Wisconsin Department of Revenue

Tax Information for Part-Year Residents and Nonresidents of Wisconsin

(Including Information for Aliens)

Publication 122 (3/24)

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IMPORTANT CHANGES

Use this publication in preparing your 2023 tax return. The publication was updated to reflect the option of married military servicemembers to elect their state of residence for tax purposes.

1. INTRODUCTION

This publication provides information about the Wisconsin income tax treatment of individuals who are part-year residents or nonresidents of Wisconsin. It is intended to supplement the instructions for Form 1NPR, which is the Wisconsin income tax return for nonresidents and part-year residents of Wisconsin.

2. DEFINITIONS

Full-year resident – You are a full-year resident if you are domiciled in Wisconsin for the entire taxable year.

Part-year resident – You are a part-year resident if you are domiciled in Wisconsin for part of the taxable year.

Nonresident – You are a nonresident if you are not domiciled in Wisconsin for any part of the taxable year.

Domicile – Your domicile is the permanent legal home you intend to use for an indefinite or unlimited period, and to which, when absent, you intend to return. It is not always where you presently live. You can be physically present or residing in one state but maintain a domicile in another. "Domicile" is often referred to as "legal residence." You can have only one domicile at a time.

Your domicile, once established, is never changed unless all three of the following occur or exist:

- You specifically intend to abandon your old domicile and take actions that show that intent
- You intend to acquire a new domicile and take actions that show that intent
- You are physically present in the new domicile

Your domicile does not change if:

- You leave your state of domicile for a brief rest or vacation, or
- You leave your state of domicile to complete a particular transaction, perform a particular contract, or fulfill a particular engagement, but you intend to return to your state of domicile whether or not you complete the transaction, contract, or engagement.

Example 1: You are a legal resident of Texas. In 20XX, you worked in Wisconsin for three months after which you returned to Texas. You did not take any steps to abandon your Texas residence (domicile). You are a nonresident of Wisconsin for 20XX.

Example 2: You graduated from high school in Minnesota where you lived with your parents. In August of 20XX, you moved to Wisconsin to attend the University of Wisconsin. You do not plan to remain in Wisconsin after you complete your course of study at the university. You do not take any steps to abandon your Minnesota residence or to acquire a new residence in Wisconsin. You are a nonresident of Wisconsin for 20XX.

Example 3: You are a resident of Wisconsin. In September of 20XX, you enlisted in the U.S. Army and were stationed in Missouri for the remainder of 20XX. You do not take any steps to abandon your Wisconsin residence or to acquire a new residence in Missouri. You are a full-year resident of Wisconsin for 20XX.

Example 4: You were a legal resident of California. In July of 20XX, your employer transfers you to Wisconsin. You sell your home in California and move with your spouse and children to Wisconsin. You change your voter registration, auto registration, driver license, mailing address and insurance records to Wisconsin as you intend to remain permanently in Wisconsin. Your children will attend Wisconsin schools. You are a part-year resident of Wisconsin for 20XX.

Notes:

- If you are a member of the U.S. Armed Forces who enters military service from Wisconsin, you remain a legal resident of Wisconsin through your entire military service unless you take specific steps to abandon your Wisconsin legal residence and acquire a new legal residence in another state. If you are a member of the U.S. Armed Forces who entered service from another state and are living in Wisconsin solely because of military orders, you are not considered a legal resident of Wisconsin.
- A service member's spouse may elect to use the same residence as the service member for purposes of taxation, regardless of the date on which the marriage of the spouse and the service member occurred. See Part 2.D. of Publication 128, *Wisconsin Tax Information for Military Personnel and Veterans*, for details.

3. FILING REQUIREMENTS

A. Who Must File a Wisconsin Income Tax Return?

If you are a nonresident or part-year resident of Wisconsin and your gross income (or the combined gross income of you and your spouse) is $2,000 or more for the taxable year, you must file a Wisconsin income tax return for that year.

Note: A Wisconsin return does not have to be filed by a nonresident of Wisconsin if all income is exempt from tax as disaster relief work performed in connection with a state of emergency declared by the Governor.

Exception: Even if gross income is less than $2,000, you must file a Wisconsin income tax return if:

- You can be claimed as a dependent on another person's income tax return (for example, on your parent's return). See 'Other filing requirements' under the Who Must File section of the Form 1NPR instructions for the year in question.
- You owe a Wisconsin penalty on an Individual Retirement Account (IRA), health savings account, annuity, retirement plan, Coverdell education savings account, ABLE account, or medical savings account.

"Gross income" means all income (before deducting expenses) reportable to Wisconsin that is received in the form of money, property, or services. It doesn't include items that are exempt from Wisconsin income tax, such as U.S. government interest.

Gross income is determined before deducting expenses. For example, gross income includes:

- Total gross receipts from a business or profession without reduction for the cost of goods sold, expenses, or any other amounts
- Gross rent received from rental properties without reduction for expenses or any other amounts
- Gross selling price from the sale of securities, property, or other assets without reduction for the cost of the assets, expenses of sale, or any other amounts
- Gross amount received from an annuity, retirement plan, or profit-sharing plan without reduction for the employee's contribution to the annuity or plan

- A partner's or shareholder's proportionate share of the gross receipts of the partnership or tax-option (S) corporation, before deducting returns and allowances or any other business expenses

Example 1: You are a full-year resident of Illinois and own rental property in Wisconsin. During 20XX you received gross rent from the Wisconsin property of $6,000 and incurred rental expenses of $7,000, resulting in a net rental loss of $1,000. You are required to file a 20XX Wisconsin income tax return because your gross income reportable to Wisconsin ($6,000) was at least $2,000.

Example 2: You are a part-year resident of Wisconsin for 20XX. Your wages from working in Wisconsin during 20XX were $1,200. You also sold land while you were a Wisconsin resident at a profit of $200. Your cost of the land was $600 and you sold it for $800. You are required to file a 20XX Wisconsin income tax return because your gross income reportable to Wisconsin is $2,000 ($1,200 from wages plus the $800 selling price of the land).

B. What Income Does Wisconsin Tax?

(1) Part-year residents

During the time you are a Wisconsin resident, Wisconsin taxes your income from all sources. During the time you aren't a Wisconsin resident, Wisconsin taxes only your income from Wisconsin sources.

(2) Nonresidents

Wisconsin taxes only your income from Wisconsin sources.

(3) Income from Wisconsin sources

Income from Wisconsin sources includes:

- Wages, salaries, commissions, and other income for services performed in Wisconsin (see "Exceptions" in Part 4.A.(3)).
- Rents and royalties from tangible property located in Wisconsin, such as land, buildings, and machinery.
- Gains or losses from sales or other dispositions of tangible property located in Wisconsin, such as land, buildings, and machinery.
- Profits or losses from businesses, professions, and farm operations conducted in Wisconsin, including sole proprietorships, partnerships, limited liability companies (LLCs), and tax-option (S) corporations. This includes interest, dividend, and capital gain income attributable to Wisconsin which is passed through from a tax-option (S) corporation, as well as guaranteed payments from partnerships.
- Income from the Wisconsin state lottery, a multijurisdictional lottery if the winning lottery ticket or lottery share was purchased from a Wisconsin retailer, or Wisconsin pari-mutuel wager winnings and purses. This includes all income realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally purchased in Wisconsin.
- Winnings from a casino or bingo hall located in Wisconsin and operated by a Native American tribe or band.
- Income derived from a covenant not to compete to the extent the covenant was based on a Wisconsin-based activity.

Example 1: You are a resident of Iowa and commute daily to your job in Wisconsin. Wages you earn in Wisconsin are income from Wisconsin sources. The wages are taxable by Wisconsin.

Example 2: You are a resident of Florida and own rental property in Wisconsin. Income from the rental or sale of the property is income from Wisconsin sources and is taxable by Wisconsin.

Example 3: You are a resident of Illinois and a partner (either a general or limited partner) of a partnership that does business only in Wisconsin. Your share of the partnership income is income from Wisconsin sources and is taxable by Wisconsin.

Example 4: You are a resident of Nebraska and the beneficiary of an estate or trust that receives rent from property located in Wisconsin. Your share of the estate or trust income attributable to the Wisconsin rental property is income from Wisconsin sources and is taxable by Wisconsin.

C. Which Form to File?

If you are a nonresident or part-year resident of Wisconsin for the tax year, you must file your income tax return on Wisconsin Form 1NPR (individual income tax return for nonresidents and part-year residents).

If you are married and one spouse is either a nonresident or part-year resident of Wisconsin for the tax year and the other spouse is a full-year resident of Wisconsin, the form to use depends on your filing status.

- If you file a joint Wisconsin income tax return, you must file Form 1NPR.
- If you file separate Wisconsin income tax returns, the nonresident or part-year resident spouse must file Form 1NPR; the full-year resident spouse must file Form 1 (individual income tax return for full-year residents).

Exception: You do not have to file a Wisconsin income tax return if your only income or loss from Wisconsin sources is from either of the following:

- A partnership that has filed Form 1CNP on your behalf
- A tax-option (S) corporation that has filed Form 1CNS on your behalf

Note: If you abandon your Wisconsin domicile during the year, you must complete and file a "Legal Residence (Domicile) Questionnaire" with your Form 1NPR. The questionnaire is on the second to last page of the Form 1NPR instructions.

4. INCOME, DEDUCTIONS, AND CREDITS

A. Wages, Salaries, Tips, and Other Employee Compensation

(1) Part-year residents of Wisconsin

During the time you are a Wisconsin resident, all income earned as an employee (for example, wages, salaries, tips, and other employee compensation) is taxable by Wisconsin, regardless of where you earned the income.

During the time you are not a Wisconsin resident, income earned as an employee is taxable by Wisconsin only if you performed the services in Wisconsin (see "Exceptions" in Part 4.A.(3)).

Example: You were a Wisconsin resident and worked at a business in Iowa. On October 1, 20XX, you moved to Iowa and became a legal resident of Iowa. Income that you earned in Iowa and received during the time that you were a Wisconsin resident is taxable by Wisconsin.

(2) Nonresident of Wisconsin

Income earned as an employee is taxable by Wisconsin only if you performed the services in Wisconsin (see Exceptions in subsection (3)).

Example: You were a Florida resident for the entire year. You spent four months during 20XX at your cottage in northern Wisconsin. During your summer stay in Wisconsin, you worked part-time at a local gift shop. The income you earned from this part-time job is taxable by Wisconsin.

(3) Exceptions

(a) Reciprocity for residents of Illinois, Indiana, Kentucky, and Michigan

Wisconsin has reciprocity agreements with four states: Illinois, Indiana, Kentucky, and Michigan. As a result of these agreements:

- Wisconsin generally will not tax the salaries, wages, commissions, fees, etc., earned by employees who are residents of these states and who are employed in Wisconsin
- Illinois, Indiana, Kentucky, and Michigan generally will not tax the salaries, wages, commissions, fees, etc., of individuals who are residents of Wisconsin and who are employed in these states

See Publication 121, *Reciprocity*, for additional information.

(b) Military personnel stationed in Wisconsin

Wisconsin does not tax the military pay of a member of the U.S. Armed Forces who is a legal resident of another state but stationed in Wisconsin on military orders.

This exception applies only to military pay. It does not apply to other Wisconsin source income, such as income from:

- Civilian employment in Wisconsin, including income from civilian employment with the U.S. Armed Forces
- A business conducted in Wisconsin
- Property located in Wisconsin
- Wisconsin lottery or pari-mutuel wager winnings or purses
- Winnings from a casino or bingo hall located in Wisconsin and operated by a Native American tribe or band

Notes:

- Military pay received by a member of the U.S. Armed Forces which is exempt from Wisconsin income tax as stated above should not be entered in either the federal or Wisconsin column of Form 1NPR.
- If a service member is married, they have the ability to elect their state of residence for tax purposes. See Part 2.D. of Publication 128, *Wisconsin Tax Information for Military Personnel and Veterans*, for details.

(c) Income of military spouse

Income from services performed in Wisconsin (for example, wages or self-employment income) by a nonresident spouse of a service member is not taxable to Wisconsin if the spouse is in Wisconsin solely to be with the service member serving in Wisconsin under military orders. These wages are taxable only to the nonresident spouse's state of legal residence.

Notes:

- If you qualify as a nonresident spouse of a service member and are in Wisconsin solely to be with the service member serving in Wisconsin under military orders, you may elect to not have Wisconsin income tax withheld from your Wisconsin wages. To claim an exemption from withholding, complete Form W-221, *Nonresident Military Spouse Withholding Exemption,* and submit it to your employer.
- See Part 2.D. of Publication 128, *Wisconsin Tax Information for Military Personnel and Veterans*, for info about a service member's spouse's ability to elect their state of residence for tax purposes. However, nontaxable amounts excluded from the Wisconsin column of Form 1NPR for the service member's spouse must still be included in the federal column of Form 1NPR. Amounts entered in the federal column of Form 1NPR are the amounts from your federal return, as adjusted for differences between federal and Wisconsin law.

(d) Members of the Reserves or National Guard

Wisconsin does not tax military pay received from the federal government by a member of the Reserves or National Guard who served on active duty. The military pay must be received after being called into active federal service under 10 USC 12302(a), 10 USC 12304, or 10 USC 12304b or into special state service authorized by the federal Department of Defense under 32 USC 502(f), and paid for a period of time during which the person was on active duty and called into active federal service or special state service, even if the pay was received after the active duty period ended. This does not apply to pay received for weekend and two-week annual training or a person who is serving on active duty or full-time duty in the active guard reserve (AGR) program.

(e) U.S. Armed Forces active duty pay

A subtraction is available for members of the U.S. Armed Forces on active duty for the amount of basic, special, and incentive pay received from the federal government under 37 USC chapters 3 and 5 for active duty. A member of the U.S. Armed Forces includes all regular and reserve components subject to the following jurisdictions, including the Coast Guard and commissioned officers and enlisted personnel of commissioned officers in these forces:

- Secretary of Defense
- Secretary of the Army
- Secretary of the Navy
- Secretary of the Air Force
- Coast Guard

See Publication 128, *Wisconsin Tax Information for Military Personnel and Veterans*, for additional information on this subtraction.

(f) Disaster relief work

Wisconsin does not tax wages earned in Wisconsin by a nonresident of Wisconsin from disaster relief work performed in Wisconsin in connection with a state of emergency declared by the Governor.

(g) Nonresident railroad employees, motor carrier transportation employees, air carrier employees, and interstate waterway workers

Federal law restricts the taxation of nonresident railroad, motor carrier, air carrier and interstate waterway employees who perform duties in more than one state.

- **Railroad and Motor Carrier Transportation Employees**

  Wages earned in Wisconsin while not a resident of Wisconsin by an employee of one of the following are not taxable to Wisconsin if the employee performs duties in two or more states:

  - An interstate railroad
  - A motor carrier providing transportation subject to the jurisdiction of the U.S. Department of Transportation
  - A motor private carrier

- **Airline Employees**

  Wages earned in Wisconsin while not a resident of Wisconsin by an employee of an air carrier are taxable to Wisconsin if the employee earns more than 50% of the compensation paid by the air carrier in Wisconsin. An employee is deemed to have earned 50% of compensation in Wisconsin if their scheduled flight time in Wisconsin is more than 50% of their total scheduled flight time in the calendar year while so employed.

  Wages paid by an airline to an employee on authorized leave or other authorized absence from regular duties to perform services on behalf of the employee's airline union in Wisconsin, during the period in which the employee is not a resident of Wisconsin, may be taxable to Wisconsin. They are taxable to Wisconsin only if the employee's scheduled flight time in Wisconsin would have been more than 50% of the employee's total scheduled flight time for the calendar year had the employee been engaged full-time in the performance of regularly assigned duties on the carrier's aircraft.

- **Interstate Waterway Workers**

  Wages paid to a licensed pilot or other worker on a vessel operating on the navigable waters of more than one state are subject to the income tax laws only of the state in which the individual resides. Therefore, such wages paid to a nonresident of Wisconsin are not taxable to Wisconsin.

  In the case of a part-year resident of Wisconsin, during the period in which the employee is a resident of Wisconsin, all such wages are taxable to Wisconsin. During the period in which the employee is not a resident of Wisconsin, the wages are not taxable to Wisconsin.

(4) Allocating income earned as an employee to Wisconsin

The Form W-2 which you receive from your employer may show the amount of Wisconsin wages (generally Box 16 of the Form W-2).

If your Form W-2 doesn't show your Wisconsin wages and you are unable to determine the specific amount, an allocation may be made on the basis of time. The following formula may generally be used to allocate wages for any portion of the year during which you were not a resident of Wisconsin:

$$\frac{\text{Days on which services were performed in Wisconsin}}{\text{Total days of service for which compensation is received during the year}} \times \text{Total wages from this employer} = \text{Amount allocated to Wisconsin}$$

For the portion of the year during which you were a Wisconsin resident, all wages (earned both in and outside Wisconsin) must be allocated to Wisconsin.

Example: You were employed in Colorado and were a resident of that state. Your employer required you to spend 15 days during 20XX at the company's main office in Wisconsin. Your annual salary was $40,000 which was compensation for 260 days. The amount of wages allocable to Wisconsin is $2,307.69, computed as follows:

$$\frac{15}{260} \times \$40{,}000 = \$2{,}307.69$$

(5) Stock options

(a) Resident of Wisconsin when income is recognized

If you are a Wisconsin resident (that is, domiciled in Wisconsin) at the time income from an employer-provided stock option is required to be recognized for federal tax purposes, the same amount that is taxable for federal tax purposes is also taxable by Wisconsin. This is true whether the stock option was attributable to services performed in Wisconsin or outside Wisconsin.

(b) Not a resident of Wisconsin when income is recognized

If you are not a resident of Wisconsin (that is, not domiciled in Wisconsin) at the time income from an employer-provided stock option is required to be recognized for federal tax purposes, the income is taxable by Wisconsin only to the extent attributable to services performed in Wisconsin.

The amount of income related to the stock option that is taxable for federal purposes must be allocated to reflect only the portion of the income attributable to services performed in Wisconsin. Depending on the facts and circumstances, one method of allocation that may produce a fair and equitable result is an allocation on the basis of time worked in and outside Wisconsin.

Under this method, if services are performed both in and outside Wisconsin, the portion taxable by Wisconsin to a nonresident is the income recognized for federal tax purposes multiplied by the ratio of days worked in Wisconsin during the employment contract period granting the option over total days worked under the contract.

If recognition of the income on an employer-provided stock option occurs when the stock purchased under the option is sold and the individual is not a resident of Wisconsin, the amount to be included in Wisconsin gross income will be the lesser of the gain recognized on the sale of the stock or the amount which would have been recognized at the exercise of the option, multiplied by the ratio of days worked in Wisconsin under the employment contract granting the option over the total days worked under the contract.

Example 1: You are granted a nonqualified stock option to purchase 1,000 shares of the company's stock for $10 per share as part of a five-year contract, with the ability to exercise the option any time after five years have passed. For the first two years of the five-year contract, you worked in Wisconsin. You were then transferred to Ohio, where you became a resident and worked the remaining three years of the contract. In 20XX, while an Ohio resident, you exercised the option and purchased the stock for $10,000. At the time of exercise, the stock had a fair market value of $20 a share or $20,000.

For federal tax purposes, you must recognize ordinary income of $10,000 ($20,000 fair market value of stock less $10,000 paid for the stock) for 20XX. The portion of the income from the nonqualified stock option which is attributable to services performed in Wisconsin and taxable by Wisconsin for 20XX is $4,000, determined as follows:

$$\frac{\text{2 (years worked in Wisconsin)}}{\text{5 (total years under employment contract)}} \times \$10{,}000 = \$4{,}000$$

Example 2: In 2015 you were granted an incentive stock option to purchase 1,000 shares of the company's stock for $6 per share as part of a five-year contract, with the ability to exercise the option any time after five years. You worked in Wisconsin for the five-year contract period and exercised the option in 2020. The fair market value of the stock at the time the option was exercised was $12 per share. Since this option qualified as an incentive stock option, you were not required to report income from the exercise of the option on your 2020 federal or Wisconsin income tax return.

You subsequently retired and moved to Florida in 2023. While a Florida resident, you sold the 1,000 shares of stock for $15,000. You report the $9,000 gain ($15,000 selling price less $6,000 cost) on the sale of the stock as a long-term capital gain on federal Schedule D (Form 1040).

Since you performed the services in Wisconsin during the five-year employment contract period, the amount taxable by Wisconsin is $6,000 (the lesser of the gain recognized on the sale of the stock or the amount that would have been recognized at the exercise of the option).

Under federal law the taxable amount is treated as a long-term capital gain. The $6,000 taxable by Wisconsin is also treated as a long-term capital gain. The $6,000 long-term capital gain will be netted with other capital gains and losses and be subject to the Wisconsin exclusion for 30% of net long-term capital gain.

(6) Nonresident members of professional athletic teams

A nonresident professional athlete is taxed on income from the performance of services in Wisconsin. When compensation is received for services performed both in and outside Wisconsin, the amount reportable to Wisconsin is determined by using the following formula:

$$\frac{\text{Wisconsin duty days}}{\text{Total duty days}} \times \text{Total compensation} = \text{Amount reportable to Wisconsin}$$

Total compensation includes salaries, wages, bonuses, and any other compensation received during the year. For additional information on duty days and what is included in total compensation, you may:

- See sec. Tax 2.31, Wis. Adm. Code
- Write to: Wisconsin Department of Revenue
  Audit Bureau
  PO Box 8906
  Madison, WI 53708-8906

- Phone (608) 266-2486
- Email your questions to DORIncome@wisconsin.gov

B. Scholarships and Fellowships

For federal tax purposes, a candidate for a degree may exclude from income the portion of a scholarship or fellowship grant spent for:

- Tuition or fees required to enroll in, or to attend, an educational institution
- Fees, books, supplies, and equipment required for the courses at the educational institution

Any remaining portion must be included in federal income. In addition, any part of a scholarship or fellowship, including any tuition reduction, which represents payment for services is taxable. This includes amounts received for teaching and research.

For Wisconsin, during a period when you are not a resident of Wisconsin, only the portion of a scholarship or fellowship that represents payment for services performed in Wisconsin is taxable. During a period in which you are a Wisconsin resident, scholarships and fellowships are taxable in the same manner as for federal tax purposes.

C. Business Income

If you are not a resident of Wisconsin and operate a sole proprietorship business partly within and partly outside Wisconsin, you must assign a portion of your business income (from federal Schedule C, C-EZ, or F) to Wisconsin using either the apportionment method or separate accounting.

Exception: Income from an out-of-state business from disaster relief work performed in Wisconsin in connection with a state of emergency declared by the Governor is not taxable to Wisconsin. An out-of-state business means a sole proprietorship that, except for disaster relief work during a disaster period, was not doing business in Wisconsin during the three taxable years immediately preceding the disaster period or the current taxable year in which the declared state of emergency occurs.

Under separate accounting, you must keep separate records of the income and expenses for the Wisconsin business. Individuals engaged in a nonunitary business must use separate accounting. A nonunitary business is one in which the operations in Wisconsin aren't dependent upon or contributory to the operations outside Wisconsin. A unitary business may use separate accounting only with the approval of the department. To obtain approval, send a written request to:

Wisconsin Department of Revenue
Mail Stop 3-107
PO Box 8906
Madison, WI 53708-8906

Under the apportionment method, you must assign a portion of the net business income, as shown on federal Schedule C, C-EZ, or F, to Wisconsin according to a formula. You are required to report a portion of your net business income to Wisconsin using the apportionment method if your Wisconsin operations are part of a unitary business. A unitary business is one that operates as a unit and cannot be segregated into independent operating divisions or branches. For more details on how to identify a unitary business, see Wisconsin Administrative Code sec. Tax 2.62.

If you use the apportionment method, you must complete one of the following schedules:

- Schedule A-01, *Wisconsin Single Sales Factor Apportionment Data for Nonspecialized Industries*
- Schedule A-02, *Wisconsin Apportionment Percentage for Interstate Financial Institutions*
- Schedule A-03, *Wisconsin Apportionment Percentage for Interstate Motor Carriers*
- Schedule A-04, *Wisconsin Apportionment Percentage for Interstate Telecommunications Companies*
- Schedule A-05, *Wisconsin Premiums Factor for Insurance Companies*
- Schedule A-06, *Wisconsin Receipts Factor for Interstate Brokers-Dealers, Investment Advisors, Investment Companies, and Underwriters*
- Schedule A-07, *Wisconsin Apportionment Percentage for Interstate Air Carriers*
- Schedule A-08, *Wisconsin Apportionment Percentage for Broadcasters*
- Schedule A-09, *Wisconsin Apportionment Percentage for Interstate Railroads*
- Schedule A-10, *Wisconsin Apportionment Percentage for Interstate Pipeline Companies*
- Schedule A-11, *Wisconsin Apportionment Percentage for Interstate Air Freight Forwarders Affiliated with a Direct Air Carrier*

See the instructions for those forms for details. For further information, see the common questions on the department's website at revenue.wi.gov.

D. Capital Gains and Losses and Sales of Business Assets

(1) Part-year residents of Wisconsin

A part-year resident of Wisconsin must include in Wisconsin income:

- All capital gain and loss received while a Wisconsin resident
- Capital gain and loss received from Wisconsin sources during the period in which the individual is not a resident of Wisconsin

(2) Nonresidents of Wisconsin

Capital gains and losses from Wisconsin sources are includable in Wisconsin income.

(3) Capital gain or loss from Wisconsin sources

Capital gain or loss from Wisconsin sources includes:

- Gain or loss from the sale of land, buildings, and machinery located in Wisconsin
- Your share of capital gain and loss from an estate or trust, partnership, or tax-option (S) corporation that has been reported on Wisconsin Schedule 2K-1, 3K-1, or 5K-1

  Caution: If you are a shareholder of a tax-option (S) corporation, partner of a partnership, or member of an LLC treated as a partnership that elected to be taxed at the entity level, do not report the amount of capital gain or loss from Schedule 5K-1 or 3K-1 on Schedule WD.
- Gain from the sale of stock acquired under an incentive stock option or employee stock purchase plan to the extent attributable to services performed in Wisconsin (see "Stock options" in Part 4.A.(5))

It doesn't include losses from business bad debts and worthless securities, gains or losses from sales of stocks (except gain from a stock sale as specified in the third bullet above), while you are not a resident of Wisconsin.

Example 1: While a nonresident of Wisconsin, you sell 100 shares of ABC Corporation stock and land located in Wisconsin. Your gain on the sale of stock is $5,000, and your gain on the sale of land is $2,500. Only the $2,500 gain on the sale of land located in Wisconsin is includable in Wisconsin income.

Example 2: You became a Wisconsin resident in August of 20XX. In September of 20XX, you sell 100 shares of DEF Corporation stock and real estate located in Arkansas. Your gain from the sale of stock is $1,500 and your gain from the sale of Arkansas real estate is $3,000. Both the $1,500 gain from the sale of stock and the $3,000 gain from the sale of real estate are includable in Wisconsin income.

Example 3: During 2022, while a nonresident of Wisconsin, you sold stock of GHI Corporation at a loss of $15,000. As a result of the capital loss limitations, you could deduct only $3,000 of the loss on your 2022 federal income tax return. The remaining $12,000 loss is carried forward to 2023. You become a Wisconsin resident in 2023. You may not deduct any portion of the capital loss carryforward on your Wisconsin income tax return for 2023 or any future year.

(4) Sale of your main home

For federal tax purposes, you may be able to exclude from income up to $250,000 ($500,000 if married filing a joint return) of gain on the sale of your main home. Any gain on the sale of your main home that is excluded from income for federal tax purposes is also excluded for Wisconsin.

Note: For a definition of "main home" and additional information on the exclusion of gain on the sale of your home, obtain federal Publication 523, *Selling Your Home*. This publication is available from the Internal Revenue Service (IRS).

Gain on the sale of a home located in Wisconsin that does not qualify for the exclusion is included in Wisconsin income, regardless of whether you are a resident or nonresident of Wisconsin at the time of sale. Gain on the sale of a home located outside Wisconsin that does not qualify for the exclusion is included in Wisconsin income only if you were a Wisconsin resident at the time of the sale.

Exception: You may reduce your taxable gain if any portion of the gain is a deferred gain from the sale of a former home located outside Wisconsin and either of the following apply:

- The sale or exchange of the former home occurred before 1975
- The sale or exchange of the former home occurred in 1975 or thereafter and you were not a Wisconsin resident at the time of the sale or exchange

Reduce any taxable gain by the amount of deferred gain on the home located outside Wisconsin.

You cannot deduct a loss on the sale of your home. If your employer reimburses you for a loss on the sale of your Wisconsin home and you receive the reimbursement while you are not a resident of Wisconsin, the reimbursement is not included in Wisconsin income.

(5) Installment sales

(a) Reporting taxable gain from an installment sale of property by individuals who move into Wisconsin

The gain portion of each installment payment received after an individual establishes Wisconsin residency is includable in Wisconsin income as follows:

- The gain is **included** in Wisconsin income for sales of -
    - Tangible property (for example, land, buildings, machinery) located in Wisconsin
    - Tangible property located outside Wisconsin if the seller was a Wisconsin resident on the date of sale
    - Intangible property (for example, stocks, bonds) if the seller was a Wisconsin resident on the date of sale
- The gain is **not included** in Wisconsin income for sales of -
    - Tangible property located outside Wisconsin if the seller was a nonresident on the date of sale of the tangible property
    - Intangible property if the seller was a nonresident on the date of sale

The interest portions of installment payments received by Wisconsin residents are taxable by Wisconsin, regardless of when the sale took place and whether the individual was a resident or nonresident at the time of sale.

(b) Reporting taxable gain from an installment sale of property by individuals who abandon their Wisconsin domicile

The gain portion of each installment payment received after you terminated your Wisconsin residency (that is, while not a resident of Wisconsin) is included in Wisconsin income as follows:

- The gain is **included** in Wisconsin income for sales of tangible property (for example, land, buildings, machinery) located in Wisconsin
- The gain is **not included** in Wisconsin income for sales of:
    - Tangible property located outside Wisconsin
    - Intangible property, regardless of where the property is located

The interest income portion of an installment payment received after terminating your Wisconsin residency is not taxable by Wisconsin.

(6) Sale of an installment obligation

Gain or loss on the sale of an installment obligation by a nonresident is included in Wisconsin income if the installment obligation resulted from the sale of tangible property located in Wisconsin.

Example: In 2021, you were a nonresident of Wisconsin. You sold real estate located in Wisconsin for $140,000. The adjusted basis of the property was $70,000 which resulted in a gross profit percentage of 50%. You received $40,000 as a down payment and an installment note for $100,000. You included the gross profit of $20,000 ($40,000 x 50%) in 2021 Wisconsin income. An additional $50,000 was paid off in 2022 of which you included $25,000 ($50,000 x 50%) in 2022 Wisconsin income. You sold the installment obligation for $55,000 in May of 2023. The gain on the sale of the installment obligation that you must include in Wisconsin income for 2023 is computed as follows:

Selling price of installment obligation		$55,000
Basis: Unpaid balance	$50,000	
Less profit due (50% x $50,000)	25,000	
Basis		25,000
Gain on sale of installment obligation to be included in Wisconsin income		$ 30,000

Gain or loss on the sale of an installment obligation by a nonresident generally is not included in Wisconsin income if the installment obligation resulted from the sale of intangible property or from the sale of tangible property located outside Wisconsin.

(7) Involuntarily converted property and like-kind exchanges

Federal law allows postponement of recognition of gain on an involuntary conversion or like-kind exchange of property when replacement property is purchased or received within a specified period of time.

Wisconsin follows these federal provisions. The recognition of gain realized from the involuntary conversion or like-kind exchange of property located in Wisconsin may be postponed when the recognition of gain may be postponed for federal tax purposes. This applies whether the replacement or exchanged property is located within or outside Wisconsin.

Note: For both federal and Wisconsin purposes, like-kind exchanges only apply to real property and that which is not held primarily for sale. Real property located outside the United States exchanged for real property located in the United States is not considered property of a like kind. This does not apply to property disposed of on or before December 31, 2017, and property received in an exchange on or before December 31, 2017.

Example: On June 30, 2022, you received $10,000 for involuntarily converted property located in Wisconsin. Your basis in the property was $7,500. You became a resident of Illinois on September 15, 2022, and purchased qualified replacement property in Illinois on April 1, 2023, for $11,000. You may postpone recognition of the $2,500 gain ($10,000 less $7,500 cost basis) for Wisconsin income tax purposes.

Gain from an involuntary conversion or like-kind exchange of property located outside Wisconsin and converted or exchanged while you were not a resident of Wisconsin is not included in Wisconsin income if the gain was postponed for federal income tax purposes.

Example: You were a resident of Ohio and owned property in Ohio which was condemned for public use. Your adjusted basis in the property was $25,000 and you received a condemnation award of $45,000. You realized a gain of $20,000 from the condemnation.

You elected to postpone paying tax on the gain and timely purchased replacement property (also in Ohio) for $47,000. Your basis in the new property for federal income tax purposes is $27,000 ($47,000 cost minus $20,000 gain postponed).

Subsequent to the involuntary conversion, you became a Wisconsin resident. Several years later, while still a Wisconsin resident, you sell the Ohio property for $65,000. For federal income tax purposes, you compute a gain of $38,000 ($65,000 selling price minus $27,000 adjusted basis). The portion of the gain ($20,000) attributable to the involuntary conversion that occurred before you became a Wisconsin resident may be excluded from Wisconsin income. Your gain for Wisconsin income tax purposes is $18,000. The difference in the gain for Wisconsin and federal purposes is reported on Wisconsin Schedule T and carried over to Schedule WD.

(8) Gain or loss on sale of assets acquired before becoming a Wisconsin resident

The Wisconsin basis of assets acquired before you become a Wisconsin resident is the same as the federal basis. Thus, gain or loss on the sale of such assets is the same for Wisconsin and federal tax purposes.

Example: You purchased stock for $5,000 while a nonresident of Wisconsin. You later became a Wisconsin resident. On the date you became a Wisconsin resident, the fair market value of the stock was $7,000. You sold the stock for $9,000 in 20XX. The gain for both federal and Wisconsin tax purposes is $4,000 ($9,000 selling price less $5,000 original cost).

Exception: The Wisconsin basis and the federal basis of assets may differ where the federal basis was adjusted due to deferred gain from the sale or exchange of property located outside Wisconsin (see "Sale of your main home" in Part 4.D.(4) and "Involuntarily converted property and like-kind exchanges" in Part 4.D.(7), earlier in this publication).

Note: See Publication 102, *Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders*, for information on the basis of stock in a tax-option (S) corporation.

(9) Sale of a partnership interest by a nonresident

Gain or loss on the sale of a partnership interest by an individual who is not a resident of Wisconsin is not taxable income or a deductible loss for Wisconsin purposes, except for the portion of the gain or loss that is related to sec. 751, IRC, tangible personal or real property located in Wisconsin. Both a general partnership interest and a limited partnership interest in a partnership are considered to be intangible personal property. In general, income or loss received by an individual who is not a Wisconsin resident from the sale of intangible assets is not taxable or deductible for Wisconsin.

Example: You are an Illinois resident. You are a general partner in ABC Partnership and a limited partner in DEF Partnership. Both partnerships operated solely in Wisconsin. In 20XX, you sold your partnership interests in both partnerships.

Under terms of the agreement for the sale of your interest in ABC Partnership, you received payment for a percentage of the value of the partnership's outstanding receivables (not including real property receivables) plus an amount for selling your interest in other intangible partnership assets. The sale agreement for your interest in DEF Partnership provided that a portion of the selling price is allocated to inventory that appreciated in value and the remainder is allocated to the sale of intangible partnership assets.

For federal purposes, you must treat the sale of your interest in each of the partnerships as the sale of two separate assets as provided in sec. 751, IRC. ABC Partnership's receivables and DEF Partnership's inventory items are sec. 751, IRC, property that, upon sale, are treated as ordinary gain or loss for federal purposes. Your interest in each partnership's non-sec. 751, IRC, property, upon sale, is treated as a capital gain or loss for federal purposes.

Neither your share of ABC Partnership's ordinary gain on the sale of the receivables nor the capital gain on the sale of the non-sec. 751, IRC, property is taxable income for Wisconsin purposes. Since you are a nonresident and your partnership interest consists solely of intangible personal property, the gain from the sale follows your residency. As a result, the sale of your interest in ABC Partnership is not reportable for Wisconsin income tax purposes.

Your share of DEF Partnership's ordinary gain on the sale of the inventory is taxable income for Wisconsin purposes; however, your share of the capital gain on the sale of intangible, non-sec. 751 IRC, property is not taxable income for Wisconsin purposes. The sale of inventory is tangible personal property and is directly allocated based on the location of the property. Therefore, the sale of DEF Partnership's sec. 751 IRC, inventory items located in Wisconsin are reportable to Wisconsin. The sale of the remaining non-sec. 751 IRC property is intangible income and follows your residency. Since you are an Illinois resident, the sale of non-sec. 751 IRC property is not reportable for Wisconsin income tax purposes.

Caution: When a tax option (S) corporation sells a partnership interest, the gain on the sale of the partnership interest may be considered apportionable business income and a nonresident shareholder would then be required to include their share of the Wisconsin source gain in their Wisconsin income. See Publication 102, *Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders*, for more information.

(10) Partnership sale of assets

If a partnership sells partnership assets located in Wisconsin, your distributive share of the gain or loss realized on the sale is taxable income or a deductible loss for Wisconsin purposes.

Example: You are a Texas resident and a general partner in GHI Partnership and a limited partner in JKL Partnership. Both partnerships have been operating solely in Wisconsin. In 20XX, both partnerships sold all of the partnership assets located in Wisconsin, including land, buildings, office equipment, and goodwill.

Your distributive share of the gains or losses realized by GHI and JKL Partnerships, other than on the sale of their goodwill, is taxable income or a deductible loss for Wisconsin purposes. A partnership that sells its assets passes through any gain or loss realized on the sale to its partners.

Since the property was located in Wisconsin, your distributive share of GHI Partnership's and JKL Partnership's gains or losses on the sale of tangible property is taxable or deductible by Wisconsin.

Your share of the gain or loss from the sale of each partnership's goodwill is not taxable income or a deductible loss for Wisconsin purposes. Since the goodwill is intangible property, your share of the gain or loss from its sale is not taxable by Wisconsin.

E. IRA Distributions, Pensions, and Annuities

(1) Distributions received while a Wisconsin resident

Except as provided below, individual retirement arrangement (IRA) distributions and payments (distributions) from retirement plans, life insurance annuity contracts, profit-sharing plans, stock bonus plans, and employee-savings plans received while a Wisconsin resident are taxable by Wisconsin, regardless of whether the distribution may be attributable to services performed as an employee outside Wisconsin.

Example: You retired from your job in Ohio on September 1, 20XX. On October 1, 20XX, you became a resident of Wisconsin. In November, you received a lump-sum distribution of $60,000 from your former Ohio employer's noncontributory retirement plan. The $60,000 is taxable by Wisconsin.

Exception: The following payments are not taxable by Wisconsin:

- Retirement benefits from the U.S. Railroad Retirement Board.
- Payments from the U.S. Civil Service Retirement System, the Wisconsin State Teachers retirement system, or various Milwaukee city or county retirement systems if the payments are made on the account of a person who was a member of such retirement system as of December 31, 1963, or who was retired from such system as of December 31, 1963.

- Retirement benefits from the U.S. military retirement system. This includes any retirement payments received from Defense Finance and Accounting Services (DFAS).
- Retirement benefits from the U.S. government that relate to service with the Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, or the commissioned corps of the Public Health Service.

(2) Distributions received from qualified plans by a nonresident of Wisconsin

Distributions received by an individual who is not a resident of Wisconsin from a qualified retirement plan or qualified deferred compensation plan are not taxable by Wisconsin, regardless of whether the distribution may be attributable to services performed in Wisconsin. This includes distributions paid to a resident estate or trust and subsequently distributed to nonresident beneficiaries on the estate or trust's Schedule 2K-1.

A "qualified retirement plan" or "qualified deferred compensation plan" includes income from:

- A qualified trust under sec. 401(a) of the IRC that forms part of a stock bonus, pension, or profit-sharing plan and which is exempt from taxation under sec. 501(a), IRC
- A simplified employee pension (SEP) under sec. 408(k), IRC
- An annuity plan under sec. 403(a), IRC
- An annuity contract under sec. 403(b), IRC (employees of a public school or tax-exempt organization)
- An IRA under sec. 7701(a)(37), IRC
- A deferred compensation plan of state and local governments and tax-exempt organizations under sec. 457, IRC
- A government plan under sec. 414(d), IRC
- A trust described in sec. 501(c)(18), IRC

Example: You retired from your job in Wisconsin on March 1, 20XX, and became a Florida resident on March 15, 20XX. On April 1, 20XX, you began receiving monthly payments from your former employer's qualified retirement plan. Amounts received while you are a Florida resident are not taxable by Wisconsin.

(3) Distributions received from nonqualified deferred compensation plans

Distributions from a nonqualified deferred compensation plan are treated as follows:

- If received while the individual is a Wisconsin resident, the distribution is taxable to Wisconsin.
- If received while the individual is not a resident of Wisconsin, the distribution is taxable to Wisconsin if the payment is attributable to services performed in Wisconsin (see **Exception** below).

Example: You retired on March 1, 20XX, after 30 years of service for ABC Corporation in Wisconsin. On April 1 you became a Florida resident. In May you received a lump-sum distribution of $200,000 from ABC Corporation's nonqualified deferred compensation plan. The $200,000 payment is taxable to Wisconsin because the entire payment is attributable to services performed in Wisconsin. For purposes of this example, it is assumed that the **Exception** below does not apply.

Exception: Federal law preempts taxation of certain distributions received from a nonqualified deferred compensation plan by an individual who is not a resident of Wisconsin. Nonqualified deferred compensation plan distributions received by an individual who is not a resident of Wisconsin are not taxable to Wisconsin if:

- The distribution is paid out in annuity form over the life expectancy of the individual or for a period of not less than 10 years; or
- The distribution is paid in either an annuity or lump sum from arrangements known commonly as "mirror" plans.

A mirror plan is a nonqualified retirement plan maintained by an employer solely for the purpose of providing benefits in excess of certain limits on contributions and benefits contained in the IRC which apply to qualified retirement plans. The benefits provided under a mirror plan are those benefits that would have been provided under the terms of a qualified retirement plan, but for the application of the following limits on contributions and benefits:

- Code section 401(a)(17): limits the amount of annual compensation that may be taken into account under a qualified retirement plan for purposes of computing benefits and contributions
- Code section 401(k): limits the amount of elective deferrals that may be made by a highly compensated employee to a qualified cash or deferred arrangement
- Code section 401(m): limits the amounts of employer matching contributions and after-tax employee contributions that may be made to a 401(k) plan on behalf of highly compensated employees
- Code section 402(g): limits the annual amount of elective deferrals that may be made to a 401(k) plan (or a similar arrangement)
- Code section 403(b): limits the amount of annual contributions that may be made to a tax-sheltered annuity maintained by certain tax-exempt entities and organizations
- Code section 408(k): limits the amount of elective deferrals that may be made by a highly compensated employee to a simplified employee pension (maintained by smaller employers)
- Code section 415: limits the amount of annual benefits that may be paid from a defined benefit plan and limits the amount of annual contributions that can be made to a defined contribution plan

Note: Contact your employer if you have a question as to whether a distribution is from a nonqualified deferred compensation plan.

(4) Penalties on retirement plans, Coverdell education savings accounts, ABLE accounts, and medical savings accounts

If you are subject to the federal tax penalty on a qualified retirement plan (including an IRA), a Coverdell education savings account, an ABLE account, a health savings account or an Archer medical savings account, you may be subject to a Wisconsin penalty. The Wisconsin penalty is equal to 33% of the federal tax penalty and applies if the action which caused you to owe the federal tax penalty occurred while you were a Wisconsin resident.

Example: You became a Wisconsin resident in July of 20XX. In August 20XX you received a distribution of $10,000 from your former employer's qualified retirement plan. For federal tax purposes you are subject to the 10% tax on early distributions. Since you were a Wisconsin resident when you received the early distribution, you are also subject to the Wisconsin penalty.

Note: Receipt of the $10,000 is the action which caused you to owe the federal tax penalty.

You are not subject to the Wisconsin penalty on retirement plans, education savings accounts, ABLE accounts, health savings accounts, or medical savings accounts if the action which caused you to owe the federal tax penalty occurred while you were not a resident of Wisconsin.

F. Losses

(1) Net operating losses

A net operating loss (NOL) incurred while you were not a resident of Wisconsin cannot be used to offset Wisconsin taxable income unless the NOL is attributable to Wisconsin business income and deductions.

Caution: An NOL may only be computed on a return that is filed within four years of the unextended due date of that return.

Obtain Publication 120, *Net Operating Losses for Individuals, Estates, and Trusts*, for additional information. For taxable years prior to 2018, use the worksheets found as attachments listed under Publication 120 to compute a Wisconsin NOL. Otherwise, use Schedule NOL1 to compute the Wisconsin NOL for the taxable year.

(2) Passive losses

Passive activity losses incurred while you are not a resident of Wisconsin and which are not allocable to Wisconsin may not be carried forward and deducted on a Wisconsin income tax return for a year in which you are a Wisconsin resident.

Example: You were a Minnesota resident. You are a partner in Partnership D which conducts business solely in Minnesota. You determine that you must treat the partnership interest as a passive activity. Your unallowed passive activity losses that may be carried forward to 2023 for federal tax purposes are $12,000.

On January 1, 2023, you became a Wisconsin resident. On your 2023 federal income tax return, you report passive activity income of $20,000 from Partnership D. For federal tax purposes, you are allowed to deduct the $12,000 of unallowed passive activity losses which were carried forward to 2023.

You must report $20,000 of income from Partnership D on your 2023 Wisconsin income tax return. You are not allowed to deduct the pre-2023 passive activity losses which were carried forward to 2023.

Passive activity losses incurred while you are a Wisconsin resident may be carried forward and deducted on a Wisconsin income tax return for a year in which you are not a resident of Wisconsin. The losses are deductible even though income from the passive activity may no longer be taxable by Wisconsin. The passive activity losses are allowed as a deduction on the Wisconsin income tax return for the same year in which they are allowed as a deduction on the federal income tax return.

Example: For 2022, you were a full-year resident of Wisconsin. You became a partner in two partnerships: Partnership A which conducts business solely in Illinois and Partnership B which conducts business solely in Wisconsin. You determine that you must treat the partnership interests as passive activities. Your unallowed passive activity losses that may be carried forward to 2023 for federal and Wisconsin tax purposes are as follows:

Partnership A (Illinois)	$6,200
Partnership B (Wisconsin)	$8,000

On January 1, 2023, you became an Illinois resident. For 2023, you report passive activity income of $2,000 from Partnership A and $30,000 from Partnership B. For federal tax purposes, you are allowed to deduct all of the unallowed passive activity losses which were carried forward to 2023.

The amount of income and loss from passive activities which you report on your 2023 Wisconsin income tax return is as follows:

Partnership A: Income from Partnership A, which does business solely in Illinois, is not taxable by Wisconsin. You are allowed to deduct $6,200 of previously unallowed passive activity loss that was incurred while you were a Wisconsin resident.

Partnership B: The income ($30,000) from Partnership B, which does business solely in Wisconsin, is taxable by Wisconsin. You are allowed to deduct the $8,000 of previously unallowed passive activity loss that was carried forward to 2023.

Caution: Wisconsin follows the federal treatment of passive activity losses. However, if there is a difference in the federal and Wisconsin definition of the IRC, any passive activity loss may have to be adjusted on Wisconsin Schedule I to account for the difference. The amount of passive activity losses allowed for Wisconsin are the losses from Wisconsin sources taken from federal Form 8582 as recomputed for federal purposes due to the Schedule I adjustments.

Caution: For 2023, how passive loss allocable to Wisconsin is reported on Form 1NPR has changed. See the 2023 Form 1NPR and Schedule M instructions. Also, refer to Common Question 7 for Passive Activity Losses on the department's website.

G. Gambling Winnings

(1) Part-year resident of Wisconsin

For the period of time during which you are a resident of Wisconsin, all gambling winnings are taxable by Wisconsin. For the period of time during which you are not a resident of Wisconsin, only gambling winnings specified below are taxable by Wisconsin.

(2) Nonresident of Wisconsin

If you are not a resident of Wisconsin, you are subject to Wisconsin income tax on:

- Winnings from the Wisconsin Lottery
- Winnings from a multijurisdictional lottery (for example, Powerball) if the multijurisdictional lottery ticket was purchased from a Wisconsin retailer
- Winnings from pari-mutuel wagering paid by a Wisconsin racetrack
- Winnings from a casino or bingo hall located in Wisconsin and operated by a Native American tribe or band

This includes all income realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if you originally purchased the winning tickets in Wisconsin.

(3) Withholding on gambling winnings

Wisconsin income tax is withheld on lottery winnings of $2,000 or more and pari-mutuel wager winnings over $1,000. The amount withheld is claimed as a credit on your Wisconsin income tax return for the year. Even if you are not required to file a Wisconsin income tax return (for example, you are a nonresident and your gross income is under $2,000), you must file Wisconsin Form 1NPR, *Nonresident and Part-Year Resident Income Tax Return*, to claim a refund of Wisconsin tax withheld from gambling winnings.

H. Unemployment Compensation and Supplemental Unemployment Benefits

Unemployment compensation and supplemental unemployment benefits may be taxable depending on whether you are a part-year resident or nonresident of Wisconsin.

(1) Part-year resident of Wisconsin

Unemployment compensation received while a resident of Wisconsin is subject to Wisconsin income tax, regardless of whether the payments relate to services performed in Wisconsin or another state. The taxable amount depends on filing status and income level. A worksheet is included in the Form 1NPR or Schedule M instructions, depending on the return year, for use in determining the amount of taxable unemployment compensation.

Supplemental unemployment benefits paid under a company plan and received while you are a resident of Wisconsin are subject to Wisconsin income tax.

(2) Nonresident of Wisconsin

Unemployment compensation received by an individual who is not a resident of Wisconsin is not taxable by Wisconsin, regardless of whether the payments relate to services performed in Wisconsin or another state.

Supplemental unemployment benefits paid by a Wisconsin employer under a company plan to an individual who is not a resident of Wisconsin are not taxable by Wisconsin.

I. Moving Expense

Federal law allows a deduction for certain moving expenses incurred by members of the Armed Forces on active duty who move pursuant to a military order and incident to a permanent change of station.

Moving expenses that are deductible under federal law and are incurred to move into Wisconsin by an individual who is establishing Wisconsin residence are deductible on the Wisconsin income tax return. Moving expenses incurred to move from Wisconsin by an individual who is abandoning Wisconsin residence or incurred by a nonresident to move between two locations are not deductible.

Example 1: You are a nonresident of Wisconsin. You file a 20XX Wisconsin Form 1NPR to report the gain on the sale of property located in Wisconsin. You claim a deduction on your federal return for expenses which were incurred for a move from Minnesota to California pursuant to military orders. The moving expenses may not be deducted on Form 1NPR for Wisconsin.

Example 2: You are a resident of Wisconsin from January 1 through August 31, 20XX. On September 1, 20XX, you move, pursuant to military orders, to Illinois, but remain a resident of Wisconsin. You file a 20XX Wisconsin Form 1 to report income earned during the year. You claim a deduction on your federal return for expenses which were incurred for the move from Wisconsin to Illinois. The moving expenses may be deducted on Form 1 for Wisconsin.

Example 3: You were a resident of Tennessee from January 1 through May 31, 20XX. On June 1, 20XX, you move, pursuant to military orders, to Wisconsin, but remain a Tennessee resident. You file a 20XX Wisconsin Form 1NPR to report income received after June 1, 20XX, from Wisconsin sources. You claim a deduction on your federal return for expenses which were incurred for the move from Tennessee to Wisconsin. The moving expenses may not be deducted on Form 1NPR for Wisconsin.

Note: Moving expenses that are deductible under federal law and are incurred to move a business out of Wisconsin are not deductible under Wisconsin law. Amounts which are deducted on your federal return must be added back to Wisconsin income.

J. Standard Deduction

You generally are allowed to claim a standard deduction on Wisconsin Form 1NPR (see **Exception** below).

Your standard deduction is based on your *federal* adjusted gross income using the Standard Deduction Table in the Form 1NPR instructions.

Your standard deduction is limited if you have nonwage income and can be claimed as a dependent on another person's income tax return. In this case, you must complete the Standard Deduction Worksheet for Dependents included in the Form 1NPR instructions.

Exception: You may not claim a Wisconsin standard deduction for any year in which:

- You are a nonresident alien or dual-status alien (see Part 6, "Aliens")
- You file a short period income tax return (return for a taxable year consisting of a period of less than 12 months)
- You exclude income from sources within U.S. possessions (Guam, American Samoa, or the Northern Mariana Islands) under sec. 931, IRC

Amended Returns – If, after filing Form 1NPR, you file an amended federal return, you must also file an amended Wisconsin return if the changes or corrections to your federal return also affect your Wisconsin net tax, credits, or carryover amounts. Thus, you generally must file an amended Wisconsin Form 1NPR if you make any changes to your federal return that affect your federal adjusted gross income.

Information on filing an amended Form 1NPR is included in the Form 1NPR instructions. Enclose the appropriate year's Schedule AR, *Explanation of Amended Return*, with your amended Form 1NPR.

Example: You are a nonresident of Wisconsin. You filed a 2021 Form 1NPR to report the sale of rental property located in Wisconsin. You subsequently amended your 2021 federal income tax return because you forgot to report a $10,000 gain realized on the sale of 500 shares of stock in ABC Corporation. Even though the gain on the sale of the stock is not taxable by Wisconsin, you must amend your 2021 Wisconsin Form 1NPR if the amount of your Wisconsin standard deduction changes because of the change to your federal adjusted gross income.

K. Deduction for Exemptions

You generally are allowed to claim a personal exemption deduction of $700 (see **Exception** below). A personal exemption deduction of $700 may also be claimed for a spouse if married filing a joint return.

You may claim an exemption of $700 for each person who qualifies as your dependent for federal income tax purposes.

If you (or you and your spouse if married filing a joint return) were age 65 or older on December 31 of the taxable year, an additional exemption of $250 may be claimed. If married filing a joint return and both spouses were age 65 or older on December 31 of the taxable year, an additional exemption of $250 may be claimed for each spouse.

Exception: You may not claim a personal exemption deduction if you can be claimed as a dependent on someone else's return.

L. Credits

Various credits are available on Wisconsin Form 1NPR. See Part 4.L.(24) of this publication for a chart showing which credits are available to part-year residents and nonresidents of Wisconsin.

Certain credits are no longer available. However, any unused credits may be carried forward and offset against tax for 15 years or until entirely used, whichever is earlier. These credits are:

- Manufacturer's sales tax credit
- Dairy and livestock farm investment credit
- Film production company investment credit
- Film production services credit
- Health insurance risk-sharing plan assessments credit
- Internet equipment credit
- Ethanol and biodiesel fuel pump credit
- Technology zones credit
- Opportunity zone investment credit
- Post-secondary education credit
- Water consumption credit
- Biodiesel fuel production credit
- Electronic medical records credit
- Veteran employment credit
- Research facilities credit
- Manufacturing investment credit

See Schedule CF for claiming the credit carryforward (Schedule MS if claiming the manufacturer's sales tax credit carryforward).

Following are brief explanations of the Wisconsin credits. For additional information on claiming these credits, see the Form 1NPR instructions.

(1) Wisconsin itemized deduction credit

Who May Claim the Credit – The Wisconsin itemized deduction credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – For federal tax purposes, deductions that are itemized on federal Schedule A (Form 1040) are allowed as a subtraction *from* federal adjusted gross income. Wisconsin does not allow a similar subtraction for itemized deductions. Instead, Wisconsin allows a credit against tax equal to 5% of the amount by which certain federal itemized deductions exceed the Wisconsin standard deduction.

The Wisconsin itemized deduction credit is computed on Schedule 1 of Form 1NPR. Certain amounts are taken from federal Schedule A (Form 1040) and used to complete Schedule 1. Other amounts from federal Schedule A (Form 1040) are not used to complete Schedule 1 (for example, taxes, interest paid on a second home located outside Wisconsin, miscellaneous deductions, etc.).

Caution: If you are a shareholder of a tax-option (S) corporation, partner of a partnership, or member of an LLC treated as a partnership, that elected to be taxed at the entity level, do not use any amounts from Schedule 5K-1 or 3K-1 in the computation of the itemized deduction credit.

(2) School property tax credit

Who May Claim the Credit – The school property tax credit is available to full-year residents and part-year residents of Wisconsin. It is not available to nonresidents of Wisconsin. However, if a joint return is being filed and one spouse is a full-year or part-year Wisconsin resident and the other spouse is a nonresident, the school property tax credit may be claimed on that joint return.

Computing the Credit – The credit is based on rent or property taxes paid for living quarters used as a principal home. Rent or property taxes paid for property not used as a principal home may not be used in computing the credit.

Example: You owned a home in Indiana and lived there from January through April of 20XX (four months). On May 1, 20XX, you became a Wisconsin resident. You rented an apartment in Wisconsin for the remainder of the year. You were unable to sell your home in Indiana. In December of 20XX, you paid $1,200 of property taxes on the Indiana home. You may claim the school property tax credit based on the amount of rent paid for May through December of 20XX and on $400 of property taxes paid on your home for the period during which you occupied the home (4/12 x $1,200 = $400).

Tables are provided in the Form 1NPR instructions for determining the credit amount.

(3) Married couple credit

Who May Claim the Credit – The married couple credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

The credit may be claimed only on a joint return, and both spouses must have earned income taxable by Wisconsin.

Example: You and your spouse became Wisconsin residents in June of the tax year. You were both employed in Kansas prior to becoming Wisconsin residents. After the move, you continued working but your spouse retired. You may not claim the married couple credit as your spouse does not have earned income taxable by Wisconsin.

Computing the Credit – The married couple credit is computed on Schedule 2 of Form 1NPR.

(4) Earned income credit

Who May Claim the Credit – The Wisconsin earned income credit is available only to full-year residents of Wisconsin. It is not available to nonresidents or part-year residents of Wisconsin.

If one spouse is a full-year Wisconsin resident and the other spouse is a nonresident or part-year resident of Wisconsin, the full-year resident may claim the credit on Form 1NPR if a joint return is filed.

Computing the Credit – The Wisconsin earned income credit is equal to a percentage of the federal earned income credit as computed under the IRC in effect for Wisconsin. The percentage is based on the number of qualifying children. Additional information on this credit is included in the Form 1NPR instructions.

Note: For Wisconsin, a married individual filing as married filing separate cannot claim the earned income tax credit. Only a married individual that qualifies to file as head of household under sec. 7703(b), IRC, may claim the credit on a separate return. An individual that meets the qualifications should use the head of household, married filing status if they file a separate Wisconsin return.

(5) Farmland preservation credit

Who May Claim the Credit – Farmland preservation credit is available only to full-year residents of Wisconsin. It is not available to nonresidents or part-year residents of Wisconsin.

If one spouse is a full-year Wisconsin resident and the other spouse is a nonresident or part-year resident of Wisconsin, the full-year resident may claim the credit on Form 1NPR if a joint return is filed.

For additional information on this credit, obtain Schedule FC or FC-A and its instructions or Publication 503, *Wisconsin Farmland Preservation Credit*.

(6) Credit for net income tax paid to another state

Who May Claim the Credit – Only full-year or part-year residents of Wisconsin may claim a credit for net income tax paid to another state. A nonresident of Wisconsin may not claim the credit, except in those cases where the credit is based on taxes paid by a tax-option (S) corporation, partnership, or LLC treated as a partnership on income earned while the person was a Wisconsin resident.

Caution: You may not claim a credit for net tax paid to another state if the tax was paid to the other state by a tax-option (S) corporation, partnership, or LLC treated as a partnership electing to pay tax at the entity level on a corporate or partnership return or a composite return filed on behalf of Wisconsin resident shareholders, partners, or members.

Computing the Credit – The credit may be allowed if you paid net income tax to another state or the District of Columbia on income earned while you were a Wisconsin resident. The income that was taxed by the other state must also be taxed by Wisconsin. The credit cannot be more than the amount of net tax paid to Wisconsin on income that is taxable to both Wisconsin and the other state. This limitation does not apply to income that is taxable to both Wisconsin and to Minnesota, Iowa, Illinois, or Michigan. The credit is a nonrefundable credit and cannot be more than your Wisconsin net tax.

Caution: You may not claim the manufacturing and agriculture credit based on eligible production activities income used to compute the credit for net income tax paid to another state.

The credit is allowed only for net tax paid to the other state. You may not claim credit for taxes paid, such as city tax, county tax, foreign tax, severance tax, education tax, building tax, etc., which are not paid directly to the other state.

Example: You became a Wisconsin resident in September of 20XX. Prior to becoming a Wisconsin resident, you lived and worked in Idaho. After you became a Wisconsin resident your only income was from employment in Wisconsin. You filed a 20XX Idaho income tax return which shows that you paid Idaho income tax of $1,400 on the income earned and received while you were an Idaho resident. You may not claim a credit on your 20XX Wisconsin Form 1NPR for the tax paid to Idaho. The income that was taxable by Idaho is not taxable by Wisconsin.

If only part of the income taxed by the other state is taxed by Wisconsin (for example, capital gain on assets held more than one year is taxed 100% for Illinois but only 70% for Wisconsin), your credit for net tax paid to other states is limited. The following formula is used to figure the amount of credit:

$$\frac{\text{Income taxable by both Wisconsin and other state}}{\text{Total income taxable by other state}} \times \text{Total net income tax paid to other state} = \text{Tentative credit}$$

The amount of the credit is limited to the lesser of the credit computed above or the amount of net tax payable to Wisconsin on the income taxable to both Wisconsin and the other state. The following formula is used to figure the credit limitation:

$$\frac{\text{Income taxable by both Wisconsin and other state}}{\text{Wisconsin income}} \times \text{Net income tax paid to Wisconsin} = \text{Maximum credit}$$

The amount of your credit is the lesser of the following:

- The tentative credit determined in the first formula above
- The maximum credit determined above
- The amount of tax paid to the other state

Additional information on the credit for net tax paid to another state can be found in the Schedule OS instructions and in Publication 125, *Credit for Tax Paid to Another State*.

(7) Homestead credit

Who May Claim the Credit – Homestead credit is available only to full-year legal residents of Wisconsin. It is not available to nonresidents or part-year residents of Wisconsin.

If one spouse is a full-year Wisconsin resident and the other spouse is a nonresident or part-year resident of Wisconsin, the full-year resident may claim the credit on Form 1NPR if a joint return is filed.

In order to qualify for the homestead credit, full-year residents of Wisconsin must be:

- Age 18 or older and meet one of the following:
  - Age 62 or older
  - Disabled
  - Have earned income if under age 62 and not disabled

Those with a household income under $24,680 for the tax year should obtain a copy of Schedule H, *Homestead Credit Claim*, to see if they qualify for the credit.

(8) Development zones credits

Who May Claim the Credits – Development zones credits are available to full-year residents, nonresidents, and part-year residents of Wisconsin.

The credits are available to persons doing business in Wisconsin development zones who have been certified by the Wisconsin Economic Development Corporation (WEDC).

For additional information on these credits, obtain Schedule DC, *Wisconsin Development Zones Credits*.

(9) Historic rehabilitation credits

Who May Claim the Credits – The historic rehabilitation credits are available to full-year residents, nonresidents, and part-year residents of Wisconsin.

The credits are available for preserving or rehabilitating historic property located in Wisconsin. Projects must be certified or approved through the State Historical Society of Wisconsin and/or WEDC.

For additional information on these credits, obtain Schedule HR, *Wisconsin Historic Rehabilitation Credits.*

(10) Repayment credit

Who May Claim the Credit – The credit for repayment of income previously taxed is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – If you repaid during the taxable year an amount that you included in Wisconsin income in an earlier year because at that time you thought you had an unrestricted right to it, you may be able to claim a credit based on the amount repaid. To qualify for the credit, the amount repaid must be over $3,000 and cannot have been subtracted in computing Wisconsin adjusted gross income or used in computing the Wisconsin itemized deduction credit.

Use the following steps to compute your credit:

(a) Refigure your tax from the earlier year without including in income the amount you repaid during the tax year at issue.

(b) Subtract the tax in (a) from the tax shown on your return for the earlier year. The difference is the amount of your credit.

(11) Working families tax credit

Who May Claim the Credit – The working families tax credit is available only to full-year residents of Wisconsin. It is not available to nonresidents or part-year residents of Wisconsin. It is also not available to persons who can be claimed as a dependent on another person's (for example, parents') income tax return.

If one spouse is a full-year Wisconsin resident and the other spouse is a nonresident or part-year resident of Wisconsin, the full-year resident may claim the credit on Form 1NPR if a joint return is filed.

Computing the Credit – For married persons filing a joint return, the credit is equal to the net tax liability for persons with Wisconsin income of $18,000 or less. The credit is phased out over the next $1,000 of income and is no longer available to married persons with Wisconsin income of $19,000 or more.

(12) Venture capital credits

Who May Claim the Credit – There are two venture capital credits, the angel investment credit and the early stage seed investment credit. Both credits are available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The angel investment credit is equal to 25% of a bona fide angel investment made directly in a qualified new business venture that is certified by the WEDC.

The early stage seed investment credit is equal to 25% of the initial investment paid in the taxable year to a fund manager that the fund manager invests in a business that is certified by the WEDC. For additional information on these credits, obtain Schedule VC, *Wisconsin Venture Capital Credits*.

(13) Veterans and surviving spouses property tax credit

Who May Claim the Credit – The veterans and surviving spouses property tax credit is available to full-year residents and part-year residents of Wisconsin.

The credit is available to surviving spouses of certain veterans who died while on active duty or to certain veterans (or their surviving spouses) who have a service-connected disability rating of 100% or a 100% disability rating based on individual unemployability.

Computing the Credit – The credit is equal to the amount paid during the tax year by the eligible veteran or surviving spouse for property taxes on their principal dwelling in Wisconsin.

(14) Enterprise zone jobs credit

Who May Claim the Credit – The credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The WEDC certifies a business for the amount of credit. For additional information on this credit, obtain Schedule EC, *Enterprise Zone Jobs Credit*.

(15)Economic development tax credit

Who May Claim the Credit – The economic development tax credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin. Claimants must be certified by the WEDC.

Computing the Credit – The credit is equal to the amount authorized by the WEDC. The credit is available for a job creation project, capital investment project, employee training project, or a project related to persons with corporate headquarters in Wisconsin. For additional information on this credit, obtain Schedule ED, *Wisconsin Economic Development Tax Credit*.

(16) Jobs tax credit

Who May Claim the Credit – The jobs tax credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin. Claimants must be certified by the WEDC.

Computing the Credit – The credit is equal to up to 10% of wages paid to an eligible employee and the amount of costs incurred to undertake certain training activities, as determined by the WEDC. For additional information on this credit, obtain Schedule JT, *Wisconsin Jobs Tax Credit.*

(17) Community rehabilitation program credit

Who May Claim the Credit – The community rehabilitation program credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The credit is equal to five percent of the amount paid in the taxable year to a community rehabilitation program to perform work for the claimant's business pursuant to a contract. For additional information on this credit, obtain Schedule CM, *Community Rehabilitation Program Credit.*

(18) Manufacturing and agriculture credit

Who May Claim the Credit – The manufacturing and agriculture credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The credit is equal to 7.5 percent of the eligible qualified production activities income from manufacturing property or agricultural property located in Wisconsin, For additional information on this credit, obtain Schedule MA-M, *Wisconsin Manufacturing Credit*, or Schedule MA-A, *Wisconsin Agricultural Credit*.

Caution:

- You may not claim a credit for the manufacturing and agriculture credit based on eligible production activities income used to compute the credit for net income tax paid to another state.
- If you are a shareholder of a tax-option (S) corporation, partnership, or LLC treated as a partnership that elected to be taxed at the entity level, and the manufacturing and agriculture credit is passed through

to you on Schedule 5K-1 or 3K-1, you may not claim the credit to offset tax imposed on income which is taxable to the entity.

(19) Research expense credits

Who May Claim the Credit – The research expense credits are available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The credits are available for increasing research activities in Wisconsin. For additional information on these credits, obtain Schedule R, *Wisconsin Research Credits*.

(20) Business development credit

Who May Claim the Credit – The business development credit is available to full-year residents, nonresidents, and part-year residents.

Computing the Credit – The credit is equal to a percentage of wages paid to eligible employees, the amount of training costs, and real and personal property investment as determined by the WEDC. For further information on this credit, obtain Schedule BD, *Business Development Credit*.

(21) Electronics and information technology manufacturing zone credit

Who May Claim the Credit – The electronics and information technology manufacturing zone credit is available to full-year residents, nonresidents, and part-year residents.

Computing the Credit – The credit is equal to a percentage of wages paid to eligible employees within the zone. An additional percentage of significant capital expenditures in the zone in the taxable year may be available. For further information on this credit, obtain Schedule EIT, *Electronics and Information Technology Manufacturing Zone Credit.*

(22) Employee college savings account contribution credit

Who May Claim the Credit – The employee college savings account contribution credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The credit is available for the proportionate share of an amount equal to the amount the employer paid into a college savings account owned by the employee in the taxable year in which the contribution is made. For further information on this credit, obtain Schedule ES, *Employee College Savings Account Contribution Credit*.

(23) Low-income housing credit

Who May Claim the Credit – The low-income housing credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The credit is equal to the amount certified by the Wisconsin Housing and Economic Development Authority. For further information on this credit, obtain Schedule LI, *Wisconsin Low-Income Housing Credit*.

(24) Residence Eligibility Summary for Wisconsin Credits

Wisconsin Credits - Who May Claim			
	Credit May be Claimed By:		
Credit	Part-Year Resident	Nonresident	
1. Itemized Deduction Credit*	Yes	Yes	
2. School Property Tax Credit	Yes	No	
3. Married Couple Credit	Yes	Yes	
4. Earned Income Credit	No	No	
5. Farmland Preservation Credit	No	No	
6. Net Income Tax Paid to Another State	Yes	No	
7. Homestead Credit	No	No	
8. Development Zones Credit	Yes	Yes	
9. Historic Rehabilitation Credit	Yes	Yes	
10. Repayment Credit	Yes	Yes	
11. Working Families Tax Credit	No	No	
12. Venture Capital Credits	Yes	Yes	
13. Veterans and Surviving Spouses Property Tax Credit	Yes	No	
14. Enterprise Zone Jobs Credit	Yes	Yes	
15. Economic Development Credit	Yes	Yes	
16. Jobs Tax Credit	Yes	Yes	
17. Community Rehabilitation Program Credit	Yes	Yes	
18. Manufacturing and Agriculture Credit	Yes	Yes	
19. Research Expense Credit	Yes	Yes	
20. Business Development Credit	Yes	Yes	
21. Electronics and Information Technology Manufacturing Zone Credit	Yes	Yes	
22. Employee College Savings Account Contribution Credit	Yes	Yes	
23. Low-Income Housing Credit	Yes	Yes	

*Nonresident aliens also see Part 6.F.(5)

Note: All of the above credits may be claimed by full-year residents of Wisconsin.

M. Withholding From Pass-Through Entities

A pass-through entity that has Wisconsin income for the taxable year that is allocable to a nonresident partner, member, shareholder, or beneficiary is required to withhold tax on the amount of pass-through income. A pass-through entity is a partnership, LLC treated as a partnership, a tax-option (S) corporation, an estate, or a trust that is treated as a pass-through entity for federal income tax purposes.

Note: If the entity is a tax-option (S) corporation, partnership, or LLC treated as a partnership electing to be taxed at the entity level, the requirement to withhold tax on the amount of pass-through income does not apply.

If you are a partner, member, shareholder, or beneficiary of a pass-through entity that withheld Wisconsin income tax, you will receive information as to the amount of tax withheld on the Schedule 2K-1, 3K-1, or 5K-1 that you received from the entity. Include the amount of tax withheld for you on Form 1NPR (line 58 since 2022). Enclose a copy of the Schedule 2K-1, 3K-1, or 5K-1 with your Form 1NPR.

Caution: Shareholders, partners, and members should not claim Wisconsin withholding from a tax-option (S) corporation, partnership, or LLC treated as a partnership if an election was made to be taxed at the entity level and:

- The tax-option (S) corporation, partnership, or LLC treated as a partnership claimed a refund of the pass-through withholding, or
- A written request was submitted to apply the pass-through withholding against the tax liability at the entity level.

5. ESTIMATED TAX PAYMENT REQUIREMENTS

Tax is required to be paid on income as it is earned or constructively received. Withholding tax and estimated tax are the two methods used to make those required tax payments.

If you work for wages, you generally have tax withheld from your wages to prepay any tax which will be computed on your income tax return for the year. If you have income from which tax is not withheld (for example, interest, dividends, pension or annuity income, gain from the sale of property, etc.), you must make estimated tax payments to prepay any tax that will be computed on your income tax return for the year.

You must make estimated tax payments if you expect to owe, after subtracting your withholding and credits, at least $500 in tax when filing your return. However, you do not have to make estimated tax payments if you expect your withholding to be at least one of the following:

- 90% of the tax that will be shown on your income tax return
- 100% of the tax shown on your Wisconsin income tax return for the preceding taxable year

Full-year residents, part-year residents, and nonresidents are subject to the estimated tax requirement.

Form 1-ES, *Wisconsin Estimated Tax Voucher*, must be submitted with your estimated tax payment. Use our estimated income tax interactive voucher on our website at revenue.wi.gov.

If you do not make required estimated tax payments, you may be charged interest on the underpayment. Wisconsin Schedule U, *Underpayment of Estimated Tax by Individuals, Partnerships, and Fiduciaries*, is used to determine if you owe interest for underpayment of estimated tax.

6. ALIENS

The information in Parts 1 through 5 of this publication generally applies for both U.S. citizens and aliens. However, certain provisions that affect aliens are discussed below.

A. Federal Resident Status

For tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are classified for federal tax purposes as nonresident aliens or resident aliens.

An alien must first determine whether he or she is a resident alien or nonresident alien before completing the federal income tax return for the year. Determining the correct status is important.

Resident Alien – You are a resident alien of the United States for federal tax purposes if you meet either the green card test or the substantial presence test during the calendar year.

Nonresident Alien – You are a nonresident alien of the United States for federal tax purposes if you do not meet either the green card or the substantial presence test during the calendar year or if one of the federal exceptions applies.

An alien whose status changes during the tax year from nonresident alien to resident alien, or vice versa, has a dual status for that year. This usually occurs for the year you arrive in or depart from the United States.

To determine whether you are a resident alien or nonresident alien, see the instructions for federal Form 1040-NR, *U.S. Nonresident Alien Income Tax Return* or federal Publication 519, *U.S. Tax Guide for Aliens*. This form and publication are available from the IRS.

B. Wisconsin Resident Status

If you are a nonresident alien for federal tax purposes for the entire taxable year, you are considered a nonresident of Wisconsin. If you are a resident alien for federal tax purposes for all or part of the taxable year, you may be a full-year resident, nonresident, or part-year resident of Wisconsin.

If you are a lawful permanent resident of the United States and you intend to remain permanently and indefinitely in Wisconsin, you are considered a Wisconsin resident. You are a lawful permanent resident of the United States at any time if you have been given the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant. You generally have this status if the federal government has issued you an alien registration card, also known as Form I-551, green card, or permanent residence card.

If you have not been granted immigrant status by the federal government, you are considered a nonresident of Wisconsin.

Exception: If you are a refugee or have been granted asylum and you intend to remain permanently and indefinitely in Wisconsin, you are considered a Wisconsin resident.

Example 1: For Wisconsin tax purposes, you must be a lawful permanent resident of the United States in order to be considered a resident of Wisconsin. On August 1, 2023, you were issued a green card by the federal government. As such, you are considered a Wisconsin resident as of August 1, 2023 (assuming your intent was to establish a domicile in Wisconsin). For the 2023 tax year, you are considered a part-year resident of Wisconsin (a nonresident of Wisconsin from January 1, 2023, through July 31, 2023, and a resident of Wisconsin from August 1, 2023, through December 31, 2023). As a part-year resident for 2023, you must file a 2023 Form 1NPR.

Note: Certain tax credits (for example, homestead credit and earned income credit) are not eligible to be claimed by part-year residents or nonresidents.

Example 2: You are a foreign student in this country with an "F" visa under the Immigration and Nationality Act. You may be classified for federal tax purposes as a nonresident alien or as a resident alien. Regardless of your alien status, you maintain your residence in your homeland. You are considered a nonresident of Wisconsin. A student with an "F" visa cannot become a resident of Wisconsin.

C. Who Must File a Wisconsin Income Tax Return?

If you are a full-year resident of Wisconsin, you must file your Wisconsin income tax return on Form 1. See the Form 1 instructions for information on filing requirements. Generally, if you are a nonresident or part-year resident of Wisconsin and your gross income (or the combined gross income of you and your spouse) is $2,000 or more for the tax year, you must file a Wisconsin income tax return on Form 1NPR. See Part 3, "Filing Requirements", for further information.

