1996

Wisconsin
Tax-Option (S) Corporation Taxes
Form 5S Instructions

Important . . .

- ***1996 federal law changes***
  As of November 1, 1996, it was unknown whether the Wisconsin Legislature will adopt the federal changes to the S corporation law that apply federally for taxable years beginning January 1, 1997.

- ***Temporary recycling surcharge***
  The temporary recycling surcharge applies to corporations having at least $4,000 of total receipts from all activities. See page 1.

- ***Wisconsin use tax***
  Corporations that purchase taxable tangible personal property or taxable services for storage, use, or consumption in Wisconsin without payment of a state sales or use tax are subject to a Wisconsin use tax. See page 21.

- ***Extensions of time to file***
  If a corporation receives an extension of time to file its federal income tax return, the corporation is not required to send a copy of its federal extension form to the Wisconsin Department of Revenue or apply for a Wisconsin extension by the original due date of its Wisconsin return. The federal extension automatically extends the time for filing the Wisconsin return to 30 days after the federal due date, if the corporation attaches a copy of that extension to the return it files.

  If a corporation does not request a federal extension but needs additional time to file its Wisconsin return, it must apply to the Wisconsin Department of Revenue for a 30-day Wisconsin extension by the 15th day of the 3rd month following the close of its taxable year.

  If the original due date of a corporation's federal return is after the 15th day of the 3rd month following the close of its taxable year, the corporation may apply to the Wisconsin Department of Revenue for a Wisconsin extension until the original due date of its federal return.

Don't Forget . . .

- ***Use the preprinted label***
- ***Fill in your federal employer ID number***
- ***Fill out the form completely***
- ***Attach a copy of your federal Form 1120S and any other required schedules or statements***
- ***Attach a copy of any extension***
- ***Sign the return***

For More Information . . .

- ***Wisconsin Tax Bulletin***
  This quarterly newsletter published by the Department of Revenue provides information about new Wisconsin tax laws, court decisions, interpretations of law, etc. Subscriptions cost $7 per year.

- ***Topical and Court Case Index***
  This index gives references to Wisconsin statutes, administrative rules, *Wisconsin Tax Bulletin* tax releases and private letter rulings, publications, and court decisions. The index is published in December, with an addendum provided in May. The annual cost is $18, plus sales tax.

To order the bulletin or index, send a check made payable to "Document Sales" to the Wisconsin Department of Administration, P.O. Box 7840, Madison, WI 53707-7840.

Wisconsin Business Activity Codes

Using the list below, determine the proper code to enter in item D, Wisconsin Business Activity Code, on page 1 of your return. Enter the code which reflects the corporation's major business activity (the activity which accounted for the largest percentage of total receipts).

1. AGRICULTURE, FORESTRY, AND FISHERIES
0100 Agricultural Production — Crops and Miscellaneous Agriculture
0200 Agricultural Production — Livestock, Poultry, and Dairy Products
0700 Agricultural Services (veterinarians, kennels, landscaping, etc.)
0800 Forestry (timber tracts, seed gathering, etc.)
0900 Fishing, Hunting, and Trapping (commercial fishing, hatcheries, game and hunting preserves, etc.)

2. MINING
1000 Metal Mining
1300 Oil and Gas Extraction
1400 Mining and Quarrying of Nonmetallic Minerals (sand, gravel, stone, etc.)

3. CONSTRUCTION AND SPECIAL TRADE CONTRACTORS
1500 General Building Contractors (homes, offices, etc.)
1610 Highway and Street Construction
1620 Heavy Construction (bridges, pipeline, sewer, etc.)
1710 Plumbing, Heating, Air Conditioning
1720 Painting, Paper Hanging, Decorating
1730 Electrical Work
1740 Masonry, Stonework, Plastering, Tile
1750 Carpentry and Flooring
1760 Roofing and Sheet Metal
1770 Concrete Work
1780 Water Well Drilling
1790 Miscellaneous Special Trade Contractors

4. MANUFACTURING
A. Food and Kindred Products
2010 Meat Products
2020 Dairy Products
2030 Canned and Preserved Fruits, Vegetables, and Seafoods
2040 Grain Mill Products
2080 Beverages
2090 Other Food Products
B. Machinery, except Electrical
3510 Engines and Turbines
3520 Farm and Garden Machinery and Equipment
3530 Construction, Mining, and Materials Handling Machinery and Equipment
3540 Metalworking Machinery and Equipment
3550 Special Industry Machinery, except Metalworking Machinery
3560 General Industrial Machinery and Equipment
3590 Other Machinery, except Electrical
C. Other Manufacturing
2100 Tobacco Manufacturers
2200 Textile Mill Products
2300 Apparel and Other Fabricated Textile Products
2400 Lumber and Wood Products, except Furniture
2500 Furniture and Fixtures
2600 Paper and Allied Products
2700 Printing, Publishing, and Allied Industries
2800 Chemicals and Allied Products
2900 Petroleum Refining and Related Products
3000 Rubber and Miscellaneous Plastic Products
3100 Leather and Leather Products
3200 Stone, Clay, Glass, and Concrete Products
3300 Primary Metal Industries
3400 Fabricated Metal Products, except Machinery and Transportation Equipment
3600 Electrical and Electronic Machinery, Equipment, and Supplies
3700 Transportation Equipment
3800 Professional, Scientific, and Controlling Instruments; Clocks; Photographic and Optical Goods
3900 Other Manufacturing Industries

5. TRANSPORTATION
4000 Railroad Transportation
4100 Local and Suburban Transit Interurban Highway Passenger Transportation (buses, taxis, etc.)
4200 Motor Freight Transportation and Warehousing
4400 Water Transportation
4500 Transportation by Air
4600 Pipelines, except Natural Gas
4700 Transportation Services (travel agencies, freight forwarding, etc.)

6. COMMUNICATION
4810 Telephone Communication
4820 Telegraph Communication
4830 Radio and Television Broadcasting
4890 Other Communication Services (cable television, satellite, etc.)

7. ELECTRICAL, GAS, AND SANITARY SERVICES
4910 Electric Companies and Systems
4920 Gas Companies and Systems
4930 Combination Gas and Electric Companies
4940 Water Supply
4950 Sanitary Services (sewerage systems, rubbish collection, etc.)

8. WHOLESALE TRADE
5010 Motor Vehicles and Automotive Parts and Supplies
5020 Furniture and Home Furnishings
5030 Lumber and Construction Materials
5040 Sporting, Recreational, Photographic, Hobby Goods, Toys, and Supplies
5050 Metals and Minerals, except Petroleum and Scrap
5060 Electrical Goods
5070 Hardware, Plumbing, and Heating Equipment and Supplies
5080 Machinery, Equipment, and Supplies
5090 Miscellaneous Durable Goods
5110 Paper and Paper Products
5120 Drugs, Drug Proprietaries, and Druggists' Sundries
5130 Apparel, Piece Goods, and Notions
5140 Groceries and Related Products
5150 Farm-Product Raw Materials
5160 Chemicals and Allied Products
5170 Petroleum and Petroleum Products
5180 Alcoholic Beverages
5190 Miscellaneous Nondurable Goods

9. RETAIL TRADE
A. Building Materials, Hardware, Garden Supply, and Mobile Home Dealers
5210 Lumber and Other Building Materials
5230 Paint, Glass, and Wallpaper Stores
5250 Hardware Stores
5260 Retail Nurseries, Lawn, and Garden
5270 Mobile Home Dealers
B. Food Stores
5400 Grocery Stores — without alcohol license
5410 Grocery Stores — with alcohol license
5420 Meat and Fish Markets
5430 Fruit and Vegetable Markets
5440 Candy, Nut, and Confectionery Stores
5450 Dairy Products Stores
5460 Retail Bakeries
5490 Miscellaneous Food Stores (health food, coffee, etc.)
C. Automotive Dealers and Gasoline Service Stations
5510 Motor Vehicle Dealers — New and Used
5520 Motor Vehicles (used only)
5530 Tire, Battery, and Accessory Stores
5540 Gasoline Service Stations — Full-Service
5541 Gasoline Service Stations — Self-Service
5590 Miscellaneous Aircraft, Boat, and Automotive Dealers (including motor homes, campers, and utility trailers)
D. Apparel and Accessory Stores
5600 Clothing Stores (men's, women's, children's)
5660 Shoe Stores
5690 Miscellaneous Apparel and Accessory Stores
E. Furniture and Appliance Stores
5710 Furniture, Home Furnishings, and Equipment, except Appliances
5720 Household Appliance Stores
5730 Radio, Television, and Music Stores
F. Eating and Drinking Places
5800 Restaurants — with alcohol licenses
5810 Restaurants — without alcohol licenses
5813 Taverns
G. Miscellaneous Retail Stores
5310 Department Stores
5330 Other General Merchandise Stores
5910 Drug Stores — with alcohol licenses
5912 Drug Stores — without alcohol licenses
5920 Liquor Stores
5930 Used Merchandise Stores
5941 Sporting Goods and Bicycle Stores
5942 Book and Stationery Stores
5944 Jewelry Stores
5945 Hobby, Toy, and Game Shops
5946 Camera and Photographic Supply Stores
5947 Gift, Novelty, and Souvenir Shops
5948 Luggage and Leather Goods Stores
5949 Sewing, Needlework, and Piece Goods Stores
5961 Catalog and Mail Order Houses
5962 Vending Machine Operators
5963 Direct Selling (telephone and door-to-door)
5980 Fuel Dealers
5992 Florists
5993 Tobacco Stores and Stands
5995 Optical Goods Stores
5999 Other Retail Stores

10. FINANCE, INSURANCE, AND REAL ESTATE
6000 Depository Institutions (banks, credit unions, savings and loans)
6100 Nondepository Credit Institutions (agricultural, business, and personal credit)
6200 Security and Commodity Brokers
6300 Insurance Companies
6400 Insurance Agents, Brokers, and Service
6510 Real Estate Operators and Lessors
6530 Real Estate Agents and Managers
6540 Title Abstract Companies
6550 Subdividers and Developers
6700 Holding and Other Investment Companies (investment trusts, patent owners, investment clubs)

11. SERVICES
A. Hotels, Rooming Houses, Camps, and Other Lodging Places
7000 Hotels, Motels, Resorts — with alcohol licenses
7010 Hotels, Motels, Resorts — without alcohol licenses
7032 Sporting and Recreational Camps
7033 Trailer Parks and Camping Facilities
7040 Other Lodging Places
B. Personal Services
7210 Laundry, Cleaning, and Garment Services
7220 Photographic Studios
7230 Beauty Shops
7240 Barber Shops
7250 Shoe Repair and Shoeshine
7260 Funeral Services
7290 Other Personal Services (tax return preparation, dating services, tuxedo rental, etc.)
C. Business Services
7310 Advertising
7320 Consumer Credit Reporting and Collection Agencies
7330 Commercial Mailing, Reproduction, Art, Photography, and Stenographic Services
7340 Services to Buildings
7350 Miscellaneous Equipment Rental
7360 Personnel Supply Agencies
7370 Computer and Data Processing Services
7380 Other Business Services (guard services, photofinishing labs, news syndicates, etc.)
D. Repair Services
7510 Automotive Rentals and Leasing
7520 Automotive Parking
7530 Automotive Repair Shops
7540 Automotive Services, except Repairs (car washes, diagnostic centers)
7620 Electrical Repair Shops, except Radio and TV
7622 Radio and TV Repair Shops
7640 Reupholstery and Furniture Repair
7690 Miscellaneous Repair Services
E. Amusement and Recreation
7810 Motion Pictures Production or Distribution
7820 Motion Picture Theaters
7830 Video Tape Rentals
7910 Dance Studios, Schools, and Halls
7930 Bowling Alleys — with alcohol licenses
7933 Bowling Alleys — without alcohol licenses
7940 Professional Sports and Racetracks
7991 Physical Fitness Facilities
7992 Public Golf Courses
7993 Coin-Operated Amusement Devices and Arcades
7996 Amusement Parks
7997 Private Sports and Recreation Clubs
7999 Other Amusement and Recreation
F. Medical and Health Services
8010 Doctors Offices and Clinics
8020 Dentists Offices and Clinics
8040 Health Practitioners Offices
8050 Nursing Homes and Personal Care Facilities
8060 Hospitals
8090 Other Health Care Services
G. Other Services
8100 Legal Services (attorneys, law firms)
8200 Educational Services (schools, libraries, etc.)
8300 Social Services (day care, job training, vocational rehab., etc.)
8400 Museums, Art Galleries, and Botanical Gardens
8600 Non-Profit Membership Organizations — with alcohol licenses (business, civic, social, fraternal associations, etc.)
8610 Non-Profit Membership Organizations — without alcohol licenses
8710 Engineering, Architectural, and Surveying Services
8720 Accounting, Auditing, and Bookkeeping Services
8730 Research, Development, and Testing Services
8740 Management, Consulting, and Public Relations
8990 Services Not Elsewhere Classified

Purpose of Form

Tax-option (S) corporations use Form 5S to report their income, gains, losses, deductions, and credits; to compute their franchise tax and built-in gains tax liabilities; and to figure their temporary recycling surcharge.

