

(IMPORTANT NOTICE: Existing law already provides that corporations, other than insurance companies, real estate investment trusts and regulated investment companies, may compute their depreciation under the current federal law applying to the taxable year. This means that any federal law changes to depreciation enacted in 1981 may be used by such corporations in computing their depreciation for Wisconsin.)

NOTE: The effect of this new law is that if Congress in 1981 enacts changes to depreciation, such changes will also apply to Wisconsin. The federal effective date for such depreciation changes, as provided in the Internal Revenue Code, will also be the effective date for Wisconsin. For example, if federal depreciation changes apply to purchases after July 1, 1981, this July 1 effective date will also apply for Wisconsin. If the federal effective date for depreciation changes applies to purchases made on or after January 1, 1981, then the new federal depreciation provisions will also be available with respect to the 1980 taxable year of those taxpayers which have a 1980 fiscal year ending after the effective date. For example, with an April 1 effective date, the new depreciation rates could be used by fiscal year taxpayers who have 1980 taxable years ending in April, May and June of 1981.

17. Corporate Tax Rate Changed (Amend 71.09(2g)(intro.) and 71.09(2m)(intro.), create 71.09(2h) and 71.09(2n), effective for 1981 taxable year and thereafter.)

The tax rate for corporate franchise/income taxes will be 7.9% on all taxable income. Prior law provided for a graduated rate from 2.3% to 6.8% on taxable income up to \$6,000 and 7.9% on taxable income exceeding \$6,000.

FARMLAND PRESERVATION CREDIT

1. Farmland Preservation Credit Changes (Amend 71.09(11)(a)6.a and b and (b)(intro.)1 and 2, effective for the 1981 taxable year and thereafter.)

In computing income for purposes of the Farmland Preservation Credit, the first \$7,500 of nonfarm wages, tips and salaries earned by the household will no longer be excluded from household income by individuals. Both individual and corporate claimants will be limited to depreciation expenses of \$20,000 in computing household income. Any nonfarm business losses will have to be added back to household income by individual and corporate claimants.

The percentages used in the formula for computing the Farmland Preservation Credit have also been changed.

HOMESTEAD CREDIT

1. Depreciation Added to Household Income (Amend 71.09(7)(a)1, effective for claims filed for the year 1981 and thereafter.)

Depreciation deducted by a claimant in determining Wisconsin adjusted gross income must be added to household income for homestead credit purposes.

- 2. Homestead Credit Formula Changed (Amend 71.09(7)(a)8 and 71.09(7)(gp)(intro.), create 71.09(7)(gq), effective for claims filed for the year 1981 and thereafter.)

Claimants with household income of \$6,000 (prior law was \$5,000) or less will receive a homestead credit for 80% of their property taxes accrued and/or rent constituting property taxes accrued. If household income is more than \$6,000, the credit will be 80% of the amount by which property taxes and/or rent constituting property taxes accrued exceed 12.5% (prior law was 11.1%) of household income exceeding \$6,000.

INHERITANCE TAXES

- 1. Update Reference to Internal Revenue Code to December 31, 1980 for Qualified Retirement Plans, Installment Payments and Power of Appointment (Amend 72.01(17), 72.12(4)(c)1 and 72.22(4)(a), effective for transfers because of death on or after July 1, 1981 except that the amendment to 72.01(17) relating to power of appointment becomes effective July 31, 1981.)

The reference to the Internal Revenue Code relating to power of appointment in s. 72.01(17), qualified retirement plans in s. 72.12(4)(c)1 and installment payments in s. 72.22(4)(a) is updated to December 31, 1980.

SALES AND USE TAXES

- 1. Retailers Discount Changed (Create 77.61(4)(c), effective for sales and use taxes payable on returns filed for taxable years beginning on or after January 1, 1983.)

Retailers will receive a 2% discount on the first \$10,000 of their sales and use tax payable during the taxable year, a 1% discount on the 2nd \$10,000 of tax payable and a .5% discount on sales and use tax payable which exceeds \$20,000 during the taxable year, if the payment of the taxes was not delinquent.

For example, if a person had \$8,000 of sales and use tax payable for the entire taxable year, such retailer would be entitled to a total discount of \$160 for the entire year, assuming the entire \$8,000 was paid by the due date (\$8,000 x 2% = \$160 discount). If only \$3,000 was paid timely and \$5,000 was delinquent, the retailer would only be entitled to a 2% discount on the \$3,000 which was paid timely.