For purposes of determining whether you must file a Wisconsin income tax return, gross income does not include items exempt from Wisconsin income tax. For example, gross income does not include income which, under a treaty between the United States and a foreign country, is exempt from tax.

Example 1: You are a nonresident alien who is temporarily in the United States primarily to study at a university in Wisconsin. All of your income is exempt from tax because of a tax treaty between the United States and your country of residence. You do not have to file a Wisconsin income tax return because your gross income ($0) is under $2,000.

Example 2: You and your spouse are nonresident aliens temporarily in the United States primarily to study at a university in Wisconsin. During the tax year, you earned $6,500 as a teaching assistant of which $5,000 is exempt because of a tax treaty between the United States and your country of residence. Your spouse is employed and earned $3,200 that same year, none of which is exempt. You and your spouse must each file a Wisconsin income tax return because your combined gross income is $4,700 ($6,500 minus $5,000 plus $3,200).

Example 3: You are a nonresident alien temporarily living in Wisconsin. During 20XX, you received wages of $1,800 and interest income of $600 from a savings account at a Wisconsin bank. Your income is not exempt under a tax treaty. You are not required to file a Wisconsin income tax return for 20XX as your gross income ($1,800) is less than $2,000. Interest income received by a nonresident of Wisconsin is not income from Wisconsin sources and is not included in gross income (see Part 3.B.).

D. Filing Status

The filing status that may be chosen for Wisconsin tax purposes is limited for certain nonresident aliens. Following are brief descriptions of each Wisconsin filing status and the limitations that apply to nonresident aliens.

(1) Single

You are considered single if, on December 31 of the tax year, one of the following applies:

- You were never married
- You were legally separated under a final decree of divorce or separate maintenance
- You were widowed before January 1 of the tax year and did not remarry that year

For federal tax purposes, certain nonresident aliens who are married and have a child and who do not live with their spouses may file as single if they meet certain tests. See the instructions for federal Form 1040-NR for further information. This does not apply for Wisconsin. You cannot consider yourself single if you were married but lived apart from your spouse.

(2) Married filing joint return

If you are filing your federal return as a resident alien, you and your spouse may file a joint return if one of the following applies:

- You were married as of December 31 of the tax year
- Your spouse died during the tax year and you did not remarry that year
- You were married at the end of the tax year but your spouse died before filing that year's return

A married couple may file a joint return even if only one had income or if they did not live together all year. Both spouses must sign the return, and both are responsible for any tax due on the return. This means that if one spouse does not pay the tax due, the other may have to.

You may not file a joint return if either you or your spouse were a nonresident alien at any time during the tax year. You and your spouse must each file a separate return.

Exception: For federal income tax purposes, you may elect to be taxed as a U.S. resident for the whole year if either of the following applies to you:

- You were a nonresident alien on the last day of the tax year, and your spouse was a U.S. citizen or resident alien on the last day of the tax year.
- You were a nonresident alien at the beginning of the tax year, but you were a resident alien on the last day of the tax year and your spouse was a U.S. citizen or resident alien on the last day of the tax year. This also applies if both you and your spouse were nonresident aliens at the beginning of the tax year and both were resident aliens at the end of the tax year.

If you make this election, your worldwide income for the whole year must be reported as your federal income on federal Form 1040 or 1040-SR. (See federal Publication 519, *U. S. Tax Guide for Aliens,* for information on making this election and the signed statement that you must attach to your federal return.)

If you make this election for federal purposes, you may file a joint return for Wisconsin. Enclose a copy of the required federal statement with Form 1NPR.

Note: Even though electing to be treated as a U.S. resident, the nonresident alien spouse is still considered a nonresident of Wisconsin.

(3) Married filing separate return

If you were married and were a nonresident alien at any time during the tax year (including a dual-status alien), you must use the "married filing separate return" filing status for Wisconsin. This does not apply to nonresident aliens who make the federal election to be taxed as U.S. residents (see the **Exception** under "Married filing joint return" above).

(4) Head of household

If you qualify to file your federal income tax return using the head of household filing status, you also qualify to use the head of household filing status for Wisconsin.

An individual who is a nonresident alien at any time during the tax year may not use the head of household filing status for federal or Wisconsin tax purposes.

Exception: If you are a nonresident alien and your federal filing status is qualifying widow(er) with dependent child, use the head of household filing status for Wisconsin.

E. Tax Treaties

The United States (U.S.) has income tax treaties (conventions) with a number of foreign countries. Under these treaties, residents of foreign countries may be exempt from U.S. income taxes on certain items of income they receive from sources within the U.S. These exemptions vary depending on the country and the specific item of income.

Income that is exempt under a tax treaty for federal income tax purposes is also exempt for Wisconsin tax purposes. The starting point for determining Wisconsin taxable income is federal adjusted gross income. Income that is exempt under a tax treaty is not included in federal adjusted gross income and, therefore, is also not included in Wisconsin income.

You can find further information on tax treaties in federal Publication 901, *U.S. Tax Treaties*, which is available from the IRS.

F. Completing Form 1NPR When You Are a Nonresident Alien or Have a Dual Status

(1) Persons who file federal Form 1040-NR

The Wisconsin Form 1NPR instructions refer to lines on the federal Form 1040 or 1040-SR. They do not refer to lines on the federal Form 1040-NR.

When completing Form 1NPR, nonresident aliens should enter the amounts from page 1 of federal Form 1040-NR on the corresponding lines in the "Federal column" of Form 1NPR. If there is no corresponding line on Form 1NPR for an income or adjustment item, include the income item as "other income" (line 15 of Form 1NPR) and the adjustment item as "other adjustments" (line 28 of Form 1NPR).

Note: The amount you reported on line 1k of federal Form 1040-NR (income exempt by a treaty) should not be carried over to Form 1NPR.

Example: You are filing federal Form 1040-NR. The amount of your wages from line 1 of federal Form 1040-NR is entered in the "Federal column" on line 1, wages, salaries, tips, etc., of Form 1NPR. You reported an amount as scholarship and fellowship grants on Schedule 1, line 8r of federal Form 1040-NR. Since there is no corresponding line on Form 1NPR for scholarship and fellowship grants, the amount should be entered as "other income" in the "Federal column" on line 15 of Form 1NPR.

Note: See Part 4.B. for information on the Wisconsin taxation of scholarships and fellowships.

(2) Social security number

Certain aliens are not eligible to get a social security number. In this case, the IRS will issue the alien an Individual Taxpayer Identification Number (ITIN). If you are an alien who has been issued an ITIN by the IRS, fill in your ITIN wherever your social security number is requested on your Wisconsin return.

(3) Standard deduction

An individual who is a nonresident alien at any time during the year is not allowed a Wisconsin standard deduction. This includes all nonresident aliens and dual-status aliens who file their federal return on federal Form 1040-NR and all dual-status aliens who file their federal return on federal Form 1040 or 1040-SR. It does not include nonresident aliens and dual-status aliens who made the federal election to be taxed as a U.S. resident (see the **Exception** under "Filing Status, Married filing joint return" in Part 6.D.(2)).

Note: For federal tax purposes, some nonresident aliens may be able to claim a federal standard deduction due to a tax treaty provision. This does not apply for Wisconsin. A nonresident alien is not allowed a Wisconsin standard deduction.

(4) Deduction for exemptions

In addition to the personal exemption deduction of $700 for you and your spouse if married filing a joint return (see Part 4.K.), an exemption deduction of $700 may be claimed for each person who qualifies as your dependent for federal income tax purposes.

Generally, nonresident aliens may not claim an exemption for dependents on their federal return. However, if you are a resident of Mexico or Canada, or a U.S. national, you may claim an exemption for a dependent using the same rules as U.S. citizens. Under certain tax treaties residents of those countries may be eligible to claim an exemption for dependents if they meet the stipulated conditions. See IRS Publication 519 and the relevant tax treaty for additional information.

If you are a nonresident alien and are allowed to claim an exemption for a dependent based on these rules, you may claim a $700 exemption deduction for that dependent for Wisconsin.

(5) Wisconsin itemized deduction credit

Nonresident aliens who itemize deductions on federal Schedule A of federal Form 1040-NR may claim the Wisconsin itemized deduction credit. Certain amounts that are allowable as federal itemized deductions are allowed in the computation of the Wisconsin itemized deduction credit. However, the line references in the instructions for Schedule 1 of Form 1NPR refer to lines on federal Schedule A of federal Form 1040 or 1040-SR and not to federal Schedule A of federal Form 1040-NR.

If you are a nonresident alien, you should enter the amount of your gifts to U.S. charities from federal Schedule A of federal Form 1040-NR on line 3 of Schedule 1 of Form 1NPR. State and local income taxes and miscellaneous deductions are not used in the computation of the Wisconsin itemized deduction credit.

7. ADDITIONAL INFORMATION

A. IRS Adjustments and Amended Returns

If your federal income tax return is adjusted by the IRS and the adjustments affect your Wisconsin income, the amount of a Wisconsin credit, Wisconsin tax payable, a Wisconsin NOL carryforward, or a Wisconsin capital loss carryforward, you must report the adjustments to the department within 180 days after they become final. A copy of the final federal audit report must be submitted to the department by either of the following:

- Including it with an amended return that reflects the federal adjustments
- Mailing the copy to:

  Wisconsin Department of Revenue
  Audit Bureau
  PO Box 8906
  Madison, WI 53708-8906

If you file an amended return with the IRS or another state and the changes affect your Wisconsin income, the amount of a Wisconsin credit, Wisconsin tax payable, a Wisconsin NOL carryforward, or a Wisconsin capital loss carryforward, you must file an amended Wisconsin return with the department within 180 days.

If you filed your original return on Wisconsin Form 1 or 1NPR, you file an amended return by completing another Form 1 or 1NPR and checking the amended return box. See the General Instructions in the Form 1 or 1NPR instruction booklet for further information.

B. Wisconsin Forms and Publications

If you have questions about the Wisconsin tax treatment of part-year residents and nonresidents of Wisconsin, you may visit the department's website, email, write or call:

Visit our website . . . revenue.wi.gov

Email . . . DORIncome@wisconsin.gov

Write . . . Mail Stop 5-77
Wisconsin Department of Revenue
PO Box 8949
Madison, WI 53708-8949

Telephone . . . (608) 266-2486

If you need Wisconsin forms or publications, call (608) 266-1961 or you may download them from our internet website at revenue.wi.gov.

C. Federal Forms and Publications

If you need copies of federal forms and publications, they are available by calling the IRS toll-free at 1-800-829-3676 or from the IRS website at irs.gov.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations enacted as of March 21, 2024: ch. 71, Wis. Stats., chs. Tax 2 and 3, Wis. Adm. Code, and secs. 2, 56, 117, 121, 217, 220, 401, 402, 403, 408, 415, 422, 423, 469, 529A, 530, 751, 1031, 1033, 7701, 11502, and 14503, IRC

Laws enacted and in effect after this date, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to this date, that is contrary to the information in this document is superseded by this document, according to sec. 73.16(2)(a), Wis. Stats.