Carryforward of Manufacturer's Sales Tax Credit (1987 Act 27, repeal s. 71.043(1), amend s. 71.043(2), repeal and recreate s. 71.043(3), effective August 1, 1987.)

The tax imposed upon or measured by corporation Wisconsin net income under s. 71.01(1) or (2) shall be reduced by the amount of sales and use tax paid in such taxable year on fuel and electricity consumed in manufacturing tangible personal property in this state.

If the manufacturer's sales tax credit is not entirely offset against Wisconsin income or franchise tax due, the unused balance shall be carried forward and credited against Wisconsin income or franchise tax due for the following 15 taxable years to the extent not offset by taxes otherwise due in years between the year in which the expense was incurred and the year in which the carryforward credit is claimed.

10. Correct Reference to the Internal Revenue Code for Qualified Research Expenses (1987 Act 27, amend s. 71.09(12r)(a) and (b) and (12rf)(a), effective for taxable year 1987 and thereafter.)

To reflect changes made to the Internal Revenue Code by the federal Tax Reform Act of 1986, the IRC references with respect to qualified research expenses is changed from section 30 to section 41.

11. Revise Calculation of Payroll Factor in Apportionment Cases (1987 Act 27, amend s. 71.07(2)(c)3 and repeal and recreate s. 71.07(2)(b), effective for taxable year 1987 and thereafter.)

Compensation is paid in Wisconsin if

- a. The individual's service is performed entirely in Wisconsin;
- b. The individual's service is performed within and without Wisconsin, but the service performed outside Wisconsin is incidental to the individual's service in Wisconsin;
- c. A portion of the service is performed in Wisconsin and the base of operations of the individual is in Wisconsin;
- d. A portion of the service is performed in Wisconsin and, if there is no base of operations, the place from which the individual's service is directed or controlled is in Wisconsin;
- e. A portion of the service is performed in Wisconsin and neither the base of operations of the individual nor the place from which the service is directed or controlled is in any state in which some part of the service is performed, but the individual's residence is in Wisconsin; or
- f. The individual is neither a resident of nor performs services in Wisconsin but is directed or controlled from an office in Wisconsin and returns to Wisconsin periodically for business purposes and the state in which the individual resides does not have jurisdiction to impose income or franchise taxes on the employer.

Compensation includes deductible management or service fees paid to a related corporation for personal services performed. The situs of those fees is in Wisconsin if it meets any of the requirements of "compensation paid in this state." However, the recipient (related corporation) of the fees may not include in its payroll factor payment to its employees for the personal services performed.

The department may order or permit the elimination of the payroll factor in computing the apportionment percentage if a company has no employees and pays no management or service fees or the department determines that employees are not a substantial income-producing factor and that management or services fees paid are insubstantial.

12. Broaden Definition of "Public Utility" for Apportionment Purposes (1987 Act 27, amend s. 71.07(2)(d)2, effective for taxable year 1987 and thereafter.)

Business entities providing service to the public and engaged in the transportation of goods and persons for hire, as defined in s. 194.01(4), are considered public utilities regardless of whether or not the entity's rates or charges for services have been established or approved by a federal, state or local government or governmental agency. Therefore, deregulated transportation companies may still use the two-factor apportionment formula prescribed by the department.

13. Change Wisconsin Corporate Estimated Tax Law (1987 Act 27, amend s. 71.10(5)(a), repeal and recreate s. 71.22, and nonstatutory provision, effective for taxable year 1988 and thereafter.

The changes, which are effective for the 1988 taxable year and thereafter, are as follows:

- a. The "return" on which the estimated tax requirements are based will generally be the last return filed by the due date, including extensions, except that if such return reflects less than 75% of the tax properly due and such understatement results in an addition to the tax of at least \$300, the addition to the tax computation will be based on amounts reported on a subsequent return or on adjusted amounts.
- b. No addition to the tax will be due if either of the following conditions apply:
  - (1) The tax shown on the return or, if no return is filed, the tax is less than \$500.
  - (2) The preceding taxable year was 12 months and the corporation had no liability under ss. 71.01 for that year.
- c. The four exceptions to the addition to the tax allowable for taxable years prior to 1988 have been repealed for 1988 and thereafter.
- d. The required installments for 1988 and thereafter are one-fourth of the lower of the amounts computed under (1) or (2) or the amounts computed under number (3):
  - (1) Ninety percent of the tax shown on the return for the taxable year or, if no return is filed, 90% of the tax for the taxable year.
  - (2) The tax shown on the return for the preceding taxable year (if the taxpayer filed a return for that prior year covering a 12-month period). (Corporations having taxable incomes of \$250,000 or more may not use this method but must compute required installments under either (1) or (3).)
  - (3) If 22.5% for the first installment, 45% for the 2nd installment, 67.5% for the 3rd installment and 90% for the 4th installment of the tax for the taxable year computed by annualizing, under methods prescribed by the department, the taxpayer's income for the months in the taxable year ending before the installment's due date is less than the installment under (1) or (2) above, the taxpayer may pay this amount. Any taxpayer who pays an installment computed under this method (annualizing) shall increase the next installment computed under (1) or (2) above by an amount equal to the difference between the amount paid under (3) and the amount that would have been paid under (1) or (2).

