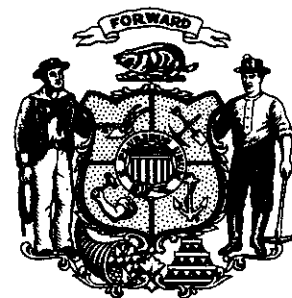


# WISCONSIN TAX BULLETIN

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## REMINDER OF MAJOR 1980 LAW CHANGES AND FORMS CHANGES

### Major Individual Income Tax Law Changes

**1. Update Internal Revenue Code Reference to December 31, 1979** (Chapter 221, Laws of 1979, Assembly Bill 1180, effective for 1980 taxable year and thereafter.)

For the 1980 taxable year and thereafter, individuals, estates and trusts will use the Internal Revenue Code in effect on December 31, 1979 with three exceptions that do not apply for Wisconsin: (a) special federal provisions for benefits received from an employer's educational assistance program; (b) foreign living cost deductions; and (c) amortization of pollution control facilities. In addition, individuals may continue to claim Wisconsin itemized deductions for child and dependent care expenses and for political contributions and exclude certain amounts of foreign earned income.

Federal tax laws enacted in 1980 and thereafter will not apply in computing 1980 Wisconsin income and deductions.

**2. Offset One Spouse's Overpayment Against Other Spouse's Underpayment for Computing Addition to Tax Penalty** (Chapter 221, Laws of 1979, Assembly Bill 1180, effective for 1980 taxable year and thereafter.)

In computing the "addition to tax" penalty for underpayment of tax by individuals, an underpayment by a person may be reduced by any overpayment of the person's spouse, if the spouse with the overpayment filed all required declarations of estimated tax and timely paid all required declaration amounts. Prior to this law change, this offset between spouses was not

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permitted for purposes of computing the "addition to tax" penalty.

**3. Declaration Filing Requirement Increased from \$60 to \$100** (Chapter 221, Laws of 1979, Assembly Bill 1180, effective for 1981 taxable year and thereafter.)

A person will be required to file a declaration of estimated tax if the person's tax can be expected to exceed withholding on wages by \$100 or more.

**4. Addition and Subtraction Modifications to Adjust Basis of Partnership Interest for Pre-1975 Out-of-State Losses and Gains** (Chapter 277, Laws of 1979, Senate Bill 316, effective for 1975 taxable year and thereafter.)

This new law provides that whenever a Wisconsin resident disposes of an interest in a partnership in a transaction in which gain or loss is recognized, a modification must be

made to reflect any increases or decreases in the basis of the partnership interest which occurred in taxable years prior to 1975 as a result of losses or gains relating to business or property which had a situs outside of Wisconsin under the provisions of s. 71.07 in effect for years prior to 1975.

For further information regarding this new law and an example illustrating the gain which would be recognized under its provisions, refer to issue number 19 of the Wisconsin Tax Bulletin.

Note: Although this law change is retroactive to 1975, s. 71.10 (10) (bn) provides that a claim for refund may be made only if filed within 4 years of the last day prescribed by law for the filing of a return. Therefore, a refund may no longer be granted for a calendar year 1975 return. The deadline for filing a refund claim for a calendar year 1975 return was April 15, 1980 (i.e., 4 years after the due date for a 1975 return).

### Major Corporation Franchise/ Income Tax Law Changes

**1. 50% Deduction for Dividends from 80% Owned Corporations** (Chapter 221, Laws of 1979, Assembly Bill 1180, effective for 1980 taxable year and thereafter.)

A deduction is allowed for 50% of the cash dividends received during a taxable year from a corporation with respect to its common stock, provided the corporation receiving the dividends owned directly or indirectly during the entire taxable year at least 80% of the total combined voting stock of the payor corporation.

**2. Combining Net Income of DISC with Parent or Affiliated Corporation** (Chapter 221, Laws of

1979, Assembly Bill 1180, effective for 1980 taxable year and thereafter.)

