

A. INDIVIDUAL AND FIDUCIARY INCOME TAXES

1. Exceptions to Definition of Internal Revenue Code for Individuals, Estates, and Trusts Provided for 1987 (1987 Act 399, amend s. 71.02(2)(d)13 and create nonstatutory provision, effective for taxable year 1987.)

For individuals, estates, and trusts, except nuclear decommissioning trust or reserve funds, for taxable year 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987, with the following exceptions:

- a. For taxable years that end after July 1, 1987, and before December 31, 1987, "Internal Revenue Code" does not include changes to the federal Internal Revenue Code made by sections 142 (limitations on deductions for meals, travel, and entertainment), 802 (simplified dollar-value LIFO method for certain small businesses), 803 (capitalization and inclusion in inventory costs of certain expenses), and Subtitle A of Title XI (pensions and deferred compensation) of the Tax Reform Act of 1986 (P.L. 99-514).
 - b. Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) apply for Wisconsin purposes at the same time as for federal purposes.
 - c. The transitional rules under section 10104 of the Revenue Act of 1987 (P.L. 100-203), relating to the treatment of indirect expenses passed through to shareholders of regulated investment companies, including mutual funds, apply for Wisconsin purposes as they apply for federal purposes.
2. Reference to Internal Revenue Code for Individuals, Estates, and Trusts Updated for 1988 (1987 Act 399, amend s. 71.02(2)(d)13 and create s. 71.02(2)(d)14 and 15 and (4), see effective dates below.)

The law changes described below apply to individuals, estates, and trusts, except nuclear decommissioning trust or reserve funds.

- a. For taxable years that end after July 1, 1988, and before December 31, 1988, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, with the following exceptions:
 - (1) Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) The transitional rules under section 10104 of the Revenue Act of 1987 (P.L. 100-203), relating to the treatment of indirect expenses passed through to shareholders of regulated investment companies, including mutual funds, apply for Wisconsin purposes as they apply for federal purposes.
- b. For taxable years that begin after December 31, 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to

December 31, 1987. At the taxpayer's option, "Internal Revenue Code" includes any revisions to section 67(c) of the Internal Revenue Code adopted after January 1, 1988, that relate to the indirect expenses of regulated investment companies, including mutual funds.

3. Small Business Stock Requirements Changed (1987 Act 399, amend s. 71.02(2)(fr)2, effective for taxable year 1988 and thereafter.)

In order for a security to qualify for 100% exclusion of capital gain as a small business stock, the issuing corporation must certify that, in addition to other requirements, it had no more than 500 employees covered by Wisconsin unemployment insurance, including employees of any corporation that owns more than 50% of the stock of the issuing corporation. Previously, the corporation could have no more than 200 employees covered by Wisconsin unemployment insurance.

4. Allocation of Negative Income Items Clarified (1987 Act 393, amend s. 71.02(2)(me), effective for taxable year 1987 and thereafter.)

There is no allocation of negative income items to the spouse who does not own the nonmarital property which generates net rents or other net returns which are marital property and which are derived from the investment, rental, licensing, or other use of nonmarital property. Negative income items include losses, depreciation, recapture of benefits, offsets, depletion, deductions, penalties, expenses, or other similar items.

This exception to the general rule of allocating negative income items in the same manner as positive income is allocated applies only to persons filing individual or separate returns. On a joint return, the allocation is not necessary because all negative income items and all net returns and rents are reportable on the return.

5. Distributions That Are Taxable to Shareholders of Federal S Corporations Which Have Elected Not to Be Wisconsin Tax-Option Corporations (1987 Act 399, create s. 71.05(1)(a)31, effective for tax-option corporation shareholder's taxable year 1987 or 1988, as appropriate to conform the shareholder's treatment of income, loss, and deduction to the tax-option corporation's treatment.)

This amendment clarifies that an addition modification is required to be made by shareholders for any amount received as a proportionate share of the earnings and profits of a corporation that is an S corporation for federal purposes, but has elected not to be a tax-option corporation for Wisconsin purposes, if those earnings were accumulated during the years such a corporation elected out of tax-option status for Wisconsin purposes.

6. Subtract Modification for Exempt Interest Reduced by Related Expenses on Fiduciary Return (1987 Act 399, amend s. 71.05(1)(b)1, effective for taxable year 1988 and thereafter.)

The subtraction modification for the amount of any interest or dividend income which is by federal law exempt from state taxation must be reduced

by the related expenses in regard to both the distributable and nondistributable interest and dividend income on a fiduciary return.

7. Carryforward of Limited Farm Losses Allowed (1987 Act 399, create s. 71.05(1)(b)14, effective for taxable year 1988 and thereafter, in respect to the year when losses may be subtracted, and to taxable year 1986 and thereafter, in respect to the year losses that may be subtracted are incurred.)

Farm losses added back to income in taxable year 1986 and thereafter under s. 71.05(1)(a)26, Wis. Stats., may be carried forward for up to 15 years and subtracted from farm income in a later taxable year provided the farm income is generated by the same farm activity that generated the loss.

8. Assets Acquired From a Decedent Qualify for Capital Gain Modification Regardless of Holding Period (1987 Act 399, amend s. 71.05(1)(b)16, effective for taxable year 1987 and thereafter.)

A subtraction modification is provided for 60% of capital gain on all assets acquired from a decedent regardless of the length of time the property is held by an estate, or by persons other than the estate of the decedent.

9. Wisconsin Capital Gain Modification Does Not Apply to Sale of Dairy Cattle Under Milk Production Termination Program (1987 Act 399, amend s. 71.05(1)(b)16, effective for taxable year 1987 and thereafter.)

Section 406 of the Tax Reform Act of 1986 retained the 60% exclusion of capital gains from the sales of dairy cattle under the milk production termination program. To prevent a double 60% exclusion, s. 71.05(1)(b)16, Wis. Stats., is amended to provide that the Wisconsin 60% exclusion of capital gains is not allowed for sales of dairy cattle under the milk production termination program.

10. Nonrecognition of Gain or Loss for Exchange of Marital Property Interest Between Surviving Spouse and Distributee (1987 Act 393, create s. 71.05(1)(a)32, (b)17 and (t), effective for taxable year 1987 and thereafter.)

A surviving spouse and a distributee may exchange their one-half interests in two assets in order to achieve a whole interest in one asset. Under section 1001 of the Internal Revenue Code, a gain or loss may result because of a difference in basis. For Wisconsin tax purposes the exchange is not taxable and any gain or loss included in federal adjusted gross income shall be subtracted or added, as appropriate, in computing Wisconsin taxable income.

The basis of marital property exchanged between a surviving spouse and a distributee is determined as if the property were acquired by gift from the surviving spouse or the distributee.

11. Taxation of Lottery Winnings Received by Nonresident Individuals (1987 Act 119, amend s. 71.07(1), effective for taxable year 1987.)

Income of nonresident individuals from the Wisconsin lottery under Chapter 565 of the Wisconsin Statutes is taxable by Wisconsin.

12. Taxation of Lottery Winnings Received by Nonresident Estates and Trusts (1987 Act 399, amend s. 71.07(1), effective for taxable year 1988 and thereafter.)

Income nonresident estates and trusts receive from the Wisconsin state lottery under ch. 565, Wis. Stats., is subject to Wisconsin tax. For 1987, only nonresident individuals were subject to Wisconsin tax on income received from the state lottery.

13. Taxation of Pari-Mutuel Wager Winnings and Purses (1987 Act 354, amend s. 71.07(1), effective for taxable year 1988 and thereafter.)

Income of a nonresident individual, estate, or trust from pari-mutuel wager winnings and purses subject to s. 562.07(4)(a), Wis. Stats., is taxable by Wisconsin.

14. Tax Treatment of Income From Limited Partnership Interests Changed (1987 Act 399, repeal s. 71.07(1g)(b)2, renumber s. 71.07(1g)(b)1 to 71.07(1g)(b) and amend 71.07(1g)(b) as renumbered, effective for partners' taxable year 1988 and thereafter.)

All partners who are not full-year Wisconsin residents are subject to taxation by Wisconsin for that part of the taxable year during which they are nonresidents on their proportionate share of all items of partnership income, loss, or deduction attributable to a business in, services performed in, or rental of property in Wisconsin. Previously, limited partners who were precluded from management of the partnership and who could not act for the partnership did not recognize any items of income, loss, or deduction of the partnership for the part of the taxable year they were nonresidents of Wisconsin.

15. Rehabilitation of Nondepreciable Historic Property Credit (1987 Act 399, create ss. 71.09(12q), 71.65(1)(fr) and (2)(fh), effective for taxable years 1989 and 1990 for projects begun after December 31, 1988.)

For taxable years 1989 and 1990, any person may credit against taxes otherwise due an amount equal to 25% of the approved costs of preservation or rehabilitation of historic property, except that the credit may not exceed \$50,000 for any preservation or rehabilitation project. The preservation or rehabilitation costs must be incurred and the claim submitted by the owner of the historic property.

The credit is only allowable on nondepreciable historic property. The State Historical Society must certify the following:

- a. The property is listed on the national register of historic places in Wisconsin or the state register of historic places, or is located in a historic district which is listed in the national register of

historic places in Wisconsin or the state register of historic places, and is certified by the state historic preservation officer as being of historic significance to the district.

- b. The proposed preservation or rehabilitation complies with standards promulgated under s. 44.02(24), Wis. Stats.
- c. The property is subject to an easement, covenant, or similar restriction running with the land which is held by the State Historical Society or by an entity approved by the State Historical Society, which protects the historic features of the property and which, at the time the credit is received, will remain effective for a term of at least 20 years.