If a retailer had tax payable of \$60,000 for the entire taxable year the retailer's discount would be as follows, assuming all \$60,000 was paid by the due date:

\$10,000	\$10,000	\$40,000
x 2%	x 1%	x .5%
<u>\$ 200</u>	<u>\$ 100</u>	<u>\$ 200</u>

The total discount allowed this retailer for the entire taxable year would be \$500 (\$200 on the first \$10,000 of tax payable, \$100 on the 2nd \$10,000 of tax payable and \$200 on the remaining \$40,000). However, if \$6,000 of the first \$10,000 of tax payable during the year was delinquent, the retailer would only get the 2% discount on \$4,000 of the first \$10,000 of sales and use tax payable, plus the 1% on the 2nd \$10,000 and .5% discount on the \$40,000 which was paid by the due date.

2. Define When Sales and Use Tax Returns and Other Actions are Timely Filed (Amend 77.52(11)(b), 77.58(1)(b) and 77.59(4) and (6), create 77.58(2)(c) and 77.61(14), effective July 31, 1981.)

Sales and use tax returns, payments, claims for refund and appeals will be considered timely furnished, filed or made if they are mailed in a properly addressed envelope with the postage duly prepaid, if the envelope is postmarked before midnight of the due date and if the document or payment is received by the Department of Revenue within five days after the prescribed date.

3. Exempt All Fuels Converted to Electric Energy, Gas or Steam (Amend 77.54(6)(c), effective October 1, 1981.)

All fuels converted to electric energy, gas or steam by utilities and that portion of the amount of fuel converted to steam for purposes of resale by persons other than utilities will be exempt from the sales/use tax. Prior law limited such exemption to coal, oil and gas and nuclear material, rather than all fuels.

4. Exempt Corporate Reorganizations (Amend 77.51(4g)(e) and (f), create 77.51(4g)(g), effective for transfers occurring on or after July 31, 1981.)

The transfer of property in a reorganization in which no gain or loss is recognized for Wisconsin franchise or income tax purposes under ss. 71.301 to 71.368 will also be exempt from the sales and use tax.

5. Define "Substantially Similar" in Section 77.51(10)(b) (Rename 77.51(10)(b) to 77.51(4g)(h) and amend 77.51(4g)(h), effective July 31, 1981.)

Under existing law, any transfer of all or substantially all of property held or used by a person in the course of an activity requiring the holding of a seller's permit is exempt from sales and use taxes if after the transfer the ownership of property is "substantially similar" to that which existed before the transfer. The new law defines "substantially similar" in s. 77.51(4g)(h) to mean "80% or more of ownership".

6. Exemption for Metropolitan Sewerage Districts (Amend 77.54(9a)(d), effective October 1, 1981.)

A metropolitan sewerage district organized in a county having 500,000 or more population (pursuant to s. 59.96) may purchase tangible personal property or taxable services without paying the sales or use tax.

EXCISE TAXES

1. Motor Fuel and Special Fuel Tax Increased to 13¢ Per Gallon (Amend 78.01(1), 78.14 and 78.40(1), create 78.22, effective August 1, 1981.)

The excise tax on motor fuel and special fuel will increase from 9¢ to 13¢ per gallon. A floor tax of 4¢ per gallon will be imposed on the tax-paid inventory of motor fuel (gasoline) in the possession of retailers and wholesalers on August 1, 1981.

2. Impose New Excise Tax on Aviation Fuel (Amend 25.40(1)(b), 77.54(11), 78.04(1), 78.13(2), 78.43, 78.65(1) and (2), 78.66 (title)(1) and (2), 78.68(1),(2),(4)(intro.) and (5), 78.70(1)(intro.), 78.70(2) and (4), 78.71, 78.73(1)(e), 78.77, 78.78(1), 78.80, 78.84, create 78.55 to 78.62, effective January 1, 1982.)

A new 6¢ per gallon excise tax will be imposed on aviation fuel sold for general aviation use. Sale of this fuel for such purpose will no longer be subject to the 4% sales/use tax.

Dealers and users must obtain licenses from the Department and pay the tax on all general aviation fuel placed in the fuel supply tank of aircraft or sold into bulk storage facilities for aircraft after the effective date. Air carrier companies and the U.S. Government and its agencies are exempt from this tax.

3. Liquor and Wine Tax Increased (Amend 139.03(2m) and 139.03(2n), effective August 1, 1981.)

The tax rate for intoxicating liquor will increase from \$2.60 per gallon to \$3.25 per gallon. The tax rate for wine containing 14% or less alcohol will increase from 19.5¢ to 25¢ per gallon. The tax on wine containing more than 14% but not more than 21% of alcohol will increase from 39¢ to 45¢ per gallon. A floor tax measured by the rate of increase will be imposed on the tax-paid inventory of such merchandise in the possession of retailers, wholesalers and manufacturers on August 1, 1981.