Franchise or Income Tax

Franchise tax applies to

- All domestic corporations (those organized under Wisconsin law) and
- Foreign corporations (those not organized under Wisconsin law) doing business in Wisconsin, except where taxation is exempted by statute or barred by federal law.

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

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

Temporary Recycling Surcharge

The temporary recycling surcharge applies for taxable years ending after April 1, 1991, and ending before April 1, 1999. Corporations that must file Wisconsin franchise or income tax returns must pay the temporary recycling surcharge, with certain exceptions. The surcharge doesn't apply to:

- Domestic corporations that don't have any business activities in Wisconsin.
- Foreign corporations that don't have nexus with Wisconsin.
- Corporations that have less than $4,000 of total receipts from all activities. "Total receipts from all activities" means gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.
- Nuclear decommissioning trust funds.

For more information, see Publication 400, *Wisconsin's Temporary Recycling Surcharge*, which you may obtain from any Department of Revenue office.

Who Must File

- Corporations organized under Wisconsin law.
- Foreign corporations licensed to do business in Wisconsin.
- Unlicensed corporations doing business in Wisconsin.
- Foreign corporations having an interest in a partnership that does business in Wisconsin.
- Publicly traded partnerships treated as corporations in section 7704 of the Internal Revenue Code (IRC).
- Limited liability companies (LLCs) treated as corporations for federal income tax purposes.

Who Is Not Required to File

- Corporations and associations exempt under sec. 71.26(1), Wis. Stats., except those with (a) unrelated business taxable income as defined in IRC section 512, or (b) income derived from a health maintenance organization or a limited service health organization. This includes insurers exempt from federal income taxation under IRC section 501(c)(15), town mutuals organized under Chapter 612, Wis. Stats., foreign insurers, domestic insurers engaged exclusively in life insurance business, domestic mortgage insurers, some cooperatives, and religious, scientific, educational, benevolent, or other corporations or associations of individuals not organized or conducted for profit.
- Corporations that are completely inactive in and outside Wisconsin and have filed Form 4H.
- Credit unions that don't act as a public depository for state or local government funds and have filed Form CU.

Which Form to File

Form 4	Corporations (other than tax-option corporations) reporting under the apportionment or separate accounting methods.
Form 4H	Corporations that have been completely inactive in and outside Wisconsin for the entire taxable year and don't anticipate any activity in subsequent years. No other return is required until a corporation is activated, reactivated, or requested to file by the Department of Revenue. **Note:** Foreign corporations licensed to transact business in Wisconsin that have no property or activity in Wisconsin but are active outside Wisconsin may not file Form 4H. They must file Form 4, 5, or 5S but need only enter "No business transacted in Wisconsin" on the front of the return and attach a copy of their federal return.
Form 4I	Insurance companies, health maintenance organizations, and limited service health organizations.
Form 4T	Exempt corporations and associations of individuals that have unrelated business taxable income as defined in IRC section 512.
Form 5	Corporations (other than tax-option corporations) whose entire business income is attributable to Wisconsin.
Form 5E	Corporations that have elected and qualified to be S corporations for federal tax purposes but are electing not to be tax-option corporations for Wisconsin franchise or income tax purposes. In addition, such corporations must file Form 4 or 5.
Form 5R	Federal S corporations that elected not to be tax-option corporations for Wisconsin and subsequently are revoking their "opt-out" elections. In addition, such corporations must file Form 5S.
Form 5S	Tax-option (S) corporations.
Form 5S-1	Tax-option (S) corporations that are subject to the additional tax on built-in gains or claim a manufacturer's sales tax credit. File this form with Form 5S.
Form CU	Credit unions that don't act as a public depository for state or local government funds. These credit unions are exempt from taxation by Wisconsin. Once a Form CU has been filed, no other return must be filed unless requested by the Department of Revenue or the credit union subsequently acts as a public depository.

Sch. CU-1	Credit unions that act as a public depository. File this schedule with Form 4.
Sch. DC	Corporations claiming a Wisconsin development zone credit. File this schedule with Form 4, 4I, 4T, 5, or 5S.
Sch. EC	Corporations claiming a Wisconsin enterprise zone credit. File this schedule with Form 4, 4I, 4T, 5, or 5S.
Sch. FC	Corporations claiming a Wisconsin farmland preservation credit. File this schedule with Form 4, 4I, 4T, or 5.
Sch. FT	Corporations claiming a Wisconsin farmland tax relief credit. File this schedule with Form 4, 4I, 4T, or 5.
Sch. HR	Corporations claiming a Wisconsin historic rehabilitation credit. File this schedule with Form 4, 4I, 4T, 5, or 5S.
Sch. R	Corporations claiming a Wisconsin research credit. File this schedule with Form 4, 4I, 4T, or 5.

Where to Obtain Forms

If you need forms, call (608) 266-1961 or write to the Forms Request Office, Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903. To receive forms and publications by FAX, use your fax telephone to call the department's Fax-A-Form Retrieval System at (608) 261-6229. You may download forms and publications from the department's Internet website at http://www.dor.state.wi.us.

Where to Obtain Assistance

If you need help in preparing a corporation franchise or income tax return, call (608) 266-2772 or write to the Audit Bureau, Wisconsin Department of Revenue, P.O. Box 8906, Madison, WI 53708-8906.

Period Covered by Return

The return must cover the same period as the corporation's federal income tax return. A 1996 Wisconsin return must be filed by a corporation for calendar year 1996 or a fiscal year that begins in 1996. A fiscal year may end only on the last day of a month. However, corporations reporting on a 52 to 53 week period for federal tax purposes must file on the same reporting period for Wisconsin. The Department of Revenue will consider the reporting period as ending on the last day of the month closest to the end of the 52 to 53 week period for purposes of due dates, extensions, and assessments of interest and penalties.

Change in Accounting Period

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

Accounting Methods

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

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

Change in Accounting Method

A change in accounting method made for federal purposes must also be made for Wisconsin purposes, unless the change isn't authorized under the Internal Revenue Code in effect for Wisconsin. Adjustments required federally as a result of a change made while the corporation is subject to Wisconsin taxation must also be made for Wisconsin purposes, except in the last year that a corporation is subject to taxation by Wisconsin it must take into account all remaining adjustments required. Attach to the Wisconsin return, for the first taxable year for which the change applies, either a copy of the application for change in accounting method filed with the Internal Revenue Service and a copy of the IRS's consent if the IRS's approval is required or an explanation of the change.

Elections

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

If a different election is made, an adjustment(s) is required on the Wisconsin return (on Schedule V and/or Schedule W) to account for the difference. The difference in the election(s) could also result in a different contribution deduction since that deduction is limited to 10% of federal taxable income determined for Wisconsin purposes. This would also require an entry on either Schedule V or W.

When to File

Generally, a corporation must file its franchise or income tax return by the 15th day of the 3rd month following the close of its taxable year. However, Form 4T is due at the same time as federal Form 990-T, the 15th day of the 5th month after a nonprofit corporation's taxable year ends. If a return is filed late, without an extension, the corporation may be subject to penalties and interest.

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

Caution: The due date for paying franchise or income tax and the temporary recycling surcharge is explained below.

Extension of Time to File

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

If you aren't requesting a federal extension, but you need additional time for Wisconsin, you may request a 30-day extension by submitting Wisconsin Form IC-830, Application for Extension of Time to File, to the department on or before the original due date of the return.

A corporation whose original federal due date is later than the 15th day of the 3rd month following the close of the taxable year may request a Wisconsin extension to the federal due date by submitting Wisconsin Form IC-830, Application for Extension of Time to File, to the department by the original due date of the Wisconsin return. For example, a foreign corporation having no office or place of business in the United States may request a 3-month extension and a cooperative or a domestic international sales corporation (DISC) may request a 6-month extension.

Where to File

Mail your franchise or income tax return to the Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908.

When to Pay Franchise or Income Tax and Temporary Recycling Surcharge

The franchise or income tax and temporary recycling surcharge must be paid by the 15th day of the 3rd month following the close of the taxable period, *regardless of the due date of the return*. Corporations may be required to make quarterly estimated payments to prepay their franchise or income tax and temporary recycling surcharge.

An extension for filing the return doesn't extend the time to pay the franchise or income tax and temporary recycling surcharge. Interest will be charged on the tax and surcharge not paid by the 15th day of the 3rd month following the close of the taxable year. You can avoid interest charges during the extension period by paying the tax and surcharge due by that date. Submit your payment with Wisconsin Form 4-ES, Corporation Estimated Tax Voucher. If you have received a set of vouchers from the department, use the 5th voucher to make the estimated tax and surcharge extension payment.

During the extension period, 12% annual interest generally applies to the unpaid tax and surcharge. However, if the sum of the net tax and surcharge shown on the return is $500 or more, 12% annual interest applies only to 10% of the net tax and surcharge. Interest of 18% per year applies to the remainder of the unpaid tax and surcharge. See Form 4U, Part II.

Payment of Estimated Franchise or Income Tax and Temporary Recycling Surcharge

If the sum of a corporation's franchise or income tax due (tax minus credits) and temporary recycling surcharge is $500 or more, it generally must make quarterly estimated tax and surcharge payments using Wisconsin Form 4-ES. Failure to make required estimated tax and surcharge payments may result in an interest charge. If a corporation filed Form 4-ES for the current year, it will automatically receive estimated tax vouchers before the first payment of the next year's tax and surcharge is due.

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

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

Information Returns That May Be Required

Form 8 — Report of stock transfers.

Form 9b — Report of rents, royalties, and miscellaneous compensation paid to individuals. (Note: You may use federal Forms 1099 instead of Forms 9b. Mail Forms 1099 to the Wisconsin Department of Revenue, P.O. Box 8908, Madison, WI 53708-8908.)

If you must file federal information returns on magnetic media and you file at least 250 Forms 9b with Wisconsin, you generally must file Forms 9b on magnetic media. For more information, call (608) 267-3327 or write to the Bureau of Information Systems, Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903.

Final Return

If a corporation liquidated during the taxable year, check the box on the front of the return marked "Final return - corporation dissolved." Attach a copy of its plan of liquidation along with a copy of federal Form 966 to the Wisconsin return. Generally, the final return is due on or before the federal due date. In most cases, this is the 15th day of the 3rd month after the date the corporation dissolved. The tax is payable by the 15th day of the 3rd month after the date of dissolution, regardless of the due date of the final return.

