

Instructions for Completing Wisconsin Schedule I – 2004

INTRODUCTION – Generally, the Wisconsin Statutes require that the computation of taxable income on the 2004 Wisconsin income tax return is to be based on the Internal Revenue Code enacted as of December 31, 2002. Changes made to the Internal Revenue Code enacted after December 31, 2002, do not apply for Wisconsin income tax purposes.

Wisconsin law also provides that the following provisions of federal law do not apply for Wisconsin purposes (even though these provisions were enacted into federal law prior to December 31, 2002):

- Exclusion for small business stock
- Treatment of extraterritorial income
- Expensing of environmental remediation costs
- Deduction for tuition and fees
- Thirty percent bonus depreciation
- Treatment of qualified leasehold improvement property
- Installment method for accrual basis taxpayers

(See items 1 through 8 of Part A under Items Requiring Adjustment.)

As a result, certain income and deduction items may be different for Wisconsin and federal purposes. Any difference must be adjusted on this schedule. A description of items requiring adjustment can be found under **ITEMS REQUIRING ADJUSTMENT**.

WHO MUST FILE – If the computation of your federal adjusted gross income or itemized deductions reflects any of the differences in Wisconsin and federal law for 2004, you must complete this schedule and attach it to your Wisconsin income tax return, Form 1 or Form 1NPR.

To the extent Schedule I adjustments in a prior year affect income or expense items in 2004 (for example, the special 30% depreciation allowance was not allowed to be claimed on property placed in service after September 10, 2001), you must also make adjustments on Schedule I for 2004.

It also may be necessary to prepare a 2004 Schedule I to adjust the amount of gain or loss reportable from sales of certain assets during 2004. See the instructions for lines 2 and 3 under **SPECIFIC INSTRUCTIONS**.

PARTNERS, BENEFICIARIES OF ESTATES AND TRUSTS, AND SHAREHOLDERS OF TAX-OPTION (S) CORPORATIONS – The income and deduction items computed on the Wisconsin returns of partnerships, estates and trusts, and tax-option (S) corporations may also be affected by the differences between Wisconsin and federal law for 2004. As a result, the distributive shares of these items which are reportable on the individual Wisconsin income tax returns of the respective partners, beneficiaries, and shareholders may differ for Wisconsin and federal income tax purposes. Such partners, beneficiaries, and shareholders should receive notification from the partnership, estate or trust, or tax-option (S) corporation of the amounts reportable for Wisconsin purposes. By comparing the amounts reportable for Wisconsin and federal purposes, the partner, beneficiary, or shareholder should determine the items which differ and make the appropriate adjustments.

SPECIFIC INSTRUCTIONS

(Numbered to correspond with the line numbers on Schedule I)

INSTRUCTIONS FOR PART I

1. Fill in your 2004 federal adjusted gross income from line 36 of your federal Form 1040 (line 21 of Form 1040A if you claimed the tuition and fees deduction or educator expenses on that form).
- 2 & 3. If you sold or otherwise disposed of certain property during 2004, the gain or loss reportable from such sale may differ for Wisconsin and federal purposes due to Schedule I adjustments made in the current year or a prior year. This would occur, for example, when different rates of depreciation or amortization were allowable for Wisconsin and federal purposes in 1975 or thereafter.

To properly report such gain or loss on your Wisconsin return, you must first remove all gain or loss included in your federal adjusted gross income. This is done by filling in line 2a or 2b and/or line 3a or 3b. Then fill in the revised gain or loss on line 2c and/or line 3c. Attach a revised federal Schedule D, Form 4684, or Form 4797 marked "Revised for Wisconsin purposes" to Form 1 or Form 1NPR.

Do not complete lines 2 and 3 if you did not make Schedule I adjustments in the current year or a prior year for the property you sold or otherwise disposed of during 2004.

5. Complete line 5 to make all other adjustments needed to convert 2004 federal adjusted gross income to the amount allowable for Wisconsin. See the listing under Section A of **ITEMS REQUIRING ADJUSTMENT**.

