2012

Wisconsin
Tax-Option (S) Corporation Taxes

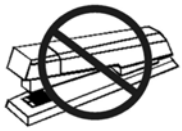
Form 5S Booklet

New for 2012:

- Biodiesel Fuel Production Credit
- Electronic Medical Record Credit
- Veteran Employment Credit

Remember to file these with Form 5S:

- Schedule 5K-1 for each shareholder
- A copy of your federal return, including supporting schedules
- A list of solely owned LLCs and QSubs
- Any extension of time to file
- Any other required forms or schedules, such as Schedule RT or Schedule CR



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The corporation may owe use tax if it purchased tangible personal property or certain services for storage, use, or consumption in Wisconsin without paying a state sales or use tax. See page 6 for details.

Go Electronic!

Fast • Accurate • Secure

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Visit us online at

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- Obtain tax forms and instructions.
- Get answers to common questions.
- Find out which third-party software you can use to file Form 5S electronically.
- Register for electronic funds transfer.
- Check out the *Wisconsin Tax Bulletin* quarterly newsletter.
- Read Department of Revenue publications which explain specific topics in detail.
- Register to receive email news about new laws and procedures.
- Determine which email address or telephone number to use to contact the Department about a specific question.

This booklet contains:

- Form 5S and Instructions
- Schedule 5K-1 and Instructions
- Shareholder's Instructions for Schedule 5K-1
- Form 4A-1, Wisconsin Apportionment Data for Single Factor Formulas and Instructions

Form **5S** ***Wisconsin Tax-Option (S) Corporation Franchise or Income Tax Return***

2012

For 2012 or taxable year beginning ___ ___ ___ ___ ___ ___ ___ ___ (M M D D C C Y Y) and ending ___ ___ ___ ___ ___ ___ ___ ___ (M M D D C C Y Y)

Complete form using **BLACK** INK. **Due Date:** 15th day of 3rd month following close of taxable year.

DO NOT STAPLE OR BIND

Corporation Name

Number and Street | Suite Number

City | State | ZIP (+ 4 digit suffix if known)

A Federal Employer ID Number

B Business Activity (NAICS) Code

C State of Incorporation and Year

Enter abbreviation of state in box, or if a foreign country, enter below. ___ ___ ___ ___ (C C Y Y)

D Check ✓ if applicable and attach explanation:

1 ☐ Amended return
2 ☐ First return - new corporation or entering Wisconsin
3 ☐ Final return - corporation dissolved or withdrew
4 ☐ Short period - change in accounting method
5 ☐ Short period - stock purchase or sale
6 ☐ Short period - termination of S corporation election

Check ✓ if applicable and see instructions:

E ☐ If you have an extension of time to file, enter extended due date ___ ___ ___ ___ ___ ___ ___ ___ (M M D D C C Y Y)

F ☐ If no business was transacted in Wisconsin during the taxable year, attach a complete copy of your federal return.

G ☐ If you are filing a Form 1CNS on behalf of nonresident shareholders.

H Effective date of Wisconsin tax-option corporation election ___ ___ ___ ___ ___ ___ ___ ___ (M M D D C C Y Y)

I Total number of shareholders ▶ _____

J Number of nonresident shareholders ▶ _____

K ☐ If you have related entity expenses and are required to file Schedule RT with this return.

L1 WI Property _____ .00

L2 Total Co. Property _____ .00

M1 WI Payroll _____ .00

M2 Total Co. Payroll _____ .00

N ☐ Internal Revenue Service adjustments became final during the year. Enter years adjusted ▶ _____

ENTER NEGATIVE NUMBERS LIKE THIS → –1000 NOT LIKE THIS → (1000) NO COMMAS; NO CENTS

IF NO ENTRY ON A LINE, LEAVE BLANK

1	Federal, state, and municipal government interest *(see instructions)*		1	.00
2	Wisconsin apportionment percentage (from Form 4A-1 or Form 4A-2). **This is a required field.** If percentage is from Form 4A-2, check (✓) the space after the arrow ▶ ☐ If 100% apportionment, or using separate accounting check (✓) the space ▶ ☐		2	___ ___ ___ . ___ ___ ___ ___ %
3	Multiply line 1 by line 2		3	.00
4	Enter 7.9% (0.079) of the amount on line 3. This is gross tax		4	.00
5	Manufacturer's sales tax credit (from Sch. MS, line 3)	5 .00		
6	Community development finance credit	6 .00		
7	Add lines 5 and 6. This is total nonrefundable credits		7	.00
8	Subtract line 7 from line 4. If line 7 is more than line 4, enter zero (0). This is net tax		8	.00
9	Additional tax on tax-option (S) corporations (from page 2, Schedule Q, line 10)		9	.00
10	Economic development surcharge (from page 2, Schedule S, line 4)		10	.00
11	Endangered resources donation (decreases refund or increases amount owed)		11	.00
12	Veterans trust fund donation (decreases refund or increases amount owed) VETS		12	.00
13	Add lines 8 through 12		13	.00
14	Estimated tax payments less refund from Form 4466W. If this is an amended return, see instructions	14 .00		
15	Wisconsin tax withheld on amount on line 1	15 .00		
16	Amended Return Only – amount previously paid	16 .00		
17	Add lines 14 through 16	17 .00		
18	Amended Return Only – amount previously refunded	18 .00		
19	Subtract line 18 from 17		19	.00

20	Interest, penalty, and late fee due (from Form 4U, line 17 or 26). If you annualized income on Form 4U, check (✓) the space after the arrow ▶ ☐	20	.00
21	**Tax due.** If the total of lines 13 and 20 is larger than line 19, enter amount owed.	21	.00
22	**Overpayment.** If line 19 is larger than the total of lines 13 and 20, enter amount overpaid	22	.00
23	Enter amount of line 22 you want credited to 2013 estimated tax 23 .00		
24	Subtract line 23 from line 22. **This is your refund**	24	.00
25	Enter total company gross receipts from all activities *(see instructions)*	25	.00
26	Enter total company assets from federal Form 1120S, item F	26	.00
27	If the tax-option corporation paid withholding tax on income distributable to nonresident shareholders, enter total amount paid for all shareholders for the taxable year	27	.00

Schedule Q - Additional Tax on Certain Built-In Gains

1	Excess of recognized built-in gains over recognized built-in losses *(attach schedule)*	1	.00
2	Wisconsin taxable income before apportionment *(attach computation schedule)*	2	.00
3	Enter the smaller of line 1 or line 2. This is the net recognized built-in gain *(see instructions)*	3	.00
4	Wisconsin apportionment percentage (from Form 4A-1 or Form 4A-2). **This is a required field.** If percentage is from Form 4A-2, check (✓) the space after the arrow ▶ ☐	4	___ ___ ___ . ___ ___ ___ ___ %
5	Multiply line 3 by line 4	5	.00
6	Wisconsin net business loss carryforward *(attach schedule)*	6	.00
7	Subtract line 6 from line 5	7	.00
8	Enter 7.9% (0.079) of the amount on line 7.	8	.00
9	Community development finance credit	9	.00
10	Subtract line 9 from line 8. This is the additional tax to enter on Form 5S, page 1, line 9	10	.00

Schedule S - Economic Development Surcharge

1	Enter net income (loss) *(see instructions)*	1	.00
2	Wisconsin apportionment percentage (from Form 4A-1 or Form 4A-2). **This is a required field.** If percentage is from Form 4A-2, check (✓) the space after the arrow ▶ ☐	2	___ ___ ___ . ___ ___ ___ ___ %
3	Multiply line 1 by line 2	3	.00
4	Enter the greater of $25 or 0.2% (0.002) of the amount on line 3, but not more than $9,800. This is the economic development surcharge to enter on Form 5S, page 1, line 10	4	.00

Additional Information Required

1 Person to contact concerning this return: _____ Phone #: _____ Fax #: _____

2 City and state where books and records are located for audit purposes: _____

3 Are you the sole owner of any QSubs or LLCs? ☐ Yes ☐ No If yes, attach a list of the names and federal EINs of your solely owned QSubs and LLCs. Did you include the incomes of these entities in this return? ☐ Yes ☐ No

4 Did you purchase any taxable tangible personal property or taxable services for storage, use, or consumption in Wisconsin without payment of a state sales or use tax? ☐ Yes ☐ No If yes, you owe Wisconsin use tax. See instructions for how to report use tax.

5 List the locations of your Wisconsin operations: _____

6 Did you file federal Form 8886 – Reportable Transaction Disclosure Statement with the Internal Revenue Service? ☐ Yes ☐ No If yes, enclose federal Form 8886 with your Wisconsin return.

Under penalties of law, I declare that this return and all attachments are true, correct, and complete to the best of my knowledge and belief.

Signature of Officer ▶	Title	Date
Preparer's Signature ▶	Preparer's Federal Employer ID Number	Date

You must file a copy of your federal Form 1120S with Form 5S, even if no Wisconsin activity.

If you are not filing electronically, make your check payable to and mail your return to:

Wisconsin Department of Revenue
PO Box 8908
Madison WI 53708-8908

Schedule 5K – Shareholders' Pro Rata Share Items

	(a) Pro rata share items		(b) Federal amount	(c) Adjustment		(d) Amount under Wis. law
Income (Loss)	1 Ordinary business income (loss)	1	.00	.00	1	.00
	2 Net rental real estate income (loss) *(attach Form 8825)*	2	.00	.00	2	.00
	3 Other net rental income (loss) *(attach schedule)*	3	.00	.00	3	.00
	4 Interest income	4	.00	.00	4	.00
	5 Ordinary dividends	5	.00	.00	5	.00
	6 Royalties	6	.00	.00	6	.00
	7 Net short-term capital gain (loss)	7	.00	.00	7	.00
	8 Net long-term capital gain (loss)	8	.00	.00	8	.00
	9 Net section 1231 gain (loss) *(attach Form 4797)*	9	.00	.00	9	.00
	10 Other income (loss) *(attach schedule)*	10	.00	.00	10	.00
Deductions	11 Section 179 deduction *(attach Form 4562)*	11	.00	.00	11	.00
	12 a Contributions		.00	.00		.00
	b Investment interest expense		.00	.00		.00
	c Section 59(e)(2) expenditures **(1)** Type _____					
	(2) Amount		.00	.00		.00
	d Other deductions *(attach schedule)*	d	.00	.00	d	.00
Credits	13 a Schedule _____				a	.00
	b Schedule _____				b	.00
	c Schedule _____				c	.00
	d Schedule _____				d	.00
	e Schedule _____				e	.00
	f Schedule _____				f	.00
	g Schedule _____				g	.00
	h Schedule _____				h	.00
	i Schedule _____				i	.00
	j Schedule _____				j	.00
	k Schedule _____				k	.00
	l Schedule _____				l	.00
	m Schedule _____				m	.00
	n Schedule _____				n	.00
	o Tax paid to other states (enter postal abbreviation of state) **(1)** _____				1	.00
	(2) _____				2	.00
	(3) _____				3	.00
	p Wisconsin tax withheld (do **not** include tax properly claimed on page 1, line 15)				p	.00
Foreign Transactions	14 a Name of country or U.S. possession					
	b Gross income from all sources		.00	.00		.00
	c Gross income sourced at shareholder level		.00	.00		.00
	Foreign gross income sourced at corporate level:					
	d Passive category		.00	.00		.00
	e General category		.00	.00		.00
	f Other *(attach statement)*		.00	.00		.00

	(a) Pro rata share items	(b) Federal amount	(c) Adjustment	(d) Amount under Wis. law
Foreign Transactions	*Deductions allocated and apportioned at shareholder level:*			
	g Interest expense	.00	.00	.00
	h Other	.00	.00	.00
	Deductions allocated and apportioned at corporate level to foreign source income:			
	i Passive category	.00	.00	.00
	j General category	.00	.00	.00
	k Other *(attach statement)*	.00	.00	.00
	Other information:			
	l Total foreign taxes (check one): ___ Paid ___ Accrued	.00	.00	.00
	m Reduction in taxes for credit *(attach statement)*	.00	.00	.00
	n Other foreign tax information *(attach statement)*	.00	.00	.00
Alternative Minimum Tax (AMT) Items	**15 a** Post-1986 depreciation adjustment	.00	.00	.00
	b Adjusted gain or loss	.00	.00	.00
	c Depletion (other than oil and gas)	.00	.00	.00
	d Oil, gas, and geothermal properties – gross income	.00	.00	.00
	e Oil, gas, and geothermal properties – deductions	.00	.00	.00
	f Other AMT items *(attach schedule)*	.00	.00	.00
Other	**16 a** Tax-exempt interest income	.00	.00	.00
	b Other tax-exempt income	.00	.00	.00
	c Nondeductible expenses	.00	.00	.00
	d Property distributions	.00	.00	.00
	e Repayment of loans from shareholders	.00	.00	.00
	17 a Investment income	.00	.00	.00
	b Investment expenses	.00	.00	.00
	c Dividend distributions paid from accumulated earnings and profits	.00	.00	.00
	d Other items and amounts *(attach schedule)*	.00	.00	.00
	18 a Related entity expense addback			.00
	b Related entity expense allowable			.00
	19 Income/loss reconciliation *(see instructions)*	.00		.00
	20 Gross income (before deducting expenses) from all activities			.00

Schedule 5M – Analysis of Wisconsin Accumulated Adjustments Account and Other Adjustments Account

		(a) Accumulated Adjustments Account	(b) Other Adjustments Account
1	Balance at beginning of taxable year	.00	.00
2	Ordinary income from Schedule 5K, line 1, column d	.00	
3	Other additions (including separately stated items which increase income) *(attach schedule)*	.00	.00
4	Loss from Schedule 5K, line 1, column d	(.00)	
5	Other reductions (including separately stated items which reduce income) *(attach schedule)*	(.00)	(.00)
6	Combine lines 1 through 5	.00	.00
7	Distributions other than dividend distributions	.00	.00
8	Subtract line 7 from line 6. This is balance at end of taxable year	.00	.00

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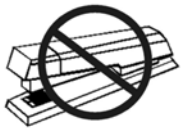

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Purpose of Form 5S

Form 5S is the Wisconsin franchise or income tax return applicable to corporations that elect to be treated as tax-option (S) corporations for Wisconsin purposes. Tax-option (S) corporations use Form 5S to report their income, gains, losses, deductions and credits and to compute their Wisconsin franchise tax, built-in gains tax, and economic development surcharge liability.

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General Franchise or Income Tax Return Instructions (All Corporations)

Franchise or Income Tax

Franchise tax applies to –

- All domestic corporations (those organized under Wisconsin law) and
- Foreign corporations (those not organized under Wisconsin law) doing business in Wisconsin or buying or selling lottery prizes if the winning tickets were originally bought in Wisconsin, except where taxation is exempted by statute or barred by federal law.

The tax rate is 7.9%. Income from obligations of the United States government and its instrumentalities is included in income under the franchise tax law.

Income tax applies only to foreign corporations which are not subject to the franchise tax and which own property in Wisconsin or whose business in Wisconsin is exclusively in foreign or interstate commerce. The tax rate is 7.9%. Income from obligations of the United States government and its instrumentalities is **not** included in income under the income tax law.

Certain urban transit companies are subject to a special tax under sec. 71.39, Wis. Stats. Contact the Department of Revenue for further information.

Who Must File

"Corporation" includes corporations, joint stock companies, associations, common law trusts, and all other entities treated as corporations under section 7701 of the Internal Revenue Code ("IRC").

The following corporations are required to file a Wisconsin corporation franchise or income tax return:

- Corporations organized under Wisconsin law.
- Foreign corporations licensed to do business in Wisconsin.
- Unlicensed corporations doing business in Wisconsin.
- Foreign corporations engaged in buying or selling lottery prizes if the winning tickets were originally bought in Wisconsin.
- Foreign corporations issuing credit, debit, or travel and entertainment cards to customers in Wisconsin.
- Foreign corporations regularly selling products or services of any kind or nature to customers in Wisconsin that receive the product or service in Wisconsin.
- Foreign corporations regularly soliciting business from potential customers in Wisconsin.
- Foreign corporations regularly performing services outside Wisconsin for which the benefits are received in Wisconsin.
- Foreign corporations regularly engaging in transactions with customers in Wisconsin that involve intangible property and result in receipts flowing to the taxpayer from within Wisconsin.
- Foreign corporations holding loans secured by real or tangible personal property located in Wisconsin.
- Foreign corporations owning, directly or indirectly, a general or limited partnership interest in a partnership that does business in Wisconsin, regardless of the percentage of ownership.
- Foreign corporations owning, directly or indirectly, an interest in a limited liability company treated as a partnership that does business in Wisconsin, regardless of the percentage of ownership.
- Foreign corporations that are the sole owner of an entity that is disregarded as a separate entity under IRC section 7701 and does business in Wisconsin, or of a qualified subchapter S subsidiary that does business in Wisconsin.

Conversely, the following entities are **not** required to file a Wisconsin corporation franchise or income tax return:

- A single-owner entity that is disregarded as a separate entity under IRC section 7701. Instead, the owner of the disregarded entity is subject to the tax on or measured by the entity's income and must file a Wisconsin franchise or income tax return if otherwise required.
- Corporations and associations exempt under sec. 71.26(1), Wis. Stats., except those with (a) unrelated business taxable income as defined in IRC section 512, (b) income derived from a health maintenance organization or a limited service health organization, or (c) income realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin. Exempt entities include insurers exempt from federal income taxation under IRC section 501(c)(15), town mutuals organized under Chapter 612, Wis. Stats., foreign insurers, domestic insurers engaged exclusively in life insurance business, domestic mortgage insurers, some cooperatives, and religious, scientific, educational, benevolent, or other corporations or associations of individuals not organized or conducted for profit.

- Corporations that are completely inactive in and outside Wisconsin and have filed Form 4H.
- Credit unions that don't act as a public depository for state or local government funds and have filed Form CU.

When and Where to File

Generally, a corporation must file its franchise or income tax return by the 15th day of the 3rd month following the close of its taxable year.

Short Period Returns. Returns for short taxable years (periods of less than 12 months) are due on or before the federal due date. A corporation that becomes, or ceases to be, a member of an affiliated group and as a result must file two short period returns for federal purposes must also file two short period returns for Wisconsin. The Wisconsin returns are due at the same time as the federal returns. Each short period is considered a taxable year, the same as for federal purposes.

Extensions. Any extension allowed by the Internal Revenue Service ("IRS") for filing the federal return automatically extends the Wisconsin due date to 30 days after the federal extended due date. You don't need to submit either a copy of the federal extension or an application for a Wisconsin extension to the Department by the original due date of your return. However, you must submit a copy of the federal extension with the Wisconsin return that you file.

If you aren't requesting a federal extension, Wisconsin law provides an automatic extension of 7 months or until the original due date of the corporation's corresponding federal return, whichever is later.

The fee for filing a late return after the extension date is $150.

CAUTION: An extension for filing the return doesn't extend the time to pay the franchise or income tax. Interest will be charged on the tax not paid by the 15th day of the 3rd month following the close of the taxable year. You can avoid interest charges during the extension period by paying the tax due by that date. Submit your payment with Wisconsin Form 4-ES, *Corporation Estimated Tax Voucher*.

Filing Methods. Corporations are required to file tax returns electronically and may file electronically through the Federal/State E-Filing Program. For a list of software vendors participating in this program, visit the Department's web page at revenue.wi.gov/eserv/corp/third.html.

If it is not possible to file the return electronically, a waiver must be obtained in order to file a paper return. More information is available from the Department's web page at revenue.wi.gov/taxpro/news/110727b.html

If an electronic filing waiver is approved, file your return on paper using these mailing instructions:

- **Do not fasten, staple or bind the pages of your return.** Use paper clips instead.
- If you are submitting multiple returns, separate them with **colored separator sheets.**
- Use the mailing address shown on the form.

Period Covered by Return

The return must cover the same period as the corporation's federal income tax return. A 2012 Wisconsin return must be filed by a corporation for calendar year 2012 or a fiscal year that begins in 2012. A fiscal year may end only on the last day of a month. The period covered by the return can't exceed 12 months.

Corporations reporting on a 52-53 week period for federal tax purposes must file on the same reporting period for Wisconsin. A 52-53 week taxable year is deemed to begin on the first day of the calendar month beginning nearest the first day of the 52-53 week taxable year. The taxable year is deemed to end on the last day of the calendar month closest to the last day of the 52-53 week taxable year for purposes of due dates, extensions, and assessments of interest and penalties.

Any change in accounting period made for federal purposes must also be made for Wisconsin purposes. For the first taxable year for which the change applies, file with the Wisconsin return a copy of the IRS's notice of approval of accounting period change if such approval is required or an explanation of the change if the IRS's approval isn't required.

If a tax-option (S) corporation elects, under IRC section 444, to have a taxable year other than the required taxable year, that election also applies for Wisconsin. Unlike the federal requirement, the corporation doesn't have to make required payments of Wisconsin tax.

Accounting Methods and Elections

In computing net income, the method of accounting must be the same method used in computing federal net income. However, if the method used for federal purposes isn't authorized under the Internal Revenue Code (IRC) in effect for Wisconsin, use a method authorized under the IRC in effect for Wisconsin.

Situations Where Installment Method Not Authorized for Wisconsin. For Wisconsin purposes, accrual basis taxpayers cannot generally use the installment method because Wisconsin did not adopt Public Law ("P.L.") 106-573, which restored the installment method for accrual basis taxpayers for federal income tax purposes. See the section of the instructions titled "Installment Method for Accrual Basis Taxpayers" for further details.

Further, a corporation, including a tax-option (S) corporation, entitled to use the installment method of accounting must take the unreported balance of gain on installment obligations into income in the taxable year of their distribution, transfer, or acquisition by another person or for the final taxable year for which it files or is required to file a Wisconsin franchise or income tax return, whichever year occurs first.

Change in Accounting Method. A change in accounting method made for federal purposes must also be made for Wisconsin purposes, unless the change isn't authorized under the IRC in effect for Wisconsin. Adjustments required federally as a result of a change made while the corporation is subject to Wisconsin taxation must also be made for Wisconsin purposes, except that in the last year a corporation is subject to taxation by Wisconsin it must take into account all remaining adjustments required.

For the first taxable year for which the change applies, file with the Wisconsin return either a copy of the application for change in accounting method filed with the IRS and a copy of the IRS's consent, if applicable, or an explanation of the change if the IRS's approval isn't required.

Elections. As explained above, a corporation can't make different elections for federal and Wisconsin purposes with respect to accounting periods and accounting methods, unless the federal method isn't permitted under the IRC in effect for Wisconsin. In situations where a corporation has an option under the IRC and the IRS doesn't consider that option to be a method of accounting, a different election may be made for Wisconsin than that made for federal purposes. If federal law specifies the manner or time period in which an election must be made, those requirements also apply for Wisconsin purposes.

Payment of Estimated Tax

If the total of a corporation's franchise or income tax and economic development surcharge due is $500 or more, it generally must make quarterly estimated tax payments using Wisconsin Form 4-ES or by electronic funds transfer (EFT). Failure to make required estimated tax payments may result in an interest charge. You may download vouchers from the Department's web site at revenue.wi.gov/html/formpub.html, or you may request vouchers by calling any Department of Revenue office.

Quick Refund. A corporation that overpaid its estimated tax may apply for a refund before filing its tax return if its overpayment is (1) at least 10% of the expected Wisconsin tax liability and (2) at least $500. To apply, file Wisconsin Form 4466W, *Corporation or Pass-Through Entity Application for Quick Refund of Overpayment of Estimated Tax*, after the end of the taxable year and before the corporation files its tax return. Do not file Form 4466W at the same time as your tax return.