The preservation or rehabilitation work must be completed within 2 years after the commencement date, except in the case of any preservation or rehabilitation which is initially planned for completion in phases, in which case the work must be completed within 5 years after the commencement date.

The expenditures for preservation or rehabilitation of the historic property which are approved and incurred within the prescribed time period must exceed the Wisconsin adjusted basis of the historic property on the date that preservation or rehabilitation is commenced or \$1,000, whichever is greater.

The costs cannot be incurred to acquire any building or interest in a building or to enlarge an existing building and cannot be incurred before the State Historical Society approves the preservation or rehabilitation.

The Wisconsin adjusted basis of the historic property shall be reduced by the amount of any credit. A credit may be carried forward to the next 5 taxable years to the extent not offset against taxes for the year the expense was incurred and to the extent not offset by taxes otherwise due in all intervening years between the year for which the credit was computed and the year for which the carryforward is claimed.

In the case of any short taxable year, qualified expenses shall be annualized as prescribed by the department. In the case of a change in ownership or business of a corporation, section 383 of the Internal Revenue Code applies to the carryover of unused credits. The credit may not be claimed by a partnership, except a publicly traded partnership treated as a corporation under s. 71.02(1)(af), Wis. Stats., or by a tax-option corporation or by partners or shareholders of a tax-option corporation. A rehabilitation of nondepreciable historic property credit may not be claimed for any expenses which are used in computing the historic structure credit provided by s. 71.09(12p), Wis. Stats.

16. Historic Structure Credit (1987 Act 395, create ss. 71.09(12p) and 71.65(1)(fp) and (2)(fg), effective for taxable years 1989 and thereafter for projects begun after December 31, 1988.)

For taxable years 1989 and thereafter, any person may claim as a credit, up to the amount of taxes otherwise due, an amount equal to 5% of costs of qualified rehabilitation expenditures as defined in section 48(g)2 of the Internal Revenue Code, as amended to December 31, 1986, for certified structures.

The credit may not be carried forward. Any credit awarded will reduce the Wisconsin adjusted basis of the property. The provisions regarding annualization, change of business or ownership, administration, and timely claim for the research credit under s. 71.09(12r), Wis. Stats., will apply to the historic structure credit.

Individual partners and shareholders in a tax-option (S) corporation may claim the credit based on eligible costs incurred by a partnership or tax-option (S) corporation, in proportion to the ownership interest of each partner or shareholder.

17. Development Zones - Tax Benefits for Taxpayers Located in Development Zones (1987 Act 328, amend ss. 71.02(1)(bg)15 and (c)(intro.), 71.09(12r)(a), 71.60(1)(intro.) and 71.65(1)(L) and (2)(g) and create ss. 71.05(1)(a)32 and (b)17, 71.09(12di), (12dj), (12dL), (12ds), and (12r)(h), 71.11(44)(c)13, 71.65(1)(go) and (gp) and (2)(fb) and (fc), and 73.03(35), effective for taxable year 1988, except that ss. 71.11(44)(c)13, 71.60(1)(intro.), and 73.03(35) are effective April 28, 1988.)

A development zone program administered by the Department of Development (DOD) is created. DOD may designate up to 8 development zones in Wisconsin based on evaluation of areas nominated by local governments. Businesses which locate or expand in the zone or qualified incubators located near the zones are eligible to receive certain state tax credits.

An area will be designated as a development zone for a period of 84 months. However, DOD may also grant three 12-month extensions upon application by a local governing body. An area's status as a development zone may end sooner. The bill provides that an area's designation as a development zone expires when tax credits attributed to the development zone exceed the zone's share (allocated under rules promulgated by DOD) of \$14,000,000.

DOD will have access to income and franchise tax information to facilitate its administration of the program.

DOD is required to certify businesses as eligible to receive tax credits for operation within the development zone, after considering criteria based on the business's effect on the economy of the development zone.

DOD is required to set limits on the amount of tax credits a business may receive for operating in a development zone, after reconsidering certain of the criteria on which certification is based. In addition, DOD must set the limit reasonably near to a recommended amount established by

rule, based on the number and kind of jobs affected. DOD may increase a limit in tax benefits by following the procedure for establishing the original limit. DOD may reduce a limit on tax benefits if the limit was based on misestimated or inaccurate data.

The following income and franchise tax credits are created, based on business activities in a development zone.

- a. Investment Credit. Eligible persons may claim a credit of 2.5% of the amount expended to purchase tangible personal property or 1.75% of the amount expended to purchase tangible personal property that is expensed under section 179 of the Internal Revenue Code (IRC). The credit will be available only for qualified new and used property that is used in the conduct of a business operation at a location within a development zone. If the property is mobile, the base of its operations will have to be in the zone. Only the person who purchases the property can claim the credit and if the credit is claimed for used property, it cannot be used at a location outside of the zone. No investment credit will be allowed for amounts expended to purchase property used as a basis for the development zones location credit.

The investment credit and any carryforwards can only be used to offset taxes due on income attributed to business operations of the claimant in the development zone or the taxes on income from directly related business operations. The credit will be passed through to S corporation shareholders and partners proportionate to their ownership interests in the business. Federal recapture provisions will apply to the credit in normal recapture situations and in cases where the property for which the credit was claimed or its base of operations is moved out of the zone. If the certification for tax benefits is revoked or the development zone ceases to exist, credits may not be claimed for that year and unused credits may not be carried forward to succeeding years. Also, if the claimant ceases business operations in the zone, unused credit amounts may not be carried forward to succeeding years. In order to receive the investment credit, a claimant must submit, along with the tax return, a copy of the certification for tax benefits and a statement by the Department of Development verifying both the amount of investment and the eligibility of the investment.

- b. Jobs Tax Credit. A refundable tax credit is provided for the amount of the federal targeted jobs tax credit for qualified wages of employees who work for the claimant within a development zone. Under the federal targeted jobs tax credit, a tax credit may be claimed by employers who hire individuals from certain target groups with respect to wages and salaries paid to these individuals. The credit is equal to 40 percent of the first \$6,000 of qualified first-year wages paid to each such individual during the taxable year. Qualified wages are the wages paid (or incurred) during the tax year to members of the targeted group. The credit can be claimed for qualified wages paid in the first two years the employee works for the claimant and the definition of eligible target groups is expanded to include:

(1) Dislocated Farmers

These individuals are defined as persons who immediately before becoming unemployed were farmers and also meet the federal definition of dislocated workers.

(2) Persons Unemployed as a Result of a Business Facility Closing

This group includes persons who are not currently employed in a full-time job and who have been unemployed for a period of 60 days or more within the last two years as a result of a business facility closing in the state. "Business facility closing" is defined as the termination, within one year, of at least 50% of the employees of a business that before termination had at least 20 full-time employees.

(3) Persons Whose Unemployment Benefits Have Expired

This group includes persons who are not currently employed in a full-time job who have received unemployment compensation benefits for at least 60 days within the last two years and whose unemployment compensation benefits have expired.

An employee can be certified at any time within 30 days after being hired. Wages of leased or rented employees can only be claimed by their employer. The credit will be passed through to S corporation shareholders and partners in proportion to their ownership interest. Unused credit amounts will be refundable. No credit will be provided if a claimant's certification is revoked, the development zone ceases to exist, or the claimant ceases business operations in the development zone.

To receive the credit, a claimant is required to include along with his or her tax return:

- (1) A copy of the certification of eligibility for tax benefits.
- (2) Federal withholding forms or equivalent information concerning the wages paid to target group employees.
- (3) A statement of verification from the Department of Development of the information provided and verification that the employees are working or based in the development zone.
- (4) A copy of federal targeted jobs tax credit returns.

- c. Location Credit. Eligible persons may claim a tax credit of 2.5% of amounts expended on projects begun after the designation of a development zone to acquire, construct, rehabilitate, remodel, or repair real property in a development zone. However, no credit is allowed for amounts expended to purchase property used as a basis for the development zones investment credit.

The location credit and any carryforwards can only be used to offset taxes due on income attributed to business operations of the claimant in the development zone or the taxes on income from directly related business operations. The credit passes through to S corporation shareholders and partners proportionate to their ownership interests in such business. If the certification for tax benefits is revoked or the development zone ceases to exist, the credit may not be claimed for that year and unused credits may not be carried forward to succeeding years. Also, if the claimant ceases business operations in the zone, unused credit amounts may not be carried forward to succeeding years. In order to receive the location credit, a claimant must submit, along with the tax return, a copy of the certification for tax benefits and a statement by the Department of Development verifying both the amount of investment and the eligibility of the investment.

d. Sales Tax Credit

A refundable income tax credit will be available for the amount of sales taxes paid on investment credit property that is used in a development zone and also for the amount of sales taxes on the claimant's purchase, lease, or rental of construction materials and supplies and other materials used to construct, rehabilitate, repair, or remodel real property located in a development zone. The credit is first used to offset taxes otherwise due on or measured by the claimant's income. Unused credit amounts are refundable. The credit passes through to S corporation shareholders and partners based on their proportionate share of ownership in such business. No credit will be provided if a claimant's certification is revoked, the development zone ceases to exist, or the claimant ceases business operations in the development zone. A credit may not be claimed unless the claimant submits, along with the tax return, a certification of eligibility for tax benefits, a statement from the Department of Development verifying the amount of eligible sales taxes paid, and copies of invoices, receipts, or other records which show the amount of eligible sales taxes paid.

The current tax credit of 5% of eligible research expenditures for corporations is increased to 10% for eligible expenditures on research conducted in a development zone. The current research and development credit is equal to 5% of the difference between a company's noncapital research expenditures in Wisconsin in the current year and the average of such expenditures in Wisconsin in the "base period," defined to be the previous three years.

