



Wisconsin Department of Revenue

TAX BULLETIN

July 2015
Number 189

New Tax Laws

The Wisconsin Legislature has enacted a number of changes to the Wisconsin tax laws. Following is an index and brief descriptions of the major individual and fiduciary income tax, corporation franchise and income tax, sales and use tax, premier resort area tax, alcohol beverages, and other provisions. These provisions are contained in [2015 Act 55](#) (the Governor's 2015-2017 Budget Bill).

The description for each provision indicates the sections of the statutes affected and the effective date of the new provision.

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A. Individual Income Taxes (also see Part B)

- College Savings Account Provisions Revised** (2015 Act 55, amend sec. 71.05(6)(a)26.a and c. and (b)32.(intro.) and create sec. 71.05(6)(b)32.ae. and am. and 32m., effective for taxable years beginning on or after January 1, 2015.)

Prior law provides a subtraction (up to a limited amount) for an amount paid into a college savings account in the taxable year in which the contribution is made or on or before the 15th day of the 4th month beginning after the close of the taxable year to which the subtraction relates. This Act provides that each amount that is subtracted may be subtracted only once.

Consistent with other limitations, a subtraction is allowed for any principal amount rolled over to a college savings account from another state's qualified tuition program. Amounts eligible for the subtraction that are in excess of the annual limits may be carried forward to future taxable years of the taxpayer. This applies to rollovers occurring after April 15, 2015.

An addition to income is provided for any amount withdrawn from a college savings account for any purpose if the withdrawn amount was contributed to the account within 365 days of the day on which the amount was withdrawn from such an account and if the withdrawn amount was previously subtracted. No carryover that would otherwise be authorized may be allowed if the carryover amount was withdrawn from an account for any purpose and the withdrawal occurred within 365 days of the day on which the amount was contributed to the account.

Under prior law, an addition to income is required if the receipt of a distribution from an Edvest or Tomorrow's Scholar college savings account resulted in a federal penalty because an amount was not used for qualified higher education expenses. This applies to amounts contributed to the account after December 31, 2013. Effective for taxable years beginning on or after January 1, 2015, this Act provides that the addition to income applies only to amounts for which a subtraction for a contribution to the account was made.

Any carryover amount that is otherwise eligible for a subtraction shall be reduced by an amount equal to the amount of a withdrawal from an account that was not used for qualified higher education expenses to the extent that the withdrawn amount exceeds the amount that is added to income.

2. **ABLE Accounts For Individuals With Disabilities** (2015 Act 55, create secs. 16.643, 71.05(6)(a)27. and 28. and (b)52., and 71.07(5)(a)9., effective for taxable years beginning on or after January 1, 2015.)

2015 Act 55 creates an ABLE Program and provides a subtraction from federal adjusted gross income for 1) any amount deposited by an account owner or any other person into an ABLE Program account and 2) any interest, dividends, or other gain that accrues in the account and is redeposited into the account. The maximum total amount of annual contributions that may be made to an account for a particular beneficiary is the federal gift tax exclusion amount for the year (\$14,000 for 2015). The maximum total amount of all annual contributions that may be made to an account for a particular beneficiary is the same as the maximum aggregate contribution limit for a College Savings Program account (currently \$330,000).

An addition to federal adjusted gross income is required for:

- Any amount in an account that is returned to the account owner or the account owner's estate upon termination of the account due to the death of the account owner or account beneficiary.
- Any accumulated interest, dividends, or other gain that accrues from an account during the taxable year in which any money or other account assets are withdrawn by or at the direction of an account owner for any reason other than the payment of qualified expenses for the account beneficiary.

"Qualified expenses" are any expenses related to the account beneficiary's blindness or disability that are made for the benefit of an account beneficiary, including:

1. education;
2. housing;
3. transportation;
4. employment training and support;
5. assistive technology and personal support services;
6. health;
7. prevention and wellness;
8. financial management and administrative services;
9. legal fees;
10. expenses for oversight and monitoring;
11. funeral and burial expenses; and
12. other expenses, which are approved by the Internal Revenue Service under regulations and consistent with the purposes of ABLE programs.

Unreimbursed medical expenses claimed as federal itemized deductions are not allowed in computing the itemized deduction credit to the extent the funds used to pay the expenses were withdrawn from an ABLE Program account.

3. **Certain Expenses of Teachers Allowed** (2015 Act 55, create sec. 71.98(6), effective for taxable years beginning on or after January 1, 2015.)

Section 62(a)(2)(D) of the Internal Revenue Code applies for Wisconsin. This is the federal deduction for up to \$250 of certain expenses of elementary and secondary school teachers.

4. **Itemized Deduction Credit Amended** (2015 Act 55, create sec. 71.07(5)(a)9., effective for taxable years beginning on or after January 1, 2015.)

Medical expenses paid with funds withdrawn from an ABLE account may not be used in the computation of the itemized deduction credit.

5. **Donation Checkoffs Limited** (2015 Act 55, amend sec. 71.10 (5s)(e), effective for taxable years beginning on or after January 1, 2015.)

Individuals may not make a designation for any checkoff which did not generate at least an average of \$50,000 of designations per year over the most recent 3-year period as certified by the Secretary of Revenue. Once a checkoff is affected by this provision, no further checkoffs may be designated to that checkoff in any taxable year.