A corporation that has a tax due when filing its tax return as a result of receiving a "quick refund" will be charged 12% annual interest on the amount of unpaid tax from the date the refund is issued to the earlier of the 15th day of the 3rd month after the close of the taxable year or the date the tax liability is paid. Any tax that remains unpaid after the unextended due date of the tax return continues to be subject to 18% or 12% annual interest, as appropriate.

Electronic Funds Transfer Required for Certain Payments. Section Tax 1.12, Wisconsin Administrative Code, requires the payment of certain taxes by EFT. A corporation must pay its estimated franchise or income taxes and economic development surcharge by EFT if its net tax less refundable credits on its prior year return was $1,000 or more. The Department will notify a corporation when EFT payments are required. The corporation will have 90 days after being notified to register for EFT. The first EFT payment is due on the first tax due date following the end of the 90-day registration period.

Corporations not required to pay by EFT may elect to do so. For more information, visit the Department's web site at revenue.wi.gov/eserv/eftgen.html, send an e-mail to DORSalesandUse@revenue.wi.gov, call (608) 266-2776, or write to the Electronic Funds Transfer Assistance, Wisconsin Department of Revenue, PO Box 8949, Madison, WI 53708-8949.

To make EFT payments of corporation franchise or income tax, choose the appropriate tax type code:

Tax Type	Tax Type Code
Corporation estimated tax payment	02100
Corporation tax due with return	02200
Corporation amended return tax due	02400
Corporation bill (except audit assessments)	02540

Note: For EFT payments of estimated franchise or income tax and economic development surcharge, enter the last day of your **taxable year**, not the last day of the quarterly installment period, for which the payment is being made.

Disclosure of Related Entity Expenses and Reportable Transactions

A corporation may be required to separately disclose certain expenses paid, accrued, or incurred to a related entity. A corporation or corporation's material advisor may also be required to separately disclose reportable transactions.

CAUTION: Wisconsin law provides that certain related entity expenses shall not be allowed as deductions if they are not timely disclosed as required by the Department of Revenue. Also, penalties may apply for failure to disclose reportable transactions to the Department.

Disclosure of Related Entity Expenses. If the corporation will be deducting more than $100,000 (after considering the effect of apportionment) of interest, rent, management fees, or intangible expenses paid, accrued, or incurred to a related person or entity, the corporation must generally file Schedule RT, *Wisconsin Related Entity Expenses Disclosure Statement*, with its franchise or income tax return. The Schedule RT instructions explain the reporting requirements.

However, even if you are not required to file Schedule RT, if you are taking deductions for interest, rent, management fees, or intangible expenses, paid, accrued, or incurred to related entities, you must add those expenses back to federal income as a Wisconsin modification on Schedule 5K, line 18a. If the expenses meet the tests for deductibility, you may make an adjustment on Schedule 5K, line 18b.

Corporation's Disclosure of Reportable Transactions. If a corporation was required to file federal Form 8886, *Reportable Transaction Disclosure Statement*, with the IRS and that form was required to be filed with the IRS after October 27, 2007, you must file a copy of Form 8886 with the Department within 60 days of the date you are required to file it for federal income tax purposes. Send a paper copy of Form 8886, separate from your Form 5S, to the following address: Wisconsin Department of Revenue, Tax Shelters Program, PO Box 8958, Madison, WI 53708-8958.

See the instructions to federal Form 8886 to determine if you are required to file the form for federal purposes.

Material Advisor's Disclosure of Reportable Transactions. A "material advisor" means any person who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction (as defined in the U.S. Treasury Regulations) and who, directly or indirectly, derives gross income from providing such aid, assistance, or advice in an amount that exceeds the threshold amount.

For a material advisor providing advice to an entity and not an individual, the "threshold amount" is any of the following:

- $25,000 if the reportable transaction is a listed transaction (as defined in the U.S. Treasury Regulations).
- $250,000 if the reportable transaction is not a listed transaction.

For a material advisor providing advice to an individual, the "threshold amount" is any of the following:

- $10,000 if the reportable transaction is a listed transaction (as defined in the U.S. Treasury Regulations).
- $50,000 if the reportable transaction is not a listed transaction.

A material advisor that is required to disclose a reportable transaction to the IRS after October 27, 2007, must file a copy of the disclosure with the Department within 60 days of the date it is required for federal income tax purposes, if the reportable transaction affects the taxpayer's Wisconsin income or franchise tax liability. For federal purposes, the form required for this disclosure is Form 8918, *Material Advisor Disclosure Statement*.

If you are required to file Form 8918 for federal income tax purposes and the reportable transaction to which the form relates affects the taxpayer's Wisconsin income or franchise tax liability, send a paper copy, separate from the Wisconsin return, to the following address: Wisconsin Department of Revenue, Tax Shelters Program, PO Box 8958, Madison, WI 53708-8958.

Internal Revenue Service Adjustments, Amended Returns, and Claims for Refund

Internal Revenue Service Adjustments. If a corporation's federal tax return is adjusted by the IRS and such adjustments affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward of a shareholder, you must report such adjustments to the Department within 90 days after they become final.

Send a copy of the final federal audit reports and any associated amended Wisconsin returns to the Wisconsin Department of Revenue, PO Box 8908, Madison, WI 53708-8908. If submitting a federal audit report without an amended return, mail it to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 5-144, PO Box 8906, Madison, WI 53708-8906. Don't attach these items to the tax return for the current year.

Amended Returns. After you have filed a complete, original tax return, you may file an amended return to correct a tax return as you originally filed it or as it was later adjust-

ed by an amended return, a claim for refund, or an office or field audit.

If you file an amended federal return and the changes affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must file an amended Wisconsin return with the Department within 90 days after filing the amended federal return.

To file an amended Wisconsin return, put a check mark in the space next to item D1 on the front of the return, complete the return, and include an explanation of any changes made. Show computations in detail, including any applicable supplemental forms or schedules. Also show how you figured your refund or additional amount owed.

For tax-option (S) corporations, if the change affects amounts reportable by your shareholders, you must file amended Schedules 5K-1 and provide a copy of the amended Schedule 5K-1 to each of your shareholders.

File your amended return electronically by using one of the third party software providers:

revenue.wi.gov/eserv/corp/third.html

If you have an approved electronic filing waiver, send amended returns to the Wisconsin Department of Revenue, PO Box 8908, Madison, WI 53708-8908. Don't attach amended returns to other tax returns that you are filing.

Claims for Refund. A claim for refund must be filed within 4 years of the unextended due date of the return. However, a claim for refund to recover all or part of any tax or credit paid as a result of an office or field audit must be filed within 4 years after such an assessment. That assessment must have been paid and must not have been protested by filing a petition for redetermination. See section Tax 2.12, Wisconsin Administrative Code, for more information.

Final Return

If the corporation liquidated during the taxable year, put a check mark in the space next to item D3 on the front of the return. Enter the date of liquidation as the taxable year ending date at the top of the return. Submit a copy of your plan of liquidation along with a copy of federal Form 966, *Corporate Dissolution or Liquidation*, with your Wisconsin return.

Generally, the final return is due on or before the federal due date. In most cases, this is the 15th day of the 3rd month after the date the corporation dissolved. The tax is payable by the 15th day of the 3rd month after the date of dissolution, regardless of the due date of the final return.

Economic Development Surcharge

The economic development surcharge applies to corporations having gross receipts from all activities of $4 million or more during the taxable year. Corporations that must file Wisconsin franchise or income tax returns must pay the economic development surcharge, with certain exceptions. The surcharge doesn't apply to:

- Domestic corporations that don't have any business activities in Wisconsin.
- Foreign corporations that don't have nexus with Wisconsin, unless the foreign corporation is part of a combined group that has nexus in Wisconsin.
- Corporations that have less than $4 million of gross receipts from all activities. "Gross receipts from all activities" means gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.
- Nuclear decommissioning trust funds.

For more information, refer to Publication 400, *Wisconsin's Economic Development Surcharge.*

Information Returns

Transfers of Capital Stock. If one or more individual shareholders of the corporation who are Wisconsin residents transfer the corporation's capital stock during the calendar year, the corporation must file Wisconsin Form 8, *Transfers of Capital Stock*, for that calendar year. For more information, see the Form 8 instructions.

Miscellaneous Income. If the tax-option (S) corporation paid $600 or more in rents, royalties, or certain nonwage compensation to one or more individuals, the corporation must file an information return to report those payments. You may use Wisconsin Form 9b, *Miscellaneous Income*, or you may use federal Form 1099 instead of Form 9b. For more information, see the Form 9b instructions.

Wisconsin Use Tax

The corporation may be liable for use tax. Use tax is the counterpart of sales tax. All tangible personal property, certain coins and stamps, certain leased properties affixed to real estate, certain digital goods, and selected services, taxable under Wisconsin's sales tax law, which are stored, used, or consumed in Wisconsin, are subject to use tax if the proper sales tax is not paid. Examples of purchases that frequently result in a use tax liability include the following:

- Mail order and Internet purchases. You owe Wisconsin use tax if you buy such items as computers, furniture, or office supplies from a vendor who is not registered to collect Wisconsin tax.
- Inventory. If you purchase inventory items without tax for resale, and then use these items instead of selling them, you owe use tax.
- Give-aways. Generally, if you purchase items without tax and then give them away in Wisconsin, you owe use tax.

If you hold a seller's permit, use tax certificate, or consumer's use tax certificate, report your use tax on your sales and use tax return, Form ST-12. Otherwise, complete and file Form UT-5 to report use tax.

For more information on use tax, visit the Department's web site at revenue.wi.gov/html/sales.html, call (608) 266-2776, e-mail DORSalesandUse@revenue.wi.gov, or write to the Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8949, Madison, WI 53708-8949.

Penalties for Not Filing or Filing Incorrect Returns

If you don't file a franchise or income tax return that you are required to file, or if you file an incorrect return due to negligence or fraud, interest and penalties may be assessed against you. The interest rate on delinquent taxes is 18% per year. Civil penalties may be as much as 100% of the amount of tax not reported on the return. Criminal penalties for filing a false return include a fine of up to $10,000 and imprisonment. Further, if you fail to disclose reportable transactions, you may be subject to the penalties described in sec. 71.81, Wis. Stats., including a $30,000 penalty for failure to disclose a listed transaction.

Obtaining Forms and Assistance

If you need forms or publications, you may:

- Download them from the Department's Internet web site at revenue.wi.gov.
- Request them online at revenue.wi.gov/faqs/pcs/forms.html.
- Call (608) 266-1961.
- Call or visit any Department of Revenue office.

If you need help in preparing a corporation tax return, you may:

- E-mail your question to corp@revenue.wi.gov.
- Send a FAX to (608) 267-0834
- Call (608) 266-2772
  (Telephone help is also available using TTY equipment. Call the Wisconsin Telecommunications Relay System at 711 or, if no answer, (800) 947-3529. These numbers are to be used only when calling with TTY equipment.)
- Write to the Customer Service and Education Bureau, Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8949, Madison, WI 53708-8949
- Call or visit any Department of Revenue office.

General Instructions for S Corporations

Definitions Relating to S Corporations

Tax-Option (S) Corporation. For Wisconsin purposes, a "tax-option (S) corporation" is a corporation which is treated as an "S corporation" under Subchapter S of the Internal Revenue Code (IRC) as adopted for Wisconsin purposes, and has not elected out of tax-option corporation status under sec. 71.365(4)(a), Wis. Stats., for the current taxable year.

S Corporation. Under federal law, an S corporation is one that has an election in effect for a taxable year under Subchapter S of the IRC which generally permits the corporation's income to be taxed to its shareholders rather than to the corporation itself. If the corporation incurs a loss, the loss is treated as the shareholders' loss.

To qualify for federal S corporation treatment under the IRC, a corporation must meet certain requirements. These requirements include, but are not limited to:

- It must be created or organized in the United States under federal or state law.
- It must have no more than 100 shareholders.
- It must have as shareholders only individuals, estates, certain tax-exempt organizations, and certain trusts; it cannot have another corporation or a tax-option (S) corporation as a shareholder.
- It must not have a nonresident alien as a shareholder.
- It must have only one class of stock.

This is a very brief summary of the federal requirements. For further details of the federal requirements, refer to IRC section 1361(b), as amended to December 31, 2010. Also refer to Publication 102, *Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders*.

Qualified Subchapter S Subsidiary. A qualified subchapter S subsidiary (also called a "QSub" or a "QSSS") is a corporation that meets all of the following requirements:

- It is created or organized in the United States or under the laws of the United States or any state.
- It is not an ineligible type of corporation, as defined in IRC section 1361(b)(2).
- 100% of its stock is held by an S corporation.
- The S corporation elects to treat the corporation as a QSub.

If a federal S corporation elects to treat a subsidiary as a qualified subchapter S subsidiary (QSub) for federal purposes, that election automatically applies for Wisconsin purposes. The QSub is disregarded as a separate corporation for Wisconsin purposes, and its assets, liabilities, and items of income, deduction, and credit are treated as those of the parent tax-option (S) corporation.

Corporations and Shareholders Subject to Wisconsin Tax-Option (S) Law

Corporations that are required to file Wisconsin franchise or income tax returns and are included in the definition of a "tax-option corporation" are subject to Wisconsin's tax-option (S) corporation law.

Wisconsin's tax-option (S) corporation law applies to all shareholders of a tax-option (S) corporation that is subject to Wisconsin tax-option (S) corporation law, whether or not the shareholders are Wisconsin residents. Therefore, all shareholders who meet the applicable Wisconsin filing requirements, after taking into account their pro rata shares of the corporation's gross income for Wisconsin purposes, must file Wisconsin income tax returns and report their pro rata shares of the tax-option (S) corporation's items of income, loss, and deduction.

For example, residents and nonresidents of Wisconsin are subject to Wisconsin tax-option (S) law if they are –

- Shareholders of a tax-option (S) corporation which is organized under the laws of Wisconsin and engaged in business (1) completely in Wisconsin, (2) in and outside Wisconsin, or (3) completely outside Wisconsin.
- Shareholders of a tax-option (S) corporation which isn't organized under the laws of Wisconsin but which is authorized to transact business in Wisconsin or is engaged in business in Wisconsin and required to file a Wisconsin franchise or income tax return.

Tax-Option (S) Corporations With Nonresident Shareholders

A tax-option (S) corporation that has one or more nonresident shareholders is generally required to pay pass-through entity withholding. Additionally, the tax-option (S) corporation may file a composite individual income tax return on behalf of qualifying nonresident individual shareholders.

Pass-Through Entity Withholding. A tax-option (S) corporation is generally required to pay withholding tax on its distributable income which is allocable to a nonresident shareholder. A nonresident shareholder includes:

- An individual who is not domiciled in Wisconsin, or
- An estate or trust that is a nonresident under sec. 71.14(1) to (3m), Wis. Stats.

However, withholding is not required on behalf of the following nonresident shareholders:

- A shareholder who is not otherwise subject to Wisconsin income or franchise tax (such as a 501(c)(3) organization with no unrelated business taxable income).
- A shareholder whose share of income from the tax-option (S) corporation is less than $1,000.
- A shareholder who completes Form PW-2, *Wisconsin Nonresident Partner, Member, Shareholder, or Beneficiary Withholding Exemption Affidavit*, and provides Part 2 of Form PW-2 to the tax-option (S) corporation. The completed Form PW-2 must be pre-approved by the Department. See the Form PW-2 instructions for details.

Withholding Required. A pass-through entity is required to pay quarterly estimated withholding tax on a nonresident member's share of income attributable to Wisconsin. The pass-through entity must make quarterly payments of withholding tax on or before the 15th day of the 3rd, 6th, 9th, and 12th month of the taxable year. You must make the estimated withholding tax payments electronically. If you obtained a waiver from electronic payment, use Form PW-ES, *Wisconsin Pass-Through Entity Withholding Estimated Payment Voucher*, to make the estimated withholding tax payments.

The tax-option (S) corporation must also file Form PW-1, *Wisconsin Nonresident Income or Franchise Tax Withholding on Pass-Through Entity Income*, annually to report estimated withholding tax paid and to pay any additional withholding tax due on behalf of its nonresident shareholders. Form PW-1 is due with payment by the 15th day of the 3rd month following the close of the tax-option (S) corporation's taxable year. See the Form PW-1 instructions for details of the filing procedures.

Composite Return for Nonresident Individual Shareholders. A tax-option (S) corporation that has two or more nonresident individual shareholders who derive no taxable income or deductible loss from Wisconsin other than their distributive shares from the tax-option (S) corporation may

file a composite individual income tax return on behalf of those shareholders. The tax-option (S) corporation files this return on Form 1CNS, *Composite Individual Income Tax Return for Nonresident Shareholders.*

Individuals that are fiscal year filers or part-year Wisconsin residents may not participate in the composite return. No tax credits are allowed on the composite return other than a credit for pass-through entity withholding tax paid on behalf of each participating shareholder. Additionally, participating shareholders cannot claim the IRC section 199 deduction or any amounts deductible as itemized deductions on the composite return.

Shareholders that do not qualify to participate in the composite return must file a separate Wisconsin return to report the income from the tax-option (S) corporation.

For more information on eligibility for composite filing and composite filing procedures, see the Form 1CNS instructions.

Interest Charge Domestic International Sales Corporations (IC-DISCs)

IC-DISCs have no special status for Wisconsin tax purposes. An IC-DISC that is a viable corporation with substance and has nexus in Wisconsin is taxed like any other corporation. However, if an IC-DISC doesn't carry on any substantial business activities and does nothing to earn the income that it reports, its net income is allocated to the corporation that earned the income.

Termination of Tax-Option (S) Treatment

A corporation ceases to qualify for Wisconsin tax-option (S) treatment for any year for which its S corporation election ceases to apply, regardless of whether the termination is voluntary or involuntary, or whether termination is discovered as the result of an audit after a return has been filed.

Voluntary Termination. Under the IRC as adopted by Wisconsin, a corporation may voluntarily revoke its S election at any time after the initial election is made. The revocation may be effective for the entire taxable year if made on or before the 15th day of the 3rd month of that taxable year. Otherwise, it may be effective for the following taxable year. In either case, the revocation may specify that it is to be effective on a date during the current year that is on or after the day of revocation.

Involuntary Termination. A corporation's Subchapter S status under the IRC as adopted by Wisconsin will be involuntarily terminated if either of the following is true:

- The corporation had accumulated Subchapter C earnings and profits at year-end and its passive investment income exceeded 25% of gross receipts for each of 3 consecutive taxable years. The election is terminated as of the first day of the taxable year beginning after the third consecutive taxable year in which there is excess passive investment income.
- The corporation ceases to be a qualifying Subchapter S corporation. The IRS may waive inadvertent termination and this waiver also applies for Wisconsin.

Split Taxable Year Caused by Termination. If the revocation date causes the corporation's taxable year to be split, the corporation must file two short-period returns for federal and Wisconsin purposes. One covers the period it is an S corporation and one covers the period it is a C corporation. Both returns are due on the 15th day of the 3rd month following the close of the corporation's normal taxable year, subject to the regular rules for extensions. The net income for each period may be computed under the daily proration method as provided in IRC section 1362(e)(2) or under normal tax accounting rules if the affected shareholders consent as provided in IRC section 1362(e)(3). The corporation must use the normal tax accounting rules if there was a sale or exchange of 50% or more of the corporation's stock during the year.

Election Out of Wisconsin Tax-Option Treatment

A corporation may elect, under sec. 71.365(4)(a), Wis. Stats., not to be a tax-option (S) corporation for Wisconsin tax purposes even though its federal S election remains in effect.

Making the Wisconsin "Opt-Out" Election. Generally, a corporation that is an S corporation for federal tax purposes may elect not to be a tax-option (S) corporation for Wisconsin tax purposes. However, if an S corporation has a QSub for federal income tax purposes, neither the S corporation nor the QSub may opt out of Wisconsin tax-option treatment.

The "opt-out" election requires the consent of persons who hold more than 50% of the shares of the tax-option (S) corporation on the day on which the "opt-out" election is made. To be effective for the current taxable year, the election must be made on or before the due date or extended due date of the corporation's current Wisconsin franchise or income tax return. To make the "opt-out" election, the corporation must file Wisconsin Form 5E, *Election by an S Corporation Not to Be Treated as a Tax-Option Corporation.*

The "opt-out" election is completed by filing a Wisconsin franchise or income tax return in accordance with the election. For more information, see the tax release in *Wisconsin Tax Bulletin* 91 (April 1995, page 18). Corporations

that make the "opt-out" election must file Form 4 or Form 5 for Wisconsin rather than Form 5S.

Revoking the Wisconsin "Opt-Out" Election. Except as explained below, once the election not to be a tax-option (S) corporation is completed, the corporation and its successors may not claim Wisconsin tax-option status for the next 4 taxable years after the taxable year to which the "opt-out" election first applies. At any time after this 5-taxable-year period, the corporation may revoke the "opt-out" election by filing Wisconsin Form 5R, *Revocation of Election by an S Corporation Not to Be a Tax-Option Corporation.*

Revoking the "opt-out" election requires the consent of persons who hold more than 50% of the shares of the S corporation on the day the revocation is made. The corporation must file Form 5R on or before the due date, including extensions, of the Wisconsin franchise or income tax return for the first taxable year affected by the revocation.

Automatic Revocation of Wisconsin "Opt-Out" Election. The "opt-out" election is automatically revoked for the taxable year in which a federal S corporation acquires a QSub. Wisconsin tax-option (S) treatment applies to the S corporation and its QSub. If the corporation subsequently disposes of the QSub, it could again elect not to be treated as a Wisconsin tax-option (S) corporation for the taxable year following the disposition by filing Form 5E.

Additional Information on Wisconsin Treatment of Tax-Option (S) Corporations

For more information on Wisconsin taxation of tax-option (S) corporations and their shareholders, see Publication 102, *Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders.* You may access this publication through the Department's web site at revenue.wi.gov/html/taxpubs.html#business.

Conformity With Internal Revenue Code and Exceptions

The Wisconsin income and franchise tax law applicable is based on the federal Internal Revenue Code ("IRC"). The IRC generally applies for Wisconsin purposes at the same time as for federal purposes. For taxable years beginning on or after January 1, 2011, Wisconsin's definition of the IRC is the IRC as of December 31, 2010 with numerous exceptions. Some of the exceptions are listed below followed by a listing of the IRC provisions that Wisconsin does follow.

Note: The exceptions and provisions adopted by Wisconsin listed below are those in effect as of the publication date of these instructions. It is possible that subsequent changes in Wisconsin law may add or eliminate some exceptions applicable to taxable years beginning in 2012.

Depreciation and Section 179 Expensing

If the tax-option (S) corporation has depreciation deductions or section 179 expense deductions, it is very likely that the amount of deduction will be different for Wisconsin purposes than for federal purposes. This is because in general, Wisconsin did not adopt any federal depreciation or amortization provisions enacted for taxable years beginning on or after January 1, 2001.