The 10% research credit and any carryforwards may only be used to offset taxes due on income attributed to business operations of the claimant in the development zone or the taxes on income from directly related business operations. If the certification for tax benefits is revoked or the development zone ceases to exist, credits may not be claimed for the year and unused credits may not be carried forward to succeeding years. Also, if the claimant ceases business operations in the zone, unused credit amounts may not be carried forward to succeeding years.

In order to receive the 10% research credit, a claimant must submit, along with the tax return, a copy of the certification for tax benefits and a statement by the Department of Development verifying both the amount of investment and the eligibility of the investment.

The amount of each of the credits described above is required to be included in the Wisconsin taxable income of the claimant.

The Department of Revenue is given the authority to deny a portion of the credits explained above if granting the full amount claimed would bring the total of the credits granted to the claimant over the limits established by the Department of Development.

18. School Property Tax Credit Percentage Increased to 8.5% (1987 Act 419, amend s. 71.53(2), effective for taxable year 1988 and thereafter.)

A taxpayer may claim as a credit against, but not to exceed the amount of individual income tax, 8.5% of the first \$2,000 of property taxes or rent constituting property taxes (\$1,000 for married persons filing separately). In taxable year 1987, only 6.9% of property taxes or rent constituting property taxes was used to offset income taxes.

19. Alternative Minimum Tax - Federal Standard Deduction, Itemized Deductions and Personal Exemptions Not Subtracted Under the Tax Benefit Rule When Computing Alternative Minimum Taxable Income for Wisconsin (1987 Act 399, amend s. 71.60(4), effective for taxable year 1988 and thereafter.)

The starting point for the Wisconsin alternative minimum tax is federal alternative minimum taxable income. The federal alternative minimum taxable income may be reduced to prevent the inclusion of any amounts, except the federal standard deduction, itemized deductions, and personal exemptions, that do not reflect a benefit in respect to the Wisconsin income tax. Under prior law, an exception was not provided for the federal standard deduction, itemized deductions, and personal exemptions which resulted in these items being subtracted to arrive at Wisconsin alternative minimum taxable income.

20. When Department May Credit Overpayments Against Certain Liabilities of Taxpayer (1987 Act 393, repeal s. 71.09(10)(a) and (b), renumber s. 71.09(10)(intro.) to 71.09(10) and amend s. 71.09(10) as renumbered, and create s. 71.09(10m), effective May 3, 1988.)

For persons filing individual or separate Wisconsin returns, the department is authorized to presume that any overpayment, homestead or farmland credit, or refund on the individual or separate return is nonmarital property which may be used to offset any taxes due, a debt owed the state under s. 71.105, Wis. Stats., or delinquent support and maintenance payments under s. 46.255, Wis. Stats., owed by the filer. A 2-year period is provided for a spouse or former spouse of the filer to claim a refund of any incorrectly credited amount by showing by clear and convincing evidence that the overpayment, credit, or refund was nonmarital property of the nonobligated spouse.

For married persons filing a joint Wisconsin return, the department may credit overpayments, credits, or refunds against the liability of either or both spouses for taxes, debts to the state under s. 71.105, Wis. Stats., or delinquent child support obligations under s. 46.255, Wis. Stats., incurred during marriage after December 31, 1985, or after both spouses are domiciled in Wisconsin, whichever is later. However, the department may only credit a portion of the overpayments, credits, or refunds against certain debts to the state or certain delinquent child support obligations not subject to the family and marriage debt satisfaction provisions of s. 766.55(2)(b), Wis. Stats., and against pre-marital date or predetermination date tax liabilities of a spouse. The department is no longer required to credit overpayments, credits, or refunds in accordance with the marshaling provisions of s. 766.55(2)(d), Wis. Stats.

The department is required to provide notice to the spouses of its intent to use the crediting process and allow the nonobligated spouse 20 days after notice to prove that all or part of the amounts to be credited are the nonmarital property of the nonobligated spouse. Failure to provide notice will allow the spouse 2 years in which to file a claim for refund of any incorrectly credited amount.

21. Innocent Spouse Protection from Tax Liability Extended to Former Spouses (1987 Act 393, create s. 71.11(2r), effective for taxable year 1988 and thereafter.)

Current law provides innocent spouse protection when spouses file joint or separate returns. This innocent spouse protection is extended to include former spouses whether a former spouse files an individual return as a single person or a separate or joint return after remarriage. Section 66(c) of the Internal Revenue Code provides the following criteria for protecting an innocent spouse:

- a. The individual did not know and had no reason to know of an item of marital property income.
- b. It is inequitable to include such an item of marital property in the individual's gross income, taking into account all facts and circumstances.

22. Satisfaction of Tax Liability if Innocent Spouse Provisions Apply (1987 Act 393, amend s. 71.13(1)(d), effective May 3, 1988.)

When an innocent spouse is relieved of a tax obligation under s. 71.11(2), (2m), or (2r), Wis. Stats., the tax obligation of the other spouse or former spouse may be satisfied only under the marshaling provisions of s. 71.09(7)(e), (10), (10m), or (11)(e), Wis. Stats.

23. Addition-to-Tax Penalty Changed to Interest (1987 Act 399, amend ss. 71.21(1m)(am), (11), and (12)(intro.) and (c) and 71.23, effective for taxable year 1988 and thereafter.)

The addition-to-tax penalty imposed on the underpayment of estimated income taxes of individuals and fiduciaries is changed to interest at the

rate of 12% per year on the amount of the underpayment for the period of the underpayment.

24. Order of Computation Revised for Computing Tax Liability (1987 Act 399, 1987 Act 395 and 1987 Act 328, create s. 71.65(1)(fp), effective May 3, 1988, create s. 71.65(1)(fr), effective for taxable year 1989 for projects begun after December 31, 1988, and create s. 71.65(1)(go) and (gp), effective for taxable year 1988 and thereafter.)

All persons other than corporations shall compute their tax liability in the following order for the 1988 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. Historic structure credit under s. 71.09(12p)
- f. Historic rehabilitation credit under s. 71.09(12q)*
- g. Alternative minimum tax under s. 71.60
- h. Married couple credit under s. 71.09(7m)
- i. Development zones investment credit under s. 71.09(12di)
- j. Development zones location credit under s. 71.09(12dL)
- k. Payments to other states under s. 71.09(8)
- l. The total of claim of right credit under s. 71.09(12cr), farmland preservation credit under s. 71.09(11), homestead credit under s. 71.09(7), development zones sales tax credit under s. 71.09(12ds), development zones jobs credit under s. 71.09(12dj), estimated tax payments under s. 71.21, and taxes withheld under s. 71.19.

* The historic rehabilitation credit is only available for taxable year 1989 and 1990.

25. Publicly Traded Partnerships Treated as Corporations

See Item B3.

26. Tax Unrelated Business Income of Tax-Exempt Organizations and Trusts

See Item B4.

B. CORPORATION FRANCHISE OR INCOME TAXES

1. Exceptions to Definition of Internal Revenue Code for Corporations for 1987 (1987 Act 399, renumber s. 71.02(1)(bg)(intro.) to 71.02(1)(bf)1 and amend s. 71.02(1)(bf)1, as renumbered, effective for taxable year 1987.)

For corporations other than insurance companies, tax-option corporations, regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), and real estate investment trusts (REITs), for taxable year 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987, with the following exceptions:

- a. For 1987 taxable years that end after July 1 and before December 31, "Internal Revenue Code" does not include changes to the federal Internal Revenue Code made by sections 142 (limitations on deductions for meals, travel, and entertainment), 801 (limitations on use of cash method of accounting), 802 (simplified dollar-value LIFO method for certain small businesses), and 803 (capitalization and inclusion in inventory costs of certain expenses) of the Tax Reform Act of 1986 (P.L. 99-514).
 - b. Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) apply for Wisconsin purposes at the same time as for federal purposes.
 - c. The Internal Revenue Code is modified as provided in s. 71.02(1)(bg), Wis. Stats.
2. Reference to Internal Revenue Code for Corporations Updated for 1988 (1987 Act 399, renumber s. 71.02(1)(bg)(intro.) to 71.02(1)(bf)1 and amend s. 71.02(1)(bf)1 as renumbered, and create s. 71.02(1)(bf)2 and 3, and (bg)(intro.) and nonstatutory provision, see effective dates below.)

The law changes described below apply to corporations other than insurance companies, tax-option corporations, regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), real estate investment trusts (REITs), and nonprofit corporations subject to a tax on unrelated business income.

- a. For taxable years that end after July 1, 1988, and before December 31, 1988, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, with the following exceptions:
 - (1) Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) The Internal Revenue Code is modified as provided in s. 71.02(1)(bg), Wis. Stats.
- b. For taxable years that begin after December 31, 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the modifications provided in s. 71.02(1)(bg), Wis. Stats.

c. The transitional rules under section 10223(d) of the Revenue Act of 1987 (P.L. 100-203), relating to mirror subsidiaries, apply for Wisconsin tax purposes as they apply for federal tax purposes.

3. Publicly Traded Partnerships Treated as Corporations (1987 Act 399, renumber s. 71.02(1)(a) to 71.02(1)(at), amend ss. 71.09(11)(a)1.c and (12r)(L) and 71.10(2)(d) and (3)(a) and (b), and create s. 71.02(1)(af) and (2)(ej) and nonstatutory provision, effective May 17, 1988.)

Publicly traded partnerships treated as corporations in section 7704 of the Internal Revenue Code will also be treated as corporations for Wisconsin franchise or income tax purposes. The transitional rules under section 10211 of the Revenue Act of 1987 (P.L. 100-203), relating to existing partnerships, apply for Wisconsin purposes as they apply for federal purposes.

