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 last paragraph of each WTAC decision in which the department's determination has been reversed will indicate one of the following: 1) "the department appealed", 2) "the department has not appealed but has filed a notice of nonacquiescence"or 3)"the department has not appealed"(in this case the department has acquiesced to Commission's decision).

The following decisions are included:

INCOME AND FRANCHISE TAXES

Argyle Industries, Inc. vs. Wisconsin Department of Revenue
Roman P. Kozicki and Mary B. Kozicki vs. Wisconsin Department of Revenue
Andrew K. Morris vs. Wisconsin Department of Revenue
Pabst Brewing Co. vs. Wisconsin Department of Revenue
Production Credit Association of Dodgeville vs. Wisconsin Department of Revenue
Ralph H. Schulz vs. Wisconsin Department of Revenue
Peter Tubic vs. Wisconsin Department of Revenue

SALES/USE TAXES

Alioto's Restaurant, Inc. vs. Wisconsin Department of Revenue
Milwaukee Solvents and Chemicals Corp. vs. Wisconsin Department of Revenue
Rice Insulation, Inc. vs. Wisconsin Department of Revenue

GIFT TAX

Gilson Medical Electronics, Inc. and Warren E. Gilson vs. Wisconsin Department of Revenue

INCOME AND FRANCHISE TAXES

Argyle Industries, Inc. vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, July 25, 1983). The issue in this case is whether or not the taxpayer is entitled to a credit under s. 71.043(2), Wis. Stats., for sales and use tax paid on the purchase of fuel and electricity consumed in manufacturing tangible personal property in the state.

The taxpayer sells "remanufactured" automobile parts, including water pumps, master cylinders and calipers. The company's automobile parts are made on an assembly line basis from component parts. A water pump, for example, has seven or eight component parts. Their trade names are bearings, seals, gaskets, backplates, impellers, castings and hubs. None of these component parts has the same name as the finished product. The taxpayer's automobile parts are assembled from a pool of interchangeable component parts. Some of the component parts are new, while other component parts have been previously used. In a water pump, for example, the gaskets, seals, and bearings will always be new component parts. In addition, approximately one-half of the impellers and hubs will be new component parts, and a quarter of the backplates and castings will be new component parts. The company acquires new component parts from other manufacturers. Used component parts are acquired by purchasing or exchanging for nonfunctional automobile parts (known as "cores"), disassembling these cores, and reprocessing the cores' useable used component parts to original equipment specifications for placement in taxpayer's inventory pool. Nonusable component parts are sold as scrap or thrown away. The company's customers have no use for the cores in the condition in which the company obtains them.

The taxpayer uses machinery in its production process. After assembling the components into a remanufactured automobile part, the automobile part meets or exceeds the original manufacturer's specifications for that part. The company then sells the final product (a new automobile part) to wholesale distributors in competition with original equipment manufacturers.

The Commisson ruled that during the period under review, June 30, 1976 through December 31, 1979, the taxpayer did produce, by machinery, a new article with a different form, use and name from existing materials by a process popularly regarded as manufacturing, so as to come within the statutory definition of manufacturing in s. 77.51(27), Wis. Stats. Therefore, the taxpayer is entitled to franchise tax credit for sales and use tax paid on the purchase of fuel and electricity under s. 71.043, Wis. Stats.

The department has not appealed this decision.

Roman P. Kozicki and Mary B. Kozicki vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, July 25, 1983). The taxpayers each hold a 50% common stock interest in Big Balsam, Inc., a Wisconsin corporation which they organized in 1970. This corporation has held Subchapter S status since at least 1976. The taxpayers claimed carry through losses from Big Balsam, Inc. on their 1979 and 1980 Wisconsin individual income tax returns.

In 1977, Roman P. Kozicki and his two sons, Howard Kozicki and James Kozicki, established a partnership and commenced an excavation business known as K & K Excavating. On August 4, 1977, Big Balsam, Inc. borrowed $66,450.48 from American National Bank of Green Bay, Wisconsin. This loan was secured by a mortgage and mortgage note (calling for interest at 8.5%) on lands owned by Big Balsam, Inc., located in Oconto County. On the same date, Big Balsam, Inc. re-loaned the $66,450.48 to K & K Excavating. The loan transaction was handled in this manner because Howard Kozicki and James Kozicki, and/or K & K Excavating, were unable to obtain the direct financing required to purchase the heavy equipment necessary to begin their excavating business.