4. Cigarette Tax Increased to 20¢ Per Pack (Amend 139.31(1)(a) and (b), create 139.31(2), effective August 1, 1981.)

The tax rate for cigarettes will increase from 16¢ to 20¢ per pack. A floor tax of 4¢ per pack will be imposed on the tax-paid inventory of cigarettes in the possession of retailers and distributor, jobber, multiple retailer and vending machine operator permittees on August 1, 1981.

5. New Tax on Tobacco Products (Create 139.75 through 139.85, effective October 1, 1981.)

An occupational tax will be imposed on the sale of tobacco products, which includes cigars, chewing type tobacco, snuff type tobacco and other tobacco products (it will not include cigarettes). The tax rate will be 20% of the manufacturer's established list price to distributors without any decrease for volume or other discounts.

A floor tax at the effective rate will be imposed on inventory in the possession of distributors on October 1, 1981. Distributors must obtain permits from the Department and file monthly returns and pay the tax with them; subjobbers must obtain permits and file quarterly returns.

6. Filing Quarterly Reports - Beer, Liquor, Cigarette and Special Fuel (Renumber 78.49(1) to 78.49(1)(a) and amend 78.49(1)(a), amend 78.49(3), 78.68(1)(a) and (b) and (2), 139.11(2), renumber 139.38(2) to 139.38(2)(a) and amend 139.38(2)(a), create 78.49(1)(b) and 139.38(2)(b), effective October 1, 1981.)

Persons currently required to file beer, liquor, cigarette or special fuel reports on a monthly basis will be able to file such reports quarterly if their tax liability is less than \$500 per quarter.

OTHER LAW CHANGES

1. Interest Rate and Addition to Tax Penalty Increased From 9% to 12% (Amend 71.09(5)(a), 71.09(13)(a), 71.10(5)(a) and (b), 71.13(1)(b), 71.20(5)(c), 71.21(11), 71.22(8), 72.22(4)(a), 72.23(1), 72.85(3), 72.86(1) and 77.60(1), effective for determinations, assessments or other actions made by the Department of Revenue on or after August 1, 1981 regardless of the taxable period to which they pertain.)

The interest rate will change from 9% to 12% on (1) assessments and determinations for additional income, franchise, sales/use, withholding and gift taxes, and reductions of homestead credit and farmland credit; (2) taxes payable during an extension of time to file a tax return; (3) reduction of interest where fair and equitable; (4) addition to tax penalty for individuals and corporations; (5) interest on inheritance tax installment payments; (6) inheritance tax not paid within one year of a decedent's death; and (7) interest on gift tax which is not paid by the due date.

2. Annual Adjustment to Withholding Tables (Amend 71.20(2), create 71.20(2m), effective January 1, 1983.)

Beginning January 1, 1983 and each January 1 thereafter, the withholding tables shall be adjusted by the Department of Revenue to reflect any changes in the income tax rates, or changes in the income tax brackets resulting from the required annual indexing under s. 71.09(2), or from changes in such brackets resulting from new laws. Withholding tables will not be adjusted for annual indexing unless the annual indexing rate (the percentage change in the U.S. Consumer Price index for all urban consumers, U.S. city average in the month of June in the preceding year to the month of June of the current year) is 4% or more.

3. Nonacquiescence of Tax Appeals Commission Decisions (Amend 73.01(4)(e), create 73.01(4)(e)2, effective July 31, 1981.)

The Department of Revenue may choose not to appeal a decision of the Tax Appeals Commission and still nonacquiesce in the decision (i.e., the decision of the Commission will be binding upon that particular case; however, it will not be binding upon other similar cases). If the Department chooses to nonacquiesce, it will send a notice of

nonacquiescence to the clerk of the Wisconsin Tax Appeals Commission, to the Revisor of Statutes for publication in the Wisconsin Administrative Register and to the taxpayer or taxpayer's representative before the time expires for seeking an appeal of the Tax Appeals Commission decision.

Prior law provided that a decision of the Tax Appeals Commission was final and binding upon the Department and the taxpayer unless one of the parties appealed that decision. If the Commission construed the statute adversely to the Department, the Department was deemed to acquiesce in the construction of the statute unless it appealed the decision.

4. Eliminate Requirement to File Form 10 (Repeal 71.10(7), effective for 1981 taxable year and thereafter.)

Form 10, "Report of Inventory Location", will no longer have to be filed with income or franchise tax returns, beginning with 1981 returns.