Internal Revenue Service Adjustments and Amended Returns

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

If a corporation files an amended federal return and the changes affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must file an amended Wisconsin return with the Department of Revenue within 90 days after filing the amended federal return. To file an amended Wisconsin return, a tax-option (S) corporation should use Form 5S, clearly marked "Amended return" at the top of the form. Attach to the amended return an explanation of the changes made and the reasons for the changes. Also attach a worksheet showing how you figured your additional refund or amount owed. See section Tax 2.12, Wisconsin Administrative Code, for more information.

Send a copy of the final federal audit reports and amended returns to the Wisconsin Department of Revenue, P.O. Box 8991, Madison, WI 53708-8991. If submitting a federal audit report without an amended return, mail it to the Audit Bureau, Wisconsin Department of Revenue, P.O. Box 8906, Madison, WI 53708-8906. Don't attach these items to the tax return for the current year.

Capital Losses

If a corporation has a net capital loss, the loss must be carried to other taxable years and deducted from capital gains in those years, as provided in IRC section 1212. However, a corporation can't carry back a loss to taxable years before 1987. Losses that can't be carried back may be carried forward 5 years.

Personal Holding Company

The intangible income of a personal holding company is assigned to its state of incorporation. "Personal holding company" has the meaning prescribed in IRC section 542 in effect on December 31, 1974.

Foreign Sales Corporations (FSCs)

A corporation that qualifies as a FSC for federal income tax purposes is taxable as a separate corporation if it has nexus with Wisconsin and is a viable corporation with substance. A FSC computes its net income as provided under IRC sections 921 to 927. That portion of the FSC's foreign trade income which is exempt from federal income tax is also excluded from Wisconsin taxable income.

Interest Charge Domestic International Sales Corporations (IC-DISCs)

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

Urban Transit Companies

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

Consolidated Returns

Wisconsin law doesn't permit corporations that are members of an affiliated group, as defined in IRC section 1504, to file consolidated returns. Each corporation organized under Wisconsin law, licensed to do business in Wisconsin, or doing business in Wisconsin must file a separate Wisconsin franchise or income tax return. In addition, each corporation must make its own estimated tax payments.

Penalties for Not Filing or Filing Incorrect Returns

If you don't file a franchise or income tax return that you are required to file, or if you file an incorrect return due to negligence or fraud, interest and penalties may be assessed against you. The interest rate on delinquent taxes is 18% per year. Civil penalties may be as much as 100% of the amount of tax not reported on the return. Criminal penalties for filing a false return include a fine of up to $10,000 and imprisonment.

Special Instructions for S Corporations

Who Must File Form 5S

Form 5S is used if a corporation has elected and qualified to be an S corporation for federal income tax purposes, files federal Form 1120S, and hasn't elected to opt out of tax-option status for Wisconsin, as explained later. Under federal law, an S corporation is one that has an election in effect for a taxable year under Subchapter S of the Internal Revenue Code not to pay any corporate tax on its income and, instead, to have the shareholders pay taxes on the income. If the corporation incurs a loss, the loss is treated as the shareholders' loss.

Wisconsin Law for Taxable Years Before 1987

For 1978 and prior taxable years, Wisconsin law didn't permit corporations to elect federal Subchapter S treatment for Wisconsin purposes.

For the 1979 through 1986 taxable years, corporations that had elected and qualified federally to be treated as Subchapter S corporations were required to be treated as tax-option (S) corporations for Wisconsin tax purposes. However, these tax-option (S) corporations were required to compute their net income or net loss under Wisconsin corporate franchise or income tax law in the same manner as other corporations that filed Wisconsin franchise or income tax returns. Tax-option (S) corporations didn't pay a Wisconsin franchise or income tax if the corporate net income was reported by their shareholders. If the corporation incurred a net loss for the year, the loss was treated as the shareholders' loss.

For Wisconsin tax purposes, unlike for federal tax purposes for taxable years beginning after December 31, 1982, tax-option (S) corporations weren't treated as pass-through entities similar to partnerships. Instead, corporate income or loss retained its character as business income or loss and didn't flow through as individual items of income, expense, capital gain or loss, etc.

Wisconsin Law for Taxable Year 1987 and After

Beginning with the 1987 taxable year, the Wisconsin tax-option (S) corporation law is federalized; that is, based on the federal Internal Revenue Code. Federal S corporations that are treated as tax-option corporations for Wisconsin compute their income under the Internal Revenue Code in effect for Wisconsin purposes.

In addition, tax-option (S) corporations are now treated as pass-through entities similar to partnerships, the same as for federal purposes. Items of income, loss, and deduction retain their character as business income or loss but pass through to the shareholders and are included in the shareholders' returns as if received or accrued, paid or incurred directly by the shareholders. Because all tax-option items retain their character as business income or loss, a nonresident shareholder's share, as well as a resident's share, of a tax-option (S) corporation's intangible income, except interest on United States government obligations, bonds issued by the government of Puerto Rico, and certain state and municipal government bonds, continues to be taxable by Wisconsin.

Definition of a Tax-Option (S) Corporation

For Wisconsin purposes, a "tax-option (S) corporation" is defined as "a corporation which is treated as an S corporation under subchapter S of the internal revenue code and has not elected out of tax-option corporation status under s. 71.365(4)(a) for the current taxable year."

Definition of Internal Revenue Code

For taxable years that begin in 1996, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1995. However, IRC section 1366(f), relating to the reduction in pass-throughs for taxes at the S-corporation level, is modified by substituting the Wisconsin built-in gains tax for the taxes imposed under IRC sections 1374 and 1375.

Federal law changes enacted after December 31, 1995, generally won't apply for Wisconsin purposes unless subsequently adopted by the Wisconsin Legislature, except for depreciation and amortization as noted below.

For assets placed in service in 1996, you may compute depreciation or amortization under the same method as for federal purposes, rather than under the Internal Revenue Code as amended to December 31, 1995.

Show adjustments necessary to account for any differences between amounts reportable for federal and Wisconsin purposes on Schedule 5K, column c.

Corporations Subject to Wisconsin Tax-Option (S) Law

Corporations that are required to file Wisconsin franchise or income tax returns and are included in the definition of a "tax-option corporation" are subject to Wisconsin's tax-option (S) law. To be treated as a tax-option corporation for Wisconsin, a corporation isn't required to file a separate election form with the Wisconsin Department of Revenue. Wisconsin's tax-option (S) law is mandatory for those corporations under Wisconsin's jurisdiction for franchise or income tax purposes that have an election in effect under Subchapter S of the Internal Revenue Code for a taxable year and haven't changed their status for Wisconsin under sec. 71.365(4)(a), Wis. Stats. However, if a corporation had elected not to be a tax-option corporation for Wisconsin purposes and subsequently wants to re-elect tax-option status for Wisconsin, it must file Form 5R, Revocation of Election by an S Corporation Not to Be a Tax-Option Corporation, with the Wisconsin Department of Revenue.

To qualify for federal S corporation treatment under the Internal Revenue Code, a corporation must meet all of the following requirements:

1. It must be domiciled in the United States. That is, it must be created or organized in the United States under federal or state law.

2. It must have only one class of stock. A corporation is treated as having only one class of stock if all outstanding shares of stock of the corporation confer identical rights to distributions and liquidation proceeds. Stock may have differences in voting rights and still be considered one class of stock. Straight debt isn't treated as a second class of stock if certain conditions are met. See the Internal Revenue Code and federal regulations for further details.

3. It must have no more than 35 shareholders.

4. It must have as shareholders only individuals, estates, and certain trusts. Grantor, voting, qualified Subchapter S, and, for certain periods of time, testamentary trusts may be shareholders. Corporations, partnerships, and foreign trusts can't be shareholders.

5. It must not have a nonresident alien as a shareholder.

6. It must not be a member of an affiliated group of corporations as generally determined under IRC section 1504.

7. It must not be a DISC (domestic international sales corporation), an IC-DISC (interest charge domestic international sales corporation), or a former DISC; a corporation that takes the tax credit for doing business in a United States possession; a financial institution that takes deposits and makes loans; or an insurance company taxed under Subchapter L of the Internal Revenue Code (with certain exceptions).

(Note: This is a very brief summary of the federal requirements. Refer to IRC section 1361(b), as amended to December 31, 1995, for more details.)

Shareholders Subject to Wisconsin Tax-Option (S) Law

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

For example, persons who are residents of Wisconsin as well as those who are residents of other states are subject to Wisconsin tax-option (S) law, if they are —

- Shareholders of a tax-option (S) corporation which is organized under the laws of Wisconsin and engaged in business (1) completely in Wisconsin, (2) in and outside Wisconsin, or (3) completely outside Wisconsin.

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

Combined Return for Nonresident Shareholders

A tax-option (S) corporation that does business in Wisconsin and has two or more nonresident shareholders who derive no taxable income or deductible loss from Wisconsin other than their pro rata shares of the Wisconsin tax-option (S) corporation income or loss may file a combined individual and fiduciary income tax return on behalf of those shareholders. The tax-option (S) corporation files this return on Form 1CNS.

A shareholder may not participate in this combined return if —

- The shareholder is an estate or trust that has distributable income in the current year. This includes qualified Subchapter S trusts (QSSTs) and their beneficiaries.
- The shareholder files his or her individual income tax return on a fiscal year basis.
- The shareholder is a Wisconsin resident during any part of 1996.
- The shareholder derives taxable income from Wisconsin in 1996 other than his or her pro rata share of tax-option (S) corporation income or loss.

Each qualifying and participating shareholder's pro rata share of tax-option (S) corporation income or loss for a corporation's taxable year ending between January 31, 1996, and December 31, 1996, is reported on a 1996 Form 1CNS. The combined return replaces the separate 1996 Wisconsin individual or fiduciary income tax returns that otherwise would be filed by each of the qualifying and participating nonresident shareholders. The 1996 Form 1CNS is due on April 15, 1997. You may obtain Form 1CNS from any Department of Revenue office.

Tax on Net Income of a Tax-Option (S) Corporation

Since all shareholders of a tax-option (S) corporation who meet the applicable Wisconsin filing requirements must file Wisconsin individual income tax returns and report their shares of the corporation's income, loss, and deductions, a tax-option (S) corporation generally isn't subject to a corporate income tax or franchise tax measured by its net income, other than interest income from U.S. government obligations and certain state and municipal bonds. However, a tax-option (S) corporation may be taxed on a nonfiling or delinquent shareholder's share of the corporation's net income. A tax-option (S) corporation can't offset a net operating loss carryforward from a year when it was a regular (C) corporation against a nonfiling or delinquent shareholder's share of the corporation's income.

Wisconsin Accounting Periods for Tax-Option (S) Corporations

As previously indicated, tax-option (S) corporations must adopt the same accounting period for Wisconsin as for federal purposes. If a tax-option (S) corporation elects, under IRC section 444, to have a taxable year other than a required taxable year, that election also applies for Wisconsin. Unlike for federal purposes, the corporation doesn't have to make a required payment of tax as provided in IRC section 7519.

Termination of Tax-Option (S) Treatment

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

A. Voluntary

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

B. Involuntary

A corporation's Subchapter S status under the Internal Revenue Code will be involuntarily terminated for federal (and, therefore, also for Wisconsin) purposes if —

1. The corporation had accumulated Subchapter C earnings and profits at year-end and its passive investment income exceeded 25% of gross receipts for each of 3 consecutive taxable years. The election is terminated as of the first day of the taxable year beginning after the third consecutive taxable year in which there is excess passive investment income.

2. The corporation ceases to be a qualifying Subchapter S corporation. (The Internal Revenue Service may waive inadvertent termination and such waiver also applies for Wisconsin.)

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

Additionally, a corporation may elect, under sec. 71.365(4)(a), Wis. Stats., not to be a tax-option (S) corporation for Wisconsin tax purposes even though its federal S election remains in effect. See "Electing Out of Wisconsin Tax-Option (S) Treatment" below.