For purposes of computing annualized income, the apportionment percentage computed under s. 71.07(2) from the return filed for the previous taxable year may be used if that return was filed with the department on or before the due date of the installment for which the income is being annualized and if the apportionment percentage on that previous year's return was greater than zero.

- e. The estimated tax payment requirements shall be applied to taxable years of less than 12 months under rules promulgated by the department.
- f. Any increase to required estimated tax payments that would have been due before July 1, 1987, solely because of changes affecting income or franchise tax liability made by 1987 Act 27 must be prorated equally among, and paid with, any payments that are due on or after July 1, 1987, for the taxable year 1987. Any addition to the tax for underpayment of estimated tax must be computed on the basis that the tax due for the 1987 taxable year solely because of changes affecting income or franchise tax liability made by 1987 Act 27 was required to be included only with installment payments due on or after July 1, 1987.

#### C. TAX-OPTION (S) CORPORATIONS

1. Impose Additional Tax on Tax-Option (S) Corporations (1987 Act 27, create s. 71.016, effective for tax-option corporation's 1987 taxable year and shareholder's 1987 or 1988 taxable year as appropriate to conform the shareholder's treatment of income, loss or deduction to the tax-option corporation's treatment.)

Every tax-option (S) corporation that has a recognized built-in gain, as defined in section 1374(d)(2) of the Internal Revenue Code, during a recognition period and that had not made a tax-option(s) corporation election before January 1, 1987, shall compute a tax similar to that under section 1374 of the Internal Revenue Code in addition to other taxes imposed under Chapter 71 except that the tax rate is 7.9%, taxable income is Wisconsin taxable income and the credit and net operating losses are those under Chapter 71.

2. Adopt Federal Treatment of Distributions From Tax-Option (S) Corporations for 1983 and 1984 (1987 Act 27, amend s. 71.02(2)(d)9 and 10, effective for taxable years 1983 and 1984.)

For taxable years 1983 and 1984, "Internal Revenue Code" includes the changes to section 1368 of the Code made by section 721(r) of Public Law 98-369, relating to the treatment of distributions from tax-option (S) corporations. Section 721(r) provides that tax-option (S) corporation losses for any taxable year beginning after December 31, 1982, may cause the Accumulated Adjustment Account to become negative.

3. Revise Treatment of a Tax-Option (S) Corporation's Income, Loss and Deductions (1987 Act 27, renumber s. 71.042(1) to 71.042(2) and s. 71.042(2) to 71.042(1) and amend s. 71.042(2) as renumbered, amend ss. 71.02(1)(d) and 71.05(1)(f)3, create s. 71.042(3) and (5), effective for tax-option corporation's 1987 taxable year and shareholder's 1987 or 1988 taxable year as appropriate to conform the shareholder's treatment of income, loss or deduction to the tax-option corporation's treatment.)

A "tax-option item" is an item of income, loss or deduction that the department specifies. The tax treatment of all tax-option items is determined at the corporate level.

All shareholders of tax-option (S) corporations must treat tax-option items on their Wisconsin returns in a manner consistent with the corporate treatment or notify the department of any inconsistency and the reason for it.

Items of income and loss of the tax-option (S) corporation that would be capital gains or losses if attributed to an individual shall retain their character as net income or loss and business income or loss under s. 71.07 but shall be treated by the shareholders as capital gain or loss in computing their Wisconsin adjusted gross income.

A tax-option (S) corporation must notify its shareholders of any administrative or judicial proceeding relating to a tax-option item.

4. Provide That a Nonresident Shareholder's Share of Tax-Option (S) Corporation Intangible Income Is Taxable (1987 Act 27, renumber s. 71.042(1) to 71.042(2) and amend s. 71.042(2) as renumbered, amend ss. 71.05(1)(b)(intro.) and 71.07(1) and (2m), effective for tax-option corporation's 1987 taxable year and shareholder's 1987 or 1988 taxable year as appropriate to conform the shareholder's treatment of income, loss or deduction to the tax-option corporation's treatment.)

Items of income and loss and deductions of nonresident individuals and nonresident estates and trusts derived from tax-option (S) corporations not requiring apportionment follow the situs of the business of the corporation from which derived.

Nonresident individuals and nonresident estates and trusts deriving income from a tax-option (S) corporation engaged in business within and without Wisconsin are taxed only on income derived from business transacted and property located in Wisconsin. Such intangible income of tax-option (S) corporations passed through to shareholders follows the situs of the business.