Publicly traded partnerships must file a Wisconsin corporate franchise or income tax return rather than a Wisconsin partnership return. The return is due on or before the 15th day of the 3rd month following the close of the taxable year. Publicly traded partnerships are taxable at the Wisconsin corporate tax rate of 7.9%. Other Wisconsin provisions relating to the treatment of corporations apply to publicly traded partnerships. For example, publicly traded partnerships may qualify for farmland preservation credit and the research credits.

The partners of publicly traded partnerships treated as shareholders for federal purposes will also be treated as shareholders for Wisconsin purposes.

4. Tax Unrelated Business Income of Tax-Exempt Organizations and Trusts (1987 Act 399, amend ss. 71.01(3)(a), 71.02(1)(f), 71.07(2)(intro.), and 71.10(1)(intro.) and create ss. 71.02(1)(bhm), 71.04, 71.07(2)(f), and 71.10(1m), effective for taxable year 1988 and thereafter.)

Beginning with the 1988 taxable year, every organization exempt from Wisconsin franchise or income tax under s. 71.01(3)(a), Wis. Stats., that is required to report unrelated business income for federal purposes on federal Form 990-T, must report unrelated business income to Wisconsin if the gross income from an unrelated trade or business is \$1,000 or more. In addition, trusts which are exempt from federal taxation under section 501(a) of the Internal Revenue Code, including certain pension, profit-sharing, and stock bonus plans, and individual retirement arrangements (IRAs), and required to report unrelated business income for federal purposes on federal Form 990-T must report unrelated business income to Wisconsin if the gross income from unrelated trade or business is \$1,000 or more.

The unrelated business taxable income subject to the Wisconsin tax is the amount computed under section 512 of the Internal Revenue Code as amended to December 31, 1987. All three of the following conditions must be met before it can be determined that a tax-exempt organization or trust is engaged in an unrelated trade or business:

- a. The activity must be a trade or business. A trade or business is any activity carried on for the production of income from selling goods or performing services.
- b. The trade or business must be carried on regularly. Business activities are regularly carried on if they show a frequency and continuity, and are pursued in a manner similar to comparable commercial activities of nonexempt organizations.
- c. The trade or business must not be substantially related to the organization's exempt purpose or function. "Not substantially related" means that the activity that produces the income does not contribute importantly to the exempt purposes of the organization, other than the need for funds.

Those tax-exempt organizations and trusts which are required to file a federal return and have an unrelated trade or business in Wisconsin must file a Wisconsin tax return. A special Wisconsin form will be developed. The return will be due at the same time as for federal purposes: the 15th day of the 5th month after the end of the organization's taxable year, except an employees' trust or an IRA must file by the 15th day of the 4th month after the end of the taxable year.

All organizations subject to the tax on unrelated business taxable income, except trusts and IRAs, are taxable at the Wisconsin corporate tax rate of 7.9%. All exempt trusts and IRAs are taxable at the Wisconsin income tax rates that apply to trusts. Other provisions relating to the treatment of corporations or trusts, as appropriate, apply to tax-exempt organizations and trusts.

- 5. Definition of Internal Revenue Code for Corporations Changed for 1988 (1987 Act 399, repeal s. 71.02(1)(bg)18 and repeal and recreate s. 71.02(1)(bg)17, effective for taxable year 1988 and thereafter.)

The "Internal Revenue Code" for the taxable year 1988 and thereafter for purposes of computing net income of a corporation does not include sections 501 to 511 and 513 to 528 of the federal Internal Revenue Code (relating to exempt organizations), except as they pertain to the definition of unrelated business taxable income in section 512. Exempt organizations for Wisconsin tax purposes are those qualifying under s. 71.01(3)(a), Wis. Stats. (See Item B4.)

- 6. Exception to Definition of Internal Revenue Code for Insurance Companies for 1987 (1987 Act 399, amend s. 71.01(4)(g)11, effective for taxable year 1987.)

For insurance companies for taxable year 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987, except that changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) apply for Wisconsin purposes at the same time as for federal purposes.

7. Reference to Internal Revenue Code for Insurance Companies Updated for 1988 (1987 Act 399, amend s. 71.01(4)(g)11 and create s. 71.01(4)(g)12, effective for taxable years that begin after December 31, 1987.)

For insurance companies for taxable years that begin after December 31, 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987.

8. Exceptions to Definition of Internal Revenue Code for Regulated Investment Companies, Real Estate Mortgage Investment Conduits, and Real Estate Investment Trusts for 1987 (1987 Act 399, amend s. 71.02(1)(c)12, effective for taxable year 1987.)

For regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), and real estate investment trusts (REITs), for taxable year 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987, with the following exceptions:

- a. For taxable years that end after July 1, 1987, and before December 31, 1987, "Internal Revenue Code" does not include changes to the federal Internal Revenue Code made by sections 142 (limitations on deductions for meals, travel, and entertainment), 801 (limitations on use of cash method of accounting), 802 (simplified dollar-value LIFO method for certain small businesses), and 803 (capitalization and inclusion in inventory costs of certain expenses) of the Tax Reform Act of 1986 (P.L. 99-514).
 - b. Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) apply for Wisconsin purposes at the same time as for federal purposes.
 - c. 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.
9. Reference to Internal Revenue Code for Regulated Investment Companies, Real Estate Mortgage Investment Conduits, and Real Estate Investment Trusts Updated for 1988 (1987 Act 399, amend s. 71.02(1)(c)12 and create s. 71.02(1)(c)13 and 14, see effective dates below.)

The law changes described below apply to regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), and real estate investment trusts (REITs).

- a. For taxable years that end after July 1, 1988, and before December 31, 1988, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, with the following exceptions:
 - (1) Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) apply for Wisconsin purposes at the same time as for federal purposes.

- (2) 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.
 - (3) Additions or subtractions must be made to reflect differences between the depreciation or adjusted basis of property disposed of during the taxable year for federal and Wisconsin tax purposes.
- b. For taxable years that begin after December 31, 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the following exceptions:
 - (1) 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.
 - (2) Additions or subtractions must be made to reflect differences between the depreciation or adjusted basis of property disposed of during the taxable year for federal and Wisconsin tax purposes.
- 10. Treatment of Corporate Partner's Share of Partnership Gross Receipts, Income, or Loss (1987 Act 399, repeal s. 71.07(1m)(b)15 and (2)(cr)15 and amend s. 71.07(1m)(b)14 and (2)(cm)8, effective for partners' taxable year 1988 and thereafter.)

 Apportionable income includes a partner's share of the partnership's income or loss. Sales for purposes of the sales factor includes a partner's share of the partnership's gross receipts.
- 11. Gross Receipts and Gain From Sale of Intangibles Are Not Sales for Purposes of Sales Factor (1987 Act 399, amend s. 71.07(2)(cr)7, effective May 17, 1988.)

 The amendment to s. 71.07(2)(cr)7, Wis. Stats., clarifies that gross receipts and gain or loss from the sale of intangible assets, except gross receipts from the sale of inventory, are not "sales" for purposes of computing the Wisconsin sales factor.
- 12. Pari-Mutuel Wager Winnings and Purses Are Apportionable Income but Excluded From Sales Factor (1987 Act 354, create s. 71.07(1m)(b)24 and (2)(cr)16, effective taxable year 1988 and thereafter.)

 Income of corporations from pari-mutuel wager winnings and purses subject to s. 567.065(3)(a) and (b) and (3m)(a) and (b), Wis. Stats., is considered apportionable income. However, "sales" for purposes of computing the Wisconsin sales factor, does not include such winnings or purses.
- 13. Credit for Contributions to Wisconsin Housing and Economic Development Authority (1987 Act 399, amend s. 71.09(12m)(a), effective May 17, 1988, and amend s. 71.65(2)(f) and create s. 71.09(12m)(title), effective July 1, 1988.)

The Act abolishes the Community Development Finance Authority (CDFA) on July 1, 1988, and requires the Wisconsin Housing and Economic Development Authority (WHEDA) to assume the responsibilities of CDFA. Prior law provided a tax credit to corporations who contributed money to CDFA and bought stock or a partnership interest in the Community Development Finance Company. The Act retains the tax credit for taxpayers who contribute money to WHEDA and buy stock or a partnership interest in the Community Development Finance Company.

14. Carryback of Capital Losses by Corporations - Special Statute of Limitations (1987 Act 399, amend s. 71.10(10)(d) and create s. 71.10(10)(em), effective for capital losses carried back to taxable year 1987 and thereafter.)

If a corporation utilizes the federal capital loss carryback provisions for Wisconsin corporation franchise or income tax purposes and the carryback results in an overpayment of tax, a corporation may claim a refund within 4 years after the due date, including extensions, for filing the return for the taxable year of the capital loss that is carried back.

15. Addition-to-Tax Penalty Changed to Interest (1987 Act 399, amend s. 71.22(1)(a), (7), and (8)(intro.) and 71.23, effective for taxable year 1988 and thereafter.)

The addition-to-tax penalty imposed on the underpayment of estimated income or franchise taxes of corporations has been changed to interest at the rate of 12% per year on the amount of the underpayment for the period of the underpayment.

16. Quick Refund of Estimated Taxes Paid by Corporations (1987 Act 399, create s. 71.22(3m), effective May 17, 1988.)

The department may refund estimated taxes after the completion of the taxable year to which the estimated taxes relate if the refund is at least 10% of the taxes estimated for that taxable year and is at least \$500.

17. Exception to Corporate Estimated Tax Requirements Changed (1987 Act 399, amend s. 71.22(8)(b), effective for taxable year 1989.)

In the case of any underpayment of estimated tax, no interest (see item B15) is required to be paid by a corporation if the preceding taxable year was 12 months, the corporation had no liability under s. 71.01, Wis. Stats., for that year, and the corporation has a Wisconsin net income of less than \$250,000 for the current taxable year.