In the case of a parent corporation or affiliate which has a DISC (Domestic International Sales Corporation), the DISC net income derived from business transacted with its parent shall be combined with the parent's income to determine the amount of income subject to Wisconsin tax for each entity as separate taxpayers. If a DISC also has activities with an affiliate of the parent corporation, the DISC income relating to activities with the affiliate shall be combined with the affiliate's income to determine the amount of income subject to Wisconsin tax for each entity as separate taxpayers. For purposes of this provision, a corporation is considered affiliated if at least 50% of its total combined voting stock is owned directly or indirectly by its parent corporation.

Note: Publication 107, "Combining DISC and Parent or Affiliated Corporation's Incomes", explains this new law and is available at any Department of Revenue office.

**3. Eliminate Deduction for Sales and Use Taxes if Manufacturer's Sales Tax Credit Claimed** (Chapter 221, Laws of 1979, Assembly Bill 1180, effective for 1980 taxable year and thereafter.)

Any sales and use taxes paid during the taxable year which under s. 71.043 (2) and (3) are used in computing the manufacturing sales tax credit shall not be deductible from gross income of a corporation.

**4. Update Internal Revenue Code Reference to December 31, 1979** (Chapter 221, Laws of 1979, Assembly Bill 1180, effective for 1980 taxable year and thereafter.)

For the 1980 taxable year and thereafter, insurance companies, regulated investment companies and real estate investment trusts will compute their income under the Internal Revenue Code in effect on December 31, 1979.

**5. Convert Alternative Energy System Program for Corporations from a Fast Write-Off to a Direct Refund** (Chapter 350, Laws of 1979, Assembly Bill 777, effective for taxable years 1980 to 1985.)

Rapid write-off provisions for expenses incurred for an alternative

energy system are no longer allowed, effective for the taxable year 1980 and thereafter. Instead, a 10% refund for expenses incurred for approved systems is available from the Wisconsin Department of Industry, Labor and Human Relations.

**6. Filing of Election Relating to Corporate Liquidations** (Chapter 132, Laws of 1979, Assembly Bill 517, effective March 13, 1980.)

Prior to this new law, s. 71.333 (3) required a shareholder to file a written election with the "assessing authority" within 30 days after the plan of liquidation in order to qualify for certain tax benefits. The new law in Chapter 132 deletes the words "assessing authority" and provides that the written election must be filed with the Department of Revenue.

#### Major Form Changes

As indicated in the October 1980 issue of the Wisconsin Tax Bulletin (Number 20), the long form Wisconsin individual income tax return (Form 1) has been redesigned for 1980. The income and tax computation areas have been rearranged and appear in a different sequence than on the 1979 return. This should make the form easier to fill out. However, because the format is different from last years, care should be taken to read the instructions carefully.

Two other forms changes are the removal of the Wisconsin Homestead Credit filing form (Schedule H) from all income tax booklets and the removal of the declaration of estimated tax form (Form 1-ES) from the Form 1 booklets. Persons who filed such forms last year will now receive them in a separate mailing. The mailing of 1980 Homestead forms was made in December, 1980. The estimated tax form for 1981 will be mailed late this month (January, 1981).

#### INFORMATIONAL PUBLICATIONS AVAILABLE

The Income, Sales, Inheritance and Excise Tax Division of the Department publishes a form of informational material called "publications". These are small pamphlets which provide detailed information

relating to specific areas of Wisconsin tax laws. They are intended to aid the public in understanding certain aspects of the Wisconsin tax laws administered by the Division.

