

Chapter Tax 2

INCOME TAXATION, RETURNS, RECORDS AND GROSS INCOME

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Tax 2.01 Residence. (section 71.01, Wis. Stats.) (1) The residence of a wife is that of her husband unless there is affirmative evidence to the contrary or unless the husband and wife are permanently separated. The residence of a minor child, unless emancipated, is that of its father, or of the mother, if the father is deceased.

(2) Individuals claiming a change of residence (domicile) from Wisconsin to another state shall file a "declaration of residence" with the Central Audit section of the Department of Revenue by delivery to 4638 University Avenue, Madison, Wisconsin, or by mailing to Post Office Box 80, Madison, Wisconsin 53701, and shall furnish such other information as the department may require.

History: 1-2-56; r. (1); renum. (2) to be (1); renum. (3) to be (2) and am., Register, September, 1964, No. 105, eff. 10-1-64. Am. Register, February, 1975, No. 230, eff. 3-1-75.

Tax 2.03 Corporation returns. For the purpose of filing franchise or income tax returns, the secretary of revenue has designated the following forms for the use of corporations:

Form 4. Return of income for the calendar or fiscal year.

Form 4A. Balance sheets as of beginning and end of taxable year; analysis of surplus account; reconciliation of book income with net income reported.

Form 4B. Apportionment data (when applicable to the corporation).

Form 4C. Separate accounting data (when applicable to the corporation).

Form 5. Optional return of income for the calendar or fiscal year (to be used only by corporations whose entire net income is taxable in Wisconsin).

All returns, statements, schedules and information required to be filed or furnished by corporations shall be mailed to the Corporation Section of the Wisconsin Department of Revenue, P. O. Box 98, Madison, Wisconsin 53701 or delivered to the Corporation Section at 4638 University Avenue, Madison, Wisconsin.

Note: Blank forms may be obtained from the department 4638 University Avenue, Madison, or by mail request to P. O. Box 58, Madison, Wisconsin 53701.

History: 1-2-56; am. Register, September, 1964, No. 105, eff. 10-1-64; am. Register, March, 1966, No. 123, eff. 4-1-66, am. Register, February, 1975, No. 230, eff. 3-1-75; am. Register, September, 1977, No. 261, eff. 10-1-77.

Tax 2.04 Information returns; forms WT-9, 9b, and 9X for corporations. (sections 71.04 (1) and 71.10 (1), (8m) and (8n), Wis. Stats.)

(1) All corporations carrying on activities within this state, whether taxable or not under chapter 71, Wis. Stats., shall file with the department of revenue, on or before January 31 of each year on forms WT-9 or 9b or on such other forms as may be approved by the department, statements of payments made within the preceding calendar year to residents of Wisconsin of salaries, wages, bonuses, commissions, retirement pay, fees or other remuneration for services whether subject to withholding or

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not, and to non-residents of all payments for the performance of personal services in Wisconsin, whether subject to withholding or not.

(2) Salaries, wages, bonuses, commissions, retirement pay, fees or other remuneration for services, and payments for the performance of personal services in Wisconsin paid by a corporation to an individual in a calendar year and aggregating less than \$500 need not be so reported if no part thereof was within the definition of wages in section 71.19 (1) Wis. Stats.

(3) Form WT-7 (Employers Annual Reconciliation of Wisconsin Income Tax Withheld from Wages) should accompany forms WT-9.

(4) Statements of payments to residents of Wisconsin within the preceding calendar year of interest and dividends, including dividends paid in capital stock, and payments of all rents and royalties on property regardless of location, and payments to residents and non-residents of Wisconsin of rents and royalties on property located in Wisconsin shall be filed at the place hereinbefore referred to on or before March 15 of each year on forms 9b or other approved forms. The forms must be filed on the date indicated even if the corporation keeps its records on a fiscal year other than a calendar year.

(5) Payments of interest, dividends, rents or royalties of less than \$100 to any one individual need not be reported.

