

A. INDIVIDUAL AND FIDUCIARY INCOME TAXES

1. Reference to Internal Revenue Code for Individuals, Estates, and Trusts Updated for 1989 (1989 Act 31, create secs. 71.01(6)(d) and (7r), effective for taxable years beginning after December 31, 1988.)

For taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" for individuals, estates, and trusts (except nuclear decommissioning trust or reserve funds) means the federal Internal Revenue Code as amended to December 31, 1988, with the following exception:

- a. At the taxpayer's option, for purposes of computing amortization or depreciation, "Internal Revenue Code" means either the federal Internal Revenue Code as amended to December 31, 1988, or the federal Internal Revenue Code in effect for the taxable year for which the return is filed, except that property depreciated for taxable year 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.

In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to general effective dates of the amendments to the Internal Revenue Code.

2. Exceptions to Definition of Internal Revenue Code for Individuals, Estates, and Trusts Provided for 1988 (1989 Act 31, amend sec. 71.01(6)(b) and (c), see effective dates below.)

The law described below applies 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) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
- b. For taxable years that begin after December 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the following exceptions:

- (1) 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.
 - (2) Changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
 - (3) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
3. Exceptions to Definition of Internal Revenue Code for Individuals, Estates, and Trusts Provided for 1987 (1989 Act 31, amend sec. 71.01(6)(a), effective for taxable year 1987.)

For individuals, estates, and trusts, except nuclear decommissioning trust or reserve funds, for taxable year 1987 (years ending after July 1, 1987, and on or before June 30, 1988), "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) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
 - c. The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
4. Exception to Definition of Internal Revenue Code for Individuals, Estates, and Trusts Provided for 1986 and Prior (1989 Act 31, create nonstatutory provision, effective for taxable year 1986 and previous taxable years.)

Effective for taxable years ending on or before June 30, 1987, changes to the federal Internal Revenue Code made by P.L. 100-647 apply for Wisconsin purposes at the same time as for federal purposes.

5. Wisconsin Taxable Years Conformed to Federal Taxable Years (1989 Act 31, repeal sec. 71.03(3)(b); renumber sec. 71.03(3)(a) to sec. 71.03(3) and amend sec. 71.03(3) as renumbered; amend secs. 71.01(12), 71.03(6)(a), 71.05(5), 71.07(2fd)(a), (b), and (c), 71.09(14), (15)(a) and (b), 71.13(2)(b), 71.58(3), (4), (6), and (7)(b), 71.59(2)(a), 71.70(1), 71.75(3), and 71.83(1)(a)2; and create secs. 71.06(2m), 71.58(9), and nonstatutory provision; effective for taxable years beginning on or after August 1, 1988.)

"Taxable year" means the taxable period upon the basis of which the taxable income of the taxpayer is computed for federal income tax purposes. The taxable year of a taxpayer who keeps his or her accounting records on the basis of a 52-53 week period ends on the last day of the month closest to the end of the 52-53 week period. Under prior law, "taxable year" meant the calendar year or any fiscal year ending after June 30 in that calendar year and before July 1 in the following calendar year.

As a result of this law change, taxpayers having taxable years beginning after July 31, 1988, and before January 1, 1989, must file two 1988 returns covering different taxable periods: one for the taxable year beginning in August through December 1987 and ending in July through November 1988, and a second 1988 return for the taxable year beginning in August through December 1988 and ending in July through November 1989. A 1989 tax return must be filed for the calendar year ending December 31, 1989, or any fiscal year beginning in 1989.

If a federal income tax return is filed for a fractional part of a year, the person also must file a Wisconsin income tax return for that fractional year. The income must be computed and reported on the basis of the period for which that return is filed, and that fractional year will constitute a taxable year. The net income for the short period must be placed on an annual basis using the method applicable for federal income taxes under IRC sec. 443(b)(1).

Returns for less than a full taxable year must be filed with the department on or before the date applicable for federal income taxes. Under prior law, a short-period return would have been due the 15th day of the fourth month following the close of the person's normal taxable year.

A claimant may claim the farmers' drought credit on only one return if the claimant files more than one 1988 return. The credit may not be claimed on a return for any year beginning after July 31, 1988.

If a tax rate under sec. 71.06(1) or (2), Stats., changes during a taxable year, the tax for that taxable year must be computed using the method under IRC sec. 15.

6. Determining Domicile for Wisconsin Income Tax (1989 Act 31, renumber sec. 71.02 to sec. 71.02(1) and amend sec. 71.02(1) as renumbered and create sec. 71.02(2)(a) to (e), effective for taxable years beginning on or after January 1, 1989.)

For taxable years beginning on or after January 1, 1989 (1989 and subsequent year tax returns), the following are not relevant in determining whether or not an individual is domiciled within Wisconsin for purposes of the Wisconsin income tax:

- a. Contributions made to charitable organizations in Wisconsin. (Note: This item was not relevant in determining domicile, beginning with the 1984 taxable year.)
- b. Directorships in corporations operating in Wisconsin.
- c. Accounts (as defined in sec. 710.05(1)(a), Wis. Stats.) held in financial institutions (as defined in sec. 710.05(1)(c), Wis. Stats.) located in Wisconsin.
- d. Corpuses of trusts, in which the individual is a trustee or a beneficiary, located in Wisconsin.
- e. Retention of professional services of brokers (as defined in sec. 408.303, Wis. Stats.) and of attorneys and accountants located in Wisconsin.

7. Payroll Factor of Apportionment Formula Clarified (1989 Act 31, amend sec. 71.04(6)(e), effective August 9, 1989.)

This provision clarifies that if the payroll factor is eliminated from the apportionment formula either by permission from the department or by order of the department, the sales factor of the apportionment formula must still be double weighted. (Note: A nonresident individual or fiduciary will generally use the apportionment formula when such person is engaged in business in and outside of Wisconsin and the Wisconsin operations are part of a unitary business.)

8. Sales Factor Modified for Sales to the Federal Government (1989 Act 31, renumber sec. 71.04(7)(b) to sec. 71.04(7)(b)(intro.) and amend sec. 71.04(7)(b)(intro.) as renumbered; amend sec. 71.04(7)(a) and (b)2; and create sec. 71.04(7)(b)2m and 3, see effective dates in Item B.17.)

See Item B.17.

9. Taxation of Nonresident's Winnings From Multistate Lottery (1989 Act 31, amend sec. 71.04(1)(a), effective August 9, 1989.)

Income of nonresident individuals, estates, and trusts from any multistate lottery under ch. 565, Wis. Stats., is taxable by Wisconsin if the winning lottery ticket or lottery share was purchased from a Wisconsin retailer as defined in sec. 565.01(6), Wis. Stats., or from the Wisconsin Lottery Board.

10. Interest Income or Original Issue Discount From Higher Education Bonds (1989 AB 233, repeal sec. 18.04(4); amend secs. 18.04(6)(a), 18.06(6) and (7)(d), 18.55(5), 18.56(1), 20.866(intro.), 20.867(3)(w) and 71.05(6)(a)1; repeal and recreate sec. 18.55(4); and create Subchapter IV of Chapter 18 and sec. 20.866(2)(yz) , effective day after publication.)

Interest income or original issue discount derived from higher education bonds issued by the state building commission under subch. IV of ch. 18 of the Wisconsin Statutes is exempt from Wisconsin income tax.

CAUTION: AB 233 has been enacted by the Legislature but, as of the date this publication went to print, has not been signed by the Governor. The October issue of the Wisconsin Tax Bulletin will include information on the status of this bill.

11. Wisconsin Net Operating Loss Changes (1989 Act 31, amend secs. 71.01(14) and 71.05(8)(b), effective for computation of net operating losses and of modified taxable income for taxable year 1988.)

There are two provisions relating to net operating losses. The first provision relates to the computation of the amount of loss which may be carried forward from the year in which the loss is incurred. The second provision relates to the amount of loss which is considered to be used up in years after the loss year.

The effect of these provisions will first be reflected on 1989 Wisconsin tax returns when a net operating loss is carried forward from 1988.

- a. The Wisconsin net operating loss is the federal net operating loss as computed under the federal Internal Revenue Code with certain modifications. For losses incurred on the 1987 tax return, the federal net operating loss was adjusted to allow the Wisconsin 60% capital gain exclusion. 1989 Act 31 provides that effective for computing a net operating loss from amounts on 1988 tax returns and thereafter, the federal net operating loss is no longer adjusted for the Wisconsin 60% capital gain exclusion.

Example: For a loss incurred on the 1988 tax return, a taxpayer computes a federal net operating loss of \$20,000. This figure includes \$10,000 of capital gain from the sale of an asset held two years. Assuming there are no additional adjustments, under the provisions in 1989 Act 31 the Wisconsin net operating loss is the same as the federal net operating loss. (Under Wisconsin law prior to this provision, the Wisconsin net operating loss is \$26,000, which is comprised of the federal net operating loss of \$20,000 and the \$6,000 Wisconsin capital gain exclusion.)

In addition to the Wisconsin capital gain exclusion, the federal net operating loss is also not adjusted for the following items:

1. The amount allowed as a farm loss carryover.
2. The amount of recapture of the development zone investment credit.
3. The amount recognized as a gain under sec. 1001(c) of the Internal Revenue Code if a surviving spouse and a distributee exchange their interests in marital property under sec. 857.03(2), Wis. Stats. (1987-88).

- b. A Wisconsin net operating loss may be carried forward against Wisconsin taxable incomes of the next 15 years to the extent that it has not been offset against other income in the loss year and to the extent that it has not been offset against Wisconsin modified taxable income of any year since the loss year. 1989 Act 31 provides that effective for the computation of Wisconsin modified taxable income from the 1988 return, the Wisconsin 60% capital gain exclusion is added back to Wisconsin taxable income when calculating Wisconsin modified taxable income.

Example: A single taxpayer has a net operating loss carryover from 1987 of \$50,000. His Wisconsin taxable income is as follows:

	<u>1988</u>
Wages	\$ 5,000
Long-term capital gain	4,000
Wisconsin capital gain exclusion	(2,400)
Allowable NOL	
(5,000 + 4,000 - 2,400 - 5,200 = 1,400)	(1,400)
Wisconsin total income	\$ 5,200
Less standard deduction	5,200
Wisconsin taxable income	\$ -0-

The amount of NOL used up for 1988 is equal to Wisconsin modified taxable income computed as follows:

	<u>Current Law</u>	<u>1988 Per 1989 Act 31</u>
Wisconsin total income	\$5,200	\$ 5,200
Net operating loss deduction	1,400	1,400
Capital gain exclusion	-0-	2,400
Total	\$6,600	\$ 9,000
Less standard deduction	5,200	4,990
Modified taxable income	\$1,400	\$ 4,010
(The \$4,010 represents the amount of NOL used up in 1988 per the provisions in 1989 Act 31.)		

12. Application of Rules Governing Courts' Transferring of Jurisdiction Over Trusts Created at Death Limited (1989 Act 31, amend sec. 71.14(2), effective August 9, 1989.)

This provision clarifies that Wisconsin courts have jurisdiction over trusts created at death by will, contract, declaration of trust, or implication of law only when the decedent was a Wisconsin resident at the time of death.

13. Filing Requirement and Standard Deduction for Dependents With Unearned Income (1989 Act 31, amend secs. 71.03(2)(a)3 and 71.05(22)(d) and (f), effective for taxable years beginning on or after January 1, 1989.)

For taxable years beginning on or after January 1, 1989 (1989 and subsequent year tax returns), a person who can be claimed as a dependent on another taxpayer's Wisconsin income tax return is required to file a Wisconsin income tax return if he or she has unearned income of \$500 or more. The \$500 filing requirement applies whether or not the person was actually claimed as a dependent on another taxpayer's Wisconsin income tax return.