For 1980, the following publications may be obtained at each of the Division's offices located throughout Wisconsin:

| Publication Number | Publication Title   |
|--------------------|---|
| 100                | 1980 Wisconsin Tax Requirements For Nonresidents                            |
| 101                | 1980 Wisconsin Tax Requirements For Part-Year Residents                     |
| 102                | Wisconsin Tax Treatment Of Subchapter S Corporations And Their Shareholders |
| 103                | Reporting Capital Gains And Losses For Wisconsin Purposes                   |
| 104                | Wisconsin Taxation Of Military Personnel                                    |
| 105                | Adoption Expenses - Wisconsin Tax Benefits                                  |
| 106                | Wisconsin Deduction For Child And Dependent Care Expenses                   |
| 107                | Combining DISC And Parent Or Affiliated Corporation's Incomes               |
| 500                | Tax Guide For Wisconsin Political Organizations And Candidates              |
| 501                | Field Audit Of Wisconsin Tax Returns  |
| 503                | Wisconsin Farmland Preservation Tax Credit For 1980                         |
| 504                | Directory For Wisconsin Department Of Revenue                               |

If you have any suggestions for additional subjects which you believe should be covered by a publication, submit your suggestions to the Wisconsin Department of Revenue, Division of Income, Sales, Inheritance and Excise Taxes, Director of Technical Services, P.O. Box 8910, Madison, Wisconsin 53708.

## FEDERAL TAX LAWS ENACTED IN 1980

For the taxable year 1980, Wisconsin's income tax law for individuals recognizes only those provisions of the Internal Revenue Code which became law by December 31, 1979. Federal laws enacted in 1980 do not apply for Wisconsin purposes for the taxable year 1980.

The October issue of the WTB contained an article which listed a number of federal law changes which were enacted in 1980 as part of the Crude Oil Windfall Profit Tax Act of 1980 and the Technical Corrections Act of 1979. However, additional research has determined that one item identified as "Deduction for Windfall Profit Tax" should be deleted from that list. That item does not represent a difference between Wisconsin and federal law for 1980 which would require an adjustment on Wisconsin Schedule I. The change made to federal law was the addition of an itemized deduction for the windfall profit tax under Internal Revenue Code section 164. If the windfall profit tax is claimed as an itemized deduction on line 16 of a person's 1980 federal Schedule A, such tax will not be included in computing Wisconsin itemized deductions on a 1980 Wisconsin Form 1. Wisconsin does not allow a deduction for taxes claimed under section 164 of the IRC. Therefore, it is not necessary to use Schedule I to eliminate the new itemized deduction for windfall profit tax for Wisconsin purposes since the tax is already eliminated in computing Wisconsin itemized deductions on the 1980 Form 1.

Also, since the time the previous article was written, another new federal law has been enacted. That law is the Installment Sales Revision Act of 1980 (Public Law 96-471) which was enacted on October 19, 1980. Its provisions significantly revise the manner in which gain from installment sales is reported.

An explanation of all differences between Wisconsin and federal law for 1980 is included in the instructions for the 1980 Wisconsin Schedule I. A copy of that form and its instructions is reproduced in the back pages of this bulletin.

## HOW TO GET INCOME TAX FORMS

In December the department mailed more than 2.3 million booklets of 1980 income tax and Homestead Credit forms. These were mailed to individuals who filed 1979 Wisconsin income tax returns or Homestead claims.

Orders for bulk supplies of tax forms are now being shipped to tax practitioners and to organizations (e.g., banks and post offices) which distribute them to the public. The orders are expected to all be filled by mid-January 1981.

During the filing season, anyone wishing a limited supply of forms may obtain these from any departmental office located throughout the state. Persons are limited to six copies of any single form, however. This will avoid the limited supply of forms at any office from being quickly depleted and unavailable for other persons.

Practitioners or others wishing more than six copies of a form should write the Wisconsin Department of Revenue, Central Services Section, Post Office Box 8903, Madison, Wisconsin 53708.

## REMINDER! NEW IRS STANDARD MILEAGE RATE ALSO APPLIES FOR WISCONSIN

The optional standard mileage rate used to compute deductions for business use of an automobile was increased by IRS from 18½ cents to 20 cents for the first 15,000 business miles and from 10 cents to 11 cents per mile for mileage over 15,000. The rate per mile used to calculate auto expenses for charitable, medical and moving expense deduction purposes was also increased — from 8 to 9 cents per mile. All of the new rates apply for the entire 1980 taxable year.