During 1979 and 1980, K & K Excavating made interest payments on the loan directly to Big Balsam, Inc. which, in turn, made the required interest payments to American National Bank of Green Bay. On its 1979 corporate income tax return, Big Balsam, Inc. reported total income (gross receipts) of $8,008.56, of which $7,726.81 was reported as interest received. On its 1980 corporate income tax return, Big Balsam, Inc. reported total income (gross receipts) of $12,612.48, of which $5,902.82 was reported as interest received.

The department terminated the Subchapter S election of Big Balsam, Inc. under the 20% passive investment income provision of Internal Reve-

nue Code Sec. 1372(e)(5). Big Balsam, Inc. alleges that it had no interest (passive income) during the years in question, because the interest it received from K & K Excavating was merely "passed through" to the American National Bank of Green Bay.

The Wisconsin Tax Appeals Commission ruled that Big Balsam, Inc. received interest income in 1979 and 1980, and that interest income constituted "passive investment income" as defined in Sec. 1372(e)(5)(c), IRC (1954). In both 1979 and 1980, Big Balsam, Inc. had gross receipts, more than 20% of which were derived from passive investment income (interest). Interest expenses cannot be netted against interest income to determine gross receipts from interest within the meaning of Sec. 1372(e)(5)(B), IRC (1954).

The department acted properly in terminating the Subchapter S election of Big Balsam, Inc. under the provisions of Sec. 1372(e)(5), IRC and in disallowing the carry through losses of Big Balsam, Inc. claimed by the taxpayers on their 1979 and 1980 Wisconsin individual income tax returns.

The taxpayers have not appealed this decision.

Andrew K. Morris vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, September 26, 1983). On February 15, 1982, the department issued a Notice of Amount Due for the years 1975 to 1978 in the total amount of $751.64 including tax and interest. The assessment for the years 1975 and 1976 was based upon a Federal Audit Report. Under the Federal Audit Report, certain expenses paid by the corporation, Andrew K. Morris & Associates, Inc., were disallowed and construed to be preferential dividends. These amounts were added into the taxpayer's taxable income for the years 1975 and 1976. The department had received the Federal Audit Report in January, 1980 but did not issue its assessment until February 15, 1982. The taxpayer did not notify the department of the federal changes within 90 days. The taxpayer does not dispute the basis of the assessment for the years at issue but objects to the imposition of interest at the rate of 12% for the six years arguing that the department sat for two years after receipt of the Federal Audit Report before making an assessment.

By enactment of Chapter 20, section 1090n, Laws of 1981, the rate of interest in assessing additional taxes imposed under s. 71.09(5)(a), Wis. Stats., was increased from 9% to 12%. Chapter 20, section 2203(45)(g), Laws of 1981 provided that "the treatment of sections 71.09(5) . . . of the statutes by this act first applies to all determinations, assessments or other actions made by the department of revenue on August 1, 1981, regardless of the taxable period to which they pertain."

The Wisconsin Tax Appeals Commission held that pursuant to s. 71.11(21)(g), Wis. Stats., because the taxpayer failed to report federal changes to the years at issue, the department has ten years from the date when the tax return was filed within which to make an assessment. The department's assessment was issued within the statute of limitations imposed under s. 71.11(21)(g), Wis. Stats., and was proper. The imposition of interest under s. 71.09(5), Wis. Stats., is mandatory, and the Commission has no authority to abate interest imposed. Pursuant to s. 71.09(5)(a), as amended by Chapter 20, section 1090n, the interest rate of 12% was properly applied for the period at issue.

The taxpayer has not appealed this decision.

Pabst Brewing Co. vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, August 25, 1983). Taxpayer is Pabst Brewing Company, a corporation having its principal offices and place of business located at 917 West Juneau Avenue, Milwaukee, Wisconsin. Taxpayer manufactures fermented malt beverages ("goods") and sells them to wholesalers, both within and outside Wisconsin.