6. **Standard Deduction Increased For Married Persons** (2015 Act 55, renumber sec. 71.05(22)(dp) to 71.05(22)(dp)1. and amend as renumbered, amend sec. 71.05(22)(dt), and create sec. 71.05(22)(dp)2., effective for taxable years beginning on or after January 1, 2016.)

The standard deduction for married persons is as follows:

- For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of less than \$21,360, the standard deduction is \$19,010. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of at least \$21,360, the standard deduction is the amount obtained by subtracting from \$19,010, 19.778 percent of aggregate Wisconsin adjusted gross income in excess of \$21,360 but not less than \$0.
- For a married individual filing separately who has Wisconsin adjusted gross income of less than \$10,140, the standard deduction is \$9,030. For a married individual filing separately who has a Wisconsin adjusted gross income of at least \$10,140, the standard deduction is the amount obtained by subtracting from \$9,030, 19.778 percent of Wisconsin adjusted gross income in excess of \$10,140 but not less than \$0.

For taxable years beginning on or after January 1, 2017, the dollar amounts shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 2015.

B. Individual and Fiduciary Income Taxes

1. **Internal Revenue Code References Updated For 2014 For Individuals, Estates, and Trusts** (2015 Act 55, repeal sec. 71.01(6)(a), amend sec. 71.01(6)(i), and create sec. 71.01 (6)(j), effective for taxable years beginning on or after January 1, 2014.)

For taxable years beginning on or after January 1, 2014, "Internal Revenue Code" for individuals and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, means the federal Internal Revenue Code as amended to December 31, 2013, with the exceptions listed in sec. 71.01(6)(j).

"Internal Revenue Code" does not include amendments to the federal Internal Revenue Code enacted after December 31, 2013, except that "Internal Revenue Code" includes the provisions of the following federal public laws enacted in 2014:

- P.L. 113-97 relating to a definition, rules, and funding standards for a cooperative and small employer charity pension plan.
- P.L. 113-159 relating to minimum funding requirements for single-employer defined benefit pension plans.
- P.L. 113-168 relating to a clarification of the treatment of Indian general welfare benefits.
- Section 302901 of P.L. 113-287 relating to the treatment of grants from the National Park Service.
- Section 171 of P.L. 113-295 relating to the one-year extension for multiemployer pension plans to take an additional five years to amortize funding shortfalls.

- Section 172 of P. L. 113-295 relating to the extension of special rules for three categories of severely underfunded multiemployer pension plans.
- Sections 201 to 221 of P.L. 113-295 relating to correcting clerical and technical errors and deleting obsolete provisions.
- Sections 102, 105, and 207 of division B of P.L. 113-295 relating to the establishment of ABLE accounts for disabled persons to be used for payment of qualified disability expenses.

2. **Certain Federal Law Enacted Applies Simultaneously For Wisconsin Purposes** (2015 Act 55, amend sec. 71.01(6)(g), (h), and (i), effective for taxable years beginning before January 1, 2014.)

Changes to the Internal Revenue Code made by Public Law 113-168 (Tribal General Welfare Exclusion Act enacted September 26, 2014), apply for Wisconsin purposes at the same time as for federal purposes.

3. **ATV Corridor Payment Subtraction Eliminated** (2015 Act 55, amend sec. 71.05(6)(b)44., effective for taxable years beginning on or after January 1, 2015.)

The subtraction for the amount of Wisconsin incentive payments received by private landowners for permitting public all-terrain vehicle corridors on their land is not available for taxable years beginning on or after January 1, 2015.

4. **Job Creation Deduction Sunset** (2015 Act 55, amend sec. 71.05(6)(b)47m., effective for taxable years beginning on or after January 1, 2015.)

The subtraction from income based on the increase in the number of full-time employees may not be claimed for taxable years beginning on or after January 1, 2015.

5. **Supplement to Federal Historic Rehabilitation Credit Revised** (2015 Act 55, create sec. 71.07(9m)(cn), effective for taxable years beginning on or after January 1, 2015.)

The Wisconsin Economic Development Corporation shall certify a person to claim the supplement to federal historic rehabilitation credit for 20 percent of the costs of qualified rehabilitation expenditures for qualified rehabilitated buildings if all of the following apply:

1. The corporation previously certified the person to claim a credit for any taxable year beginning before January 1, 2015.
2. The proposed project for which the person wishes to claim a credit for any taxable year beginning after December 31, 2014, is located in the city of Green Bay.
3. The proposed project described in 2. above is located on the same parcel as the project for which the person received certification under 1. above or on a parcel that is contiguous to the project for which the person received certification.
4. The corporation determines that the person is eligible to claim the credit under section 47 of the Internal Revenue Code for the qualified rehabilitation expenses incurred for the project for which the person received certification under 1. above.

6. **Ethanol and Biodiesel Fuel Pump Credit Amended** (2015 Act 55, amend sec. 71.07(5j)(a)2d. and 2m. and (c)3., effective July 14, 2015.)

Statutes related to the ethanol and biodiesel fuel pump credit are amended to change the references from the Department of Commerce and the Department of Safety and Professional Services to the Department of Agriculture, Trade and Consumer Protection.

(**Note:** The ethanol and biodiesel fuel pump credit cannot be computed for taxable years beginning after December 31, 2013.)

