



Tax Releases

“Tax Releases” are designed to provide answers to the specific tax questions covered, based on the facts indicated. In situations where the facts vary from those in a tax release, the answers may not apply. Unless otherwise indicated, tax releases apply for all periods open to adjustment, and all references to section numbers are to the Wisconsin Statutes. (Caution: Tax releases reflect interpretations by the Wisconsin Department of Revenue, of laws enacted by the Wisconsin Legislature as of the date published in this Bulletin. Laws enacted after that date, new administrative rules, and court decisions may change the interpretations in a tax release.) The following tax releases are included:

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INDIVIDUAL INCOME TAXES

1 Cranberry Grower’s Claim for Farmland Tax Relief Credit

Statutes: Section 71.07(3m), Wis. Stats. (2001-02)

Background: The farmland tax relief credit is a credit based on a percentage of the property taxes accrued on farmland. In computing the credit, the amount of property taxes accrued on farmland may not exceed \$10,000. For tax year 2003, the credit equals 16% of the property taxes on farmland. Section 71.07 (3m)(a) 3., Wis. Stats. (2001-02), states in part that “ ‘Farmland’ means 35 or more acres of real property, exclusive of improvements, in this state, in agricultural use, as defined in s. 91.01(1), and owned by the claimant or any member of the claimant’s household during the taxable year for which a credit under this subsection is claimed...” The credit is limited by sec. 71.07(3m)(c)1., Wis. Stats. (2001-02), to a maximum claim of \$1,500.00.

For purposes of the use value assessment of agricultural property, beginning in 2001, some of a cranberry grower’s land (for example dikes, ditches and support

land) is classified as an “improvement,” rather than as “land.” The result of this classification causes that portion of the cranberry grower’s land to appear on the property tax bill in the “improvements” category. In years prior to 2001, this same part of the cranberry grower’s land was classified as “land” and appeared on the property tax bill in the “land” category. More information concerning the assessment of farmland can be found in the publication *Agricultural Assessment Guide For Wisconsin Property Owners*. This publication is available on the Department of Revenue’s web site at: www.dor.state.wi.us/pubs/slf/pb061.pdf.

Facts and Question 1: A cranberry grower owns a 40 acre cranberry marsh. The total agricultural land value of the parcel is assessed at \$8,497 for 27.41 acres of beds. The total assessed value of 12.59 acres of “other land” plus “improvements” after depreciation is \$163,218. Improvements in the case of a cranberry grower include the cost of construction, less depreciation, of structural improvements (such as dikes and bulkheads, but not buildings). Dikes, ditches and support land owned by other farmers continue to be classified as “land” and are listed on other farmers’ property tax bills in the “land” category. The total assessed value for the parcel including both land and improvements is \$171,715 (\$8,497 + \$163,218). The property tax on the 27.41 acres is \$177.93 and the property tax on the remaining 12.59 acres and improvements is \$3,417.78.

Given the above facts, how is the farmland tax relief credit computed?

Answer 1: The farmland tax relief credit is a credit against 16% of the property taxes accrued against farmland, which is defined to be exclusive of improvements. However, the property tax bill that the cranberry grower receives lists some of the structural land improvements, such as dikes and bulkheads, in the “improvements” category. In order to properly determine the value of farmland to be used in the computation of the credit, a copy of the current property assessment record card and the agricultural insert provided with the record card should be included with the tax return. This information, prepared by the local assessor, should enable the Department of Revenue and the landowner to properly allocate the property taxes shown on the property tax bill for that year between farmland, structural improve

ments, and other improvements not eligible for the credit. For purposes of computing the credit, the property tax on the \$8,497 assessed as agricultural land should be combined with the property tax on the 12.59 acres of “other land” plus structural improvements (dikes and bulkheads), assessed at \$163,218. The value of the credit in this example would equal \$575.31. The credit equals 16% of the property taxes accrued against farmland. The property tax on the land assessed at \$8,497 is \$177.93 and the property tax on the 12.59 acres and improvements assessed at \$163,218 is \$3,417.78. The credit is \$575.31 (\$177.93 + \$3,417.78 = \$3,595.71 multiplied by 16% = \$575.31.)