(6) Each corporation must file with forms 8, 9b or approved substitute forms, forms 9X showing the number of reports made on forms 8, 9b or approved substitute forms. (See also Wis. Adm. Code section Tax 2.05). Items required to be reported on forms WT-9 or 9b may be disallowed as deductions from the corporation's gross income upon failure to make proper report thereof.

Note: (1) Section 71.07 was amended in 1975 to make all income of resident individuals, estates and trusts taxable.

(2) This rule will permit the use of approved substitute forms in lieu of official forms.

History: 1-2-56; am. Register, September, 1964, No. 105, eff. 10-1-64, am. Register, February, 1975, No. 230, eff. 3-1-75; am. Register, September, 1977, No. 261, eff. 10-1-77.

Tax 2.045 Information returns; form 9c for employers of nonresident entertainers, entertainment corporations or athletes. (sections 71.02(1) (e) and (2) (p) and 71.10 (18), Wis. Stats.) Every resident person or firm which employs or engages the services of a nonresident entertainer, a nonresident athlete or group of athletes, or a domestic or foreign entertainment corporation, for performance within this state for a contract price exceeding \$1,950, or which has receipt, custody or control of the proceeds of an entertainment or sporting event within this state, shall file with the department a statement reporting information about the entertainer, athlete or entertainment corporation within 90 days of the event. Such statement shall be made on Form 9c even though the employer may file Form WT-9 or 9b with the department as required by sections Tax 2.04 and 2.06.

Note: Forms may be obtained by mail request to the Wisconsin Department of Revenue. Requests for forms should be addressed to P.O. Box 8903, Madison, Wisconsin 53708.

This rule implements legislation requiring these returns which becomes effective January 1, 1978.

History: Cr. Register, February, 1978, No. 266, eff. 3-1-78.

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Tax 2.05 Information returns, forms 8 for corporations. (section 71.10 (1), Wis. Stats.) All corporations doing business within this state, whether subject to the franchise or income tax or not, are required to file with the department of revenue by mailing to the Corporation Section of the Wisconsin Department of Revenue, P. O. Box 98, Madison, Wisconsin 53701 or delivery to the Corporation Section, 4638 University Avenue, Madison, Wisconsin on or before March 15 of each year on forms 8 as prescribed by the secretary of revenue, statements of such transfers of capital stock as have been made by residents of Wisconsin during the preceding calendar year.

Note: Blank forms may be obtained by mail request addressed to Wisconsin Department of Revenue, P. O. Box 58, Madison, Wisconsin, 53701.

History: 1-2-56; am. Register, September, 1964, No. 105, eff. 10-1-64; am. Register, March, 1966, No. 123, eff. 4-1-66, am. Register, February, 1975, No. 230, eff. 3-1-75.

Tax 2.06 Information returns required of partnerships and persons other than corporations. (sections 71.10 (8m), (8n) and (15) and 71.11 (25), Wis. Stats.) Information returns reporting remuneration paid for services, whether or not within the definition of "wages" in section 71.19 (1), Wis. Stats., must be filed on or before January 31 of each year on forms WT-9, 9b or on such other form as may be approved by the department. Form WT-7 (Employer's Annual Reconciliation of Wisconsin Income Tax Withheld from Wages) should accompany forms WT-9 or other approved forms. Informational returns reporting other items such as interest paid or rent paid must be filed on or before April 15 of each year on forms 9b or on such other form as may be approved by the department. Items required to be reported on informational returns will be disallowed as deductions from gross income if not properly reported. Such returns should be mailed to the Department of Revenue, P. O. Box 59, Madison, Wisconsin 53701 or delivered at 4638 University Avenue, Madison.

Note: Amended to permit the filing of approved substitute forms in lieu of official forms.

History: 1-2-56; am. Register, February, 1958, No. 26, eff. 3-1-58; r. and recr. Register, September, 1964, No. 105, 10-1-64; am. Register, March, 1966, No. 123, eff. 4-1-66; am. Register, February, 1975, No. 230, eff. 3-1-75; am. Register, September, 1977, No. 261, ed. 10-1-77.

