30. Impose Penalties on Distributions From Retirement Plans (1987 Act 27, amend s. 71.11(44m), effective for taxable year 1987 and thereafter.)

Any person who is liable for a penalty for premature distributions from annuity contracts under section 72(q) of the Internal Revenue Code or an excise tax on excess distributions from a qualified retirement plan under section 72(t) of the Internal Revenue Code or as provided in section 1133 of the 1986 Tax Reform Act is liable for 33% of the federal penalty for Wisconsin tax purposes.

31. Conform Estimated Tax Law to Federal Law (1987 Act 27, repeal s. 71.21(1m)(a), (2), (5) (intro.) and (a) to (c), (7) and (16); renumber s. 71.21(5)(d) to 71.21(5) and s. 71.21(5)(e) to 71.21(5m) and amend s. 71.21(5) and (5m) as renumbered; amend ss. 71.014, 71.21 (title), (1), (1m)(b), (3), (8), (11), (18), (19)(a) to (c), (20) and 71.23; repeal and recreate s. 71.21(12), (13), (14)(a), (b) and (c) and (15); and create s. 71.21(1m)(am) and nonstatutory provision, effective for taxable year 1988 and thereafter.)

The estimated tax requirements have been changed to closely conform to current federal law. The changes, which are effective for the 1988 taxable year and thereafter, are as follows:

a. The alternative minimum tax is now subject to the estimated tax requirements.

b. Beginning with the 1987 taxable year, estimated tax payments are not required for either of the first two years of an estate. Under prior law, an estate was exempt from the estimated tax requirements for only its first year of existence.

c. The "return" on which the estimated tax requirements are based will generally be the last return filed by the due date, including extensions, except that if such return reflects less than 75% of the tax properly due and such understatement results in an addition to the tax of at least $300, the addition to the tax computation will be based on amounts reported on a subsequent return or on adjusted amounts.

d. No addition to tax will be due if any of the following conditions apply:

(1) The tax shown on the return, or if no return is filed, the tax, minus amounts withheld, is less than $200.

(2) The preceding taxable year was 12 months, the taxpayer had no income tax or alternative minimum tax liability for that year and the taxpayer was a Wisconsin resident for that entire year.

(3) The Secretary determines that because of casualty, disaster or other unusual circumstances it is not equitable to impose an addition to tax.

(4) The Secretary determines the taxpayer retired during the taxable year or during the preceding taxable year after attaining age 62 or becoming disabled and the underpayment was due to reasonable cause and not willful neglect.

e. The four exceptions to the addition to the tax allowable for taxable years prior to 1988 have been repealed for 1988 and after.

f. The required installments for 1988 and after are one-fourth of the lower of the amounts computed under 1 or 2 or the amounts computed under number 3:

   (1) Ninety percent of the tax shown on the return for the taxable year or, if no return is filed, 90% of the tax for the taxable year.

   (2) The tax shown on the return for the preceding taxable year, if the taxpayer filed a return for the prior year covering a 12-month period. (See Item A.32. for an exception for estates and trusts.)

   (3) If 22.5% for the first installment, 45% for the 2nd installment, 67.5% for the 3rd installment and 90% for the 4th installment of the tax for the taxable year computed by annualizing, under methods prescribed by the department, the taxpayer's income for the months in the taxable year ending before the installment's due date is less than the installment under 1 or 2 above, the taxpayer may pay this amount. Any taxpayer who pays an installment computed under this method (annualizing) shall increase the next installment computed under 1 or 2 above by an amount equal to the difference between the amount paid under 3 and the amount that would have been paid under 1 or 2.

g. The estimated tax payment requirements shall be applied to taxable years of less than 12 months under rules promulgated by the department.

h. Any increase to required estimated tax payments that would have been due before July 1, 1987, solely because of changes affecting income or franchise tax liability made by 1987 Act 27 must be prorated equally among, and paid with, any payments that are due on or after July 1, 1987, for the taxable year 1987. Any addition to the tax for underpayment of estimated tax must be computed on the basis that the tax due for the 1987 taxable year solely because of changes affecting income tax liability made by 1987 Act 27 was required to be included only with installment payments due on or after July 1, 1987.