Electing Out of Wisconsin Tax-Option (S) Treatment

A corporation that is an S corporation for federal tax purposes may elect not to be a tax-option (S) corporation for Wisconsin tax purposes. This "opt-out" election requires the consent of persons who hold more than 50% of the shares of the tax-option (S) corporation on the day on which the "opt-out" election is made. To be effective for the current taxable year, the election must be made on or before the due date or extended due date of the corporation's current Wisconsin franchise or income tax return. The election is completed by the filing of a Wisconsin franchise or income tax return in accordance with the election. For more information, see the tax release in *Wisconsin Tax Bulletin* 91 (April 1995, page 18).

To make the "opt-out" election, the corporation must file a copy of Form 5E, Election by an S Corporation Not to Be Treated as a Tax-Option Corporation. Corporations that make the "opt-out" election must file Form 4 or Form 5 for Wisconsin rather than Form 5S.

Once the election not to be a tax-option (S) corporation is completed, the corporation and its successors may not claim Wisconsin tax-option status for the next 4 taxable years after the taxable year to which the "opt-out" election first applies. At any time after this 5-taxable-year period, the corporation may revoke the "opt-out" election by filing Form 5R, Revocation of Election by an S Corporation Not to Be a Tax-Option Corporation. Revoking the "opt-out" election requires the consent of persons who hold more than 50% of the shares of the S corporation on the day the revocation is made. Form 5R must be filed on or before the due date, including extensions, of the Wisconsin franchise or income tax return for the first taxable year affected by the revocation.

You may obtain Form 5E or 5R from any Department of Revenue office.

Additional Information

For additional information about Wisconsin tax-option (S) law, see Publication 102, *Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders*. You may obtain Publication 102 from any Department of Revenue office.

Line-by-Line Instructions

You must complete page 1 of Form 5S. (The numbering corresponds with the line numbers on Form 5S, page 1, unless otherwise indicated.)

Caution: The Internal Revenue Service hasn't finalized the 1996 federal corporation tax forms at the time of this printing. Therefore, federal line numbers referred to on Form 5S and in these instructions may change.

Rounding Off to Whole Dollars

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

■ **Period Covered** — File the 1996 return for calendar year 1996 and fiscal years that begin in 1996. For a fiscal year or a short-period return, fill in the taxable year beginning and ending dates in the taxable year space at the top of the form.

■ **Name and Address** — If the front cover of your booklet has a mailing label with the corporation's name and address, remove the label and place it in this area. Make any necessary corrections on the label.

If you didn't receive a booklet with a label, print or type the corporation's name and address. Indicate a change in the corporation's name or address from that shown on last year's Wisconsin return filed by checking the appropriate box.

Corporations that change their name must also notify the Department of Financial Institutions to recognize the change. Write to the Division of Corporate and Consumer Services, Department of Financial Institutions, P.O. Box 7846, Madison, WI 53707-7846 or call (608) 261-9555.

■ **A. Federal Employer Identification Number** — Enter the corporation's federal employer identification number (EIN). If you haven't yet applied for a federal EIN, you may do so by filing federal Form SS-4 with the Internal Revenue Service. (Corporations reporting federally to the Kansas City Service Center may obtain an EIN by calling (816) 926-5999.)

■ **B. Seller's Permit or Use Tax Number** — Enter the corporation's Wisconsin seller's permit, use tax, or consumer's use tax number.

■ **C. Wisconsin Employer Identification Number** — Enter the corporation's Wisconsin employer identification (withholding) number.

■ **D. Wisconsin Business Activity Code** — Enter the corporation's Wisconsin business activity code from the table on back of the front cover of this booklet. Don't enter the federal business activity code.

■ **E. First Return, Final Return, Short Period - Change in Accounting Period, and Short Period - Stock Purchase or Sale** — If this is the first year that a corporation is filing a Wisconsin return because it wasn't in existence or didn't do business in Wisconsin in prior years, check the "First return" box. If the corporation ceased to exist or withdrew from Wisconsin during the year, check the "Final return" box. Indicate that a short period return is being filed due to a change in the corporation's accounting period or a stock purchase or sale by checking the appropriate box.

■ **F. State and Year of Incorporation** — Enter the state under whose laws the corporation is organized and the year of incorporation.

■ **G. Amended Return** — If this is an amended return, check the box.

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

- Obligations of the United States government and its instrumentalities.
- Municipal housing authority bonds issued under sec. 66.40, Wis. Stats.
- Municipal redevelopment authority bonds issued under sec. 66.431, Wis. Stats.
- Housing and community development authority bonds issued under sec. 66.4325, Wis. Stats.
- Bonds issued by the Wisconsin Housing and Economic Development Authority (WHEDA) under sec. 234.65, Wis. Stats., to fund an economic development loan to finance construction, renovation, or development of property that

would be exempt from property tax under sec. 70.11(36), Wis. Stats. (professional sports and entertainment home stadiums).

- Bonds issued by a local exposition district under subch. II of ch. 229, Wis. Stats.

- Bonds issued by a local professional baseball park district created under subch. III of ch. 229, Wis. Stats.

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

Exception: A foreign corporation subject to the Wisconsin income tax rather than the franchise tax (see page 1) isn't taxed on interest received from the obligations listed above and should skip to line 9.

Note: Corporations doing business only in Wisconsin should skip line 2 and enter the amount from line 1 on line 3. Nonunitary, multistate corporations should also skip line 2.

■ **Line 2. Percent to Wisconsin** — Unitary, multistate corporations should complete Wisconsin Form 4B (see the instructions on page 18) and enter on line 2 the apportionment percentage from Form 4B, line 28 or 33.

■ **Line 3. Interest Income Attributable to Wisconsin** — Multiply the amount on line 1 by the percentage on line 2, if applicable. Nonunitary, multistate corporations should enter the amount of federal, state, and municipal government interest attributable to Wisconsin as determined under the separate accounting method (see page 21).

Note: A tax-option (S) corporation can't offset a net operating loss carryforward from a year when it was a regular (C) corporation against this interest income. Sections 71.26(4) and 71.365(2), Wis. Stats., prohibit tax-option (S) corporations from claiming net business loss carryforwards.

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

■ **Line 5. Manufacturer's Sales Tax Credit** — Complete Schedule Z on Form 5S-1 and enter the available credit.

Schedule Z

Corporations that are engaged in manufacturing in Wisconsin may claim a credit for Wisconsin state, county, and stadium sales and use taxes paid on fuel and electricity consumed in manufacturing. Manufacturing has the meaning designated in sec. 77.54(6m), Wis. Stats., which states in part: " 'manufacturing' is the production by machinery of a new article with a different form, use and name from existing materials by a process popularly regarded as manufacturing."

Manufacturing includes the assembly of finished units of tangible personal property and packaging when it is a part of an operation performed by the producer of the product or by another on his or her behalf and the package or container becomes a part of the tangible personal property as such unit is customarily offered for sale by the manufacturer.

It includes the conveyance of raw materials and supplies from plant inventory to the work point of the same plant, conveyance of work in progress directly from one manufacturing operation to another in the same plant, and conveyance of finished products to the point of first storage on the plant premises. It includes the testing or inspection throughout the production cycle.

Manufacturing does not include storage, delivery to or from the plant, repairing or maintaining facilities, or research and development.

The credit is a nonrefundable credit but, to the extent not offset by the tax liability for the current year, may be offset against the tax liability of the subsequent year and each succeeding year up to 15 years.

Caution: The credit may not be offset against either the built-in gains tax or the temporary recycling surcharge. In addition, the credit can't be passed through to the shareholders of the tax-option (S) corporation.

Line 1. Enter the total cost (including Wisconsin state, county, and stadium sales and use taxes) of all fuel and electricity purchased during the taxable year for use in Wisconsin.

Line 2. Enter the cost of fuel and electricity included on line 1 (including Wisconsin state, county, and stadium sales and use taxes) that wasn't or won't be used for manufacturing. This includes fuel and electricity for heating and lighting office space and warehousing space for raw materials and finished goods and for other nonmanufacturing purposes.

Line 4. Enter any county and stadium sales and use taxes included on line 3. (The county tax rate is 0.5% (.005) in Wisconsin counties that have adopted the county tax. The stadium tax rate is 0.1% (.001)in Wisconsin counties where the stadium tax applies.)

Line 6. Enter purchases included on line 5 on which no Wisconsin sales or use taxes were paid. An example is the portion of coke purchased without tax by a foundry that becomes an ingredient or component part of a manufactured article.

Line 10. Add lines 8 and 9. This is the 1996 manufacturer's sales tax credit.

Line 11. Enter any unused manufacturer's sales tax credit from 1981 through 1995.

Note: The amount of credit used to offset the Wisconsin franchise tax must be included as income. See the instructions for Schedule 5K.

■ **Line 6. Community Development Finance Credit** — Enter the available credit.

Corporations that make contributions to the Wisconsin Housing and Economic Development Authority and, in the same year, purchase common stock in the Wisconsin Community Development Finance Company may claim a credit.

The credit is nonrefundable and is equal to 75% of the purchase price of the stock, but may not exceed 75% of the amount that was contributed to the Wisconsin Community Development Finance Authority. Any unused credit may be offset against tax liabilities of the subsequent years, up to 15 years.

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

■ **Line 9. Additional Tax on Tax-Option (S) Corporations** — Complete Schedule Q, on Form 5S-1, and enter the amount of additional tax.

Schedule Q

A tax is imposed on a tax-option (S) corporation that has a "recognized built-in gain" during the "recognition period." A tax-option (S) corporation may be liable for the tax on built-in gains if —

a. It was a regular (C) corporation before making its current election to be treated as a tax-option (S) corporation,

b. It made its current election after 1986,

c. It has a recognized built-in gain within 10 years from the first day of the first taxable year it became a tax-option (S) corporation under its current election (the recognition period), and

d. The net recognized built-in gains for prior taxable years don't exceed the net unrealized built-in gain.

A special federal transitional rule provides relief from the built-in gains tax for certain small corporations that converted to S corporation status before 1989. This rule also applies for Wisconsin purposes. A regular (C) corporation electing tax-option (S) status that qualifies for relief under the federal rule isn't subject to the Wisconsin built-in gains tax. If the corporation qualifies for transitional relief, attach a statement to Form 5S.

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

Line 1. Enter the amount that would be the corporation's taxable income for the taxable year if only recognized built-in gains and recognized built-in losses were taken into account. This is the amount computed under IRC section 1374(d)(2)(A)(I), but determined using the Wisconsin basis of the assets.

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

a. The asset wasn't held by it on the first day of the first year that the current tax-option (S) election became effective, or

b. The recognized gain on any asset exceeds the excess of the fair market value of the asset on the date of conversion over the adjusted basis of the asset on that first day.

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

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

a. It owned the asset on the date that the current tax-option (S) election became effective, and

b. The loss doesn't exceed the excess of the asset's adjusted basis on the date of conversion over its fair market value at that time.

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

Line 3. Enter the smaller of the amount on line 1 or line 2.

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

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

Note: Corporations doing business only in Wisconsin should skip line 4 and enter the amount from line 3 on line 5. Nonunitary, multistate corporations should also skip line 4.

Line 4. Unitary, multistate corporations should complete Form 4B (see the instructions on page 18) and enter on line 4 the apportionment percentage from Form 4B, line 28 or 33.

Line 5. Multiply the amount on line 3 by the percentage on line 4, if applicable. Nonunitary, multistate corporations should enter the net recognized built-in gain attributable to Wisconsin as determined under the separate accounting method (see page 21).

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

Line 8. Enter 7.9% of the amount on line 7.

Line 9. Enter any Wisconsin community development finance credit available to the corporation, including a credit for the current year as well as any carryover from prior taxable years.

Note: Any credit claimed on Form 5S, line 6, must be taken into account in determining the available credit.

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

■ **Line 10. Temporary Recycling Surcharge** — Complete Schedule S, page 1, and enter the temporary recycling surcharge.