During the tax years 1973 through 1977, taxpayer made certain sales ("dock sales") of fermented malt beverages ("goods") to purchasers located outside of Wisconsin ("out-of-state purchasers"). All of these out-of-state purchasers, using vehicles either owned or rented by them, picked up the goods at the taxpayer's plant in Wisconsin and transported the goods directly to destinations outside Wisconsin. None of these purchasers used common carriers or contract carriers to pick up and transport the goods. All of the out-of-state purchasers were wholesalers and none of them had "wholesalers' licenses", as required by section 66.054(6), Wis. Stats.

The taxpayer is within the jurisdiction for income tax purposes of the destination states to which these goods are transported by the purchasers. It is a corporation doing business within and without Wisconsin and is entitled to the apportionment of income to Wisconsin pursuant to s. 7.07(2), Wis. Stats. For purposes of the apportionment of income to Wisconsin for the tax years 1973 through 1977, pursuant to s. 71.07, Wis. Stats., taxpayer's computation of the sales factor included and aforementioned dock sales in the denominator of said sales factor but not in the numerator thereof, it being taxpayer's position that such sales are not sales in Wisconsin within the meaning and intent of s. 71.07(2)(c)2, Wis. Stats.

On December 4, 1979, the Department of Revenue sent to the taxpayer a Notice of Assessment of Additional Franchise Tax and Interest in the amount of $962,071.06 for the years 1973 through 1977. The report stated, with respect to the dock sales, that "Sales to distributors located in other states with nexus who send their own trucks to the Wisconsin plant to pick up the products in lieu of direct shipment outside Wisconsin are deemed Wisconsin sales and are includable in the numerator of the sales factor" for purposes of the apportionment of income to Wisconsin.

The dock sales for the years in question were made to wholesalers in the following states and in the following amounts.

	1973	1974	1975	1976	1977
Illinois	$ 5,658,195	$ 8,038,251	$12,564,917	$13,939,070	$16,376,150
Iowa	314,538	552,190	1,642,130	2,216,905	3,870,347
Michigan	49,043,823	45,802,343	49,323,053	50,900,495	46,706,437
Minnesota	1,849,498	2,068,116	5,819,596	11,824,523	13,390,217
Montana	21,932	25,883	43,014	53,868	35,563
New York	27,894	22,361	25,199	22,707	6,961
North Dakota	310,866	429,670	747,412	1,182,607	1,400,610
Ohio	9,932,328	11,604,330	12,602,320	12,094,518	9,655,305
TOTALS	$67,159,074	$68,543,144	$82,767,641	$92,234,693	$91,441,590

Of the total amount of the above assessment of additional franchise tax and interest due, $707,729.71 of franchise tax, exclusive of interest, is attributable to the department's inclusion of the dock sales in the total amount of Wisconsin sales for purposes of apportionment of taxpayer's income to Wisconsin.

For additional Findings of Fact, this Commission found as follows: During the years 1973 through 1977, taxpayer filed income or franchise tax returns with Illinois, Minnesota, Montana, North Dakota and New York, in which it allocated dock sales to wholesalers located in said states, for apportionment of income purposes. During the years 1973 through 1977, taxpayer also filed income or franchise tax returns with Iowa, Michigan and Ohio in which they did not allocate dock sales to wholesalers located in those states for apportionment purposes, due to agreements made with the taxing authorities in said states. During the period in issue, the Wisconsin Department of Revenue has consistently treated dock sales picked up in another state by a Wisconsin purchaser as non-Wisconsin sales, for apportionment purposes. Dock sales or pick up sales also occur in other types of businesses. The department's treatment of these sales is the same whether a brewing company or other type of business is involved.

The issue involved in this case is whether dock sales made by taxpayer to purchasers who use their own trucks to take physical possession of goods purchased and to transport said goods directly to out-of-state locations are sales "in this state" and thereby includable in the numerator of the sales factor for purposes of apportionment, under s. 71.07(2), Wis. Stats.

The Comission affirmed the department and concluded that dock sales made by taxpayer to purchasers who pick up the purchased goods in their own trucks at taxpayer's loading dock and transport said goods to locations outside Wisconsin constitute sales "in this state" within the meaning of s. 71.07(2)(c)2, Wis. Stats., and thereby includable in the numerator of the sales factor pursuant to s. 71.07(2)(c)1, Wis. Stats.

The taxpayer has appealed this decision to the Circuit Court.