Facts and Question 2: A 40 acre cranberry farm has a 2003 assessed value of \$308,400. The cranberry farm includes 28 acres of beds. The assessed value is comprised of the value of the 28 acres of “agricultural land” (i.e., the beds under the vines), “other” land, and the assessed value of improvements. The total assessed value of land (“agricultural” plus “other” land) is \$39,300. The improvements, assessed at \$269,100, include dikes, ditches, bulkheads, and farm buildings. For purposes of use value assessment, dikes, ditches and bulkheads, assessed at \$234,300, are classified as improvements rather than land. The property tax bill on this parcel is \$5,378.98. The assessed value of the farmland is \$273,600 (\$39,300 plus \$234,300).

Given the above facts, what amount of property tax may be used in computing the farmland tax relief credit?

Answer 2: For 2003, the credit is calculated as 16% of the property tax bill of \$5,378.98 accrued against farmland. Use the following formula to determine the portion of property taxes attributable only to land.

Assessed value of farmland	X	2003 property taxes levied in 2003
Total assessed value of land and improvements		before lottery and gaming credit

The assessed value of the land is \$273,600. Divide \$273,600 by the total assessed value (\$308,400). Multiply the result (.8871595) by the property taxes levied (\$5,378.98) to equal \$4,722.01, which is the portion of property taxes to be used in determining the farmland tax relief credit in this example. [✎](#)

CORPORATION FRANCHISE AND INCOME TAXES

2 Carryforwards of Wisconsin Net Business Losses

Statutes: Sections 71.26(4), 71.45(4), 71.75, 71.76, and 71.77, Wis. Stats. (2001-02)

Note: Also see the tax release titled “Years in Which a Wisconsin Net Business Loss Carryforward May Be Used” published in *Wisconsin Tax Bulletin* 110 (July 1998), page 29.

Background: Section 71.26(4), Wis. Stats. (2001-02), provides in part:

(4) NET BUSINESS LOSS CARRY-FORWARD. A corporation, except a tax-option corporation or an insurer to which s. 71.45(4) applies, *may* offset against its Wisconsin net business income any Wisconsin net business loss sustained in any of the next 15 preceding taxable years, if the corporation was subject to taxation under this chapter in the taxable year in which the loss was sustained, to the extent not offset by other items of Wisconsin income in the loss year and by Wisconsin net business income of any year between the loss year and the taxable year for which an offset is claimed. ... [Emphasis added.]

With respect to insurers, sec. 71.45(4), Wis. Stats., (2001-02), states in part:

(4) NET BUSINESS LOSS CARRY-FORWARD. Insurers computing tax under this subchapter *may* subtract from Wisconsin net income any Wisconsin net business loss sustained in any of the next 15 preceding taxable years to the extent not offset by Wisconsin net business income of any year between the loss year and the taxable year for which an offset is claimed and computed ... [Emphasis added.]

Facts and Question 1: Corporation A computed a Wisconsin net business loss of \$300,000 on its Wisconsin franchise or income tax return for the 2002 calendar year.

For 2003, Corporation A has Wisconsin net income of \$25,000 before subtracting its 2002 Wisconsin net business loss carryforward. The income is derived from

business activities in a Wisconsin development zone. Corporation A has a \$2,000 development zone investment credit carryforward from its 1997 taxable year. It has no other 2003 tax credits or credit carryforwards.

May Corporation A choose not to deduct any part of its 2002 Wisconsin net business loss carryforward on its 2003 Wisconsin return so that it may use its development zone investment credit carryforward?

Answer 1: Yes, Corporation A may choose not to deduct any part of its 2002 Wisconsin net business loss carryforward on its 2003 Wisconsin return. Corporation A may claim the net business loss carryforward in any year between the loss year and the next 15 succeeding years.

Section 71.26(4), Wis. Stats. (2001-02), provides that a corporation “may” offset against its Wisconsin net business income any Wisconsin net business loss sustained in any of the next preceding 15 years. In statutes, the word “may” denotes an optional or permissive privilege, right, or grant of discretionary authority. Thus, the Legislature’s use of the word “may” for the net business loss carryforward indicates that taxpayers have the option to offset the loss against income in any future year during the 15-year carryforward period.

Facts and Question 2: Corporation B timely filed its 1997 Wisconsin franchise or income tax return and paid Wisconsin franchise tax of \$25,000. After the statute of limitations had expired, Corporation B determines that it made an error in computing its deductions and actually incurred a \$100,000 net business loss for the taxable year.

May Corporation B carry forward and claim any portion of the 1997 net business loss in open years?

Answer 2: No, Corporation B cannot go back to a closed year and compute a net business loss where one had not previously been claimed. Therefore, Corporation B does not have any unused net business loss from 1997 to carry forward to years that are open under the statute of limitations.

Facts and Question 3: On July 1, 2003, Corporation C files a late Wisconsin franchise or income tax return for the 1996 calendar year. The return reports a net business loss of \$500,000.

May Corporation C carry forward the \$500,000 net business loss to receive a refund of taxes paid in open years?

Answer 3: No, since Corporation C filed its Wisconsin return after the statute of limitations had expired, it cannot carry forward the \$500,000 of net business loss shown on its 1996 return.

Facts and Question 4: Corporation D claimed a \$750,000 net business loss on its timely filed, calendar-year 1996 Wisconsin franchise or income tax return. The corporation carried forward the loss to offset the net business income reported on its 1997, 1998, and 1999 Wisconsin returns of \$100,000, \$150,000, and \$275,000, respectively. Thus, Corporation D reported an unused net business loss carryforward of \$225,000 on its 1999 return. The Department of Revenue conducts an audit of Corporation D’s 1996 through 1999 Wisconsin franchise or income tax returns. At the time of the audit, only the 1999 return is open to assessment by the department. The department determines that Corporation D overstated its net business loss on its 1996 return by \$75,000 and understated its income on its 1997, 1998, and 1999 returns by \$50,000, \$75,000, and \$125,000, respectively.

May the department adjust Corporation D’s 1996 net business loss and its net business income reported on its 1997, 1998, and 1999 returns?

Answer 4: Yes, the department can adjust Corporation D’s 1996 net business loss and the net business income reported on its 1997, 1998, and 1999 returns. The statute of limitations relates only to assessments and does not prevent income from being recomputed in order to determine the correct net business loss to carry forward to future years. The department determines that Corporation D’s 1996 net business loss is \$675,000. Corporation D’s net business income before the deduction for its net business loss carryforward is \$150,000 for 1997, \$225,000 for 1998, and \$400,000 for 1999. As a result, \$150,000 of the net business loss is applied against the adjusted 1997 net business income and \$225,000 is applied against the adjusted 1998 net business income, leaving a balance of \$300,000 of net business loss to be carried forward to 1999. The department can issue an assessment to Corporation D for the \$100,000 increase in net income reportable on the corporation’s 1999 Wisconsin return.

Facts and Question 5: Corporation E claimed a \$550,000 net business loss on its timely filed, calendar-year 1996 Wisconsin franchise or income tax return. The corporation carried forward the loss to offset the \$200,000 of net business income reported on its 1997 Wisconsin return and \$350,000 of the \$400,000 of net business income reported on its 1998 return. The Department of Revenue conducts an audit of Corporation

E's 1996 through 1999 Wisconsin franchise or income tax returns. At the time of the audit, only the 1999 return is open to assessment by the department. The department determines that Corporation E understated its net business loss on its 1996 return by \$50,000. In addition, the department determines that the net business income before any net business loss offset that Corporation E reported on its 1997, 1998, and 1999 returns is correct.

May the department adjust Corporation E's 1996 net business loss and its net business income reported on its 1997, 1998, and 1999 returns?

Answer 5: The department can adjust Corporation E's 1996 net business loss and the net business income reported on its 1999 Wisconsin return. The department determines that Corporation E's 1996 net business loss is \$600,000. Since Corporation E's 1997 and 1998 returns are closed to refunds, the additional \$50,000 of net business loss is carried forward and applied against Corporation E's 1999 net business income. The department can issue a refund to Corporation E for the \$50,000 decrease in net income reportable on the corporation's 1999 Wisconsin return. [↩](#)