5. Provide That Tax-Option Status Is Optional for Wisconsin Tax Purposes (1987 Act 27, amend s. 71.02(1)(g), create s. 71.042(4), effective for tax-option corporation's 1987 taxable year and shareholder's 1987 or 1988 taxable year as appropriate to conform the shareholder's treatment of income, loss or deduction to the tax-option corporation's treatment.)

If persons who hold more than 50% of the shares of a tax-option (S) corporation on the day on which the election is made consent, a corporation that is a Subchapter S corporation for federal tax purposes may elect, on or before the due date or extended due date of its return, not to be a tax-option (S) corporation for Wisconsin tax purposes.

Once the election not to be a tax-option (S) corporation is made, the corporation or its successor may not claim tax-option status for the next 4 taxable years after the taxable year to which the election first applies.

6. Change Tax-Option (S) Corporation Deduction (1987 Act 27, renumber s. 71.042(1) to 71.042(2) and amend s. 71.042(2) as renumbered, effective for tax-option corporation's 1987 taxable year and shareholder's 1987 or 1988 taxable year as appropriate to conform the shareholder's treatment of income, loss or deduction to the tax-option corporation's treatment.)

A tax-option (S) corporation may deduct from its net income all amounts included in the Wisconsin adjusted gross income of its shareholders and all amounts not taxable to nonresident shareholders under s. 71.07. Therefore, a tax-option (S) corporation is taxed on only a delinquent shareholder's share of the corporation's net income. Under prior law, failure of any shareholder to file a Wisconsin return and report his or her proper share of the tax-option (S) corporation's net income would cause the tax-option (S) corporation to be taxed on its entire net income.

7. Deny Credits to Shareholders of Tax-Option (S) Corporations (1987 Act 27, renumber s. 71.042(1) to 71.042(2) and amend s. 71.042(2) as renumbered, create s. 71.043(3g), effective for tax-option corporation's 1987 taxable year and thereafter and shareholder's 1987 or 1988 taxable year as appropriate to conform the shareholder's treatment of income, loss or deduction to the tax-option corporation's treatment.)

Shareholders of tax-option (S) corporations may no longer claim the corporation's manufacturer's sales tax credit or any other credit that would be available to the corporation if it were a regular C corporation on their Wisconsin individual income tax returns.

8. Clarify Modification for Distributions of Pre-1979 Earnings and Profits (1987 Act 27, amend s. 71.05(1)(a)10, effective for taxable year 1979 and thereafter.)

An addition modification is required for any amount received in taxable year 1979 or thereafter by a Wisconsin resident shareholder of a tax-option (S) corporation as a distribution of pre-1979 earnings and profits and not considered a dividend when received under section 1375(d)1 of the Internal Revenue Code as amended to December 31, 1978. This amendment clarifies that it is the Code as of December 31, 1978, that applies.

9. Clarify Modification for Amounts Affecting Shareholders' 1979 Federal Adjusted Gross Income (1987 Act 27, amend s. 71.05(1)(f)2, effective for taxable year 1979.)

A modification is required for amounts affecting the computation of a shareholder's federal adjusted gross income for taxable year 1979 under section 1373 or 1374 of the Internal Revenue Code as amended to December 31, 1978, as the shareholder's proportionate share of a tax-option (S) corporation's federal taxable income or loss for taxable year 1978. This amendment clarifies that it is the Code as of December 31, 1978, that applies.

10. Provide That Resident Shareholders May Claim Credit for Taxes Paid to Other States (1987, Act 27, amend s. 71.09(8)(c), effective for tax-option corporation's 1987 taxable year and shareholder's 1987 or 1988 taxable year as appropriate to conform the shareholder's treatment of income, loss or deduction to the tax-option corporation's treatment.)



Income and franchise taxes paid to another state by a tax-option (S) corporation may be claimed as a credit by the corporation's shareholders who are residents of Wisconsin and otherwise qualify for the credit.

11. Prescribe Return Requirements (1987 Act 27, amend s. 71.10(1)(d), effective for tax-option corporation's 1987 taxable year and shareholder's 1987 or 1988 taxable year as appropriate to conform the shareholder's treatment of income, loss or deduction to the tax-option corporation's treatment.)

In addition to its federal return and any other return, statement or document required to be filed with the IRS, a tax-option (S) corporation must file any form required and prescribed by the department with its Wisconsin franchise or income tax return.

12. Permit Proration for Short Period Return (1987 Act 27, amend s. 71.10(3m)(c), effective for tax-option corporation's 1987 taxable year and shareholder's 1987 or 1988 taxable year as appropriate to conform the shareholder's treatment of income loss or deductions to the tax-option corporation's treatment.)

A tax-option (S) corporation may prorate its net income for short period returns due when a corporation terminates its tax-option status during the year according to the method under section 1362(e)(2) of the Internal Revenue Code.

#### D. HOMESTEAD CREDIT

1. Clarify Definition of "Claimant" (1987 Act 27, amend s. 71.09(7)(a)1, effective for claims filed in 1988 based on property taxes or rent for calendar year 1987 and thereafter.)