As previously reported in the October issue of the Wisconsin Tax Bulletin in a "Tax Release", the new federal rates apply in the same manner for Wisconsin purposes for 1980.

## DEDUCTION FOR WINDFALL PROFIT TAX

The October 1980 issue of the Wisconsin Tax Bulletin (Number 20) included an article entitled "Federal Tax Laws Enacted In 1980 Do Not Apply For Wisconsin Purposes"

which listed the deduction for Windfall Profit Tax created by Public Law 96-223 as one of the new federal laws that will not apply for Wisconsin individual income tax purposes for 1980. The purpose of this article is to clarify that even though that new federal law does not apply for Wisconsin, in certain instances the Windfall Profit Tax may still be deducted in computing Wisconsin taxable income for 1980.

A deduction is permitted on a 1980 Wisconsin return under section 162 of the Internal Revenue Code (IRC) if such tax qualifies as an "ordinary and necessary business expense", or under section 212, IRC which allows a miscellaneous itemized deduction if the Windfall Profit Tax represents an expense incurred in producing income. Both sections 162 and 212 of the IRC were enacted on or before December 31, 1979 (the cutoff date provided by Wisconsin law for computing 1980 Wisconsin income and deductions) and apply in the same manner for Wisconsin as they do for federal purposes for the taxable year 1980.

Note: Wisconsin law excludes itemized deductions for taxes which are allowable under section 164 of the IRC. Therefore, a person claiming the Windfall Profit Tax on a 1980 federal return as an itemized deduction for "taxes" under section 164 of IRC will not be allowed such a deduction under section 164 on a 1980 Wisconsin return.

## FEDERAL INSTALLMENT SALES REVISION ACT OF 1980 DOES NOT APPLY FOR WISCONSIN

The federal Installment Sales Revision Act of 1980, signed on October 19, 1980, amended the Internal Revenue Code to make substantial changes in the federal rules for reporting gain under the installment method, for electing the installment method and for installment sales to related parties.

Wisconsin Income Tax: An individual's, estate's or trust's Wisconsin income and deductions for the 1980 taxable year are determined by using the Internal Revenue Code as of December 31, 1979, with certain modifications. Therefore, the new federal provisions for reporting income on the installment basis pursuant to the Installment Sales Revision Act of 1980 will not apply for Wisconsin income tax purposes for

the 1980 taxable year. If a sale is reported on a 1980 Wisconsin return on the installment method pursuant to the Installment Sales Revision Act, but such sale does not qualify for the use of that method under the December 31, 1979 Internal Revenue Code, an adjustment must be made on Schedule I to account for this difference in law.

**Wisconsin Corporation Franchise/Income Taxes:** The Wisconsin net income of corporations is not determined by reference to the federal Internal Revenue Code. The requirements for reporting sales of real estate and isolated sales of personal property using the installment method by corporations are contained in Wisconsin Code section Tax 2.19. Some of the provisions in this rule are similar to the requirements for reporting under the internal Revenue Code prior to its amendment in 1980. As a result of a Wisconsin Supreme Court decision in the case of *State ex rel Waldheim & Co. v. Wisconsin Tax Commission*, 187 Wis. 539, Wisconsin does not permit corporations to use the installment method to report income from personal property regularly sold during the course of business. The Waldheim decision is incorporated in the provisions of rule Tax 2.19. In view of rule Tax 2.19 and the Waldheim case, the Installment Sales Revision Act of 1980 will not apply to the computation of Wisconsin net income of corporations for the taxable year 1980.

#### REPORT ON LITIGATION

*(This portion of the WTB summarizes recent significant Tax Appeals Commission and Wisconsin court decisions. The last paragraph of each decision indicates whether the case has been appealed to a higher court.)*

The following decisions are included:

#### Income and Franchise Taxes

- Edward H. Anderson vs. Wisconsin Department of Revenue
- Sharon M. Chappa vs. Wisconsin Department of Revenue
- Donna L. Daniels vs. Wisconsin Department of Revenue
- Kenneth F. DeBoer vs. Wisconsin Department of Revenue

- Eslinger, Mark H. and Lorraine R. vs. Wisconsin Department of Revenue
- Vance A. Glewen vs. Wisconsin Department of Revenue
- J. John Gudenschwager, J. John Gudenschwager Family Estate vs. Wisconsin Department of Revenue
- Curt G. Joa, Inc. vs. Wisconsin Department of Revenue
- Randy Larsen vs. Wisconsin Department of Revenue
- Nick Novasic vs. Wisconsin Department of Revenue
- Old Orchard Corporation vs. Wisconsin Department of Revenue
- Joseph J. Puta vs. Wisconsin Department of Revenue
- Steven R. Shumaker and Karen L. Shumaker vs. Wisconsin Department of Revenue
- Howard U. Taylor, Margaret T. Taylor, Wayne Thomas Feyerisen, Frances C. Feyerisen, James W. McCarville, Karen Beth McCarville, Michael E. Fairfield, and Donna J. Fairfield vs. Dennis J. Conta, Individually and as Former Secretary of the Wisconsin Department of Revenue, and Mark E. Musolf, Individually and as Secretary of the Wisconsin Department of Revenue
- Peter Y. Taylor, Jr., and the Peter Y. Taylor, Jr. Family Estate (A Trust), Et. Al. vs. Wisconsin Department of Revenue
- Erwin J. Thoenes vs. Wisconsin Department of Revenue
- Union Prescription Centers, Inc. vs. Wisconsin Department of Revenue
- WTMJ, Inc. and Newspapers, Inc. vs. Wisconsin Department of Revenue

#### Sales/Use Taxes

- Donna Brewer vs. Wisconsin Department of Revenue
- Chicago Bridge & Iron Company vs. Wisconsin Department of Revenue
- H. Derksen & Sons Co., Inc. vs. Wisconsin Department of Revenue
- Midcontinent Broadcasting Company of Wisconsin, Inc. vs. Wisconsin Department of Revenue
- Milwaukee Brewers Baseball Club vs. Wisconsin Department of Revenue

- William A. Mitchell vs. Wisconsin Department of Revenue
- Gordon Obermann vs. Wisconsin Department of Revenue
- Dennis R. Olkwitz vs. Wisconsin Department of Revenue
- Peck Meat Packing Corporation vs. Wisconsin Department of Revenue
- J. C. Penney Co., Inc. vs. Wisconsin Department of Revenue
- James Peterson Sons, Inc., Et. Al. vs. Wisconsin Department of Revenue

#### Homestead Credit

- Kurt M. Stege vs. Wisconsin Department of Revenue

#### INCOME AND FRANCHISE TAXES

**Edward H. Anderson (Deceased) vs. Wisconsin Department of Revenue** (Wisconsin Tax Appeals Commission, September 29, 1980). During the year 1973, Edward H. Anderson, was the sole shareholder of the Washington Island Storage Corporation, a Wisconsin corporation, which was incorporated in 1959. On September 30, 1973 the corporation, Washington Island Storage Corporation, was liquidated. Edward H. Anderson was the sole transferee of the corporation's assets. Subsequent to September 30, 1973 no further activities were conducted by the Washington Island Storage Corporation.

A 1973 Wisconsin Franchise Income Tax Return was filed by Washington Island Storage Corporation covering the last fiscal year beginning November 1, 1972 and ending September 30, 1973. The return was filed under date of December 5, 1973 and indicated a net tax due and unpaid of \$3,296.59. Payment of this tax was not made at the time of submission of the return or at any subsequent time. As a result of this outstanding, unpaid liability, an assessment was issued on January 29, 1974 against Washington Island Storage Corporation for \$3,296.59 plus interest. The assessment was not contested, however, the amount due remained unpaid. On May 23, 1977, an assessment for the amount due from Washington Island Storage Corporation was issued against Edward H. Anderson, pursuant to s. 71.11(21n), Wisconsin Statutes, which was enacted on May 5, 1976.