Schedule S

A temporary recycling surcharge applies to tax-option (S) corporations that are required to file Form 5S, except domestic corporations that don't have any business activities in Wisconsin, foreign corporations that don't have nexus with Wisconsin, and corporations that have less than $4,000 of total receipts from all activities (as defined on page 1).

Line 20. Complete Schedule 5K and enter the income (loss) from Schedule 5K, line 23, column d. This is the net income (loss) as determined under Wisconsin law, before application of apportionment or separate accounting. It generally includes interest income from federal, state, and municipal government obligations. However, for a foreign corporation subject to the income tax rather than the franchise tax (see page 1), don't include interest income that is exempt from state income tax under federal or Wisconsin law.

Note: Corporations doing business only in Wisconsin should skip line 21 and enter the amount from line 20 on line 22. Nonunitary, multistate corporations should also skip line 21.

Line 21. Unitary, multistate corporations should complete Form 4B (see the instructions on page 18) and enter on line 21 the apportionment percentage from Form 4B, line 28 or 33.

Line 22. Multiply the amount on line 20 by the percentage on line 21, if applicable. Nonunitary, multistate corporations should enter the net income (loss) attributable to Wisconsin as determined under the separate accounting method (see page 21).

Line 23. Enter the greater of $25 or 0.4345% (.004345) of the amount on line 22, but not more than $9,800.

■ **Line 12. Estimated Tax Payments** — Enter estimated tax payments made or overpayments applied from prior years' returns, minus any "quick refund" applied for on Form 4466W.

Amended Return: If this is an amended return, enter the tax and temporary recycling surcharge previously paid.

■ **Line 13. Interest, Penalty, and Late Fee Due** — Enter any interest, penalty, and late fee due from Form 4U, line 17 or 26.

■ **Line 14. Tax Due** — If the total of lines 11 and 13 is larger than line 12, enter the amount owed. Attach your check to the front of Form 5S.

■ **Line 15. Overpayment** — If line 12 is larger than the total of lines 11 and 13, enter the overpayment.

■ **Line 16. 1997 Estimated Tax** — Enter the amount of any overpayment on line 15 that is to be credited to the corporation's 1997 estimated tax. The balance of any overpayment will be refunded.

■ **Line 17. Refund** — Subtract the amount on line 16 from the overpayment on line 15. This is your refund.

■ **Line 18** — Enter total company gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, and all other receipts that are included in gross income before apportionment for Wisconsin franchise or income tax purposes.

■ **Line 19** — Enter the requested information from the federal return.

■ **Lines 20 through 23. Temporary Recycling Surcharge** — See the instructions for Schedule S above.

■ **Lines 24 through 30. Additional Information Required** — Answer questions 24 through 30 on page 1 of Form 5S.

■ **Signatures** — An officer of the corporation must sign the form at the bottom of page 1. If the return is prepared by someone other than an employe of the corporation, the individual who prepared the return must sign the form, by hand, in the space provided for the preparer's signature and furnish the preparing firm's federal employer identification number, name, and address. A self-employed individual must enter "SSN" and the social security number in the space for the preparer's federal employer identification number.

■ **Attachments** — Attach a copy of each of the following documents:

- Your federal Form 1120S with all supporting schedules.
- Your Wisconsin Schedules 5K-1.
- Any other required Wisconsin forms, schedules, or statements.
- Any extension of time to file your return.

Amended Return: If this is an amended return, attach an explanation of the changes made and the reasons for the changes. Also attach a worksheet showing how you figured your additional refund or additional amount owed. Send the amended return to the Wisconsin Department of Revenue, P.O. Box 8991, Madison, WI 53708-8991.

Schedule 5K — Shareholders' Shares of Income, Deductions, etc.

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

Enter the applicable amounts from Schedule K in column b of Schedule 5K. Enter any adjustments necessary to arrive at the amount of any share item under Wisconsin law in column c. **Be sure to attach to Form 5S an explanation of any adjustments in column c.** Enter the amount determined under Wisconsin law in column d.

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

Note: Show additions as a positive number. Show subtractions by putting the amount in parentheses.

■ **Lines 1 through 11, 14, and 15.** Additions to or subtractions from federal amounts may be required for the following items:

1. Differences between the federal and Wisconsin deductions for depreciation or amortization.

For assets first placed into service on or after January 1, 1996, depreciation or amortization may be computed under either the Internal Revenue Code in effect for the year for which the return is filed or the Internal Revenue Code as amended to December 31, 1995, at the taxpayer's option.

An asset placed in service before 1996 must continue to be depreciated or amortized under the method allowable for Wisconsin purposes for the year in which it was placed in service.

Many differences in Wisconsin and federal depreciation and amortization existed before January 1, 1987, including the following:

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

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

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

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

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

However, the Wisconsin Tax Appeals Commission declared this provision unconstitutional in *Beatrice Cheese, Inc. vs. Wisconsin Department of Revenue* (February 24, 1993). Therefore, corporations have the option of (1) claiming the same depreciation deduction as for federal purposes, or (2) continuing their present method of depreciation. Basis differences resulting from the use of different federal and state depreciation methods are accounted for when the assets are disposed of in a taxable transaction. For more information, see the tax release in *Wisconsin Tax Bulletin* 84 (October 1993, page 18).

f. Wisconsin and federal depreciation may have been different in the case of investment credit property. A corporation electing to claim an investment tax credit for federal income tax purposes could either (1) claim the credit and reduce the depreciable basis of the property by one-half of such credit, or (2) in the case of regular investment tax credit property, claim a reduced investment credit and not reduce the depreciable basis of the property.

Corporations that claimed an investment tax credit on their federal return (and reduced the federal basis of the assets) weren't required to reduce the basis of the investment credit property for Wisconsin purposes and could either (1) claim the same depreciation for Wisconsin as that claimed for federal purposes (except for item e above) and receive a deduction for the basis difference in the year the property is disposed of, pursuant to sec. 71.04(15)(e), Wis. Stats. (1985-86), or (2) claim depreciation on the asset's full (unreduced) basis for Wisconsin. (The second method required separate depreciation records for Wisconsin purposes.)

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

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

i. For federal tax purposes, corporations may elect to expense, under IRC section 179, a portion of the cost of "section 179" property placed in service after the 1981 calendar year. For Wisconsin purposes, before the 1987 taxable year, corporations (except regulated investment companies and real estate investment trusts) couldn't claim this expense. Instead, depreciation was allowable on the cost basis of the property, without reduction for the amount the corporation may have elected to expense under section 179 for federal purposes.

For assets placed in service before January 1, 1987, these differences in depreciation (items a through i) continue to exist. Therefore, the depreciation deduction may be different for Wisconsin and federal purposes.

2. Differences between the federal and Wisconsin basis of assets disposed of during the taxable year.

For example, a corporation sold the following assets, which had been held more than one year:

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

The gains (losses) realized on these transactions are —

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

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

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

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

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

3. Adjustments required because the federal amount in column b was computed using a provision of the Internal Revenue Code that doesn't apply for Wisconsin purposes.

For example, federal law changes enacted after December 31, 1995, generally won't apply for Wisconsin purposes unless retroactively adopted by the Wisconsin Legislature.

4. Adjustments required as a result of making different elections for Wisconsin and federal purposes.

5. An addition (on line 1) for manufacturer's sales tax credit claimed on Form 5S, line 5, but not more than the tax on Form 5S, line 4.

6. An addition (on line 1) for development zone credits computed on 1996 Schedule DC, lines 8, 14, 32, 38, 44, and 50 to the extent that the amounts aren't included in federal income.

7. An addition (on line 1) for enterprise zone credits computed on 1996 Schedule EC, lines 7, 15, 35, 41, 47, and 53 to the extent that the amounts aren't included in federal income.

8. An addition (on line 1) for taxes imposed by Wisconsin, any other state, and the District of Columbia that are value-added taxes, single business taxes, or taxes on or measured by net income, gross income, gross receipts, or capital stock and were deducted in computing federal ordinary income.

9. Adjustments required to the recognized built-in gain items if the corporation owes either a federal or a Wisconsin built-in gains tax.

For Wisconsin purposes, the gain on the sale of an asset is reduced by any Wisconsin built-in gains tax paid by the corporation on that asset. For federal purposes, however, the gain is reduced by the federal built-in gains tax.

10. Additions for any federal capital gains tax that reduced net long-term capital gain and for any federal excess net passive income tax that reduced items of passive investment income for federal purposes.

■ **Lines 12a through 12f.** Enter, in column d, the available development zone credits as computed on Wisconsin Schedule DC and the available enterprise zone credits as computed on Wisconsin Schedule EC. Attach Schedules DC and EC to the Form 5S filed with the department.

Special tax credits may be available for shareholders of tax-option (S) corporations doing business in Wisconsin development or enterprise zones. These credits, which include a jobs credit, sales tax credit, investment credit, location credit, day care credit, and environmental remediation credit, are computed on Schedule DC, Wisconsin Development Zone Credits, or Schedule EC, Wisconsin Enterprise Zone Credits..

The Wisconsin Department of Commerce administers the Wisconsin development and enterprise zone programs. For more information about the programs, write to the Division of Community Development, Wisconsin Department of Commerce, P.O. Box 7970, Madison, WI 53707-7970 or call (608) 267-2045.

■ **Line 12g.** Enter, in column d, the supplement to the federal historic rehabilitation tax credit as computed on Wisconsin Schedule HR, line 5. Attach Schedule HR to the Form 5S filed with the department.

Shareholders of tax-option (S) corporations that rehabilitate certified historic structures located in Wisconsin and used for business purposes may claim a credit. The State Historical Society of Wisconsin administers the historic preservation program. For more information about this program, write to the Division of Historic Preservation, State Historical Society of Wisconsin, 816 State Street, Madison, WI 53706-1488 or call (608) 264-6500.

■ **Line 13.** If the corporation does business in another state that doesn't recognize its S corporation status and imposes a franchise or income tax on the corporation, Wisconsin resident shareholders may be able to claim credits on their individual income tax returns for their proportionate shares of the tax paid. Credits are allowed only if the income taxed by the other state is considered income for Wisconsin income tax purposes.

Enter the name of the state in the space provided and the amount of franchise or income tax paid to that state in column d. If tax is paid to more than three states, write "see attached" in the space for one state's name, enter the total amount on that line in column d, and attach a schedule listing all states and the amount of franchise or income tax paid to each state.

Attach to Form 5S a copy of the franchise or income tax return filed with each state for which a credit is claimed.

■ **Lines 16 and 17.** Income reported on line 16 or 17 that is exempt for federal purposes but taxable by Wisconsin, such as state and municipal government bond interest, is shown as a *subtraction* in column c. If more income is nontaxable for Wisconsin purposes than for federal purposes, show the additional amount of exempt income as an *addition*. The Wisconsin amount in column d is the amount of tax-exempt income for Wisconsin purposes.

■ **Line 18.** Expenses on line 18 that are nondeductible federally but deductible for Wisconsin purposes are shown as *subtractions* in column c. If more expenses are nondeductible for Wisconsin purposes than for federal purposes, show the additional amount of nondeductible expenses as an *addition*. The Wisconsin amount in column d is the nondeductible expense for Wisconsin purposes.

■ **Lines 19 and 20.** Adjustments to the federal amounts of these items may be necessary because of differences between the Wisconsin and federal accumulated adjustments accounts, previously taxed undistributed income, and accumulated earnings and profits. These differences may occur because the computation of Wisconsin and federal "net income (loss)" differed for the 1979 through 1986 taxable years and Wisconsin didn't recognize tax-option (S) corporations for years before 1979. See the instructions for Schedule 5M on page 13 for more information about distributions.

Report the dividend distributions entered on line 20 to the shareholders on Schedule 5K-1, line 20, for Wisconsin. This differs from the federal requirement to report the amount of the dividends on Form 1099-DIV rather than on Schedule K-1.

