

**2010**

**Wisconsin**  
**Corporation Franchise and Income Tax**  
**Form 4 Instructions for**  
**Separate Returns**

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**New for 2010:**

- **Food Processing and Food Warehouse Investment Credit**
- **Jobs Tax Credit**
- **Postsecondary Education Credit**
- **Woody Biomass Harvesting and Processing Credit**
- **Water Consumption Credit**

**Remember to file these with Form 4:**

- Any extension
- A copy of your federal return, including consolidating schedules
- A list of solely owned LLCs
- Any other required forms or schedules, such as Schedule RT or Schedule CR



*Do not staple attachments to your return. File electronically or use paper clips to submit these items.*

## *Go Electronic!*

Fast • Accurate • Secure

File Form 4 through the Federal/State E-Filing Program. With approved third party software, you can file Form 4 along with other Wisconsin and federal returns in a single filing. Or, you may use Federal/State E-Filing to file Form 4 separately. See *Filing Methods* on page 6.

**Visit us online at**

[www.revenue.wi.gov](http://www.revenue.wi.gov) to...

- Obtain tax forms and instructions.
- Get answers to frequently asked questions (FAQs).
- Find out which third-party software you can use to file Form 4 electronically.
- Register for electronic funds transfer.
- Check out the *Wisconsin Tax Bulletin* quarterly newsletter.
- Read Department of Revenue publications.
- Register to receive e-mail news.
- Determine how to contact the Department about a specific question.

***Don't forget about use tax!***

The corporation may owe use tax if it purchased tangible personal property or certain services for storage, use, or consumption in Wisconsin without paying a state sales or use tax. See page 20.

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**NOTE:** It may be helpful to also have a copy of the instructions to the following forms and schedules that are frequently required to be filed with Form 4:

- **Form 4A-1**, *Wisconsin Apportionment Data for Single-Factor Formulas*
- **Schedule V**, *Wisconsin Additions to Federal Income*
- **Schedule W**, *Wisconsin Subtractions From Federal Income*
- **Schedule Y**, *Wisconsin Subtraction Modification for Dividends*

## Who Must File Form 4

### Types of Taxpayers

Form 4 is for corporations only. Corporations that must file Form 4, if not otherwise exempt, include:

- Corporations doing business both in and outside Wisconsin (multistate corporations)
- Corporations that are members of combined groups doing business in Wisconsin
- Domestic insurance companies doing business in Wisconsin

Corporations (other than insurance companies) that are doing business only in Wisconsin file Form 5. Tax-option (S) corporations file Form 5S. Tax exempt corporations may be required to file Form 4T.

Additionally, some corporations must file a Wisconsin corporation franchise or income tax return (Form 4, 5, 5S, or 4T, as applicable) regardless of whether they are otherwise "doing business in Wisconsin." These corporations include:

- Corporations organized under Wisconsin law
- Foreign corporations licensed to do business in Wisconsin
- Foreign corporations that are the sole owner of an entity that is disregarded as a separate entity under IRC section 7701 and does business in Wisconsin
- Foreign corporations engaged in buying or selling lottery prizes if the winning tickets were originally bought in Wisconsin

### "Doing Business in Wisconsin"

"Doing business in Wisconsin" means that the corporation has "nexus" with Wisconsin. Activities that create nexus include the following:

- Maintaining any business location in Wisconsin
- Owning real estate in Wisconsin
- Owning a stock of goods in a public warehouse or on consignment in Wisconsin
- Owning a stock of goods in the hands of a distributor or other non-employee representative in Wisconsin, if used to fill orders for the owner's account
- Regularly selling products or services of any kind or nature to customers in Wisconsin that receive the product or service in Wisconsin, except where protected by federal Public Law (P.L.) 86-272
- Regularly soliciting business from potential customers in Wisconsin, except where protected by P.L. 86-272
- Regularly performing services outside Wisconsin for which the benefits are received in Wisconsin
- Regularly engaging in transactions with customers in Wisconsin that involve intangible property and result in receipts flowing to the corporation from within Wisconsin
- Issuing credit, debit, or travel and entertainment cards to customers in Wisconsin
- Holding loans secured by real or tangible personal property located in Wisconsin
- Owning, directly or indirectly, a general or limited partnership interest in a partnership that does business in Wisconsin, regardless of the percentage of ownership
- Owning, directly or indirectly, an interest in a limited liability company treated as a partnership that does business in Wisconsin, regardless of the percentage of ownership

For corporations selling tangible personal property, P.L. 86-272 may prohibit Wisconsin taxation in some cases. There are also specific statutory exemptions from nexus. See s. Tax 2.82, Wisconsin Administrative Code, for more information about P.L. 86-272 and what creates nexus. See sec. 71.23(3), Wis. Stats., for the specific statutory exemptions that may apply.

**NOTE:** For combined groups, nexus is determined for the group as a whole. If one member of the combined group is doing business in Wisconsin that relates to the common unitary business, all members of the combined group are considered to have nexus.

### Entities Not Required to File

The following entities are not required to file a Wisconsin franchise or income tax return:

- Single-owner entities that are disregarded under IRC section 7701 (Instead, the owner of the disregarded entity must file a Wisconsin franchise or income tax return if otherwise required.)
- "Exempt entities," except those that have income described in a. through c.:
  - a. Unrelated business taxable income as defined in IRC section 512,
  - b. Income derived from a health maintenance organization (HMO) as defined in sec. 609.01(2), Wis. Stats., or a limited service health organization (LSHO) as defined in sec. 609.01(3), Wis. Stats., or
  - c. Income realized from the sale of and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin.
- 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

**"Exempt Entities."** Exempt entities are described in secs. 71.26(1) and 71.45(1), Wis. Stats. Exempt entities include the following:

- Insurers exempt from federal income taxation under IRC section 501(c)(15)
- Town mutual insurers organized under Chapter 612, Wis. Stats.
- Foreign insurers
- Domestic insurers engaged exclusively in life insurance business
- Domestic insurers transacting mortgage guaranty insurance business as defined in Wisconsin Administrative Code section Insurance 6.75(2)(i)
- Some cooperatives
- Religious, scientific, educational, benevolent, or other corporations or associations of individuals not organized or conducted for profit

## Franchise or Income Tax

Corporations required to file Form 4 may be subject to either franchise or income tax.

**Franchise tax** applies to:

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

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

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

## Recycling Surcharge

Corporations required to file Form 4 may also be subject to the recycling surcharge. The recycling surcharge is 3% of the corporation's franchise or income tax, before applying credits. The minimum recycling surcharge is \$25 and the maximum is \$9,800.

A corporation is subject to the recycling surcharge if it has gross receipts from all activities of \$4 million or more during the taxable year. "Gross receipts from all activities" means gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.

However, the recycling 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, or
- Nuclear decommissioning trust funds.

For more information on the recycling surcharge, refer to Publication 400, *Wisconsin's Recycling Surcharge*. You can find this publication on the Department of Revenue's web site at [www.revenue.wi.gov](http://www.revenue.wi.gov), under the link for "Publications."

## Separate Return or Combined Return?

Use this section to determine if the corporation must be included in a combined return. If so, see the *Form 4 Instructions for Combined Returns*.

### Combined Returns and Groups in General

If a corporation is in a combined group, it should not file a separate Form 4, instead, one corporation in the group, called the "designated agent," files Form 4 on a combined basis for the group as a whole.

A corporation is in a combined group if it meets **all** of the following three tests:

1. The corporation is in a **commonly controlled group**,
2. The corporation is engaged in a **unitary business** with other corporations in the commonly controlled group, and
3. The corporation is not excluded from the combined group under the **water's edge** rules.

However, corporations that are tax-option (S) corporations, real estate investment trusts (REITs), regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), or financial asset securitization investment

trusts (FASITs) can't be included in a combined group. These corporations must file separate Wisconsin returns if they are otherwise required to file.

Each of the three tests is discussed below:

### Test 1: Commonly Controlled Group

Section 71.255(1)(c), Wis. Stats., and s. Tax 2.61(3), Wisconsin Administrative Code, describe when a "commonly controlled group" exists. To summarize those provisions, a "commonly controlled group" means any or a combination of the following arrangements, if the "50% test" described below is met:

- A parent-subsidary chain of corporations
- Corporations with a common owner
- Corporations owned or controlled by members of the same family
- Corporations that are "stapled entities"

**50% Test.** In any commonly controlled group, there must be common ownership of stock representing more than 50% of the voting power of the corporations. A corporation owns stock representing more than 50% of voting power if

it owns or controls more than 50% of all classes of stock entitled to vote. See s. Tax 2.61(3)(d), Wisconsin Administrative Code, for other rules that apply in determining voting power.

The common ownership may be either direct or indirect. To determine if there is indirect ownership, you would generally use the stock attribution rules of IRC section 318. See s. Tax 2.61(3)(a), Wisconsin Administrative Code, for more details.

Following is a brief description of each type of commonly controlled group:

**Parent-Subsidiary Chain.** In this type of group, a parent corporation directly or indirectly owns stock representing more than 50% of the voting power of one or more corporations or chains of corporations in the group.

**Corporations with Common Owner.** In this type of group, a common owner directly or indirectly owns stock representing more than 50% of the voting power of the corporations in the group. The common owner may or may not be a corporation.

**Corporations Owned or Controlled by Family Members.** In this type of group, stock representing more than 50% of the voting power in each corporation is directly owned by, or for the benefit of, members of the same family, as determined by the third degree of kinship under sec. 990.001(16), Wis. Stats. Using the third degree of kinship, an individual is considered to be in the same family with his or her:

- Parents
- Grandparents
- Great-grandparents
- Children
- Grandchildren
- Great-grandchildren
- Siblings
- Nieces and nephews
- Aunts and uncles

**Stapled Entities.** In this type of group, there is an arrangement where stock representing more than 50% of the voting power of each corporation cannot be separately transferred, even if there is not actual common ownership of the stock. If a group of corporations would be considered “stapled entities” under section 269B of the IRC, without regard to whether the corporations are foreign or domestic, then the corporations are in a commonly controlled group. See s. Tax 2.61(3)(d), Wisconsin Administrative Code, for details.

## Test 2: Unitary Business

In general, a “unitary business” is a group of commonly controlled companies, divisions, or branches that operates as a unit. The operations are integrated, and each company, division, or branch is dependent upon or contributory to the operation of the business as a whole. However, it

isn't necessary that *each* component of the business contribute to *all* the other components.

**Controlled Group Election.** A commonly controlled group may elect to forego the unitary business test by treating the entire commonly controlled group as a single unitary business. This is called the “controlled group election.”

**NOTE:** The controlled group election may simplify combined return filing because it eliminates the need to determine which corporations in the commonly controlled group are engaged in the same unitary business.

If the group makes the controlled group election, the election is generally binding on the combined group and the Department for a ten-year period, unless the group no longer has a filing requirement. For information on the controlled group election, see the instructions to Form 4R, *Federal Taxable Income Reconciliation for Wisconsin Combined Groups*.

**How to Identify a “Unitary Business.”** If the commonly controlled group does not make the controlled group election, it uses the definition in sec. 71.255(1)(n), Wis. Stats., and guidance provided in s. Tax 2.62, Wisconsin Administrative Code, to determine if corporations in the commonly controlled group are engaged in the same unitary business. The law provides the following:

- Commonly controlled entities are engaged in a unitary business if their activities generate a synergy and mutual benefit that produces a *sharing or exchange of value* among them and a significant *flow of value* to the separate parts
- Commonly controlled entities are presumed to be a unitary business if the entities have *unity of operation and use*

The Wisconsin Statutes and Administrative Code provide further explanation and examples of the “sharing, exchange, and flow of value” concept and the “unity of ownership, operation and use” concept, summarized as follows:

**Sharing, Exchange, and Flow of Value.** Commonly controlled corporations are engaged in a unitary business if **any** of the following are true:

- The corporations contribute or are expected to contribute in a nontrivial way to each other's profitability
- The corporations are dependent on one another for achieving one or more nontrivial business objectives
- The corporations taken as a group offer one or more corporations in the group some economies of scale or economies of scope

To illustrate this concept, the following activities between commonly controlled corporations indicate that they are engaged in the same unitary business:

- Assisting in acquisition of assets
- Assisting with filling personnel needs

- Lending funds, guaranteeing loans, or pledging assets
- Common future planning or development of the enterprise
- Providing technical assistance, general operational guidance, or overall operational strategic advice
- Supervising
- Sharing use of trade names, patents, or other intellectual property

**Unity of Operation and Use.** Commonly controlled corporations are also engaged in a unitary business if they have both unity of operation and unity of use.

*Unity of operation* means there is functional integration among the corporations, and is evidenced by shared support functions such as:

- Centralized purchasing, marketing, advertising, accounting, or research and development
- Intercorporate sales or leases, including equipment and real estate
- Intercorporate services, including administrative, data management, computer support, employee benefits, human resources, insurance, tax compliance, legal, financial, and cash management services
- Intercorporate debts
- Intercorporate use of proprietary materials, including trade names, trademarks, service marks, patents, copyrights, and trade secrets

*Unity of use* is evidenced by centralized management or use of centralized policies. Factors that indicate unity of use include:

- Centralized executive force
- Interlocking directorates or corporate officers
- Intercompany employee transfers
- Common employee and executive training programs
- Common hiring and personnel policies
- Common recruiting programs
- Common employee handbooks
- Common employee benefit programs

**Passive Holding Companies in Unitary Business.** If a commonly controlled group includes a passive holding company that holds intangible assets that are used by other companies of the group in a unitary business, that holding company is deemed to be engaged in the unitary business, even if its activities are primarily passive.

If a passive parent holding company directly or indirectly controls one or more operating company subsidiaries engaged in a unitary business, that passive parent holding company is also engaged in the unitary business, even if its activities are primarily passive.

**Presumptions to Simplify Determination.** In order to simplify the determination of whether a unitary business exists, s. Tax 2.62(6), Wisconsin Administrative Code, provides that a group of commonly controlled corporations is presumed to be engaged in a unitary business if **any** of the following are true:

- The group's activities are all in the same general line of business
- The members of the group are engaged in different steps of a vertically structured enterprise
- There is strong central management coupled with the existence of centralized departments or affiliates for such functions as financing, advertising, R&D, or purchasing

Also, if a corporation forms a new corporation, the forming corporation and new corporation are presumed to be engaged in a unitary business with one another from the date of formation.

These presumptions may be rebutted by the taxpayer or by the Department based on the specific facts and circumstances.

### Test 3: Water's Edge

In general, this test only applies if the company derives 80% or more of its worldwide net income from "active foreign business income" as defined in section 861(c)(1)(B), IRC. The water's edge rules are described in detail in the instructions to line 13 of Form 4R, *Federal Taxable Income Reconciliation for Wisconsin Combined Groups*.

**SUMMARY:** A corporation must file in a combined return if all of the following are true:

1. The corporation is in a commonly controlled group,
2. The corporation is engaged in a unitary business with one or more other corporations in that commonly controlled group **or** the group makes the controlled group election, and
3. The corporation is not excluded from the combined group under the water's edge rules.

## General Franchise or Income Tax Return Instructions

### When and Where to File

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

**Short Period Returns.** Corporations must file short period returns for Wisconsin if required to do so for federal purposes. A Wisconsin return for a short taxable year is due on or before the federal due date for that short taxable year.

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

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

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

**CAUTION:** An extension for filing the return doesn't extend the time to pay the franchise or income tax. Interest will be charged on the tax not paid by the 15th day of the 3rd month following the close of the taxable year. You can avoid interest charges during the extension period by paying the tax due by that date.

**Filing Methods.** File electronically through the Federal/State E-Filing Program. For a list of software vendors participating in this program, visit the Department's web page at [www.revenue.wi.gov/eserv/corp/third.html](http://www.revenue.wi.gov/eserv/corp/third.html).

Paper filing is also permitted. If you choose to file your return on paper, follow these mailing instructions carefully:

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

### Period Covered by Return

A 2010 Wisconsin return must be filed by a corporation for calendar year 2010 or a fiscal year that begins in 2010. A fiscal year may end only on the last day of a month. The period covered by the return can't exceed 12 months. The return must cover the same period as the corporation's federal income tax return.

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

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

### Accounting Methods and Elections

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

**Situations Where Installment Method Not Authorized 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.

Further, for Wisconsin purposes, accrual basis taxpayers cannot generally use the installment method because Wisconsin did not adopt P.L. 106-573, which restored the installment method for accrual basis taxpayers for federal income tax purposes.

**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.

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

**Elections.** As explained above, a corporation can't make different elections for federal and Wisconsin purposes with respect to accounting periods and accounting methods, unless the federal method isn't permitted under the 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 for federal purposes. If federal law specifies the manner or time period in which an election must be made, those requirements also apply for Wisconsin purposes.

**Payment of Estimated Tax**

If the total of a corporation's franchise or income tax and recycling surcharge due is \$500 or more, it generally must make quarterly estimated tax payments. Failure to make required estimated tax payments may result in an interest charge.

**Quick Refund.** A corporation that overpaid its estimated tax may apply for a refund before filing its tax return if its overpayment is (1) at least 10% of the expected Wisconsin tax liability and (2) at least \$500. To apply, file Wisconsin Form 4466W, *Corporation Application for Quick Refund of Overpayment of Estimated Tax*, after the end of the taxable year and before the corporation files its tax return.

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

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

To make EFT payments of corporation franchise or income tax, choose the appropriate tax type code from the table below. When making EFT payments, be sure to enter the last day of your taxable year for which the payment is being made, not the last day of the quarterly installment period.

Tax Type	Tax Type Code
Corporation estimated tax payment	02100
Corporation tax due with return	02200
Corporation amended return tax due	02400

Tax Type	Tax Type Code
Corporation bill (except audit assessments)	02540

Corporations not required to pay by EFT may elect to do so. For more information, visit the Department of Revenue's web site at [www.revenue.wi.gov/eserv/eftgen.html](http://www.revenue.wi.gov/eserv/eftgen.html), e-mail, [sales10@revenue.wi.gov](mailto:sales10@revenue.wi.gov), call (608) 264-9918, or write to Electronic Funds Transfer Assistance, Wisconsin Department of Revenue, PO Box 8949, Madison, WI 53708-8949.

If you are not required to use EFT, you may make your estimated payments using Form 4-ES, *Wisconsin Corporation Estimated Tax Voucher*. You may download vouchers from the Department's web site at [www.revenue.wi.gov](http://www.revenue.wi.gov), or you may request vouchers by calling any Department of Revenue office.

**Required Disclosures and Attachments**

In addition to filing Form 4 itself, the corporation may be required to disclose certain types of transactions included on the return or file information returns. The corporation must also provide a complete copy of the corporation's federal income tax return and other schedules to supplement the return. Each of these requirements is described below.

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

However, even if you are not required to file Schedule RT, if you are taking deductions for interest, rent, management fees, or intangible expenses, paid, accrued, or incurred to related entities, you must add those expenses back to federal income as a Wisconsin addition modification. To the extent the expenses meet the tests for deductibility, you may subtract them out as a subtraction modification. See the Schedule V instructions and Schedule W instructions for details.

**Corporation's Disclosure of Reportable Transactions.** If a corporation was required to file any form with the Internal Revenue Service (IRS) to disclose a "reportable transaction," as defined under sec. 71.81(1)(c), Wis. Stats., you must file a copy of that form with the Department of Revenue within 60 days of the date you are required to file it for federal income tax purposes, provided that you are otherwise required to file a Wisconsin return.

This includes federal Form 8886, *Reportable Transaction Disclosure Statement*, and federal Form TD F 90-22.1, *Report of Foreign Bank and Financial Accounts*. To file these forms for Wisconsin purposes, file a paper copy of the form, separate from your Form 4, to Wisconsin



Department of Revenue, Tax Shelters Program, PO Box 8958, Madison, WI 53708-8958.

**Material Advisor's Disclosure of Reportable Transactions.** A material advisor that is required to file a form with the IRS to disclose a reportable transaction must file a copy of that form with the Department of Revenue within 60 days of the date it is required for federal income tax purposes, provided that the form relates to a taxpayer that is required to file a Wisconsin franchise or income tax return.

For federal purposes, the form required for this disclosure is Form 8918, *Material Advisor Disclosure Statement*. To file this form for Wisconsin purposes, send a paper copy, separate from the Wisconsin return, to Wisconsin Department of Revenue, Tax Shelters Program, PO Box 8958, Madison, WI 53708-8958.

A "material advisor" means any person who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction (as defined in the U.S. Treasury Regulations) and who, directly or indirectly, derives gross income from providing such aid, assistance, or advice in an amount that exceeds the threshold amount. See sec. 71.81(1)(e), Wis. Stats., for details of the threshold amount that applies.

**NOTE:** For disclosures of related entity expenses, submit Schedule RT with your Wisconsin franchise or income tax return. However, for disclosures of reportable transactions, mail a copy of the federal form, *separate from the return*, to the Tax Shelters Program address.

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

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

**Federal Income Tax Return.** All corporations filing Form 4 must include a complete copy of their federal income tax return, including all supporting schedules that were submitted to the IRS with the federal return.

If the corporation is a filing as a separate entity for Wisconsin purposes but is included in a consolidated return for federal purposes, you must also provide either a breakdown of the federal consolidated return amounts by company or a copy of the pro forma federal return for each corporation in the consolidated group.

**Supporting Schedules for Return.** The line-by-line instructions of the Wisconsin form you are filing often indicate that specific schedules are required to support amounts reported on the return. In some cases, the schedules must be on specific Department-prescribed forms, and in other cases you must prepare your own schedule. Follow the line-by-line instructions carefully.

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

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

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

**Amended Returns.** After you have filed a complete, original tax return, you may file an amended return to correct a tax return as you originally filed it or as it was later adjusted by an amended return, a claim for refund, or an office or field audit.

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

To file an amended Wisconsin return, put a check mark on the designated line in item D on the front of the return, complete the return, and include an explanation of any changes made. Show computations in detail, including any applicable supplemental forms or schedules. Also show how you figured your refund or additional amount owed. Where applicable, the line-by-line instructions in these instructions provide specific instructions for how to compute the amounts on an amended return.

Send amended returns to the Wisconsin Department of Revenue, PO Box 8908, Madison, WI 53708-8908. Don't attach amended returns to other tax returns that you are filing.

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

consin Administrative Code, for more information on claims for refund and other amended returns.

### Final Return

If the corporation liquidated during the taxable year, put a check mark on the designated line in item D on the front of the return. Enter the date of liquidation as the taxable year ending date at the top of the return. Submit a copy of your plan of liquidation and a copy of federal Form 966 with your Wisconsin return.

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

### Penalties for Not Filing or Filing Incorrect Returns

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

Further, if you fail to disclose reportable transactions, you may be subject to the penalties described in sec. 71.81, Wis. Stats., including a \$30,000 penalty for failure to disclose a listed transaction.

## Conformity with Internal Revenue Code and Exceptions

The Wisconsin income and franchise tax law is based on the federal Internal Revenue Code ("IRC"). The IRC generally applies for Wisconsin purposes at the same time as for federal purposes. However, significant exceptions apply. These exceptions are discussed below.

**NOTE:** The exceptions listed below are those in effect as of the publication date of these instructions. It is possible that subsequent changes in Wisconsin law may add or eliminate some exceptions applicable to taxable years beginning in 2010.

### Amendments to Internal Revenue Code after December 31, 2008

Wisconsin has not adopted any amendments to the IRC enacted after December 31, 2008. Federal law changes enacted after December 31, 2008 do not apply for Wisconsin purposes. For instance, Public Law 111-5, American Recovery and Reinvestment Act of 2009, enacted on February 17, 2009; Public Law 111-92, Worker, Homeownership, and Business Assistance Act of 2009, enacted on November 6, 2009; Public Law 111-147, Hiring Incentives to Restore Employment Act, enacted March 18, 2010; Public Law 111-148, Patient Protection and Affordable Care Act, enacted March 23, 2010; Public Law 111-152, Health Care and Education Reconciliation Act of 2010, enacted March 30, 2010; Public Law 111-192, Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010, enacted June 25, 2010; Public Law 111-203, Dodd-Frank Wall Street Reform and Consumer Protection Act, enacted July 21, 2010; Public Law 111-226, Education Jobs and Medicaid Funding Bill, enacted August 10, 2010; and Public Law 111-240, Small Business Jobs Act of 2010, enacted September 27, 2010, do not apply for Wisconsin purposes.

### Depreciation and Section 179 Expensing

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

**Depreciation or Amortization Provisions that Don't Apply for Wisconsin.** For example, the following provisions do not apply for Wisconsin purposes because they are first effective for taxable years beginning on or after January 1, 2001:

- 30% bonus depreciation (sec. 101 of P.L. 107-147, sec. 201 of P.L. 108-27, sec. 403(a) of P.L. 108-311)
- 50% bonus depreciation (sec. 201 of P.L. 108-27)
- Accelerated depreciation for Indian reservation property (sec. 316 of P.L. 108-311)
- Modification of application of income forecast method of depreciation (sec. 242 of P.L. 108-357)
- Special expensing provisions for film and television productions (sec. 244 of P.L. 108-357)
- Special rules on depreciation for aircraft (sec. 336 of P.L. 108-357)
- Modification of placed in service rule for bonus depreciation (sec. 337 of P.L. 108-357)
- Expansion of limitation on depreciation of certain passenger automobiles (sec. 910 of P.L. 108-357)
- Treatment of electric transmission property as 15-year property (sec. 1308 of P.L. 109-58)

- Expansion of amortization for certain atmospheric pollution control facilities (sec. 1309 of P.L. 109-58)
- Special expensing provisions for equipment used in refining liquid fuels (sec. 1323 of P.L. 109-58)
- Natural gas distribution lines treated as 15-year property (sec. 1325 of P.L. 109-58)
- Natural gas gathering lines treated as 7-year property (sec. 1326 of P.L. 109-58)
- Special rules for amortization of geological and geophysical expenditures (sec. 1329 of P.L. 109-58, sec. 503 of P.L. 109-222)
- Extension for placed in service rules for bonus depreciation for taxpayers affected by Hurricane Katrina, Rita, and Wilma (sec. 105 of P.L. 109-135)
- Election to amortize musical works and copyrights over a 5-year period (sec. 207 of P.L. 109-222)
- Extension for the increase in section 179 expensing limit and phase out threshold (sec. 201 of P.L. 111-147)
- Increase in section 179 dollar limit and phase-out threshold (sec. 2021 of P.L. 111-240)

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

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

In general, the maximum section 179 expense and phase out threshold amounts for taxable years beginning in 2010 are as follows:

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

**Other Exceptions to Internal Revenue Code**

The following federal provisions in effect as of December 31, 2008, are specifically excluded for Wisconsin franchise and income tax purposes:

**Small Business Stock.** For federal purposes, an exclusion is allowed for 50% of the gain from the sale or exchange of qualified small business stock issued after August 10,

1993, and held for more than 5 years (sec. 13113 of P.L. 103-66). For Wisconsin purposes, this section does not apply.

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

**NOTE:** Wisconsin law also provides a modification relating to installment obligations. See the section *Accounting Methods and Elections* for details.

**Health Savings Accounts.** For federal purposes, 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 (sec. 1201 of P.L. 108-173, P.L. 109-432). For Wisconsin purposes, the health savings accounts provisions do not apply.

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

**Other Provisions Not Adopted for Wisconsin Purposes.**

- Exclusion for extraterritorial income (sec. 1, 3, 4, and 5 of P.L. 106-519), repeal of such exclusion (sec. 101 of P.L. 108-357, sec 11(g) of P.L. 110-172), and binding-contract relief provisions (sec. 513 of P.L. 109-222) Foreign sales corporation (FSC) treatment is also repealed for Wisconsin purposes for taxable years beginning on or after January 1, 2005.
- Special expensing provisions for environmental remediation costs and extension of the termination date (sec. 162 of P.L. 106-554, sec. 308 of P.L. 108-311)
- Election to defer gain on disposition of transmission property to implement Federal Regulatory Commission or state electric restructuring (sec. 909 of P.L. 108-357, sec 1305 of P.L. 109-58)
- Enhanced deduction for corporate donations of computer technology and extension of the termination date (sec. 165 of P.L. 106-554, sec. 306 of P.L. 108-311)
- Tax benefits for Gulf Opportunity (GO) Zones (sec. 101 of P.L. 109-135)
- Exceptions to imputed interest rules for loans to continuing care facilities (sec. 209 of P.L. 109-222)

- Special temporary dividends received deduction for reinvesting foreign earnings in the U.S. (sec. 422 of P.L. 108-357)
- Reform of tax treatment of certain leasing arrangements (sec. 847 of P.L. 108-357)
- Special rules for nuclear decommissioning costs (sec. 1310 of P.L. 109-58)
- Pass-through of deduction for costs incurred by small refiner cooperatives to comply with EPA sulfur regulations (sec. 1324 of P.L. 109-58)
- Expansion of research credit (sec. 1351 of P.L. 109-58)
- Special tax treatment of state ownership of railroad real estate investment trust (sec. 11146 of P.L. 109-59)
- All provisions of P.L. 109-432, Tax Relief and Health Care Act of 2006 (enacted December 20, 2006)
- Special rules relating to 2010 IRA conversions to Roth IRA (sec. 512 of P.L. 109-222)
- Provisions making permanent the pension and IRA provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 (sec. 811 of P.L. 109-280)
- Special treatment of annuity and life insurance contracts with long-term care insurance feature (sec. 844 of P.L. 109-280)
- All provisions of P.L. 110-28, U.S. Troop Readiness, Veteran's Care, Katrina Recovery and Iraq Accountability Appropriations Act of 2007
- All provisions of P.L. 110-140, Energy Independence and Security Act of 2007
- All provisions of P.L. 110-141, Victims of Events at Virginia Polytechnic Institute and State University
- All provisions of P.L. 110-142, Mortgage Forgiveness Debt Relief Act of 2007
- All provisions of P.L. 110-166, Tax Increase Prevention Act of 2007
- All provisions of P.L. 110-172, Tax Technical Corrections Act of 2007
- All provisions of P.L. 110-185, Economic Stimulus Act of 2008
- All provisions of P.L. 110-234, Food, Conservation and Energy Act of 2008
- All provisions of P.L. 110-245, Heroes Earnings Assistance and Relief Act of 2008
- All provisions of P.L. 110-289, Housing Assistance Act of 2008
- All provisions of P.L. 110-317, Hubbard Act
- All provisions of P.L. 110-343, Emergency Economic Stabilization Act of 2008
- All provisions of P.L. 110-351, Fostering Connections to Success and Increasing Adoptions Act of 2008
- All provisions of P.L. 111-126, Acceleration of Benefits for Contributions for Relief of Haiti Earthquake Victims
- All provisions of P.L. 111-147, Hiring Incentives to Restore Employment Act
- All provisions of P.L. 111-148, Patient Protection and Affordable Care Act
- All provisions of P.L. 111-152, Health Care and Education Reconciliation Act of 2010
- All provisions of P.L. 111-192, Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010
- All provisions of P.L. 111-203, Dodd-Frank Wall Street Reform and Consumer Protection Act
- All provisions of P.L. 111-226, Education Jobs and Medicaid Funding Bill
- All provisions of P.L. 111-240, Small Business Jobs Act of 2010

### Capital Losses

Wisconsin generally follows the capital loss limitations and carryovers provided under the IRC for corporations. 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, for Wisconsin purposes, 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.

### Limitations on Certain Federal Deductions

You may have to recompute federal deduction limitations for Wisconsin purposes if the amount of your federal taxable income for federal purposes differs from your federal taxable income as determined under the Internal Revenue Code in effect for Wisconsin. Differences in your federal taxable income for federal and Wisconsin purposes may arise for the following reasons:

- A provision of the federal Internal Revenue Code is excluded from the definition of "Internal Revenue Code" in effect for Wisconsin under sec. 71.22(4), Wis. Stats.
- Different elections under the Internal Revenue Code are made for federal and Wisconsin purposes

The deduction limitations are applied in computing federal taxable income *before* the Wisconsin modifications prescribed in secs. 71.26(2) and (3) and 71.30, Wis. Stats. Therefore, you may not recompute deduction limitations as a result of making Wisconsin modifications. For example, if your federal section 179 expense deduction was limited as a result of claiming federal bonus depreciation, you may not recompute the section 179 deduction because there is a specific Wisconsin modification (sec. 71.26(3)(y), Wis. Stats.), which disallows bonus depreciation in computing Wisconsin income.

The following examples further illustrate how the limitations on federal deductions apply in the case of section 179 expense:

**Example 1:** Corporation B reports federal taxable income of zero for the current taxable year and Wisconsin taxable

income of \$20,000. The difference results from adding to federal income the \$20,000 of state income taxes paid that the taxpayer had deducted on its federal return. For federal purposes, the taxpayer has \$25,000 of section 179 expense, but is limited by its business income to claiming a deduction of \$5,000 and carrying forward the \$20,000 balance.

For Wisconsin purposes, the section 179 deduction is limited to \$5,000, the federal amount. The Wisconsin section 179 deduction cannot be recomputed since the add-back for state income taxes is a modification prescribed in sec. 71.26(3)(g), Wis. Stats.

**Example 2:** Corporation C reports federal taxable income of zero for the current taxable year and Wisconsin taxable income of \$15,000. The taxpayer's Wisconsin income exceeds its federal taxable income because the taxpayer may not claim federal bonus depreciation for Wisconsin. For federal purposes, the taxpayer computes \$44,000 of section 179 expense but can use only \$17,000 of that amount due to the business income limitation. The \$27,000 balance is carried forward.

For Wisconsin purposes, the taxpayer may deduct on its current Wisconsin return only the \$17,000 that was used for federal purposes. Since the taxpayer's Wisconsin section 179 expense is limited to \$25,000, the taxpayer may only carry forward \$8,000 of the remaining amount for Wisconsin purposes.

The taxpayer must compute Wisconsin depreciation for the current year based on a section 179 deduction of \$25,000. In future years when the carryover is used on the federal return, the taxpayer must add back to Wisconsin income the \$19,000 difference between the \$27,000 federal section 179 expense carryforward and the \$8,000 Wisconsin carryforward.

**Example 3:** Corporation F claims no section 179 expense deduction but \$16,000 of bonus depreciation on its federal return for the current taxable year. The taxpayer could have elected to claim a section 179 expense deduction on its federal return in addition to or instead of the bonus depreciation. The taxpayer may elect to claim the \$16,000 as a section 179 expense deduction on its Wisconsin return so that the computation of its regular MACRS allowance is the same for federal and Wisconsin purposes.

## Federal Consolidated Return Regulations

In general, Wisconsin does not follow sections 1501 to 1505, 1551, 1552, 1563, or 1564 of the IRC, relating to consolidated returns. However, for combined groups, Wisconsin applies certain regulations under section 1502, IRC, similarly to how they would apply to consolidated groups for federal purposes. See s. Tax 2.61(6), Wisconsin Administrative Code, for details.

## Differences Between Federal and Wisconsin Basis of Assets

**Assets of Previously Nontaxable Corporations.** For the first year a corporation is taxable in Wisconsin, the basis of its assets is its federal basis as computed under the "Inter-

nal Revenue Code" as the term is defined for Wisconsin purposes in sec. 71.22(4), Wis. Stats. Provisions of the federal Internal Revenue Code that don't apply for Wisconsin purposes, such as bonus depreciation, are ignored when determining the corporation's asset basis for Wisconsin purposes.

For example, assume Corporation X, a calendar year corporation, was incorporated in 1990 but did not have nexus in Wisconsin until 2010. Corporation X has an asset it purchased for \$100,000 on January 1, 2009. Assume the asset is depreciable under MACRS with a 5-year life. For federal purposes, the corporation took a bonus depreciation deduction. As a result, its adjusted basis for federal purposes on January 1, 2010 is \$40,000 (= \$100,000 – \$50,000 bonus depreciation – MACRS deduction of [.20 x \$50,000]). For Wisconsin purposes, its adjusted basis on January 1 is \$80,000 (= \$100,000 – MACRS deduction of [.20 x \$100,000]). The Wisconsin basis is not reduced by bonus depreciation since Wisconsin excludes the bonus depreciation provisions from its definition of "Internal Revenue Code."

**Assets Placed in Service Before 1987.** An asset must continue to be depreciated or amortized under the method allowable for Wisconsin purposes for the year in which it was placed in service. Thus, the differences in Wisconsin and federal depreciation and amortization that existed before January 1, 1987 continue to exist. These differences are described in items a. through i. below.

- a. IRC section 168(f)(8), relating to a special rule for leases (safe harbor), didn't apply for Wisconsin purposes. See *Wisconsin Tax Bulletin 84* (October 1993, page 22) for further details about Wisconsin's treatment of safe harbor leases.
- b. Telegraph, pipeline, gas, electric, steam, and telephone companies (defined under secs. 76.02(4), Wis. Stats. (1983-84), 76.02(5b), 76.28(1)(e)1., 3., and 4., and 76.38(1)(c), Wis. Stats. (1985-86), except for specialized common carriers) had to compute depreciation under the IRC in effect on December 31, 1980, for assets acquired during the period beginning with the 1981 taxable year and ending on December 31, 1986. **Note:** The *Beatrice Cheese, Inc.* decision described in item e below doesn't apply to these companies.
- c. Waste treatment and pollution abatement plants and equipment could be deducted or amortized pursuant to sec. 71.04(2b) or (2g), Wis. Stats. (1985-86).
- d. Alternative energy systems could be deducted or amortized pursuant to sec. 71.04(16), Wis. Stats. (1985-86).
- e. The federal accelerated cost recovery system (ACRS) wasn't allowable for Wisconsin purposes for property located outside Wisconsin and first placed in service from January 1, 1983, through December 31, 1986. Instead, depreciation was to be computed under a method permitted by the IRC as of December 31, 1980, or, in the alternative, the IRC applicable to the calendar year 1972.

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

- f. A corporation electing to claim an investment tax credit for federal income tax purposes could either claim the credit and reduce the depreciable basis of the property by one-half of the credit, or claim a reduced investment credit and not reduce the depreciable basis of the property. These corporations weren't required to reduce the depreciable basis of the investment credit property for Wisconsin purposes.
- g. Intangible drilling costs incurred after the 1980 taxable year are deductible for federal purposes under IRC sec-

tion 263(c). Before the 1987 taxable year, the amount of depletion, depreciation, or write-off allowable for Wisconsin purposes was limited to that allowable under the IRC in effect on December 31, 1980, or, in the alternative, the IRC applicable to the calendar year 1972.

- h. For the following property acquired in the 1986 taxable year, but before January 1, 1987, depreciation must be computed under the December 31, 1980, IRC: (1) residential real property, and (2) property used in farming, as defined in IRC section 464(e)(1), if the corporation's Wisconsin gross farm receipts or sales exceeded \$155,000 for the 1986 taxable year.
- i. For Wisconsin purposes, before the 1987 taxable year, corporations (except regulated investment companies and real estate investment trusts) couldn't claim section 179 expense. Instead, depreciation was allowable on the cost basis of the property, without reduction for the amount the corporation may have elected to expense under section 179 for federal purposes.

## General Instructions for Apportionment

### Who Must Use Apportionment

A corporation engaged in a unitary business in and outside Wisconsin or a combined group engaged in business in and outside Wisconsin must report a portion of its total net income to Wisconsin using the apportionment method, unless the Department gives permission to use separate accounting.

To use the apportionment method, a corporation or combined group 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.

Wisconsin's Administrative Code provides more detailed information about when apportionment is required. The following sections may be helpful:

- Tax 2.39, Apportionment Method
- Tax 2.62, Unitary Business
- Tax 2.82, Nexus

### Apportionment Method

Under the apportionment method, a corporation or combined group shows all of its income and deductions attributable to the unitary business and assigns a part to Wisconsin according to an apportionment percentage. In a combined group, the apportionment percentage is determined by the sum of each combined group member's apportionment factor numerator divided by the sum of each combined group member's apportionment factor denominator.

For most corporations required to use apportionment, the apportionment factor numerator is Wisconsin sales and the denominator is total company sales. This is known as the "single sales factor" method. Corporations that use the single sales factor method use Part I of Form 4A-1, *Wisconsin Apportionment Data for Single Factor Formulas*, to compute their apportionment percentage.

However, certain specialized industries do not use the single sales factor method. Instead, they apportion their incomes under provisions of the Wisconsin Administrative Code, or in the case of insurance companies, under a separate subchapter of the Wisconsin Statutes. Companies that don't use the single sales factor include:

- Direct air carriers
- Motor carriers
- Railroads and sleeping car companies
- Pipeline companies
- Financial organizations, including financial institutions, brokers-dealers, investment advisers, investment companies, and underwriters
- Telecommunications companies
- Insurance companies

Among these specialized industries, financial organizations and insurance companies have single-factor formulas that are similar to the single sales factor. Financial organizations use a receipts factor, and insurance companies use a premiums factor.

All corporations that use a single sales factor, receipts factor, or premiums factor use the applicable part of Form 4A-1 to compute their numerator and denominator.

All corporations that use a multiple-factor formula use the applicable part of Form 4A-2, *Wisconsin Apportionment Data for Multiple Factor Formulas*, to compute their numerator and denominator.

For corporations that are not in combined groups, the apportionment percentage is the ratio computed on Form 4A-1 or Form 4A-2. For combined groups, each corporation's numerator and denominator from Form 4A-1 or Form 4A-2, as applicable, is carried forward to Form 4A, *Wisconsin Apportionment Data for Combined Groups*, where the combined group computes its apportionment percentage.

### Nonapportionable Income

A corporation or combined group that is required to use apportionment may have nonapportionable income. Nonapportionable income is 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.

Nonapportionable income also includes income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin.

**CAUTION:** For taxable years beginning before January 1, 2009, sec. 71.25(5)(b)2., Wis. Stats., provided that intangible income of a personal holding company was nonapportionable and assigned to the state of incorporation. For taxable years beginning on or after January 1, 2009, sec. 71.25(5)(b)2., Wis. Stats., is repealed. Intangible income of a personal holding company is apportionable unless it qualifies as nonapportionable income under the same standard that applies to other corporations.

Total nonapportionable income (or loss) is removed from net income before the apportionment percentage is applied. The amount allocable to Wisconsin is then combined with the Wisconsin share of apportionable income to arrive at Wisconsin net income. If a corporation has nonapportionable income, it must report that income on Form 4N, *Wisconsin Nonapportionable and Separately Apportioned Income*.

### Separately Apportioned Income

A corporation that is a combined group member may have income that is required to be apportioned separately from the group's combined unitary income. This may happen in

cases where the member has income or loss from the unitary business that is excluded from combined unitary income under the water's edge rules. It may also happen in cases where the member has apportionable income or loss from a separate unitary business. In either case, the corporation would complete Form 4N to report the separately apportioned income. See the Form 4N instructions for details.

### Corporate Partners or LLC Members

A corporation that is a general or limited partner of a partnership must include its share of the numerator and denominator of the partnership's apportionment factors in its own apportionment factors. A corporation that is a member of a limited liability company (LLC) treated as a partnership for federal tax purposes must include its share of the numerator and denominator of the LLC's apportionment factors in its own apportionment factors.

**NOTE:** A corporation that is a general or limited partner in a partnership or a member of an LLC treated as a partnership should obtain a detailed breakdown of the partnership's or LLC's apportionment factors so the corporation can include its share of those factors in the computation of its own apportionment factors.

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

### Separate Accounting

A corporation that has income or loss from a business outside Wisconsin that is not part of a unitary business cannot use apportionment. Instead, it must determine the income attributable to Wisconsin by separate accounting. Under separate accounting, the corporation must keep separate records of the sales, cost of sales, and expenses for the Wisconsin business. The corporation uses Form 4C, *Separate Accounting Data*, to report the amount attributable to Wisconsin by separate accounting.

A unitary business may use separate accounting only with the approval of the Department. In the application for approval, the corporation must explain, in detail, why separate accounting more clearly reflects the corporation's Wisconsin income. See the instructions for Form 4C for how to obtain approval to use separate accounting.

## Treatment of Specialized Industries and Entities

### Foreign Sales Corporations (FSCs)

FSCs no longer receive special treatment for Wisconsin. The income and tax of FSCs are computed in the same manner as for other corporations.

### 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.

### Insurance Companies

Whether an insurance company is filing a separate Wisconsin return or is included in a combined return, it may be required to make certain adjustments that are unique to insurance companies. These adjustments include:

- Adding back loss carryforward deducted in the calculation of federal taxable income and dividend income excluded from federal taxable income
- Adding back the IRC section 847 deduction, relating to an additional deduction for insurers required to discount unpaid losses (this deduction isn't allowed for Wisconsin purposes)
- Subtracting nontaxable income attributable to life insurance operations
- Reducing current year net business loss by the amount of dividends received deduction
- Adjusting net tax liability so that it doesn't exceed 2% of gross premiums plus 7.9% of income realized from lottery prizes

All of these adjustments are computed on Wisconsin Schedule 4I, *Wisconsin Adjustments for Insurance Companies*. The amounts on Schedule 4I flow through to Schedule V, Schedule W, or Form 4, as appropriate. If the insurance company is in a combined group, it completes Schedule 4I on a separate entity basis and includes the adjustments on the applicable line of the combined return. See the Schedule 4I instructions for details.

If an insurance company is a small company as defined in IRC section 831(b)(2), the company may elect to be taxed on taxable investment income as provided in IRC section 831(b), rather than on net income.

### Personal Holding Companies

Personal holding companies no longer receive special treatment for Wisconsin. The intangible income of a personal holding company is apportionable income unless it qualifies as nonapportionable income under the same standard that applies to corporations that aren't personal holding companies.

### RICs, REMICs, REITs, and FASITs

**Ineligibility for Combined Reporting.** Corporations that qualify as regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), real estate investment trusts (REITs), or financial asset securitization investment trusts (FASITs) under the Internal Revenue Code cannot be included in a combined group. Rather, they must file as separate entities.

**Depreciation Differences.** For RICs, REMICs, or REITs, the following depreciation differences apply:

- Depreciation and amortization on property located outside Wisconsin and placed in service on or after January 1, 1983, and before January 1, 1987, were to be determined under the December 31, 1980, IRC. However, the Wisconsin Tax Appeals Commission declared this provision unconstitutional in *Beatrice Cheese, Inc. vs. Wisconsin Department of Revenue* (February 24, 1993). Corporations have the option of either claiming the same depreciation deduction as for federal purposes, or continuing their present method of depreciation.
- IRC section 168(f)(8), relating to a special rule for leases (safe harbor), didn't apply for Wisconsin purposes.
- Depreciation for residential real property and property used in farming (if the corporation's Wisconsin gross farm receipts or sales exceeded \$155,000 for the 1986 taxable year), acquired in the 1986 taxable year, but before January 1, 1987, must be determined under the December 31, 1980, IRC.

**Other Federal-Wisconsin Adjustments.** The only adjustments that RICs, REMICs, qualified REITs, and FASITs must make to federal taxable income to arrive at Wisconsin net income are:

- Those necessary to account for the depreciation and amortization differences described above,
- Differences in depreciation because Wisconsin follows the federal depreciation and amortization provisions in effect as of December 31, 2000,
- Any difference in the Wisconsin and federal basis of any asset disposed of in a taxable transaction, and
- Any other adjustment needed for changes made to the Internal Revenue Code that don't apply for Wisconsin.



None of the other adjustments listed on Schedules V or W apply to RICs, REMICs, qualified REITs, and FASITs.

**Wholly-Owned REIT Subsidiaries.** If a wholly-owned REIT subsidiary isn't treated as a separate entity under IRC section 856(i) and all of its assets, liabilities, and items of income and loss are treated as attributes of the REIT, that same treatment applies for Wisconsin purposes.

**FASITs.** The special rules for financial asset securitization investment trusts (FASITs) generally do not apply after 2004.

### Tax Exempt Organizations

If a tax exempt organization is a corporation and has unrelated business taxable income as defined in IRC section 512, it may be included in a combined group if it meets the three tests presented in the section *Separate Return or Combined Return?* If the organization is in a combined group, it must be included in the combined group's Form 4. If the organization is not in a combined group, it must file

Form 4T, *Wisconsin Tax Exempt Organization Business Franchise or Income Tax Return*.

Regardless of whether the tax exempt organization is a member of a combined group, you should not make any Wisconsin addition or subtraction modifications to its federal unrelated business taxable income except to account for IRC provisions which were not adopted for Wisconsin purposes. For example, you would add bonus depreciation back to federal taxable income since Wisconsin did not adopt the IRC section that provides for bonus depreciation. However, you would not make addition modifications to include Wisconsin credits in 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.

## Line-by-Line Instructions for Form 4

You must complete pages 1, 2, and 3 of Form 4 and the appropriate schedules referenced on Form 4. Do not enter "See attached" instead of completing the entry spaces. If more space is needed, submit separate sheets using the same size and format as the printed forms.

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

**NOTE:** These instructions are for separate returns only. Corporations that are in combined groups should see the *Form 4 Instructions for Combined Returns*.

**CAUTION:** Federal line numbers referred to on Form 4 and in these instructions may change.

■ **Header Information** – Before completing items A through J, fill in the corporation's 2010 taxable year at the top of the form and the corporation's name and address. If the corporation dissolved, enter the date of dissolution as the ending date of the 2010 taxable year.

■ **Item A. Federal Employer Identification Number** – Enter the corporation's federal employer identification number (FEIN). If you haven't yet applied for a FEIN, you may do so by filing federal Form SS-4 with the IRS, calling the IRS's toll-free number (800) 829-4933, or applying online at [www.irs.gov](http://www.irs.gov).

■ **Item B. Business Activity (NAICS) Code** – Enter the corporation's principal business activity code, based on the North American Industry Classification System (NAICS),

from your federal return. If your federal return is a consolidated return, go to [www.census.gov/epcd/www/naics.html](http://www.census.gov/epcd/www/naics.html) to find the NAICS code for your principal business activity.

■ **Item C. State and Year of Incorporation** – Enter the 2-letter postal abbreviation for the state (or name of the foreign country) under whose laws the corporation is organized and the year of incorporation.

■ **Item D1. Amended Return** – Check here if this is an amended return. Circle the number in front of the lines that you are changing and provide a detailed explanation of the changes made, including any supporting form or schedule. For example, if you are amending the research credit, circle the "15" before "Nonrefundable credits" and submit a corrected Schedule R and an explanation of the change along with your amended return.

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

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

■ **Items D4 and D5. Short Period** – Check the applicable line if a short period return is being filed due to a change in the corporation's accounting period or a stock purchase or sale.

■ **Item E. Combined Return** – Ignore item E if you aren't filing a combined return.

■ **Item F. Extended Due Date** – Check here if the corporation has an extension of time to file its Wisconsin return, and enter the extended due date.

■ **Item G. No Business Transacted in Wisconsin** – If the corporation was incorporated under Wisconsin law or licensed to do business in Wisconsin but had no property or activity in Wisconsin for the taxable year, check here and provide a complete copy of the corporation's federal return.

■ **Item H. Schedule RT Required** – Check here if the corporation is filing Schedule RT with its return. Schedule RT is generally required if the corporation is claiming a deduction for more than \$100,000 of certain expenses paid, accrued, or incurred to a related person or entity in the taxable year. The \$100,000 threshold amount is determined after accounting for the apportionment percentage.

The types of expenses to which Schedule RT applies, if paid, accrued, or incurred to a related person or entity, are:

- Interest expenses,
- Rent expenses,
- Management fees, and
- Intangible expenses.

See the Schedule RT instructions for details.

**CAUTION:** Regardless of whether you are required to file Schedule RT, you should be making an addition modification on Schedule V for interest, rent, management fees, or intangible expenses paid, accrued, or incurred to a related entity. Then, if the expenses meet the statutory tests required to be deductible, you may make a subtraction modification on Schedule W. See the instructions to Schedules V and W for details.

■ **Item I. Insurance Company Indicator** – Check here if the corporation is an insurance company.

■ **Item J. Federal Consolidated Return** – If the corporation participated in filing a federal consolidated return, check here and enter the parent corporation's federal employer identification number (FEIN).

■ **Line 1. Federal Taxable Income** – Enter the federal taxable income before the net operating loss deduction and special deductions. Generally, this is the amount from federal Form 1120, line 28. However, for certain types of corporations the applicable line of the federal return may be different. These certain types of corporations and applicable lines include the following:

- Insurance companies generally use total federal taxable income from lines 1 and 2 of Form 1120-PC
- Regulated investment companies (RICs) use Form 1120-RIC, line 26
- Real estate mortgage investment conduits (REMICs) use Form 1066, Schedule J, line 4 plus line 9
- Real estate investment trusts (REITs) use Form 1120-REIT, line 22

- For corporations that are treated as S corporations federally but are not treated as Wisconsin tax-option corporations, use Form 1120-S, line 21
- Cooperative associations use Form 1120-C, line 25 minus line 26a

■ **Line 2. Wisconsin Additions** – This is where you make addition adjustments to the amount you entered on line 1 in order to account for differences between taxable income under Wisconsin law and under federal law. Compute your addition modifications on Schedule V. See the Schedule V instructions for details. Enter the total from Schedule V on Form 4, line 2, except if you are using the separate accounting method, enter the total from Schedule V on Form 4C, line 11.

■ **Line 4. Wisconsin Subtractions** – This is where you make subtraction adjustments to the amount you entered on line 1 in order to account for differences between taxable income under Wisconsin law and under federal law. Compute your subtraction modifications on Schedule W. See the Schedule W instructions for details.

**NOTE:** If you have any dividends that qualify for the Wisconsin dividends received deduction, use Schedule Y to compute your subtraction modification for dividends, and enter the total on Schedule W, line 1.

Enter the total from Schedule W on Form 4, line 4, except if you are using the separate accounting method, enter the total from Schedule W on Form 4C, line 13.

■ **Line 6. Total Nonapportionable and Separately Apportioned Income** – Complete this line only if you have nonapportionable income or are using the separate accounting method. This is the total amount of taxable income under Wisconsin law that is not eligible for apportionment. This amount comes from line 8 of Form 4N. If you are using separate accounting, you will include the amounts you computed on Form 4C onto Form 4N. See the Form 4N instructions for details.

If any of the amount on line 6 is allocable to Wisconsin, you will enter the Wisconsin amount later on line 10.

■ **Line 8. Wisconsin Apportionment Percentage** – If you are using the apportionment method, complete Wisconsin Form 4A-1 or Form 4A-2, as applicable, and enter the apportionment percentage. **Fill all spaces to the right of the decimal point.** Round to the nearest ten-thousandths of a percent (for example, 12.3456%).

If this return is for an insurance company that does business only in Wisconsin, enter "100.0000%" on line 8.

■ **Line 10. Wisconsin Nonapportionable and Separately Apportioned Income** – Complete this line only if you have nonapportionable income or are using the separate accounting method. If any of the amount you entered on line 6 is allocable to Wisconsin, enter the Wisconsin amount on line 10. This amount is computed on Form 4N, line 14.

■ **Line 11d. Loss Adjustment for Insurance Companies** – Complete this line only if the corporation is an insurance company and the amount on line 11c is a loss. This is where insurance companies adjust their current year net business loss so that the carryforward to next year is computed without regard to the dividends received deduction, as required under sec. 71.45(4), Wis. Stats. Compute this amount in Part III of Schedule 4I. See the Schedule 4I instructions for details.

■ **Line 12. Wisconsin Net Business Loss Carryforward** – Enter the total Wisconsin net business loss carryforward from Form 4BL, Part 1, line 30, but do not enter more than line 11f. However, if you choose to use less than the total allowable amount of net business loss carryforward, enter the amount that you will use. See the Tax Releases in *Wisconsin Tax Bulletin* issues 138 (April 2004) and 139 (July 2004) for more details on using carryforwards of net business losses and credits. You may access the *Wisconsin Tax Bulletin* on the Department's web site at [www.revenue.wi.gov](http://www.revenue.wi.gov), under the "Publications" link.

**CAUTION:** If line 11f is zero or a loss, do not fill in line 12. If the net business loss carryforward from Form 4BL exceeds the income reported on line 11f, do not enter more than the amount on line 11f.

Regulated investment companies, real estate mortgage investment conduits, real estate investment trusts, and financial asset securitization investment trusts enter zero on line 12.

■ **Line 13. Wisconsin Net Income (Loss)** – Subtract line 12 from line 11f. If line 11f shows a loss, enter the loss from line 11f on line 13.

■ **Line 14a. Tentative Gross Tax** – Enter 7.9% of the Wisconsin net income reported on line 13.

■ **Line 14b. Tax Adjustment for Insurance Companies** – If the corporation is an insurance company, this is where you adjust the tax liability so that it does not exceed 2% of gross premiums plus 7.9% of income realized from lottery prizes. Compute the adjustment in Part IV of Schedule 4I. See the Schedule 4I instructions for details.

■ **Line 14c. Gross Tax** – Subtract the amount on line 14b from the amount on line 14a.

■ **Line 15. Nonrefundable Credits** – Enter the total available nonrefundable credits from Schedule CR, line 45. However, if you choose to use less than the total available nonrefundable credits, enter the amount that you will use. See the Tax Releases in *Wisconsin Tax Bulletin* issues 138 (April 2004) and 139 (July 2004) for more details on using carryforwards of net business losses and credits. You may access the *Wisconsin Tax Bulletin* on the Department's web site at [www.revenue.wi.gov](http://www.revenue.wi.gov), under the "Publications" link.

To determine if the corporation qualifies for any credits, see Publication 123, *Business Tax Credits for 2010* (available

on the Department of Revenue's web site at [www.revenue.wi.gov](http://www.revenue.wi.gov), under the "Publications" link). To claim a credit, complete the appropriate credit schedule, enter the credit amount on the appropriate line of Schedule CR, and submit the credit schedule and Schedule CR with your return.

**NOTE:** If you are filing a separate return, you must submit both Schedule CR and the applicable credit schedule(s) with your return.

If you are claiming more than one credit, you must claim the credits in a specific order. See the Schedule CR instructions for details.

■ **Line 16. Net Tax** – Subtract line 15 from line 14c. If line 15 is more than line 14c, enter zero.

■ **Line 17. Recycling Surcharge** – If the corporation is subject to the recycling surcharge, enter the greater of \$25 or 3% of the gross tax on line 14c, but not more than \$9,800. See the section for *Recycling Surcharge*, under *Who Must File Form 4*, for more information on who is subject to the recycling surcharge.

■ **Line 18. Endangered Resources Donation** – Your donation supports the preservation and management of more than 200 endangered and threatened Wisconsin plants and animals. It also helps protect Wisconsin's finest remaining examples of prairies, forests, and wetlands.

Support endangered resources in Wisconsin. Fill in line 18 with the amount you wish to donate. Your gift will either reduce your refund or be added to tax due. You can also send a check directly to the Endangered Resources Fund, Department of Natural Resources, PO Box 7921, Madison, WI 53707-7921.

■ **Line 19. Veterans Trust Fund Donation** – You may designate an amount as a veterans trust fund donation. Your donation will be used by the Wisconsin Department of Veterans Affairs for the benefit of veterans or their dependents. Fill in line 19 with the amount you wish to donate. Your donation will either reduce your refund or be added to tax due.

■ **Line 21. Estimated Tax Payments** – Enter estimated tax payments made by the corporation, including EFT payments, or overpayments applied from prior years' returns, minus any "quick refund" applied for on Form 4466W.

**CAUTION:** You cannot claim estimated tax payments that were made by a related corporation or other related taxpayer.

**Line 21 for Amended Returns.** If this is an amended return, compute the tax to enter on line 21 using the schedule below. Do not include any Wisconsin tax withheld reported on line 22 of your original return in the computation.

**Line 21 for Amended Returns**

Estimated tax payments made for 2010.....	_____
<b>Plus:</b>	
Tax carried forward from 2009.....	_____
Additional tax paid on previous returns filed for 2010.....	_____
Additional tax assessed by the Department for 2010 (whether or not paid)....	_____
<b>Subtotal</b> .....	_____
<b>Minus:</b>	
Tax refunded on 2010 Form 4466W.....	_____
Tax refunded to you on previous returns filed for 2010.....	_____
Overpayment from your previously filed 2010 return claimed on your 2011 return, if you already filed your 2011 return.....	_____
<b>Total.</b> Tax previously paid to enter on line 21.	_____

■ **Line 22. Wisconsin Tax Withheld** – Enter your share of Wisconsin tax withheld from pass-through entities of which you are a member, as reported on Wisconsin Schedules 3K-1 or 2K-1. Include a copy of the Schedule 3K-1 or 2K-1 with the tax return that you file. Also enter the amount of Wisconsin tax withheld from lottery prizes.

If this is an amended return, enter the Wisconsin tax withheld reported on your original return, unless the amount you originally reported was incorrect.

■ **Line 23. Refundable Credits** – Enter the total available refundable credits from Schedule CR, line 48. To determine if the corporation qualifies for any credits, see Publication 123, *Business Tax Credits for 2010* (available on the Department of Revenue’s web site at [www.revenue.wi.gov](http://www.revenue.wi.gov), under the “Publications” link).

To claim a credit, complete the appropriate credit schedule, enter the credit amount on the appropriate line of Schedule CR, and submit the credit schedule and Schedule CR with your return.

**NOTE:** If you are filing a separate return, you must submit both Schedule CR and the applicable credit schedule(s) with your return.

■ **Line 25. Interest, Penalty, and Late Fee Due** – Enter any interest, penalty, and late fee due, as computed on Form 4U, line 17 or 26. Check the box if you figured underpayment interest using the annualized income installment method on Form 4U, page 2.

**Line 25 for Amended Returns.** If you are filing an amended return and you were previously assessed interest for underpayment of estimated taxes, complete an amended Form 4U, Part I, based on the total of the amounts shown on lines 16 and 17. Enter the difference between the underpayment interest from the amended Form 4U, line 17, and the amount you previously paid on line 25. Show an overpayment as a negative number. File

Form 4U with your amended return. Otherwise, leave line 25 blank. The Department will compute interest on the amount of refund approved or tax owed.

■ **Line 26. Tax Due** – If the total of lines 20 and 25 is larger than line 24, enter the amount owed. Pay by electronic funds transfer or mail your check with a 2010 Form 4-ES, *Corporation Estimated Tax Voucher*, to the address shown on the voucher. Otherwise, paper clip your check to the front of Form 4.

■ **Line 27. Overpayment** – If line 24 is larger than the total of lines 20 and 25, enter the overpayment.

**CAUTION:** If you must recapture development zones investment credit because the property is disposed of or ceases to be qualified property before the end of the recapture period, add the amount from Schedule DC, line 34, to the tax due on line 26 or reduce the overpayment on line 27.

■ **Line 28. 2011 Estimated Tax** – Enter the amount of any overpayment from line 27 that is to be credited to the corporation’s 2011 estimated tax. The balance of any overpayment will be refunded. An overpayment shown on a corporation’s final return will be refunded to the corporation that made the payments. You cannot claim these payments on the surviving corporation’s return in a merger situation.

If this is an amended return and you have already filed your 2011 return, include on line 28 the overpayment that you claimed as a credit on your 2011 return or on your previously filed original or amended 2010 return. Otherwise, you may allocate the overpayment from line 27 between line 28 and line 29 as you choose.

■ **Line 30. Gross Receipts From All Activities** – Enter total company gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income before apportionment for Wisconsin franchise or income tax purposes.

■ **Line 31. Total Assets** – Enter the total company assets from the federal return.

■ **Lines 32a and 32b. Wisconsin and Total Company Property** – Enter the total amount of the company’s real and tangible property located in Wisconsin (line 32a) and the company’s total amount of real and tangible property everywhere (line 32b). Use the cost basis of the property as of the end of the year. Include the following types of property:

- Land
- Buildings
- Furniture and Fixtures
- Transportation equipment
- Machinery and other equipment
- Inventories

Include only property that is owned by the corporation; you do not need to include property you are renting.

■ **Lines 33a and 33b. Wisconsin and Total Company Payroll** – Enter the total amount of the company’s payroll located in Wisconsin (line 33a) and the company’s total amount of payroll everywhere (line 33b). Include only amounts attributable to employees of the corporation. In the computation of payroll located in Wisconsin, include individuals that satisfy one or more of the following:

- The individual’s service is performed entirely in Wisconsin.
- The individual’s service is performed in and outside Wisconsin, but the service performed outside Wisconsin is incidental to the individual’s service in Wisconsin.
- A portion of the individual’s service is performed in Wisconsin and the base of operations of the individual is in Wisconsin.
- A portion of the individual’s service is performed in Wisconsin and, if there is no base of operations, the place from which the individual’s service is directed or controlled is in Wisconsin.
- A portion of the individual’s service is performed in Wisconsin and neither the base of operations of the individual nor the place from which the service is directed or controlled is in any state in which some part of the service is performed, but the individual’s residence is in Wisconsin.

■ **Line 34a. Wisconsin Sales** – Complete this line only if you are using Form 4A-1 to determine your Wisconsin apportionment percentage. Enter the amount of Wisconsin sales, receipts, or premiums from the applicable line of Form 4A-1:

- Total Wisconsin sales from line 10, column a
- Total Wisconsin receipts from line 31, column a
- Total Wisconsin receipts from line 9, column a
- Total Wisconsin premiums from line 3, column a

■ **Line 34b. Total Company Sales** – Complete this line only if you are using Form 4A-1 to determine your Wisconsin apportionment percentage. Enter the amount of total sales, receipts, or premiums from the applicable line of Form 4A-1:

- Total company sales from line 10, column b
- Total company receipts from line 31, column b
- Total company receipts from line 9, column b
- Total company premiums from line 3, column b

■ **Lines 35a and 35b. Limited Liability Companies** – A single-member LLC that is disregarded for federal income tax purposes is also disregarded for Wisconsin franchise or income tax purposes. You must include the income of any disregarded entities owned by the corporation in the corporation’s amounts on the Wisconsin return. Include with your return a list of the corporation’s solely-owned LLCs.

■ **Line 36. Use Tax** – A corporation may be liable for use tax. Use tax is the counterpart of sales tax. All tangible per-

sonal property, certain coins and stamps, certain leased properties affixed to real estate, certain digital goods, and selected services, taxable under Wisconsin’s sales tax law, which are stored, used, or consumed in Wisconsin, are subject to use tax if the proper sales tax is not paid. Examples of purchases that frequently result in a use tax liability include the following:

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

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

For more information on use tax, visit the Department’s web site at [www.revenue.wi.gov/html/sales.html](http://www.revenue.wi.gov/html/sales.html), call (608) 266-2776, e-mail [sales10@revenue.wi.gov](mailto:sales10@revenue.wi.gov), or write to the Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8949, Madison, WI 53708-8949.

■ **Line 37. Internal Revenue Service Adjustments** – If a corporation’s federal tax return is adjusted by the IRS and the adjustments affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must report the adjustments to the Department of Revenue within 90 days after they become final.

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

■ **Lines 38 through 41. Contact Information and Miscellaneous** – Provide the information as instructed on the form.

■ **Signatures** – An officer of the corporation must sign at the bottom of page 3. If the return is prepared by someone other than an employee of the corporation, the individual who prepared the return must sign the form, by in the space provided for the preparer’s signature and furnish the preparing firm’s federal employer identification number. A self-employed individual must enter “SSN” or “PTIN” and the social security number or preparer tax identification number in the space for the preparer’s federal employer identification number.

■ **Supplemental Schedules** – File the following items as supplemental schedules to your Form 4:

- Your federal return with all supporting schedules
- If you are filing a federal consolidated return, a breakdown by individual company or a copy of the pro forma federal return for each corporation in the consolidated group
- A list of your solely owned LLCs
- Any extension of time to file your return
- Supporting schedules for Form 4
- Any attachments required for the supporting schedules you are filing, per the instructions to those schedules

**NOTE:** If you are filing electronically, you may submit supplemental schedules that are not pre-programmed into your software in one of two ways:

1. Submitting them electronically in .pdf format along with your electronic return, or
2. Mailing them to the Department with a Form W-RA, *Required Attachments for Electronic Filing*.

## Additional Information, Assistance, and Forms

### Web Resources

The Department of Revenue's web page, available at [www.revenue.wi.gov](http://www.revenue.wi.gov), has a number of resources to provide additional information and assistance, including:

- Related forms and their instructions
- Frequently asked questions (FAQs) on specific tax topics
- Publications on specific tax topics
- The *Wisconsin Tax Bulletin* quarterly publication, which provides information about law changes and other current issues
- Articles addressing administrative issues
- A home page specifically for combined reporting topics
- Links to the Wisconsin Statutes and Administrative Code

### Contact Information

If you cannot find the answer to your question on the Department's web page, contact the Department using any of the following methods:

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

- Call or visit any Department of Revenue office

### Obtaining Forms

If you need forms or publications, you may:

- Download them from the Department's web site at [www.revenue.wi.gov](http://www.revenue.wi.gov)
- Request them online at [www.revenue.wi.gov](http://www.revenue.wi.gov)
- Call (608) 266-1961
- Call or visit any Department of Revenue office