5. Fraudulent Homestead Credit, Farmland Credit and Alternative Energy Credit Claims a Felony (Repeal 71.09(13)(c), create 71.09(13)(cm), effective for claims filed on or after July 31, 1981.)

A person who claims a homestead credit, farmland credit, or alternative energy credit which is false or excessive and is filed with fraudulent intent, shall be guilty of a felony and may be fined \$10,000 or imprisoned up to 5 years or both, together with the cost of prosecution. Any person who assisted in the preparation or filing of such claim or supplied information upon which the false or excessive claim was prepared, with fraudulent intent, shall also be guilty of a felony. (Note: Alternative energy credit claims were filed with the Department of Revenue for 1978; for 1979 and thereafter such claims are filed with the Department of Industry, Labor and Human Relations.)

6. Time Limit for Refunding Income and Franchise Taxes (Amend 71.10(10)(bn), effective for the returns for the 1981 taxable year and thereafter.)

Under the new law, a person may claim a refund of income or corporate franchise/income taxes only if the claim is filed within four years of the statutory unextended due date of a return. This applies regardless of whether the payment of taxes was by declaration of estimated taxes, withholding or any other method.

Prior law provided that for taxes paid by withholding or declaration of estimated tax, a claim for refund of such taxes could be filed within four years of the due date of the return. However, if a return was filed after the due date and taxes were paid with the return or thereafter, a claim for refund of such late tax payments could be filed within four years of the date such return was filed.

7. Lien for Unpaid Taxes - Effective Date (Create 71.13(2m), amend 71.13(3)(a) and (b), effective July 31, 1981.)

The Department of Revenue's tax lien will become effective as of (1) the assessment date if an assessment is issued, or (2) the due date of the return for taxes self-assessed on a return.

Under prior law (s. 71.13(3), Wis. Stats.), a Wisconsin tax lien did not become effective and the department could not file a tax warrant for unpaid taxes until 30 days after the taxes became delinquent.

8. Application of Non-Delinquent Tax Payments (Create 71.11(50) and 77.60(1m), effective July 31, 1981.)

The statutes are clarified to provide that payments which are not delinquent will first be applied to penalties, interest and then to the tax liability. (Note: Existing law in s. 71.13(4)(g) provides that delinquent payments will be applied in the following order: costs, penalties, interest and then to the tax liability.)

9. Payment of Income Tax Refunds or Tax Credits if a Person Dies (Amend 71.09(7)(b), create 71.10(10)(i), effective July 31, 1981.)

If an income tax refund or tax credit is payable to a person who died, the Department shall pay the refund or credit to the decedent's personal representative. If there is no personal representative, the payment shall be to a surviving relative, giving preference to relatives in the following order: surviving spouse, child, parent, brother or sister, or to a creditor of the decedent, as determined by the Department. If no claim is made for the amount within two years of the due date of the return or claim or the date of filing, whichever is later, the amount escheats to the state.

10. Property Tax Deferral for Persons 65 or Over (Create 20.566(8), 77.63, 77.64, 77.65, 77.655, 77.66 and 77.67, amend 74.03(4) and (6) and 74.031(3), (5) and (6), effective July 31, 1981.)

Persons 65 years of age or older who meet certain conditions may receive a loan from the state to pay property taxes on their residence. The money for the loans is generated by bonding administered by the Wisconsin Building Commission. The Department of Revenue will administer the loan program.

Who is Eligible -

- a. Age: Person must be 65 years of age or older (called a "participant" if eligible for a loan).
- b. Ownership of a "Qualified Dwelling Unit": Person must own (either individually or with his or her spouse, or with other co-owners age 60 or over at the time of the participant's initial application) a "qualified dwelling unit" and live in it more than 6 months of the year preceding each year of participation in the program.

"Qualifying dwelling unit" is the participant's permanent residence located in Wisconsin and up to 1 acre of land appertaining to it. It includes (a) a single unit dwelling, (b) a unit in a multi-unit dwelling with 4 or less units, or (c) a unit in a condominium or in a cooperative. It does not include mobile homes defined in s. 66.058.

- c. Insurance: Person must keep a fire and extended casualty insurance policy on the qualified dwelling unit satisfactory to the Department and permit the Department to be named as an insured on the policy.
- d. Limited Debt: The amount of outstanding liens and judgments on the qualified dwelling unit must be \$5,000 or less (loans under this program and housing and rehabilitation loans under s. 560.06 are not considered a part of the \$5,000 debt limitation).
- e. Income: Person must have "income" of \$20,000 or less in the year prior to the year in which the property taxes for which the loan is made are due. "Income" is determined the same as for homestead credit "household income" in s. 71.09(7)(a)3.