Production Credit Association of Dodgeville vs. Wisconsin Department of Revenue (Court of Appeals, District IV, July 26, 1983). The issue in this case is the manner in which the taxpayer may compute its addition to bad debt reserves for Wisconsin franchise tax purposes under s. 71.04(9)(b), Wis. Stats. (See WTB #26 for a summary of the Wisconsin Tax Appeals Commission's decision and WTB #30 for the Circuit Court's decision.)

The department contends that the taxpayer's deduction is limited to two-thirds of the amount required to be allocated to the reserve fund under federal law at the end of the fiscal year. Because the taxpayer was required to pay $47,844.32 into the reserve fund pursuant to federal statute, the department limited the deduction to two-thirds of that amount, or $31,896.21. The taxpayer maintains that since s. 71.04(9)(b), Wis. Stats., was not enacted until 1967, it should be allowed to deduct a "reasonable" amount under state law in excess of that deducted under federal law to bring the amount in the state fund up to the amount in the federal fund. The taxpayer contends that a "reasonable" amount is two-thirds of one-half percent of the total loans outstanding at the end of 1977, or $97,398.53.

The Court of Appeals upheld the Circuit Court's decision that the deduction under s. 71.04(9)(b), Wis. Stats., is limited to two-thirds of the amount required under federal statute.

The taxpayer appealed this decision to the Supreme Court. On November 15, 1983, the Supreme Court denied the petition for review.

Ralph H. Schulz vs. Wisconsin Department of Revenue (Court of Appeals, District IV, October 11, 1983. See WTB #31 for a summary of the Circuit Court's decision.) The issue in this case is whether the taxpayer, who is operating on a cash basis, is required to report as income the entitled refund of state income tax withheld and claimed as an itemized deduction in his previous year's tax return. The taxpayer elected not to receive the refund in cash but to apply it as a credit against future income tax liability.

The Court of Appeals affirmed the Circuit Court's decision that the refund must be reported as income in the subsequent year.

The taxpayer appealed this decision to the Supreme Court, which denied his petition for review.

Peter Tubic vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, July 25, 1983). During the years 1977 through 1979, the taxpayer worked full-time for Sorens Ford and Borden, Inc. Around the middle of 1977, the taxpayer decided to start a private detective agency in Greenfield, Wisconsin, which he called Topaz Investigative Agency. He rented an office at 4810 South 76th Street, in Greenfield, Wisconsin, for approximately the last four months of 1977 for this purpose, but operated his private detective activities out of his home during 1978 and 1979. Sometime in 1979, he closed out his private investigative activities. The department disallowed his losses as an activity not engaged in for profit.

The taxpayer was licensed as a private investigator with the Wisconsin Department of Regulation and Licensing during the years under re-

view. Other than a course in police administration and police science, and a brief stint as a security guard, he had no background or training in law enforcement. Since graduation from high school, he had held numerous jobs, including working as a laborer, a short-order cook, driver, delivery man, machine operator, merchant police security guard, car setup, and salesman. Other than a listing in the telephone book, the taxpayer did not publicly advertise his services as a private investigator. The taxpayer did not have any employes, calls, clients or income from his private investigation activities. His only private investigative efforts were unsolicited efforts on his part to solve various crimes in the Milwaukee area. These efforts were unsuccessful.

The taxpayer claimed the following amount of expenses from his private investigative activities, which are the subject of this dispute:

1977	$2,300.99
1978	$1,868.00
1979	$1,069.01

The Commission found that during the period involved, 1977 through 1979, the taxpayer was not engaged in the private investigative business for profit within the intent and meaning of Sec. 183 of the Internal Revenue Code, and the department acted properly in disallowing the expenses incurred in that activity for each of the years involved.

The taxpayer has not appealed this decision.

SALES/USE TAXES

Alioto's Restaurant, Inc. vs. Wisconsin Department of Revenue (Wisconsin Tax Appeals Commission, October 20, 1983). During the period under review, the fiscal years ending June 30, 1977 through June 30, 1980, Alioto's Restaurant, Inc. was in the business of selling food and drink to the public for direct consumption on the premises, including private parties and banquets, at their place of business in Wauwatosa, Wisconsin. The issue is whether gratuities added to the sales price of food and drinks sold by the taxpayer in its party and banquet operation are includable in its gross receipts, pursuant to ss. 77.51 (11)(c)2 and 77.52(1), Wis. Stats.