Tax 2.07 Income tax returns of liquidated or dissolved corporations. (section 71.10 (1), Wis. Stats.) The officers of a corporation which has been liquidated or dissolved during the income year shall file a corporate franchise or income tax return for such year and for any year thereafter in which there is corporate income. The franchise tax applies only to those corporations that are actually doing business in Wisconsin after the close of the period covered by the franchise tax return. Corporations which cease to do business in the income year covered by the return must file an income tax return to account for their final operation. A corporation which has liquidated or dissolved during the income year shall include the following information in its final return:

- (1) A copy of its plan of liquidation or reorganization.
- (2) The section of chapter 71 under which it liquidated or reorganized.
- (3) The disposition of the assets. If the assets were sold, indicate the selling price, adjusted cost basis at the time of sale, gain or loss realized on the sale and the date of the sale.

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(4) A list of the shareholders, their addresses and the amount received by each shareholder from the distribution or distributions. (The list should be submitted in addition to the required Forms 9b).

(5) The date of the final distribution.

Note: The information specified in this rule is necessary for the audit of the final return of a corporation.

History: 1-2-56; am. Register, March, 1966, No. 123, eff. 4-1-66; r. and recr. Register, September, 1977, No. 261, eff. 10-1-77.

Tax 2.08 Returns of persons other than corporations. (1) For the purpose of filing income tax returns, the secretary of revenue has designated the following forms for the use of persons other than corporations:

(a) Form 1. For all individuals, whether married or single, and for husbands and wives electing to file a combined return.

(b) Form 1A. (Short form).

(c) Form 2. For trustees, personal representatives, and others acting in a fiduciary capacity, but excluding guardians. (Guardians should report on Form 1).

(d) Form 3. For partnerships and joint ventures.

(2) Information returns required of persons other than corporations are specified in Wis. Adm. Code section Tax 2.06. See also Tax 3.07.

(3) Returns required to be filed by persons other than corporations shall be filed by mailing them to P.O. Box 268, Madison, Wisconsin 53790 if a tax is due. If a refund is payable or if no amount is due, the return shall be filed by mailing it to P.O. Box 59, Madison, Wisconsin 53785. Returns required to be filed by fiduciaries shall be filed by mailing them to P.O. Box 8904, Madison, Wisconsin 53708.

Note: Blank forms may be obtained by mail request to Wisconsin Department of Revenue, P. O. Box 58, Madison, Wisconsin 53701.

History: 1-2-56; am. Register, February, 1958, No. 26, eff. 3-1-58; am. Register, February, 1960, No. 50, eff. 3-1-60; am. Register, September, 1964, No. 105, eff. 10-1-64; r. and recr. Register, March, 1966, No. 123, eff. 4-1-66; am. Register, February, 1976, No. 230, eff. 3-1-76; am. (1), Register, November, 1977, No. 263, eff. 12-1-77; am. (3), Register, February, 1978, No. 266, eff. 3-1-78.

Tax 2.085 Claim for refund on behalf of a deceased taxpayer. (Section 71.10 (10), Wis. Stats.) (1) If a refund of Wisconsin income taxes is due a deceased taxpayer and if the refund exceeds \$50, the claimant shall file, with the income tax return, a completed form I-804, entitled "Claim for Decedent's Wisconsin Income Tax Refund".

(2) Forms required to be filed under subsection (1) shall be mailed to the Department of Revenue, P.O. Box 80, Madison, Wisconsin 53701.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76.

Tax 2.09 Reproduction of income tax forms. Subject to this rule, the official Wisconsin income tax return forms may be reproduced and the reproductions may be filed with the department in lieu of the corresponding official forms. The department may reject any form which is in whole or in part illegible.

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(1) The reproductions must be made by photo-offset, photo-engraving or by some similar photographic process. They may be reproduced on one side or both sides of the paper.