7. **Research Credit Revised** (2015 Act 55, amend sec. 71.07(4k)(b)1., 2., and 3., and (c) and create sec. 71.07(4k)(b)4., 5., and 6., various effective dates.)

See Items C.7 and C.8.

8. **Manufacturing and Agriculture Credit Revised** (2015 Act 55, amend sec. 71.07(5n)(a)3. and 4. and (b)3. and create sec. 71.07(5n)(a)5.d., various effective dates.)

See Item C.9.

9. **Exception to Interest For Underpayment of Estimated Tax Created** (2015 Act 55, create sec. 71.09(11)(g), effective for taxable years beginning in 2015.)

An exception is provided to interest on underpayment of estimated tax if the underpayment was due to the change in the percentage for the manufacturing and agriculture credit.

10. **Development Zones Credit Amended** (2015 Act 55, renumber sec. 71.07(2dx)(e) to 71.07(2dx)(e)1. and amend as renumbered, amend sec. 71.07(2dx)(a)3. and 5. and (b)4. and 5., and create sec. 71.07(2dx)(e)2., effective July 14, 2015.)

Various provisions are amended to include a reference to the 2013 Wisconsin Statutes and to delete references to the obsolete development zones jobs credit.

A provision is created to provide that the development zones credit may not be claimed by partnerships, limited liability companies, and tax-option corporations but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners, or members. The corporation, partnership, or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners, or members and shall provide that information to each of its shareholders, partners, or members. That credit may be claimed by partners, members of limited liability companies, and shareholders of tax-option corporations in proportion to their ownership interests.

11. **Obsolete Development Zones Credits Repealed** (2015 Act 55, repeal secs. 71.05(6)(b)11., 71.07(2dd), (2de), (2di), (2dj), (2dL), (2dr), and (2ds), and 71.10(4)(gd), (ge), (gg), (gm), (gr), (gs), and (gt) and amend secs. 71.05(6)(a)15. and (b)47.b. and 71.08(1)(intro.), effective July 14, 2015.)

The following statutes relating to certain development zones credits are obsolete and have been repealed:

- Sec. 71.07(2dd) – Development zones day care credit
- Sec. 71.07(2de) – Development zones environmental remediation credit
- Sec. 71.07(2di) – Development zones investment credit
- Sec. 71.07(2dj) – Development zones jobs credit
- Sec. 71.07(2dL) – Development zones location credit
- Sec. 71.07(2dr) – Development zones research credit
- Sec. 71.07(2ds) – Development zones sales tax credit

12. **Jobs Tax Credit Sunset** (2015 Act 55, create sec. 238.16(6), effective for taxable years beginning after December 31, 2015.)

The jobs tax credit may not be computed for taxable years beginning on or after January 1, 2016; however, if the Wisconsin Economic Development Corporation has allocated tax benefits to the claimant in a contract executed before December 31, 2015, or in a letter of intent to enter into a contract before that date, the claimant may compute the credit for taxable years beginning after December 31, 2015 for as long as the contract specifies.

13. **Economic Development Tax Credit Sunset** (2015 Act 55, create sec. 238.303(4), effective for taxable years beginning after December 31, 2015.)

The economic development tax credit may not be computed for taxable years beginning on or after January 1, 2016; however, if the Wisconsin Economic Development Corporation has allocated tax benefits to the claimant in a contract executed before December 31, 2015, or in a letter of intent to enter into a contract before that date, the claimant may compute the credit for taxable years beginning after December 31, 2015 for as long as the contract specifies.

14. **Business Development Credit Created** (2015 Act 55, amend secs. 71.05(6)(a)15., 71.08(1)(intro.), and 71.10 (4)(i) and create secs. 71.07(3y) and 238.308, effective for taxable years beginning on or after January 1, 2016.)

See Item C.15.

15. **Alternative Minimum Tax Exemption and Phase-Out Amounts Revised** (2015 Act 55, amend sec. 71.08(1)(d), effective for taxable years beginning on or after January 1, 2017.)

Current law provides the alternative minimum tax exemption amounts and phase-out of exemption amounts are based on section 55(d)(1) and (3) of the Internal Revenue Code as amended to December 31, 2000:

REVISED
10-13-15

	Exemption Amount	Phase-Out of Exemption Amount
Married filing jointly	\$45,000	\$150,000
Single or head of household	\$33,750	\$112,500
Married filing separately	\$22,500	\$75,000
Estate or trust	\$22,500	\$75,000

This Act provides that, effective for taxable years beginning on or after January 1, 2017, the exemption amounts and phase-out of exemption amounts will be based on section 55(d)(1), (3), and (4) of the federal Internal Revenue Code in effect for the taxable year.

C. Corporation Franchise and Income Taxes

1. **Internal Revenue Code References Updated For 2014 For Corporations, Nonprofit Organizations, Regulated Entities, Tax-Option (S) Corporations, and Insurance Companies** (2015 Act 55, repeal secs. 71.22(4)(a) and (4m)(a), 71.26(2)(b)1., 71.34(1g)(a), and 71.42(2)(a), amend secs. 71.22(4)(g), (h), and (i) and (4m)(g), (h), and (i), 71.26(2)(b)7., 8., and 9., 71.34(1g)(g), (h), and (i), and 71.42(2)(g), (h), and (i), and create secs. 71.22(4)(j) and (4m)(j), 71.26(2)(b)10., 71.34(1g)(j), and 71.42(2)(j), effective for taxable years beginning on or after January 1, 2014.)