A dependent is allowed a minimum standard deduction of \$500. The \$500 minimum standard deduction is allowed to full-year residents, part-year residents, and nonresidents.

14. Tax Tables for Income Tax - Technical Changes (1989 Act 31, amend sec. 71.06(3)(intro.), (b), and (c), effective August 9, 1989.)

The amendments to sec. 71.06(3)(intro.), (b), and (c), Wis. Stats. (1987-88), in 1989 Act 31 delete the outdated references to having tax tables up to \$10,000 and rounding to 10 cents.

Also, sec. 71.06(3)(c), Wis. Stats. (1987-88), states that the tax payable for each bracket shall be shown before allowance of any deduction for personal exemptions or exemptions for dependents. Since there are other credits which also reduce the tax, and not everyone is allowed a personal exemption, the outdated references to personal exemptions and exemptions for dependents are deleted and replaced with a reference to allowance of any credit.

15. School Property Tax Credit Increased (1989 Act 31, amend sec. 71.07(9)(b), effective for taxable years beginning on or after January 1, 1989.)

Effective for taxable years beginning on or after January 1, 1989 (1989 tax return), the rate of school property tax credit is increased from 8.5% to 10% of the first \$2,000 of property taxes or rent constituting property taxes (\$1,000 for married persons filing separately.)

16. Additional Interest May Be Used in Computing Itemized Deduction Credit (1989 Act 31, amend sec. 71.07(5)(intro.) and (a)7, effective for taxable years beginning on or after January 1, 1990.)

For taxable years beginning on or after January 1, 1990 (1990 and subsequent year tax returns), 100% of interest paid on a loan to purchase or refinance real property which has been sold on a land contract may be used in computing the Wisconsin itemized deduction credit.

Under prior law, interest paid on a loan to purchase real property which was subsequently sold on a land contract had to be combined with other personal interest which was then limited to \$1,200 (\$600 if married filing separately) for purposes of computing the credit, unless the real property sold was either the seller's principal residence, a secondary residence located in Wisconsin or was originally purchased on a land contract.

(Note: This change does not affect interest paid on a second home located outside Wisconsin. Under both old law and new law, interest paid on a second home located outside Wisconsin may not be used in computing the Wisconsin itemized deduction credit.)

Example: Taxpayer Z purchased an apartment building in 1975 with a mortgage. In January 1990, Z sells the apartment building on a land contract. The sale does not include the sale of any tangible personal property. Z continues to pay interest on the 1975 mortgage on the apartment building. The entire amount of interest paid on the mortgage may be used in computing the Wisconsin itemized deduction credit for 1990.

17. Married Couple Credit - Percentage Reduced to 2% (1989 Act 31, amend sec. 71.07(6)(a), effective for taxable years beginning on or after January 1, 1989.)

For taxable years beginning on or after January 1, 1989 (1989 and subsequent year tax returns), married persons filing a Wisconsin joint return may claim as a credit against Wisconsin net income taxes due an amount equal to 2% of the earned income of the spouse with the lower earned income. The maximum allowable credit is \$300. (On the 1988 tax return, the percentage was 2.5% and the maximum credit was \$450.)

18. Married Couple Credit - Earned Income From Working for Spouse (1989 Act 31, amend sec. 71.07(6)(a), effective for taxable years beginning on or after January 1, 1989.)

For taxable years beginning on or after January 1, 1989 (1989 and subsequent year tax returns), amounts received by an individual for services performed in the employ of the individual's spouse are used to compute the married couple credit. When computing the credit on the 1987 and 1988 tax returns, such amounts received from a spouse could not be used.

19. Development Zone Credits Amended (1989 Act 31, repeal sec. 71.07(2dj)(a) and (e)2. and (2ds)(d)3.; amend secs. 71.05(6)(a)15., and 71.07(2di)(a)(intro.), 1., 2., and 3., (b), (d)2, (e), and (g), (2dj)(am)1., 2., 4., 4e., and 7., (c), and (e)3., (2dL)(e), and (2ds)(a)2. and 3. and (b); repeal and recreate secs. 71.07(2di)(f) and (2dL)(a) and 73.03(35); and create secs. 71.07(2di)(dm), (2dj)(am)4e., 4g., 4m., and 4t., (2dL)(ag), (ar), (aw), and (bm), and (2ds)(dm) and 71.21(4); effective for taxable years beginning on or after August 1, 1988.)

See Item B.20.

20. Development Zone Jobs Credit Amended (1989 AB 60, amend sec. 71.07(2dj)(am)1., effective for business closings and mass layoffs that occur after day of publication for employers that employ 100 or more persons and on the 60th day after day of publication for employers employing fewer than 100 persons.)

For purposes of the development zone jobs credit, a "member of a targeted group" includes a person unemployed as a result of a business action subject to sec. 109.07(1m). Under sec. 109.07(1m), an employer

of 50 or more persons in Wisconsin must generally provide notice of a business closing or mass layoff.

CAUTION: AB 60 has been enacted by the Legislature but, as of the date this publication went to print, has not been signed by the Governor. The October issue of the Wisconsin Tax Bulletin will include information on the status of this bill.

21. Historic Structure Credit Amended (1989 Act 31, repeal sec. 71.07(9m)(b), amend secs. 71.07(9m)(title), (a), (d), (e), and (f) and 71.10(4)(dm), and create sec. 71.07(9m)(c), effective for taxable years beginning on or after August 1, 1988.)

See Item B.22.

22. State Historic Rehabilitation Credit Amended (1989 Act 31, repeal sec. 71.07(9r)(d) and (e), amend secs. 71.07(9r)(title), (a), (b)2., 3.b., 4., 5., and 7., (c), and (g) and 71.10(4)(dr), and create secs. 71.07(9r)(h), (i), and (j) and 71.74(8)(d), effective for taxable years beginning on or after August 1, 1988.)

- a. The credit applies for taxable years beginning on or after August 1, 1988. Under prior law, the credit was to be available only for the 1989 and 1990 taxable years.
- b. It is clarified that the credit applies only to property located in Wisconsin.
- c. The credit applies to rehabilitation projects begun after December 31, 1988. "Begun after December 31, 1988" means that the physical work of construction, or destruction in preparation for construction, must begin after December 31, 1988. This provision codifies an emergency rule adopted by the Department of Revenue.
- d. The maximum amount of the credit is reduced from \$50,000 to \$10,000 for any preservation or rehabilitation project. The maximum amount is \$5,000 for married persons filing separately.
- e. The credit applies to human burial sites, archaeological sites, and owner-occupied personal residences or other property not eligible for the federal supplement credit provided that the residence or other property is not actively used in a trade or business, held for the production of income, or held for sale or other disposition in the ordinary course of the claimant's trade or business. Under prior law, the credit was available for nondepreciable property.
- f. Claimants must obtain the approval of the Historical Society that the completed preservation or rehabilitation substantially complies with the previously-approved plan for the project.
- g. Claimants must complete the rehabilitation work within a specified period of time. The date that the physical work of construction, or destruction in preparation for construction, begins will be the starting date for the time period.

- h. The qualified rehabilitation expenditures must exceed the greater of \$1,000 or the adjusted basis of the building, if the historic property is a building, or of the entire property, if the historic property is not a building. In addition, the adjusted basis used must be the basis on the date that the physical work of construction, or destruction in preparation for construction, begins.

Under prior law, the qualified rehabilitation expenditures were to exceed the greater of \$1,000 or the adjusted basis of the entire property.

- i. Claimants of the credit must reduce their Wisconsin adjusted basis of the building, if the rehabilitated property is a building, by the amount of credit claimed. If the rehabilitated property is not a building (for example, a burial site or archeological site), the reduction must be made to the Wisconsin adjusted basis of the entire property. Under prior law, the Wisconsin adjusted basis of the entire property was required to be reduced by the amount of the credit.

It is clarified that the Wisconsin adjusted basis of a partner's interest in a partnership or a shareholder's stock in a tax-option corporation must be adjusted to take into account adjustments made to the basis of property held by the partnership or tax-option corporation.

- j. The language specifying that the credit must be claimed on a form prescribed by the Department of Revenue is deleted since the department has sufficient authority to prescribe forms.
- k. The carryforward period for unused rehabilitation credit has been extended from 5 years to 15 years. Reference is made to the 15-year carryforward rule for the credit for increasing research expenditures. In addition, a reference to the annualization rule for the research credit is deleted since the rehabilitation credit is not computed on an annualized basis.
- l. The rehabilitation credit may not be claimed by partnerships or tax-option corporations, but the individual partners or shareholders may claim a credit based on their proportionate share of the eligible rehabilitation costs incurred by the partnership or corporation. The partnership or corporation must compute the amount of credit that can be claimed by each partner or shareholder and must provide that information to the partners or shareholders.
- m. If the property is owned by two or more individuals, the credit may be claimed as follows:
 - (1) For projects benefiting one owner, by that owner based on the costs incurred by that owner.
 - (2) For projects benefiting more than one owner, by each owner based on that person's share of the total costs incurred. The share is determined in proportion to the person's ownership interest in the property.

- n. The credit cannot be claimed for the rehabilitation of a personal residence if the person has claimed a rehabilitation credit for another personal residence within the 5 preceding years.

The credit cannot be claimed for the rehabilitation of any property if the person acquired the property under an agreement which requires the person to sell or otherwise dispose of the property back to the previous owner within 5 years of the acquisition.

- n. The Department of Revenue is given the authority to make assessments to recover credits in cases where the State Historical Society determines that the claimant has not complied with the following requirements:

- (1) Obtain the approval of the State Historical Society for the proposed rehabilitation,
- (2) Complete the rehabilitation work within a specified time period, and
- (3) Place a 20-year easement or covenant on the property to protect the historic features of the property.

The department is allowed a 4-year period after being notified in which to recover the credit. Certain restrictions apply on the period of time within which the State Historical Society must notify the department.

- 23. Farmland Tax Relief Credit Created (1989 Act 31, amend secs. 71.74(8)(a), (b) and (c), 71.80(3) and (3m)(intro.), 71.82(1)(c) and (2)(c), 71.83(2)(b)4, and 71.88(1)(b) and (2)(b); and create secs. 20.835(2)(q), 71.07(3m), 71.28(2m), and 71.47(2m), effective for property taxes accrued during 1989 and thereafter.)

Beginning with property taxes accrued during 1989, a refundable farmland tax relief credit is created. Subject to limitations as described below, the credit is 10% of the property taxes accrued on farmland, exclusive of taxes on the improvements (e.g., buildings) on the land. An additional credit of 4.2% (in addition to the 10% credit) is allowable for property taxes accrued during 1989.

The following limitations apply:

- a. The maximum allowable farmland tax relief credit based on the 10% credit is \$1,000. The maximum allowable farmland tax relief credit based on the supplemental 4.2% credit for 1989 is an additional \$1,000.

Note: The Governor stated in his veto message that he believes the Legislature intended the maximum supplemental credit for 1989 to be \$420 rather than \$1,000, and that he will propose legislation in the fall to correct this.

- b. The farmland tax relief credit when added to farmland preservation credit under subch. IX of ch. 71, Wis. Stats., may not exceed 95% of the property taxes accrued on the farm.

The following requirements must be met:

- a. The farmland must be 35 or more acres of Wisconsin land.
- b. The farmland must be in agricultural use and must have produced at least \$6,000 in gross farm profits during the year or \$18,000 in gross farm profits in the past three years, or at least 35 acres must have been enrolled in the Conservation Reserve Program during all or part of the year.
- c. The farmland must have been owned by the claimant or any member of the claimant's household (i.e., the claimant's spouse and minor dependents) during the year.

The claim must be filed within 12 months of the end of the taxable year and may be filed by an individual (must be domiciled in Wisconsin for the full year for which a claim is filed), a partner in a partnership, a shareholder in a tax-option corporation, a corporation, a personal representative of an estate, or a trustee of a trust.