"Claimant" means a person who has filed a homestead credit claim and who was domiciled in Wisconsin during the entire calendar year to which the claim relates.

2. Change Definition of "Gross Rent" (1987 Act 27, amend s. 71.09(7)(a)2, effective for claims filed in 1988 based on rent for calendar year 1987 and thereafter.)

"Gross rent" means rent paid solely for the right to occupy a homestead, reduced by charges for food furnished by the landlord as a part of the rental agreement. It is no longer necessary to reduce rent paid by the value of utilities, services, furniture, furnishings or personal property appliances furnished by the landlord.

"Gross rent" includes the rental paid to a landlord for parking of a mobile home, reduced by any charges for food furnished by the landlord as a part of the rental agreement, plus parking fees paid under s. 66.058(3)(c) for a rented mobile home.

If a homestead is part of a multipurpose or multidwelling building, "gross rent" is the percentage of the gross rent on that part of the multipurpose or multidwelling building occupied by the household as a principal residence plus the same percentage of the gross rent on the

land surrounding it, not exceeding one acre, that is reasonably necessary for use of the multipurpose or multidwelling building as a principal residence.

If a homestead is part of a farm, "gross rent" is the rent on up to 120 acres of the land contiguous to the claimant's principal residence plus the rent on all improvements to real property on that land.

3. Divide Rent Equally Among Joint Occupants of a Rental Unit (1987 Act 27, amend s. 71.09(7)(a)2, effective for claims filed in 1988 based on rent for calendar year 1987 and thereafter.)

If a claimant and persons who are not members of the claimant's household share a homestead, the claimant's gross rent is the gross rent paid for the homestead divided by the number of adults residing in the homestead and not related to the claimant as husband or wife.

4. Change Definition of "Household Income" (1987 Act 27, amend s. 71.09(7)(a)6, effective for claims filed in 1988 based on property taxes or rent for calendar year 1987 and thereafter.)

The following amounts must now be included in household income for homestead credit purposes:

- a. Net operating loss carryforward
- b. Capital loss carryforward
- c. Minister's housing allowance
- d. The value of a resident manager's free or reduced rent
- e. Nontaxable income of an American Indian
- f. Nontaxable income from sources outside Wisconsin
- g. Keogh plan deductions
- h. Nontaxable deferred compensation
- i. Income from a nonresident or part-year resident who is married to a full-year resident
- j. Amortization
- k. Section 179 expense deductions

Amounts not included in adjusted gross income but added to income on a homestead credit claim in a previous year and repaid may be subtracted from household income in the year they are repaid.

Foster care payments received by a claimant which are not includable in federal adjusted gross income do not have to be included in household income. In addition, long-term support community options program payments under s. 46.27 are not includable in household income.

5. Clarify Definition of "Property Taxes Accrued" (1987 Act 27, amend s. 71.09(7)(a)7, effective for taxable year 1986 and thereafter.)

If a homestead is owned by spouses as marital property or survivorship marital property and one of the owners is not a member of the claimant's household, the property taxes must be divided equally among the owners, and "property taxes accrued" is that portion of the property taxes allocated to the claimant and the claimant's household.

6. Change Definition of "Property Taxes Accrued" (1987 Act 27, amend s. 71.09(7)(a)7, effective for claims filed in 1988 based on property taxes or rent for calendar year 1987 and thereafter.)

"Property taxes accrued" includes personal property taxes for a mobile home or for a home built on leased land.

If a homestead is sold during the calendar year, the seller may use the closing agreement pertaining to the sale of the homestead, the property tax bill for the year before the year to which the claim relates or the property tax bill for the year to which the claim relates as the basis for computing property taxes accrued, but the taxes are allowable only for the portion of the year during which the seller owned and occupied the sold homestead. The buyer of a homestead must use the property tax bill for the year to which the claim relates and prorate the taxes based on the time the buyer owned and occupied the homestead during the year to which the claim relates.

7. Change Definition of "Rent Constituting Property Taxes Accrued" (1987 Act 27, amend s. 71.09(7)(a)8, effective for claims filed in 1988 based on rent for calendar year 1987 and thereafter.)

"Rent constituting property taxes accrued" means 25% of the gross rent paid for the calendar year to which the claim relates if heat is not included in the rent, or 20% of the gross rent paid if heat is included in the rent, except as provided in s. 71.09(7)(m) and (p).

8. Specify Items a Claimant Must Verify (1987 Act 27, repeal and recreate s. 71.09(7)(j), effective for claims filed in 1988 based on property taxes or rent for calendar year 1987 and thereafter.)

To ascertain the correctness of any homestead credit claim, the department may examine any books, papers, records or memoranda bearing on a person's homestead credit, may require the production of such information, and require the attendance of any person having knowledge relating to the claim, and may take testimony and require proof material for its information.