18. Development Zones - Tax Benefits for Taxpayers Located in Development Zones

See Item A17.

19. Historic Structure Credit

See Item A16.

20. Rehabilitation of Nondepreciable Historic Property Credit

See Item A15.

21. Order of Computation Revised for Computing Tax Liability (1987 Act 399, create s. 71.65(2)(fh), effective for taxable year 1989 and 1990 for projects begun after December 31, 1988; 1987 Act 395 create s. 71.65(2)(fg), effective May 3, 1988; and 1987 Act 328, amend s. 71.65(2)(g) and create s. 71.65(2)(fb) and (fc), effective for taxable year 1988 and thereafter.)

Corporations must compute their tax liability in the following order.

- a. Tax under s. 71.01(1) or (2)
- b. Surtax under s. 71.013
- c. Credit for sales tax on fuel under s. 71.043
- d. Research credit under s. 71.09(12r)
- e. Research property credit under s. 71.09(12rf)
- f. Community development finance credit under s. 71.09(12m)
- g. Development zones investment credit under s. 71.09(12di)
- h. Development zones location credit under s. 71.09(12dL)
- i. Historic structure credit under s. 71.09(12p)
- j. Historic rehabilitation credit under s. 71.09(12q)
- k. The total of farmland preservation credit under s. 71.09(11), the development zones sales tax credit under s. 71.09(12ds), the development zones jobs credit under s. 71.09(12dj), and estimated tax payments under s. 71.22.

C. TAX-OPTION (S) CORPORATIONS

1. Internal Revenue Code for Tax-Option Corporations Defined (1987 Act 399, create s. 71.02(1)(bh), see effective dates below.)

- a. For tax-option corporations for taxable year 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987, with the following exceptions:

- (1) For 1987 taxable years that end after July 1 and before December 31, "Internal Revenue Code" does not include changes to the federal Internal Revenue Code made by sections 142 (limitations

on deductions for meals, travel, and entertainment), 801 (limitations on use of cash method of accounting), 802 (simplified dollar-value LIFO method for certain small businesses), and 803 (capitalization and inclusion in inventory costs of certain expenses) of the Tax Reform Act of 1986 (P.L. 99-514).

- (2) Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) apply for Wisconsin purposes at the same time as for federal purposes.
 - (3) Section 1366(f), IRC, relating to the pass-through of items to shareholders, is modified by substituting the built-in gains tax under s. 71.016, Stats., for the taxes under sections. 1374 and 1375, IRC.
- b. For tax-option corporations for taxable years that end after July 1, 1988, and before December 31, 1988, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, with the following exceptions:
- (1) Changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) Section 1366(f), IRC, relating to the pass-through of items to shareholders is modified by substituting the built-in gains tax under s. 71.016, Wis. Stats., for the taxes under sections 1374 and 1375, IRC.
- c. For tax-option corporations for taxable years that begin after December 31, 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, except that section 1366(f), IRC, relating to the pass-through of items to shareholders, is modified by substituting the built-in gains tax under s. 71.016, Wis. Stats., for the taxes under sections 1374 and 1375, IRC.
2. Tax-Option (S) Corporation Net Income or Loss Computed Under Rules for Individuals (1987 Act 399, repeal s. 71.02(1)(bg)25, amend s. 71.02(1)(intro.), repeal and recreate s. 71.02(1)(d), and create ss. 71.02(1)(bh), 71.05(2tm), and nonstatutory provision, 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 items of income, loss, and deduction to the tax-option corporation's treatment.)

Clarification is made that net income or loss of a tax-option (S) corporation means net income or loss computed under s. 71.02(1)(bh), except that:

- a. Section 1363(a) of the Internal Revenue Code does not apply (S corporation is not subject to taxes).
- b. The items of income, including tax-exempt income, loss, deduction, or credit, the separate treatment of which could affect the lia-

bility of tax of any shareholder, referred to in section 1366(a)(1)(A) of the Internal Revenue Code, must be included.

- c. The deduction for expenses for the production of income under section 212 of the Internal Revenue Code and itemized deductions for individuals under section 703(a)(2)(E) of the Internal Revenue Code will be allowed.
- d. An addition or subtraction, as appropriate, must be made for the net amount of state and federal differences, including differences arising from the different basis of assets disposed of in a transaction in which gain or loss is recognized for Wisconsin purposes, different depreciation methods or difference in basis of depreciable assets, different elections, or transitional adjustments due to differences in the statutes for taxable years 1986 and 1987 pertaining to the computation of net income of a tax-option corporation.
- e. An addition must be made for the amount of manufacturer's sales tax credit under s. 71.043 used by the corporation in the current year.
- f. An addition must be made for the amount of interest, less related expenses, excluded by reason of section 103 of the Internal Revenue Code, relating to interest received on state and municipal obligations and on volunteer fire department and mass transit obligations, or any other federal law.

Section 71.05(2tm), Wis. Stats., clarifies that a tax-option (S) corporation may compute depreciation or amortization under either the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987, or the Internal Revenue Code 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.

The nonstatutory provision clarifies that as a result of the federalization of Wisconsin net income, transitional adjustments may be required in order to avoid the double inclusion, or omission, of any item of income, loss, or deduction. If the total amount 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.

3. Imposition of Additional Tax on Tax-Option (S) Corporations (1987 Act 399, amend s. 71.016, effective for taxable year 1987 and thereafter.)

A Wisconsin tax is imposed on every tax-option (S) corporation, except those under section 1374(c)(1) of the Internal Revenue Code, that has a recognized built-in gain as defined in section 1374(d)(2) of the Internal Revenue Code. This amendment clarifies that the built-in gain on which the additional tax is imposed is not limited to capital gain.

4. Provide for Adjustments Preventing the Double Inclusion or Omission of Income for Federal S Corporations Electing or Not Electing Tax-Option Corporation Status (1987 Act 399, create s. 71.042(7), 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 items of income, loss, and deduction to the corporation's treatment.)

A federal S corporation that elects not to be a tax-option corporation under s. 71.042(4)(a), Wis. Stats., and a federal S corporation that elects to become a tax-option corporation must adjust its income, under rules promulgated by the department, for the taxable year for which the election is first effective to avoid the omission or double inclusion of any item of income, loss, or deduction.

D. HOMESTEAD CREDIT

1. "Gross Rent" Definition Changed (1987 Act 399, amend s. 71.09(7)(a)2, effective for claims filed in 1989 based on rent for calendar year 1988 and thereafter.)

"Gross rent" means rent paid solely for the right to occupy a homestead, but does not include any charges for food, medical and personal services furnished by the landlord as a part of the rental agreement, and shared living expenses.

Personal services include laundry, transportation, counseling, grooming, recreational, and therapeutic services. Shared living expenses include, but are not limited to, food, supplies, and utility payments, unless utility payments are included in the gross rent paid to the landlord. "Gross rent" is the gross rent paid by the claimant to the landlord.

Gross rent is no longer divided by the number of adults residing in the homestead and not related to the claimant as husband and wife.

2. Nonsubstantive Change to "Property Taxes Accrued" Definition (1987 Act 378, amend s. 71.09(7)(a)7, effective January 1, 1989.)

The requirement that a warrant for collection is required upon delivery of the tax roll to the local treasurer in determining when property taxes are levied is repealed.

E. FARMLAND PRESERVATION CREDIT

1. "Claimant" Defined for Partners of Publicly Traded Partnership (1987 Act 399, amend s. 71.09(11)(a)1.c, effective May 17, 1988.)

For partnerships, except publicly traded partnerships treated as corporations under s. 71.02(1)(af), Wis. Stats., a "claimant" means each individual partner. Prior law did not provide the exception for publicly traded partnerships. This change will allow a partnership which is treated as a corporation under s. 71.02(1)(af), Wis. Stats., to file a farmland preservation credit claim.

2. Definition of "Farmland" Includes Farmland Enrolled in Conservation Reserve Program (1987 Act 399, amend s. 71.09(11)(a)3, effective for claims filed for taxable year 1988 and thereafter.)

If at least 35 acres of farmland is enrolled, during all or part of the year, in the conservation reserve program under 16 USC §§ 3831-3836, the farmland is eligible for farmland preservation credit without regard to gross farm profits produced, provided all other qualifications are met.

3. Definition of "Gross Farm Profits" Includes Payments from Federal Dairy Termination Program (1987 Act 399, amend s. 71.09(11)(a)3m, effective for claims filed for taxable year 1988 and thereafter.)

Gross farm profits, used in determining whether farmland qualifies for credit, includes payments from the federal dairy termination program under 7 USC § 1446(d).

4. Definition of Household Income No Longer Includes Certain Income of Dependents (1987 Act 399, amend s. 71.09(11)(a)5, effective for claims filed for taxable year 1988 and thereafter.)

Household income includes all income of the claimant and the claimant's spouse, plus the farm income, including farm wages earned on the farm to which the claim relates, of all minor dependents. In prior years, household income included all income of minor dependents.

5. Nonsubstantive Change to "Property Taxes Accrued" Definition (1987 Act 378, amend s. 71.09 (11)(a)7, effective January 1, 1989.)

The requirement that a warrant for collection is required upon delivery of the tax roll to the local treasurer in determining when property taxes are levied is repealed.

6. "Property Taxes Accrued" When Farmland Is Sold During the Year (1987 Act 399, amend s. 71.09(11)(a)7, effective for claims filed for taxable year 1988 and thereafter.)

"Property taxes accrued" for the seller of farmland in the year of sale is the property taxes, reduced by the state tax credit under s. 79.10, Stats., prorated to the seller in the closing agreement pertaining to the sale of the farmland, except that if the seller does not reimburse the buyer for any part of those property taxes, "property taxes accrued" for the seller is zero.