■ **Line 21.** On an attached schedule, show any items and amounts not included on lines 1 through 20 that must be reported separately to the shareholders. Include the federal amount, any adjustment, and the amount determined under Wisconsin law for each item.

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

Note: Explain any differences in the federal and Wisconsin amounts of tax-exempt income reported on line 16 or 17, column c, or nondeductible expenses reported on line 18, column c, on the attached schedule.

■ **Line 22.** Enter the gross income, as determined under Wisconsin law, from all activities. This includes gross receipts or sales, gross rents and royalties, interest and dividends, and the gross sales price of capital assets and property used in a trade or business.

■ **Line 23.** Combine lines 1 through 6 in columns b and d. From the result subtract the sum of lines 7 through 11a and 15b. Add or subtract, as appropriate, any income or deductions reported on line 21 that affect the computation of taxable income.

Note: When computing the amount to enter in column d, be sure to take into account any state and municipal government bond interest income that is taxable by Wisconsin, any other federally exempt income that is taxable by Wisconsin, and any expenses that are nondeductible for Wisconsin purposes. In addition, be sure to include in column d interest income from federal, state, and municipal obligations that is reportable on Form 5S, page 1, line 1.

Enter the amount from line 23, column d, on Form 5S, page 1, line 20.

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

Wisconsin Accumulated Adjustments Account

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

At the end of the current taxable year, if the corporation doesn't have accumulated earnings and profits for Wisconsin purposes, the Wisconsin AAA is increased or decreased by the following items:

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

Decreased by
- Deductible losses and expenses, as determined under Wisconsin law.
- Nondeductible expenses, not due to timing differences (that is, expenses that are never deductible for Wisconsin purposes).
- Distributions applicable to the Wisconsin AAA.
- The amount of the supplement to the federal historic rehabilitation tax credit computed.

At the end of the current taxable year, if the corporation has accumulated earnings and profits for Wisconsin purposes, the Wisconsin AAA isn't increased by nontaxable income nor decreased by nondeductible expenses related to nontaxable income. Instead, adjustments for nontaxable income and related expenses are made to the Wisconsin Other Adjustments Account as explained below. If the tax-option corporation is subject to a franchise tax measured by certain federal, state, and municipal government bond interest, that interest is treated as taxable income which increases the Wisconsin AAA.

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

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

Wisconsin Other Adjustments Account

The Wisconsin Other Adjustments Account (OAA) is maintained only by corporations that have accumulated earnings and profits at year-end. Since 1987 was the first year for which a Wisconsin OAA may be used, the Wisconsin OAA will have a zero balance at the beginning of the corporation's 1987 taxable year. The account is increased by nontaxable income and decreased by related expenses. The account is also decreased by any distributions during the taxable year which are applicable to the Wisconsin OAA.

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

The Wisconsin OAA may not agree with the federal OAA.

Distributions

For Wisconsin, a distribution is treated as follows:

1. A nontaxable distribution of net income to the extent of the Wisconsin AAA, but not in excess of the shareholder's Wisconsin stock basis.

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

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

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

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

All non-dividend distributions in excess of basis are treated as taxable gain from the sale or exchange of property.

If a tax-option corporation makes more than one distribution to its shareholders during its taxable year and the total distribution exceeds the amount in the Wisconsin AAA at the end of the corporation's taxable year, allocate the amount in the Wisconsin AAA among the distributions on a proportionate basis.

If a Subchapter S election is revoked or terminated, distributions of money during the post-termination transition period by the former tax-option (S) corporation to its shareholders are nontaxable to the extent of the corporation's Wisconsin AAA, but not in excess of a shareholder's stock basis. These nontaxable distributions reduce the adjusted basis of the shareholder's stock.

The tax-option (S) corporation may elect, with the consent of all its shareholders to whom distributions are made during the taxable year, to have all distributions of money treated as dividends to the extent of the corporation's accumulated earnings and profits for Wisconsin purposes. A similar election is available in the case of a former tax-option (S) corporation during the post-termination transition period.

Schedule 5K-1 — Tax-Option (S) Corporation Shareholder's Share of Income, Deductions, etc.

Schedule 5K-1 shows each shareholder's share of the corporation's income, deductions, etc., which have been summarized on Schedule 5K. Like Schedule 5K, Schedule 5K-1 requires an entry for the federal amount, adjustment, and amount determined under Wisconsin law of each applicable share item.

Attach a copy of each shareholder's Schedule 5K-1 to the Form 5S filed with the department. Keep a copy as a part of the corporation's records, and give each shareholder his or her own separate copy. Schedule 5K-1 must be prepared and given to each shareholder on or before the day on which Form 5S is filed. In addition, give each shareholder a copy of the "Shareholder's Instructions for 1996 Schedule 5K-1."

Note: If the corporation does business only in Wisconsin and has no adjustments in column c or Wisconsin credits in column d of Schedule 5K, it isn't necessary to prepare a Wisconsin Schedule 5K-1 for each shareholder. In addition, a Schedule 5K-1 isn't required for a full-year Wisconsin resident shareholder of a corporation that does business in and outside Wisconsin provided there aren't any Wisconsin adjustments or credits. Be sure to state on the shareholders' federal Schedules K-1, including the copies filed with the Department of Revenue, that there aren't any Wisconsin adjustments or credits.

■ **Identifying Numbers, Names, and Addresses.** On each Schedule 5K-1, enter the shareholder's identifying number (social security number for individuals), name, and address and the corporation's federal employer identification number, name, and address in the appropriate spaces.

■ **Item A.** Enter the shareholder's percentage of stock ownership for the taxable year. If there was a change in shareholders or in the relative interest in stock the shareholders owned during the taxable year, each shareholder's percentage of ownership is weighted for the number of days in the taxable year that stock was owned.

■ **Item B.** Enter the shareholder's state of residence (domicile). If the state of residence changed during the corporation's taxable year, indicate all states involved. If the shareholder moved into or out of Wisconsin during the corporation's taxable year, and the corporation does business in and outside Wisconsin, the shareholder's Wisconsin share of the tax-option items will be affected. See the instructions below for lines 1 through 6, 8, 14, and 15 for more information.

■ **Item C.** Check this box only if the shareholder is a nonresident or part-year resident of Wisconsin during the corporation's taxable year and the corporation is a multistate corporation that would figure its income under the apportionment method if it were a regular (C) corporation. (See the instructions for Form

4B, Apportionment Data, on page 18.) Enter the corporation's apportionment percentage from Form 4B, line 28 or 33. Include Form 4B with the Form 5S filed with the department.

■ **Item D.** Check this box only if the shareholder is a nonresident or part-year resident of Wisconsin during the corporation's taxable year and the corporation is a multistate corporation that would figure its income under the separate accounting method if it were a regular (C) corporation. (See the instructions for Form 4C, Separate Accounting Data, on page 21.) Attach a schedule, similar to Form 4C, that shows the allocation of the Wisconsin amount (column d) of each share item on Schedule 5K, lines 1 through 6, 8, 14, and 15, if applicable, to Wisconsin and outside Wisconsin. This schedule should also show the basis of such allocation.

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

■ **Lines 1 through 6, 8, 10, 14, and 15.** Enter the shareholder's share of the federal amount, adjustment, and amount determined under Wisconsin law for each item. The federal amount is the amount reported on federal Schedule K-1.

Note: On line 23, explain the reason for any adjustment in column c. If the difference arises as a result of a federal law enacted after December 31, 1995, which isn't adopted by Wisconsin, identify this as a "Schedule I adjustment." Each shareholder must account for this difference on Wisconsin Schedule I.

Wisconsin Residents

Individuals who are full-year residents of Wisconsin must report to Wisconsin all income or loss regardless of where it is earned or incurred. Therefore, if a tax-option (S) corporation does business in and outside Wisconsin, it shouldn't allocate a Wisconsin resident shareholder's share of its income, loss, and deductions between Wisconsin and elsewhere. Wisconsin residents must report their shares of the corporation's entire income, loss, and deductions, regardless of the source.

A Wisconsin resident shareholder's share of the adjustment and Wisconsin amount for each item is the shareholder's share (based on his or her percentage of stock ownership) of the adjustment and Wisconsin amount shown on Schedule 5K. See the example on page 17.

Nonresidents of Wisconsin

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

If the corporation does business only in Wisconsin, a nonresident shareholder's share of the adjustment and Wisconsin amount of each item is the shareholder's share (based on his or her percentage of stock ownership) of the adjustment and Wisconsin amount shown on Schedule 5K.

If the corporation does business in and outside Wisconsin, a nonresident shareholder's Wisconsin amount (column d) of each item is the shareholder's share (based on his or her percentage of stock ownership) of the item that is attributable to Wisconsin (based on apportionment or separate accounting, as appropriate). The adjustment (column c) is the amount necessary to reconcile the federal amount and the Wisconsin amount. This adjustment includes the shareholder's share of any adjustment on Schedule 5K, column c, as well as the shareholder's share of the Wisconsin amount of the item, shown on Schedule 5K, column d, which isn't attributable to Wisconsin.

If the corporation is a unitary, multistate corporation, complete Form 4B and enter the apportionment percentage from Form 4B, line 28 or 33, in the space provided in item C for each nonresident shareholder. Compute the Wisconsin amount of each share item by multiplying the Wisconsin amount (column d) for that item from Schedule 5K by the apportionment percentage and multiplying that result by the nonresident shareholder's percentage of stock ownership. See the example on page 17.

If the corporation has nonapportionable income (loss) on Form 4B, line 5, compute the Wisconsin amount of any affected item by multiplying the amount of the nonapportionable share item attributed to Wisconsin on Form 4B, adjusted for any amount shown on Schedule 5K, column c, by the nonresident shareholder's percentage of stock ownership.

If the corporation is a nonunitary, multistate corporation, complete a schedule similar to Form 4C that shows the allocation of the Wisconsin amount (column d) of each share item on Schedule 5K, lines 1 through 6, 8, 10, 14, and 15, if applicable, to Wisconsin and outside Wisconsin. This schedule should also show the basis of such allocation. Compute the Wisconsin amount of each share item by multiplying the amount allocated to Wisconsin on such a schedule by the nonresident shareholder's percentage of stock ownership.

If the amount of a share item reported on a multistate corporation's Schedule 5K differs for federal and Wisconsin purposes, indicate on line 23 a nonresident or part-year resident shareholder's pro rata share of the Wisconsin amount shown on Schedule 5K, column d. *This is the shareholder's share of the item determined under Wisconsin law before application of apportionment or separate accounting.* The shareholder uses this information to calculate the Wisconsin basis in the corporation's stock.

Part-Year Residents of Wisconsin

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

If the corporation does business only in Wisconsin, a part-year resident shareholder's share of the adjustment and Wisconsin amount of each item is the shareholder's share (based on his or her percentage of stock ownership) of the adjustment and Wisconsin amount shown on Schedule 5K.

If the corporation does business in and outside Wisconsin, compute a part-year resident shareholder's Wisconsin amount (column d) of each item in two parts, one for the portion of the corporation's taxable year that the shareholder was a resident of Wisconsin and one for the portion of the corporation's taxable year that the shareholder was a nonresident of Wisconsin. For this purpose, the amount of any share item is determined on a daily basis. That is, every share item is allocated between the resident and nonresident status of the shareholder based on the number of days during the corporation's taxable year that the shareholder was a resident or nonresident of Wisconsin. The shareholder's share of an item for each period (resident or nonresident) is determined in the same manner as that of full-year residents and nonresidents, respectively. See the example on page 17.

■ **Lines 7 and 9 through 11.** Enter the shareholder's share of the federal amount, adjustment, and Wisconsin amount for each item. A shareholder may choose to treat items that are deductible on federal Schedule A in either of the following ways:

- As deductions which may be includable in the Wisconsin itemized deduction credit, or

- As modifications which are subtracted from federal adjusted gross income to arrive at Wisconsin adjusted gross income.

Show the amount that would be used in the Wisconsin itemized deduction credit in column d. If a different amount would be claimed as a subtraction modification, explain how to figure that amount on line 23.

For items included in the Wisconsin itemized deduction credit, multiply the amounts on Schedule 5K by the shareholder's stock ownership percentage. Don't multiply this result by the Wisconsin apportionment percentage or allocate it in and outside Wisconsin using separate accounting.

For items claimed as subtraction modifications, the Wisconsin amount is limited to the amount actually allowed as an itemized deduction for federal purposes. For a nonresident or part-year resident shareholder of a multistate corporation, the Wisconsin amount is further limited to that portion of the federally deductible amount that is attributable to Wisconsin (based on apportionment or separate accounting, as appropriate). Refer to the instructions for lines 1 through 6, 8, 10, 14, and 15, above. For such a shareholder, explain on line 23 how to figure the portion of the federally deductible amount that is attributable to Wisconsin.

■ **Lines 12a through 12f.** Enter the shareholder's share, based on the percentage of stock ownership, of the development zone credits from Schedule DC and the enterprise zone credits from Schedule EC.

■ **Line 12g.** Enter the shareholder's share, based on the percentage of stock ownership, of the supplement to the federal historic rehabilitation tax credit from Schedule HR.

Note: The shareholder's Wisconsin basis of the corporation's stock must be reduced by his or her proportionate share of the credit computed.

■ **Line 13.** Complete this line only for full-year Wisconsin resident shareholders and part-year Wisconsin resident shareholders. Enter zero for nonresident shareholders.

For a full-year resident, enter the shareholder's share, based on the percentage of stock ownership, of the credit(s) on Schedule 5K, line 13.

For a part-year resident, credit is allowable for only the portion of the corporation's taxable year that the shareholder was a Wisconsin resident. Therefore, enter the amount computed by multiplying the credit(s) on Schedule 5K, line 13, by the shareholder's percentage of stock ownership and then multiplying that result by the ratio of days that the shareholder was a resident of Wisconsin during the corporation's taxable year to the total days in the corporation's taxable year.

■ **Lines 16 through 18.** Enter the shareholder's share of the federal amount, adjustment, and Wisconsin amount for each of these items. The federal amount in column b is the amount reported on the shareholder's federal Schedule K-1. The adjustment in column c is the difference between the nontaxable or nondeductible amount for federal and Wisconsin purposes. Show *increases* in the amount of tax-exempt income or nondeductible expenses as *additions*. Report *decreases* in the amount of tax-exempt income or nondeductible expenses as *subtractions*. The Wisconsin amount (column d) is the amount of nontaxable income or nondeductible expenses for Wisconsin.

A Wisconsin resident shareholder's share of the adjustment and Wisconsin amount is the shareholder's share (based on his or her percentage of stock ownership) of the adjustment and Wisconsin amount from Schedule 5K.

If the corporation does business only in Wisconsin, a nonresident or part-year resident shareholder's share of the adjustment and Wisconsin amount of each item is the shareholder's share (based on his or her percentage of stock ownership) of the adjustment and Wisconsin amount shown on Schedule 5K.

If the corporation does business in and outside Wisconsin, a nonresident shareholder's adjustment (column c) is the shareholder's share (based on his or her percentage of stock ownership) of the item that is attributable to Wisconsin (based on apportionment or separate accounting, as appropriate). The Wisconsin amount (column d) is the difference between columns b and c.

If the corporation is a multistate corporation, a part-year resident shareholder's adjustment (column c) is computed in two parts, one for the portion of the corporation's taxable year that the shareholder was a resident of Wisconsin and one for the portion of the corporation's taxable year that the shareholder was a nonresident. The Wisconsin amount (column d) is the difference between columns b and c.

■ **Lines 19 and 20.** Enter the shareholder's share, based on the percentage of stock ownership, for each of these items. The shareholder's state of residence doesn't affect the calculations.

■ **Line 21.** Enter the amount of loan repayments made to the shareholder. The shareholder's state of residence doesn't affect this item.

■ **Line 22.** Enter the shareholder's share, based on the percentage of stock ownership, of the corporation's gross income that is reportable to Wisconsin.

A full-year Wisconsin resident shareholder's share of the gross income is the shareholder's share (based on his or her percentage of stock ownership) of the amount shown on Schedule 5K, line 22, column d.

A nonresident or part-year resident shareholder's share of the gross income of a corporation that does business only in Wisconsin is the shareholder's share (based on his or her percentage of stock ownership) of the amount shown on Schedule 5K, line 22, column d.

Compute a nonresident shareholder's share of the gross income of a unitary, multistate corporation by multiplying the amount from Schedule 5K, line 22, column d, by the apportionment percentage and multiplying that result by the nonresident shareholder's percentage of stock ownership.

Compute a nonresident shareholder's share of the gross income of a nonunitary, multistate corporation by allocating the amount from Schedule 5K, line 22, column d, in and outside Wisconsin and multiplying the portion allocated to Wisconsin by the nonresident shareholder's percentage of stock ownership.

The shareholder will use this information to determine whether he or she must file a Wisconsin income tax return.

■ **Line 23.** Complete as necessary. Include the federal amount, adjustment, and Wisconsin amount for each item when applicable. Determine the amounts for each shareholder as discussed for lines 1 through 6, 8, 10, 14, and 15. Attach additional schedules if more space is needed. Include the following items on line 23:

- Interest income from United States government obligations that is included on Schedule 5K-1, line 4a. Such interest is taxable for federal income tax purposes but exempt from the Wisconsin individual income tax.
- Any information needed by a shareholder to determine why the Wisconsin amount of any tax-option (S) item differs from the federal amount.

Note: Tax-option (S) corporations whose Wisconsin resident shareholders may qualify for farmland preservation credit or farmland tax relief credit should attach a copy of the farmland property tax bill to the Schedule 5K-1 given to each qualifying shareholder. It isn't necessary for the corporation to attach the property tax bill to the Schedules 5K-1 filed with the department. Shareholders must compute their allowable credits based on their proportionate shares of the corporation's property taxes. For additional information about farmland preservation credit, see the Wisconsin Schedule FC instructions. See the instructions for Wisconsin Form 1 or 1NPR for details on the farmland tax relief credit.

Example of Schedule 5K-1

Corporation S is a calendar-year multistate corporation with a 60% Wisconsin apportionment percentage and no nonapportionable income. There are two shareholders (A and B) who each own 50% of the stock of Corporation S. Shareholder A was a Wisconsin resident during all of 1996. Shareholder B was a resident of Wisconsin until moving to Illinois on April 1, 1996. Therefore, Shareholder B was a part-year resident of Wisconsin for 1996, having been a resident for 91 days and a nonresident for 275 days.

Schedule 5K for 1996 shows the following amounts on the lines indicated.

	(a) Pro Rata Share Items	(b) Federal Amount	(c) Adjustment	(d) Wisconsin Amount
1	Ordinary income	$ 10,000	$ (1,000)	$ 9,000
4a	Interest income	200	-0-	200
16	Tax-exempt interest income	500	(500)	-0-

The tax-exempt interest income is state and municipal government bond interest that is exempt from federal income taxes but taxable by Wisconsin. The adjustment in column c on line 16 is the amount ***taxable*** by Wisconsin.

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

	(a) Pro Rata Share Items	(b) Federal Amount	(c) Adjustment	(d) Wisconsin Amount
1	Ordinary income	$ 5,000	$ (500)	$ 4,500
4a	Interest income	100	-0-	100
16	Tax-exempt interest income	250	(250)	-0-

These amounts are determined by multiplying the amounts on Schedule 5K by shareholder A's stock ownership percentage (50%).

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

	(a) Pro Rata Share Items	(b) Federal Amount	(c) Adjustment	(d) Wisconsin Amount
1	Ordinary income	$ 5,000	$ (1,852)	$ 3,148
4a	Interest income	100	(30)	70
16	Tax-exempt interest income	250	(175)	75

The federal amounts (column b) are computed by multiplying the amount on Schedule 5K by Shareholder B's stock ownership percentage (50%). The Wisconsin amounts (column d) are computed in two parts, one for the period that Shareholder B was a resident of Wisconsin (91 days) and one for the period that Shareholder B was a nonresident of Wisconsin (275 days). The adjustment (column c) is computed by taking the difference between column b and column d.

The Wisconsin amount of the ordinary income (line 1) for Shareholder B is computed as follows:

(1) For the period of residence, multiply the Wisconsin amount of ordinary income from Schedule 5K ($9,000) by the stock ownership percentage (50%). Multiply that amount by the ratio of days Shareholder B was a resident of Wisconsin to total days in the taxable year (91/366). Add to that result the amount determined for the period of nonresidence in (2) below.

(2) For the period of nonresidence, multiply the Wisconsin amount of ordinary income from Schedule 5K ($9,000) by the stock ownership percentage (50%). Multiply that amount by the Wisconsin apportionment percentage of Corporation S (60%) and by the ratio of days Shareholder B was a nonresident of Wisconsin to total days in the taxable year (275/366).

This results in the following calculation:

Period of residence:	$9,000 x .5 x 91/366	=	$ 1,119
Period of nonresidence:	$9,000 x .5 x .6 x 275/366	=	2,029
Total			$ 3,148

For interest income the calculation is:

Period of residence:	$200 x .5 x 91/366	=	$ 25
Period of nonresidence:	$200 x .5 x .6 x 275/366	=	45
Total			$ 70

For the tax-exempt interest income, the adjustment (column c) is computed in two parts, one for the period that Shareholder B was a Wisconsin resident and one for the period that Shareholder B was a nonresident. The Wisconsin amount (column d) is the difference between columns b and c. The adjustment is calculated as follows:

Period of residence:	$500 x .5 x 91/366	=	$ 62
Period of nonresidence:	$500 x .5 x .6 x 275/366	=	113
Total			$ 175

Shareholder B must report $175 of state and municipal bond interest income to Wisconsin.

The above example involves a multistate corporation that would file its return using the apportionment method if it weren't a tax-option (S) corporation. If the corporation were one required to file using the separate accounting method, the calculations are similar. The calculations for Shareholder A and for the period that Shareholder B was a resident of Wisconsin are the same as in the example above. The calculations for the period that Shareholder B was a nonresident of Wisconsin differ in that the Wisconsin amount from the separate accounting schedule similar to Form 4C (as discussed earlier) is used instead of the Wisconsin amount from Schedule 5K and the Wisconsin apportionment percentage.

Form 4B — Apportionment Data

What Is Apportionment

Under the apportionment method, a corporation shows all income and deductions for the company as a whole and then assigns a part to Wisconsin according to a formula that determines Wisconsin net income.

Who Must Use Apportionment

A corporation engaged in business in and outside Wisconsin is required to report a portion of its total company net income to Wisconsin using the apportionment method if its Wisconsin operations are a part of a unitary business, unless the department gives permission to use separate accounting. To use the apportionment method, a corporation must have business activity sufficient to create nexus in Wisconsin and at least one other state or foreign country.

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

What Is a Unitary Business

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

What Is Nonapportionable Income

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

The intangible income of a personal holding company is nonapportionable and is assigned to the state of incorporation.

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

What Is the Apportionment Percentage

For unitary, multistate businesses (except air carriers, motor carriers of property, railroads and sleeping car companies, pipeline companies, financial organizations, and public utilities whose incomes are apportioned by special rules of the department), the apportionment percentage is determined by the weighted average of the following three ratios:

1. Wisconsin tangible property to total company tangible property.

2. Wisconsin payroll to total company payroll.

3. Wisconsin sales to total company sales. (This ratio is double-weighted.)

Air carriers, motor carriers of property, railroads and sleeping car companies, pipeline companies, financial organizations (except insurance companies), and public utilities use special apportionment percentages established for these companies in Wisconsin Administrative Code sections Tax 2.46, 2.47, 2.475, 2.48, 2.49, and 2.50. These rules are summarized as follows:

Rule Tax 2.46 — Apportionment of Business Income of Interstate Air Carriers

The apportionment percentage is the average of the following three ratios:

1. Aircraft arrivals and departures within Wisconsin scheduled by the carrier to total aircraft arrivals and departures scheduled.