When an adjustment is made on line 2, 3, or 5, this may affect other amounts which must then also be adjusted. For example, the amount of social security includable in federal adjusted gross income may be affected when an adjustment is made to an income item. The adjustment to social security includable in federal adjusted gross income should be reported on line 5.

When completing line 5, if you are adjusting an expense item (for example, depreciation or amounts claimed as Adjustments to Income on lines 23 through 34a of federal Form 1040), fill in the amounts in Col. I and Col. II as negative numbers. Put parentheses around the amounts to show negative numbers.

If you are adjusting an income item, fill in the amounts in Col. I and Col. II as positive numbers.

Complete Col. III as follows:

- If the amounts in Col. I and Col. II are positive numbers (or one number is a positive number and the other number is zero) and the amount in Col. II is larger than the amount in Col. I, subtract Col. I from Col. II. Fill in the difference in Col. III.
 - If the amounts in Col. I and Col. II are positive numbers (or one number is a positive number and the other number is zero) and the amount in Col. I is larger than the amount in Col. II, subtract Col. II from Col. I. Fill in the difference as a negative number in Col. III.
 - If the amounts in Col. I and Col. II are negative numbers (or one number is a negative number and the other number is zero) and the amount in Col. II is larger than the amount in Col. I, subtract Col. I from Col. II. Fill in the difference as a negative number in Col. III. Treat both amounts as if they were positive numbers when figuring which amount is larger and when subtracting the amounts in Col. I and Col. II.
 - If the amounts in Col. I and Col. II are negative numbers (or one number is a negative number and the other number is zero) and the amount in Col. I is larger than the amount in Col. II, subtract Col. II from Col. I. Fill in the difference as a positive number in Col. III. Treat both amounts as if they were positive numbers when figuring which amount is larger and when subtracting the amounts in Col. I and Col. II.
6. The amount on line 6 is your recomputed federal adjusted gross income based on the Internal Revenue Code in effect for Wisconsin for 2004. This amount is the starting point for determining Wisconsin taxable income on Form 1.

INSTRUCTIONS FOR PART II

7. Whenever federal adjusted gross income has been increased or decreased in Part I of Schedule I, itemized deductions which are computed using federal adjusted gross income (for example, medical expenses and charitable contributions) may require adjustment. The deductible amounts of any such items used to compute the Wisconsin itemized deduction credit must be determined by using the federal adjusted gross income computed on line 6 of Part I.

See the listing under Section B of **ITEMS REQUIRING ADJUSTMENT** for other itemized deductions that require adjustment.

ITEMS REQUIRING ADJUSTMENT

Following are brief explanations of differences between federal and Wisconsin law which were known at the time this form was printed (December 3, 2004).

The "Federal" explanation indicates how an item is to be treated for federal income tax purposes as of December 31, 2004. The "Wisconsin" explanation indicates how the item is to be treated for Wisconsin purposes.

If you need additional information regarding these items, contact any Wisconsin Department of Revenue office.

A. ITEMS AFFECTING THE COMPUTATION OF FEDERAL ADJUSTED GROSS INCOME

1. Small Business Stock

- (a) Federal – An exclusion is allowed for 50% of the gain from the sale or exchange of qualified small business stock issued after August 10, 1993, and held for more than five years. (Public Law 103-66)
- (b) Wisconsin – Gain from the sale or exchange of qualified small business stock is included in gross income.

2. Treatment of Extraterritorial Income

- (a) Federal – An exclusion from gross income is allowed for extraterritorial income that is qualifying foreign trade income. (Public Law 106-519)
- (b) Wisconsin – The treatment of extraterritorial income is determined under the provisions of the Internal Revenue Code as amended to December 31, 1999.

3. Expensing of Environmental Remediation Costs

- (a) Federal – The expensing of environmental remediation costs is no longer limited to targeted areas. (Public Law 106-554)
- (b) Wisconsin – The expensing of environmental remediation costs is limited to qualified expenses at a qualified contaminated site within a targeted area.

4. Special Depreciation Allowance for New York Liberty Zone Property

- (a) Federal – An additional first-year depreciation deduction is allowed equal to 30% of the adjusted basis of qualified New York Liberty Zone property. (Public Law 107-147)
- (b) Wisconsin – The additional 30% first-year depreciation deduction for qualified New York Liberty Zone property does not apply. Depreciation on such property must be computed under the provisions of the Internal Revenue Code in effect on December 31, 2000.