- 24. Treatment of Incentive Stock Options in Computing Wisconsin Alternative Minimum Taxable Income (1987 Act 31, amend sec. 71.08(1)(c) and create sec. 71.08(1)(bm), effective for taxable years beginning on or after January 1, 1989.)

In computing Wisconsin alternative minimum taxable income, a taxpayer may subtract 20% of the amount of incentive stock options included in federal alternative minimum taxable income under sec. 56(b)(3), IRC.

Subsequently, when the stock purchased under an incentive stock option is disposed of, any adjustment made to federal alternative minimum taxable income for that year as a result of a basis adjustment under sec. 56(b)(3) must also be reduced by 20% in computing Wisconsin alternative minimum taxable income.

- 25. Alternative Minimum Taxable Income Clarified (1989 Act 31, amend sec. 71.08(1)(a), effective August 9, 1989.)

In computing Wisconsin alternative minimum taxable income, federal alternative minimum taxable income is used as a starting point and is then adjusted by most modifications under sec. 71.05(6) to (21), Wis. Stats. The modifications for certain municipal interest, the state tax refund, and the Wisconsin net operating loss are not adjusted for because they have already been adjusted for when federal alternative minimum taxable income is computed.

It is clarified that the modifications for the federal net operating loss and the state tax deduction of fiduciaries are also not adjusted for in computing Wisconsin alternative minimum tax because they have already been adjusted for when federal alternative minimum taxable income is computed.

26. Effect of Claim of Right Credit, Farmland Tax Relief Credit and Development Zone Credits on Alternative Minimum Tax Computation Clarified (1989 Act 31, amend sec. 71.08(1)(intro.) effective August 9, 1989, for purposes of the claim of right credit and development zone credits and repeal and recreate sec. 71.08(1)(intro.) as amended by 1989 Act 31, effective for property taxes accrued during 1989 and thereafter for purposes of the farmland tax relief credit.)

These provisions clarify that the Wisconsin claim of right credit, the farmland tax relief credit and development zone credits claimed by tax-option (S) corporation shareholders have no effect on the computation of Wisconsin alternative minimum tax.

27. Order of Computation Revised (1989 Act 31, amend sec. 71.10(4)(i), effective for property taxes accrued during 1989 and thereafter for purposes of the farmland tax relief credit, and for taxable years beginning on or after January 1, 1989, for purposes of the earned income credit.)

The order of computing an individual or fiduciary income tax liability has been revised to incorporate two new credits. The farmland tax relief credit (see Item A.23.) is to be applied after the homestead credit and the earned income credit (see Item A.29) is to be applied after the development zone jobs credit and before estimated tax payments.

28. Chapter 71 Rewrite Corrections (1989 Acts 13, 14 and 31, amend secs. 20.835(2)(d), 40.02(26g), 40.23(2m)(b), 40.26(1), 40.86(intro.), 44.02(24), 73.01(4)(i), 73.03(33), 97.29(1)(g)7, 231.01(5)(a)4.c., 560.75(9)(a) and (b), 560.768(1)(a), 565.30(4) and 814.61(5)(c) and repeal and recreate sec. 40.23(1)(a), 73.03(35) and 560.75(8) effective May 16, 1989 for provisions in Act 13, May 19, 1989, for provisions in Act 14, and August 9, 1989, for provisions in Act 31.)

Changes are made to cross references and statutory numbering due primarily to passage of legislative bills after the revision of the income chapter (Chapter 71) of the Wisconsin Statutes in the 1987-88 budget session. No substantive changes are intended.

29. Earned Income Tax Credit (1989 Act 31, create sec. 71.07(9e), effective for taxable years beginning on or after January 1, 1989.)

For taxable years beginning on or after January 1, 1989, individuals eligible to claim an earned income credit on their federal income tax return under sec. 32 of the Internal Revenue Code may be eligible to claim an earned income credit against their Wisconsin income tax otherwise due. The Wisconsin earned income tax credit is equal to a percentage of the federal earned income credit as follows:

- a. If the person has one dependent child who has the same principal place of abode as the person, 5% of the federal credit.
- b. If the person has 2 dependent children who have the same principal place of abode as the person, 25% of the federal credit.

- c. If the person has more than 2 dependent children who have the same principal place of abode as the person, 75% of the federal credit.

Married persons must generally file a joint Wisconsin income tax return to claim the credit. However, the credit may be claimed on a separate return if the following conditions are met:

- a. The individual paid more than half the cost of keeping up a home for the year, and
- b. The individual's spouse did not live in such home during the last 6 months of the year, and
- c. The home was, for more than half of the year, the principal home of the individual's child for whom the individual is entitled to claim an exemption for federal tax purposes.

The Wisconsin credit is refundable. Part-year residents and nonresidents are not eligible for the credit.

The credit must be claimed within 4 years of the unextended due date of the person's income tax return. The income tax provisions relating to assessments, refunds, appeals, collection, interest and penalties apply to the credit.

- 30. One-Time Supplement for 1990 of the School Property Tax Credit (1989 Act 31, create nonstatutory provision, effective for school property tax credit claims for taxable years 1987 and 1988.)

Prior to enactment of 1989 Wisconsin Act 31, the 1987 school property tax credit was equal to 6.9% of the first \$2,000 (\$1,000 if married filing separately) of property taxes or rent constituting property taxes paid during the taxable year. The 1988 school property tax credit was equal to 8.5% of the first \$2,000 (\$1,000 if married filing separately) of property taxes or rent constituting property taxes paid during the taxable year. This Act provides an additional amount of credit by increasing the 1987 school property tax credit from 6.9% to 13.4% and the 1988 school property tax credit from 8.5% to 15%.

For part-year residents, the additional amount of credit for each year must be prorated based on the ratio of their Wisconsin adjusted gross income to federal adjusted gross income for that year. Nonresidents are not eligible for the school property tax credit and therefore will not receive this additional credit.

Persons who claimed the school property tax credit on their 1987 or 1988 Wisconsin income tax return will be sent a refund check equal to the lesser of (a) the additional credit amounts of 6.5% for each year or (b) the person's "net tax liability" as computed on the 1987 and 1988 tax returns.

The maximum amount of additional credit to be refunded is \$260 (\$130 if married filing separately). If a taxpayer dies before receiving his or her additional credit, the amount shall be paid to the taxpayer's estate.

A taxpayer is not required to file a separate claim to obtain the additional credit refund. The Department of Revenue will issue refunds for the additional school property tax credit in April 1990, or as soon as possible after receipt of the taxpayer's 1987 or 1988 income tax return if the return is filed after December 31, 1989.

The department is required to include the following statement with the refund check: "The Governor and Legislature of the State of Wisconsin have provided in 1989 Wisconsin Act 31 that any person who claimed the 1987 or 1988 school property tax/rent credit shall receive an additional amount of credit. The enclosed check is for this additional credit."

31. Endangered Resources Designation (1989 Act 31, amend sec. 71.10(5)(g), effective August 9, 1989.)

The department is required to highlight the endangered resources contribution line on the individual income tax forms by including a symbol chosen by the department that relates to endangered resources.

32. Federal Retirement Benefits Exempt for Certain Persons (1989 Act 31, amend s. 71.05(1)(a), effective for taxable years beginning on and after January 1, 1989.)

For taxable years beginning on or after January 1, 1989, all payments received from a United States government civilian employee or military (including both active and reserve from all branches of the Armed Services and the U.S. Coast Guard) personnel retirement system or fund are exempt from the Wisconsin income tax when paid on the account of any person who was:

- a. A member of such a system or fund as of December 31, 1963, or
- b. Retired from such a system or fund as of December 31, 1963.

(Note: This exemption also would apply to such payments received by a beneficiary of a person who qualified under a or b above.)

33. Federalize Estimated Tax Payment Provisions for Estates and Trusts (1989 Act 31, amend sec. 71.09(2) and (13)(d), effective for taxable years beginning on or after January 1, 1990.)

The following changes are made to the Wisconsin estimated tax provisions relating to estates and trusts:

- a. The requirement to make payments of estimated tax does not apply to any taxable year ending before the date 2 years after the date of a decedent's death with respect to the estate of such decedent or any trust all of which is treated under subpart E of part I of subchapter J of Chapter 1 of the Internal Revenue Code as owned by the decedent and to which the residue of the decedent's estate will pass under his or her will. Under prior law, estimated tax payments were not required for the first or second taxable year of an estate.

- b. A trust that is subject to the Wisconsin tax on unrelated business taxable income is subject to the estimated tax provisions which apply to corporations. Under prior law, such trusts were subject to the estimated tax provisions applying to individuals and fiduciaries.
- c. When installments of estimated tax are computed by annualizing income, the income of an estate or trust for the months in the taxable year ending before the date one month before the due date for the installment shall be annualized in calculating the installments (e.g., for an installment due April 16, 1990, an estate's or trust's income to February 28, 1990 would be annualized). Under prior law, income for the months in the taxable year ending before the due date of the installment was annualized in calculating the installments. In the example in the preceding sentence, income to March 31, 1990, would have been annualized under old law.

34. Penalties on Retirement Plans (1989 Act 31, amend sec. 71.83(1)(a)6, effective August 9, 1989.)

This provision provides that any natural person who is liable for a penalty for federal income tax purposes under secs. 72(q) and (t), 4973, 4975, or 4980A of the Internal Revenue Code is liable for 33% of the federal penalty. This statute previously referred to "any person" and included obsolete references.

B. CORPORATION FRANCHISE OR INCOME TAXES

1. Definition of Internal Revenue Code Updated for Corporations for 1989 (1989 Act 31, create sec. 71.22(4)(d), effective for taxable years beginning after December 31, 1988.)

For corporations other than insurance companies, tax-option corporations, regulated investment companies (RICs), real estate investment trusts (REITs), real estate mortgage investment conduits (REMICs), and nonprofit organizations subject to a tax on unrelated business taxable income, for taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1988, except as modified by sec. 71.26(3), Wis. Stats.

In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to the general effective dates of the amendments to the Internal Revenue Code. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of

accounting under IRC sec. 481 do not apply for Wisconsin purposes (secs. 803(d)(2)(B), 805(d)(2), 812(c)(2), 821(b)(2), and 823(c)(2) of P.L. 99-514 and section 1008(g)(5) of P.L. 100-647). For Wisconsin purposes, these five items should have been treated as transitional adjustments.

2. Exceptions to Definition of Internal Revenue Code for Corporations for 1987 and 1988 (1989 Act 31, amend secs. 71.22(4)(a), (b), and (c), 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 investment trusts (REITs), real estate mortgage investment conduits (REMICs), and nonprofit corporations subject to a tax on unrelated business taxable income.

a. For taxable year 1987 (years that end after July 1, 1987, and before July 1, 1988), "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, 1987, and before December 31, 1987, "Internal Revenue Code" does not include changes to the federal Internal Revenue Code made by secs. 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) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
- (3) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes. Instead, these five items should have been treated as Wisconsin transitional adjustments.
- (4) The Internal Revenue Code is modified as provided in sec. 71.26(3), Wis. Stats.

b. 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) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes. Instead, these five items should have been treated as Wisconsin transitional adjustments.
 - (3) The Internal Revenue Code is modified as provided in sec. 71.26(3), Wis. Stats.
- c. For taxable years that begin after December 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the following exceptions:
- (1) Changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes. Instead, these five items should have been treated as Wisconsin transitional adjustments.
 - (3) The Internal Revenue Code is modified as provided in sec. 71.26(3), Wis. Stats.
3. Definition of Internal Revenue Code Updated for Regulated Investment Companies, Real Estate Investment Trusts, and Real Estate Mortgage Investment Conduits for 1989 (1989 Act 31, create sec. 71.26(2)(b)4., effective for taxable years that begin after December 31, 1988.)