"Property taxes accrued" for the buyer of farmland in the year of sale is the property taxes levied on the farmland, reduced by the state tax credit under s. 79.10, Wis. Stats., less the property taxes prorated to the seller in the closing agreement pertaining to the sale of farmland, except that if the seller does not reimburse the buyer for any part of those property taxes, "property taxes accrued" for the buyer is the property taxes levied on the farmland reduced by the state tax credit under s. 79.10, Wis. Stats.

Both the buyer and seller must submit a copy of the closing agreement pertaining to the sale of farmland with their farmland preservation claims.

7. 10% Minimum Credit Allowed if Farmland Is Subject to Farmland Preservation Agreement or Transition Area Agreement (1987 Act 399, amend s. 71.09(11)(bm), effective for claims filed for taxable year 1988 and thereafter.)

If farmland is subject to a farmland preservation agreement or transition area agreement under subch. 11 of ch. 91 of the Wisconsin Statutes at the close of the year for which the credit is claimed, the minimum amount of farmland preservation credit available is 10% of the property taxes accrued. No limitation will apply with respect to such claimant's household income. Previously, the 10% minimum credit was allowed only for farmland subject to an exclusive agricultural use zoning ordinance.

8. Certification That Property Taxes of Prior Year Have Been Paid Is Required (1987 Act 399, amend s. 71.09(11)(h)(intro.), effective for claims filed for taxable year 1988 and thereafter.)

A claimant must certify that all taxes owed by the claimant on the property for which the claim is made for the year before the year for which the claim is made have been paid before a farmland preservation credit is allowed. For example, if you wish to file a 1988 farmland preservation claim, to qualify, your 1987 taxes on that farmland must be paid.

F. SALES/USE TAXES

1. Exempt Certain Sales of Business Assets as Occasional Sales - 10 Day Period for Permit Cancellation (1987 Act 399, amend s. 77.51(9)(a) and create s. 77.51(9)(am), effective May 17, 1988.)

A sale is exempt from Wisconsin sales and use taxes as an occasional sale if all three of the following conditions are met:

- a. The sale is of personal property (other than inventory held for sale) previously used by the seller to conduct its trade or business at a location.
- b. The sale occurs after the seller ceased operating the business at that location.
- c. The seller delivers its seller's permit to the Department of Revenue for cancellation within ten days after the last sale of personal property (other than inventory held for sale) at that location.

A sale meeting the above three conditions is exempt from Wisconsin sales and use taxes even though the seller holds a seller's permit for one or more other locations.

2. Occasional Sales by Nonprofit Organizations (1987 Act 399, repeal s. 77.51(9)(c), amend s. 77.52(7) and create s. 77.54(7m), effective January 1, 1989.)

This provision changes the standards for determining the occasional sale exemption on sales by nonprofit organizations. Under the new standards, sales of tangible personal property and services, including admissions or tickets to an event, conducted by a nonprofit organization are exempt occasional sales if:

- a. There is no professional entertainment,
- b. The organization is not engaged in a trade or business and,
- c. The organization is not otherwise required to have a seller's permit.

Under the statute an organization is deemed to be engaged in a trade or business if its sales of tangible personal property or services (not including sales of tickets to events), or its events occur on more than 20 days during the year. However, if an organization's receipts do not exceed \$15,000 for the year, it is not considered to be engaged in a trade or business even if its sales and/or events exceed 20 days. A nonprofit organization whose gross receipts have become taxable because it has exceeded the above standards must obtain a seller's permit and pay taxes on all taxable receipts received after it is required to obtain that permit.

If an organization later becomes eligible for the occasional sale exemption except for its possession of a seller's permit, it may surrender that permit.

3. Change Nexus Standards for Foreign Publishers (1987 Act 399, amend s. 77.51(13g) (intro.) and create s. 77.51(13h), effective January 1, 1990.)

If a foreign corporation is a publisher, the purchase from a printer of a printing service or of tangible personal property printed in Wisconsin for the publisher and the storage of printed material or raw material for any length of time in Wisconsin in or on property owned by a person other than the publisher does not create nexus within Wisconsin, even though the printed material is resold or delivered in Wisconsin.

Therefore, a foreign corporation that is a publisher is not required to collect Wisconsin use tax on its sale or delivery of printed material in Wisconsin if only the above activities occur in Wisconsin.

"Raw material" means tangible personal property which becomes an ingredient or component part of the printed materials or which is consumed or destroyed or loses its identity in the printing of the printed materials.

4. Exempt Intra-LATA Access Charges (1987 Act 399, amend s. 77.51(13)(p) and 77.51(14)(m), effective May 17, 1988.)

The definition of "retailer" and "sale" are modified to exclude intra-LATA access charges by a telephone company to an interexchange carrier. Thus, intra-LATA access charges by a telephone company to an interexchange carrier are not subject to Wisconsin sales and use taxes.

5. Clarify That Wisconsin Sales and Use Taxes Apply to Recreational Rights Sold in Connection with Time-Share Property (1987 Act 399, amend 77.52(2)(a)2, effective May 17, 1988.)

The statutes are amended to clarify that in connection with the sale or use of time-share property, Wisconsin sales and use taxes apply to the sale, furnishing, or use of recreational facilities on a periodic basis and to other recreational rights, including but not limited to membership rights, vacation services and club memberships.

6. Exempt Certain Nonresidents' Boats From Use Tax (1987 Act 268, amend s. 77.53(17m), effective June 1, 1988.)

There is no Wisconsin use tax on a boat berthed in Wisconsin which is owned by a nonresident if the boat was:

- a. Purchased in a contiguous state (Illinois, Iowa, Michigan, Minnesota).
- b. Purchased by a person domiciled in a contiguous state.
- c. Purchased in an exempt occasional sale under the laws of the state in which the purchase was made.
- d. Berthed in Wisconsin's boundary waters adjacent to the state of the domicile of the purchaser.

7. Exempt Certain Nonresidents' Aircraft From Use Tax (1987 Act 399, create s. 77.53(17r), effective May 17, 1988.)

There is no Wisconsin use tax on aircraft registered in Wisconsin when:

- a. It is purchased in another state.
- b. Its owner or lessee has paid all of the sales and use taxes imposed in respect to it by the state where it was purchased.
- c. The owner or lessee is a corporation, and that corporation, and all corporations with which that corporation may file a consolidated return for federal income tax purposes, neither is organized under the laws of Wisconsin nor has real property or other tangible personal property, except aircraft and such property as hangars, accessories, attachments, fuel and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.

- d. The owner or lessee is a partnership and all of the corporate partners fulfill the requirements in c. above and none of the general partners or limited partners who has management or control responsibilities is domiciled in Wisconsin and the partnership has no other tangible personal property and no real property, except aircraft and such property as hangars, accessories, attachments, fuel and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.
- e. The owner or lessee is an individual, and the owner or lessee is not domiciled in Wisconsin.
- f. The owner or lessee is an estate, trust, or cooperative, and that estate, that trust and its grantor or that cooperative does not have real property or other tangible personal property, except aircraft and such property as hangars, accessories, attachments, fuel and parts required for operation of aircraft, in Wisconsin at the time the aircraft is registered in Wisconsin.
- g. The Department of Revenue has not determined that the owner, if the owner is a corporation, trust, or partnership, was formed to qualify for the exemption from Wisconsin use tax.

8. Nonexempt Soda Water Beverages Cross-Reference Changed (1987 Act 399, amend s. 77.54(20)(b)4, effective May 17, 1988.)

The definition of soda water beverages has been changed from s. 97.34(8) to s. 97.29, Wis. Stats., due to changes in Ch. 97. Soda water beverages are defined as all beverages commonly known as soft drinks or soda water whether carbonated, uncarbonated, sweetened, or flavored.

9. Waste Treatment Facilities Exemption Clarified (1987 Act 399, amend s. 77.54(26), effective May 17, 1988.)

The gross receipts from the sales of and storage, use, or other consumption of tangible personal property which becomes a component part of an industrial waste treatment facility that would be exempt under s. 70.11(21)(a), Wis. Stats., if the property were taxable under Chapter 70 of the Wisconsin Statutes, is exempt from sales and use tax.

10. Exempt Equipment for Treatment of Diabetes and Supplies Used to Determine Blood Sugar Level (1987 Act 399, amend s. 77.54(28), effective March 1, 1989.)

Apparatus or equipment for the treatment of diabetes and supplies used to determine blood sugar level are exempt from Wisconsin sales and use taxes.

11. Exempt Heavy Logging Equipment (1987 Act 399, create s. 77.54(39), effective April 1, 1989.)

The following are exempt from Wisconsin sales and use taxes: off-highway heavy mechanical equipment such as feller bunchers, slashers, delimbers, chippers, hydraulic loaders, loaders, skidder-forwarders,

skidders, timber wagons and tractors used exclusively and directly in the harvesting or processing of raw timber products in the field by a person in the logging business. "Heavy mechanical equipment" does not include hand tools such as axes, chains, chain saws and wedges.

12. Change Procedure for Remitting Sales/Use Tax for Sales of Motor Vehicles, etc. (1987 Act 141, amend s. 77.785(2), effective May 1, 1988.)

Dealers of boats, all-terrain vehicles, trailers, semi-trailers, aircraft, motor vehicles, mobile homes not exceeding 45 feet in length, and snowmobiles must collect the county use taxes on sales of such items which will be customarily kept in a county that has adopted a county sales and use tax ordinance. The dealer will remit those taxes to the Department of Revenue along with the state sales and use taxes. Prior to this law change, dealers remitted the county use taxes on sales of such items to the state agency that registers or titles that property at the time of registration or titling.

13. Requirement for Proper Proceedings in Sales Tax Officer Liability Cases Removed (1987 Act 399, amend s. 77.60(9), effective May 17, 1988.)

Proper proceedings against a corporation are not necessary before pursuing a responsible officer or employe of the corporation if it can be shown that the corporation is unable to pay its sales and use tax liability.

14. Refund Sales Tax to Consumer Upon Return of Motor Vehicle to Manufacturer Under "Lemon Law" (1987 Act 323, create s. 218.015(2)(f), effective April 28, 1988.)

The law governing repair, replacement, and refund under a new motor vehicle warranty, commonly called the "lemon law," allows a consumer to return a motor vehicle to its manufacturer for a refund of all or a portion of the purchase price if the motor vehicle has certain conditions or defects which remain after a reasonable attempt to repair the motor vehicle. The "lemon law" allows a consumer to recover the sales tax from the manufacturer for a contract to purchase entered into on or after April 22, 1986.

Under this new provision, the department will refund sales tax directly to certain customers, based on the amount of the refund of the purchase price of a new motor vehicle actually received by the consumer, if all of the following apply:

- a. The consumer did not receive a refund of the sales tax from the manufacturer.
- b. The contract to purchase the motor vehicle when new, was entered into on or before April 21, 1986, and the motor vehicle was bought new on or after November 3, 1983.
- c. The consumer applies for a refund with the Department of Revenue and provides evidence to substantiate the claim.

15. New Reporting Requirements for Operators of Swap Meets, Flea Markets, Craft Fairs, or Similar Events (1987 Act 399, create s. 73.03(38), effective May 17, 1988.)

An operator of a swap meet, flea market, craft fair, or similar event must report to the Department of Revenue the name, address, social security number (and if available, the seller's permit number) of each vendor selling merchandise at the swap meet, flea market, craft fair, or similar event.

16. Study of Long-Distance Telecommunication Taxes Required (1987 Act 399, create nonstatutory provision, effective May 17, 1988.)

The department is required to establish a study committee that will develop a report discussing telecommunication taxes. The report shall be submitted to the Governor and the Joint Committee on Finance.

G. INHERITANCE AND GIFT TAXES

1. Reference to Internal Revenue Code for Power of Appointment, Qualified Retirement Plans, and Installment Payments Updated (1987 Act 399, amend ss. 72.01(17), 72.12(4)(c)1, and 72.22(4)(a), effective for deaths occurring on or after January 1, 1988.)

The references to the Internal Revenue Code relating to power of appointment, qualified retirement plans, and installment payments are updated to December 31, 1987.

2. Valuation of Future or Limited Estates No Longer Determined by Commissioner of Insurance (1987 Act 247, repeal s. 72.28(1)(c)1.b, effective April 21, 1988.)

The statutes no longer provide that if valuation of future or limited estates cannot be established, the Commissioner of Insurance shall determine the value.

H. EXCISE TAXES

1. Requirements for Purchase of Tax-Exempt Motor Fuel Revised (1987 Act 399, amend ss. 78.01(2)(e) and 78.12(3m), effective May 17, 1988.)

Motor fuel sold for nonhighway use in mobile machinery and equipment, and delivered directly into the consumer's storage tank in an amount of not less than 100 gallons, is exempt from motor fuel tax if the supplier obtains from the consumer an exemption certificate prescribed by the Department of Revenue.

Any person who purchases motor fuel tax-free must file an annual report not later than April 15 of the year following the reporting period. The Department of Revenue may not renew the exemption certificate of any person who fails to file the exemption report.

Previously a consumer could purchase only regular leaded gasoline tax-free for nonhighway use in quantities of 200 gallons or more. The

new provisions permit purchases of 100 gallons or more for all types of motor fuel (i.e., unleaded, premium, gasohol, etc.).

As an alternative to purchasing motor fuel tax-free, a consumer of motor fuel may file a claim for refund with the Department of Revenue for motor fuel tax paid on motor fuel for nonhighway use.

2. Preparation and Distribution of Booklet Explaining Alcohol Beverages Law Required (1987 Act 300, create s. 125.045 and nonstatutory provision, effective April 28, 1988, for preparing booklet, December 1, 1988, for making the booklet available, and February 1, 1989, for distributing the booklet.)

The department is required to prepare a booklet explaining Wisconsin Statutes and Administrative Rules relating to the retail sale of alcohol beverages. The department shall provide a free copy of the booklet to each person issued a retail "Class B" or Class "B" permit by the department and shall provide copies to municipalities at cost.

3. Issuance of Licenses for Sales of Fermented Malt Beverages and Intoxicating Liquor on Railroad Car (1987 Act 399, amend s. 125.06(5) and create ss. 125.26(3m) and 125.51(3)(dm), effective May 17, 1988.)

A municipality may issue a Class "B" license authorizing retail sales of fermented malt beverages, or a "Class B" license authorizing retail sales of intoxicating liquor on a railroad car while the railroad car is standing in a specified location in the municipality. Previously, the sale of alcohol beverages was permitted only when the railroad car was in transit.

4. Restrictions on Minors Entering Premises Selling Alcohol Beverages Do Not Apply to Racetracks (1987 Act 354, amend s. 125.07(3)(a)5, May 3, 1988.)

An underage person, not accompanied by his or her parent, guardian, or spouse who has attained legal drinking age, generally may not enter, knowingly attempt to enter, or be on any premises for which a license or permit for the retail sale of alcohol beverages has been issued. This restriction does not apply to racetracks licensed under ch. 562, Wis. Stats.

5. Methods of Determining Quotas for Purposes of Issuance of Licenses Relating to the Sale of Alcohol Beverages (1987 Act 399, repeal s. 125.51(4)(e) and amend s. 125.51(4)(a)2 and (b)1 and 3, effective May 17, 1988.)

Quotas for the issuance of licenses for the sale of alcohol beverages are based on population. For this purpose, "population" means the number of inhabitants in the previous year determined by the Department of Administration for purposes of revenue sharing distribution.

6. Exceptions to Quotas for Issuance of Licenses for Sale of Alcohol Beverages (1987 Act 354, create s. 125.51(4)(q), effective May 3, 1988, and 1987 Act 399, create s. 125.51(4)(r), effective May 17, 1988.)

Notwithstanding the quota of a municipality, its governing body may issue a license to persons conducting business at a racetrack, as defined in s. 562.01(12), Stats.

Notwithstanding its quota, a village may issue a license to a post of a veteran's organization for a building that was rebuilt after being destroyed by a tornado.

7. Hotels With Alcohol Beverage Licenses May Furnish Alcohol Beverages in Hotel Rooms (1987 Act 249, create ss. 125.26(2m) and 125.51(3)(bm), effective April 21, 1988.)

Hotels with alcohol beverage licenses may furnish a selection of alcohol beverages to guests who have attained the legal drinking age in guest rooms which are not part of the licensed premises. The alcohol beverages must be kept in a locked storage place in the room and a key to the lock will be provided to the guest who has attained legal drinking age upon request at registration. The guest may pay for the alcohol beverages at any time if paid in conjunction with checking out of the hotel. The person who stocks or accepts payment for the alcohol beverages must be the licensee, agent named in the license or the holder of a manager's or operator's license, or be supervised by one of those individuals.

8. Beer Wholesaler May Not Restrict Sales of Brand of Beer (1987 Act 308, create s. 125.33(8), effective April 28, 1988.)

A beer wholesaler may not sell or offer to sell a brand of beer exclusively to one retail store or group of affiliated retail stores unless the brand of beer is produced by a brewer which produces less than 300,000 barrels of beer in a calendar year.

9. Exception for Shipping Wine into Wisconsin Provided (1987 Act 399, amend ss. 125.58(title) and (1) and 125.68(10)(a) and (b) and create ss. 125.58(4), 125.68(10)(bm) and (bs) and 139.035, effective May 17, 1988.)

A person located outside Wisconsin may ship wine into Wisconsin to an individual who does not hold a license or permit under ch. 125, Wis. Stats., for consumption at the individual's residence by the individual or his or her family or guests if the person is located in a state which has a reciprocal agreement with Wisconsin under s. 139.035, Wis. Stats. No individual may resell such wine or receive more than 9 liters of such wine annually. An out-of-state shipper's permit is not required for such shipments into this state.

10. Penalties for Providing Alcohol Beverages to Underage Persons Imposed (1987 Act 335, create s. 125.075, effective April 28, 1988.)

Any person who sells, dispenses, or gives away alcohol beverages to a person under 18 years of age may be penalized if the person knew or should have known the underage person was under the legal drinking age and the underage person dies or suffers great bodily harm as a result of consuming alcohol beverages.

If the underage person is at least 12 years of age but not less than 18 years of age, the person in violation may be fined not more than \$1,000 or imprisoned not more than 90 days or both. If the underage person is less than 12 years of age, the person in violation may be fined not more than \$10,000 or imprisoned not more than 9 months or both.

11. Impose Restrictions on Sale or Gifts of Cigarettes or Tobacco Products to Underage Persons (1987 Act 336, create s. 134.66, effective July 1, 1989.)

No retailer may sell or give cigarettes or tobacco products to any person under the age of 18, except that a vending machine operator is not liable for the purchase of cigarettes or tobacco products from a vending machine by a person under age 18 if the operator was unaware of the purchase.

Persons violating this requirement are subject to forfeiture of up to \$500 if the person has not committed a previous violation within 12 months of the violation or not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

A court shall suspend any cigarette or tobacco product license or permit issued to a person for not more than 3 days if the person has committed a violation within 12 months after committing 1 previous violation, not less than 3 days nor more than 10 days if the person committed 2 other violations within 12 months, or not less than 15 days nor more than 30 days if the person committed 3 or more other violations within 12 months.