9. Clarify Homestead Credit Language (1987 Act 27, renumber s. 71.09(7)(gz)1 to 71.09(7)(w), renumber s. 71.09(7)(gz)2 to 71.09(7)(x) and amend s. 71.09(7)(x) as renumbered, amend s. 71.09(7)(a)3, (b), (c), (r) and (s) and 71.09(13)(cm), effective for claims filed in 1988 based on property taxes or rent for calendar year 1987 and thereafter.)

Various homestead credit provisions were revised to clarify confusing statutory language and eliminate obsolete language.

10. Delete Obsolete Language as of January 1, 1989 (1987 Act 27, repeal s. 71.09(7)(gn) to (gr), (gs) and (h) 1 to 4, effective for taxable year 1989 and thereafter.)

Language relating to limits on household income, property taxes accrued and rent constituting property taxes accrued for years closed to audit has been deleted.

E. FARMLAND PRESERVATION CREDIT

1. Change Definition of "Household Income" (1987 Act 27, amend s. 71.09(11)(a)6.a, effective for claims filed for taxable year 1987 and thereafter.)

The following amounts must now be included in household income for farmland preservation credit purposes:

- a. Capital loss carryforward
- b. Minister's housing allowance
- c. The value of a resident manager's free or reduced rent
- d. Nontaxable income of an American Indian
- e. Nontaxable income from sources outside Wisconsin
- f. Keogh plan deductions
- g. Nontaxable deferred compensation
- h. Income from a nonresident or part-year resident spouse who is married to a full-year resident
- i. Amortization

Long-term support community options program payments under s. 46.27 continue to be includable in household income.

Amounts not included in adjusted gross income but added to income on a farmland preservation credit claim in a previous year and repaid may be subtracted from household income in the year they are repaid.

Foster care payments received by a claimant which are not includable in federal adjusted gross income do not have to be included in household income.

2. Change Depreciation Add-Back (1987 Act 27, amend s. 71.09(11)(a)6.a, effective for claims filed for taxable year 1987 and thereafter.)

In the case of an individual claimant, the total of the farm depreciation expenses claimed by all of the individuals in the household may not exceed \$25,000. Therefore, the \$25,000 limit applies to each household's farm depreciation expenses, not to each individual's farm depreciation expenses.

3. Clarify Definition of "Property Taxes Accrued" (1987 Act 27, amend s. 71.09(11)(a)7, effective for taxable year 1986 and thereafter.)

If farmland is owned by spouses as marital property or survivorship marital property and one of the owners is not a member of the claimant's household, the property taxes must be divided equally among the owners, and "property taxes accrued" is that portion of the property taxes allocated to the claimant and the claimant's household.

F. SALES/USE TAXES

1. Exempt Personal Property Brought Into Wisconsin by New Residents (1987 Act 27, amend s. 77.53(18), effective for property registered on or after August 1, 1987.)

Wisconsin law provides a use tax exemption for household goods and motor vehicles brought into Wisconsin when the owner moves here, if they were purchased outside this state 90 days or more before they were brought into Wisconsin.

Beginning with property registered on or after August 1, 1987, this exemption is expanded to include aircraft, boats, snowmobiles, mobile homes, trailers, semitrailers and all-terrain vehicles, for personal use.

2. Exempt Wood Residue Used for Fuel in a Business Activity (1987 Act 27, create s. 77.54(30)(a)(4), effective September 1, 1987.)

A sales/use tax exemption is provided for wood residue used for fuel and sold for use in a business activity. Wood residue includes slash, sawdust, shavings, edgings, slabs, leaves, wood chips, bark and wood pellets manufactured primarily from wood or primarily from wood residue.

3. Exempt "911" Receipts (1987 Act 27, create s. 77.54(37), effective August 1, 1987.)

The gross receipts from revenues collected in establishing an emergency phone system ("911" telephone number system) under s. 146.70(3) are exempt from Wisconsin sales/use tax.

4. Impose Sales/Use Tax on Occasional Sales of All-Terrain Vehicles (1987 Act 27, amend ss. 77.51(13)(am), 77.53(17), 77.54(7) and 77.61(1)(a) and (c), effective September 1, 1987.)

Occasional sales of all-terrain vehicles are subject to Wisconsin sales and use tax. In addition, no all-terrain vehicle shall be registered or titled in Wisconsin unless the sales and use tax has been paid.

5. Impose Sales Tax on Repairs of Nonresidents' Motor Vehicles and Other Property (1987 Act 27, amend s. 77.52(2)(a)10, effective September 1, 1987.)

The repair, service, alteration, fitting, cleaning, painting, coating, towing, inspection and maintenance in Wisconsin of motor vehicles, truck bodies and other property of nonresidents are subject to sales tax.

6. Allow Department to Issue Temporary Seller's Permits (1987 Act 27, amend s. 77.52(11)(a) and (12), effective August 1, 1987.)