For regulated investment companies (RICs), real estate investment trusts (REITs), and real estate mortgage investment conduits (REMICs), for taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" means the federal Internal

Revenue Code as amended to December 31, 1988, with the following exceptions:

- a. 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.
- b. 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.

In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to the general effective dates of the amendments to the Internal Revenue Code.

4. Exceptions to Definition of Internal Revenue Code for Regulated Investment Companies, Real Estate Investment Trusts, and Real Estate Mortgage Investment Conduits for 1988 and Prior Years (1989 Act 31, amend sec. 71.26(2)(b)1., 2., and 3., and create nonstatutory provision, see effective dates below.)

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

- a. For 1986 and prior taxable years (years that end before July 1, 1987), changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the definition of "Internal Revenue Code" for Wisconsin purposes at the same time as for federal purposes.
- b. For taxable year 1987 (years that end after July 1, 1987, and before July 1, 1988), "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 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 secs. 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) and the Technical and Miscellaneous

Revenue Act of 1986 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.

- (3) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
 - (4) 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.
- c. 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) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
 - (3) 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.
 - (4) 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.
- d. For taxable years that begin after December 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the following exceptions:
- (1) Changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
 - (3) 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.

- (4) 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.

5. Definition of Internal Revenue Code Updated for Insurance Companies for 1989 (1989 Act 31, create sec. 71.42(2)(c), effective for taxable years beginning after December 31, 1988.)

For insurance companies for taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1988, except that it does not include IRC sec. 847 relating to an additional deduction for insurers required to discount unpaid losses.

In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to the general effective dates of the amendments to the Internal Revenue Code.

6. Exceptions to Definition of Internal Revenue Code for Insurance Companies for 1988 and Prior Years (1989 Act 31, amend sec. 71.42(2)(a) and (b), and create nonstatutory provision, see effective dates below.)

- a. For insurance companies for 1986 and prior taxable years, changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the definition of "Internal Revenue Code" for Wisconsin purposes at the same time as for federal purposes.
- b. For insurance companies for taxable year 1987, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1986, except that changes to the federal Internal Revenue Code made by the Revenue Act of 1987 (P.L. 100-203) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes. The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
- c. For insurance companies for taxable years that begin after December 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the following exception. Changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647), except IRC sec. 847 relating to an additional deduction for insurers required to discount unpaid losses, apply for Wisconsin purposes at the same time as for federal purposes. The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.

7. Definition of Internal Revenue Code Updated for Nonprofit Organizations for 1989 (1989 Act 31, renumber sec. 71.22(4m) to sec. 71.22(4m)(a) and amend sec. 71.22(4m)(a) as renumbered; create sec. 71.22(4m)(b), see effective dates below.)

The law changes described below apply to nonprofit corporations subject to a tax on unrelated business taxable income.

- a. For taxable years that begin after July 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, except that changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes. In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to the general effective dates of the amendments to the Internal Revenue Code.
- b. For taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1988. The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes.
8. Reference to Internal Revenue Code Updated for Corporation and Insurance Company Depreciation Purposes (1989 Act 31, amend sec. 71.26(3)(y) and create sec. 71.45(2)(a)13., effective for taxable years beginning on or after January 1, 1989.)

A corporation or insurance company may compute depreciation under either the Internal Revenue Code as amended to December 31, 1988, or the federal Internal Revenue Code in effect for the taxable year for which the return is filed, except that property placed in service prior to January 1, 1987, must continue to be depreciated under the method allowable for Wisconsin purposes for the year in which it was placed in service.

9. Wisconsin Taxable Years Conformed to Federal Taxable Years (1989 Act 31, amend secs. 71.22(10), 71.24(1), (6)(c) and (d), and (9), 71.26(4), 71.28(1fd)(a), (b), and (c), 71.29(11), 71.44(1)(a), (2)(a), (c), and (d), and (4)(b), 71.45(4), 71.47(1fd)(a), (b), and (c), 71.58(3), (4), (6), and (7)(b), 71.59(2)(a), 71.75(3), and 71.83(1)(a)2.; and create secs. 71.275, 71.42(5), 71.58(9), and nonstatutory provision; effective for taxable years beginning on or after August 1, 1988.)

"Taxable year" means the taxable period upon the basis of which the taxable income of the taxpayer is computed for federal income tax purposes.

The taxable year of a corporation that keeps its accounting records on the basis of a 52-53 week period ends on the last day of the month closest to the end of the 52-53 week period. Under prior law, "taxable year" meant the calendar year or any fiscal year ending after June 30 in that calendar year and before July 1 in the following calendar year.

As a result of this law change, taxpayers having taxable years beginning after July 31, 1988, and before January 1, 1989, must file two 1988 returns covering different taxable periods: one for the taxable year beginning in August through December 1987 and ending in July through November 1988, and a second 1988 return for the taxable year beginning in August through December 1988 and ending in July through November 1989. A 1989 tax return must be filed for the calendar year ending December 31, 1989, or any fiscal year beginning in 1989.

If a separate corporation income tax return is made for a fractional part of a year for federal income tax purposes, the corporation also must file a separate Wisconsin franchise or income tax return for that fractional year. The income must be computed and reported on the basis of the period for which the separate return is made, and that fractional part of the year will constitute a taxable year. The net income for the short period must be placed on an annual basis using the method applicable for federal income taxes under IRC sec. 443(b)(1). Therefore, if an affiliated group of corporations files two federal consolidated returns because a corporate acquisition or disposition occurred during the taxable year, the members of the group must also file two short-period returns for Wisconsin purposes, even though Wisconsin does not permit the filing of consolidated returns.

Returns for less than a full taxable year must be filed with the department on or before the date applicable for federal income taxes. Under prior law, a short-period return would have been due the 15th day of the third month following the close of the corporation's normal taxable year.

A claimant may claim the farmers' drought credit on only one return if the claimant files more than one 1988 return. The credit may not be claimed on a return for any year beginning after July 31, 1988.

If a tax rate under sec. 71.27, Wis. Stats., changes during a taxable year, the tax for that taxable year must be computed using the method under IRC sec. 15.

10. Interest Income Included in Net Income (1989 Act 31, amend secs. 71.26(3)(b) and 71.45(2)(a)3., effective for taxable years beginning on or after January 1, 1989.)

The following changes apply for taxable years that begin on or after January 1, 1989 (1989 and subsequent year tax returns):

- a. For corporations subject to the franchise tax under sec. 71.23(2), Wis. Stats., any interest income not included in federal taxable income must be added to federal taxable income to compute Wisconsin net income.

- b. For corporations subject to the income tax under sec. 71.23(1), Wis. Stats., any interest income not included in federal taxable income must be added to federal taxable income to compute Wisconsin net income, except interest income which is by federal law exempt from state taxation.

Under prior law, for taxable years 1987 and 1988, interest income excluded from federal taxable income under IRC sec. 103 was required to be added to federal taxable income to compute Wisconsin net income. Interest income exempt from federal taxation under provisions of other federal laws, such as 42 U.S.C. sec. 1437i(b), was not required to be added back.

In addition, it is clarified that for insurance companies subject to the franchise tax, any interest income not included in federal taxable income must be added to federal taxable income to compute Wisconsin net income.

11. Deduction for Certain Premium Amortizations and Interest Expenses Allocable to State and Local Bonds Clarified (1989 Act 31, create sec. 71.26(3)(hm), (ms), and (tm), effective for taxable years beginning on or after January 1, 1989.)

This provision clarifies that corporations may deduct amortizable state and local bond premiums. The definition of "Internal Revenue Code" is modified so that the rules in IRC secs. 171 and 1016(a) for federally taxable bonds apply for bonds that are taxable for Wisconsin tax purposes and the rules for federally tax-exempt bonds apply to bonds that are exempt for Wisconsin tax purposes.

In addition, it is clarified that financial institutions may deduct 100% of the interest that is allocable to state and local bonds. The definition of "Internal Revenue Code" is modified so that IRC sec. 291(a)(3) does not apply to deductions that are allocable to income that is taxable for Wisconsin purposes.

Note: These interpretations also apply to the 1987 and 1988 taxable years.

12. Deductible Dividends Clarified (1989 Act 31, amend sec. 71.26(3)(j), effective for taxable year 1987 and thereafter.)

The payor corporation must meet the "50% or more of net income" test for the year preceding the payment of the dividends. If the payor corporation was not subject to Wisconsin franchise or income tax for the preceding year, deductibility is determined using the payor corporation's net income or loss for the year the dividends are paid. Dividends deductible under sec. 71.26(3)(j), Wis. Stats., may be deducted only once, even though one or both requirements for deductibility are met.

13. Credits Includable in Income for Insurance Companies (1989 Act 31, create sec. 71.45(2)(a)10. and 11., effective for taxable years beginning on or after January 1, 1989.)

For taxable years that begin on or after January 1, 1989 (1989 and subsequent year tax returns), insurance companies, in determining net income for Wisconsin franchise tax purposes, must add back to federal

taxable income the amount of the community development finance credit, manufacturer's sales tax credit, research and research facilities credits, and development zone credits computed. Since development zone credits computed by a partnership are added to income at the partnership level, and that income is passed through and reported by the partners, the pass-through credits claimed by the partners do not have to be added back to their income a second time.

Insurance companies may deduct from federal taxable income any recapture of the development zone investment credit.

14. Treatment of Insurers Organized Under Chapter 613, Stats., Operating by Virtue of Section 148.03, 447.13, 449.15, or 613.80, Stats., Federalized (1989 Act 31, amend secs. 71.43(2) and 71.45(1), (2)(a)(intro.), (3)(intro.), and (4), effective for taxable year 1987 and thereafter.)

These amendments eliminate the requirement that insurers organized under ch. 613, Stats., operating by virtue of sec. 148.03 (plans of sickness care), 447.13 (dental care), 449.15 (prepaid optometric service plans), or 613.80 (hospital services) must determine their net income or loss using the provisions of the Internal Revenue Code applicable to mutual insurance companies having gross receipts over \$500,000. Beginning with the 1987 taxable year, the Tax Reform Act of 1986 revised the taxation of mutual insurance companies and eliminated the distinction, for tax purposes, between stock and mutual companies. Thus, these insurers will compute their income in the same manner for Wisconsin purposes as for federal purposes. If an insurer elects to be taxed only on investment income for federal purposes, that same election will apply for Wisconsin purposes.

15. Certain Income of a Real Estate Mortgage Investment Conduit Exempted From Tax (1989 Act 31, create sec. 71.26(1)(f), effective for taxable year 1987 and thereafter.)

For the 1987 taxable year and thereafter (years that begin after July 1, 1986), the income of a REMIC that is exempt for federal income tax purposes under IRC sec. 860A is exempt for Wisconsin corporation franchise and income tax purposes. The income of a REMIC is taxable to the holders of interests in the REMIC.

16. Payroll Factor of Apportionment Formula Clarified (1989 Act 31, amend sec. 71.25(8)(e), effective August 9, 1989.)

This provision clarifies that if the payroll factor is eliminated from the apportionment formula either by permission from the department or by order of the department, the sales factor of the apportionment formula must still be doubled-weighted.

17. Sales Factor Modified for Sales to the Federal Government (1989 Act 31, renumber sec. 71.25(9)(b) to sec. 71.25(9)(b)(intro.) and amend sec. 71.25(9)(b)(intro.) as renumbered; amend sec. 71.25(9)(a) and (b)2.; create sec. 71.25(9)(b)2m. and 3.; and amend sec. 71.25(9)(b)2m. as created, see effective dates below.)

For taxable years that begin on or after January 1, 1989, and before January 1, 1990 (1989 tax returns), sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and delivered to the federal government outside Wisconsin are included in the numerator of the sales factor (as Wisconsin sales) but are single-weighted. Sales of tangible personal property shipped from Wisconsin and delivered to the federal government within Wisconsin continue to be included in the numerator of the sales factor and double-weighted. Sales to federal government locations in Wisconsin which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin are not included in the numerator of the sales factor.