Depreciation or Amortization Provisions Enacted After December 31, 2000. For Wisconsin purposes, depreciation or amortization is determined under the provisions of the IRC in effect on December 31, 2000. For example, the following provisions do not apply for Wisconsin purposes because they were enacted after December 31, 2000:

- 30% bonus depreciation (sec. 101 of P.L. 107-147, sec. 201 of P.L. 108-27, sec. 403(a) of P.L. 108-311)
- 50% bonus depreciation (sec. 201 of P.L. 108-27)
- Accelerated depreciation for Indian reservation property (sec. 316 of P.L. 108-311)
- Modification of application of income forecast method of depreciation (sec. 242 of P.L. 108-357)
- Special expensing provisions for film and television productions (sec. 244 of P.L. 108-357)
- Special rules on depreciation for aircraft (sec. 336 of P.L. 108-357)
- Modification of placed in service rule for bonus depreciation (sec. 337 of P.L. 108-357)
- Expansion of limitation on depreciation of certain passenger automobiles (sec. 910 of P.L. 108-357)
- Treatment of electric transmission property as 15-year property (sec. 1308 of P.L. 109-58)
- Expansion of amortization for certain atmospheric pollution control facilities (sec. 1309 of P.L. 109-58)
- Special expensing provisions for equipment used in refining liquid fuels (sec. 1323 of P.L. 109-58)
- Natural gas distribution lines treated as 15-year property (sec. 1325 of P.L. 109-58)
- Natural gas gathering lines treated as 7-year property (sec. 1326 of P.L. 109-58)

- Special rules for amortization of geological and geophysical expenditures (sec. 1329 of P.L. 109-58, sec. 503 of P.L. 109-222)
- Extension for placed in service rules for bonus depreciation for taxpayers affected by Hurricane Katrina, Rita, and Wilma (sec. 105 of P.L. 109-135)
- Election to amortize musical works and copyrights over a 5-year period (sec. 207 of P.L. 109-222)
- Extension for the increase in section 179 expensing limit and phase out threshold (sec. 201 of P.L. 111-147)
- Increase in section 179 dollar limit and phase-out threshold (sec. 2021 of P.L. 111-240)

Section 179 Expense Limitations. For Wisconsin purposes, different maximum amounts and phase-out thresholds apply than for federal purposes. Additionally, off-the-shelf computer software is not considered qualifying property for Wisconsin purposes, although it is qualifying property for federal purposes.

In general, the maximum section 179 expense and phase out threshold amounts for taxable years beginning in 2012 are as follows:

Section 179 Property in General		
	Wisconsin Law	**Federal Law**
Maximum Section 179 Expense	$25,000	$500,000
Phase out Threshold (Amt. of qualifying property)	$200,000	$2,000,000

Other Exceptions to Internal Revenue Code

The following federal provisions in effect as of December 31, 2010, are specifically excluded for Wisconsin franchise and income tax purposes:

Small Business Stock. For federal purposes, an exclusion is allowed for 50% of the gain from the sale or exchange of qualified small business stock issued after August 10, 1993, and held for more than 5 years (sec. 13113 of P.L. 103-66). For Wisconsin purposes, this section does not apply.

Installment Method for Accrual Basis Taxpayers. For federal purposes, accrual basis taxpayers may report income from an installment sale under the installment method (P.L. 106-573). For Wisconsin purposes, accrual basis taxpayers cannot use the installment method. Gain from the sale of property must be recognized the year of the sale. This does not apply to dispositions of property used or produced in farming or for certain dispositions of timeshares or residential lots.

Note: Wisconsin law also provides a modification relating to installment obligations. See page 4 for details.

Domestic Production Activities Deduction. For federal tax purposes, taxpayers may claim a deduction against gross income equal to a percentage of its qualified production activities income or its taxable income without regard to the deduction. For taxable years beginning after December 31, 2004, and before January 1, 2009, the federal domestic production activities deduction also applied for Wisconsin income and franchise tax purposes. Effective for taxable years beginning on or after January 1, 2009, the domestic production activities deduction will no longer apply for Wisconsin purposes (sec. 102 of P.L. 108-357).

Provisions of the Internal Revenue Code Adopted for Wisconsin Purposes:

- Section 209 of P.L. 109-222 and section 425 of Division A of P.L. 109-432 relating to loans to continuing care facilities.
- Section 844 of P.L. 109-280 relating to the treatment of annuities and life insurance contracts with a long-term care insurance feature.
- Section 117 of Division A of P.L. 109-432 relating to the extension of Archer medical savings accounts.
- Section 406 of Division A of P.L. 109-432 relating to whistleblower reforms.
- Section 409 of Division A of P.L. 109-432 relating to Superfund settlement funds.
- Section 410 of Division A of P.L. 109-432 relating to the active business test.
- Section 412 of Division A of P.L. 109-432 relating to capital gains treatment for self-created musical works.
- Section 417 of Division A of P.L. 109-432 and section 113 of P.L. 110-245 relating to gain on the sale of residence by members of the intelligence community.
- Section 418 of Division A of P.L. 109-432 relating to sales of property by judicial officers.
- Section 424 of Division A of P.L. 109-432 relating to unrelated business income for charitable remainder trusts.
- Section 403 of Division C of P.L. 109-432 relating to sale of mineral and geothermal rights to tax-exempt entities.
- Section 8215 of P.L. 110-28 relating to husband and wife partnership election.

- Section 8231 of P.L. 110-28 relating to eliminating gains from sales or exchanges of stock or securities from passive investment income of S-corporations.
- Section 8232 of P.L. 110-28 relating to treatment of bank director shares of S-corporation bank stock.
- Section 8234 of P.L. 110-28 relating to sale of interest in qualified subchapter S subsidiary.
- Section 8236 of P.L. 110-28 relating to interest deduction for electing small business trusts.
- P.L. 110-141 relating to payments from the Hokie Spirit Memorial Fund.
- Section 4 of P.L. 110-142 relating to cooperative housing pass-through treatment of interest and real estate taxes.
- Section 7 of P.L. 110-142 relating to the capital gain exclusion on sale of principal residence by surviving spouse.
- P.L. 110-172, except sections 3(b) and 11(b), (e), and (g), relating to technical corrections.
- Section 110 of P.L. 110-245 relating to gain on the sale of residence by Peace Corps volunteers.
- Section 4 of P.L. 110-246 relating to the repeal of P.L. 110-234.
- Sections 15312 – 15314 of P.L. 110-246 relating to Timber Real Estate Investment Trusts.
- Section 15316 of P. L. 110-246 relating to tax credit bonds.
- Section 15342 of P.L. 110-246 relating to the exchange of water rights.
- Sections 3031 – 3033, 3041, 3051, 3052, and 3061 of P.L. 110-289 relating to Real Estate Investment Trust income and asset tests.
- Section 3092 of P.L. 110-289 relating to nonqualified use of a principal residence.
- Section 3093 of P.L. 110-289, section 15 of P.L. 111-92, and section 551 of P.L. 111-147 relating to delay in application of worldwide allocation of interest.
- Section 9 of P.L. 110-317 relating to the limitation on funeral trusts.
- Sections 116 and 208 of Division B of P.L. 110-343 relating to publicly traded partnership income treatment of alternative fuels.
- Section 211 of Division B of P.L. 110-343 relating to transportation fringe benefit to bicycle commuters.
- Section 301 of Division B of P.L. 110-343 relating to qualified energy conservation bonds.
- Section 313 of Division C of P.L. 110-343 relating to zone academy bonds.
- Section 504 of Division C of P.L. 110-343 relating to Exxon Valdez settlements.
- P.L. 110-351 relating to the uniform definition of a child.
- Sections 1261 and 1262 of Division B of P.L. 111-5 relating to the repeal of Internal Revenue Service Notice 2008-83, which affects section 382 of the Internal Revenue Code.
- Sections 1401, 1402, 1521, 1522, and 1531 of Division B of P.L. 111-5 relating to recovery zone economic development and facility bonds, tribal economic development bonds, school construction bonds, zone academy bonds, and Build America bonds.
- Section 1541 of Division B of P.L. 111-5 relating to the pass through of tax credit bonds by regulated investment companies.
- Section 14 of P.L. 111-92 relating to military base realignment and closure.
- Section 301 of P.L. 111-147 relating to tax credit bonds treated as Build America bonds.
- Sections 531-533 of P.L. 111-147 relating to foreign trusts.
- Section 1322 of P.L. 111-148 relating to non-profit health insurers.
- Section 1515 of P.L. 111-148 relating to qualified health plan benefits under cafeteria plans.
- Section 9003 of P.L. 111-148 relating to disallowing over-the-counter medicine expenses under a flexible spending arrangement.
- Section 9021 of P.L. 111-148 relating to an income exclusion for Indian health care benefits.
- Section 9022 of P.L. 111-148 relating to cafeteria plans of small employers.
- Section 10108 of P.L. 111-148 relating to an income exclusion for free-choice vouchers to purchase a health plan.
- Section 10908 of P.L. 111-148 relating to loan repayments for health care professionals.
- Section 10909 of P.L. 111-148 relating to the income exclusion for employer-provided adoption assistance.
- Section 1407 of P.L. 111-152 relating to delay in effective date for elimination of the deduction of the subsidy for employers who maintain prescription drug coverage for retirees.
- P.L. 111-192 relating to qualified retirement plans.
- Section 1601 of P.L. 111-203 relating to the section 1256 mark-to-market requirements.

- Section 215 of P.L. 111-226 relating to the treatment of foreign subsidiary redemptions.
- Section 217 of P.L. 111-226 relating to the 80/20 rule for interest and dividends paid by a corporation.
- Section 2014 of P.L. 111-240 relating to the recognition period for S-corporation built-in gain tax.
- Section 2043 of P.L. 111-240 relating to documentation for claiming cell phones as a business expense.
- Section 2111 of P.L. 111-240 relating to allowing a section 457(b) plan to add a designated Roth account and allow rollovers to that account.
- Section 2112 of P.L. 111-240 relating to the treatment of rollovers from a section 401(k) or section 403(b) to a designated Roth account.
- Section 2113 of P.L. 111-240 relating to split annuity contracts.
- P.L. 111-325 relating to a Regulated Investment Company.

How to Report Differences

You must report any differences between federal income and income for Wisconsin purposes in Schedule 5K, column c. For differences relating to depreciation and amortization, you must prepare schedules detailing the differences between the federal and Wisconsin computations and submit them with your return.

Specific Instructions for Form 5S

You must complete pages 1 through 4 of Form 5S, including the appropriate schedules on page 2. Do not enter "See Attached" instead of completing the entry spaces. If more space is needed, prepare separate sheets using the same size and format as the printed forms, and submit these sheets with your Form 5S.

Round cents to the nearest whole dollar by eliminating amounts less than 50 cents and increasing amounts from 50 cents through 99 cents to the next higher dollar.

Note: Federal line numbers referenced in these instructions and on Form 5S may change.

Items A Through N

Before completing items A through N, fill in the tax-option (S) corporation's 2012 taxable year at the top of the form and the corporation's name and address. The name and address information should be written on single lines. Do not stack the information on the lines. If more room is needed, abbreviate where possible.

Do not write "None" on the amount lines if there is not an entry for the lines. Instead, leave the lines blank.

■ **A. Federal Employer Identification Number –** Enter the tax-option (S) corporation's federal employer identification number (EIN).

■ **B. Business Activity (NAICS) Code –** Enter the tax-option (S) corporation's principal business activity code, based on the North American Industry Classification System (NAICS), from your federal return.

■ **C. State of Incorporation and Year –** Enter the 2-letter postal abbreviation for the state (or name of the foreign country) under the laws of which the tax-option (S) corporation was incorporated and the year of incorporation.

■ **D1. Amended Return** – If this is an amended return, check here. Circle the line number of the lines you are changing and submit a detailed explanation of the changes made, including any supporting form or schedule.

■ **D2. First Return** – If this is the first year that you are filing a Wisconsin return because the corporation wasn't in existence or didn't do business in Wisconsin in prior years, check here.

■ **D3. Final Return** – If the corporation ceased to exist or withdrew from Wisconsin during the year, check here and submit a copy of your plan of liquidation and federal Form 966 if the corporation liquidated.

■ **D4-6. Short Period** – Indicate that a short period return is being filed due to a change in the corporation's accounting period, a stock purchase or sale, or termination of S-corporation election by checking the appropriate line.

■ **E. Extended Due Date –** If the tax-option (S) corporation has an extension of time to file its Wisconsin return, check here and enter the extended due date.

■ **F. No Business Transacted in Wisconsin –** If the corporation was incorporated under Wisconsin law or licensed to do business in Wisconsin but had no property or activity in Wisconsin for the taxable year, check here. Submit a complete copy of the corporation's federal return with your Form 5S.

■ **G. Filing Form 1CNS –** Check here if the tax-option (S) corporation is filing a composite Wisconsin individual income tax return (Form 1CNS) on behalf of its qualified and participating nonresident shareholders.

■ **H. Effective Date of Wisconsin Tax-Option Corporation Election –** Enter the month, day, and year that the corporation's Wisconsin tax-option (S) corporation election became effective.

■ **I. Number of Shareholders –** Enter the total number of shareholders that the tax-option (S) corporation had during the taxable year.

■ **J. Number of Nonresident Shareholders –** Enter the total number of nonresident shareholders that the tax-option (S) corporation had during the taxable year, including individuals, estates, and trusts not domiciled in Wisconsin.

■ **K. Schedule RT Required –** Check here if the tax-option (S) corporation is filing Schedule RT, *Wisconsin Related Entity Expenses Disclosure Statement*, with its return. Schedule RT is generally required if the tax-option (S) corporation pays, accrues, or incurs more than $100,000 of expenses to a related person or entity in the taxable year. See the Schedule RT instructions for details of the requirement to file Schedule RT.

■ **L1-L2. Wisconsin Property and Total Company Property –** Enter the total amount of the company's real and tangible property located in Wisconsin and the company's total amount of real and tangible property everywhere. Use the cost basis of the property as of the end of the year. Include the following types of property:

• Land

• Buildings

• Furniture and Fixtures

• Transportation equipment

• Machinery and other equipment

• Inventories

Include only property that is owned by the tax-option (S) corporation; you do not need to include property you are renting.

■ **M1-M2. Wisconsin Payroll and Total Company Payroll –** Enter the total amount of the company's payroll located in Wisconsin and the company's total amount of payroll everywhere. Include only amounts attributable to employees of the corporation. In the computation of payroll located in Wisconsin, include individuals that satisfy one or more of the following:

• The individual's service is performed entirely in Wisconsin.

• The individual's service is performed in and outside Wisconsin, but the service performed outside Wisconsin is incidental to the individual's service in Wisconsin.

• A portion of the individual's service is performed in Wisconsin and the base of operations of the individual is in Wisconsin.

• A portion of the individual's service is performed in Wisconsin and, if there is no base of operations, the place from which the individual's service is directed or controlled is in Wisconsin.

• A portion of the individual's service is performed in Wisconsin and neither the base of operations of the individual nor the place from which the service is directed or controlled is in any state in which some part of the service is performed, but the individual's residence is in Wisconsin.

■ **N. Internal Revenue Service Adjustments –** If a corporation's federal tax return is adjusted by the IRS and the adjustments affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must report the adjustments to the Department of Revenue within 90 days after they become final.

File your amended return electronically by using one of the third party software providers:
revenue.wi.gov/eserv/corp/third.html

If you have an approved electronic filing waiver, send a copy of the final federal audit reports and any associated amended Wisconsin returns to the Wisconsin Department of Revenue, PO Box 8908, Madison, WI 53708-8908.

If submitting a federal audit report without an amended return, mail it to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 5-144, PO Box 8906, Madison, WI 53708-8906. Don't attach these items to the tax return for the current year.

Lines 1 Through 9

A foreign corporation subject to the Wisconsin income tax rather than the franchise tax (see page 2) should skip lines 1 through 8 and begin with line 9. All other tax-option (S) corporations subject to the Wisconsin franchise tax begin with line 1.

■ **Line 1. Federal, State, and Municipal Government Interest** – Enter the amount of interest income received from the following obligations:

- Obligations of the United States government and its instrumentalities.
- Municipal housing authority bonds issued under sec. 66.1201, Wis. Stats.
- Municipal redevelopment authority bonds issued under sec. 66.1333, Wis. Stats.
- Housing and community development authority bonds issued under sec. 66.1335, Wis. Stats.
- Bonds issued by the Wisconsin Housing and Economic Development Authority (WHEDA) under sec. 234.65, Wis. Stats., to fund an economic development loan to finance construction, renovation, or development of property that would be exempt from property tax under sec. 70.11(36), Wis. Stats. (professional sports and entertainment home stadiums).
- Bonds issued by a local exposition district under subch. II of ch. 229, Wis. Stats.
- Bonds issued under sec. 66.0621, Wis. Stats., by a local professional baseball park district, a local professional football stadium district, or a local cultural arts district.
- Bonds issued on or after January 1, 2004, by the Wisconsin Housing and Economic Development Authority under sec. 234.08 or 234.61, Wis. Stats., to fund multifamily affordable housing projects or elderly housing projects.
- Bonds issued by the Wisconsin Aerospace Authority under sec. 114.70 or 114.74, Wis. Stats.
- Bonds issued on or after October 27, 2007, by the Wisconsin Health and Education Facilities Authority to fund acquisition of information technology hardware or software
- Conduit revenue bonds issued under sec. 66.0304, Wis. Stats., if the bonds or notes are used to fund multifamily affordable housing projects or elderly housing projects in Wisconsin and the Wisconsin Health and Edu-

cation Facilities Authority has the authority to issue the bonds. The bonds or notes are used by a health facility to fund the acquisition of information technology hardware or software in Wisconsin and the Wisconsin Health and Educational Facilities Authority has the authority to issue the bonds. The bonds or notes issued to fund a redevelopment project or housing project in Wisconsin.

- Wisconsin housing and economic development authority bonds if the bonds or notes are issued to provide loans to a public affairs network under s. 234.75(4), Wis. Stats.

The corporation may reduce the amount of interest income by any applicable amortizable bond premium or interest paid to purchase or hold these federal, state, or municipal government obligations. For Wisconsin purposes, neither the amortizable bond premium nor the related interest expenses are deductible by the shareholders since this federal, state, and municipal government interest isn't taxable to them.

■ **Line 2. Wisconsin Apportionment Percentage** – If the tax-option (S) corporation is not using apportionment, enter "100.0000%" on line 2 and check the100% apportionment box. If the corporation is using apportionment, enter the apportionment percentage from Form 4A-1, *Wisconsin Apportionment Data for Single Factor Formulas*, or Form 4A-2, *Apportionment Data for Multiple Factor Formulas*, as appropriate. If you are using a special apportionment formula on Form 4A-2, check the designated space next to line 2.

■ **Line 3. Interest Income Attributable to Wisconsin** – Multiply the amount on line 1 by the percentage on line 2. Nonunitary, multistate corporations should enter the amount of federal, state, and municipal government interest attributable to Wisconsin as determined under the separate accounting method.

CAUTION: A tax-option (S) corporation cannot offset a net operating loss carryforward from a year when it was a regular (C) corporation against the interest income reported on line 3. Sections 71.26(4) and 71.365(2), Wis. Stats., prohibit tax-option (S) corporations from claiming net business loss carryforwards.

■ **Line 4. Franchise Tax** – Enter 7.9% of the amount reported on line 3.

■ **Line 5. Manufacturer's Sales Tax Credit** – Enter the manufacturer's sales tax credit carryforward from Schedule MS, line 3. A tax-option (S) corporation that had $25,000 or less of unused manufacturer's sales tax credit as of the beginning of its 2006 taxable year may claim any remaining unused credit. A tax-option (S) corporation's credit carryforward consists of the following:

- Unused credits computed for taxable years beginning before January 1, 1998.
- Unused credits computed for taxable years beginning after December 31, 1997, that were not passed through to shareholders.

CAUTION: You may not offset the manufacturer's sales tax credit against the built-in gains tax or the economic development surcharge.

■ **Line 6. Community Development Finance Credit**– Enter the available credit. Corporations that make contributions to the Wisconsin Housing and Economic Development Authority and, in the same year, purchase common stock in the Wisconsin Community Development Finance Company may claim a credit. The credit is nonrefundable and is equal to 75% of the purchase price of the stock, but may not exceed 75% of the amount that was contributed to the Wisconsin Community Development Finance Authority. Any unused credit may be offset against tax liabilities of the subsequent years, up to 15 years.

■ **Line 8. Net Tax** – Subtract line 7 from line 4. If line 7 is more than line 4, enter zero.

■ **Line 9. Additional Tax on Tax-Option (S) Corporations**– Complete Schedule Q, page 2, and enter the amount of additional tax.

Schedule Q – Additional Tax on Certain Built-In Gains

A tax is imposed on a tax-option (S) corporation that has a "recognized built-in gain" during the "recognition period." A tax-option (S) corporation may be liable for the tax on built-in gains if *all* of the following are true:

- It was a regular (C) corporation before making its current election to be treated as a tax-option (S) corporation,
- It made its current election after 1986,
- It has a recognized built-in gain within 10 years from the first day of the first taxable year it became a tax-option (S) corporation under its current election (the recognition period), and
- The net recognized built-in gains for prior taxable years don't exceed the net unrealized built-in gain.

The Wisconsin built-in gains tax also may apply to a federal S corporation that has elected not to be a tax-option (S) corporation for Wisconsin purposes and subsequently re-elects Wisconsin tax-option (S) corporation status.

Line 1. Enter the amount that would be the corporation's taxable income for the taxable year if only recognized built-in gains and recognized built-in losses were taken into account. This is the amount computed under IRC section 1374(d)(2)(A)(i), but determined using the Wisconsin basis of the assets. Prepare a schedule showing the computation details and submit it with your Form 5S.

A "recognized built-in gain" is any gain recognized during the recognition period on the sale or distribution (disposition) of any asset, except to the extent the corporation establishes that:

- The asset wasn't held by it on the first day of the first year that the current tax-option (S) election became effective, or
- The recognized gain on any asset exceeds the excess of the fair market value of the asset on the date of conversion over the adjusted basis of the asset on that first day.

Recognized built-in gain for the taxable year includes any carryover of net recognized built-in gain from the preceding taxable year. Include on line 1 the carryover amount as recognized built-in gain.

A "recognized built-in loss" is any loss recognized during the recognition period on the disposition of any asset to the extent the corporation establishes that –

- It owned the asset on the date that the current tax-option (S) election became effective, and
- The loss doesn't exceed the excess of the asset's adjusted basis on the date of conversion over its fair market value at that time.

Line 2. Enter the amount that would have been the corporation's Wisconsin net income before apportionment if it were a regular (C) corporation. Generally, this is the taxable income determined under IRC section 1375(b)(1)(B), adjusted for any modifications prescribed by Wisconsin law. Net business loss carryforwards or capital loss carryforwards aren't used in figuring the net income. Submit with your Form 5S a schedule showing the computation details.

Line 3. Enter the smaller of the amount on line 1 or line 2. The net recognized built-in gain on which the tax may be imposed is limited by the corporation's net unrealized built-in gain. The "net unrealized built-in gain" is the excess of the fair market value of the corporation's assets over the aggregate adjusted bases of those assets on the date the current tax-option (S) election became effective.

If the amount on line 1 exceeds the amount on line 2, the excess is treated as a recognized built-in gain in the succeeding taxable year. This carryover provision applies only in the case of a corporation that made its tax-option (S) election on or after March 31, 1988.

Line 4. If the tax-option (S) corporation is not using apportionment, enter "100.0000%" on line 4. (Line 4 is required if there are any amounts entered on Schedule Q.) If the corporation is using apportionment, enter the apportionment percentage from Form 4A-1 or Form 4A-2, as appropriate. If you are using a special apportionment formula on Form 4A-2, check the designated space next to line 4.

Line 5. Multiply the amount on line 3 by the percentage on line 4. Nonunitary, multistate corporations should enter the net recognized built-in gain attributable to Wisconsin as determined under the separate accounting method.

Line 6. Enter any available Wisconsin net business loss carryforward from taxable years for which the corporation wasn't a tax-option (S) corporation. Include any capital loss carryforward to the extent of net capital gain included in recognized built-in gain for the taxable year after apportionment. See IRC section 1374(b)(2) for details. Prepare a schedule showing the computation details and submit it with your Form 5S.

Line 9. Enter any Wisconsin community development finance credit available to the corporation, including a credit for the current year as well as any carryover from prior taxable years. ***Caution:*** Enter only the remaining community development finance credit that was not used on Form 5S, line 6.

Line 10. Subtract the credit on line 9 from the tax on line 8 and enter the result. If the credit on line 9 exceeds the tax on line 8, enter zero. Also enter the result on Form 5S, line 9.

Schedule S – Economic Development Surcharge

An economic development surcharge applies to tax-option (S) corporations that are required to file Form 5S, with certain exceptions. The surcharge doesn't apply to domestic corporations that don't have any business activities in Wisconsin, foreign corporations that don't have nexus with Wisconsin, and corporations that have less than $4 million of gross receipts from all activities.

Line 1. Complete Schedule 5K and enter the income (loss) from Schedule 5K, line 19, column d. This is the net income (loss) as determined under Wisconsin law, before application of apportionment or separate accounting. It generally includes interest income from federal, state, and municipal government obligations. However, for a foreign corporation subject to the income tax rather than the franchise tax, don't include interest income that is exempt from state income tax under federal or Wisconsin law.

Line 2. If the tax-option (S) corporation is not using apportionment, enter "100.0000%" on line 2. If the corporation is using apportionment, enter the apportionment percent-

age from Form 4A-1 or Form 4A-2, as appropriate. If you are using a special apportionment formula on Form 4A-2, check the designated space next to line 2. If the corporation is using separate accounting, enter 100.0000% on line 2.

Line 3. Multiply the amount on line 1 by the percentage on line 2. Nonunitary, multistate corporations should enter the net income (loss) attributable to Wisconsin as determined under the separate accounting method.

Line 4. Enter the greater of $25 or 0.2% (0.002) of the amount on line 3, but not more than $9,800.

Lines 11 Through 27

■ **Line 11. Endangered Resources Donation** – Your donation supports the preservation and management of more than 200 endangered and threatened Wisconsin plants and animals. It also helps protect Wisconsin's finest remaining examples of prairies, forests, and wetlands.

Support endangered resources in Wisconsin. Fill in line 11 with the amount you wish to donate. Your gift will either reduce your refund or be added to tax due.

You can make an online donation at the following web site:

dnr.wi.gov/topic/endangeredresources/donate.html

You can also send a check directly to the Endangered Resources Fund, Department of Natural Resources, PO Box 7921, Madison, WI 53707-7921.

■ **Line 12. Veterans Trust Fund Donation** – You may designate an amount as a veterans trust fund donation. Your donation will be used by the Wisconsin Department of Veterans Affairs for the benefit of veterans or their dependents. Fill in line 12 with the amount you wish to donate. Your donation will either reduce your refund or be added to tax due.

■ **Line 14. Estimated Tax Payments** – Enter estimated tax payments made, and an overpayment applied from the prior year's return, minus any "quick refund" applied for on Form 4466W.

■ **Line 15. Wisconsin Tax Withheld on Amount on Line 1 –** Fill in this line if part or all of the interest income reported on Form 5S, line 1, was passed through from another entity of which you are a member **and** that entity withheld Wisconsin tax on that interest. Do not include tax withheld on income that is passed through to and taxable to your shareholders. To substantiate the withholding claimed on line 15, you must include a copy of Schedule 3K-1 or 2K-1 (as applicable) from that other entity with your Form 5S.

CAUTION: Do not include any withholding on line 15 that is attributable to income you pass through to your shareholders on Schedule 5K-1.

■ **Line 16. Amended Return, Amount Previously Paid –** Complete this line only if this is an amended 2012 Form 5S. Fill in the amount of tax you paid with your original Form 5S plus any additional amounts paid after it was filed.

If you did not pay the full amount shown on your original Form 5S, fill in only the portion that you actually paid. Also, include any additional tax that may have resulted if your original return was changed or audited. This includes additional tax paid with a previously filed 2012 amended return and additional tax paid as a result of a department adjustment to your return. Do not include payments of interest or penalties.

■ **Line 18. Amended Return, Amount Previously Refunded –** Complete this line only if this is an amended 2012 Form 5S. Fill in the refund from your original 2012 return (not including the amount applied to your 2013 estimated tax).

If your refund was reduced because you owed underpayment interest or any penalties, fill in the amount of your refund before the reduction for underpayment interest or penalty. If your 2012 return was adjusted by the department, fill in the refund shown on the adjustment notice you received. If the adjustment notice shows a tax due rather than a refund, complete line 16 instead of line 18.

■ **Line 20. Interest, Penalty, and Late Fee Due** – Enter any interest, penalty, and late fee due from Form 4U, line 17 or 26. Check the designated space if you computed underpayment interest using the annualized income installment method on Form 4U, page 2. **Amended Return:** If you previously were assessed interest for underpayment of estimated taxes, complete an amended Form 4U, Part I, based on the total of the amounts shown on lines 8 and 10. Enter the difference between the underpayment interest from the amended Form 4U, line 17, and the amount you previously paid on line 20. Show an overpayment as a negative number. File Form 4U with your amended return. Otherwise, leave line 20 blank. The Department will compute interest on the amount of refund approved or tax owed.

■ **Line 21. Tax Due** – If the total of lines 13 and 20 is larger than line 19, enter the amount owed. Pay via EFT through My Tax Account, the Department's free online business tax system, or mail your check with a 2012 Form 4-ES, *Corporation Estimated Tax Voucher*, to the address

shown on the voucher. Otherwise, **paper clip** your check to the front of Form 5S if filing by paper and you have an approved electronic filing waiver attached to the return.

■ **Line 22. Overpayment** – If line 19 is larger than the total of lines 13 and 20, subtract the total of lines 13 and 20 from line 19.

■ **Line 23. 2013 Estimated Tax** – Enter the amount of any overpayment from line 22 that is to be credited to the corporation's 2013 estimated tax. The balance of any overpayment will be refunded. **Amended Return:** If you have already filed your 2013 return, enter the overpayment that you claimed as a credit on your 2013 return from your previously filed original or amended 2012 return. Otherwise, you may allocate the overpayment from line 22 between line 23 and line 24 as you choose.

■ **Line 25. Gross Receipts –** Enter total company gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income before apportionment for Wisconsin franchise or income tax purposes.

■ **Line 26. Total Assets –** Enter the total company assets from the federal return.

■ **Line 27. Total Nonresident Withholding Paid –** If the tax-option (S) corporation paid withholding tax on pass-through income reportable to nonresident shareholders for the 2012 taxable year, enter on line 27 the total amount of withholding paid for the 2012 taxable year. This amount should match the amount on Schedule 5K, line 13p.

Additional Information, Signatures, and Supplemental Schedules

■ **Additional Information Required** – Answer questions 1 through 5 on Form 5S, page 2.

■ **Signatures** – An officer of the corporation must sign the form at the bottom of page 2. If the return is prepared by someone other than an employee of the corporation, the individual who prepared the return must sign the form, by hand, in the space provided for the preparer's signature and furnish the preparing firm's federal employer identification number. A self-employed individual must enter "SSN" or "PTIN" and the social security number or preparer tax identification number in the space for the preparer's federal employer identification number.

■ **Supplemental Schedules** – File the following items as supplemental schedules to your Form 5S:

- Federal Form 1120S.
- Supporting schedules for Form 1120S, including Schedule M-3 if required for federal purposes.
- Supporting schedules for Form 5S (supporting schedules that are not Department-prescribed forms may be submitted as Portable Document Format (*.pdf) documents with electronic returns).
- Wisconsin Schedule 5K-1 for each shareholder.
- A list of your solely owned LLCs and QSubs.
- Any extension of time to file your return.
- If the tax-option (S) corporation has a nonresident shareholder who is not subject to income or franchise tax and would otherwise be subject to withholding tax based on income passed through to that shareholder, attach a statement from that shareholder stating why no tax was withheld.
- If you are filing an amended return, an explanation of the changes made, any supporting Department-prescribed forms or schedules, and a worksheet showing how you figured your refund or additional amount owed.

If you have an approved electronic filing waiver and are filing Form 5S on paper, **do not staple, fasten or bind these supplemental schedules to your return. Use paper clips instead.**

Specific Instructions for Schedule 5K

Schedule 5K is a summary schedule of all the shareholders' shares of the tax-option (S) corporation's income, deductions, credits, etc., as computed under Wisconsin law, similar to federal Schedule K.

Schedule 5K, Columns b Through d

■ **Column b. Federal Amount –** Enter the applicable amounts from federal Schedule K in column b of Schedule 5K. For dividends and the net long-term capital gain (loss) items reported on lines 5 and 8, use the totals from federal Schedule K.

■ **Column c. Adjustment –** Enter in column c any adjustments to the federal amount necessary to arrive at the amount under Wisconsin law. Show additions as a positive number. Show subtractions as a negative number.

However, don't make any adjustments on Schedule 5K to exclude a nonresident or part-year resident shareholder's share of tax-option (S) items that are attributable to business outside Wisconsin. These adjustments will be made on the Schedule 5K-1 of each affected shareholder, as described in the instructions for Schedule 5K-1 that follow.

For any adjustments you enter in column c, you must prepare an explanation and submit it with your return. See the section that follows for examples of the adjustments that you are required to enter in column c.

■ **Column d. Wisconsin Amount –** Combine the amount in column b with any adjustment in column c and enter the result in column d.

Adjustments Reportable on Schedule 5K, Column c

You must make adjustment on Schedule 5K, column c in the following situations:

1. Adjustments for IRC provisions not adopted for Wisconsin purposes. As mentioned earlier in these instructions, Wisconsin has not fully adopted the Internal Revenue Code (IRC) as amended to December 31, 2010. If the federal amount in column b is affected by an IRC provision not adopted by Wisconsin, an adjustment must be computed in column c.

2. Differences between the federal and Wisconsin deductions for depreciation or amortization. These differences can happen because of IRC sections not adopted for Wisconsin purposes (see 1. above), and also because of differences that existed between Wisconsin and federal law for assets placed in service before January 1, 1987.

CAUTION: For assets first placed in service in taxable years beginning on or after January 1, 2001, you must compute depreciation or amortization under the Internal Revenue Code as amended to December 31, 2000.

An asset must continue to be depreciated or amortized under the method allowable for Wisconsin purposes for the year in which it was placed in service.

The differences in Wisconsin and federal depreciation and amortization that existed before January 1, 1987 continue to exist. These differences are described in items a. through i. below.

a. IRC section 168(f)(8), relating to a special rule for leases (safe harbor), didn't apply for Wisconsin purposes. See *Wisconsin Tax Bulletin* 84 (October 1993, page 22) for further details about Wisconsin's treatment of safe harbor leases.

b. Telegraph, pipeline, gas, electric, steam, and telephone companies (defined under secs. 76.02(4), Wis. Stats. (1983-84), 76.02(5b), 76.28(1)(e)1., 3., and 4., and 76.38(1)(c), Wis. Stats. (1985-86), except for specialized common carriers) had to compute depreciation under the IRC in effect on December 31, 1980, for assets acquired during the period beginning with the 1981 taxable year and ending on December 31, 1986. **Note:** The *Beatrice Cheese, Inc.* decision described in item e below doesn't apply to these companies.

c. Waste treatment and pollution abatement plants and equipment could be deducted or amortized pursuant to sec. 71.04(2b) or (2g), Wis. Stats. (1985-86).

d. Alternative energy systems could be deducted or amortized pursuant to sec. 71.04(16), Wis. Stats. (1985-86).

e. The federal accelerated cost recovery system (ACRS) wasn't allowable for Wisconsin purposes for property located outside Wisconsin and first placed in service from January 1, 1983, through December 31, 1986. Instead, depreciation was to be computed under a method permitted by the IRC as of December 31, 1980, or, in the alternative, the IRC applicable to the calendar year 1972.

However, the Wisconsin Tax Appeals Commission declared this provision unconstitutional in *Beatrice Cheese, Inc. vs. Wisconsin Department of Revenue* (February 24, 1993). Therefore, corporations have the option of either claiming the same depreciation deduction as for federal purposes, or continuing their present method of depreciation. For more information, see the tax release in *Wisconsin Tax Bulletin* 84 (October 1993, page 18).

f. A corporation electing to claim an investment tax credit for federal income tax purposes could either claim the credit and reduce the depreciable basis of the property by one-half of the credit, or claim a reduced investment credit and not reduce the depreciable basis of the property. These corporations weren't required to reduce the depreciable basis of the investment credit property for Wisconsin purposes.

g. Intangible drilling costs incurred after the 1980 taxable year are deductible for federal purposes under IRC section 263(c). Before the 1987 taxable year, the amount of depletion, depreciation, or write-off allowable for Wisconsin purposes was limited to that allowable under the IRC in effect on December 31, 1980, or, in the alternative, the IRC applicable to the calendar year 1972.

h. For the following property acquired in the 1986 taxable year, but before January 1, 1987, depreciation must be computed under the December 31, 1980, IRC: (1) residential real property, and (2) property used in farming, as defined in IRC section 464(e)(1), if the corporation's Wisconsin gross farm receipts or sales exceeded $155,000 for the 1986 taxable year.

i. For Wisconsin purposes, before the 1987 taxable year, corporations (except regulated investment companies and real estate investment trusts) couldn't claim section 179 expense. Instead, depreciation was allowable on the cost basis of the property, without reduction for the amount the corporation may have elected to expense under section 179 for federal purposes.

3. Differences between the federal and Wisconsin bases of assets disposed of during the taxable year. Sales of assets with different Wisconsin basis than federal basis will also require you to make adjustments in column c. For example, a corporation sold the following assets, which had been held more than one year:

	Selling Price	Wisconsin Basis	Federal Basis
Equipment	$1,000	$1,500	$500
Machinery	15,000	5,000	17,500
Building	200,000	150,000	120,000

The gains (losses) realized on these transactions are –

	Wisconsin Gain (Loss)	Federal Gain (Loss)
Equipment	($500)	500
Machinery	10,000	(2,500)
Building	50,000	80,000
Total	$59,500	$78,000

The corporation must recompute a federal Form 4797, substituting the Wisconsin depreciation allowed or allowable and Wisconsin basis of the assets for the federal amounts.

For federal purposes, the $500 gain on the sale of the equipment is determined to be depreciation recapture, which is treated as ordinary gain and included in the corporation's ordinary income or loss on Form 5S, Schedule 5K, line 1, column b.

For Wisconsin purposes, $5,000 of the gain on the sale of the machinery is determined to be depreciation recapture, which is treated as ordinary gain.

The corporation enters $4,500 ($5,000 Wisconsin ordinary gain minus $500 federal ordinary gain) on Schedule 5K, line 1, column c. The corporation makes the following entries on Schedule 5K, line 9: $77,500 in column b, $(23,000) in column c, and $54,500 in column d.

4. Different elections for Wisconsin and federal purposes. For example, since Wisconsin does not allow a credit for foreign taxes paid or the federal work opportunity credit, foreign taxes and wages included in the computation of the federal work opportunity credit may be deducted for Wisconsin purposes. The corporation may elect to deduct these expenses on line 1, column c.

5. Additions for tax credit amounts. Certain tax credits computed by the tax-option (S) corporation are required to be added back to the tax-option (S) corporation's ordinary income (line 1). These credits include the following:

- Beginning farmer and farm asset owner credit
- Biodiesel fuel production credit
- Community rehabilitation program credit
- Dairy and livestock farm investment credit
- Dairy manufacturing facility investment credit.
- Development zones credits
- Economic development tax credit
- Electronic medical records credit
- Enterprise zone jobs credit
- Ethanol and biodiesel fuel pump credit
- Film production credits
- Food processing plant and food warehouse investment credit
- Health Insurance Risk-Sharing Plan assessments credit
- Internet equipment credit
- Jobs tax credit

- Manufacturing investment credit
- Meat processing facility investment credit
- Postsecondary education credit
- Technology zone credit
- Veteran employment credit
- Water consumption credit
- Woody biomass harvesting and processing credit

6. Additions for state taxes. For Wisconsin purposes, state taxes and taxes of the District of Columbia that are value-added taxes, single business taxes, or taxes on or measured by all or a portion of net income, gross income, gross receipts, or capital stock are not deductible by tax-option (S) corporations. These amounts are adjustments on line 1. Also show nondeductible taxes as additional nondeductible expenses on Schedule 5K, line 16c.

7. Adjustments for related entity expenses. Tax-option (S) corporation must make an addition modification to "add back" interest, rental, or intangible expenses, or management fees paid, accrued, or incurred to a related entity. After the tax-option (S) corporation makes this addition modification, the tax-option (S) corporation completes Schedule RT to determine if it is eligible for a deduction for any of the amount added back. The tax-option (S) corporation then makes a subtraction modification in the amount for which it is eligible for a deduction.

See the Schedule RT instructions for further details of the expenses that require this modification and the specific criteria that must be met in order to deduct related entity interest, rental, intangible expenses, or management fees.

The tax-option (S) corporation reports the addition modifications for related entity expenses on Schedule 5K, line 18a. For the amount eligible for a deduction, the tax-option (S) corporation enters the subtraction amount on Schedule 5K, line 18b. Additionally, these amounts must be reported as adjustments in column c on the lines to which the expenses relate. For example, if the related entity rental expense is an item of ordinary income, the modifications must also be reported on Schedule 5K, line 1, column c.

8. Subtraction for expenses disallowed to related entity. If the tax-option (S) corporation has interest, rental, or intangible income, or management fees from a related entity, and that related entity was ineligible to claim a deduction for the interest, rental, or intangible expenses, or management fees because it did not meet the criteria set forth in Schedule RT, the tax-option (S) corporation may make a subtraction modification to exclude the income corresponding to the expense that the payor could not deduct. The tax-option (S) corporation makes the subtraction on the line of Schedule 5K corresponding to the type of income being modified. See Schedule RT-1 and instructions for further details on the treatment of disallowed expenses.

9. Adjustments for built-in gains tax. IRC section 1366(f), relating to the reduction in pass-through income for taxes at the S-corporation level, is modified by substituting the Wisconsin built-in gains tax for the taxes imposed under IRC sections 1374 and 1375. Thus, for Wisconsin purposes, the gain on the sale of an asset is reduced by any Wisconsin built-in gains tax paid by the corporation on that asset. For federal purposes, however, the gain is reduced by the federal built-in gains tax. The difference between the federal and Wisconsin built-in gains tax amounts must be reported in column c.

10. Additions for federal capital gains and excess net passive income taxes. If the tax-option (S) corporation reduced net long-term capital gain by an amount of federal capital gains tax or reduced items of passive investment income by an amount of federal excess net passive income tax, those tax amounts must be reported as additions in column c.

11. Differences in taxable interest income. Additions to or subtractions from the federal interest income amounts may be required for the following items:

- If the interest income reported on line 4, column b, includes any interest from obligations of the United States government and its instrumentalities, identify this amount on a separate schedule for line 17d. Do not subtract this amount on Schedule 5K, line 4, column c.
- If the tax-exempt interest income reported on line 16a, column b, includes any interest that is exempt for federal purposes but taxable by Wisconsin, such as state and local government bond interest, report this amount as an *addition* on line 4, column c, and as a s*ubtraction* on line 16a, column c.

12. Differences for other income and expense items. Income reported on line 16b that is exempt for federal purposes but taxable by Wisconsin is shown as a *subtraction* in column c. If more income is nontaxable for Wisconsin purposes than for federal purposes, show the additional amount of exempt income as an *addition*. The amount under Wisconsin law in column d is the amount of tax-exempt income for Wisconsin purposes.

Expenses on line 16c that are nondeductible federally but deductible for Wisconsin purposes are shown as *subtractions* in column c. If more expenses are nondeductible for Wisconsin purposes than for federal purposes, show the additional amount of nondeductible expenses as an *addition*. The amount under Wisconsin law in column d is the nondeductible expense for Wisconsin purposes.

13. Differences in accounting for distributions. Adjustments to the federal amounts of property distributions and dividend distributions from accumulated earnings and profits may be necessary because of differences between the Wisconsin and federal accumulated adjustments accounts, previously taxed undistributed income, and accumulated earnings and profits. These differences may occur because the computation of Wisconsin and federal "net income (loss)" differed for the 1979 through 1986 taxable years and Wisconsin didn't recognize tax-option (S) corporations for years before 1979. See the instructions for Schedule 5M for more information about distributions.

Report the dividend distributions entered on line 17c to the shareholders on Schedule 5K-1, line 17c, for Wisconsin. This differs from the federal requirement to report the amount of the dividends on Form 1099-DIV rather than on Schedule K-1.

14. Relocated business deduction. If you are eligible to claim the relocated business deduction, complete Schedule RB and enter the amount of business income eligible to be excluded from Wisconsin income from line 14 of Schedule RB as an adjustment on line 1, column c, of Schedule 5K and the amount from line 15 of Schedule RB on line 7, 8, or 9 of column c, of Schedule 5K.

Enter the amount of wages paid during the taxable year to employees who were residents of Wisconsin at the time the wages were paid and the total amount of wages paid by the business during the taxable year to all employees of the business as separate entries on line 17d of Schedule 5K. The shareholders will need this information to complete lines 1 and 2 of the Schedule RB. See the Schedule RB instructions for further information on the eligibility to claim the relocated business deduction.

15. Job creation deduction. If you are eligible to claim the job creation deduction, complete Schedule JC and enter the amount from line 7 of Schedule JC as an adjustment on line 1, column c, of Schedule 5K. See the Schedule JC instructions for further information on the eligibility to claim the job creation deduction.

Credits Reportable on Schedule 5K, Line 13

To determine if you are eligible for any credits, see Publication 123, *Business Tax Incentives*, or refer to the instructions to the credit schedules referenced below. Except as otherwise indicated, you must file the credit schedule referenced below with your Form 5S in order to claim the credits on Schedule 5K. Enter the abbreviation of the credit you are claiming next to the word "schedule" on line 13. The abbreviation for each credit is located in the upper left hand corner of the credit schedule and in parenthesis below. Use a separate line for each credit you are claiming. For example, if you are claiming the enterprise zone jobs credit, enter "EC" next to the "Schedule" line.

■ **Angel Investment Credit (VC) –** Enter the angel investment credit computed from Schedule VC, line 4.

■ **Beginning Farmer and Farm Asset Owner Credit (FL) –** Enter the beginning farmer and farm asset owner credit from Schedule FL, line 6.

■ **Biodiesel Fuel Production Credit (BC)** – Enter the biodiesel fuel production credit from Schedule BC, line 6.

■ **Community Rehabilitation Program Credit (CM) –** Enter the community rehabilitation program credit from Schedule CM, line 5.

■ **Dairy Cooperatives Credit (DM)** – Enter the dairy cooperatives credit computed from Schedule DM, line 14.

■ **Dairy and Livestock Farm Investment Credit (DI) –** Enter the dairy and livestock farm investment credit computed from Wisconsin Schedule DI, line 7.

■ **Dairy Manufacturing Facility Investment Credit (DM) –** Enter the dairy manufacturing facility investment credit computed from Schedule DM, line 13.

■ **Development Opportunity Zone Investment Credit (DC) –** Enter the development opportunity zone investment credit computed from Schedule DC, line 13.

■ **Development Zone Capital Investment Credit (DC)** – Enter the development opportunity zone or agricultural or airport development zone capital investment credit computed from Schedule DC, line 21.

■ **Development Zones Credit (DC) –** Enter the development zones credit computed from Wisconsin Schedule DC, line 5.

■ **Early Stage Seed Investment Credit (VC) –** Enter the early stage seed investment credit computed from Schedule VC, line 10.

■ **Economic Development Tax Credit (ED) –** Enter the economic development tax credit computed from Wisconsin Schedule ED, line 3.

■ **Electronic Medical Records Credit (EM) –** Enter the electronic medical records credit from Schedule EM, line 3.

■ **Enterprise Zone Jobs Credit (EC) –** Enter the enterprise zone jobs credit computed from Schedule EC, line 3.

■ **Ethanol and Biodiesel Fuel Pump Credit (EB) –** Enter the ethanol and biodiesel fuel pump credit computed from Schedule EB, line 5.

■ **Film Production Company Investment Credit (FP) –** Enter the film production company investment credit computed from Schedule FP, line 6.

■ **Film Production Services Credit (FP) –** Enter the film production services credit computed from Schedule FP, line 3.

■ **Food Processing Plant and Food Warehouse Investment Credit (FW) –** Enter the food processing plant and food warehouse investment credit computed from Schedule FW, line 7.

■ **Health Insurance Risk-Sharing Plan Assessments Credit (HI) –** Enter the Health-Insurance Risk Sharing Plan assessment credit computed from Schedule HI, line 4.

■ **Internet Equipment Credit (IE) –** Enter the Internet equipment credit carryover from Wisconsin Schedule CR.

■ **Jobs Tax Credit (JT) –** Enter the jobs tax credit computed from Schedule JT, line 5.

■ **Manufacturing Investment Credit (MI) –** Enter the amount of manufacturing investment credit for which the partnership obtained certification from the Wisconsin Department of Commerce. Submit a copy of the Department of Commerce certification with the partnership's Form 3. The partnership is not required to complete Schedule MI.

■ **Meat Processing Facility Investment Credit (MP) –** Enter the meat processing facility investment credit computed from Schedule MP, line 7.

■ **Postsecondary Education Credit (PE) –** Enter the postsecondary education credit computed from Schedule PE, line 5.

■ **Supplement to Federal Historic Rehabilitation Credit (HR) –** Enter the supplement to the federal historic rehabilitation tax credit computed from Wisconsin Schedule HR, line 5.

■ **Technology Zone Credit (TC) –** Enter the technology zone credit computed from Wisconsin Schedule TC, line 6.

■ **Veteran Employment Credit (VE) –** Enter the veteran employment credit from Schedule VE, line 8.

■ **Water Consumption Credit (WC) –** Enter the water consumption credit computed from Schedule WC, line 8.

■ **Woody Biomass Harvesting and Processing Credit (WB) –** Enter the woody biomass harvesting and processing credit computed from Schedule WB, line 5.

■ **Line 13o. Credit for Tax Paid to Other States –** If the tax-option (S) corporation does business in another state and either the tax-option (S) corporation or its shareholders must pay an income tax on the tax-option (S) corporation's income earned there, Wisconsin resident shareholders may be able to claim credit on their individual income tax returns for their pro rata shares of the tax paid. Credit is allowed only if the income taxed by the other state is considered taxable income by Wisconsin. Fill in line 13o if:

- The corporation's S status is recognized by the other state and the corporation files a combined or composite return with that state on behalf of the shareholders who are nonresidents of that state and pays the tax on their pro rata shares of the corporation's income earned there.
- The corporation's S status is recognized by the other state and the corporation files a corporate franchise or income tax return with that state and pays tax on the income earned there that is attributable to the shareholders who are nonresidents of that state.
- The corporation's S status isn't recognized by the other state and the corporation pays an income or franchise tax on or measured by the income earned there.

Enter the postal abbreviation of the state in the space provided and the amount of income tax paid to that state. If tax is paid to more than three states, enter "See Attached" on one of the entry lines, enter the total amount on that line, and submit a schedule listing all states and the amount of income tax paid to each state. Submit with Form 5S a copy of the income tax return filed with each state for which a credit is claimed. If you electronically file the Form 5S, do an attachment to the e-filed return.

■ **Line 13p. Wisconsin Tax Withheld –** If the tax-option (S) corporation is subject to withholding tax on the Wisconsin income of nonresident shareholders, enter the amount of Wisconsin tax withheld. Generally, this will be the amount the tax-option (S) corporation paid with Form PW-1. However, if the tax-option (S) corporation is a member of another pass-through entity that already withheld Wisconsin tax on income passed through to the tax-option (S) corporation, also include the tax withheld by that other pass-through entity on the tax-option (S) corporation's share of income.

> **CAUTION:** On line 13p, do not include any withholding attributable to federal, state, and municipal government interest income passed through to the tax-option (S) corporation from another pass-through entity. Use line 15 on page 1 to report this withholding.

"Other Items and Amounts" Reportable on Schedule 5K, Item 17d

For line 17d, submit a schedule showing any items and amounts not included on lines 1 through 17c that must be reported separately to the shareholders. Include the federal amount, any adjustment, and the amount determined under Wisconsin law for each item. Amounts that may be included on this schedule include, but are not limited to, the following:

U.S. Government Interest. If the interest income on line 4, column b, includes any interest from United States government obligations that is taxable for federal purposes but exempt from Wisconsin individual income taxes, report the amount of United States government interest on this schedule.

Disposal of Section 179 Property. If the tax-option (S) corporation disposed of property for which a section 179 expense deduction was claimed in a prior year, provide the following information for each asset: description of the property; gross sales price; both the federal and the Wisconsin cost or other basis plus expense of sale (*excluding* the tax-option (S) corporation's basis reduction in the property due to the section 179 expense deduction); depreciation allowed or allowable (*excluding* the section 179 expense deduction); and both the federal and Wisconsin amount of section 179 expense deduction passed through in previous years for the property and the tax-option (S) corporation's taxable years for which the amounts were passed through.

Schedule 5K, Lines 18 Through 20

■ **Lines 18a and 18b. Related Entity Expenses –** On line 18a, enter in column d the amounts attributable to interest, rental, or intangible expenses, or management fees paid, accrued, or incurred to a related entity. On line 18b, enter the amounts eligible for a deduction as determined by the Schedule RT instructions. If line 18a exceeds $100,000, the tax-option (S) corporation must file Schedule RT with its Form 5S. See the Schedule RT instructions for details.

■ **Line 19. Income (Loss) –** For each of columns b and d, combine lines 1 through 10. From the result, subtract the sum of lines 11 through 12d. Add or subtract, as appropriate, any income or deductions reported on line 17d that affect the computation of taxable income. Be sure to include in column d interest income from federal, state, and municipal obligations that is reportable on Form 5S, page 1, line 1.

If you reported on line 17d the disposition of property for which a section 179 expense deduction was claimed in a prior year, complete federal Form 4797 to figure the amount of gain or loss to combine with the other items of income, loss, and deduction. If the federal and Wisconsin bases of the property or section 179 deductions differ, use two Forms 4797. Disregard the special instructions for tax-option (S) corporations and shareholders when filling out Form 4797. On one Form 4797, determine the federal gain or loss to combine with the other federal amounts reported in column b. Complete a second Form 4797 to compute the Wisconsin gain or loss to combine with the other Wisconsin amounts reported in column d.

■ **Line 20. Gross Income –** Enter the tax-option (S) corporation's gross income that is reportable to Wisconsin. Gross income is the total amount received from all activities, before deducting the cost of goods sold or any other expenses. Gross income includes gross receipts from trade or business activities, gross rents and royalties, interest and dividends, the gross sales price of assets, and all other gross receipts. If the tax-option (S) corporation is a member of one or more other pass-through entities, include gross income attributable to those other pass-through entities.

Specific Instructions for Schedule 5M

You must complete Schedule 5M to determine the Wisconsin tax effect of distributions from the corporation to its shareholders. The tax effect of the distributions depends upon the balances of the Wisconsin Accumulated Adjustments Account (AAA) and the Wisconsin Other Adjustments Account (OAA).

Wisconsin Accumulated Adjustments Account

The Wisconsin Accumulated Adjustments Account (AAA) is an account of a tax-option (S) corporation that is used in taxable years beginning after December 31, 1982. The Wisconsin AAA will have a zero balance on the first day of the corporation's first taxable year as a tax-option (S) corporation beginning after December 31, 1982.

For purposes of the Wisconsin AAA, taxable income and deductible losses and expenses are the total company amounts as determined under Wisconsin law. The total company amounts are those before application of either apportionment or separate accounting to compute a multistate corporation's income, loss, and deductions attributable to Wisconsin.

If the tax-option (S) corporation is subject to a Wisconsin franchise tax measured by certain federal, state, and municipal government bond interest, that interest is treated as taxable income which increases the Wisconsin AAA.

As with the federal AAA, the Wisconsin AAA may have a negative balance. Due to past and current differences in the computation of income, loss, and deductions, the federal AAA and Wisconsin AAA may not have the same balance. This may create a difference between the federal and Wisconsin treatment of all or a part of any corporate distributions at the shareholder level.

The computation of Wisconsin AAA depends on whether the tax-option (S) corporation has accumulated earnings and profits from taxable years in which it operated as a C corporation:

Corporations Without Accumulated Earnings and Profits. At the end of the current taxable year, if the corporation doesn't have accumulated earnings and profits for Wisconsin purposes, the Wisconsin AAA is increased or decreased by the following items:

Increased by:

- Taxable income and gains, as determined under Wisconsin law.
- Nontaxable income earned in taxable year 1987 and thereafter (nontaxable income earned before 1987 didn't increase the Wisconsin AAA).

Decreased by:

- Deductible losses and expenses, as determined under Wisconsin law.
- Nondeductible expenses, not due to timing differences (that is, expenses that are never deductible for Wisconsin purposes).
- Property distributions, including cash, made by the corporation that are applicable to the Wisconsin AAA.
- The amount of the supplement to the federal historic rehabilitation tax credit and early stage seed investment credit computed.

Corporations With Accumulated Earnings and Profits. At the end of the current taxable year, if the corporation has accumulated earnings and profits for Wisconsin purposes, the Wisconsin AAA is increased or decreased by the following items *in the order listed*:

1. Increased by taxable income and gains, as determined under Wisconsin law.

2. Decreased by:

a. Deductible losses and expenses, as determined under Wisconsin law, and nondeductible expenses (that is, expenses that are never deductible for Wisconsin purposes). However, if the total decreases exceed the total increases above, the excess is a "net negative adjustment" that is taken into account in **c** below.

b. Property distributions, including cash, other than dividend distributions from accumulated earnings and profits, unless the corporation elects to reduce accumulated earnings and profits first. **Note:** Distributions cannot reduce the Wisconsin AAA below zero.

c. Any net negative adjustment.

d. The supplement to the federal historic rehabilitation tax credit and early stage seed investment credit computed.

For corporations with accumulated earnings and profits, the Wisconsin AAA isn't increased by nontaxable income nor decreased by nondeductible expenses related to nontaxable income. Instead, adjustments for nontaxable income and related expenses are made to the Wisconsin Other Adjustments Account as explained below.

Wisconsin Other Adjustments Account

The Wisconsin Other Adjustments Account (OAA) is maintained only by corporations that have accumulated earnings and profits at year-end. Since 1987 was the first year for which a Wisconsin OAA may be used, the Wisconsin OAA will have a zero balance at the beginning of the corporation's 1987 taxable year. The account is increased by nontaxable income and decreased by related expenses. The account is also decreased by any distributions during the taxable year that are applicable to the Wisconsin OAA. The Wisconsin OAA may not agree with the federal OAA.

Note: If the tax-option corporation is subject to a franchise tax measured by certain federal, state, and municipal government bond interest, that interest is treated as taxable income which increases the Wisconsin AAA, not the Wisconsin OAA.

Treatment of Distributions

For Wisconsin, property distributions, including cash, are generally treated as made from the following sources in the order shown:

1. A nontaxable distribution of net income to the extent of the Wisconsin AAA, but not in excess of the shareholder's Wisconsin stock basis. For distributions made in taxable years beginning on or after January 1, 1997, the Wisconsin AAA is determined without regard to any "net negative adjustment" for the taxable year. A net negative adjustment is the excess, if any, of reductions in the AAA for the taxable year, other than for distributions, over the increases in the AAA for the taxable year.

2. A nontaxable distribution of the shareholder's Wisconsin "previously taxed undistributed income" from the 1979 taxable year through the last taxable year beginning before January 1, 1983, but not in excess of the shareholder's Wisconsin stock basis after applying the distributions in 1 above.

3. A taxable dividend to the extent of Wisconsin accumulated earnings and profits.

4. A nontaxable distribution of exempt income to the extent of the Wisconsin OAA, but not in excess of the shareholder's Wisconsin stock basis after applying the distributions in 1 and 2 above.

5. A nontaxable return of capital to the extent of the shareholder's Wisconsin stock basis after applying the distributions in 1, 2, and 4 above.

All nondividend distributions in excess of basis are treated as taxable gain from the sale or exchange of property. Dividends are taxable as ordinary income.

If a tax-option corporation makes more than one distribution to its shareholders during its taxable year and the total distribution exceeds the amount in the Wisconsin AAA at the end of the corporation's taxable year determined without regard to any net negative adjustment for the taxable year, allocate the amount in the Wisconsin AAA among the distributions on a proportionate basis.

The tax-option (S) corporation may elect, with the consent of its affected shareholders, to modify the ordering rules for distributions as follows:

- To distribute accumulated earnings and profits before making distributions from the Wisconsin AAA.
- To make a deemed dividend.
- To forgo distributions of previously taxed income.

If a Subchapter S election is revoked or terminated, distributions of money during the post-termination transition period by the former tax-option (S) corporation to its shareholders are nontaxable to the extent of the corporation's Wisconsin AAA, but not in excess of a shareholder's stock basis. These nontaxable distributions reduce the adjusted basis of the shareholder's stock. Alternatively, the tax-option (S) corporation may elect, with the consent of its affected shareholders, to have distributions of money treated as dividends not made from the AAA to the extent of the corporation's accumulated earnings and profits for Wisconsin purposes.

For more information on how to determine the Wisconsin tax treatment of distributions from a tax-option (S) corporation, see Publication 102, *Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders.* You may access this publication through the Department's web site at revenue.wi.gov/html/taxpubs.html#business.

Specific Instructions for Schedule 5K-1

Schedule 5K-1 shows each shareholder's share of the corporation's income, deductions, credits, etc., which have been summarized on Schedule 5K. Like Schedule 5K, Schedule 5K-1 requires an entry for the federal amount, adjustment, and amount determined under Wisconsin law of each applicable share item. In addition, Schedule 5K-1 for a nonresident or part-year resident shareholder requires a separate entry for the amount of each share item attributable to Wisconsin.

File each shareholder's Schedule 5K-1 along with the Form 5S you file with the Department. Keep a copy as a part of the corporation's records, and give each shareholder his or her own separate copy. Schedule 5K-1 must be prepared and given to each shareholder on or before the day on which Form 5S is filed. In addition, give each shareholder a copy of the "Shareholder's Instructions for 2012 Schedule 5K-1."

Federal Schedules K-1

Since the Wisconsin Schedule 5K-1 replaces the federal Schedule K-1, a tax-option (S) corporation doesn't have to also file a federal Schedule K-1 for each shareholder with Form 5S. However, you may submit copies of the federal Schedules K-1 instead of preparing Schedules 5K-1 in the following situations:

- If the tax-option (S) corporation operates only in Wisconsin and, on Schedule 5K, reports no adjustments in column c or credits in column d, you may use the federal Schedules K-1 to report the Wisconsin tax-option (S) corporation items for all shareholders.
- If the tax-option (S) corporation operates in and outside Wisconsin and, on Schedule 5K, reports no adjustments in column c or credits in column d, you may use the federal Schedules K-1 for **full-year Wisconsin resident** shareholders.

If you file federal Schedules K-1 instead of Wisconsin Schedules 5K-1, *you must state on the shareholder's federal Schedule K-1 that there aren't any Wisconsin adjustments or credits.*

Information About the Tax-Option (S) Corporation and Shareholder

■ **Items A Through D.** Enter the identifying number and name of the tax-option (S) corporation and the shareholder. If a QSST is a shareholder, enter the name and address of the QSST, not the name and address of its beneficiary. The QSST must file a Wisconsin Form 2 to report its share of the tax-option (S) corporation income. The beneficiary must file an individual income tax return to report his or her share of the QSST's income.

■ **Item E.** Enter the shareholder's percentage of stock ownership for the taxable year. If there was a change in shareholders or in the relative interest in stock the share-

holders owned during the taxable year, each shareholder's percentage of ownership is weighted for the number of days in the taxable year that stock was owned.

■ **Item F.** Enter the shareholder's state of residence (domicile). If the state of residence changed during the corporation's taxable year, indicate all states involved. If the shareholder moved into or out of Wisconsin during the corporation's taxable year, and the corporation does business in and outside Wisconsin, the shareholder's Wisconsin share of the tax-option items will be affected. See the instructions below for more information.

■ **Item G.** Check here only if the shareholder is a nonresident or part-year resident of Wisconsin during the corporation's taxable year and the corporation is a multistate corporation that would figure its income under the apportionment method if it were a regular (C) corporation. Enter the corporation's apportionment percentage from Form 4A-1 or Form 4A-2, as appropriate. Include Form 4A-1 or Form 4A-2 with the Form 5S filed with the Department.

■ **Item H.** Check here only if the shareholder is a nonresident or part-year resident of Wisconsin during the corporation's taxable year and the corporation is a multistate corporation that would figure its income under the separate accounting method if it were a regular (C) corporation. Include a schedule, similar to Form 4C, that shows the allocation of the amount under Wisconsin law in column d of each applicable share item on Schedule 5K to Wisconsin and outside Wisconsin. This schedule should also show the basis of such allocation.

■ **Item I.** Check this box if the shareholder is a nonresident who filed Form PW-2 to claim exemption from pass-through entity withholding. Check this box only if Form PW-2, Part 2 indicates it was approved by the Department. You must keep a copy of the approved Form PW-2, Part 2 on file to substantiate the withholding exemption. However, the tax-option (S) corporation generally must still report that shareholder on Form PW-1 to disclose that the withholding exemption was claimed. See the Form PW-1 instructions for further details.

■ **Item J.** Check the appropriate box to indicate what type of entity this shareholder is.

■ **Item K.** If the tax-option (S) corporation is aware that the shareholder is a disregarded entity (other than a QSST) or grantor trust, enter in item K the name and identifying number of the member or grantor to whom the income on Schedule 5K-1 will be reported. If you enter this information, it is less likely that the Department will need to contact you or the shareholder to verify that the proper amount of income is reported.

■ **Item L.** If the corporation ceased to exist, withdrew from Wisconsin, or terminated its tax-option (S) election or if the shareholder terminated his or her interest in the corporation during the taxable year, check the "Final 5K-1" box. To correct an error on a Schedule 5K-1 already filed, file an amended Schedule 5K-1 and check the "Amended 5K-1" box.

Schedule 5K-1, Columns a Through e

Column a – Pro rata share items. These item descriptions are substantially identical to the item descriptions on federal Schedule K-1. However, on the lines for other income, other deductions, alternative minimum tax (AMT) items, nondeductible expenses, distributions, and other information, enter the actual description instead of the applicable code from the federal Schedule K-1.

Column b – Federal Amount. The federal amount is the shareholder's pro rata share of the amount from Wisconsin Schedule 5K, column b, and generally should agree with the amount for that item reported on the shareholder's federal Schedule K-1.

Column c – Adjustment. The adjustment is the shareholder's pro rata share of the amount from Wisconsin Schedule 5K, column c. On a separate schedule you submit with Schedule 5K-1, explain the reason for any adjustment in column c. If the difference arises because a federal law change has not been adopted by Wisconsin, identify it as a "**Schedule I adjustment**." Individual shareholders must account for this difference on Wisconsin Schedule I.

Column d – Amount Under Wisconsin Law. The amount under Wisconsin law is the shareholder's pro rata share of the amount from Wisconsin Schedule 5K, column d. This is the amount used in computing Wisconsin income by a full-year resident of Wisconsin. Full-year Wisconsin resident shareholders, part-year resident shareholders, and nonresident shareholders also use the information from column d to calculate the Wisconsin basis in the corporation's stock.

Column e – Wisconsin Source Amount. Fill in this column only for a nonresident or part-year Wisconsin resident. The Wisconsin source amount is the portion of the shareholder's amount in column d that is attributable to Wisconsin. If the tax-option (S) corporation is doing business in and outside Wisconsin, this generally will be the amount from column d multiplied by the tax-option (S) corporation's apportionment percentage from item G.

CAUTION: Do not fill in column e for a shareholder who is a full-year resident of Wisconsin.

Shareholders That Are Full-Year Residents of Wisconsin

Individuals who are full-year residents of Wisconsin must report to Wisconsin all income or loss regardless of where

it is earned or incurred, unless otherwise exempt (such as United States government interest).

Therefore, a tax-option (S) corporation that does business in and outside Wisconsin does not apportion a Wisconsin resident shareholder's share of its income, loss, and deductions between Wisconsin and elsewhere. The amount determined under Wisconsin law for each item is the shareholder's share, based on his or her percentage of stock ownership, of the amount on Schedule 5K, column d. Do not fill in column e.

Shareholders That Are Nonresidents

Individuals who are nonresidents of Wisconsin must report to Wisconsin all income or loss that is earned or incurred in Wisconsin.

If Corporation Does Business Only in Wisconsin. A nonresident shareholder's share of the adjustment and amount determined under Wisconsin law of each item is the shareholder's share, based on his or her percentage of stock ownership, of the amounts on Schedule 5K, columns c and d. Enter the amount from column d in column e.

If Corporation Does Business in and Outside Wisconsin. A nonresident shareholder's Wisconsin source amount in column e of each item is the shareholder's amount from column d that is attributable to Wisconsin based on apportionment or separate accounting, as appropriate.

If the corporation is a unitary, multistate corporation, compute the Wisconsin source amount of each share item by multiplying the amount in column d for that item by the apportionment percentage from item G.

If the corporation has nonapportionable income (loss) on Form 4N, line 14, compute the Wisconsin source amount in column e of any affected item by multiplying the amount of the nonapportionable share item from Schedule 5K, column d, that is attributed to Wisconsin on Form 4N by the nonresident shareholder's percentage of stock ownership.

If the corporation is a nonunitary, multistate corporation, compute the Wisconsin source amount in column e of each share item by multiplying the amount from Schedule 5K, column d, that is allocated to Wisconsin on a schedule similar to Form 4C by the nonresident shareholder's percentage of stock ownership.

Itemized Deduction Amounts. A shareholder may choose to treat items that are deductible on federal Schedule A in either of the following ways:

- As deductions that may be includable in the Wisconsin itemized deduction credit, or
- As modifications that are subtracted from federal adjusted gross income to arrive at Wisconsin adjusted gross income.

Show the amount that would be used in the Wisconsin itemized deduction credit in column d. Don't multiply this result by the Wisconsin apportionment percentage or allocate it in and outside Wisconsin using separate accounting, regardless of the shareholder's state of residence.

For items claimed as subtraction modifications, the Wisconsin amount is limited to the amount actually allowed as an itemized deduction for federal purposes. For a nonresident or part-year resident shareholder of a multistate corporation, the Wisconsin amount is further limited to the portion that is attributable to Wisconsin based on apportionment or separate accounting, as appropriate. Therefore, for a nonresident or part-year resident shareholder of a multistate corporation, enter the Wisconsin source amount in column e.

Shareholders That Are Part-Year Residents

Individuals who are part-year residents of Wisconsin must report to Wisconsin all income or loss, regardless of where it is earned or incurred, while they were residents of Wisconsin and all income or loss earned or incurred in Wisconsin while they were nonresidents of Wisconsin.

If Corporation Does Business Only in Wisconsin. A part-year resident shareholder's share of the adjustment and amount under Wisconsin law of each item is the shareholder's share, based on his or her percentage of stock ownership, of the adjustment and amount determined under Wisconsin law shown on Schedule 5K, columns c and d, respectively. Enter the amount from column d in column e.

If Corporation Does Business in and Outside Wisconsin. Compute a part-year resident shareholder's Wisconsin source amount in column e of each item in two parts: one for the portion of the corporation's taxable year that the shareholder was a resident of Wisconsin and another for the portion of the corporation's taxable year that the shareholder was a nonresident of Wisconsin.

For this purpose, the amount of any share item is determined on a daily basis. That is, every share item is allocated between the resident and nonresident status of the shareholder based on the number of days during the corporation's taxable year that the shareholder was a resident or nonresident of Wisconsin. The shareholder's share of an item for each period (resident or nonresident) is determined in the same manner as that of full-year residents and nonresidents, respectively.

Schedule 5K-1, Line 9b – Enter portion of the net gain attributable to the sales of farm assets held more than one year. Neither include amounts treated as ordinary income for federal income tax purposes because of recapture of depreciation or for any other reason nor amounts treated as capital gain for federal income tax purposes from the sale

or exchange of a lottery prize. "Farm assets" means livestock, farm equipment, farm real property, and farm depreciable property.

Credits Reportable on Schedule 5K-1, Line 13

■ **Line 13a through 13n.** Compute the credits on lines 13a through 13n in the same manner for shareholders who are full-year, part-year, or nonresidents of Wisconsin. For part-year and nonresident shareholders, also enter the allowable credits in column e. For each credit, enter the shareholder's proportionate or specially allocated share of the amount on Schedule 5K. Enter the abbreviation of the credit you are claiming next to the word "schedule" on line 13. The abbreviation for each credit is located in the upper left hand corner of the credit schedule and in parenthesis next to the description of the credit from the Schedule 5K instructions above. Use a separate line for each credit you are claiming. For example, if you are claiming the enterprise zone jobs credit, enter "EC" next to the "Schedule" line. (**Note:** Only the early stage seed investment credit may be specially allocated. See the Schedule VC instructions for details.)

■ **Line 13o. Credit for Tax Paid to Other States –** Complete this line only for full-year Wisconsin resident shareholders and part-year Wisconsin resident shareholders. Enter zero for shareholders who are nonresidents of Wisconsin or corporations.

For a full-year resident, enter in column d the shareholder's proportionate share of the tax credits on Schedule 5K, line 13o. For a part-year resident, enter in column d the amount computed by multiplying the credit on Schedule 5K, line 13o, by the shareholder's percentage of stock ownership, multiplied by the ratio of days that the shareholder was a resident of Wisconsin during the tax-option (S) corporation's taxable year to the total days in the tax-option (S) corporation's taxable year. Enter the result in column e.

■ **Line 13p. Wisconsin Tax Withheld –** If the tax-option (S) corporation was required to file Form PW-1 to withhold tax on behalf of its nonresident shareholders, enter in column d and column e the tax withholding allocated to the shareholder.

Schedule 5K-1, Lines 16 through 20

■ **Lines 16a Through 16c. Tax-Exempt Income and Nondeductible Expenses.** Enter the shareholder's proportionate share of the federal amount, adjustment, and amount determined under Wisconsin law from Schedule 5K for each of these items. Do not fill in column e.

■ **Lines 16d and 16e. Distributions and Loan Repayments** – Enter the distributions of money and property made to each shareholder. Do not fill in column e.

■ **Lines 17a Through 17c. Investment Income/Expense and Dividend Distributions –** Enter the shareholder's proportionate share of the federal amount, adjustment, and amount determined under Wisconsin law from Schedule 5K for each of these items.

■ **Line 17d. Other Items –** Complete as necessary. Include the federal amount, adjustment, amount determined under Wisconsin law, and Wisconsin source amount for each item when applicable. Prepare and submit additional schedules if more space is needed. Include the following items on line 17d:

- The amount of interest income from United States government obligations that is included on Schedule 5K-1, line 4, column d (column e for nonresidents and part-year residents of Wisconsin).
- Information on the sale, exchange, or other disposition of property for which the section 179 expense deduction was claimed.
- If the tax-option (S) corporation is engaged in both farming and some other business activity, indicate the portion of each of the share items that is attributable to the farm operations. The shareholders use this information in applying the farm loss limitations.
- Any information needed by a shareholder to determine why the Wisconsin amount of any item differs from the federal amount.

Note: Tax-option (S) corporations whose Wisconsin shareholders may qualify for farmland preservation credit should provide a copy of the farmland property tax bill with the Schedule 5K-1 given to each Wisconsin shareholder. It isn't necessary for the tax-option (S) corporation to submit the property tax bill with the Schedules 5K-1 sent to the Department. Shareholders will compute their allowable credits based on their proportionate shares of the tax-option (S) corporation's property taxes. For additional information about farmland preservation credit, see the Wisconsin Schedule FC or FC-A instructions. If the tax-option (S) corporation is a member of one or more other pass-through entities, gross income includes the gross income attributable to those other pass-through entities.

■ **Lines 18a and 18b. Related Entity Expenses –** Enter in column d the shareholder's proportionate share of the amounts from Schedule 5K.

■ **Line 20. Gross Income –** Enter the shareholder's share, based on the percentage of stock ownership, of the corporation's gross income that is reportable to Wisconsin. The shareholder will use this information to determine whether he or she must file a Wisconsin income tax return.

A full-year Wisconsin resident shareholder's share of the gross income is the shareholder's share, based on his or her percentage of stock ownership, of the amount shown on Schedule 5K, line 20, column d.

A nonresident or part-year resident shareholder's share of the gross income of a corporation that does business only in Wisconsin is the shareholder's share, based on his or her percentage of stock ownership, of the amount shown on Schedule 5K, line 20, column d. Enter the result in both column d and column e.

Compute a nonresident shareholder's share of the gross income of a unitary, multistate corporation by multiplying the amount from Schedule 5K, line 20, column d, by the nonresident shareholder's percentage of stock ownership and entering the result in column d. Multiply that amount by the apportionment percentage and enter the result in column e.

Compute a nonresident shareholder's share of the gross income of a nonunitary, multistate corporation by multiplying the amount from Schedule 5K, line 20, column d, by the nonresident shareholder's percentage of stock ownership and entering the result in column d. Allocate that amount in and outside Wisconsin and enter the portion allocated to Wisconsin in column e.

Compute a part-year resident shareholder's share of the gross income of a multistate corporation in two parts: one for the portion of the corporation's taxable year that the shareholder was a resident of Wisconsin and one for portion of the corporation's taxable year that the shareholder was a nonresident of Wisconsin. Enter the result in column e.

Example of Schedule 5K-1

Corporation S is a calendar-year multistate corporation with a 60% Wisconsin apportionment percentage and no nonapportionable income. Its two shareholders, A and B, each own 50% of the stock of Corporation S. Shareholder A was a Wisconsin resident during all of 2012. Shareholder B was a resident of Wisconsin until moving to Illinois on April 1, 2012. Therefore, Shareholder B was a part-year resident of Wisconsin for 2012, having been a resident for 90 days and a nonresident for 275 days.

Schedule 5K for 2012 shows the following amounts on the lines indicated:

Schedule 5K

(a) Distributive share items	(b) Federal amount	(c) Adjustment	(d) Amt. under WI law
1 Ordinary Income	$10,000	$(1,000)	$9,000
4 Interest Income	200	500	700
16a Tax-exempt interest income	500	(500)	-0-

The tax-exempt interest income is state and local government bond interest that is exempt from federal income taxes but taxable by Wisconsin. The adjustments in column c on lines 4 and 16a become part of the amount taxable by Wisconsin.

For Shareholder A, Schedule 5K-1 would show the following:

Shareholder A's Schedule 5K-1

(a) Distributive share items	(b) Federal amount	(c) Adjustment	(d) Amt. under WI law	(e) WI source amount
1 Ordinary Income	$5,000	$(500)	$4,500	
4 Interest Income	100	250	350	
16a Tax-exempt interest income	250	(250)	-0-	

These amounts are determined by multiplying the amounts on Schedule 5K by Shareholder A's 50% stock ownership percentage. Column e is blank because shareholder A is a full-year Wisconsin resident.

For Shareholder B, Schedule 5K-1 would show the following:

Shareholder B's Schedule 5K-1

(a) Distributive share items	(b) Federal amount	(c) Adjustment	(d) Amt. under WI law	(e) WI source amount
1 Ordinary Income	$5,000	$(500)	$4,500	$3,144
4 Interest Income	100	250	350	244
16a Tax-exempt interest income	250	(250)	-0-	

The amounts in columns b, c, and d are computed by multiplying the amount on Schedule 5K by Shareholder B's 50% stock ownership percentage. The Wisconsin source amounts in column e are computed in two parts: one for the 90-day period that Shareholder B was a resident of Wisconsin, and one for the 275-day period that Shareholder B was a nonresident of Wisconsin. The computations of Shareholder B's amounts in column e are shown next:

Shareholder B's Line 1: Ordinary Income			
Period of residence	$4,500 x 90/365	=	$1,110
Period of nonresidence	$4,500 x .6 x 275/365	=	$2,034
Total		=	$3,144

Shareholder B's Line 4: Interest Income			
Period of residence	$350 x 90/365	=	$86
Period of nonresidence	$350 x .6 x 275/365	=	$158
Total		=	$244

This example involves a multistate tax-option (S) corporation that would file its return using the apportionment method. If the corporation were one required to file using the separate accounting method, the calculations are simi-

lar. The calculations for Shareholder A and for the period that Shareholder B was a Wisconsin resident are the same as in the example above. The calculations for the period that Shareholder B was a nonresident of Wisconsin differ in that the Wisconsin amount from the separate accounting schedule similar to Form 4C (as discussed earlier) is used instead of the Wisconsin amount from Schedule 5K and the Wisconsin apportionment percentage.

Determining Wisconsin Income of Multistate Tax-Option (S) Corporations

Who Must Use Apportionment

Under the apportionment method, a corporation shows all income and deductions for the corporation as a whole and then assigns a part to Wisconsin according to a formula that determines Wisconsin net income. A corporation engaged in business in and outside Wisconsin is required to report a portion of its total company net income to Wisconsin using the apportionment method if its Wisconsin operations are a part of a unitary business, unless the Department gives permission to use separate accounting.

A unitary business is one that operates as a unit and can't be segregated into independently operating divisions or branches. The operations are integrated, and each division or branch is dependent upon or contributory to the operation of the business as a whole. It isn't necessary that each division or branch operating in Wisconsin contribute to the activities of all divisions or branches outside Wisconsin.

To use the apportionment method, a corporation must have business activity sufficient to create nexus in Wisconsin and at least one other state or foreign country.

"Nexus" means that a corporation's business activity is of such a degree that the state or foreign country has jurisdiction to impose an income tax or franchise tax measured by net income. Under Public Law 86-272, a state can't impose an income tax or franchise tax based on net income on a corporation selling tangible personal property if the corporation's only activity in the state is the solicitation of orders, which orders are approved outside the state and are filled by delivery from a point outside the state.

What Is the Apportionment Percentage

For unitary, multistate businesses (except direct air carriers, motor carriers, railroads, sleeping car companies, pipeline companies, financial institutions, brokers-dealers, investment advisers, investment companies, underwriters, and telecommunications companies whose incomes are apportioned by special rules of the Department), the apportionment percentage is determined by the ratio of Wisconsin sales to total company (corporation) sales.

For most companies, the apportionment percentage is computed on Form 4A-1. However, direct air carriers, motor carriers, railroads, sleeping car companies, pipeline companies, financial institutions, brokers-dealers, investment advisers, investment companies, underwriters, and telecommunications companies should see Form 4A-2 and its instructions.

What Is Nonapportionable Income

Nonapportionable income is that income which is allocable directly to a particular state. It includes income or loss derived from the sale of nonbusiness real or tangible personal property or from rentals and royalties from nonbusiness real or tangible personal property. This income is assigned to the state where the property is located.

All income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin shall be allocated to Wisconsin.

Total nonapportionable income (loss) is removed from total company net income before the apportionment percentage is applied. The Wisconsin nonapportionable income (loss) is then combined with the Wisconsin apportionable income to arrive at Wisconsin net income.

Corporate Partners or LLC Members

A corporation that is a general or limited partner includes its share of the numerator and denominator of the partnership's apportionment factors in the numerator and denominator of its apportionment factors. A corporation that is a member of a limited liability company (LLC) treated as a partnership for federal tax purposes includes its share of the numerator and denominator of the LLC's apportionment factors in the numerator and denominator of its apportionment factors. The corporation should request a detailed breakdown of the partnership's or LLC's items and amounts to be included in the computation of its apportionment factors.

Note: Income from a partnership or LLC may be nontaxable under the principles of the U.S. Supreme Court decision in *Allied-Signal v. Director, Div. of Taxation*, 504 U.S. 768 (1992), if the investment is passive and does not serve an operational function. In this case, the corporation would not include its share of the partnership's or LLC's apportionment factors in the numerator and denominator of its apportionment factors.

Separate Accounting

A corporation engaged in a nonunitary business in and outside Wisconsin must determine the amount of income attributable to Wisconsin by separate accounting. A nonunitary business is one in which the operations in Wisconsin aren't dependent upon or contributory to the operations outside Wisconsin. Under separate accounting, the corporation must keep separate records of the sales, cost of sales, and expenses for the Wisconsin business.

A unitary business may use separate accounting only with the approval of the Department. An application for such approval must set forth, in detail, the reasons why separate accounting will more clearly reflect the corporation's Wisconsin net income. It should be mailed to the Wisconsin Department of Revenue, Mail Stop 5-144, PO Box 8906, Madison, WI 53708-8906, before the end of the taxable year for which the use of separate accounting is desired.

Since a tax-option (S) corporation does not compute its income in the same manner as a C corporation, a tax-option (S) corporation cannot use Form 4C to determine its income attributable to Wisconsin. Instead, a corporation using separate accounting should prepare a 5-column schedule that provides the following information: (a) a listing of all of the distributive share items from Wisconsin Schedule 5K, column a, and any supplemental schedules, (b) the total amount from Wisconsin Schedule 5K, column d, for each of the share items, (c) the amount from column b attributable to Wisconsin, (d) the amount from column b attributable to other states, and (e) the basis for the allocation.

The schedule should also include a detailed explanation of how income and expenses were allocated in and outside Wisconsin. For example, if the allocation is based on actual expenses, write "Actual" in column e. If the allocation is based a percentage of sales at each location, enter the percentage in column e and provide details on how the percentage was computed.

Schedule **5K-1**

Wisconsin Department of Revenue

Tax-Option (S) Corporation Shareholder's Share of Income, Deductions, Credits, etc.

For 2012 or taxable year beginning _____ , 2012, and ending _____ , 20____

2012

Part I Information About the Corporation	**Part II** Information About the Shareholder
A Corporation's federal employer ID number	**C** Shareholder's identifying number
B Corporation's name, address, city, state, and ZIP code	**D** Shareholder's name, address, city, state, and ZIP code

E Shareholder's percentage of stock ownership for taxable year . . . . . _____ %

F Shareholder's state of residence (if a full-year Wisconsin resident, items G, H, and I do not apply) . . . . . _____

G ___ Check if shareholder's Wisconsin amount is determined by apportionment. Apportionment percentage . . . . . _____ %

H ___ Check if shareholder's Wisconsin amount is determined by separate accounting.

I ___ Check if shareholder is a nonresident and filed Form PW-2 to opt out of pass-through entity withholding.

J Entity of shareholder: ___ Individual ___ Estate ___ Trust ___ Exempt organization ___ Other _____

K (Optional) If known that this shareholder is a disregarded entity or grantor trust, enter the name and identifying number of the taxpayer to whom this income will be reported: _____ _____

L Check applicable schedule: ___ **Final 5K-1** ___ **Amended 5K-1**

Part III Shareholder's Share of Current Year Income, Deductions, Credits, and Other Items

	(a) Pro rata share items	(b) Federal amount	(c) Adjustment	(d) Amount under Wis. law	(e) Wis. source amount *(see instructions)*
1	Ordinary business income (loss)				
2	Net rental real estate income (loss)				
3	Other net rental income (loss).				
4	Interest income				
5	Ordinary dividends				
6	Royalties				
7	Net short-term capital gain (loss)				
8	Net long-term capital gain (loss)				
9a	Net section 1231 gain (loss)				
9b	Portion of the amount on line 9a attributable to gains on sales of farm assets				
10	Other income (loss) *(list):*				
11	Section 179 deduction				
12	Other deductions *(list):*				

(a) Pro rata share items	(b) Federal amount	(c) Adjustment	(d) Amount under Wis. law	(e) Wis. source amount *(see instructions)*
13 **a** Schedule _____				
b Schedule _____				
c Schedule _____				
d Schedule _____				
e Schedule _____				
f Schedule _____				
g Schedule _____				
h Schedule _____				
i Schedule _____				
j Schedule _____				
k Schedule _____				
l Schedule _____				
m Schedule _____				
n Schedule _____				
o Tax paid to other states **(1)** _____				
(2) _____				
(3) _____				
p Wisconsin tax withheld				
14 Foreign transactions *(list)*:				
15 Alternative minimum tax (AMT) items *(list):*				
16 **a** Tax-exempt interest income				
b Other tax-exempt income				
c Nondeductible expenses				
d Property distributions				
e Repayment of loans from shareholders				
17 **a** Investment income				
b Investment expenses				
c Dividend distributions paid from accumulated earnings and profits				
d Other items and amounts *(list):*				
18 **a** Related entity expense addback				
b Related entity expense allowable				
19 Income (loss) reconciliation				
20 Gross income (before deducting expenses) from all activities				

Shareholder's Instructions for 2012 Schedule 5K-1

General Instructions

Purpose of Schedule 5K-1 – Similar to federal Schedule K-1, the tax-option (S) corporation uses Schedule 5K-1 to report your pro rata share of the corporation's income, deductions, credits, etc., for Wisconsin purposes. Please keep it for your records. You must also file a copy of Schedule 5K-1 with your tax return if:

- You are claiming a tax credit passed through from the tax-option (S) corporation,
- You are filing an amended return based on an amended Schedule 5K-1, or
- The tax-option (S) corporation withheld tax on your share of the corporation's distributable income (applicable if you are not a Wisconsin resident).

Although the tax-option (S) corporation may have to pay a built-in gains tax, a franchise tax measured by certain federal, state, and municipal government interest income, and an economic development surcharge, you are liable for Wisconsin income tax on your share of the tax-option (S) corporation income, whether or not distributed, and you must include your share on your Wisconsin income tax return if a return is required.

Schedule 5K-1 shows each shareholder's share of the corporation's income, deductions, credits, etc., which have been summarized on Schedule 5K. Like Schedule 5K, Schedule 5K-1 requires an entry for the federal amount, adjustment, and amount determined under Wisconsin law of each applicable share item. In addition, Schedule 5K-1 for a nonresident or part-year resident shareholder requires a separate entry for the amount of each share item attributable to Wisconsin.

Inconsistent Treatment of Items – Generally, you must report tax-option (S) corporation items shown on your Schedule 5K-1 and any accompanying schedules the same way that the tax-option (S) corporation treated the items on its return. If your treatment is (or may be) inconsistent with the tax-option (S) corporation's treatment, you must include a statement with your return to identify and explain any inconsistency.

Errors – If you believe the tax-option (S) corporation has made an error on your Schedule 5K-1, notify the corporation and ask for a corrected Schedule 5K-1. Don't change any items on your copy. Be sure that the corporation sends a copy of the corrected Schedule 5K-1 to the Wisconsin Department of Revenue.

Elections – Generally, the tax-option (S) corporation decides how to figure taxable income from its operations. For example, it chooses the accounting method and depreciation methods it will use. However, certain elections are made by you separately on your tax return and not by the corporation. These include elections under Internal Revenue Code section 59(e)(2), relating to the deduction of certain qualified expenditures ratably over the period of time specified in that section.

Limitations on Losses, Deductions and Credits

CAUTION: The amount of loss and deduction that you may claim on your Wisconsin return may be less than the amount reported on Schedule 5K-1. It is the shareholder's responsibility to consider and apply any applicable limitations.

There are three separate potential limitations on the amount of tax-option (S) corporation losses that you may deduct on your return. These limitations are as follows:

1. The basis of your stock,
2. The at-risk limitations, and
3. The passive activity limitations.

1. Basis of Your Stock – You are responsible for maintaining records to show the computation of the basis of your stock in the corporation for Wisconsin income tax purposes. Schedule 5K-1 provides information to help you make the computation at the end of each corporate taxable year. The Wisconsin basis of your stock (generally, its cost) is adjusted as follows (this list is not all-inclusive):

Basis is first ***increased*** by:

- All income, including tax-exempt income, as computed under Wisconsin law, reported on Schedule 5K-1, column d. **Exception:** Basis is not increased by the corporations's excluded discharge of indebtedness income, generally applicable for discharges of indebtedness after October 11, 2001.

NOTE: You must report the taxable income on your Wisconsin income tax return (if you are required to file a return) for it to increase your basis.

Basis is then ***decreased,*** but not below zero, by:

- Property distributions, including cash, made by the corporation, reported on Schedule 5K-1, line 16d, that are not includable in income. (Distributions in excess of Wisconsin basis reported on Schedule 5K-1, line 16d, and dividend distributions reported on Schedule 5K-1, line 17c, don't decrease basis.)
- Nondeductible expenditures not due to timing differences, as computed under Wisconsin law from Schedule 5K-1, column (d).
- All deductible losses and deductions, as computed under Wisconsin law, reported on Schedule 5K-1, column (d).
- Your share of the supplement to the federal historic rehabilitation tax credit or early stage seed investment credit computed.

When figuring the Wisconsin basis in stock of a multistate corporation, use your share of the total company amounts, as computed under Wisconsin law from Schedule 5K-1, column (d), rather than the income, losses, and deductions attributable to Wisconsin activities from Schedule 5K-1, column (e).

You may elect to decrease your basis by deductible losses and deductions prior to decreasing your basis by nondeductible expenses. If you make this election, any nondeductible expenses that exceed the basis of your stock and debt owed to you by the corporation are treated as nondeductible expenses for the following taxable year. To make the election, file a statement with your timely filed original or amended return, as provided in the federal regulations. Once made, the election applies to the year for which it is made and all future taxable years for that corporation, unless the Department agrees to revoke your election.

2. At-Risk Limitations – For federal purposes, if you have a loss or other deduction from any activity carried on as a trade or business or for the production of income by the tax-option (S) corporation, and you have amounts in the activity for which you aren't at risk, you generally will have to figure the allowable loss. The at-risk rules generally limit the amount of loss (including loss on disposition of assets) and other deductions (such as the section 179 expense deduction) that you can claim to the amount you could actually lose in the activity. The at-risk rules also apply for Wisconsin purposes.

3. Passive Activity Limitations – Internal Revenue Code section 469 limits the deduction of certain losses. The rules apply to shareholders who are individuals, estates, trusts, closely held corporations, or personal service corporations and have a passive activity loss for the taxable year. Passive activities include trade or business activities in which you didn't materially participate and rental activities, as defined in the federal regulations. Rental real estate activities in which you materially participated are not passive activities if you meet certain eligibility requirements. The tax-option (S) corporation will identify separately each activity that may be passive to you. You must determine whether your losses are limited by the passive activity rules.

The passive activity loss limits also apply for Wisconsin purposes. However, if there are differences between your federal and Wisconsin income, you may have to recompute the amount of passive activity loss deductible for Wisconsin. There are three types of differences between federal and Wisconsin income:

a. Schedule I adjustments,

b. Differences resulting from making different elections for federal and Wisconsin purposes, and

c. Modifications to federal adjusted gross income prescribed in section 71.05(6) to (12), (19), and (20), Wisconsin Statutes.

A Schedule I adjustment may arise if a provision of the Internal Revenue Code doesn't apply for Wisconsin or if a federal law change becomes effective at a different time for Wisconsin than for federal purposes. Modifications to federal adjusted gross income include the addition of state and local government bond interest income and the subtraction of the capital gain deduction.

For differences resulting from Schedule I adjustments or different elections, you must recompute the passive activity loss limits for Wisconsin. However, you may not recompute the loss limits for modifications. The tax-option (S) corporation should tell you the reason for any adjustment in column (c) so that you will know whether you must recompute the passive activity loss limits.

Specific Instructions

Schedule 5K-1, Columns a Through e

Column a – Pro rata share items. These item descriptions are substantially identical to the item descriptions on federal Schedule K-1. However, on the lines for other income, other deductions, alternative minimum tax (AMT) items, nondeductible expenses, distributions, and other information, enter the actual description instead of the applicable code from the federal Schedule K-1.

Column b – Federal Amount. The federal amount is the shareholder's pro rata share of the amount from Wisconsin Schedule 5K, column b, and generally should agree with the amount for that item reported on the shareholder's federal Schedule K-1.

Column c – Adjustment. The adjustment is the shareholder's pro rata share of the amount from Wisconsin Schedule 5K, column c. On a separate schedule you submit with Schedule 5K-1, explain the reason for any adjustment in column c. If the difference arises because a federal law change has not been adopted by Wisconsin, identify it as a "**Schedule I adjustment**." Individual shareholders must account for this difference on Wisconsin Schedule I.

Column d – Amount Under Wisconsin Law. The amount under Wisconsin law is the shareholder's pro rata share of the amount from Wisconsin Schedule 5K, column d. This is the amount used in computing Wisconsin income by a full-year resident of Wisconsin. Full-year Wisconsin resident shareholders, part-year resident shareholders, and nonresident shareholders also use the information from column d to calculate the Wisconsin basis in the corporation's stock.

Column e – Wisconsin Source Amount. Fill in this column only for a nonresident or part-year Wisconsin resident. The Wisconsin source amount is the portion of the shareholder's amount in column d that is attributable to Wisconsin. If the tax-option (S) corporation is doing business in and outside Wisconsin, this generally will be the amount from column d

multiplied by the tax-option (S) corporation's apportionment percentage from item G.

CAUTION: Do not fill in column e for a shareholder who is a full-year resident of Wisconsin.

Shareholders That Are Full-Year Residents of Wisconsin

Individuals who are full-year residents of Wisconsin must report to Wisconsin all income or loss regardless of where it is earned or incurred, unless otherwise exempt (such as United States government interest).

Therefore, a tax-option (S) corporation that does business in and outside Wisconsin does not apportion a Wisconsin resident shareholder's share of its income, loss, and deductions between Wisconsin and elsewhere. The amount determined under Wisconsin law for each item is the shareholder's share, based on his or her percentage of stock ownership, of the amount on Schedule 5K, column d. Do not fill in column e.

Shareholders That Are Nonresidents

Individuals who are nonresidents of Wisconsin must report to Wisconsin all income or loss that is earned or incurred in Wisconsin.

If Corporation Does Business Only in Wisconsin. A nonresident shareholder's share of the adjustment and amount determined under Wisconsin law of each item is the shareholder's share, based on his or her percentage of stock ownership, of the amounts on Schedule 5K, columns c and d. Enter the amount from column d in column e.

If Corporation Does Business in and Outside Wisconsin. A nonresident shareholder's Wisconsin source amount in column e of each item is the shareholder's amount from column d that is attributable to Wisconsin based on apportionment or separate accounting, as appropriate.

If the corporation is a unitary, multistate corporation, compute the Wisconsin source amount of each share item by multiplying the amount in column d for that item by the apportionment percentage from item G.

If the corporation has nonapportionable income (loss) on Form 4N, line 14, compute the Wisconsin source amount in column e of any affected item by multiplying the amount of the nonapportionable share item from Schedule 5K, column d, that is attributed to Wisconsin on Form 4N by the nonresident shareholder's percentage of stock ownership.

If the corporation is a nonunitary, multistate corporation, compute the Wisconsin source amount in column e of each share item by multiplying the amount from Schedule 5K, column d, that is allocated to Wisconsin on a schedule similar to Form 4C by the nonresident shareholder's percentage of stock ownership.

Itemized Deduction Amounts. A shareholder may choose to treat items that are deductible on federal Schedule A in either of the following ways:

- As deductions that may be includable in the Wisconsin itemized deduction credit, or
- As modifications that are subtracted from federal adjusted gross income to arrive at Wisconsin adjusted gross income.

Show the amount that would be used in the Wisconsin itemized deduction credit in column d. Don't multiply this result by the Wisconsin apportionment percentage or allocate it in and outside Wisconsin using separate accounting, regardless of the shareholder's state of residence.

For items claimed as subtraction modifications, the Wisconsin amount is limited to the amount actually allowed as an itemized deduction for federal purposes. For a nonresident or part-year resident shareholder of a multistate corporation, the Wisconsin amount is further limited to the portion that is attributable to Wisconsin based on apportionment or separate accounting, as appropriate. Therefore, for a nonresident or part-year resident shareholder of a multistate corporation, enter the Wisconsin source amount in column e.

Shareholders That Are Part-Year Residents

Individuals who are part-year residents of Wisconsin must report to Wisconsin all income or loss, regardless of where it is earned or incurred, while they were residents of Wisconsin and all income or loss earned or incurred in Wisconsin while they were nonresidents of Wisconsin.

If Corporation Does Business Only in Wisconsin. A part-year resident shareholder's share of the adjustment and amount under Wisconsin law of each item is the shareholder's share, based on his or her percentage of stock ownership, of the adjustment and amount determined under Wisconsin law shown on Schedule 5K, columns c and d, respectively. Enter the amount from column d in column e.

If Corporation Does Business in and Outside Wisconsin. Compute a part-year resident shareholder's Wisconsin source amount in column e of each item in two parts: one for the portion of the corporation's taxable year that the shareholder was a resident of Wisconsin and another for the portion of the corporation's taxable year that the shareholder was a nonresident of Wisconsin.

For this purpose, the amount of any share item is determined on a daily basis. That is, every share item is allocated between the resident and nonresident status of the shareholder based on the number of days during the corporation's taxable year that the shareholder was a resident or nonresident of Wisconsin. The shareholder's share of an item for each period (resident or nonresident) is determined in the same manner as that of full-year residents and nonresidents, respectively.

Lines 1 through 12, 14, 15, and 17d – The entries on these lines show your share of the federal amount (column (b)), adjustment (column (c)), and amount reportable under Wisconsin law (column (d)) for each of the items. For nonresident and part-year resident shareholders, the entries also show your share of the amount attributed to Wisconsin (column (e)).

These amounts don't take into account limitations on losses or other items that may have to be adjusted because of the adjusted basis of your stock and debt in the corporation, the at-risk limitations, or the passive activity limitations.

If the amount under Wisconsin law for any share item on lines 1 through 12, 14, 15, and 17d differs from the federal amount, your Schedule 5K-1 will have an amount in column (c). You must account for this difference on your Wisconsin franchise or income tax return. How you account for the difference depends on the return you are filing, the share item, and the reason for the difference.

If the difference in column (c) arises because a provision of the Internal Revenue Code doesn't apply for Wisconsin or a federal law change becomes effective for Wisconsin at a different time, you must complete Wisconsin Schedule I (Schedule B for estates and trusts) before filling in your Wisconsin income tax return. If the difference results from the tax-option (S) corporation making different elections for federal and Wisconsin purposes, you must recompute the federal adjusted gross income that you report on your Wisconsin return.

If the difference is a modification allowed in computing Wisconsin adjusted gross income, the treatment depends on which share item is affected and the return you are filing:

Modifications on Lines 1, 2, 3, 5, 6, 10, 11, 12, 14, and 17d:

- If you are filing Form 1, account for any modification to one of these share items by combining the amount from Schedule 5K-1, column (c), with any other Wisconsin modification and entering the total on the appropriate line of Form 1.
- If you are filing Form 1NPR, include in column B on the appropriate line of Form 1NPR, along with any other Wisconsin income or loss, the Wisconsin amount from column (e) of any share item reported on one of these lines.
- If you are filing Form 2, account for any modification to one of these share items by entering the amount from Schedule 5K-1, column (c), on Form 2, Schedule A.

Interest Income Modifications on Lines 4, 16a, and 17a:

Interest income that is exempt from federal income taxes but taxable by Wisconsin, such as state and local government bond interest, is shown as an **addition** on line 4, column (c) and as a **subtraction** on line 16a, column (c).

- If you are filing Form 1, combine the interest income amount from Schedule 5K-1, column (c), with any other interest modification and enter the total on the appropriate line of Form 1.
- If you are filing Form 1NPR, include in column B on Form 1NPR, along with any other Wisconsin interest income, the Wisconsin source amount of interest income from Schedule 5K-1, column (e).
- If you are filing Form 2, account for any modification by entering the amount from Schedule 5K-1, column (c), on Form 2, Schedule A.

Capital Gain Modifications on Lines 7 and 8:

Enter the Wisconsin amounts from column (d) (column (e) for nonresidents and part-year residents) of these share items on the appropriate lines of Wisconsin Schedule WD (Schedule WD (Form 2) for estates and trusts).

Section 1231 Gain/Loss Modifications on Line 9a:

See the instructions for Part II of Wisconsin Schedule T and recompute a federal Form 4797 as instructed.

Portion of the amount on Line 9a attributable to gains on sales of farm assets on Line 9b:

Enter portion of the net gain attributable to the sales of farm assets held more than one year. Neither include amounts treated as ordinary income for federal income tax purposes because of recapture of depreciation or for any other reason nor amounts treated as capital gain for federal income tax purposes from the sale or exchange of a lottery prize. "Farm assets" means livestock, farm equipment, farm real property, and farm depreciable property.

Itemized Deduction Modifications on Lines 12 and 17b:

Adjust the deduction items from federal Schedule A when figuring the Wisconsin itemized deduction credit (Form 1, Schedule 1, or Form 1NPR, Schedule 1). Increase or decrease, as appropriate, the amount from federal Schedule A by the amount on Schedule 5K-1, column (c).

Note: Rather than including the tax-option items deductible on federal Schedule A in the Wisconsin itemized deduction credit, you may treat these items as subtraction modifications to arrive at Wisconsin adjusted gross income. Your modification is limited to the amount actually deductible for federal purposes. If you are a nonresident of Wisconsin for any part of the corporation's taxable year, your modification is further limited to that portion of the deductible amount which is attributable to Wisconsin based on apportionment or separate accounting, as appropriate.

Line 13a through 13n. Credits--Compute the credits on lines 13a through 13n in the same manner for shareholders who are full-year, part-year, or nonresidents of Wisconsin. For part-year and nonresident shareholders, also enter the allowable credits in column e. For each credit, enter the shareholder's proportionate or specially allocated share of the amount on Schedule 5K. Enter the abbreviation of the credit you are

claiming next to the word "schedule" on line 13. The abbreviation for each credit is located in the upper left hand corner of the credit schedule and in parenthesis next to the description of the credit from the Schedule 5K instructions. Use a separate line for each credit you are claiming. For example, if you are claiming the enterprise zone jobs credit, enter "EC" next to the "Schedule" line. (**Note:** Only the early stage seed investment credit may be specially allocated. See the Schedule VC instructions for details.)

Line 13o. Credit for Tax Paid to Other States – Complete this line only for full-year Wisconsin resident shareholders and part-year Wisconsin resident shareholders. Enter zero for shareholders who are nonresidents of Wisconsin or corporations.

For a full-year resident, enter in column d the shareholder's proportionate share of the tax credits on Schedule 5K-1, line 13o. For a part-year resident, enter in column d the amount computed by multiplying the credit on Schedule 5K-1, line 13o, by the shareholder's percentage of stock ownership, multiplied by the ratio of days that the shareholder was a resident of Wisconsin during the tax-option (S) corporation's taxable year to the total days in the tax-option (S) corporation's taxable year. Enter the result in column e.

Line 13p. Wisconsin Tax Withheld – Enter the amount from line 13p, column (e), on the "Wisconsin income tax withheld" line of your Wisconsin income or franchise tax return. Unless you elect to be included in a composite return (Form 1CNS), you must file a copy of Schedule 5K-1 with your Wisconsin income or franchise tax return if you claim this credit. If the tax-option (S) corporation was required to file Form PW-1 to withhold tax on behalf of its nonresident shareholders, enter in column d and column e the tax withholding allocated to the shareholder.

CAUTION: Do not enter your share of pass-through entity withholding as an estimated tax payment on your Wisconsin return.

Line 15. Alternative Minimum Tax Items – Enter the net amount from column (c) of line 15 on Wisconsin Schedule MT, line 8. If you are a nonresident of Wisconsin for any part of the corporation's taxable year, enter the difference between column b and column e on Schedule MT, line 8.

Lines 16a through 16c. Tax-Exempt Interest and Nondeductible Expenses – Differences in the amount of income that is exempt for federal and Wisconsin purposes are shown on lines 16a and 16b, column (c). Increases or decreases in the amount of nondeductible expenses are shown on line 16c, column (c). Use the amount from column (d) when computing the Wisconsin basis of your stock.

Line 16d. Property Distributions – Reduce your Wisconsin basis in stock of the corporation by the Wisconsin distributions on line 16d, column (d). If these distributions exceed your Wisconsin basis in stock and you were a Wisconsin resident when you received the distributions, treat the excess as a Wisconsin gain from the sale or exchange of property. Enter any Wisconsin gain on the appropriate line of Wisconsin Schedule WD.

Line 16e. Repayment of Loans from Shareholders – If the repayments on line 16e are made on indebtedness with a reduced Wisconsin basis and you received the repayments while you were a Wisconsin resident, the repayments result in income to you to the extent the repayments are more than the adjusted Wisconsin basis of the loan.

If you are filing Form 1, enter the amount of Wisconsin income realized on Wisconsin Schedule WD, if the loan was a capital asset. If the loan wasn't a capital asset, enter the difference between federal income and Wisconsin income on Form 1, line 4 or 11, as appropriate.

If you are filing Form 1NPR, enter the amount of Wisconsin income realized on Wisconsin Schedule WD, if the loan was a capital asset, or in column B of the appropriate line on Form 1NPR, if the loan wasn't a capital asset.

■ **Lines 17a Through 17c. Investment Income/Expense and Dividend Distributions –** Enter the shareholder's proportionate share of the federal amount, adjustment, and amount determined under Wisconsin law from Schedule 5K for each of these items.

Line 17c. Dividend Distributions – You must report the amount from column (d) or (e), as appropriate, as dividend income if you were a Wisconsin resident on the date you received it. The federal amount of the dividend distribution should have been reported to you on Form 1099-DIV.

If you are filing Form 1, enter the amount from line 17c, column (c), on Form 1, line 4 or 11, as appropriate. If you are filing Form 1NPR and the dividend distribution is reportable to Wisconsin, enter the amount from line 17c, column (e), on Form 1NPR, line 3, column B, along with any other dividend income reportable to Wisconsin.

Line 17d. Other Items and Amounts – If applicable, the corporation has provided supplemental information or has listed in the space provided, your pro rata share of items not included on lines 1 through 17c. This listing should include the federal amount, adjustment, amount under Wisconsin law, and Wisconsin source amount, if applicable, for each item. Account for any other share items listed on line 17d as necessary to include the taxable or deductible amount of each item as computed under Wisconsin law in your Wisconsin income.

If interest income from United States government obligations is listed, you must make an adjustment on your Wisconsin return since this income is taxable for federal income tax purposes, but not for Wisconsin purposes. If you are filing Form 1, include the federal amount of this interest income on line 7. If you are filing Form 1NPR, don't include this interest income on Form 1NPR, line 2, column B.

Note: Tax-option (S) corporations whose Wisconsin shareholders may qualify for farmland preservation credit should provide a copy of the farmland property tax bill with the Schedule 5K-1 given to each Wisconsin shareholder. It isn't necessary for the tax-option (S) corporation to submit the property tax bill with the Schedules 5K-1 sent to the Department. Shareholders will compute their allowable credits based on their proportionate shares of the tax-option (S) corporation's property taxes. For additional information about farmland preservation credit, see the Wisconsin Schedule FC or FC-A instructions. If the tax-option (S) corporation is a member of one or more other pass-through entities, gross income includes the gross income attributable to those other pass-through entities.

Lines 18a and 18b. Related Entity Expenses – If the tax-option (S) corporation paid, accrued, or incurred management fees or interest, rental or intangible expenses to a related person or entity, the corporation completes lines 18a and 18b, as appropriate, to separately disclose the modifications it made to those items under the Wisconsin law requiring "addback" of related entity expenses. The amounts on lines 18a and 18b should already be included in column (c) corresponding to one or more other lines of Schedule 5K-1. Shareholders should verify that any amounts on lines 18a and 18b are included in column (c). If they are not, the shareholder should enter the modifications from lines 18a and 18b on the appropriate lines of Form 1, Form 1NPR, or Form 2, as applicable.

NOTE: You must make separate addition and subtraction modifications on your return for related entity interest and rental expenses, even if the modifications offset one another.

■ **Line 19. Income (Loss) –** For each of columns d and e, combine lines 1 through 10. From the result, subtract the sum of lines 11 through 12. Add or subtract, as appropriate, any income or deductions reported on line 17d that affect the computation of taxable income.

Line 20. Gross Income – Individuals combine the amount from column (d) or (e), as appropriate, with gross income from other sources (if any) that is reportable to Wisconsin to determine whether they must file a Wisconsin income tax return. See the instructions for Form 1 or Form 1NPR for information about the filing requirements.

Form **4A-1**

Wisconsin Department of Revenue

Wisconsin Apportionment Data for Single Factor Formulas

File with Wisconsin Form 1NPR, 2, 3, 4, 4T, or 5S

Read instructions before filling in this form

2012

Name

Identifying Number

Part I Sales Factor (Note: If Part I applies, you only need to complete page 1 of this form)

			(a) Wisconsin	(b) Total Company
1	Sales of tangible personal property delivered or shipped to Wisconsin purchasers:			
	a Shipped from outside Wisconsin	1a		
	b Shipped from within Wisconsin	1b		
2	Sales of tangible personal property shipped from Wisconsin to:			
	a The federal government within Wisconsin	2a		
	b The federal government in a state where the taxpayer would not be taxable under P.L. 86-272	2b		
	c Purchasers in a state where the taxpayer would not be taxable under P.L. 86-272	2c		
3	Double throwback sales	3		
4	Total sales of tangible personal property (for column (a), add lines 1 through 3)	4		
5	Gross receipts from the use of computer software if the purchaser or licensee used the software in Wisconsin	5		
6	Total gross receipts from the use of computer software	6		
7	Gross receipts from services provided to a purchaser who received the benefit of the service in Wisconsin	7		
8	Total gross receipts from services	8		
9	Other apportionable gross receipts	9		
10	For column a, add lines 4, 5, 7 and 9. For column (b), add lines 4, 6, 8, and 9	10		

Separate return filers and pass-through entities skip to line 17.

11	Enter sales included above, if any, that are intercompany sales between combined group members	11		
12	Enter sales included above, if any, that are **not** included in the computation of combined unitary income	12		
13	Add lines 11 and 12 for each column	13		
14	Subtract line 13 from line 10 for each column	14		
15	Enter intercompany sales previously excluded from the sales factor due to the deferral of income, if the deferred income is included in combined unitary income on this return	15		
16	Add lines 14 and 15. Enter column (a) amount in Form 4A, Part II. Enter column (b) amount in Form 4A, Part I	16		
17	***Separate return filers and pass-through entities:*** Divide line 10, column (a) by line 10, column (b), and multiply by 100. This is the Wisconsin apportionment percentage	17	__ __ __ . __ __ __ __ %	

Part II Receipts Factor for Interstate Financial Institutions (See section Tax 2.49, Wis. Adm. Code)

			(a) Wisconsin	(b) Total Company
1	Gross interest and other fees from loans secured by real property	1		
2	Gross interest and other fees from loans secured by tangible personal property	2		
3	Gross interest and other fees from unsecured loans	3		
4	Net gains from sales of loans secured by real property	4		
5	Net gains from sales of loans secured by tangible personal property	5		
6	Net gains from sales of unsecured loans	6		
7	Gross receipts from credit card receivables	7		
8	Net gains from sales of credit card receivables	8		
9	Credit card issuer's reimbursement fees	9		
10	Gross receipts from merchant discount	10		
11	Loan servicing fees	11		
12	Gross receipts from travelers checks, cashiers checks, certified checks, and money orders	12		
13	Gross receipts from automated teller machines and safety deposit boxes	13		
14	Gross receipts from maintaining accounts	14		
15	Gross receipts from electronic funds transfer	15		
16	Gross receipts from cash management services	16		
17	Gross receipts from international trade services	17		
18	Gross receipts from data processing services and document imaging services	18		
19	Gross receipts from research services	19		
20	Gross receipts from trust services	20		
21	Gross receipts from investment banking services	21		
22	Gross receipts from brokerage services	22		
23	Gross receipts from services provided to regulated investment companies	23		
24	Gross receipts from other services	24		
25	Gross receipts from the lease of real property	25		
26	Gross receipts from the lease of tangible personal property	26		
27	Gross receipts from computer software	27		
28	Gross royalties and other gross receipts from intangibles, excluding securities	28		
29	Sales of tangible personal property (attach schedule)	29		
30	Gross receipts apportioned to a state where the taxpayer would not be taxable under P.L. 86-272	30		
31	Add lines 1 through 30 for column (a) (1 through 29 for column (b))	31		

		(a) Wisconsin	(b) Total Company
Separate return filers and pass-through entities skip to line 38.			
32 Enter sales or receipts included above, if any, that are intercompany transactions between combined group members	**32**		
33 Enter sales or receipts included above, if any, that are **not** included in the computation of combined unitary income	**33**		
34 Add lines 32 and 33 for each column	**34**		
35 Subtract line 34 from line 31 for each column	**35**		
36 Enter intercompany sales or receipts previously excluded from the receipts factor due to the deferral of income, if the deferred income is included in combined unitary income on this return	**36**		
37 Add lines 35 and 36. Enter column (a) amount in Form 4A, Part II. Enter column (b) amount in Form 4A, Part I	**37**		
38 ***Separate return filers and pass-through entities:*** Divide line 31, column (a) by line 31, column (b), and multiply by 100. This is the Wisconsin apportionment percentage	**38**	__ __ __ . __ __ __ __ %	

Part III Receipts Factor for Interstate Brokers-Dealers, Investment Advisers, Investment Companies, and Underwriters (See section Tax 2.495, Wis. Adm. Code)

		(a) Wisconsin	(b) Total Company
1 Gross brokerage commissions	**1**		
2 Gross margin interest earned	**2**		
3 Gross account maintenance fees	**3**		
4 Gross receipts, net of commissions, from sales of trading assets	**4**		
5 Gross receipts received on investment contracts	**5**		
6 Gross receipts from underwriting services	**6**		
7 Other gross receipts or net gains (attach schedule)	**7**		
8 Gross receipts apportioned to a state where the taxpayer would not be taxable under P.L. 86-272	**8**		
9 Add lines 1 through 8 for column (a) (1 through 7 for column (b))	**9**		
Separate return filers and pass-through entities skip to line 16.			
10 Enter sales or receipts included above, if any, that are intercompany transactions between combined group members	**10**		
11 Enter sales or receipts included above, if any, that are **not** included in the computation of combined unitary income	**11**		

		(a) Wisconsin	(b) Total Company
12 Add lines 10 and 11 for each column	**12**		
13 Subtract line 12 from line 9 for each column	**13**		
14 Enter intercompany sales or receipts previously excluded from the receipts factor due to the deferral of income, if the deferred income is included in combined unitary income on this return	**14**		
15 Add lines 13 and 14. Enter column (a) amount in Form 4A, Part II. Enter column (b) amount in Form 4A, Part I	**15**		
16 ***Separate return filers and pass-through entities:*** Divide line 9, column (a) by line 9, column (b), and multiply by 100. This is the Wisconsin apportionment percentage	**16**	__ __ __ . __ __ __ __ %	

Part IV Premiums Factor for Insurance Companies

		(a) Wisconsin	(b) Total Company
1 Direct premiums written for insurance on property and risks, other than life insurance	**1**		
2 Assumed premiums from domestic insurance companies written for reinsurance on property and risks, other than life insurance	**2**		
3 Add lines 1 and 2	**3**		

Separate return filers and pass-through entities skip to line 8.

4 Enter premiums included above, if any, that are intercompany transactions between combined group members	**4**		
5 Enter premiums included above, if any, that are **not** included in the computation of combined unitary income	**5**		
6 Add lines 4 and 5 for each column	**6**		
7 Subtract line 6 from line 3 for each column. Enter column (a) amount in Form 4A, Part II. Enter column (b) amount in Form 4A, Part I.	**7**		
8 ***Separate return filers and pass-through entities:*** Divide line 3, column (a) by line 3, column (b), and multiply by 100. This is the Wisconsin apportionment percentage	**8**	__ __ __ . __ __ __ __ %	

Instructions for 2012 Form 4A-1: Wisconsin Apportionment Data for Single Factor Formulas

Purpose of Form 4A-1

Corporations, partnerships, tax-option (S) corporations and nonresident estates, trusts, and individuals that are engaged in a unitary business both in and outside Wisconsin generally use Form 4A-1 to compute the factors that will determine their Wisconsin share of income from the unitary business.

However, taxpayers in certain specialized industries cannot use Form 4A-1 because the Wisconsin Administrative Code requires them to apportion their income using more than one factor. These taxpayers must use Form 4A-2, *Wisconsin Apportionment Data for Multiple Factor Formulas*. Taxpayers that use Form 4A-2 include direct air carriers, motor carriers, railroads and sleeping car companies, pipeline companies, and telecommunications companies.

Taxpayers that use separate accounting also cannot use Form 4A-1. See the instructions for Form 4C for more information on separate accounting.

A taxpayer must complete only the part of Form 4A-1 that applies to them. The parts are as follows:

Part I. Sales Factor – This part is for taxpayers required to use the general single sales factor formula.

Part II. Receipts Factor – This part is for financial institutions required to use the receipts factor under s. Tax 2.49, Wisconsin Administrative Code.

Part III. Receipts Factor – This part is for other financial organizations required to use the receipts factor under s. Tax 2.495, Wisconsin Administrative Code.

Part IV. Premiums Factor – This part is for insurance companies required to use the premiums factor.

Special Instructions for Combined Groups

Each corporation in a combined group must complete Form 4A-1, if applicable, to report the apportionment data for its own activities. The combined group then carries forward the amounts from each member's Form 4A-1 (or Form 4A-2, if applicable) to Form 4A, *Wisconsin Apportionment Data for Combined Groups*, to determine the combined group's Wisconsin share of combined unitary income.

However, as a substitute for preparing multiple Forms 4A-1, a combined group may choose to prepare a columnar spreadsheet with the rows representing the appropriate lines of Form 4A-1 and each column representing a company in the combined group.

Specific Instructions for Each Part

These instructions are presented in the order the parts appear on Form 4A-1:

Part I: Sales Factor

For all of the amounts in Part I, only include amounts that are includable in the sales factor. Also, for lines 2b, c, and 3, you will need to compute the amount of throwback sales. The next two sections explain the sales factor and throwback sales. The line-by-line instructions for Part I follow the explanation of throwback sales.

Sales Factor in General

Items Includable in Sales Factor. For purposes of the sales factor, sales include, but aren't limited to, the following items related to the production of apportionable income:

- Gross receipts from the sale of inventory.
- Gross receipts from the operation of farms, mines, and quarries.
- Gross receipts from the sale of scrap or by-products.
- Gross commissions.
- Gross receipts from personal and other services.
- Gross rents from real property or tangible personal property.
- Interest on trade accounts and trade notes receivable.
- A member's share of a limited liability company's gross receipts or a partner's share of a partnership's gross receipts.
- Gross management fees.
- Gross royalties from income producing activities.

- Gross franchise fees from income producing activities.

"Gross receipts" means gross sales less returns and allowances, plus service charges, freight, carrying charges, or time-price differential charges incidental to the sales. Federal and state excise taxes, including sales and use taxes, are included as part of the receipts if the taxes are passed on to the buyer or included as part of the selling price.

Items Not Includable in Sales Factor. Do not include any of the following items in the sales factor:

- Gross receipts and gain or loss from the sale of tangible business assets, except receipts from the sale of inventory, scrap, or by-products or from the operation of a farm, mine, or quarry.
- Gross receipts and gain or loss from the sale of nonbusiness real or tangible personal property.
- Gross rents and rental income or loss from real property or tangible personal property if that real property or tangible personal property isn't used in the production of business income.
- Royalties from nonbusiness real property or nonbusiness tangible personal property.
- Proceeds and gain or loss from the redemption of securities.
- Interest, except interest on trade accounts and trade notes receivable, and dividends.
- Gross receipts and gain or loss from the sale of intangible assets, except inventory.
- Dividends deductible in determining net income.
- Gross receipts and gain or loss from the sale of securities.
- Proceeds and gain or loss from the sale of receivables.
- Refunds, rebates, and recoveries of amounts previously expended or deducted.
- Foreign exchange gain or loss.
- Royalties and income from passive investments in patents, copyrights, trademarks, trade names, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals, and technical know-how.
- Pari-mutuel wager winnings and purses.
- Other items not includable in apportionable income.

Throwback Sales

A "throwback sale" is a taxpayer's sale of tangible personal property destined for a state where the taxpayer has no nexus. If a sale is a throwback sale, it is included in the numerator of the sales factor as a Wisconsin sale.

For purposes of determining throwback sales, a "state" is any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any United States territory or possession. A foreign country isn't a "state."

Nexus in General. To determine if a taxpayer has nexus in another state for purposes of computing throwback sales, you would generally use the same rules that are used to determine if a similarly situated taxpayer would be subject to Wisconsin franchise or income tax if it made the sale to Wisconsin from another state. However, if the Wisconsin Statutes provide a specific exemption from nexus, such as in sec. 71.23(3), Wis. Stats., do not apply that Wisconsin statutory exemption when you determine if there is nexus in the destination state.

A taxpayer engaged in the business of selling tangible personal property does not have nexus in any state where it is protected from taxation under federal Public Law 86-272 (P.L. 86-272). See s. Tax 2.82, Wisconsin Administrative Code, for more details of P.L. 86-272 and a description of what constitutes nexus for Wisconsin franchise or income tax purposes. Also see s. Tax 2.39(6)(b), Wisconsin Administrative Code, for more information about the relationship between nexus and throwback sales.

Nexus and Throwback Sales for Combined Groups. In a combined group, nexus is determined for the unitary business as a whole. Therefore, a combined group member's sales destined outside Wisconsin cannot be "thrown back" to Wisconsin if **any** member of the combined group has nexus relating to the unitary business in the destination state. The example below illustrates:

Example:

Corporation B has an office and inventory in Wisconsin, but when considered as a separate entity, it does not have any property or nexus-creating activity outside Wisconsin. However, Corporation B is in Combined Group BC, which consists of Corporations B and C. Corporation C has an office and retail store in Illinois, which are part of the same unitary business as B's Wisconsin office and inventory.

Assume that B sells a widget to a customer located in Illinois and ships it by common carrier to the custom-

er's Illinois address. Corporation B should not include that sale in its sales factor numerator as a throwback sale. Since C has nexus in Illinois that relates to Combined Group BC's unitary business, B is also deemed to have nexus in Illinois.

See ss. Tax 2.61(7), and 2.82(5), Wisconsin Administrative Code, for further details of how nexus and throwback sales are determined for combined groups.

Line-by-Line Instructions for Part I

■ **Lines 1a and 1b. Tangible Personal Property Destined for Wisconsin –** Enter the amounts of Wisconsin destination sales. Gross receipts from the sales of tangible personal property, except sales to the federal government, are Wisconsin sales if the property is delivered or shipped to a purchaser in Wisconsin.

Wisconsin sales include sales of tangible personal property that are picked up by the purchaser, or the purchaser's agent, at the seller's out-of-state business location and immediately transported to the purchaser's Wisconsin business location.

Wisconsin sales do not generally include sales of tangible personal property picked up by the purchaser, or the purchaser's agent, at the seller's Wisconsin business location if the property is immediately transported to the purchaser's out-of-state business location. However, if the seller doesn't have nexus with the state where the purchaser's business is located, the sales are "thrown back" to Wisconsin.

■ **Line 2a. Sales to Federal Government in Wisconsin –** Enter the amount of sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, in Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin. Sales to federal government locations in Wisconsin, which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin, aren't Wisconsin sales.

■ **Line 2b. Throwback Sales to Federal Government –** Enter the amount of sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, outside Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and the seller doesn't have nexus in the destination state.

■ **Line 2c. Throwback Sales –** Enter the amount of sales, other than sales to the federal government, that are "thrown back" to Wisconsin. These are sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin to a state in which the seller doesn't have nexus.

■ **Line 3. Double Throwback Sales –** Enter the amount of "double throwback" sales. These are sales of tangible personal property, other than sales to the federal government, which were made by an office in Wisconsin but not shipped or delivered from Wisconsin, **if** the taxpayer doesn't have nexus in either the destination state or the state from which the property is shipped or delivered.

■ **Line 5. Receipts from Use of Computer Software –** Enter the amount of gross receipts from the use of computer software that the purchaser or licensee uses at a location in Wisconsin. Computer software is used in Wisconsin if the purchaser or licensee uses the software in the regular course of business operations in Wisconsin, for personal use in Wisconsin, or if the purchaser or licensee is an individual whose domicile is in Wisconsin.

If the purchaser or licensee uses the computer software in more than one state, the gross receipts are divided among those states having jurisdiction to impose an income tax on the taxpayer in proportion to the use of the computer software in those states. To determine computer software use in Wisconsin, the Department may consider the number of users in each state where the software is used, the number of site licenses or workstations in Wisconsin, and any other factors that reflect the use of computer software in Wisconsin.

■ **Line 7. Receipts from Services –** Enter the amount of gross receipts from services if the purchaser of the service received the benefit of the service in Wisconsin. The benefit of the service is received in Wisconsin if any of the following applies:

- The service relates to real property that is located in Wisconsin.
- The service relates to tangible personal property that is located in Wisconsin at the time that the service is received or tangible personal property that is delivered directly or indirectly to customers in Wisconsin.
- The service is provided to an individual who is physically present in Wisconsin at the time that the service is received.
- The service is provided to a person engaged in a trade or business in Wisconsin and relates to that person's business in Wisconsin.

If the purchaser of a service receives the benefit of the service in more than one state, the gross receipts

from the service are included in the numerator of the sales factor according to the portion of the service received in Wisconsin.

■ **Line 9. Other Apportionable Gross Receipts –** For both Wisconsin and the total company, enter the amount of other gross receipts of apportionable income that are includable in the sales factor. These gross receipts may include:

- Leases, rentals, or licensing of tangible personal property, including moving property.
- Sales, leases, rentals, or licensing of real property.
- Sales of intangible property.
- Royalties, licensing or allowing the use of intangible property.

In general, these gross receipts are in Wisconsin in proportion to the purchaser's use of or benefit from the property in Wisconsin. See s. Tax 2.39(6)(c), (d), (h), and (i), Wisconsin Administrative Code, for further details on how to determine the amount of these other apportionable gross receipts in Wisconsin.

■ **Line 11. Intercompany Sales** *(Combined Group Members Only)* **–** Any sales made between members of the same combined group ("intercompany sales"), either directly or through interests in a pass-through entity, must be excluded from the amounts you entered on lines 1 through 9.

Report the excluded amount of intercompany sales on line 11. If you already excluded these intercompany sales from the amounts you entered on lines 1 through 9, do not enter any amounts on line 11.

Following are additional details about intercompany transactions that involve pass-through entities. For additional information, refer to s. Tax 2.61(7)(e), Wisconsin Administrative Code.

Sales to Pass-Through Entities Owned by Combined Group Members. If a combined group member makes a sale to a pass-through entity which is more than 50 percent owned, directly or indirectly, by members of the combined group, the member must eliminate an amount equal to the gross receipts of the sale multiplied by the sum of all combined group members' interests in the pass-through entity as of the date of the sale. The examples below illustrate:

Example 1: Combined Group LM consists of Member L and Member M. L owns a 40% interest in Partnership P. M owns a 60% interest in Partnership P. On March 1, 2012, L sells a widget to Partnership P for $10,000, and this sale is includable in Group LM's combined unitary income. In its computation of apportionment factors for 2012, L must subtract an amount of $10,000 (= $10,000 x (40% + 60%)) from its sales factor denominator and, if applicable, from its numerator.

Example 2: Assume the same facts as Example 1, except that Member L owns a 25% interest and M owns a 50% interest in Partnership P. In its computation of apportionment factors for 2012, L must subtract an amount of $7,500 (= $10,000 x (25% + 50%)) from its sales factor denominator and, if applicable, from its numerator.

Sales by Pass-Through Entities Owned by Combined Group Members. If a pass-through entity makes a sale to a combined group member and more than 50 percent of the pass-through entity is directly or indirectly owned by members of the combined group, each member with an interest in the pass-through entity must subtract from its sales factor numerator and denominator any amount that would otherwise be included attributable to the sale. The example below illustrates:

Example: Combined Group ST consists of Member S and Member T. S owns a 20% interest in Partnership R. T owns an 80% interest in Partnership R. On October 1, 2012, Partnership R sells a widget to S for $20,000, and this sale is includable in Group ST's combined unitary income. In its computation of apportionment factors for 2012, S must subtract an amount of $4,000 (= $20,000 x 20%) from its sales factor denominator and, if applicable, from its numerator. Similarly, T must subtract an amount of $16,000 (= $20,000 x 80%) from its sales factor denominator and, if applicable, from its numerator.

■ **Line 12. Sales Excluded from Combined Unitary Income** *(Combined Group Members Only)* – If you reported an amount on Form 4, line 6 for separately apportioned income, you must exclude the sales attributable to that amount from the numerator and denominator of the sales factor, as applicable. Report the excluded amount of these sales on line 12. However, if you already excluded these sales from the amounts you entered on lines 1 through 9, do not enter any amounts on line 12.

See the instructions to Form 4N, *Wisconsin Nonapportionable and Separately Apportioned Income*, for further details on how to report and apportion separately apportioned income.

■ **Line 15. Sales Previously Deferred** *(Combined Group Members Only)* **–**If a combined group member made a sale to another member of the combined group in a prior taxable year and gain or loss on the transaction was deferred under the provisions of sec. 71.255(4)(g), Wis. Stats., the selling member must include the gross receipts from the sale in its sales factor in the year the gain or loss is recognized, to the extent those gross receipts are otherwise includable in the sales factor.

NOTE: Section 71.255(4)(g), Wis. Stats., provides that the intercompany deferral provisions of Treas. Reg. §1.1502-13 apply to a combined group similarly to how they apply to a consolidated group for federal purposes. See the instructions to line 22 of Form 4R, *Federal Taxable Income Reconciliation for Wisconsin Combined Groups*, for details.

Report the gross receipts corresponding to any income recognized under sec. 71.255(4)(g), Wis. Stats., on line 15. If you already included these receipts in the amounts you entered on lines 1 through 9, do not enter any amounts on line 15.

Under s. Tax 2.61(7)(d), Wisconsin Administrative Code, special sourcing rules apply to amounts reported on line 15. If a combined group member sells an item or service to another combined group member and the purchaser subsequently resells it to a third party outside of the group, the situs of both sales is determined based on the situs of the sale from the purchasing member to the third party. Also, the purchasing member must exclude from its apportionment factors the amount the selling member already included attributable to that same item or service. The example below illustrates:

Example:

Combined Group YZ consists of Member Y and Member Z. Group YZ is on a calendar year. On December 30, 2011, Y sells a widget with a cost of $400 to Z, for $600. Y ships the widget to Z's warehouse in Wisconsin. On January 30, 2012, Z resells the widget to Q, an unrelated third party, for $700. Z ships the widget to Q's headquarters in Illinois. Assume both the sale by Y and the sale by Z are includable in combined unitary income, and assume that Z has nexus in Illinois.

In 2011, Y did not recognize any gain on the sale to Z because the gain was deferred under the provisions of sec. 71.255(4)(g), Wis. Stats. Since the gain on the sale was not recognized, Y cannot include the $600 sale in its apportionment factors for 2011.

In 2012, Y must include its $200 of gain on the sale to Z (= $600 - $400) in combined unitary income. Y must also include the sale amount of $600 in its sales factor denominator for 2012. Z must include its $100 gain on the sale to Q (= $700 - $600) in combined unitary income for 2012. However, since $600 of Z's sales price has already been included in Y's sales factor, Z may only include the remaining $100 of the sale amount in its sales factor denominator. Neither Y nor Z include these amounts in their sales factor numerators since both sales are deemed to have a situs in Illinois where Group YZ has nexus.

■ **Line 17. Apportionment Percentage** *(Separate Filers Only)* **–** Divide line 10, column a, by line 10, column b, and multiply that amount by 100. ***Fill all spaces to the right of the decimal point.*** Round to the nearest ten-thousandth of a percent (for example, 12.3456%). See the instructions of the tax form you are filing (Form 1NPR, 2, 3, 4, 4T, or 5S) for how to report and use this percentage.

Parts II and III: Receipts Factor

Receipts Factor in General

Financial institutions required to use apportionment must use the receipts factor prescribed in s. Tax 2.49, Wisconsin Administrative Code. Brokers-dealers, investment advisers, investment companies, and underwriters required to use apportionment must use the receipts factor prescribed in s. Tax 2.495, Wisconsin Administrative Code.

Under both ss. Tax 2.49 and 2.495, interest, dividends, gross receipts or net gains from sales of securities held for investment purposes, and other income from investment assets, may not be included in the receipts factor.

Instructions for Part II

Lines 1 through 30 of Part II list, in order, the items includable in the receipts factor under s. Tax 2.49, Wisconsin Administrative Code. For each line, refer to s. Tax 2.49 for an explanation of what must be included on each line and how to determine the Wisconsin amount.

Report throwback sales on line 30. For an explanation of throwback sales and how they apply to members of a combined group, see the section *Throwback Sales*, which is presented before the line-by-line instructions for Part I.

Lines 32 through 37 are for combined group members only. For lines 32, 33, and 36, the instructions are the same as for lines 11, 12, and 15 of Part I, except that where the Part I instructions refer to

lines 1 through 9, the applicable lines for Part II are lines 1 through 30.

Instructions for Part III

Lines 1 through 8 of Part III list, in order, the items includable in the receipts factor under s. Tax 2.495, Wisconsin Administrative Code. Refer to s. Tax 2.495 for an explanation of what must be included on each line and how to determine the Wisconsin amount.

Report throwback sales on line 8. For an explanation of throwback sales and how they apply to members of a combined group, see the section *Throwback Sales*, which is presented before the line-by-line instructions for Part I.

Lines 10 through 15 are for combined group members only. For lines 10, 11, and 14, the instructions are the same as for lines 11, 12, and 15 of Part I, except that where the Part I instructions refer to lines 1 through 9, the applicable lines for Part III are lines 1 through 8.

Part IV: Premiums Factor

■ **Line 1. Direct Premiums –** In column a, enter the direct premiums written on all property and risks other than life insurance, where the subject of insurance was resident, located, or to be performed in Wisconsin. In column b, enter the total direct premiums on all property and risks other than life insurance, wherever located during the taxable year.

■ **Line 2. Assumed Premiums –** In column a, enter the assumed premiums from domestic insurance companies written for reinsurance on property and risks other than life insurance, where the subject of insurance was resident, located, or to be performed in Wisconsin. In column b, enter the assumed premiums from domestic insurance companies written for reinsurance on property and risks other than life insurance, wherever located during the taxable year.

■ **Lines 4 through 7. Adjustments for Combined Group Members Only –** For lines 4 and 5, the instructions are the same as for lines 11 and 12 of Part I, except that where the Part I instructions refer to lines 1 through 9, the applicable lines for Part IV are lines 1 and 2.

Additional Information and Assistance

Web Resources. The Department of Revenue has a web page dedicated to combined reporting issues, including:

- Common questions
- Training materials
- Links to Administrative Code sections that relate to combined reporting
- Articles on combined reporting

Access the combined reporting web page at: revenue.wi.gov/combrept/index.html

For questions that do not relate to combined reporting, the web page also has a library of frequently asked questions on general business tax topics, available at: revenue.wi.gov/faqs/index.html

Contact Information. If you cannot find the answer to your question in the resources available on the Department of Revenue's web page, contact the Department using any of the following methods:

- E-mail your question to corp@revenue.wi.gov
- Call (608) 266-2772
  (Telephone help is also available using TTY equipment. Call the Wisconsin Telecommunications Relay System at 711 or, if no answer, (800) 947-3529. These numbers are to be used only when calling with TTY equipment.)
- Send a fax to (608) 267-0834
- Write to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 5-144, PO Box 8906, Madison, WI 53708-8906