How to Apply - A person must apply on forms prescribed by the Department by June 30 of the year in which the taxes are payable on a qualified dwelling unit. Taxes payable on a qualified dwelling unit in 1982 will be the first taxes for which a loan may be received. The application deadline for a loan for such 1982 taxes is June 30, 1982.

Loan Payments to Participants - The amount of loan for any one year is \$1,800 or the amount of property tax levied on the qualified dwelling unit, whichever is less. Loans shall bear interest at a rate determined by the Department to meet all expenses of operating the program. (Rate may be changed at any time.)

Repayment of Loans - The participant must agree to repay the loan (1) upon the transfer of the qualifying dwelling unit by any means (except by a transfer of interest as mentioned below); (2) through the participant's estate upon death if the participant is the sole owner; (3) through the estate of the last surviving co-owner who owns the qualifying dwelling unit; (4) upon discovery by the Department that a participant or co-owner has made a false statement on the application or otherwise in respect to the program; (5) upon condemnation or involuntary conversion of the qualifying dwelling unit; (6) if a participant ceases to meet the eligibility requirements except that the Department, rather than demanding repayment may (a) allow the participant to continue in the program, (b) may allow the participant to continue in the program but be ineligible for additional loans, or (c) may require partial settlement; or (7) if a participant fails to comply with the provisions of this program. A participant or co-owner may also elect to repay the loan at any time before any of the 7 events enumerated above occurs.

Transfer of Interest- If a participant no longer resides in a qualifying dwelling unit, and if the participant's total ownership interest in the qualifying dwelling unit is transferred to one or more co-owners in that unit, a co-owner may assume the participant's account by applying to the Department if the co-owner resides in the qualified dwelling unit. Upon approval of the application, and if the co-owner is 65 years of age or older, the co-owner shall become a participant in the program and shall qualify for program loans. A co-owner who has not attained the age of 65 at the time of application may assume the account of a participant but shall not become a participant or qualify for program loans until the co-owner attains age 65. Additional co-owners may not be added to the loan agreement after the initial application has been accepted by the Department.

Penalties - Any person who files intentionally fraudulent information for obtaining a loan may be fined up to \$10,000 or imprisoned up to five years, or both, together with the cost of prosecution.

Appeals - Person who disagrees with a decision of the Department may appeal that decision to Circuit Court of the county where the person resides. The appeal must be filed within 60 days after receiving notification of the Department's decision.

Rules - The Department shall promulgate rules regarding applications, repayment of loans, settling of disputes and maintaining of records. Rules may also be promulgated to provide more restrictive eligibility requirements or additional security.

Bonding Authority - The Building Commission will issue revenue obligations to provide funds for the loans.

11. Reduce Refunds for Debts Owed the State (Amend 71.10(10)(a) and 71.12(1)(a), create 20.566(1)(h), 20.855(7), 46.255, 71.10(10)(h), 71.105, 71.11(44)(gm) and 71.137, effective February 1, 1982.)

The Department of Revenue shall reduce a person's (debtor's) refund by the amount of debt that person owes to a state agency, as certified by the agency to the Department of Revenue. A "refund" means the excess amount by which any payments, refundable credits, or both, exceed a debtor's Wisconsin tax liability or any other liability owed the Department.

The Department of Health and Social Services is required to certify delinquent child support payments to the Department of Revenue, while certification of debts by other state agencies is voluntary.

The Department of Revenue shall first reduce a debtor's refund by any debt or any other amount the debtor owes to the Department of Revenue. Any remaining refund shall then be offset against the debt owed the state agency, provided the remaining refund is still in excess of \$10. If more than one debt exists for any debtor, a refund shall first be offset against the earliest debt certified.

Any debtor who objects to the reduction of his or her refund does not appeal to the Department of Revenue, but appeals to the state agency which certified the debt.

In addition to using "refunds" to pay a person's debt to a state agency, the Department of Revenue, upon request by a state agency, may enter into an agreement with a debtor (if the debtor consents) to have the Department arrange with the debtor's employer to withhold an additional amount from the debtor's pay to be applied against the person's debt.

The furnishing of information to a state agency relating to debts certified is not a violation of the confidentiality provisions for income taxes, inheritance, sales tax, motor fuel and cigarette taxes in s. 71.11(44), 72.06, 77.61(5), 78.80(3) and 139.38(6).