The taxpayer provided parties and banquets for weddings, funerals, retirements and the like. The restaurant's banquet menu contained the following statement of their policy in regard to gratuities: "Prices plus 4% sales tax and customary 15% gratuities". Allioto's manager testified that, up to 50% of the time the customer, not the restaurant, determined the amount of gratuity to be added to its party or banquet bill. In some cases the gratuity exceeded 15%. Tips collected by the taxpayer were normally distributed to its waitresses the day following the party or banquet.

In the audit and assessment under review, the department assessed a sales tax on all party or banquet bills on which a 15% gratuity was in fact added. The department contends that, because the taxpayer has a written policy requiring that a 15% gratuity be added to its party or banquet bill, said gratuity is subject to sales tax under the express language contained in s. 77.51(11)(c)2, Wis. Stats. The taxpayer maintains that because its written policy as stated on its dinner banquet menu was not strictly adhered to, it should not have to pay sales taxes on at least 50% of the bills involved in this proceeding.

The Commission held that the 15% gratuity added to the taxpayer's party and banquet charges during the period under review, pursuant to the taxpayer's written gratuity policy, constitutes "gross receipts", as that term is defined in s. 77.51(11)(c)2, Wis. Stats., and is taxable under the terms of s. 77.52(1), Wis. Stats.

The taxpayer has not appealed this decision.

Milwaukee Solvents and Chemicals Corp. vs. Wisconsin Department of Revenue (Circuit Court of Waukesha County, October 26, 1982). Milwaukee Solvents and Chemicals Corp. is a Wisconsin corporation located in Menomonee Falls, Wisconsin, whose major business is the sale and distribution of solvents, chemicals and containers (i.e., paint cans and 55 gallon drums).

The taxpayer sells all items on a F.O.B. shipping point basis. This is preprinted on shipping and invoice forms. The taxpayer's actual practice is to sell most items at a delivered price where the cost of shipping may or may not be separately stated on the sales invoice. Other items are sold at a price at the warehouse, a price at the shipping point, or a price at the equalization point, in which case the freight costs may or may not be separately itemized on the invoice to the buyer. The products sold by the taxpayer may be delivered to the buyer's destination by way of the following methods: (a) buyer's pick-up, (b) common carrier freight collect, (c) common carrier freight prepaid, (d) taxpayer's delivery via its vehicle.

The issue in this case is whether the separately stated freight charges on the sales invoice are included in the measure of gross receipts subject to the Wisconsin sales and use tax.

The Circuit Court of Waukesha County held that the freight charges involved are included in the measure of gross receipts, as that term is defined in s. 77.51 (11)(a), Wis. Stats., and thus are subject to sales tax under s. 77.52, Wis. Stats. In addition, the Wisconsin Tax Appeals Commission's action violated no constitutional or statutory provisions or similar right of the taxpayer.

Milwaukee Solvents and Chemicals Corp. appealed the Circuit Court's decision. The taxpayer's appeal was dismissed due to the taxpayer's failure to file a timely appeal. The Court of Appeals, District II, concluded that the thirty-day appeal period set forth in s. 227.21, Wis. Stats., applied in this case. The Supreme Court on June 14, 1983 denied the taxpayer's petition for review of the Court of Appeal's decision.

Rice Insulation, Inc. vs. Wisconsin Department of Revenue (Court of Appeals, District IV, October 10, 1983). The issue in this case is whether Rice Insulation Company is a "contractor" or "subcontractor" for purposes of s. 77.51(18), Wis. Stats., and is liable for use tax on insulation materials. (See WTB #20 for a summary of the Tax Appeals Commission's decision.)

Rice Insulation Company agreed to provide a tax-exempt hospital with insulation materials and the labor to install such materials. The taxpayer purchased the materials for this job without tax, claiming they were purchased for resale by furnishing resale certificates to the suppliers.

The Court of Appeals upheld the Circuit Court's decision that the taxpayer was a subcontractor who

purchased and was the consumer of tangible personal property used by it in real property construction activities, and use tax applies to the sale of the materials used by it.

The taxpayer has not appealed this decision.