For taxable years that begin on or after January 1, 1990 (1990 and subsequent year tax returns), sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and delivered to the federal government outside Wisconsin are treated as follows:

- a. If the taxpayer is not within the jurisdiction, for income or franchise tax purposes, of the destination state, such sales are included in the numerator of the sales factor (as Wisconsin sales) but are single-weighted.
- b. If the taxpayer has nexus in the destination state, such sales are not included in the numerator of the sales factor.

Sales of tangible personal property shipped from Wisconsin and delivered to the federal government within Wisconsin continue to be included in the numerator of the sales factor and double-weighted. Sales to federal government locations in Wisconsin which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin are not included in the numerator of the sales factor.

Under prior law, all sales to the federal government that originated in Wisconsin were included in the numerator of the sales factor and were double-weighted.

18. Estimated Tax Requirements for Corporations, Trusts, and Other Entities Subject to Tax on Unrelated Business Taxable Income Amended (1989 Act 31, renumber sec. 71.84(2) to 71.82(2)(a) and amend sec. 71.84(2)(a) as renumbered, amend sec. 71.29(2), (3), (7)(intro.) and (b), (9)(a)(intro.) and (c), (10)(a) and (c), and (11), and create secs. 71.29(1)(c) and 71.84(2)(b), effective for taxable years that begin on or after January 1, 1990.)

The estimated tax rules in sec. 71.29, Stats., apply to corporations, trusts, and other entities that are subject to tax on unrelated business taxable income.

For purposes of computing the annualized income of any entity which is subject to tax on unrelated business taxable income, the taxable income for the months in the taxable year ending before the date one month before the due date for the installment must be used. Thus, these entities will have 45 days instead of 15 days to compute their estimated tax payments under the annualization rules.

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For entities that are subject to tax on unrelated business taxable income, the "period of the underpayment" means the time period from the due date of the installment until either the 15th day of the 5th month beginning after the end of the taxable year or the date of payment, whichever is earlier.

If 90% of the tax shown on the return is not paid by the 15th day of the 5th month following the close of the taxable year, the difference between that amount and the estimated taxes paid, along with any interest due, will accrue delinquent interest under sec. 71.91(1)(a), Stats.

19. Research Expense Credit Amended (1989 Act 31, amend secs. 71.28(4)(a) and 71.47(3)(a), effective August 9, 1989.)

Corporations may claim a research expense credit for certain qualified research expenditures as defined under IRC sec. 41. However, any wages used to compute the development zone jobs credit may not be included in the amount of qualified research expenses. If the federal tax credit for research expenses is allowed to expire (the current sunset date is December 31, 1989), this will not cause the Wisconsin research credit to expire.

20. Development Zone Credits Amended (1989 Act 31, repeal secs. 71.28(1dj)(a) and (e)2., (1ds)(d)3., and (4)(fm), 71.47(1dj)(a) and (e)2., (1ds)(d)3., and (3)(fm), and 560.765(3)(b); renumber sec. 560.745(2)(c) to sec. 560.745(2)(c)(intro.) and sec. 560.765(3)(a) to sec. 560.765(3) and amend sec. 560.745(2)(c)(intro.) as renumbered; amend secs. 71.26(2)(a), 71.28(1di)(a)(intro.), 1., 2., and 3., (b), (d)2., (e), and (g), (1dj)(am)1., 2., 4., and 7., (c), and (e)3., (1dL)(e), and (1ds)(a)2. and 3. and (b), and (4)(a), (f), (g), and (i), 71.47(1di)(a)(intro.), 1., 2., and 3., (b), (d)2., (e), and (g), (1dj)(am)1., 2., 4., and 7., (c), and (e)3., (1dL)(e), and (1ds)(a)2. and 3., and (b), and (3)(a), (f), (g), and (i), 560.71(1)(d), 560.75(9)(b), and 560.768(1)(a), (b)1., and (3)(a)1.; repeal and recreate secs. 71.28(1di)(f) and (1dL)(a), 71.47(1di)(f) and (1dL)(a), 73.03(35) and 560.75(8); and create secs. 71.28(1di)(dm), (1dj)(am)4e., 4g., 4m., and 4t., (1dL)(ag), (ar), (aw), and (bm), (1ds)(dm), and (4)(am), 71.34(1)(g), 71.47(1di)(dm), (1dj)(am)4e., 4g., 4m., and 4t., (1dL)(ag), (ar), (aw), and (bm), (1ds)(dm), and (3)(am), 560.737, 560.745(2)(c)2. and (3) and 560.765(3)(bm); effective for taxable years beginning on or after August 1, 1988.)

a. General Provisions

- (1) Development zone credits computed by a partnership or tax-option corporation and passed through to its partners or shareholders must be added to the income of the partnership or tax-option corporation. Since the credits are added to income at the partnership or tax-option corporation level, and that income is passed through and reported by the partners or shareholders, the pass-through credits claimed by the partners or shareholders do not have to be added back to their income a second time.

- (2) It is clarified that the Department of Revenue has the authority to deny claims for development zone credits if such claims would violate the requirement under sec. 560.75(9), Wis. Stats., that a certain percentage of the total development zone credits must be used exclusively for the jobs credit.
- (3) The Department of Development can certify business incubators to participate in the development zone program if the incubator meets special criteria and is located within 5 miles of the boundary of the development zone. It is clarified that the special criteria do not apply to business incubators that are located in a development zone. Business incubators located in a development zone can be certified using the same criteria applicable to other businesses located in a development zone.
- (4) If the Department of Development determines that the amount of tax benefits claimed by businesses in a particular development zone will equal or exceed the allocation of tax benefits available to that development zone, the Department of Development can set a new expiration date for the development zone. The expiration is 90 days after the determination is made by the Department of Development. Under prior law, the expiration was December 31 of the calendar year in which the determination is made.

The Department of Development is given the authority to withdraw the designation of an area as a development zone in cases where (a) no persons are certified to claim tax benefits within the first 12-month period of the zone's existence and the local governing body is not following the development zone plan, or (b) no persons are certified for tax benefits within the first 24-month period of the zone's existence. The expiration of the development zone in such cases is effective immediately.

b. Investment Credit

- (1) The investment credit may be claimed only for purchases made after the person is certified by the Department of Development to claim tax benefits.
- (2) To qualify for the investment credit, tangible personal property must be depreciable property.
- (3) To qualify for the investment credit, at least 50% of the use of the property must be in the conduct of the business operations for which the person is certified by the Department of Development to claim tax benefits. In cases where property is used partially for purposes other than the conduct of the business operations in a development zone for which the person is certified by the Department of Development to claim tax benefits, the purchase price must be reduced by the percentage of nonqualified use during the taxable year the property is first placed into service.

- (4) It is clarified that only partners or shareholders may claim the investment credit based on purchases of qualified property by a partnership or tax-option corporation.
- (5) If the investment credit is claimed for used property, the claimant may not have used the property for business purposes outside the development zone. In addition, for credits attributable to a partnership or tax-option corporation, the entity may not have previously used the property for business purposes outside the development zone. Under prior law, the claimant may not have previously used the property for any purpose outside the development zone.
- (6) It is clarified that eligibility for and the amount of the investment credit attributable to a partnership or tax-option corporation is based on the economic activity of the entity, not that of the partners or shareholders. The entity must compute the amount of credit that may be claimed by each partner or shareholder and must provide that information to each of its partners or shareholders.
- (7) It is clarified that, in the case of credits attributable to a partnership or tax-option corporation, the investment credit can be used to offset the partner's or shareholder's tax attributable to the partner's or shareholder's income from the entity's business operations in a development zone and the entity's directly-related business operations.
- (8) For purposes of recapture of the investment credit, the determination of whether or not property is 3-year property is based on the recovery periods under sec. 168 of the current Internal Revenue Code.
- (9) Amounts of investment credit not used to offset tax may be carried forward for up to 15 years, even if the development zone expires. Under prior law, all carryovers of unused amounts expired following the expiration of the development zone. This change in the carryover rule for the investment credit also applies to the location and additional research credits.

It is clarified that if a person who is certified under sec. 560.765(3), Wis. Stats., for tax benefits ceases business operations in the development zone during any of the taxable years that the zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused development zone credits from the taxable year during which operations cease or from previous taxable years.

c. Jobs Credit

- (1) The categories of individuals eligible for the jobs credit are expanded to include all dislocated workers specified under 29 U.S.C. 1652(a) for purposes of the federal Job Training Partnership Act (JTPA) program. The jobs credit now applies to

all self-employed individuals who are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters and to individuals who are long-term unemployed and have limited opportunities for employment in their former occupation, including older individuals who may have substantial barriers to employment by reason of their age.

- (2) The jobs credit may be claimed only for wages paid to Wisconsin residents.
- (3) JTPA organizations can act as the designated local agency and certify that individuals are eligible for the jobs credit if the Department of Development approves the criteria used for certification.
- (4) The jobs credit may be claimed only for wages paid after the employer is certified by the Department of Development to claim tax benefits.
- (5) The federal rules for the targeted jobs credit relating to on-the-job training and work supplementation payments also apply to payments made with funds provided by the state. Thus, state payments may not be included in the amount of qualified wages for the state jobs credit and the jobs credit does not apply to wages paid during the period in which the employer receives the state payments.
- (6) The termination provision for the federal targeted jobs credit under IRC sec. 51(c)(4) does not apply to the development zone jobs credit.
- (7) Employees must work for certain minimum periods of time to be eligible for the jobs credit. For leased or rented employees, the minimum time periods apply to their work in a development zone for a single lessee or renter, not to their employment by the leasing agency. Thus, work for several lessees or renters cannot be combined for purposes of meeting the minimum time period test.

In the case of employees of a leasing agency who perform services directly for the leasing agency in a development zone, the minimum time period applies to their work directly for the agency.

Note: The jobs credit for leased or rented employees may be claimed only by a leasing agency certified by the Department of Development to claim tax benefits. In order to be certified, the leasing agency must be located in a development zone. The employees must work at a location in a development zone either for a lessee or renter or directly for the leasing agency (such as staff of the agency). The lessee or renter does not have to be certified by the Department of Development for tax benefits; however, the work services performed by the employees for the lessee or renter must be at a location in a development zone. Wages paid for work outside of a development zone do not qualify for the jobs credit.

- (8) It is clarified that eligibility for and the amount of the jobs credit attributable to a partnership or tax-option corporation is based on the economic activity of the entity, not that of the partners or shareholders. The entity must compute the amount of credit that may be claimed by each partner or shareholder and must provide that information to each of its partners or shareholders.
- (9) Claimants of the jobs credit are not required to submit federal withholding forms or equivalent information to the Department of Revenue for the wages paid to employees for whom the jobs credit is claimed. Claimants are required to have their claims for the jobs credit verified by the Department of Development before submitting those claims to the Department of Revenue.
- (10) The federal Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) made two changes to the federal targeted jobs credit that will apply to the development zone jobs credit since the general reference to the Internal Revenue Code is being updated (see Items A.1., B.1., B.3., B.5., B.7., and C.1.).
 - (a) The category of economically disadvantaged youths applies to individuals aged 18-22 instead of 18-24.
 - (b) The special credit for summer youth employees is equal to 40% of the first \$3,000 in qualified wages instead of 85%.

d. Location Credit

- (1) In cases where the location credit is claimed for amounts expended to construct, rehabilitate, remodel, or repair property, the claimant must have begun the physical work of construction, or destruction in preparation for the physical work, after the area in which the property is located was designated a development zone. The completed project must be placed in service after the claimant is certified by the Department of Development to claim tax benefits. The term "physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing the property to prevent deterioration.
- (2) In cases where the location credit is claimed for amounts expended to acquire property, the property must be acquired after the claimant is certified by the Department of Development to claim tax benefits and the property must not have been owned by the claimant or a related person under IRC sec. 267 during the period that the development zone is in existence or two years prior to the designation of the development zone. For purposes of the location credit, IRC sec. 267(b) is modified so that any ownership percentage, rather than 50% ownership, makes a claimant subject to IRC sec. 267(a)(1).

No credit is allowed until the property, either in its original state as acquired by the claimant or as subsequently constructed, rehabilitated, remodeled, or repaired, is placed in service.

- (3) In cases where property is used partially for purposes other than the conduct of the business operations in a development zone for which the person is certified by the Department of Development to claim tax benefits, the amount of eligible expenditures for an acquisition of a property must be reduced by the percentage of the area of the property used for nonqualified purposes. The amount of eligible expenditures for the construction or other improvement of a property is limited to the expenditures for the portion of the property used in the conduct of the business operations for which the person is certified by the Department of Development to claim tax benefits.
- (4) It is clarified that eligibility for and the amount of the location credit attributable to a partnership or tax-option corporation is based on the economic activity of the entity, not that of the partners or shareholders. The entity must compute the amount of credit that may be claimed by each partner or shareholder and must provide that information to each of its partners or shareholders.
- (5) The location credit can be used to offset the tax attributable to the claimant's income from business operations in a development zone and directly-related business operations. It is clarified that, in the case of credits attributable to a partnership or tax-option corporation, the limitation applies to the tax attributable to the partner's or shareholder's income from the entity's business operations in a development zone and the entity's directly-related business operations.

e. Sales Tax Credit

- (1) Sales tax paid on construction materials and supplies qualifies for the sales tax credit only if the construction or other improvement of the property for which the materials are used is to the portion of the property eligible for the location credit. Sales tax paid on materials used to improve a nonqualified portion of the property does not qualify for the sales tax credit.
- (2) It is clarified that the sales tax credit applies to sales tax paid on leased or rented property if the property would be eligible for the investment credit if the property were purchased by the claimant. (The investment credit applies only to purchases of property.)
- (3) It is clarified that eligibility for and the amount of the sales tax credit attributable to a partnership or tax-option corporation is based on the economic activity of the entity, not that of the partners or shareholders. The entity must compute the amount of credit that may be claimed by each partner or

shareholder and must provide that information to each of its partners or shareholders.

- (4) Claimants of the sales tax credit are not required to submit to the Department of Revenue with their claims for the sales tax credit invoices or receipts for the amount of sales tax paid. Claimants are required to have their claims for the sales tax credit verified by the Department of Development before submitting those claims to the Department of Revenue.
- (5) The amount of sales tax paid on construction materials and other supplies must be reduced in cases of partial nonqualified use of the property in the manner prescribed for the location credit. The amount of sales tax paid on purchases, leases, or rentals of investment credit property must be reduced in cases of partial nonqualified use of the property in the manner prescribed for the investment credit.

f. Additional Research Credit

- (1) Persons who conduct research in a development zone and are certified by the Department of Development to claim tax benefits are eligible to claim an additional development zone research credit, which is a separate 5% credit computed independently of the 5% basic research credit. Under prior law, persons who conducted research in a development zone could claim a 10%, rather than a 5%, research credit.
- (2) Any wages used to compute the jobs credit may not be included in the amount of qualified research expenses for either the basic research credit or the additional development zone research credit.
- (3) The additional development zone research credit applies to qualified research expenses incurred after the person is certified by the Department of Development to claim tax benefits. Any claims for the additional research credit affected by this limitation must be computed using annualization rules.
- (4) Qualified research expenses incurred at a location in a development zone, or at a location in an area that is subsequently designated a development zone, are included in the person's base period expenses for purposes of computing the additional development zone research credit.

21. Development Zone Jobs Credit Amended (1989 AB 60, amend secs. 71.28(1dj)(am)1. and 71.47(1dj)(am)1., effective for business closings and mass layoffs that occur after day of publication for employers that employ 100 or more persons and on the 60th day after day of publication for employers employing fewer than 100 persons.)

For purposes of the development zone jobs credit, a "member of a targeted group" includes a person unemployed as a result of a business

action subject to sec. 109.07(1m). Under sec. 109.07(1m), an employer of 50 or more persons in Wisconsin, must generally provide notice of a business closing or mass layoff.

CAUTION: AB 60 has been enacted by the Legislature but, as of the date this publication went to print, has not been signed by the Governor. The October issue of the Wisconsin Tax Bulletin will include information on the status of this bill.

22. Historic Structure Credit Amended (1989 Act 31, repeal secs. 71.28(6)(b) and 71.47(5)(b); amend secs. 71.28(6)(title), (a), (d), (e), and (f), 71.30(3)(ep), 71.47(5)(title), (a), (d), (e), and (f), and 71.49(1)(er); and create secs. 71.28(6)(c) and 71.47(5)(c), effective for taxable years beginning on or after August 1, 1988, except as indicated below.)

- a. The historic structure credit is renamed the supplement to the federal historic rehabilitation credit. The federal supplement credit can be claimed only for projects that are eligible for the federal historic rehabilitation credit.
- b. It is clarified that the credit applies only to property located in Wisconsin.
- c. The credit applies to rehabilitation projects begun after December 31, 1988. "Begun after December 31, 1988" means that the physical work of construction, or destruction in preparation for construction, must begin after December 31, 1988. This provision codifies an emergency rule adopted by the Department of Revenue.

According to the rule, "physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing the property to prevent deterioration.

In order to qualify for the credit, the rehabilitated property must be placed in service after June 30, 1989.

- d. The 15-year carryforward provision for the federal supplement credit is replaced with a reference to the 15-year carryforward rule for the credit for increasing research expenditures. In addition, a reference to the annualization rule for the research credit is deleted since the federal supplement credit is not computed on an annualized basis.
- e. For projects begun after August 8, 1989, the claimant must submit with the claimant's return documentation that the proposed rehabilitation was approved by the State Historical Society (on behalf of the U.S. Secretary of the Interior) prior to the date that the physical work of construction began.
- f. Claimants of the credit must reduce their Wisconsin adjusted basis of the building by the amount of credit claimed, since the credit applies only to buildings and their structural components. Under prior law, the Wisconsin adjusted basis of the entire property was required to be reduced by the amount of the credit.

It is clarified that the Wisconsin adjusted basis of a partner's interest in a partnership or a shareholder's stock in a tax-option corporation must be adjusted to take into account adjustments made to the basis of property held by the partnership or tax-option corporation.

- g. It is clarified that partnerships and tax-option corporations cannot claim the credit, but the individual partners or shareholders may claim a credit based on their proportionate share of the eligible costs incurred by the entity. The entity must compute the amount of credit that may be claimed by each partner or shareholder and must provide that information to each of its partners or shareholders.

23. State Historic Rehabilitation Credit Amended (1989 Act 31, repeal secs. 71.28(7)(d) and (e) and 71.47(6)(d) and (e); amend secs. 71.28(7)(title), (a), (b)2., 3.b., 4., 5., and 7., (c), and (g), 71.30(3)(er), and 71.47(6)(title), (a), (b)2., 3.b., 4., 5., and 7., (c), and (g); and create secs. 71.28(7)(h), (i), and (j), 71.47(6)(h), (i), and (j), 71.49(1)(et), and 71.74(8)(d), effective for taxable years beginning on or after August 1, 1988.)

See Item A.22.

24. Farmland Tax Relief Credit Created (1989 Act 31, amend secs. 20.835(2)(dm)(title), 71.30(3)(f), 71.49(1)(f), 71.59(1)(a), 71.61(1), 71.74(8)(a), (b) and (c), 71.80(3) and (3m)(intro.), 71.82(1)(c) and (2)(c), 71.83(2)(b)4. and 71.88(1)(b) and (2)(b) and create secs. 20.835(2)(q), 71.28(2m), and 71.47(2m), effective for property taxes accrued during 1989 and thereafter.)

See Item A.23.

C. TAX-OPTION (S) CORPORATIONS

1. Definition of Internal Revenue Code Updated for Tax-Option Corporations for 1989 (1989 Act 31, create sec. 71.34(1g)(d), effective for taxable years beginning after December 31, 1988.)

For tax-option corporations for taxable years that begin after December 31, 1988 (1989 and subsequent year tax returns), "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1988, except that IRC sec. 1366(f), relating to the reduction in pass-throughs for taxes at the S-corporation level, is modified by substituting the built-in gains tax under sec. 71.35, Wis. Stats., for the taxes under IRC secs. 1374 and 1375.

In addition, the "non-Code" provisions of the federal Tax Reform Act of 1986 (P.L. 99-514), Revenue Act of 1987 (P.L. 100-203), and Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. Non-Code provisions are provisions that don't amend the Internal Revenue Code itself but instead provide special interpretations, transitional rules, or exceptions to the general effective dates of the amendments to the

Internal Revenue Code. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes (secs. 803(d)(2)(B), 805(d)(2), 812(c)(2), 821(b)(2), and 823(c)(2) of P.L. 99-514 and section 1008(g)(5) of P.L. 100-647). For Wisconsin purposes, these five items should have been treated as transitional adjustments.

2. Exceptions to Definition of Internal Revenue Code for Tax-Option Corporations for 1987 and 1988 (1989 Act 31, amend sec. 71.34(1g)(a), (b), and (c), see effective dates below.)

a. For tax-option corporations for taxable year 1987 (years that end after July 1, 1987, and before July 1, 1988), "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, 1987, and before December 31, 1987, "Internal Revenue Code" does not include changes to the federal Internal Revenue Code made by secs. 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) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
- (3) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes. Instead, these five items should have been treated as Wisconsin transitional adjustments.
- (4) IRC sec. 1366(f), relating to the reduction in pass-throughs for taxes at the S-corporation level, is modified by substituting the built-in gains tax under sec. 71.35, Wis. Stats., for the taxes under IRC secs. 1374 and 1375.

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) and the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes. Instead, these five items should have been treated as Wisconsin transitional adjustments.
 - (3) IRC sec. 1366(f), relating to the reduction in pass-throughs for taxes at the S-corporation level, is modified by substituting the built-in gains tax under sec. 71.35, Wis. Stats., for the taxes under IRC secs. 1374 and 1375.
- c. For tax-option corporations for taxable years that begin after December 31, 1987, and before January 1, 1989, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1987, with the following exceptions:
- (1) Changes to the federal Internal Revenue Code made by the Technical and Miscellaneous Revenue Act of 1988 (P.L. 100-647) apply for Wisconsin purposes at the same time as for federal purposes.
 - (2) The non-Code provisions of P.L. 99-514, P.L. 100-203, and P.L. 100-647 apply to the extent that they affect provisions of the Internal Revenue Code that are applicable for Wisconsin purposes, with certain exceptions. The non-Code provisions that require changes in the treatment of inventory property, reserves for bad debts, sales under revolving credit plans, discount coupon redemption costs, and income from utility services to be treated as changes in the method of accounting under IRC sec. 481 do not apply for Wisconsin purposes. Instead, these five items should have been treated as Wisconsin transitional adjustments.
 - (3) IRC sec. 1366(f), relating to the reduction in pass-throughs for taxes at the S-corporation level, is modified by substituting the built-in gains tax under sec. 71.35, Wis. Stats., for the taxes under IRC secs. 1374 and 1375.
3. Reference to Internal Revenue Code Updated for Tax-Option (S) Corporation Depreciation Purposes (1989 Act 31, amend sec. 71.365(1m), effective for taxable years beginning on or after January 1, 1989.)

A tax-option (S) corporation may compute depreciation under either the Internal Revenue Code as amended to December 31, 1988, or the federal

Internal Revenue Code in effect for the taxable year for which the return is filed, except that property placed in service prior to January 1, 1987, must continue to be depreciated under the method allowable for Wisconsin purposes for the year in which it was placed in service.

4. Tax-Option Corporations Denied a Deduction for State Taxes Paid (1989 Act 31, renumber sec. 71.34(1)(a) to sec. 71.34(1)(ar) and create sec. 71.34(1)(ag), effective for taxable years beginning on or after January 1, 1989.)

For taxable years that begin on or after January 1, 1989 (1989 and subsequent year tax returns), tax-option corporations and their shareholders cannot deduct state taxes and taxes of the District of Columbia on or measured by all or a portion of net income, gross income, gross receipts, or capital stock.

Under prior law, for taxable year 1987 and 1988, tax-option corporations and their shareholders could deduct state income taxes paid if those taxes were deductible in computing federal ordinary (nonseparately stated) income and were not claimed by the shareholders as a credit for taxes paid to other states.

5. Built-In Gains Tax Amended (1989 Act 31, amend s. 71.35, effective for taxable year 1987 and thereafter.)

A built-in gains tax is imposed on every tax-option (S) corporation, except a corporation that qualifies for the exception under IRC sec. 1374(c)(1), that has a net recognized built-in gain, as defined in IRC sec. 1374(d)(2), during a recognition period, as defined in IRC sec. 1374(d)(7). The exception under IRC sec. 1374(c)(1) does not apply to a federal S corporation which has elected to change its status under sec. 71.365(4)(a), Stats. For a federal S corporation which has changed its status under sec. 71.365(4)(a) and subsequently elects to become a Wisconsin tax-option corporation, the recognition period begins with the first day of the first taxable year for which the subsequent tax-option election is made.

D. HOMESTEAD CREDIT

1. Increase Maximum Household Income Limitation and Maximum Allowable Property Taxes (1989 Act 31, amend sec. 71.54(1)(b)(intro.) and (2)(b)1 and create sec. 71.54(1)(c) and (2)(b)2, effective for 1989 and subsequent years' claims filed in 1990 and thereafter.)

The maximum household income limitation, above which no homestead credit is allowed, is increased from \$16,500 to \$18,000.

The maximum allowable property taxes or rent constituting property taxes that may be claimed in computing homestead credit is increased from \$1,200 to \$1,350.

In addition, the formula for computing the amount of credit is changed. If household income is \$8,000 or less (was \$7,600 or less for 1988 claims), the credit is 80% of property taxes or rent constituting

property taxes. If household income is more than \$8,000, the credit is 80% of the amount by which property taxes or rent constituting property taxes exceed 13.5% (was 13.483% for 1988 claims) of household income exceeding \$8,000.

2. Allow Deduction From Income for Dependents (1989 Act 31, amend sec. 71.52(5), effective for 1989 and subsequent years' claims filed in 1990 and thereafter.)

In computing household income, a claimant may deduct \$250 for each dependent, as defined in section 152 of the internal revenue code, who has the same principal abode as the claimant.

3. Application of Homestead Credit Against Other Liabilities (1989 Act 31, amend secs. 71.53(1)(a) and 71.55(1), effective for 1989 and subsequent years' claims filed in 1990 and thereafter.)

In applying a homestead credit against other liabilities, a reference is made to sec. 71.80(3) (crediting of overpayments on individual or separate returns) and sec. 71.80(3m) (crediting of overpayments on joint returns).

E. FARMLAND PRESERVATION CREDIT

1. Allow Farmland Preservation Credit on Farmland Which Became Subject to Extraterritorial Zoning (1989 Act 31, create sec. 71.60(1)(c)6m, applicable retroactively to taxable years beginning on or after January 1, 1988.)

If farmland is located in an area zoned for exclusive agricultural use under a certified county or town ordinance for part of a year but not at the close of the year because the farmland became subject to a city or village extraterritorial zoning ordinance, a farmland preservation credit may be computed as if the farmland were subject to a county or town exclusive use ordinance at the close of the year.

2. Application of Farmland Preservation Credit Against Other Liabilities (1989 Act 31, amend sec. 71.61(1), effective for claims based on property taxes accrued during 1989.)

In applying a farmland preservation credit against other liabilities, a reference is made to sec. 71.80(3) (crediting of overpayments on individual or separate returns) and sec. 71.80(3m) (crediting of overpayments on joint returns).

F. SALES AND USE TAXES

1. Telecommunication Services (1989 Act 31, repeal sec. 77.52(2)(a)3 and 4, amend sec. 77.51(4)(a)4 and (15)(a)4, and create sec. 77.52(2)(a)5, effective October 1, 1989.)

The sale of interstate telecommunication services that originate in Wisconsin and are charged to a telephone or subscriber located in Wisconsin are subject to Wisconsin sales tax. Previously, only

interstate service which originated in Wisconsin and was charged to a telephone located in Wisconsin was subject to sales tax.

2. Time-Share Property (1989 Act 31 create sec. 77.51(4)(c)6 and amend sec. 77.52(2)(a)1, effective August 9, 1989.)

The furnishing of rooms or lodging through the sale of a time-share property, as defined in sec. 707.02(32), Wis. Stats., is subject to sales and use tax if the use of the rooms or lodging is not fixed at the time of the sale as to the starting day or the lodging unit, and is for a continuous period of less than one month.

3. Exempt Elastic Hose (1989 Act 31, create sec. 77.54(22)(f), effective October 1, 1989.)

Antiembolism elastic hose and stockings that are prescribed by a physician and sold to the ultimate consumer are exempt from sales and use tax.

4. Exempt Camping Fees in State Parks (1989 Act 31, amend secs. 27.01(10)(d)1 to 6 and 77.54(10), effective September 1, 1989.)

Camping fees in Wisconsin state parks are exempt from sales tax.

5. Exempt Certain Donations From Use Tax (1989 Act 31, create sec. 77.56(3), effective August 9, 1989.)

This provision exempts from use tax the donation to an entity specified in sec. 77.54(9a), Wis. Stats., of property that the donating person has purchased tax-free for resale or with a valid exemption certificate.

The following entities are specified in sec. 77.54(9a), Wis. Stats.:

- a. State of Wisconsin or any agency thereof
- b. Any county, city, village, town, or school district in Wisconsin
- c. A county-city hospital established under sec. 66.47, Wis. Stats.
- d. A sewerage commission organized under sec. 144.07(4), Wis. Stats., or a metropolitan sewerage district organized under secs. 66.20 to 66.26 or 66.88 to 66.918, Wis. Stats.
- e. Any other unit of government in Wisconsin or any agency or instrumentality of one or more units of government in Wisconsin
- f. Any corporation, community chest fund, foundation, or association organized and operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, except hospital service insurance corporations under sec. 613.80(2), Wis. Stats., no part of the net income of which inures to the benefit of any private stockholder, shareholder, member, or corporation.

6. Manufacturing Machinery and Equipment Exemption (1989 Act 31, create sec. 77.54(6r), effective October 1, 1989.)

The sales and use tax exemption for manufacturing machinery and equipment under sec. 77.54(6) is to be strictly construed.

7. Farm Machinery Exemption (1989 Act 31, renumber sec. 77.54(3) to 77.54(3)(a) and amend, create sec. 77.54(3)(b) and (c), effective October 1, 1989.

Exempt from sales and use tax are the gross receipts from the sales of and the storage, use, or other consumption of tractors and machines, including accessories, attachments, fuel, and parts therefor, used exclusively and directly in the business of farming, including dairy farming, agriculture, horticulture, floriculture, and custom farming services.

This exemption does not include:

- a. Automobiles, trucks, and other motor vehicles for highway use,
- b. Personal property that is attached to, fastened to, connected to, or built into real property or that becomes an addition to, component of, or capital improvement of real property, or
- c. Tangible personal property used or consumed in the erection of buildings or in the alteration, repair or improvement of real property, regardless of any contribution that the personal property makes to the production process in that building or real property and regardless of the extent to which that personal property functions as a machine.

For purposes of this sales and use tax exemption, the following items retain their character as tangible personal property, regardless of the extent to which they are fastened to, connected to, or built into real property:

- a. Auxiliary power generators
- b. Bale loaders
- c. Barn cleaners and elevators
- d. Conveyors
- e. Feed elevators and augers
- f. Grain dryers and grinders
- g. Milk coolers
- h. Milking machines; including piping, pipeline washers, and compressors
- i. Powered feeders, but not including platforms or troughs constructed from ordinary building materials

j. Silo unloaders (top and bottom)

For purposes of this sales and use tax exemption, the following definitions apply.

"Building" means any structure that is intended to be a permanent accession to real property; that is designed or used for sheltering people, animals, or plants, for storing property or for working, office, parking, sales, or display space, regardless of any contribution that the structure makes to the production process in it; that in physical appearance is annexed to that real property; that, except for a few structures, is covered by a roof, or encloses space; that is not readily moved or disassembled; and that is commonly known to be a building because of its appearance and because of the materials of which it is constructed.

"Machine" means an assemblage of parts that transmits force, motion, and energy from one part to another in a predetermined manner.

"Used exclusively" means used to the exclusion of all other uses except for other uses not excluding 5% of total use.

(Note: Under prior law (i.e., prior to October 1, 1989), the exemption for farm machinery in sec. 77.54(3) reads as follows:

(3) The gross receipts from the sales of and the storage, use or other consumption of tractors and machines, including accessories, attachments, fuel and parts therefor, used directly in farming, including dairy farming, agriculture, horticulture or floriculture, but excluding automobiles, trucks, and other motor vehicles for highway use, when engaged in by the purchaser or user as a business enterprise, but the purchaser of property exempt under this subsection shall be liable for the sales tax under s. 77.57 at the time any more than nominal other use, including job contracting other than the performance of farm services by one farmer for another with machinery customarily used by the performing farmer in his own farming operation, is made of such property.)

8. Occasional Sales by Nonprofit Organizations - Clarify Certain Provisions (1989 Act 31, amend sec. 77.54(7) and (7m), effective January 1, 1990.)

The amendments to sec. 77.54(7) and (7m), Wis. Stats., clarify the following:

- a. Sales at events involving entertainment will not be exempt occasional sales if the entertainment in the aggregate costs at least \$300, unless access to the event may be obtained without payment of a direct or indirect admission fee.
- b. The exemption for occasional sales in sec. 77.54(7), Wis. Stats., does not apply to nonprofit organizations, but rather nonprofit organizations determine their exemption for occasional sales under sec. 77.54(7m), Wis. Stats.

9. Penalties for Operators of Swap Meets or Similar Events That Fail to Comply With Reporting Requirements (1989 Act 31, amend sec. 73.03(38), effective August 9, 1989.)

If any operator of a swap meet, flea market, craft fair, or similar event fails to report to the Department of Revenue the required information on each vendor, the department, after notification to the operator, shall impose a penalty of \$200 for the first failure and \$500 for each subsequent failure. The penalty shall be assessed and collected in the same manner as income and franchise taxes.

10. Local Government Licensing Requirements Changed (1989 Act 31, amend sec. 77.61(11), effective August 9, 1989.)

An official of a city, village, or town may not issue licenses or permits to a person required to hold a seller's permit unless (1) the person in fact has a seller's permit or (2) the official has information from the Department of Revenue that a permit will be issued to that person.

11. Refunds Under "Lemon Law" (1989 Act 31, repeal sec. 20.835(2)(eq), amend sec. 218.015(2)(e) and (f), and create secs. 73.03(37) and 218.015(2)(f)4, effective August 9, 1989.)

Under prior law governing repair, replacement, and refund under a new motor vehicle warranty (commonly called the "lemon law"), a consumer may return a defective motor vehicle to its manufacturer for a refund of the purchase price, including sales tax. The lemon law also directs the Department of Revenue to refund the sales tax paid on a returned motor vehicle to the manufacturer or, in certain limited cases, the consumer directly. The Department of Revenue makes the refunds from an appropriation specifically designated for sales tax refunds under the lemon law.

This provision repeals the specific appropriation, allowing the Department of Revenue to make sales tax refunds associated with the lemon law in the same manner that it generally makes sales tax refunds. Also, a consumer is permitted to collect a sales tax refund directly from the Department of Revenue whenever the manufacturer fails to refund the sales tax.

G. INHERITANCE AND GIFT TAXES

1. Update Reference to Internal Revenue Code for Power of Appointment, Qualified Retirement Plans, and Installment Payments (1989 Act 31, amend secs. 72.01(17), 72.12(4)(c)1 and 72.22(4)(a), effective for deaths occurring on or after January 1, 1989.)

The Wisconsin Statutes relating to powers of appointment, employee death benefits, and installment payment of inheritance taxes are updated to the Internal Revenue Code as of December 31, 1988. This change first applies to transfers because of deaths occurring on January 1, 1989.

2. Update Internal Revenue Code Reference for Gift Tax Exemption (1989 Act 31, amend sec. 72.76(4), effective for gifts made on or after August 9, 1989.)

This provision provides that no gift tax is imposed on the transfer of amounts by an employer to a former employee's distributee or estate if the amounts qualify as an employee death benefit taxable as income under the Internal Revenue Code as amended to December 31, 1988, or excluded from gross income under IRC sec. 101(b) as amended to December 31, 1988.

Previously, the statute referenced the Internal Revenue Code of 1954 as amended for taxable income and gave no particular IRC reference for excludable income.

H. EXCISE TAXES

1. Gasoline Used in Aircraft Exempt From Motor Fuel Tax (1989 Act 31, amend sec. 78.73(1)(dm) and create secs. 78.01(2)(f) and 78.73(1)(dr), effective August 9, 1989.)

Gasoline used in an aircraft is exempt from the motor fuel tax (20.8¢ rate) if purchased by a licensed general aviation fuel dealer for aircraft use. Improper use of this exemption may result in penalties of being fined not more than \$500 or imprisoned not more than 6 months or both.

2. Motor Vehicle Fuel Tax Refund Requirements Changed (1989 Act 31, repeal sec. 78.75(1)(d); renumber secs 78.20(1) and 78.75(1)(a), (b), (c), (e) and (f) to secs. 78.20(1m) and 78.75(1m)(a), (b), (c), (e) and (f) and amend secs. 78.20(1m)(a)1, 2 and 3, (c) and (e) and 78.75(1m)(a) as renumbered; amend sec. 78.20(3) and (4); and create sec. 78.20(1) and 78.75(1), effective August 9, 1989.)

Invoice requirements are relaxed for persons applying for motor fuel tax refund and for a retailer applying for a service station shrinkage refund.

A tax refund is not allowed on fuel used in an aircraft. No tax refund on less than 100 gallons of motor fuel will be made.

3. Fuel Tax Paid on Motor Fuel Used in an Amphibious Vehicle is Refundable (1989 Act 31, amend sec. 78.75, effective August 9, 1989.)

Clarifies that a person operating amphibious vehicles on privately owned lands is eligible for motor fuel tax refund on fuel purchased on or after August 9, 1989, and consumed on such land.

4. Change in Requirements Relating to Alcohol Beverages Licensing, Agents of Corporate Alcohol Beverages Licensees, Fermented Malt Beverage Wholesaler Registration, and Local Referenda Concerning Sale of Alcohol Beverages (1989 Act 31, repeal sec. 125.04(4)(c) and 125.05(1)(b)7; renumber sec. 125.04(3)(a)4 and (d) to 125.04(3)(a)6 and (d)1 and amend sec. 125.04(3)(d)1 as renumbered; amend secs. 125.04(6)(a)1, (b)2 and (c) to (e) and (12)(a), 125.05(1)(b)8 and 11 and 125.51(1)(c)1; repeal

and recreate sec. 125.04(3)(c) and (4)(title) and (a); and create secs. 125.04(3)(a)4 and 5 and (3)(d)2 and 125.28(3), effective August 9, 1989.)

The department is no longer responsible for supplying application forms for most alcohol beverages licenses. The department is to furnish one copy of each kind of license application to municipalities for duplication.

Municipal clerks are no longer required to provide the department with a copy of each application for a license to sell alcohol beverages. The municipal clerks must furnish the department a list of alcohol beverage license holders annually.

Beer wholesalers are to register with the department after they have received a wholesaler's license from a municipal governing body.

5. Penalty for Tampering With a Cigarette Meter (1989 Act 31, create sec. 139.44(1m), effective August 9, 1989.)

A penalty of imprisonment for not less than one year nor more than 10 years may be imposed on persons who tamper with a cigarette meter.

6. Department Has Power to Enforce Tobacco Products Tax (1989 Act 31, amend sec. 139.08(3) and create secs. 139.39(1m) and 139.832, effective August 9, 1989.)

The department has police power to enforce violations of Chapter 139, Wis. Stats., relating to tobacco products tax.

7. Security Requirements for Purchases of Cigarette Tax Stamps and Indicia on Credit Changed (1989 Act 31, amend sec. 139.32(6), effective August 9, 1989, and repeal and recreate sec. 139.32(6) as amended by 1989 Act 31, effective November 1, 1989.)

The department may allow security other than surety bonds, from manufacturers and distributors of cigarettes who purchase cigarette stamps on credit. The Secretary of Revenue may also waive the security requirement for manufacturers and distributors who have established a good filing record.

8. Change the Licensing Requirements so Wineries May Obtain Tavern License for the Sale of Wine (1989 Act 30, renumber and amend sec. 125.69(1)(c); amend sec. 125.51(1)(a), sec. 125.51(3)(a) and (b), sec. 125.51(3)(f) and (4)(a)1, sec. 125.53(1) and sec. 125.69(1)(a) and (b)1; and create sec. 125.51(3)(am), sec. 125.69(1)(b)4 and sec. 125.69(1)(c)1 to 3, effective August 3, 1989.)

Wineries may be issued local municipal licenses if the winery holds a permit from the Department of Revenue and is capable of producing 5,000 gallons of wine per year in not more than two locations. The municipal license authorizes the sale of wine to be consumed by the glass or in opened containers only on the premises where sold; it also authorizes the sale of wine in the original container to be consumed off the

premises. Such licensed premises may not remain open for the sale of liquor between 9:00 p.m.-8:00 a.m.

9. Reduce Passenger Capacity of Vessels and Require Food to be Served in Order to be Eligible for Alcohol Beverage Permits (1989 Act 16, amend secs. 125.27(2)(a) and 125.51(5)(c)1., effective June 13, 1989.)

In order to be eligible for a permit authorizing the sale of alcohol beverages on a vessel, the passenger capacity must be 40 persons or more, the vessel must serve food, and the sale of alcohol beverages cannot exceed 50% of the receipts from all food and beverage sales. Previously, the passenger capacity had to be 100 persons or more, food was not required to be served, and the sale of alcohol beverages could constitute up to 50% of all receipts, including admission charges.

I. OTHER

1. Information Returns for Deduction of Rent or Royalties (1989 Act 31, amend sec. 71.70(1) and (2), effective August 9, 1989.)

This provision clarifies that persons other than corporations (e.g., individuals, estates, and trusts) deducting rent or royalties in determining Wisconsin taxable income and corporations doing business in Wisconsin shall furnish information returns to the Department of Revenue showing:

- a. The amounts and the names and addresses of all natural persons who are residents of Wisconsin and to whom royalties of \$600 or more were paid during the taxable year.
- b. The amounts and the names and addresses of all natural persons to whom rent of \$600 or more was paid during the taxable year for property having a situs in Wisconsin.

2. Statute of Limitations for Credits Clarified (1989 Act 31, amend sec. 71.77(2), effective August 9, 1989.)

This provision clarifies that the 4-year statute of limitations provided by statute with respect to assessments of tax applies for assessments to recover all or a part of any tax credit allowed under Chapter 71 of the Wisconsin Statutes.

3. Setoff of Delinquent Child Support or Spousal Support Obligations Submitted By an Agency of Another State (1989 Act 31, amend sec. 71.93(1)(a) and (b), (2), and (3), effective August 9, 1989.)

The Department of Health and Social Services may certify to the Department of Revenue for setoff any properly identified debt exceeding \$20 that is a delinquent child support or spousal support obligation submitted by an agency of another state.

No child support or spousal support obligation submitted by an agency of another state may be set off until all debts owed to and certified by Wisconsin agencies have been set off.

4. Department Not Deemed to Have Acquiesced to Tax Appeals Commission Decision When It Withdraws an Appeal in Circuit Court (1989 Act 31, amend sec. 73.01(4)(e)1, effective with decisions made on or after August 9, 1989.)

An order or decision of the Wisconsin Tax Appeals Commission is not a precedent if the Department of Revenue seeks a review of that order or decision and:

- a. the department later withdraws its petition for review;
- b. the department later settles the case; or
- c. the merits of the case are for other reasons not determined by judicial review.

5. Delinquent Taxes Written Off After 6 Years (1989 Act 31, amend sec. 73.03(27)(e), effective August 9, 1989.)

The time after which delinquent taxes resulting from a default or estimated assessment may be written off as uncollectible is reduced from 10 years to 6 years.

6. Administrative Fee for Court Costs (1989 Act 31, amend sec. 73.03(33), effective August 9, 1989.)

The Department of Revenue is authorized to collect an administrative fee each time the department issues a warrant in respect to income, franchise, and other taxes. This provision authorizes the department to set the administrative fee at an amount not to exceed the amount the department is charged for filing and docketing warrants. Prior to this provision, the administrative fee was \$3.

7. Offsets Against Lottery Winnings (1989 Act 31, amend secs. 20.566(1)(h) and 565.30(5), effective August 9, 1989.)

This provision clarifies that the executive director of the state lottery will send all amounts withheld for delinquent state taxes, child support, or other debts owed the State of Wisconsin to the Department of Revenue. The department will distribute the proper amounts to the proper state agency and charge its administrative expenses to the state agency for which the debt has been collected.

8. Offsets of Assessments Under Chapter 646, Wis. Stats., Limited (1989 Act 31, amend sec. 646.51(7)(b), effective August 9, 1989.)

The Wisconsin insurance security fund protects insureds from loss in the event of liquidation of insurers. To provide this protection, assessments are made under Chapter 646, Wis. Stats., against all insurers who transact business in Wisconsin. If the premium rates on a class of business are fixed, so that it is not possible for an insurer to recoup its assessments by increasing its premium rates, a domestic insurer may offset 20% of the amount of the Wisconsin portion of the assessment against its tax

liabilities to Wisconsin, other than real property taxes, in each of the 5 calendar years following the year in which the assessment was paid.

Under prior law, 20% of the entire assessment against domestic insurers could be offset against tax liabilities, other than real property taxes, in each of the 5 calendar years following the year in which the assessment was paid. Since most property and casualty insurers are able to raise their rates to recoup the assessment, the credit rarely applies.

9. Exclusive Jurisdiction of Small Claims Court Removed (1989 Act 31, repeal sec. 799.01(3m) and (4)(d), renumber secs. 799.01(intro.), (1), (2), (3) and (4)(intro.) and (a) to (c) and 814.62(1) to secs. 799.01(1)(intro.), (a), (b), (c), (d)(intro.) and 1 to 3 and amend secs. 799.01(1)(intro.) and (d)3 and 814.62(1)(a) as renumbered; amend secs. 425.205(1)(intro.), 943.245(8) and 943.51(6); and create secs. 799.01(2) and 814.62(1)(b), effective for civil actions or proceedings commenced on or after August 9, 1989.)

Any civil action for tax recovery may use small claims court procedures or large claims court procedures. Previously, civil actions for tax recovery where the amount claimed was \$2,000 or less had to use small claims court procedures.