2. Revenue tons handled by the carrier at airports within Wisconsin to total revenue tons handled.

3. Originating revenue within Wisconsin to total originating revenue.

Rule Tax 2.47 — Apportionment of Net Business Income of Interstate Motor Carriers of Property

The apportionment percentage is the average of the following two ratios:

1. Gross receipts from carriage of property first acquired for carriage in Wisconsin to total gross receipts from carriage of property everywhere.

2. Ton miles of carriage in Wisconsin to ton miles of carriage everywhere.

If the above information isn't available, the department may authorize or direct the substitution of a similar factor (for example, gross tonnage instead of gross receipts or revenue miles instead of ton miles).

Rule Tax 2.475 — Apportionment of Net Business Incomes of Interstate Railroads and Sleeping Car Companies

The apportionment percentage is the average of the following two ratios:

1. Gross receipts from carriage of property or persons, or both, first acquired for carriage in Wisconsin to total gross receipts from carriage of property or persons, or both, everywhere.

2. Revenue ton miles of carriage in Wisconsin to revenue ton miles of carriage everywhere.

Rule Tax 2.48 — Apportionment of Net Business Incomes of Interstate Pipeline Companies

The apportionment percentage is the average of the following three ratios:

1. Net cost (for Wisconsin tax purposes) of tangible property owned and used in Wisconsin to produce apportionable income to total net cost of such property everywhere.

2. Traffic units (for example, barrel miles, cubic foot miles, or other appropriate measure of product movement) in Wisconsin to total company traffic units.

3. Total compensation paid to employes located in Wisconsin to total compensation paid to employes everywhere.

Rule Tax 2.49 — Apportionment of Net Business Incomes of Interstate Finance Companies

The apportionment percentage is the average of the following two ratios:

1. Gross receipts in Wisconsin to total gross receipts. Gross receipts include all business income associated with the lending of money in the normal course of business such as interest, discounts, finance charges or fees, and service charges or fees. Gains from sales of assets, charges to a related corporation for personal services of employes, and miscellaneous income aren't includable in gross receipts for purposes of this factor. Gross receipts are assigned to Wisconsin if the transaction producing the income was principally negotiated in Wisconsin.

2. Total compensation paid to employes located in Wisconsin to total compensation paid to employes everywhere. Compensation paid includes deductible management or service fees paid to a related corporation for the performance of personal services.

Rule Tax 2.50 — Apportionment of Net Business Income of Interstate Public Utilities

The apportionment percentage is the average of the three ratios provided for corporations in general. The sales factor isn't double-weighted.

Line-by-Line Instructions for Form 4B

■ **Line 1.** Enter all profits and losses from disposals of nonbusiness tangible property in the appropriate column or columns. Such profits and losses are nonapportionable and follow the situs of the property.

■ **Line 2.** Enter rents and royalties received on nonbusiness tangible property in the appropriate column or columns. These are nonapportionable and follow the situs of the property.

■ **Line 3.** Enter any expenses that are directly or indirectly related to rents and royalties reported on line 2. Since such income is nonapportionable, the related expenses are nonapportionable.

■ **Line 5.** Enter the total net nonapportionable income or loss for both Wisconsin and the total company.

■ **Lines 6 through 13.** Enter the undepreciated original cost of tangible property owned and used in producing apportionable income at the beginning and at the end of the taxable year. Group the property into the general categories listed for both Wisconsin and the total company.

Don't include construction in progress, idle property, or property used in producing nonapportionable income. Such property isn't used in the production of apportionable income and, therefore, isn't includable in the property factor.

Note: If any major acquisitions or dispositions occurred within the taxable year, the average monthly balances of property may be used (or required by the department) instead of the average of the beginning and ending balance. In this case, attach a separate schedule showing the calculation rather than completing lines 6 through 13.

■ **Line 14.** Add lines 13a and 13b for Wisconsin property and for total company property, and divide each of these totals by 2. This is the average owned property for Wisconsin and the total company.

■ **Line 15.** Multiply the net annual rental for property used in the production of apportionable income by 8 and enter the result. "Net annual rental" is the annual rental paid less any annual rental received from subrentals unless this results in a negative or clearly inaccurate valuation. Net annual rental doesn't include incidental day-to-day expenses such as hotel or motel accommodations, daily rentals of autos, or royalties based on extraction of natural resources.

If the taxable year covers a period of less than 12 months, the net rent paid for the short period must be annualized. However, if the rental term is for less than 12 months, the rent must be adjusted accordingly.

Leases are given the same treatment in computing the property factor as they are in computing net income. Leases that have been capitalized in computing net income are included as property owned and used for property factor purposes. All other lease payments are included in the rentals times 8 computation.

■ **Line 16.** Enter the total Wisconsin and total company property. Divide the Wisconsin property by the total company property and enter the percentage.

■ **Line 17.** Enter, for Wisconsin and the total company, the compensation paid to the company's own employes for the performance of personal services. The compensation must be related to the production of apportionable income. Compensation related to the operation, maintenance, protection, or supervision of property used in the production of both apportionable and nonapportionable income or losses must be prorated, and only the portion related to the production of apportionable income is included for Wisconsin and the total company. Compensation includes wages, salaries, commissions, and any other form of remuneration paid to employes.

Compensation is paid in Wisconsin (included in the numerator of the payroll factor) if —

- The individual's service is performed entirely in Wisconsin.
- The individual's service is performed in and outside Wisconsin, but the service performed outside Wisconsin is incidental to the individual's service in Wisconsin.
- A portion of the service is performed in Wisconsin and the base of operations of the individual is in Wisconsin.
- A portion of the service is performed in Wisconsin and, if there is no base of operations, the place from which the individual's service is directed or controlled is in Wisconsin.
- A portion of the service is performed in Wisconsin and neither the base of operations of the individual nor the place from which the service is directed or controlled is in any state in which some part of the service is performed, but the individual's residence is in Wisconsin.
- The individual is neither a resident of nor performs services in Wisconsin but is directed or controlled from an office in Wisconsin and returns to Wisconsin periodically for business purposes and the state in which the individual resides doesn't have jurisdiction to impose franchise or income taxes on the employer.

An individual is considered to be performing a service in Wisconsin during the year if that individual spends any portion of at least 5 days during the corporation's taxable year in Wisconsin performing services.

■ **Line 18.** Enter management or service fees paid to a related corporation for the performance of personal services. The fees must be related to the production of apportionable income. Payments made to independent contractors aren't includable.

■ **Line 19.** Enter the total Wisconsin and total company payroll. Divide the Wisconsin payroll by the total company payroll and enter the percentage.

■ **Lines 20 through 25.** For purposes of the sales factor, sales include, but aren't limited to, the following items related to the production of business income:

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

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

The following items are among those not included for sales factor purposes:

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

Enter on lines 20a and 20b the appropriate Wisconsin destination sales. Gross receipts from the sales of tangible personal property (except sales to the federal government) are Wisconsin sales if the property is delivered or shipped to a purchaser in Wisconsin. Sales of tangible personal property picked up by the purchaser, or the purchaser's agent, at the seller's Wisconsin business location and immediately transported to the purchaser's out-of-state business location aren't Wisconsin sales. However, if the seller doesn't have nexus with the state in which the purchaser's business is located, the sales are "thrown back" to Wisconsin as discussed later. Wisconsin sales include sales of tangible personal property that are picked up by the purchaser, or the purchaser's agent, at the seller's out-of-state business location and immediately transported to the purchaser's Wisconsin business location.

Enter on line 21a sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, in Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin. Sales to federal government locations in Wisconsin, which are shipped from an office, store, warehouse, factory, or other place of storage outside Wisconsin, aren't Wisconsin sales.

Enter on line 21b sales of tangible personal property delivered to the federal government, including its agencies and instrumentalities, outside Wisconsin if the property is shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin and the seller doesn't have nexus in the destination state. These sales are included in the numerator of the sales factor at 50%.

Enter on line 21c sales, other than sales to the federal government, that are "thrown back" to Wisconsin. These are sales of tangible personal property shipped from an office, store, warehouse, factory, or other place of storage in Wisconsin to a state in which the seller doesn't have nexus. "Throwback" sales are included in the numerator of the sales factor at 50%.

"State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

Enter on line 22 the "double throwback" sales. These are sales of tangible personal property by an office in Wisconsin to a purchaser in another state, but not shipped or delivered from Wisconsin, if the taxpayer doesn't have nexus in (1) the state from which the property is delivered or shipped, or (2) the destination state. "Double throwback" sales are included in the numerator of the sales factor at 50%.

Enter on line 23 the total sales for Wisconsin (sum of lines 20a through 22) and the total company.

Enter on line 24, for both Wisconsin and the total company, gross receipts of apportionable income, other than sales of tangible personal property, that are includable in the sales factor.

Gross receipts are attributable to Wisconsin if the income producing activity that gives rise to the receipts is performed in Wisconsin. If the income producing activity is performed partly in and partly outside Wisconsin, assign receipts to Wisconsin based on the ratio of direct costs of performing the services in Wisconsin to the direct costs of performing the services in all states having jurisdiction to tax the business.

■ **Line 26.** Divide the Wisconsin amount on line 25 by the total company amount on line 25 and enter the sales percentage on line 26. Also multiply the percentage by 2, as indicated, and enter the double-weighted sales percentage.

■ **Line 28.** Divide the percentage on line 27 by 4 and enter the resulting percentage here and on Form 5S, lines 2 and 21; Form 5S-1, Schedule Q, line 4; and Schedule 5K-1, item C.

Don't divide the percentage on line 27 by 4 if a factor has been eliminated. A factor may be eliminated if it isn't employed to any appreciable extent in producing apportionable income. If a factor is omitted, the total must be divided by no more than the number of factors used. If either the property or payroll factor is omitted, divide by 3. If the sales factor is omitted, divide by 2. Don't omit a factor simply because it isn't employed in Wisconsin.

■ **Lines 29 through 33.** Air carriers, motor carriers of property, railroads and sleeping car companies, pipeline companies, financial organizations, and public utilities that apportion their income must complete lines 29 through 33, as appropriate. The special apportionment factors for these companies were summarized earlier under the explanation of the apportionment percentage.

Form 4C — Separate Accounting Data

Who Must Use

A corporation engaged in a nonunitary business in and outside Wisconsin is required to determine the amount of income attributable to Wisconsin by separate accounting. A nonunitary business is one in which the operations in Wisconsin aren't dependent upon or contributory to the operations outside Wisconsin.

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

You may obtain Form 4C from any Department of Revenue office.

Form UT-5 — Consumer Use Tax Return

Who Must File

The state, county, and stadium use tax is payable directly to the state by the purchaser (consumer) when tangible personal property or taxable services are purchased from a retailer who is not authorized to collect the 5% Wisconsin, 0.5% county, or 0.1% stadium sales and use tax. Complete Form UT-5 to report use tax if

- You do not hold a seller's permit, use tax registration certificate, or consumer's use tax registration certificate, and
- You infrequently purchase or lease property or services subject to use tax.

If you hold a seller's permit, use tax registration certificate, or consumer's use tax registration certificate, do not use Form UT-5. Instead, report your use tax on your sales and use tax return, Form ST-12.

For more information or forms, call (608) 266-2776 or write to the Compliance Bureau, Wisconsin Department of Revenue, P.O. Box 8902, Madison, WI 53708-8902.