Certain provisions of federal laws enacted in prior years that affect the definition of the Internal Revenue Code are adopted for Wisconsin income and franchise tax purposes. For taxable years that begin on or after January 1, 2014, the provisions of federal law listed in Item B.1 apply for Wisconsin income and franchise tax. In addition, the Internal Revenue Code is modified as follows:

- For corporations (except nonprofit organizations, RICs, REMICs, REITs, and FASITs), the Internal Revenue Code is modified by sec. 71.26(3), Wis. Stats.
- For tax-option (S) corporations, IRC sec. 1366(f), relating to the reduction in pass-throughs for taxes at the S corporation level, is modified by substituting the built-in gains tax under sec. 71.35, Wis. Stats., for the taxes under IRC secs. 1374 and 1375.
- For insurance companies, the Internal Revenue Code excludes IRC sec. 847, relating to an additional deduction for insurers required to discount unpaid losses.

2. **Certain Federal Law Enacted Applies Simultaneously For Wisconsin Purposes** (2015 Act 55, amend secs. 71.22(4)(g), (h), and (i) and (4m)(g), (h), and (i), 71.26(2)(b)7., 8., and 9., 71.34(1g)(g), (h), and (i), and 71.42(2)(g), (h), and (i), effective for taxable years beginning before January 1, 2014.)

Changes to the Internal Revenue Code made by Public Law 113-168 (Tribal General Welfare Exclusion Act enacted September 26, 2014), apply for Wisconsin purposes at the same time as for federal purposes.

3. **ATV Corridor Payment Subtraction Eliminated** (2015 Act 55, amend secs. 71.26(1)(g) and 71.45(1)(b), effective for taxable years beginning on or after January 1, 2016.)

The subtraction for the amount of Wisconsin incentive payments received by private landowners for permitting public all-terrain vehicle corridors on their land is not available for taxable years beginning on or after January 1, 2016.

4. **Job Creation Deduction Sunset** (2015 Act 55, amend secs. 71.26(1)(h) and 71.45(1)(c), effective for taxable years beginning on or after January 1, 2015.)

The subtraction from income based on the increase in the number of full-time employees may not be claimed for taxable years beginning on or after January 1, 2015.

5. **Supplement to Federal Historic Rehabilitation Credit Revised** (2015 Act 55, create secs. 71.28(6)(cn) and 71.47(6)(cn), effective for taxable years beginning on or after January 1, 2015.)

The Wisconsin Economic Development Corporation shall certify a person to claim the supplement to federal historic rehabilitation credit for 20 percent of the costs of qualified rehabilitation expenditures for qualified rehabilitated buildings if all of the following apply:

1. The corporation previously certified the person to claim a credit for any taxable year beginning before January 1, 2015.
 2. The proposed project for which the person wishes to claim a credit for any taxable year beginning after December 31, 2014, is located in the city of Green Bay.
 3. The proposed project described in 2. above is located on the same parcel as the project for which the person received certification under 1. above or on a parcel that is contiguous to the project for which the person received certification.
 4. The corporation determines that the person is eligible to claim the credit under section 47 of the Internal Revenue Code for the qualified rehabilitation expenses incurred for the project for which the person received certification under 1. above.
6. **Ethanol and Biodiesel Fuel Pump Credit Amended** (2015 Act 55, amend sec. 71.28(5j)(a)2d. and 2m. and (c)3., effective July 14, 2015.)

Statutes related to the ethanol and biodiesel fuel pump credit are amended to change the references from the Department of Commerce and the Department of Safety and Professional Services to the Department of Agriculture, Trade and Consumer Protection.

(**Note:** The ethanol and biodiesel fuel pump credit cannot be computed for taxable years beginning after December 31, 2013.)

7. **Research Credit Limited** (2015 Act 55, amend secs. 71.28(4)(ad)1., 2., and 3. and (af) and 71.47(4)(ad)1., 2., and 3. and (af), effective for taxable years beginning before January 1, 2015.)

The following research credits may not be computed for taxable years beginning after December 31, 2014:

- The 5 percent credit for increasing research expenses,
- The 10 percent credit for research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving processes for the engines and vehicles, and
- The 10 percent credit for research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use.

The election to use a different computation method to calculate the research credits listed above is limited to taxable years beginning prior to January 1, 2015.

8. **Research Credit Amended** (2015 Act 55, create secs. 71.28(4)(ad)4., 5., and 6. and 71.47(4)(ad)4., 5., and 6., effective for taxable years beginning after December 31, 2014.)