GIFT TAX

Gilson Medical Electronics, Inc. and Warren E. Gilson vs. Wisconsin Department of Revenue (Court of Appeals, District IV, October 11, 1983). Gilson Medical Electronics, Inc. and Warren Gilson appealed a Circuit Court judgment affirming a gift tax assessment against the corporation by the Wisconisn Tax Appeals Commission (see WTB #30). The Commission determined that Warren Gilson's conveyance of real property and improvements to the corporation was a gift taxable to the corporation. The Gilsons contend that the tax should be imposed against the corporate shareholders when, as here, a closely held corporation is involved.

In Wisconsin, a gift to a corporation is taxable to the corporation. Section 72.75(1)(a), Wis. Stats., provides that "[a] tax is imposed upon any transfer to any person . . . when: [t]he transfer is by gift from a donor who . . . was a resident of this state." Section 72.01(10), Wis. Stats., defines "person" as including "all partnerships, associations, corporations and municipalities." All corporations include closely held corporations. Because the Wisconsin gift tax statute is not patterned after the federal gift tax statute, 26 U.S.C. § 2501 (a)(1) (1976), there is no need to make Wisconsin law consistent with federal law. 26 C.F.R. § 25.2511-1(h)(1) (1983) provides that a gift to a corporation is a gift to the corporation's shareholders. There is, however, a critical difference between the federal gift tax and the Wisconsin gift tax. The federal tax is imposed on the donor, based on the total amount of taxable gifts made by that donor, while the state tax is imposed upon the donee. The Gilsons would gain a substantial Wisconsin gift tax advantage if they were permitted to split there one large transfer to the corporation into several small transfers to the shareholders.

The Court of Appeals affirmed the judgement of the Circuit Court because Wisconsin law unambiguously requires that the gift be taxed to the corporation.

The taxpayers have not appealed this decision.

TAX RELEASES

("Tax Releases" are designed to provide answers to the specific tax questions covered, based on the facts indicated. However, the answer may not apply to all questions of a similar nature. In situations where the facts vary from those given herein, it is recommended that advice be sought from the Department. Unless otherwise indicated, Tax Releases apply for all periods open to adjustment. All references to section numbers are to the Wisconsin Statutes unless otherwise noted.)

INDIVIDUAL INCOME TAXES

1. Income Tax Filing Requirements—Marital Status
2. Prorating Deductions and Personal Exemption Credits-Fraction of Wisconsin Adjusted Gross Income to Federal Adjusted Gross Income Includes Zero or a Negative Amount
3. Sale of Reinvested Public Utility Stock Dividends
4. Wisconsin Basis of Investment Credit Property
5. Wisconsin Tax Treatment of Incentive Stock Options

CORPORATION FRANCHISE/INCOME TAXES

1. Corporate Depreciation for 1983 and Thereafter on Investment Credit Property

SALES/USE TAXES

1. Dentists' Purchases and Sales
2. Dry Cleaners' and Laundries' Purchases
3. Mobile Manufacturing Units

HOMESTEAD CREDIT

1. Payments in Lieu of Property Taxes by Exempt Organizations

EXTENSIONS OF TIME TO FILE INCOME, FRANCHISE, SALES & USE AND OTHER RETURNS

INDIVIDUAL INCOME TAXES

1. Income Tax Filing Requirements — Marital Status

Facts: Under s. 71.10(2)(a)5, Wis. Stats., Wisconsin individual income tax filing requirements are determined based on age, gross income, marital status and residency. The following chart illustrates 1983 filing requirements for full-year residents:

Marital Status	Age as of December 31, 1983	Gross Income (or total gross income of husband & wife)
Single	Under 65	$3,200 or more
	65 or older	$4,200 or more
Married	Both under 65	$5,200 or more
	One spouse 65 or older	$6,200 or more
	Both spouses 65 or older	$7,200 or more

Part-year and nonresidents with 1983 Wisconsin gross income of $2,000 or more must file, regardless of age or marital status.

Dependents with unearned income, such as interest or dividends, must file if their unearned income for 1983 is $1,000 or more.

During the taxable year a taxpayer's marital status may change from married to single, or single to married. For purposes of income tax filing requirements, a taxpayer's marital status is determined as of the last day of the taxable year (unless the taxpayer's spouse died during the year, in which case the determination is made at the time of death).

A taxpayer is considered married for purposes of 1983 income tax filing requirements in the following situations:

1. If on December 31, 1983 the taxpayer is: