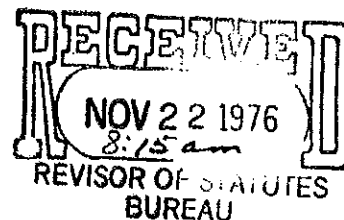


TAX 3,10,11

CERTIFICATE OF RULE ADOPTION

STATE OF WISCONSIN)
DEPARTMENT OF REVENUE)



TO ALL WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, Dennis J. Conta, Secretary of the Department of Revenue and custodian of the official records of said Department, do hereby certify that the annexed rules were duly approved and adopted by this Department on November 19, 1976. These rules relate to the following:

1. Interest paid to purchase exempt government bonds.
2. Railroad retirement supplemental annuities.
3. Taxation of joint tenancy property and establishing contribution for deaths on or after May 14, 1972 and before July 1, 1976.
4. Taxation of joint tenancy property for deaths on or after July 1, 1976.
5. Stamps, coins and bullion.
6. Leases of highway vehicles and equipment.

I further certify that said copy has been compared by me with the original on file in this Department and that the same is a true copy thereof and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 201 East Washington Avenue in the city of Madison, this 19th day of November, 1976.

A handwritten signature in cursive script, appearing to read "Dennis J. Conta", written over a horizontal line.

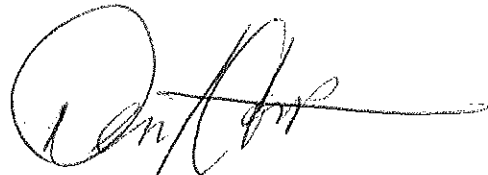
Dennis J. Conta

ORDER OF THE DEPARTMENT OF REVENUE ADOPTING RULES

Pursuant to the authority vested in the Department of Revenue by ss. 71.11(24)(a), 72.05 and 227.014(2), Wis. Stats., the Department hereby adopts the following six rules as shown on the attached copy:

1. Section Tax 3.096, "Interest paid to purchase exempt government bonds".
 2. Section Tax 3.098, "Railroad retirement supplemental annuities".
 3. Section Tax 10.05, "Taxation of joint tenancy property and establishing contribution for deaths on or after May 14, 1972 and before July 1, 1976".
 4. Section 10.06, "Taxation of joint tenancy property for deaths on or after July 1, 1976".
 5. Section Tax 11.78, "Stamps, coins and bullion".
 6. Section Tax 11.79, "Leases of highway vehicles and equipment".
- The rules contained herein shall take effect on January 1, 1977.
Date this 19th day of November, 1976.

DEPARTMENT OF REVENUE
By:



Dennis J. Conta
Secretary of Revenue

INTEREST PAID TO PURCHASE EXEMPT GOVERNMENT BONDS

Section Tax 3.096 of the Wis. Adm. Code is adopted to read:

Tax 3.096 Interest paid on money borrowed to purchase exempt government securities (Section 71.05(1)(b)1, Wis. Stats.). (1) Any amount of interest or dividend income which is by federal law exempt from the Wisconsin income tax shall be reduced by any related expense before it is claimed as a subtraction modification on a Wisconsin income tax return.

(2) Interest expense is a "related expense" if it is incurred to purchase securities producing exempt interest or dividend income and if it is deducted in computing Wisconsin taxable income.

(3) Interest expense is not a "related expense" if it is incurred to purchase securities producing exempt interest or dividend income but is not deducted in computing Wisconsin taxable income (for example, because the taxpayer elects the standard rather than to itemize deductions).

NOTE: The following examples illustrate the proper treatment of the interest expense described in this rule:

Example A: U.S. bond interest exempt from Wisconsin income tax. \$ 600

Interest which was paid on funds used to acquire exempt securities and which was claimed as an itemized deduction. 400

Subtraction modification. \$ 200

Example B: U.S. bond interest exempt from Wisconsin income tax. \$ 400

Interest paid to acquire the exempt securities which was claimed as an itemized deduction. 600

Subtraction modification. \$ 0

Example C: U.S. bond interest exempt from Wisconsin income tax. \$ 400

Interest paid to acquire the exempt securities but not claimed as an itemized deduction. 600

Subtraction modification. \$ 400

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITIES

Section Tax 3.098 of the Wis. Adm. Code is adopted to read:

Tax 3.098 Railroad retirement supplemental annuities.

(Section 71.05(1)(b)4, Wis. Stats.). Railroad retirement supplemental annuities paid under 45 U.S.C.A. s. 228c are exempt from the Wisconsin taxable income of their recipients.

NOTE: The Railroad Retirement Act (45 U.S.C.A. s. 428L) provides that, "Notwithstanding any other law of the United States, or of any State...no annuity or pension payment shall be... subject to any tax...."

Another provision of the Act (45 U.S.C.A. s. 228c(j)(3)), however, relates specifically to Supplemental Retirement Annuities paid in amounts between \$45 and \$70 per month, and qualifies the above provision by stating "The provisions of Section 228L of this title shall not operate to exclude the supplemental annuities herein provided for from income taxable pursuant to the Federal income tax provisions of Title 26."

While such supplemental annuities are taxable for federal income tax purposes, 45 U.S.C.A. s. 228(c)(j)3 continues to prohibit states from taxing the payments. As the supplemental annuity must be reported for federal income tax purposes, a Wisconsin taxpayer may make a modification to federal adjusted gross income to remove such income from Wisconsin adjusted gross income.

INHERITANCE TAX: CONTRIBUTION TO JOINT TENANCY PROPERTY FOR
DEATHS ON OR AFTER MAY 14, 1972 AND BEFORE JULY 1, 1976

Section Tax 10.05 of the Wis. Adm. Code is adopted to read:

Tax 10.05 Taxation of joint tenancy property and establishing
contribution for deaths on or after May 14, 1972 and before July 1, 1976.

(Section 72.12(6), Wis. Stats.) (1) THE STATUTE. The full clear market value of property held by 2 or more persons in joint tenancy with a right of survivorship (hereafter "joint property"), upon the death of one of those persons on or after May 14, 1972 and before July 1, 1976 is subject to the inheritance tax regardless of the relationship of the joint tenants to each other. The 2 statutory exceptions are the following:

(a) Property is exempt from taxation if the property or the consideration with which it was acquired, or any part of either, is shown to have originally belonged to the survivor. Such property or consideration must not have been received or acquired by the survivor from the decedent for less than adequate and full consideration in money or money's worth.

Any lifetime conveyance into joint tenancy from the decedent to the surviving tenant regardless of whether it results in a taxable transfer does not constitute contribution by the survivor in the decedent's estate. Any gift tax paid on the lifetime conveyance is returned as provided in s. 72.87, Wis. Stats.

(a) If all or part of the joint property or the consideration used to acquire it was originally a gift from the decedent to the survivor, the value of the gift shall not be regarded as contribution.

(b) The income, profits and realized appreciation or gain from property which was given by the decedent to the survivor, when applied to the acquisition of joint property, shall be regarded as contribution although the value of the original gift shall not be. Unrealized appreciation on property given by the decedent to the survivor is not regarded as contribution by the survivor.

(c) Stock dividends accruing from property given by the decedent to the survivor are not attributable to the survivor, thus differing from cash dividends, and are, therefore, includable in the decedent's estate.

(d) When joint property originated with the decedent, it is necessary to determine whether the survivor received from the decedent any part of the property or consideration used to acquire it for less than adequate and full consideration in money or money's worth. The value of property originating with the decedent may be attributed to the survivor if the survivor provided adequate and full consideration for the property.

(e) Property acquired by one spouse prior to a marriage and transferred into joint tenancy with the other spouse without adequate consideration is taxable to the extent of that part not attributable to monetary contribution of the survivor. If both spouses have property in sole names prior to marriage and transfer some or all of the property into joint tenancy after marriage, the taxable or excludable portions will be determined by contribution of property made by each to the joint tenancies.

(f) Joint tenancy property brought into the state is taxable on the basis of contribution by the tenants, with the exception of that property brought in the state from a community property state.

(g) In this section:

1. Relinquishment of marital rights (dower, curtesy or homestead rights) or relinquishment of a right of survivorship does not constitute consideration in money or money's worth for the acquisition of an interest in joint property. But transfers into joint tenancy as consideration for relinquishment of support or property rights in a divorce may be regarded as consideration.

2. Payment of a debt, excluding a debt on joint property, of one joint tenant by the other joint tenant is not consideration for acquisition of an interest in joint property unless there is sufficient evidence of an agreement that it is to be regarded as consideration.

3. To meet the burden of proving a survivor's contribution to a joint bank account, evidence must show both the sources of deposits and the nature of withdrawals. When both joint tenants (including joint tenancies between spouses) have acquired income and deposited it in joint accounts, the proportion of their gross incomes shall be accepted as a measure of the contribution of each to joint accounts, unless adequate proof of a different arrangement is shown. These criteria apply in determining contribution to joint property purchased with the funds from a joint bank account.

4. If joint property is purchased using a mortgage, the deduction allowed on the outstanding balance on the date of death is computed as follows:

$$\frac{\text{portion of fair market value included in estate}}{\text{fair market value on date of death}} \times \text{mortgage on date of death} = \text{allowable deduction}$$

INHERITANCE TAX: JOINT TENANCY PROPERTY

FOR DEATHS ON OR AFTER JULY 1, 1976

Section Tax 10.06 of the Wis. Adm. Code is adopted to read:

10.06 Taxation of joint tenancy property for deaths on or after July 1, 1976. (Sections 72.01(12), 72.12(4)(a) and (6), 72.13 and 72.85(4), Wis. Stats.) Property held by 2 or more persons with the right of survivorship (hereafter "joint property") shall have the value subject to inheritance tax determined as follows:

(1) COMPLETED TRANSFERS. Any joint property requiring the signature of all joint tenants to transfer the entire property which, to the extent of unequal monetary contribution, was deemed a gift at the time of its acquisition or the creation of the joint tenancy and any subsequent increments thereto shall have its taxable value determined by dividing the joint property's date of death clear market value, less any liens against the property, by the number of joint tenants on the date of death including the decedent.

(2) INCOMPLETE TRANSFERS. (a) The full date of death clear market value of any joint property requiring the signature of only one joint tenant to transfer the entire property which, to the extent of unequal monetary contribution, was not deemed to be a gift at the time of its acquisition or the creation of the joint tenancy and any subsequent increments thereto shall be subject to inheritance tax. Any portion contributed in money or money's worth by the survivor, as described in Tax 10.05, may be excluded.

(b) Unless there is a clear showing to the contrary, the allocation of contribution in money or money's worth shall apply equally to all joint property held by the same joint tenants. The amount is computed as follows:

$$\frac{\text{dollar amount of survivor's contribution to date of death}}{\text{full clear market value of all joint property at death}} \times \text{full clear market value of each asset} = \text{survivor's contribution to each asset}$$

(3) TRANSFERS IN CONTEMPLATION OF DEATH. Any joint tenancies created or joint tenants added within 2 years of a decedent's date of death are covered by s. 72.12(4)(a), Wis. Stats.

NOTE:

Example #1: The following example shows how to compute the taxable and tax exempt portions of joint property under sub. (1). Assume that the full clear market value of a farm owned in joint tenancy by husband, wife and child is \$120,000; that a mortgage of \$30,000 exists against the farm and that the husband dies:

Date of death full clear market value	\$120,000
Subtract mortgage outstanding on date of death	-30,000
Divide by number of joint tenants at time of death	3 <u>90,000</u>
Amount subject to inheritance tax	\$ 30,000
The fractional share times the number of surviving tenants (2) equals the joint tenancy exemption	\$ 60,000

Example #2: The following example shows how to compute the survivor's contribution to joint property under sub. (2)(b). Assume that the surviving joint tenant contributed \$20,000 to a farm with a \$120,000 date of death value and that the survivor also acquired a \$20,000 joint savings account from decedent:

farm:

$$\frac{\$20,000}{\$140,000} \times \$120,000 = \$17,142.86$$

savings account:

$$\frac{\$20,000}{\$140,000} \times \$20,000 = \$2,857.14$$

While the real estate will be included for inheritance tax at fractional share without considering contribution, it will be necessary to allocate a prorata share of monetary contribution to all joint assets unless it can be clearly traced to a specific asset. In this example, \$2,857.14 is available for contribution to the savings account unless it can be clearly shown otherwise.

STAMPS, COINS AND BULLION

Section Tax 11.78 of the Wis. Adm. Code is adopted to read:

Tax 11.78 Stamps, coins and bullion. (Section 77.51(5), Wis. Stats.) (1) TAXABLE SALES. Retail sales of the following tangible personal property are subject to the sales and use tax:

- (a) Cancelled United States and foreign postage stamps.
- (b) Uncancelled United States postage stamps when sold or traded as collectors' items above their face value.
- (c) Uncancelled foreign postage stamps.
- (d) Postage charges which are billed by the seller to the purchaser in connection with the sale and delivery of tangible personal property if the sale of the property is subject to the tax.
- (e) Foreign coins and paper currency when sold or traded as collectors' items.
- (f) United States coins and paper currency when sold or traded as collectors' items above their face value.
- (g) Silver bullion and gold bullion which is physically located in Wisconsin is subject to the sales tax whether the sales contract is entered into or outside of Wisconsin. Such bullion purchased and delivered to the purchaser outside Wisconsin is subject to the use tax when brought into the state.
- (h) Commemorative medals.

(2) NONTAXABLE SALES. Retail sales of the following tangible personal property are not subject to the sales and use tax:

(a) United States postage stamps, coins and paper currency sold at face value.

(b) The portion of the selling price attributable to postage in the sale of prestamped envelopes if the nontaxable postage is separately itemized to the customer.

(c) Sales of bullion to persons in Wisconsin when the purchaser takes a document of ownership covering bullion remaining outside the state.

(d) Foreign coins and paper currency in current circulation, when sold at face value and when acquired as a medium of exchange.

HIGHWAY VEHICLE LEASE CONTRACTS

Section Tax 11.79 of the Wis. Adm. Code is adopted to read:

Tax 11.79 Leases of highway vehicles and equipment. (Sections 77.51(4) (intro.) and (j), (7)(k) and 77.58(6), Wis. Stats.)

(1) GENERAL RULE. Gross receipts from the lease or rental of motor vehicles and mobile equipment used on a highway are subject to the sales and use tax.

(2) DEDUCTIONS FROM GROSS RECEIPTS. If the lease or rental agreement is for a long term, in determining a lessor's taxable gross receipts under sub. (1), the cost of the following items may be deducted if they meet the conditions in sub. (3):

(a) Motor fuel.

(b) Vehicle license fees.

(c) Federal highway use taxes.

(d) Public liability insurance furnished by the lessor solely for the protection of the lessee but not including collision and comprehensive coverage.

(3) CONDITIONS FOR DEDUCTIONS. The items listed in sub. (2) may be deducted if:

(a) The charge is reasonable.

(b) The charge is separately stated in the lease agreement, billing or invoice.

(c) The lessor is willing and able to lease the motor vehicle or mobile equipment without providing the items listed in sub. (2).

(d) The deduction is limited to the lessor's cost of the items furnished with the leased equipment.

(4) NONDEDUCTIBLE ITEMS. In determining a lessor's taxable gross receipts under sub. (1), the cost of the following may not be deducted:

(a) Amounts spent for the lessor's own protection or for the protection of leased property, including collision or other insurance protection.

(b) Maintenance or repair charges incurred by the lessor.

(c) Interest and other financing costs incurred by the lessor.

(5) MULTISTATE USE. (a) Gross receipts from leases or rentals of motor vehicles and mobile equipment used on a highway are taxable if the vehicles and equipment are garaged in Wisconsin, even if the lease or rental agreement was executed in another state or if, at the contract's expiration, the vehicles or equipment must be returned to the lessor in another state.

(b) "Drive it yourself" motor vehicles or mobile equipment which are used for one-way trips and leased for less than one month are deemed garaged in the state in which they come into the lessee's possession.