32. <u>Provide Exception to Estimated Tax Law for Estates and Trusts</u> (1987 <u>Act 27, create s. 71.21(14)(bm), effective for taxable years</u> beginning on or after September 1, 1987.)

In determining required installments for estimated tax purposes, estates and trusts may not use the tax shown on the return for the preceding year if their taxable income for the current year is $20,000 or more.

33. <u>Clarify Reference to Internal Revenue Code for 1986 Minimum Tax</u> (1987 <u>Act 27, amend s. 71.60(1), effective for taxable year 1986.)</u>

The minimum tax for Wisconsin tax purposes for the 1986 taxable year is equal to 55% of the federal alternative minimum tax owed under section 55 of the Internal Revenue Code as amended to December 31, 1986.

34. <u>Replace Minimum Tax With Alternative Minimum Tax</u> (1987 Act 27, repeal s. 71.60(5), amend s. 71.65(1)(g), repeal and recreate s. 71.60(1) and (4), effective for taxable year 1987 and thereafter.)

If the tax imposed for Wisconsin tax purposes under s. 71.01(1), not considering the homestead credit, married couple credit, farmland preservation credit and taxes paid to other states, is less than the Wisconsin alternative minimum tax, the Wisconsin alternative minimum tax is imposed.

The alternative minimum tax is computed as follows:

a. Adjust the federal alternative minimum taxable income by the modifications claimed under s. 71.05, except for the subtraction modification for the Wisconsin net operating loss.

b. Adjust the result of a. by the amounts needed to modify the federal alternative tax net operating loss deductions to reflect differences between Wisconsin net operating loss deductions and federal net operating loss deductions for minimum tax purposes.

c. Subtract the amount of the federal tax-exempt interest tax preference from the result of b.

d. Nonresidents and part-year residents adjust the result of c. so that itemized deductions and personal exemptions included in federal alternative minimum taxable income are prorated on the basis of the ratio of Wisconsin adjusted gross income to federal adjusted gross income.

e. Subtract from the result of d., the exemption amount provided under section 55(d)(1) and (3). In calculating the phase-out of the exemption, the result of d., not the federal alternative minimum taxable income, should be used. Nonresidents and part-year residents will prorate their exemption based on the ratio of Wisconsin adjusted gross income to federal adjusted gross income.

f. Multiply the result of e. by 6.5%.

The department must promulgate rules to provide that alternative minimum taxable income may be reduced to prevent the inclusion of any amounts that do not reflect a benefit in respect to the tax imposed under s. 71.01(1).

35. <u>Revise Order of Computation</u> (1987 Act 27, renumber s. 71.65(1)(fm) to 71.65(1)(gm), amend s. 71.65(1)(a) and (g) and create s. 71.65(1)(d), effective for taxable year 1987.)

All persons other than corporations shall compute their tax liability in the following order for the 1987 taxable year and thereafter.

a. Tax under s. 71.09(1b), (1e), (1f), (1g) or (1h)

b. Personal exemptions under s. 71.09(6p)

c. Itemized deduction credit under s. 71.09(6r)

d. School property tax credit under s. 71.53

e. Alternative minimum tax under s. 71.60

f. Married couple credit under s. 71.09(7m)

g. Payments to other states under s. 71.09(8)

h. The total of farmland preservation credit under s. 71.09(11), homestead credit under s. 71.09(7) estimated tax payments under s. 71.21 and taxes withheld under s. 71.19

B. CORPORATION FRANCHISE/INCOME TAXES

1. Federalize Definition of "Net Income" (1987 Act 27, repeal ss. 71.02(1)(b), 71.03(1), (2)(a), (2)(b), (2)(f), (5) and (6), 71.035, 71.04, 71.041, 71.045, 71.046, 71.047, 71.11(9) and 71.301 to 71.372; amend ss. 70.375(4)(e) and (4)(k)(intro.), 70.40(3), 70.41(3), 70.415(3), 70.42(3), 70.421(3), 71.01(1) and (2), 71.02(1)(c)(intro.) and (2)(intro.), 71.03(title), 71.06(1), 71.07(2)(intro.) and (2)(cr)8, 71.08(1), 71.09(2h), (2n), (11)(a)6.b and (13)(cm), 71.10(3m)(a), 71.135(1m) and (3), 77.51(14g)(g), 97.28(2m)(e) and 895.51(1)(b); repeal and recreate ss. 71.02(1)(intro.), 71.11(8)(a) and (8)(b); create ss. 71.02(1)(bc), (bg), (bi), (dm), (fm) and (m), 71.10(1)(am), 71.11(8m) and nonstatutory provisions, effective for taxable year 1987 and thereafter.)

Effective for the 1987 taxable year, Wisconsin net income of a corporation, except insurance companies, real estate investment trusts (REITs), regulated investment companies (RICs) and real estate mortgage investment conduits (REMICs), means gross income as computed under the Internal Revenue Code (IRC), plus the amount of manufacturer's sales tax credit, community development credit and research credits computed, plus the amount of losses from the sale or disposition of assets the gain from which would be wholly exempt if the asset had been sold or disposed of at a gain, minus deductions, as computed under the IRC, plus or minus, as appropriate, an amount equal to the difference between the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed of in a taxable transaction during the taxable year.

The Internal Revenue Code for the taxable year 1987 means the federal Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987 and subsequent years, with certain modifications. These modifications include the following:

a. Excluding section 78, IRC (relating to deemed dividends).

b. Excluding section 103, IRC (relating to the exclusion for interest income on governmental obligations).

c. Modifying section 108, IRC (relating to income from the discharge of indebtedness) to provide that the Wisconsin net operating loss under s. 71.06, not the federal net operating loss, and Wisconsin credits, not federal credits, are applied in the reduction of tax attributes.

d. Excluding section 133, IRC (relating to the exclusion of interest income on certain loans used to acquire employer securities).

e. Modifying section 162, IRC (relating to trade and business expenses) to provide that payments for wages, salaries, commissions and bonuses of employes and officers may be deducted only if the name, address and amount paid to each resident of this state, who has been paid compensation of $500 or more during the taxable year, is reported to the department or if the department is satisfied that failure to report has resulted in no revenue loss to Wisconsin, and so that payments for rent may be deducted only if the amount paid, together with the names and addresses of the parties to whom rent has been paid, is reported as provided under s. 71.10(1).

f. Modifying section 164(a), IRC (relating to the deduction of foreign taxes) to provide that the taxes are not deductible unless the income on which the tax is based is taxable by Wisconsin, gross receipts taxes assessed in lieu of property taxes are deductible, license fees under s. 76.28 and 76.38 are deductible and taxes allocable to mines are deductible.

g. Modifying section 164(a)(3), IRC (relating to the deduction of state and local income taxes) to provide that state taxes and taxes of the District of Columbia on or measured by all or a portion of net income, gross income, gross receipts or capital stock are not deductible.

h. Excluding section 164(a)(4), IRC (relating to the deduction for windfall profits tax).

i. Excluding section 172, IRC (relating to loss carryforwards) and replacing it with s. 71.06.

j. Excluding sections 243, 244, 245, 246 and 246A, IRC (relating to deductible dividends) and replacing them with the rule that corporations may deduct from income dividends received from a corporation with respect to its common stock if the corporation receiving the dividends owns, directly or indirectly, during the entire taxable year at least 80% of the total combined voting stock of the payor corporation and dividends received from a corporation that filed a return with Wisconsin, that is subject to taxation by Wisconsin, that did not deduct the dividends for Wisconsin and 50% or more of the net income or loss of which, after adjustment for tax purposes, was used in computing Wisconsin taxable income. "Dividends received" means gross dividends minus taxes on those dividends paid to a foreign nation and claimed as a deduction in computing Wisconsin net income.

k. Excluding section 247, IRC (relating to the deduction for dividends paid on certain preferred stock of public utilities).

l. Excluding section 265, IRC (relating to expenses and interest related to tax-exempt income) and replacing it with the rule that any amount otherwise deductible for Wisconsin that is directly or indirectly related to income wholly exempt from taxes imposed by Wisconsin or to losses from the sale or other disposition of assets the gain from which would be exempt for Wisconsin if the assets were sold or otherwise disposed of at a gain is not deductible. "Wholly exempt income" for corporations subject to franchise or income taxes includes amounts received from affiliated or subsidiary corporations for interest, dividends or capital gains that, because of the degree of common ownership, control or management between the payor and payee, are not subject to taxation by Wisconsin. "Wholly exempt income" for corporations subject to income taxation under this chapter also includes interest on obligations of the United States. "Wholly exempt income" does not include income excludable, not recognized, exempt or deductible under specific provisions for Wisconsin. If any expense or amount otherwise deductible is indirectly related both to wholly exempt income or loss and to other income or loss, a reasonable proportion of the expense or amount shall be allocated to each type of income or loss, in light of all the facts and circumstances.

m. Modifying section 267, IRC (relating to transactions between related parties) to provide that gains may be reduced only if the corresponding loss was incurred while the corporation was subject to taxation by Wisconsin.

n. Modifying sections 381, 382 and 383, IRC (relating to carryovers in certain corporate acquisitions) to provide that they apply to loss carryforwards under s. 71.06 and credits under ss. 71.043, 71.09(12r) and 71.09(12rf) instead of federal credits and federal net operating losses.

o. Modifying section 468A, IRC (relating to nuclear decommissioning trust and reserve funds) to provide that a deduction is allowed only if the fund is subject to taxation by Wisconsin. (Note: A Wisconsin corporate franchise/income tax is imposed on the net income of nuclear decommissioning trust or reserve funds as defined in section 468A, IRC.)

p. Excluding section 501(c)14, IRC (relating to an exemption for credit unions) and replacing it with s. 71.01(3) which provides that credit unions must report income which is derived from public deposits for any taxable year in which the credit union is approved as a public depository and acts as a depository of state or local funds.

q. Excluding sections 511 to 515, IRC (relating to taxation of unrelated business income of exempt organizations).

r. Excluding sections 613 and 613A, IRC (relating to the deduction of percentage depletion).

s. Excluding sections 921 to 927, IRC (relating to foreign sales corporations).

t. Excluding sections 951 to 964, IRC (relating to controlled foreign corporations).

u. Excluding sections 991 to 995 and 999, IRC (relating to domestic international sales corporations).

v. Modifying section 1017, IRC (relating to adjustments to basis because of discharge of indebtedness) to reflect the modifications as indicated in item c. above.

w. Modifying section 1033, IRC (relating to involuntary conversions) to provide that this section does not apply to involuntary conversions of property in Wisconsin that produces nonbusiness income and that is replaced with similar property outside Wisconsin, and to involuntary conversions of property in Wisconsin that produces business income and that is replaced with property outside Wisconsin if at the time of replacement the taxpayer is not subject to taxation by Wisconsin.

x. Modifying section 1366(f), IRC (relating to pass-through of items to shareholders) by substituting the tax under s. 71.016 for tax under section 1374, IRC.

y. Excluding sections 1501 to 1505, 1551, 1552, 1563 and 1564, IRC (relating to consolidated returns).

z. Modifying the deduction for depreciation or amortization to provide that a corporation may compute the deduction under either the IRC as amended to December 31, 1986, as it applies to taxable year 1987, or the IRC in effect for the taxable year for which the return is filed, except that property that was placed in service prior to January 1, 1987, must continue to be depreciated under the method allowable by Wisconsin for the year in which it was placed in service.

Taxpayers are required to use a method of accounting authorized under the IRC and shall use the same method used for federal income tax purposes if that method is authorized under the IRC.

The reporting period for Wisconsin must be the same as the period for federal income tax purposes.

Any change in accounting method or reporting period made for federal income tax purposes must also be made for Wisconsin if that method is authorized under the IRC in effect for Wisconsin. Notification of such a change should accompany the return for the first taxable year affected by such a change.

As a result of the federalization of Wisconsin net income, transitional adjustments may be required in order to prevent the duplication or omission of any item of income or expense. If the total of such transitional adjustments is $25,000 or less, the entire adjustment is to be made during the 1987 taxable year. If the total is greater than $25,000, the adjustment is to be amortized ratably over 5 years, starting in 1987.

Under prior law, Wisconsin net income was determined under Wisconsin statutes with limited references to the IRC.

2. Update Reference to Internal Revenue Code for Insurance Companies (1987 Act 27, repeal s. 71.01(4)(a)2 and 6m, amend s. 71.01(4)(a)(intro.), 7 and 9 and (g)7 to 10, create s. 71.01(4)(a)6g and 6j and (g)11, effective for taxable year 1987 and thereafter.)

For the 1987 taxable year and thereafter, insurance companies will compute their net income under the Internal Revenue Code (IRC) as amended to December 31, 1986, as it applies to taxable year 1987 and subsequent years, with certain modifications.

These modifications include the following:

a. Adding to federal taxable income the amount of any loss carryforward or carryback, including any capital loss carryforward or carryback, deducted in the calculation of federal taxable income (s. 71.01(4)(a)1).

b. Adding to federal taxable income, if not already included, the amount of any federal tax refund or portion thereof previously applied to reduce the amount of tax payable under Chapter 71 (s. 71.01(4)(a)3).

c. Adding to federal taxable income an amount equal to interest income received or accrued during the taxable year to the extent such interest income was used as a deduction in determining the company's federal taxable income (s. 71.01(4)(a)4).

d. Adding to federal taxable income an amount equal to dividend income received during the taxable year to the extent such dividend income was used as a deduction in determining federal taxable income (s. 71.01(4)(a)5).

e. Adding to federal taxable income the amount of taxes imposed by this or any other state or the District of Columbia on or measured by net income, gross income, gross receipts or capital stock, if any, deducted in the calculation of federal taxable income except that gross receipts taxes assessed in lieu of property taxes are deductible from gross income (s. 71.01(4)(a)6).

f. Adding or subtracting, as appropriate, the difference between the federal basis and the Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed of in a taxable transaction during the taxable year (s. 71.01(4)(a)6g).

g. Adding or subtracting, as appropriate, the amount required to reflect the fact that property which was required to be depreciated for taxable years 1983 to 1986 under the IRC as amended to December 31, 1980, shall continue to be depreciated under the IRC as amended to December 31, 1980 (s. 71.01(4)(a)6j).

h. Subtracting from federal taxable income dividends received from Wisconsin corporations that are deductible under s. 71.02(1)(bg)11 and are included in federal taxable income (s. 71.01(4)(a)7).

i. Subtracting from federal taxable income any net capital losses not offset against capital gains to the extent that subtraction is allowed to other corporations in computing net income under s. 71.02(1)(c)(intro.) (s. 71.01(4)(a)9).

An insurance company may compute depreciation or amortization under either the IRC as amended to December 31, 1986, as it applies to taxable year 1987, or the IRC in effect for the taxable year for which the return is filed, except that property that was placed in service prior to January 1, 1987, must continue to be depreciated under the method allowable by Wisconsin for the year in which it was placed in service.

3. <u>Permit Carryforward of Net Business Loss by Insurance Companies</u> (1987 Act 27, repeal s. 71.06(3), renumber s. 71.01(4)(a)10 to 71.01(4)(dm) and amend s. 71.01(4)(dm) as renumbered, effective for losses incurred during taxable years ending after June 30, 1987, and for returns filed for taxable year 1987 and thereafter.)

   Domestic insurance companies with nonlife business may carry forward the Wisconsin net business losses generated from their nonlife business and offset such losses against Wisconsin net business income of any year between the loss year and the income year for which an offset is claimed, limited to the amount of net income. The loss must be computed without regard to s. 71.01(4)(a)7 and 9 (See Items B.2.h and i above). Such losses may be carried forward for 15 years.

4. <u>Clarify Computation of Multiplier for Insurers</u> (1987 Act 27, amend s. 71.01(4)(b)1, effective for taxable year 1987 and thereafter.)

   The multiplier for determining income or loss from nonlife lines of insurance sold by domestic insurers will be one of the following:

   a. Zero, if the numerator is negative and adjusted federal taxable income is positive.

   b. Zero, if the numerator is positive and adjusted federal taxable income is negative.

   c. Zero, if the numerator is zero.

   d. Greater than zero but not more than one, if the numerator is positive, the denominator is positive and adjusted federal taxable income is positive.

   e. Greater than zero but not more than one, if the numerator is negative, the denominator is negative and adjusted federal taxable income is negative.

   f. One, if the numerator is positive, the denominator is zero or negative and adjusted federal taxable income is positive.

   g. One, if the numerator is negative, the denominator is zero or positive and adjusted federal taxable income is negative.

5. <u>Change Maximum Tax Liability for Certain Insurers</u> (1987 Act 27, amend s. 71.01(4)(h) effective for taxable year 1987 and thereafter.)

   Effective for the 1987 taxable year, the income and franchise tax imposed on each domestic insurer on or measured by its entire net income attributable to <u>all</u> lines of insurance in this state may not exceed 2% of the gross premiums, as defined in s. 76.62, received during the year on all policies on those lines of insurance if the subject of that insurance was resident, located or to be performed in Wisconsin.

6. <u>Update Reference to Internal Revenue Code for Regulated Investment Companies, Real Estate Mortgage Investment Conduits and Real Estate Investment Trusts</u> (1987 Act 27, amend s. 71.02(1)(c)8 to 11, create s. 71.02(1)(c)12, effective for taxable year 1987 and thereafter.)

For the 1987 taxable year and thereafter, regulated investment companies, real estate mortgage investment conduits and real estate investment trusts will compute their net income under the Internal Revenue Code as amended to December 31, 1986, as it applies to taxable year 1987 and subsequent years, except that property depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, must continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.

7. Clarify Nondeductible Gift, Travel and Entertainment Expenses (1987 Act 27, amend ss. 71.01(4)(a)6m.a to g and 71.04(2)(b)11 to 17, effective for taxable year 1986.)

   These provisions clarify that certain gift, travel and entertainment expenses allowable under sections 162 or 212 of the Internal Revenue Code and not disallowed under section 274 of the Internal Revenue Code may not be deducted for Wisconsin tax purposes.

8. Repeal Adjustments for Nondeductible Gift, Travel and Entertainment Expenses (1987 Act 27, repeal ss. 71.01(4)(a)6m and 71.04(2)(b)11 to 17, effective for taxable year 1987 and thereafter.)

   Beginning with the 1987 taxable year, the Wisconsin restrictions on certain gift, travel and entertainment expenses are repealed. Instead, the limitations on gift, travel and entertainment expenses provided in the Internal Revenue Code as amended to December 31, 1986, apply for Wisconsin tax purposes.

9. Clarify Carryforward of Manufacturer's Sales Tax Credit (1987 Act 27, repeal s. 71.043(1), amend s. 71.043(2), repeal and recreate s. 71.043(3), effective August 1, 1987.)

   The tax imposed upon or measured by corporation Wisconsin net income under s. 71.01(1) or (2) shall be reduced by the amount of sales and use tax paid in such taxable year on fuel and electricity consumed in manufacturing tangible personal property in this state.

   If the manufacturer's sales tax credit is not entirely offset against Wisconsin income or franchise tax due, the unused balance shall be carried forward and credited against Wisconsin income or franchise tax due for the following 15 taxable years to the extent not offset by taxes otherwise due in years between the year in which the expense was incurred and the year in which the carryforward credit is claimed.

10. Correct Reference to the Internal Revenue Code for Qualified Research Expenses (1987 Act 27, amend s. 71.09(12r)(a) and (b) and (12rf)(a), effective for taxable year 1987 and thereafter.)

    To reflect changes made to the Internal Revenue Code by the federal Tax Reform Act of 1986, the IRC references with respect to qualified research expenses is changed from section 30 to section 41.