If the department suspends or revokes a permanent permit, it may grant a temporary permit that is valid for one month and may then grant additional temporary permits if the person pays all amounts owed under Chapter 77 for the month for which the previous temporary permit was issued.

Persons who receive a temporary permit waive the notice requirement under s. 77.61(2).

7. Change Effective Date of and Notification Requirements Relating to Ordinances Repealing County Sales Taxes (1987 Act 27, amend s. 77.70, effective August 1, 1987.)

The repeal of any ordinance to impose county sales and use taxes shall be effective on December 31. A certified copy of a repeal ordinance shall be delivered to the Secretary of Revenue at least 60 days before the effective date of the repeal. Previously, the repeal of the ordinance was the date designated in the repeal ordinance and notice of the repeal was required at least 30 days before the effective date of the repeal.

8. Allow Credit for Local Sales Taxes Paid in Other States (1987 Act 27, amend s. 77.71(3) and (4), effective April 1, 1986.)

Under current law, a contractor may claim a credit for a  $\frac{1}{2}$ % county sales tax previously paid in another county of Wisconsin in computing the use tax payable on construction materials used to improve realty in a county which has adopted the county  $\frac{1}{2}$ % tax. Effective April 1, 1986, the county sales and use tax law is expanded to allow a credit for local sales tax paid in another state in computing the use tax payable.

In addition, the new law clarifies that persons storing, using or otherwise consuming a motor vehicle, boat, snowmobile, mobile home not exceeding 45 feet in length, trailer, semitrailer, all-terrain vehicle or aircraft may claim a credit for a similar  $\frac{1}{2}$ % local sales tax paid in another state when computing the use tax payable if the property must be registered or titled in Wisconsin and is kept in a county having the county sales tax.

9. Provide Cross Reference Change (1987 Act 27, amend s. 77.51(14g)(g) effective for taxable year 1987 and thereafter.

Due to federalization of the corporate franchise/income tax, the reference to s. 71.368 of the Wisconsin Statutes has been changed to section 368 of the Internal Revenue Code.

#### G. INHERITANCE AND GIFT TAXES

1. Phase Out Inheritance and Gift Taxes (1987 Act 27, amend ss. 72.18 (intro.) and 72.83, effective for deaths occurring on or after January 1, 1988, and gifts occurring on or after January 1, 1988.)

The inheritance tax as computed by using the rates under s. 72.18 and the gift tax as computed pursuant to s. 72.83 shall be reduced by 20% for transfers because of deaths occurring or gifts made during 1988, by 40% because of deaths occurring or gifts made during 1989, by 60% because of deaths occurring or gifts made during 1990, by 80% because of deaths occurring or gifts made during 1991 and by 100% because of deaths occurring or gifts made during 1992 and thereafter.

2. Repeal Inheritance and Gift Taxes (1987 Act 27, repeal subch. I (title), subch. II (title), subch. III (title) and subch. IV of ch. 72, ss. 16.007(6)(b)2, 72.01(3), (10), (12), (14), (15), (15m) and (17), 72.05, 72.07, 72.12 to 72.20, 72.21(3), 72.22(4), 72.23 (title), 72.23(2), 72.25, 72.26, 72.28, 72.29, 72.30(1) (title), (1)(b), (2), (3)(a), (3)(b),

(3)(bm), (3)(d), (3)(e), (5) and (6), 72.31 (title), 72.31(2)(b), 72.33(4), 72.34(1) to (5) and (6)(a), 72.61 to 72.64, 867.01(3)(e) and 867.02(2)(e), and nonstatutory provision, effective for deaths occurring on or after January 1, 1992, and gifts occurring on or after January 1, 1992.)

All provisions of Chapter 72 relating to the imposition of inheritance and gift taxes are repealed effective for deaths occurring on or after January 1, 1992, and for gifts made on or after January 1, 1992. (Also see Item G.3.)

3. Impose Estate Tax (1987 Act 27, renumber s. 72.23(1) to 72.23, 72.30(1)(a) to 72.30(1), 72.30(3)(c) to 72.30(3), 72.31(1) and (2) (title), (a) and (c) to 867.05(5) and (6) (title), (a) and (c), 72.34(6)(b) to 72.34 and 72.60 to 72.005 and amend ss. 72.23, 72.30(1) and (3), 867.05(5)(intro.) and (a) and (6)(a), 72.34 and 72.005 as renumbered; amend ch. 72(title), ss. 66.30(2m)(e), 72.01(11), 72.06, 72.22(1) and (3), 72.30(4) and (7), 72.33(1) and (2)(intro.), 73.03(20), 75.521(3)(am)2, 112.06(9), 182.24, 601.415(6), 613.81(1), 701.09(3) and (4), 701.20(12)(d)5, 705.06(1)(intro.) and (1)(d), 851.17, 851.70, 859.01(3), 863.27, 865.16(1)(b), 865.20(2), 867.01(3)(a)2 and (3)(f), 867.02(2)(g), 867.045(4) and 893.33(5); repeal and recreate s. 71.05(1)(g); create s. 72.02, and nonstatutory provision, effective for deaths occurring on or after January 1, 1992.)

For deaths occurring on or after January 1, 1992, an estate tax is imposed upon the transfer of all property that is subject to a federal estate tax and that has a taxable situs in Wisconsin. The tax imposed is equal to the credit allowed for state death taxes against the federal estate tax as finally determined.

4. Update Reference to Internal Revenue Code for Power of Appointment, Qualified Retirement Plans and Installment Payments (1987 Act 27, amend ss. 72.01(17), 72.12(4)(c)1 and 72.22(4)(a), effective for transfers because of deaths occurring on or after August 1, 1987.)

For deaths occurring on or after August 1, 1987, the references to the Internal Revenue Code relating to power of appointment, qualified retirement plans and installment payments are updated to December 31, 1986. Amendments to the Internal Revenue Code enacted after December 31, 1986, do not apply to taxable year 1987 and thereafter.

5. Clarify Deductibility of Expenses of Administering an Estate (1987 Act 27, amend s. 72.14(1)(c), effective August 1, 1987.)

Expenses of administration incurred because of a decedent's death not claimed as a deduction for income tax purposes are allowed for inheritance tax purposes. These expenses include personal representative fees, guardian ad litem fees, court filing fees, personal representative bonds and similar expenses but not including inheritance and estate taxes paid to any other state, territory, district or country; expenses of care, maintenance or repair of real property or tangible personal property incurred or accrued after a decedent's death; interest on obligations of the decedent or the estate incurred or accrued after the decedent's death; and expenses incurred or accrued in the sale of property unless the proceeds are necessary to pay other allowable claims or deductions.

6. Change Inheritance Tax Exemptions for Contributions to Cemeteries (1987 Act 27, amend ss. 72.15(1)(a)2 and 72.17(4)(b), effective for transfers because of deaths occurring on or after August 1, 1987.)

Transfers to qualified charitable cemeteries are exempt from Wisconsin inheritance tax to the extent the transfer is not for the benefit of the decedent or of any other designated person. If the transfer is to a nonprofit cemetery for the specified benefit of the decedent or of any other person designated by the decedent, the transfer is exempt from Wisconsin inheritance tax to the extent of \$500.

Under prior law, transfers of property to charitable organizations including certain cemeteries were exempt from inheritance tax. However, if the transfer was to a cemetery in which the decedent is buried, the transfer was exempt to the extent of \$500.

#### H. EXCISE TAX RULES

1. Increase Motor Vehicle Fuel Taxes (1987 Act 27, amend ss. 78.01(1), 78.14 and 78.40(1), create ss. 78.017 and 78.407, effective August 1, 1987.)

Effective August 1, 1987, the motor fuel and special fuel tax rates are increased by 2¢ per gallon from 18¢ to 20¢.

2. Transfer Collection of Interstate Fuel Taxes to Department of Transportation (1987 Act 27, amend ss. 78.73(1)(d) and (4) and 78.79, renumber s. 78.76 (title) to s. 341.45 (title), renumber ss. 78.76(1) to 341.45(1g) and 78.76(2) and (3) to 341.45(2) and (3) and amend s. 341.45(1g), (2) and (3) as renumbered, and nonstatutory provision effective August 1, 1987.)

The functions relating to the reporting, collection, and auditing of the taxes required to be paid on motor fuel and special fuel imported into Wisconsin in fuel supply tanks of motor vehicles are transferred from the Department of Revenue to the Department of Transportation.

3. Provide for Certain License Issuances (1987 Act 27, create s. 125.51(4)(n) and (o), effective August 1, 1987.)

Exceptions are made for towns and villages to exceed their quotas for the issuance of alcohol beverage licenses if certain conditions are met.

4. Permit Indoor Horseshoe-Pitching Facilities to Remain Open After Closing Hours (1987 Act 27, create ss. 125.32(3)(c) and 125.68(4)(c)4, effective August 1, 1987.)

Present law permits certain types of businesses to remain open after closing hours for the conduct of their regular business but may they not sell intoxicating liquor during closing hours. Indoor horseshoe-pitching facilities are now included in the type of businesses allowed to remain open after closing hours.

5. Increase Cigarette Tax Rate (1987 Act 27, amend s. 139.31(1)(a) and (b), effective September 1, 1987.)

The cigarette tax rate is increased from 25¢ to 30¢ per package of 20 cigarettes.



## I. PROPERTY TAX DEFERRAL LOAN PROGRAM

1. Forgive the General Fund Loan (1987 Act 27, repeal ss. 20.566(8)(wc), 20.855(4)(fb), amend s. 25.38(1)(a) and (2), effective August 1, 1987.)

The \$2,500,000 general fund loan to the elderly property tax deferral program will not be repaid to the general fund.

2. Change Insurer to Lien Holder (1987 Act 27, amend s. 77.65(3), effective for policies issued on or after October 1, 1987.)

Persons whose property is subject to the property tax deferral program must insure that property naming the department as a lien holder rather than as an insured.

3. Clarify Statutory Lien (1987 Act 27, amend s. 77.66(9), effective August 1, 1987.)

Liens the department files in regard to property in the property tax deferral program apply to all loans made under that program including the initial loan and all subsequent loans.

## J. OTHER

1. Limit Notification About Marital Property Agreements (1987 Act 27, amend s. 71.01(1g), effective for taxable year 1986 and thereafter.)

The department must notify a taxpayer whose separate return is under audit that a marital property agreement or unilateral statement is effective for any period during which both spouses are domiciled in Wisconsin only if it is filed with the department before any assessment resulting from the audit is issued. Previously the department had to notify a taxpayer for any return under audit.

2. Eliminate Information Return Reporting Requirements for Interest and Dividends (1987 Act 27, amend ss. 71.10(1)(a) and (15) and 71.11(25), effective for taxable year 1987.

Corporations, individuals, estates and trusts are no longer required to file information returns for payments of interest, dividends, and liquidating dividends.

3. Eliminate Refunds and Balances Due of Less Than \$1 (1987 Act 27, amend s. 71.10(10)(c), create s. 71.10(9)(f), effective for taxable year 1987 and thereafter.)

No income or franchise tax refunds of less than \$1 will be made. Income or franchise taxpayers need not pay a balance due of less than \$1. Under prior law, no income or franchise tax refunds of less than \$2 were paid unless the taxpayer requested payment.

4. Authorize Assessments in the Alternative With Combined Docket Hearings (1987 Act 27, create ss. 71.11(21)(f) and 73.01(4)(i), effective for taxable year 1986 and thereafter.)

The department may make assessments of the entire tax liability under Chapter 71 against more than one taxpayer when, in the department's opinion, more than one taxpayer could be held liable. Additionally, as the purpose of a hearing is primarily to determine which party is liable for the tax on the income, when such alternative assessments are issued, the Tax Appeals Commission will consolidate the appeals and hear them on a combined docket basis.

5. Change Statute of Limitations for Internal Revenue Service Adjustments and Amended Returns (1987 Act 27, amend ss. 71.10(10)(a) and (bn) and 71.11(21)(g)2, effective for taxable year 1987 and thereafter.)

If a taxpayer does not report adjustments made by the Internal Revenue Service to the department within 90 days after the final determination or amended returns filed with the Internal Revenue Service within 90 days of the filing date, the department may make an assessment against the taxpayer or a refund to the taxpayer within 4 years after discovery by the department.

Under prior law, the department could (in the above situation) make an assessment against the taxpayer within 10 years after the date which the original tax return was filed or within 2 years after the date when the federal determination of tax became final, whichever was later.

6. Clarify That Withholding Does Not Apply to Exempt Wages (1987 Act 27, amend s. 71.19(5)(intro.), effective January 1, 1988.)

This provision clarifies that "wages" does not include the amount of remuneration not subject to tax under Chapter 71 of the statutes.

7. Clarify Allocation Between Spouses of Withholding From Marital Income (1987 Act 27, create s. 71.20(25), effective for taxable year 1986 and thereafter.)

Wisconsin income tax withheld from marital income must be allocated between taxpayers in the same manner that income is allocated or would be allocated.

8. Extend Deadlines for Persons Serving in Combat Zones (1987 Act 27, create ss. 73.01(4)(h) and 73.03(34), effective August 1, 1987.)

An individual serving in the Armed Forces or serving in support of the Armed Forces in an area designated as a combat zone is allowed an extension of time for payment of tax, instituting Commission proceedings, filing refund claims, etc., for which a time limit is prescribed. The extension is for the period which a member of the Armed Forces is in a combat zone or is continuously hospitalized outside the United States as a result of injuries received in a combat zone and the next 180 days.

9. Allow for Collection of Fee for Issuing a Warrant (1987 Act 27, create s. 73.03(33), effective August 1, 1987.)

The department may collect an administrative fee of \$3, each time it issues a warrant under s. 71.13(3)(a), from the person against whom the warrant is filed.

10. Allocate Delinquent Tax Collection Fees to Department (1987 Act 27, create s. 20.566(1)(hq), effective August 1, 1987.)

All monies received from fees for issuing a warrant and from the reimbursement by delinquent taxpayers of costs incurred by the Department of Revenue to pay court costs and fees under Chapter 814 are to be appropriated to the Department of Revenue.

11. Require Withholding Study (1987 Act 27, nonstatutory provision, effective August 1, 1987.)

The department is required to study the need for changes in the withholding tables for the individual income tax due to state law changes affecting taxable years 1986 and 1987. Notwithstanding s. 71.20(2m), Wis. Stats., adjusted withholding tables may not be issued before completion of the study.

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