5. Treatment of Qualified Leasehold Improvement Property

- (a) Federal – For purposes of the depreciation rules, 5-year property includes qualified New York Liberty Zone leasehold improvement property. (Public Law 107-147)
- (b) Wisconsin – Depreciation on leasehold improvement property must be computed under the provisions of the Internal Revenue Code in effect on December 31, 2000.

6. Deduction for Tuition and Fees

- (a) Federal – A deduction is allowed for up to \$4,000 of qualified tuition and fees paid during the taxable year in connection with enrollment at an institute of higher education. (Public Law 107-16)
- (b) Wisconsin – The federal deduction for up to \$4,000 of qualified tuition and fees does not apply for Wisconsin. (Note Although the federal deduction for tuition and fees cannot be claimed for Wisconsin, you may qualify for a tuition deduction provided by Wisconsin law. If you claimed the federal tuition and fees deduction, you must complete Schedule I to remove the federal deduction. See page 11 of the Form 1 instructions (page 16 of Form 1NPR instructions) for more information on the Wisconsin deduction for tuition paid.)

7. Installment Method for Accrual Basis Taxpayers

- (a) Federal – Accrual basis taxpayers may report income from an installment sale under the installment method. (Public Law 106-573)
- (b) Wisconsin – Accrual basis taxpayers cannot use the installment method for reporting sales and other dispositions. Gain from the sale of property must be recognized in the year of the sale, rather than when payments are received. This does not apply to dispositions of property used or produced in farming or for certain dispositions of timeshares or residential lots.

8. Thirty Percent Bonus Depreciation

- (a) Federal – An additional first-year depreciation deduction equal to 30% of the adjusted basis of qualified property is allowed. In the case of the limitation on depreciation for luxury automobiles, the amount of depreciation allowable in the first year is increased by \$4,600. (Public Law 107-147)
- (b) Wisconsin – The bonus depreciation allowance for certain property does not apply. Depreciation must be computed under the provisions of the Internal Revenue Code in effect on December 31, 2000.

9. Fifty Percent Bonus Depreciation

- (a) Federal – Fifty percent (rather than 30%) bonus depreciation is allowed for certain property placed in service after May 5, 2003, and before January 1, 2005. In the case of luxury automobiles, the amount of depreciation allowable in the first year is \$7,650. (Public Law 108-27)
- (b) Wisconsin – The bonus depreciation provisions do not apply. Depreciation must be computed under the provisions of the Internal Revenue Code in effect on December 31, 2000.

10. Increase in Section 179 Expensing

- (a) Federal – For taxable years beginning in 2004, the amount that may be expensed under sec. 179, Internal Revenue Code, is \$102,000. The phase-out threshold is \$410,000. Off-the-shelf computer software is considered qualifying property. (Public Law 108-27)
- (b) Wisconsin – The amount that may be expensed under sec. 179 is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002. The amount that may be expensed is limited to \$25,000. The phase-out threshold is \$200,000.

11. Death Gratuities Payable with Respect to Deceased Members of the Armed Forces

- (a) Federal – The \$12,000 military death gratuity payment is exempt from federal income tax. (Public Law 108-121)
- (b) Wisconsin – Of the \$12,000 military death gratuity payment, \$9,000 is subject to Wisconsin income tax.

12. Qualified Military Base Realignment and Closure

- (a) Federal – Qualified military base realignment and closure fringe benefit payments are excluded from gross income. (Public Law 108-121)
- (b) Wisconsin – The treatment of qualified military base realignment and closure fringe benefit payments is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002. Payments do not qualify for exclusion from gross income.

13. Treatment of Dependent Care Assistance Programs

- (a) Federal – Dependent care assistance provided under a dependent care assistance program for a member of the uniformed services by reason of such member's status or service is an income-excludable qualified military benefit. (Public Law 108-121)
- (b) Wisconsin – The treatment of dependent care assistance provided for a member of the uniformed services is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.

14. Overnight Travel Expenses of National Guard and Reserve Members

- (a) Federal – National Guard and Reserve members who must travel more than 100 miles away from home and stay overnight as part of their official duties are deemed to be away from home in the pursuit of a trade or business. A deduction from gross income is allowed for their unreimbursed overnight travel, meals, and lodging expenses. (Public Law 108-121)
- (b) Wisconsin – A deduction is not allowed for unreimbursed overnight travel, meals, and lodging expenses of National Guard and Reserve members.

15. Death Benefits Payable to Astronauts

- (a) Federal – The exclusion from gross income for amounts paid by an employer by reason of the death of an employee who is a terrorist victim applies to any astronaut whose death occurs in the line of duty. (Public Law 108-121)
- (b) Wisconsin – The exclusion from gross income for amounts paid by an employer by reason of the death of an astronaut does not apply.

16. Health Savings Accounts

- (a) Federal – Certain individuals may establish health savings accounts. A deduction is allowed for contributions to the account. Amounts contributed by an employer to an employee's account are excluded from the employee's gross income. (Public Law 108-173)
- (b) Wisconsin – The federal provisions relating to health savings accounts do not apply. For example: 1) a deduction is not allowed for the amount paid to a health savings account, 2) earnings on the health savings account are subject to Wisconsin income tax, 3) amounts distributed from the account are not subject to Wisconsin income tax, 4) rollovers from Archer Medical Savings Accounts result in a taxable transaction, and 5) the amounts contributed by an employer (or contributed pre-tax for federal purposes by an employee) are taxable wages to the employee.

17. Federal Subsidies for Prescription Drug Plans

- (a) Federal – Gross income does not include any special subsidy payment for prescription drug plans. (Public Law 108-173)
- (b) Wisconsin – Gross income includes the special subsidy payment for prescription drug plans.

18. Educator Expenses

- (a) Federal – A deduction from gross income is allowed for up to \$250 of expenses paid or incurred by an eligible educator in connection with books, supplies (other than nonathletic supplies for courses of instruction in health or physical education), computer equipment and other equipment, and supplementary materials used by the educator in the classroom. (Public Law 108-311)
- (b) Wisconsin – The deduction from gross income for expenses of an educator in connection with books, supplies, computer equipment and other equipment, and supplementary materials used in the classroom is not allowed.

- 19. Environmental Remediation Costs**
- (a) Federal – The provision allowing the expensing of environmental remediation costs is extended through December 31, 2005. (Public Law 108-311)
 - (b) Wisconsin – A taxpayer may not elect to treat environmental remediation costs as an expense which is not chargeable to capital account.
- 20. Taxable Income Limit on Percentage Depletion**
- (a) Federal – The suspension of the taxable income limitation on the depletion allowance for oil and natural gas produced from marginal properties is extended for taxable years beginning in 2004 and 2005. (Public Law 108-311)
 - (b) Wisconsin – In the case of mines, wells, and other natural deposits, the allowance for depletion shall not exceed 50% (100% in the case of oil and gas properties) of the taxpayer's taxable income from the property (computed without allowances for depletion).
- 21. Accelerated Depreciation for Business Property on Indian Reservations**
- (a) Federal – The accelerated depreciation provisions apply to business property on Indian reservations that is placed in service before January 1, 2006. (Public Law 108-311)
 - (b) Wisconsin – Depreciation of business property on Indian reservations must be computed under the provisions of the Internal Revenue Code in effect on December 31, 2000.
- 22. Deduction for Clean-Fuel Vehicles and Certain Refueling Property**
- (a) Federal – The phase-down of the deduction for qualified clean-fuel vehicle property and qualified clean-fuel refueling property will not apply for property placed in service in 2004 or 2005. (Public Law 108-311)
 - (b) Wisconsin – For property placed in service in 2004, the deduction for clean-fuel vehicles and clean-fuel vehicle refueling property must be reduced by 25%.
- 23. Archer Medical Savings Accounts (MSA)**
- (a) Federal – The cut-off year for purposes of the Archer MSAs is extended through calendar year 2005. (Public Law 108-311)
 - (b) Wisconsin – No individual shall be treated as an eligible individual for an MSA for any taxable year beginning after 2003.
- 24. Recovery Period for Depreciation of Certain Leasehold Improvements and Restaurant Property**
- (a) Federal – A 15-year recovery period is allowed for depreciation of qualified leasehold improvement property and qualified restaurant property placed in service after October 22, 2004. (Public Law 108-357)
 - (b) Wisconsin – The recovery period for depreciation of leasehold improvement property and restaurant property is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000. The cost of nonresidential real property is recovered using the straight-line method and a recovery period of 39 years.
- 25. Income Forecast Method of Depreciation**
- (a) Federal – For property placed in service after October 22, 2004, the taxpayer may include participations and residuals in the adjusted basis of property depreciated under the income forecast method for the taxable year in which the property is placed in service, to the extent that such participations and residuals relate to income estimated to be earned in connection with the property before the close of the 10th taxable year. (Public Law 108-357)
 - (b) Wisconsin – Depreciation on property eligible to use the income forecast method is computed under the provisions of the Internal Revenue Code in effect on December 31, 2000.
- 26. Film and Television Productions**
- (a) Federal – Effective after October 22, 2004, a taxpayer may elect to treat the cost of any qualified film or television production as an expense which is not chargeable to capital account. (Public Law 108-357)
 - (b) Wisconsin – The treatment of a film or television production is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.
- 27. Livestock Sold Due to Weather-Related Conditions**
- (a) Federal – For purposes of the nontaxable exchange rules, the replacement period for livestock sold on account of drought, flood, or other weather-related conditions is extended from two years to four years. The taxpayer may also replace compulsorily or involuntarily converted livestock with other farm property if, due to drought, flood, or other weather-related conditions, it is not feasible to reinvest the proceeds in property similar or related in use to the livestock so converted. (Public Law 108-357)
 - (b) Wisconsin – The replacement period for livestock sold on account of drought, flood, or other weather-related conditions is two years. Property must be replaced with property similar or related in service.
- 28. Expensing of Reforestation Expenditures**
- (a) Federal – For expenditures paid or incurred after October 22, 2004, up to \$10,000 of qualified reforestation expenditures may be deducted in the year paid or incurred. Qualified reforestation expenditures above \$10,000 may be amortized over 84 months. (Public Law 108-357)
 - (b) Wisconsin – Up to \$10,000 of qualified reforestation expenditures may be amortized over an 84-month period.
- 29. Modification of Placed in Service Rule for Bonus Depreciation Property**
- (a) Federal – For property sold after June 4, 2004, if property is originally placed in service by a lessor, such property is sold within three months after the date that the property was placed in service, and the user of the property does not change, then the property is treated as originally placed in service by the taxpayer not earlier than the date of such sale. (Public Law 108-357)
 - (b) Wisconsin – The treatment of property placed in service by a lessor is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.
- 30. Expensing of Capital Costs Incurred in Complying with Environmental Protection Agency (EPA) Sulfur Regulations**
- (a) Federal – A small business refiner may deduct as an expense up to 75 percent of the costs paid or incurred for the purpose of complying with the Highway Diesel Fuel Sulfur Control Requirements of the EPA. (Public Law 108-357)
 - (b) Wisconsin – The treatment of costs paid or incurred for the purpose of complying with EPA requirements is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.
- 31. Civil Rights Tax Relief**
- (a) Federal – A deduction from gross income is allowed for attorney fees and court costs paid by, or on behalf of, the taxpayer in connection with any action involving a claim of unlawful discrimination. This applies to fees and costs paid after October 22, 2004, with respect to any judgment or settlement occurring after such date. (Public Law 108-357)
 - (b) Wisconsin – The treatment of attorney fees and court costs is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.
- 32. Modification of Class Life for Certain Track Facilities**
- (a) Federal – For property placed in service after October 22, 2004, any motorsports entertainment complex is classified as 7-year property. (Public Law 108-357)
 - (b) Wisconsin – The classification of a motorsports entertainment complex is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.
- 33. Method of Accounting for Naval Shipbuilders**
- (a) Federal – For contracts for ships or submarines with respect to which the construction commencement date occurs after October 22, 2004, in the case of a qualified naval ship contract, the taxable income of such contract during the 5-taxable year period beginning with the taxable year in which the contract commencement date occurs is determined under a method identical to the method used in the case of a qualified ship contract. (Public Law 108-357)
 - (b) Wisconsin – The taxable income of a qualified naval ship contract is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.
- 34. Recognition of Gain from the Sale of a Principal Residence Acquired in a Like-Kind Exchange**
- (a) Federal – For sales or exchanges after October 22, 2004, the exclusion for gain on a sale or exchange of a principal residence does not apply if the principal residence was acquired in a like-kind exchange in which any gain was not recognized within the prior 5 years. (Public Law 108-357)
 - (b) Wisconsin – A taxpayer may exclude up to \$250,000 (\$500,000 if married filing a joint return) of gain on the sale or exchange of a principal residence.
- 35. Tax Treatment of Certain Leasing Arrangements**
- (a) Federal – For leases entered into after October 3, 2004, the recovery period for certain intangibles leased to a tax-exempt entity is no less than 125 percent of the lease term. This does not apply to certain short-term leases. (Public Law 108-357)
 - (b) Wisconsin – The recovery period for leasing arrangements is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

36. Limitation on Deductions Allocable to Property Used by Governments or Other Tax-Exempt Entities

- (a) Federal – For leases entered into after March 12, 2004, a tax-exempt use loss for any taxable year is not allowed. Any tax-exempt use loss with respect to any tax-exempt use property which is disallowed for any taxable year shall be treated as a deduction with respect to such property in the next taxable year. (Public Law 108-357)
- (b) Wisconsin – The treatment of a tax-exempt use loss is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.

37. Extend Amortization Provisions to Acquisitions of Sports Franchises

- (a) Federal – For franchises acquired after October 22, 2004, the 15-year recovery period for intangible assets is extended to franchises to engage in professional sports and any intangible asset acquired in connection with the acquisition of such a franchise (including player contracts). (Public Law 108-357)
- (b) Wisconsin – The treatment of sports franchises is determined under the provisions of the Internal Revenue Code in effect on December 31, 2000.

38. Modification of Straddle Rules

- (a) Federal – The straddle rules for positions established on or after October 22, 2004, are modified in three respects: (1) permits taxpayers to identify offsetting positions of a straddle; (2) provides a special rule to clarify the present-law treatment of certain physically settled positions of a straddle; and (3) repeals the stock exception from the straddle rules. (Public Law 108-357)
- (b) Wisconsin – The treatment of straddles is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.

39. Denial of Installment Sale Treatment for All Readily Tradable Debt

- (a) Federal – For sales on or after October 22, 2004, installment sale treatment is denied to all sales in which the taxpayer receives indebtedness that is readily tradable. (Public Law 108-357)
- (b) Wisconsin – Installment sale treatment of sales in which the taxpayer receives indebtedness that is readily tradable is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.

40. Provide Consistent Amortization Period

- (a) Federal – For amounts paid or incurred after October 22, 2004, a deduction is allowed for the lesser of (1) the amount of start-up expenditures with respect to an active trade or business, or \$5,000, reduced by the amount by which such expenditures exceed \$50,000. The remainder of such start-up expenditures is deducted ratably over 180 months. (Public Law 108-357)
- (b) Wisconsin — Start-up expenditures may be amortized over a period of not less than 60 months.

41. Sale of Stock to Comply with Conflict-of-Interest Requirements

- (a) Federal – For sales after October 22, 2004, a person who, in order to comply with federal conflict of interest requirements, is required to sell stock acquired pursuant to the exercise of a statutory stock option is treated as satisfying the holding period requirements, regardless of how long the stock was actually held. (Public Law 108-357)
- (b) Wisconsin – The holding period for stock acquired pursuant to the exercise of a statutory stock option is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.

42. Application of Basis Rules to Nonresident Aliens

- (a) Federal – For distributions on or after October 22, 2004, employee or employer contributions are not included in the basis of annuities if (1) the employee was a nonresident alien at the time the services were performed; (2) the contribution is with respect to compensation for labor or personal services from sources without the United States; and (3) the contribution was not subject to income tax under the laws of the United States or any foreign country. (Public Law 108-357)
- (b) Wisconsin – The basis of annuities is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.

43. Employer Deduction for Certain Entertainment Expenses

- (a) Federal – For expenses incurred after October 22, 2004, the exceptions to the general entertainment expense disallowance rule for expenses treated as compensation or includible in income apply only to the extent of the amount of expenses treated as compensation or includible in income. Covered individuals generally include officers, directors, and 10-percent-or-greater owners of private and publicly-held companies. (Public Law 108-357)
- (b) Wisconsin – The treatment of entertainment expenses is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.

44. Dispositions of Transmission Property to Implement Federal Regulatory Commission or State Electric Restructuring

- (a) Federal – For transactions after October 22, 2004, taxpayers may elect to recognize gain from qualifying electric transmission transactions ratably over an eight-year period if the amount realized is used to purchase exempt utility property. (Public Law 108-357)
- (b) Wisconsin – Gain is recognized to the extent the sales price (and any other consideration received) exceeds the seller's basis in the property, unless the gain is deferred or not recognized under a special tax provision.

45. Limitation on Depreciation of Certain Passenger Automobiles

- (a) Federal – For property placed in service after October 22, 2004, the cost of any sport utility vehicle that may be taken into account as a sec. 179 expense is limited to \$25,000. (Public Law 108-357)
- (b) Wisconsin – The total amount that may be expensed under sec. 179 is limited to \$25,000 for all property.

Differences in Wisconsin-Federal Law That Affect Only Fiscal Year Filers

The following provisions of the Internal Revenue Code also do not apply for Wisconsin purposes for 2004. These provisions were all enacted as part of the federal American Jobs Creation Act of 2004 (Public Law 108-357). These provisions became effective for transactions occurring after December 31, 2004, or for taxable years beginning after October 22, 2004, and, therefore, would apply only to fiscal year filers for the 2004 taxable year. If you need additional information regarding any of these items, contact any Department of Revenue office.

1. Capital gain treatment to apply to sales of timber by landowners.
2. Charitable contribution deduction for certain expenses incurred in support of Native Alaskan subsistence whaling.
3. Certain Alaska natural gas pipeline property treated as seven-year property.
4. Donations of motor vehicles, boats, and airplanes.
5. Treatment of nonqualified deferred compensation plans.
6. Effectively connected income to include certain foreign source income.
7. Use of passive activity loss and at-risk amounts by qualified subchapter S trust income beneficiaries.
8. Modification of depreciation allowance for aircraft.

B. ITEMS AFFECTING THE COMPUTATION OF ITEMIZED DEDUCTIONS

1. Investment Interest

- (a) Federal – Ordinary dividends taxed as net capital gain cannot be taken into account as investment income when determining the allowable deduction for investment interest expense. (Public Law 108-27)
- (b) Wisconsin – All ordinary dividends (except Alaska Permanent Fund dividends) are used in determining the allowable deduction for investment interest expense.

2. Medical Expense Deduction

- (a) Federal – Any payment or distribution out of a health savings account for qualified medical expenses shall not be treated as an expense paid for medical care for purposes of claiming an itemized deduction for medical and dental expenses. (Public Law 108-173)
- (b) Wisconsin – Payments or distributions out of a health savings account that are used for qualified medical expenses are an allowable itemized deduction.

3. Charitable Contributions of Patents and Similar Property

- (a) Federal – Effective for contributions made after June 3, 2004, if a taxpayer contributes a patent or other intellectual property (other than certain copyrights or inventory) to a charitable organization, the initial charitable deduction is limited to the lesser of the taxpayer's basis in the property or the fair market value of the property. In addition, the taxpayer is permitted to deduct, as a charitable deduction, certain additional amounts in the year of contribution or in subsequent taxable years based on a specified percentage of the qualified donee income received or accrued by the charitable donee with respect to the contributed property. (Public Law 108-357)
- (b) Wisconsin – The deduction for charitable contributions of patents or other intellectual property is determined under the provisions of the Internal Revenue Code in effect on December 31, 2002.