Failing to post a sign in areas where cigarettes or tobacco products are sold stating the sale to persons under age 18 is a violation of state law will result in forfeiture of not more than \$25.

12. Separate Tax Rate for Intoxicating Liquor, Containing 0.5% or More of Alcohol by Volume, Manufactured or Distilled in Wisconsin From Whey Produced in Wisconsin (1987 Act 399, repeal s. 139.03(2t) and amend ss. 139.03(2m), 139.06(1)(a), (b) and (2)(c), effective March 1, 1989.)

The separate tax rate of 43.59 cents per liter on intoxicating liquor, containing 0.5% or more of alcohol by volume, manufactured or distilled in Wisconsin from whey produced in Wisconsin, is repealed. Such intoxicating liquor will be subject to tax at the rate of 85.86 cents per liter after February 28, 1989.

13. Uniform Interest and Penalty Provisions for Excise Taxes Created (1987 Act 399, repeal ss. 78.65(2), 139.05(6), 139.07, 139.098, 139.32(7), and 139.77(6); renumber s. 139.25(4), (5), and (6) to s. 139.25(9), (10), and (11); amend ss. 20.913(1)(b), 78.13(2), 78.50(2), 78.59(2), 139.05(7)(e), 139.08(4), 139.092, 139.44(title), 139.77(5), and 139.85; repeal and recreate ss. 78.68 and 139.25(2) and (3); and create s. 139.25(1), (1m), and (4) to (8) and 139.44(9) to (12), effective June 1, 1988.)

The following interest and penalty provisions are applicable to cigarette, tobacco products, beer, liquor, motor fuel, special fuel, and general aviation fuel taxes.

- a. Unpaid taxes shall bear interest at the rate of 12% per year from the due date of the return until paid or deposited with the department.

- b. All refunded taxes bear interest at the rate of 9% per year from the due date of the return to the date the refund is certified on the refund rolls.
- c. All payments of additional amounts owed shall be applied in the following order: penalties, interest, tax principal.
- d. Delinquent tax returns are subject to a \$10 late filing fee.
- e. Delinquent taxes shall bear interest at the rate of 1.5% per month until paid.
- f. If an incorrect return is filed due to neglect, the entire tax finally determined is subject to a penalty of 25% of the tax, exclusive of interest or other penalty.
- g. Failure to file a return, unless due to reasonable cause and not neglect, will result in a penalty of 5% of the amount of tax if the failure is for not more than one month, plus an additional 5% of tax for each additional month or fraction thereof during which the failure continues, not to exceed 25% of the tax in the aggregate.
- h. If a person fails to file a return when due or files a false or fraudulent return with intent, in either case, to defeat or evade the tax imposed, a penalty of 50% of the tax shall be added to the tax required to be paid, exclusive of interest and penalties.
- i. Any person who fails to furnish any return required to be made or who fails to furnish any data required by the department may be fined not more than \$500 or imprisoned for not more than 30 days, or both.
- j. Any person, including an officer of a corporation, who is required to make, render, sign, or verify any report or return required and who makes a false or fraudulent report or return or who fails to furnish a report or return when due with the intent, in either case, to defeat or evade the tax imposed may be fined not more than \$500 or imprisoned for not more than 30 days, or both.
- k. No person may aid, abet, or assist another in making any false or fraudulent return or false statement in any return required with intent to defraud the state or evade payment of the tax. Any person violating this provision may be fined not more than \$500 or imprisoned for not more than 30 days, or both.
- l. Before any tax becomes due, if the department has reason to believe that any licensee intends to or is likely to convey, dispose of, or conceal his or her property, or abscond from the state, or do any act which would render the state insecure in collecting the tax when due, the department may demand payment of all taxes by the licensee which shall immediately become payable and collectible as if delinquent and the property of the licensee shall be subject to attachment.

I. OTHER

1. Chapter 71 of Wisconsin Statutes Revised (1987 Act 312, amend ss. 70.375(2)(b) and (2m)(b), 72.06, 73.01(4)(a), 78.70(6), 78.80(3), 139.11(4), 139.38(6), and 139.82(6), repeal and recreate Chapter 71, 71.05(10)(e), 72.06 and 73.01(4)(a), and create nonstatutory provision effective January 1, 1989, except that ss. 71.05(10)(e), 72.06 and 73.01(4)(a) become effective January 1, 1992; and 1987 Act 411, effective January 2, 1989.)

Chapter 71 of the Wisconsin Statutes, relating to the income tax and franchise tax, is revised to put the material in a more logical order and delete obsolete material. No substantive changes are intended. No person is absolved of liability and no liens, proceedings, or other means of collection are affected by this revision.

Act 411 reconciles all Chapter 71 changes made this legislative session to the prior revisions made by 1987 Wisconsin Act 312.

2. Department to Provide Information Regarding Certain Taxes Withheld or Collected by Municipalities and School Districts (1987 Act 246, amend ss. 71.11(44)(a) and 78.80(title) and create ss. 71.11(44)(gr), 77.61(5)(fm) and 78.80(4), effective for reporting periods ending after April 21, 1988.)

The Department of Revenue is required to inform all requesters, upon payment of a \$4 fee, of the total income taxes withheld and sales, use, and fuel taxes collected by cities, villages, towns, counties, school districts, special purpose districts, and vocational, technical, and adult education districts and of other information related to that withholding and those collections. However, the department may not divulge tax return information that in the department's opinion violates the confidentiality of that information with respect to any person other than the units of government and districts specified above. The department must provide to the requester a written explanation if it refuses to divulge information on the grounds of confidentiality.

3. Confidentiality Provisions Expanded to Include Lottery Board (1987 Act 119, create ss. 71.11(44)(c)12 and 77.61(5)(b)9, effective December 8, 1987.)

The executive director of the Wisconsin Lottery Board is authorized to receive Wisconsin tax return information for the purpose of withholding delinquent Wisconsin taxes and child support from lottery winnings as required by s. 565.30(5), Wis. Stats.

4. Withholding of Income Taxes From Lottery Winnings (1987 Act 119, create s. 71.205, effective December 8, 1987.)

The executive director of the lottery is required to withhold Wisconsin income tax from any lottery prize of \$2,000 or more. The amount withheld is determined by multiplying the amount of the prize by the highest tax rate applicable to individuals under s. 71.09(1g), Wis. Stats.

5. Withholding From Pari-Mutuel Wager Winnings (1987 Act 354, create s. 71.207, effective May 3, 1988.)

A person holding a license to sponsor and manage races under s. 562.05(3) or (4), Wis. Stats., is required to withhold Wisconsin income taxes from payments of pari-mutuel wager winnings made to any resident or nonresident individual if the payment is \$1,000 or more. The amount of tax withheld is determined by multiplying the winnings by the highest tax rate applicable to individuals under s. 71.09(1g), Wis. Stats.

Amounts withheld are deposited by the licensee on a monthly basis in the same manner as an employer under s. 71.20(4), Wis. Stats.

6. Lottery Retailer Contracts May Not Be Entered Into With Persons Having Tax Delinquencies (1987 Act 119, create s. 565.10(3)(b) and (c), effective December 8, 1987.)

No lottery retailer contract for the retail sale of lottery tickets or lottery shares may be entered into with a person who has been finally adjudged to be delinquent in the payment of taxes under Chapters 71, 72, 76, 77, 78, or 139 of the Wisconsin Statutes if the person remains delinquent in the payment of those taxes at the time the person seeks to enter into the lottery retailer contract.

If the retailer is an association, partnership, or corporation, the above provision applies to the association, partnership, or corporation and to the officers or directors of the association, partners of the partnership, or officers, directors, and shareholders owning an interest of 5% or more of the corporation, unless the lottery board determines that the association, partnership, or corporation has terminated its relationship with the individual whose actions directly contributed to the association's, partnership's, or corporation's conviction or entry of plea.

7. Withholding of Delinquent State Taxes, Child Support, or Debts Owed the State From Lottery Winnings (1987 Act 119, create s. 565.30(5), effective December 8, 1987.)

The executive director of the lottery board shall report the name, address, and social security number of each winner of a lottery prize equal to or greater than \$1,000 to the Department of Revenue to determine whether the payee of the prize is delinquent in the payment of state taxes under Chapters 71, 72, 76, 77, 78, or 139 of the Wisconsin Statutes, or court-ordered payment of child support or has debts owing to the state.

Upon certification of a delinquency by the department or upon court order, the executive director shall withhold the certified amount for remittance to the appropriate agency or person. In instances where a payee of the prize is delinquent in one or both of these payments and has a debt owing to the state, the amount remitted to the appropriate agency or person shall be in proportion to the prize amount as is the delinquency or debt owed by the payee.

8. Private Letter Ruling System Adopted (1987 Act 399, create s. 73.035, effective May 17, 1988.)

Upon receipt of a request, in the form prescribed by the department, from a person who requests a ruling about facts relating to a tax the department administers, the department may issue a private letter ruling.

The department may publish these rulings. The rulings may be edited by the requester as to the type of information specified by the department, if that editing is submitted to the department before the deadline that the department establishes and if the department approves the editing. Such rulings are confidential unless the ruling has been edited, or the time period in which editing may be done has expired, and the ruling has been published by the department.

Such rulings do not bind the requester, may not be appealed, and do not preclude application for a declaratory ruling under s. 227.41, Wis. Stats. A copy of the ruling must be attached to the requester's tax return to which it is relevant.

The department's decision not to issue or publish a ruling is not subject to appeal.

The department has developed a publication titled "How to Get a Private Letter Ruling from the Wisconsin Department of Revenue" to explain the private letter ruling system. The publication will be ready for distribution in late July and, in addition, will be included in the July issue of the Wisconsin Tax Bulletin.