For taxable years beginning after December 31, 2014, an individual, a partner of a partnership, a shareholder of a tax-option corporation, a member of a limited liability company, and any corporation, may compute research credits as follows:

1. **Research Credit For Increasing Research:** The credit is equal to 5.75 percent of the amount by which the claimant's qualified research expenses for the taxable year exceed 50 percent of the average qualified research expenses for the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit. If the claimant had no qualified research expenses in any of the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit, the claimant may claim an amount equal to 2.875 percent of the qualified research expenses for the taxable year for which the credit is claimed.
2. **Research Credit For Activities Related to Internal Combustion Engines:** The credit is equal to 11.5 percent of the amount by which the claimant's qualified research expenses for the taxable year exceed 50 percent of the average qualified research expenses for the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit. If the claimant had no qualified research expenses in any of the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit, the claimant may claim an amount equal to 5.75 percent of the qualified research expenses for the taxable year for which the credit is claimed.
3. **Research Credit For Activities Related to Certain Energy Efficient Products:** The credit is equal to 11.5 percent of the amount by which the claimant's qualified research expenses for the taxable year exceed 50 percent of the average qualified research expenses for the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit. If the claimant had no qualified research expenses in any of the 3 taxable years immediately preceding the taxable year for which the claimant claims the credit, the claimant may claim an amount equal to 5.75 percent of the qualified research expenses for the taxable year for which the credit is claimed.

Qualified research expenses mean qualified research expenses as defined in section 41 of the Internal Revenue Code, except that qualified research expenses includes only expenses incurred by the claimant for research conducted in Wisconsin for the taxable year and does not include compensation used in computing the development zones credit. Section 41 (f) (1), (2), (5), and (6) and (h) of the Internal Revenue Code does not apply to the credit.

9. **Manufacturing and Agriculture Credit Revised** (2015 Act 55, amend sec. 71.28(5n)(a)3. and 4. and (b)3. and create sec. 71.28(5n)(a)5.d., various effective dates.)

Effective for taxable years beginning on January 1, 2013, the definition of "direct costs" and "indirect costs" were amended so that it means a claimant's ordinary and necessary business expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible as business expenses under the Internal Revenue Code.

- "Direct costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible as business expenses under the Internal Revenue Code and identified as direct costs in the claimant's managerial or cost accounting records.
- "Indirect costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible as business expenses under the Internal Revenue Code, other than cost of goods sold and direct costs, and identified as indirect costs in the claimant's managerial or cost accounting records.

Effective for taxable years beginning on January 1, 2013, claimants who have been approved to be classified as manufacturers, but are not eligible to be listed on the department's manufacturing roll until January 1 of the following year, may claim the credit when approved by the department.

- A claimant who the department approves to be classified as a manufacturer for purposes of s. 70.995, Wis. Stats., but who is not eligible to be listed on the department's manufacturing roll until January 1 of the following year, may claim the credit in the year in which the manufacturing classification is approved.

For taxable years beginning after December 31, 2014, and before January 1, 2016, the rate of credit is reduced to 5.025% from 5.526%.

10. **Exception to Interest For Underpayment of Estimated Tax Created** (2015 Act 55, create sec. 71.29(7)(d), effective for taxable years beginning in 2015.)

An exception is provided to interest on underpayment of estimated tax if the underpayment was due to the change in the percentage for the manufacturing and agriculture credit. The exception for underpayment interest is limited to the underpayment interest resulting from the manufacturing and agriculture credit rate change only.

11. **Development Zones Credit Amended** (2015 Act 55, renumber secs. 71.28(1dx)(e) to 71.28(1dx)(e)1. and 71.47(1dx)(e) to 71.47(1dx)(e)1. and amend as renumbered, amend secs. 71.28(1dx)(a)3. and 5. and (b)4. and 5. and 71.47(1dx)(a)3. and 5. and (b)4. and 5., and create secs. 71.28(1dx)(e)2. and 71.47(1dx)(e)2., effective July 14, 2015.)

Various provisions are amended to include a reference to the 2013 Wisconsin Statutes and to delete references to the obsolete development zones jobs credit.

A provision is created to provide that the development zones credit may not be claimed by partnerships, limited liability companies, and tax-option corporations but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners, or members. The corporation, partnership, or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners, or members and shall provide that information to each of its shareholders, partners, or members. That credit may be claimed by partners, members of limited liability companies, and shareholders of tax-option corporations in proportion to their ownership interests.

12. **Obsolete Development Zones Credits Repealed** (2015 Act 55, repeal secs. 71.26(2)(a)1., 71.28(1dd), (1de), (1di), (1dj), (1dL), and (1ds), 71.30(3)(eb), (ec), (eg), (eh), (ej), and (ek), 71.45(2)(a)11., 71.47(1dd), (1de), (1di), (1dj), (1dL), and (1ds), and 71.49(1)(eb), (ec), (eg), (eh), (ej), and (ek), renumber sec. 71.47(1dx)(e) to 71.47(1dx)(e)1. and amend as renumbered, and amend secs. 71.21(4)(a), 71.26(2)(a)4. and (3)(n), 71.28(4)(ad)1., 2., and 3. and (am)1. and (4m)(a), 71.34(1k)(g), 71.45(2)(a)10., 71.47(1dx)(b)4. and 5., (4)(ad)1., 2., and 3. and (am), and (4m)(a), effective July 14, 2015.)

The following statutes relating to certain development zones credits are obsolete and have been repealed:

- Secs. 71.28(1dd) & 71.47(1dd) – Development zones day care credit
- Secs. 71.28(1de) & 71.47(1de) – Development zones environmental remediation credit
- Secs. 71.28(1di) & 71.47(1di) – Development zones investment credit
- Secs. 71.28(1dj) & 71.47(1dj) – Development zones jobs credit
- Secs. 71.28(1dL) & 71.47(1dL) – Development zones location credit
- Secs. 71.28(1ds) & 71.47(1ds) – Development zones sales tax credit

13. **Jobs Tax Credit Sunset** (2015 Act 55, create sec. 238.16(6), effective for taxable years beginning after December 31, 2015.)

The jobs tax credit may not be computed for taxable years beginning on or after January 1, 2016; however, if the Wisconsin Economic Development Corporation has allocated tax benefits to the claimant in a contract executed before December 31, 2015, or in a letter of intent to enter into a contract before that date, the claimant may compute the credit for taxable years beginning after December 31, 2015 for as long as the contract specifies.

14. **Economic Development Tax Credit Sunset** (2015 Act 55, create sec. 238.303(4), effective for taxable years beginning after December 31, 2015.)

The economic development tax credit may not be computed for taxable years beginning on or after January 1, 2016; however, if the Wisconsin Economic Development Corporation has allocated tax benefits to the claimant in a contract executed before December 31, 2015, or in a letter of intent to enter into a contract before that date, the claimant may compute the credit for taxable years beginning after December 31, 2015 for as long as the contract specifies.

15. **Business Development Credit Created** (2015 Act 55, amend secs. 71.21(4)(a), 71.30(3)(f), 71.34(1k)(g), 71.45(2)(a)10., and 71.49(1)(f) and create secs. 71.28(3y), 71.47(3y), and 238.308, effective for taxable years beginning on or after January 1, 2016.)

The business development tax credit is a refundable credit equal to all of the following, as determined by the Wisconsin Economic Development Corporation (WEDC):

1. The amount of wages the claimant paid to an eligible employee in the taxable year, not to exceed 10 percent of such wages.
2. In addition to any amount claimed for an eligible employee under 1., the amount of wages that the claimant paid to the eligible employee in the taxable year, not to exceed 5 percent of such wages, if the eligible employee is employed in an economically distressed area.
3. An amount equal to up to 50 percent of the claimant's training costs incurred to undertake activities to enhance an eligible employee's general knowledge, employability, and flexibility in the workplace; to develop skills unique to the claimant's workplace or equipment; or to develop skills that will increase the quality of the claimant's product.

4. The amount of the personal property investment, not to exceed 3 percent of such investment, and the amount of the real property investment, not to exceed 5 percent of such investment, in a capital investment project that involves a total capital investment of at least \$1,000,000 or, if less than \$1,000,000, involves a capital investment equal to at least \$10,000 per eligible employee employed on the project.
5. An amount equal to a percentage of the amount of wages that the claimant paid to an eligible employee in the taxable year if the position in which the eligible employee was employed was created or retained in connection with the claimant's location or retention of the claimant's corporate headquarters in Wisconsin and the job duties associated with the eligible employee's position involve the performance of corporate headquarters functions.

The following definitions apply:

"Claimant" means a person certified by WEDC to receive tax benefits.

"Eligible employee" means a person employed in a full-time job by a person certified by WEDC.

WEDC may certify a person to receive tax benefits if 1) the person is operating or intends to operate a business in Wisconsin and 2) the person applies and enters into a contract with WEDC. The certification may remain in effect for no more than 10 cumulative years.

A person is eligible to receive tax benefits if, in each year for which the person claims tax benefits, the person increases net employment in Wisconsin in the person's business above the net employment in Wisconsin in the person's business during the year before the person was certified, as determined by WEDC under its policies and procedures.

Subject to a reallocation of angel investment credits and early stage seed investment credits, WEDC may allocate up to \$17,000,000 in tax benefits in 2016 and up to \$22,000,000 per year thereafter. Any unused allocation may be carried forward.

WEDC may require a person to repay any tax benefits the person claims for a year in which the person failed to employ an eligible employee required by an agreement.

WEDC shall annually verify the information submitted to it by a person claiming tax benefits.

WEDC shall adopt policies and procedures for the implementation and operation of the certification and allocation of tax benefits.

No credit may be allowed unless the WEDC certification for tax benefits is included with the return on which the credit is claimed.

Partnerships, limited liability companies, and tax-option corporations may not claim the credit, but the eligibility for, and the amount of, the credit are based on their payment of amounts. A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interests.

The amount of the credit computed must be included in the claimant's income except that credits computed by a partnership and passed through to partners shall be added to the partnership's income, and credits computed by a tax-option corporation and passed through to shareholders shall be added to the tax-option corporation's income.

No credit may be allowed unless it is claimed within four years of the unextended due date of the return.

The Department of Revenue has full power to administer the credit and may take any action, conduct any proceeding and proceed as it is authorized in respect to income and franchise taxes. The income and franchise tax provisions relating to assessments, refunds, appeals, collection, interest, and penalties apply to the credit.

D. Sales and Use Taxes

1. **Definition of "Retailer" Amended** (2015 Act 55, amend sec. 77.51(13)(intro.) and create sec. 77.51(13b), effective July 14, 2015.)

The definition of "retailer" was amended to allow a person to operate a distribution facility and make sales of tangible personal property and items under sec. 77.52(1)(b), Wis. Stats., on behalf of third-party sellers, without becoming liable for the tax on such sales, if all of the following conditions apply:

1. The person or any of the person's affiliates operates a distribution facility.
2. The person or any of the person's affiliates sells the tangible personal property or items under sec. 77.52(1)(b), Wis. Stats., on behalf of a 3rd-party seller.
3. The 3rd-party seller owns the tangible personal property or items under sec. 77.52(1)(b), Wis. Stats., and is disclosed to the customer as the seller.
4. Neither the person nor any affiliate of the person makes any sales for which the customer takes possession of the tangible personal property or items under sec. 77.52(1)(b), Wis. Stats., at a location operated by the person or any of the person's affiliates.

Prior to July 14, 2015, a person may have been liable for the payment of sales tax if the person was acting for a known or disclosed principal, had possession of tangible personal property owned by the principal, and made sales of such property. The person's liability may have been incurred if the principal was engaged in the full or part-time business of selling tangible personal property and the principal failed to pay the tax.

The new provision in the law does not apply to the following:

- Sales at auction;
 - Sales of tangible personal property or items under sec. 77.52(1)(b), Wis. Stats., owned or previously owned by the person operating the distribution facility or by any of the person's affiliates; or
 - Sales of any of the following that are registered or titled, or required to be registered or titled, in Wisconsin or the United States:
 - Motor vehicles
 - Aircraft
 - Snowmobiles
 - Recreational vehicles, as defined in sec. 340.01(48r), Wis. Stats.
 - Trailers
 - Semitrailers
 - All-terrain vehicles
 - Utility terrain vehicles
 - Boats
2. **Nexus-Creating Activities** (2015 Act 55, amend sec. 77.51(13g)(a) and (b) and create sec. 77.51(13g)(e), (f), and (g), effective July 14, 2015.)

Effective July 14, 2015, the following changes have been made to sec. 77.51(13g), Wis. Stats., to clarify when a retailer has nexus with Wisconsin for purposes of use tax collection responsibilities:

- Section 77.51(13g)(a), Wis. Stats., is amended to provide that nexus is created for a retailer:
 - By maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, an agent, or some other person, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business in Wisconsin.
- Section 77.51(13g)(b), Wis. Stats., is amended to provide that nexus-creating activities include having any representative in Wisconsin to:
 - Perform services
 - Performing any of the other activities described in sec. 77.51(13g), Wis. Stats.
- The following provisions have been added to sec. 77.51(13g), Wis. Stats., as nexus creating activities:
 - Servicing, repairing, or installing equipment or other tangible personal property, or items, property, or goods under sec. 77.52(1)(b), (c), or (d), Wis. Stats.
 - Delivering tangible personal property or items under sec. 77.52(1)(b) into Wisconsin in a vehicle operated by the person that sells the property or items that are delivered.
 - Performing construction activities in Wisconsin.

3. **Exemption For Farm-Raised Deer** (2015 Act 55, create sec. 77.54(62), effective January 1, 2016.)

Beginning on January 1, 2016, sales of farm-raised deer, as defined in sec. 95.001(1)(ag), Wis. Stats., sold to a person operating a hunting preserve or game farm in Wisconsin are exempt from Wisconsin sales and use taxes.

"Farm-raised deer" means a cervid that is kept in captivity or a cervid that is present in the wild and that has an ear tag or other mark identifying it as being raised on a farm.

Prior to January 1, 2016, sales of farm-raised deer to a hunting or shooting preserve are taxable unless purchased for resale or used exclusively in the business of farming.

Note: Farm-raised deer that are transferred to a hunter as part of the sale of an admission to hunt are not purchased for resale or used exclusively in the business of farming.

4. **Effective Date Postponed For Private Label Credit Card Company Bad Debt Deductions** (2015 Act 55 amends sec. 6(1) of 2013 Act 229 so that it takes effect on July 1, 2017, and first applies to bad debts resulting from sales completed on July 1, 2017.)

[2013 Act 229](#) included provisions to allow a seller to claim a deduction on its sales and use tax return for the amount of any bad debt that the lender writes off as uncollectible in the lender's books and records. In order to claim the deduction for the lender's bad debt, the bad debt must be eligible to be deducted as a bad debt for federal income tax purposes, regardless of whether the lender is required to file a federal income tax return. A seller would also be allowed to compute the bad debt deduction using an estimate, if the Department of Revenue approves the method for computing the estimate.

The following changes were made in 2015 Act 55:

- The effective date of the bad debt provisions in Wis. Act 229 has been postponed to July 1, 2017.
- The bad debt provisions only apply to bad debts resulting from sales completed on July 1, 2017 and thereafter.

For sales completed prior to July 1, 2017, a seller is not allowed to claim a bad debt deduction for amounts that **the lender** writes off as uncollectible in its books and records.

IMPORTANT: Sellers who claimed a bad debt incurred by a lender resulting from sales completed prior to July 1, 2017, must amend their return(s) to pay the tax on such bad debts.

Note: The law did not change with respect to a seller claiming a bad debt deduction for amounts that **the seller** writes off as uncollectible in its books and records, except that for sales completed on July 1, 2017 and thereafter, a seller may, under certain conditions, compute a bad debt deduction using an estimate.

- E. Premier Resort Area Tax - City of Rhinelander May Impose Premier Resort Area Tax** (2015 Act 55, amend sec. 66.1113(2)(a) and create sec. 66.1113(2)(j), effective July 14, 2015 and amend sec. 66.1113(2)(b), effective January 1, 2016.)

The City of Rhinelander may enact an ordinance or adopt a resolution declaring itself to be a premier resort area, even if less than 40% of the equalized assessed value of the taxable property within Rhinelander is used by tourism-related retailers. The city may not impose the tax, however, unless the common council adopts a resolution proclaiming its intent to impose the tax and the resolution is approved by a majority of the electors in the city voting on the resolution at a referendum, to be held at the first spring primary or election or partisan primary or general election following by at least 70 days the date of adoption of the resolution.

The city may use the proceeds from the tax only to pay for transportation-related infrastructure expenses within the jurisdiction. The city must expend at least the same amount of other funds on transportation-related infrastructure each year that it spent during the calendar year prior to the year in which the premier resort area tax is first imposed.

F. Alcohol Beverage

1. **Definition of "Cider" Revised** (2015 Act 55, amend sec. 139.01(2m), effective January 1, 2016.)

For purposes of the taxes imposed on alcohol beverages, the definition of "cider" is expanded to include any alcoholic beverage that is obtained from the alcoholic fermentation of pears and that contains not less than 0.5 percent and not more than 7.0 percent alcohol by volume.

2. **Retail Intoxicating Liquor Licenses For Sales of Cider** (2015 Act 55, renumber sec. 125.51(2)(d) to 125.51(2)(d)1., amend sec. 125.51(1)(a) and (c)1., and create sec. 125.51(2)(d)2. and (e), effective July 14, 2015.)

Notwithstanding the prohibition on issuing a "Class A" license for premises less than 300 feet from a school, hospital, or church, upon application, a municipal governing body is required to issue a "Class A" license to an applicant if 1) the application contains the condition that retail sales of intoxicating liquor are limited to cider and 2) the applicant holds a Class "A" fermented malt beverages license for the same premises for which the "Class A" application is made.

"Cider" means any alcohol beverage that is obtained from the fermentation of the juice of apples or pears and that contains not less than 0.5 percent alcohol by volume and not more than 7.0 percent alcohol by volume. "Cider" includes flavored, sparkling, and carbonated cider.

There is no annual fee or initial issuance fee for a "Class A" license issued under this provision.

A person issued a "Class A" license under this provision may not make retail sales, or provide taste samples, of any intoxicating liquor other than cider.

3. **Retail Intoxicating Liquor License Quota Exception** (2015 Act 55, create sec. 125.51(3)(e)5. and (4)(w)5., effective July 14, 2015.)

The Town of Wyoming in Iowa County may issue one additional "Class B" license in addition to the number of licenses determined for the town's "Class B" license quota. The initial issuance fee for the additional license may not exceed \$500. No "Class B" license may be issued under this provision after

February 1, 2016. If the "Class B" license issued under this provision is surrendered to the issuing town, not renewed, or revoked, the town may not reissue the license.

4. **Food and Sanitation Regulation of Licensed and Permitted Restaurants Revised** (2015 Act 55, amend secs. 125.02(3r), (7), and (18), 125.06(12), 125.07(3)(a)6. and 6m., 125.29(6), 125.295(2)(a)3. and (b), and 125.68(5), effective July 1, 2016.)

Several provisions in Chapter 125 are amended to reflect the food and sanitation regulation of restaurants will be changed from the Department of Health Services to the Department of Agriculture, Trade and Consumer Protection.

G. Other

1. **Setoff of Refunds and Overpayments** (2015 Act 55, amend secs. 71.75(9), 71.80(3) and (3m)(intro.), and 77.59(5) and create secs. 71.93(3)(c) and 71.935(6), effective for taxable years beginning on or after January 1, 2015.)

This Act clarifies a taxpayer has no right to or interest in a refund or overpayment until after setoffs are made for delinquent debts to the department, other Wisconsin state agencies, and local governmental units in Wisconsin.

2. **Sales and Auctions of Property of Delinquent Taxpayers** (2015 Act 55, renumber sec. 71.91(5)(c) to 71.91(5)(c)1. and amend as renumbered, amend sec. 815.29(1), and create sec. 71.91(5)(c)2., effective for warrants issued on or after July 14, 2015.)

Under current law, an agent of the department may conduct an execution sale of personal property of a delinquent taxpayer only in the county where a tax warrant is filed. The property may not be sold unless it is in view of those attending the sale.

This Act provides that in executing a warrant, an agent of the department may conduct, or may engage a third-party entity to conduct, an execution sale of personal property in any county of Wisconsin and may sell, or may engage a third-party entity to sell, the personal property in any manner the department believes will bring the highest net bid or price, including Internet-based auctions or sales. The cost of conducting each auction or sale shall be reimbursed to the department out of the proceeds of the auction or sale.

3. **Setoffs of Debts of Other State Agencies Expanded** (2015 Act 55, amend sec. 71.93(1)(a)4., effective July 14, 2015.)

The definition of "debt" for purposes of setoffs for other state agencies is expanded to include emergency assistance for families with needy children that may be recovered by the Department of Children and Families.

4. **Collection of Court Debts** (2015 Act 55, amend secs. 59.40(4), 59.52(28), and 71.93(8)(b)1., effective July 14, 2015.)

A county board may adopt a resolution authorizing the clerk of Circuit Court to enter into an agreement with the department for the collection of debt. Any such agreement shall provide that the department shall charge a collection fee to each debtor whose debt is subject to collection.