(2) The reproductions must be on paper of substantially the same weight and texture, and of quality at least as good as that used in the official forms. Forms printed on colored paper may be reproduced on white paper.

(3) Since all of the official forms are printed in black ink, such printing must be reproduced in black.

(4) The size of the reproductions, both as to dimensions of the paper and image reproduced thereon, must be the same as that of the official form.

(5) Except for returns executed by fiduciaries as provided in (6) below, all signatures required on returns which are filed with the department must be original, affixed subsequent to the reproduction process.

(6) A fiduciary or the fiduciary's agent may use a facsimile signature in filing a tax return on form 2, subject to the following conditions:

(a) Each group of returns forwarded to the department shall be accompanied by a letter signed by the person authorized to sign such returns declaring, under penalties of perjury, that the facsimile signature appearing on the returns is the signature adopted by the person to sign the returns filed and that such signature was affixed to the returns by the person or at the person's direction. The letter shall also list each return by name and identifying number.

(b) A signed copy of the letter must be retained by the person filing the returns and must be available for inspection by the department.

(c) Where the returns are reproduced by photocopying or similar reproductive methods, the facsimile signature must be affixed subsequent to the reproduction process.

History: 1-2-56; am. Register, February, 1958, No. 26, eff. 3-1-58; am. Register, February, 1960, No. 50, eff. 3-1-60; am. (2), Register, March, 1966, No. 123, eff. 4-1-66; am. (5) and cr. (6), Register, August, 1974, No. 224, eff. 9-1-74; am. (intro.), (2), (6) (intro.) and (a), Register, November, 1977, No. 263, eff. 12-1-77.

Tax 2.10 Copies of federal returns, statements, schedules, documents, etc. to be filed with Wisconsin returns. (section 71.10 (6), Wis. Stats.) It is deemed necessary for the administration of the tax imposed by chapter 71, Wis. Stats., that at the time of filing Wisconsin income tax returns for the taxable year 1965 and for taxable years thereafter by partnerships and persons other than corporations, a complete copy of the federal income tax return for the same taxable year (including all schedules, statements, documents and computations) should be included and filed with the Wisconsin return. Accordingly, such complete copies of federal income tax returns are directed to be so filed except copies of the short form federal return which, at the time of adoption of this rule is designated as federal form 1040A.

History: Register, December, 1965, No. 120, eff. 1-1-66.

Tax 2.11 Credit for sales and use tax paid on fuel and electricity. (section 71.043, Wis. Stats.) (1) **DEFINITIONS.** In this rule: (a) "Sales and use tax under ch. 77 paid by the corporation" has the meaning specified in section 71.043 (4), Wis. Stats..

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(b) "Manufacturing" has the meaning designated in section 77.51 (27), Wis. Stats. by virtue of section 71.043 (4) (b), Wis. Stats..

(c) Fuel and electricity "consumed in manufacturing" means only fuel and electricity used to operate machines and equipment used directly in the step-by-step manufacturing process. Fuel and electricity are not "consumed in manufacturing" if they are used in providing plant heating, cooling, air conditioning, communications, lighting, safety and fire prevention, research and product development, receiving, storage, sales, distribution, warehousing, shipping, advertising and administrative department activities. If separate gas or electric meters are not used to accurately measure the fuel and electricity consumed in manufacturing in Wisconsin, a reasonable allocation is necessary.

(d) "Cost of manufacturing" as used in section 71.043 (1), Wis. Stats., and as defined in section 71.07 (2) (b), 1969 Wis. Stats.: 1. "shall be interpreted in a manner to conform as nearly as may be to the best accounting practice in the trade or business. Unless in the opinion of the department of revenue the peculiar circumstances in any case justify a different treatment, this term shall generally be interpreted to include as elements of cost the following:

a. The total cost of all goods, materials and supplies used in manufacturing . . .

b. The total wages and salaries paid or incurred during the income year in such manufacturing . . . activities.

c. The total overhead or manufacturing burden properly assignable according to good accounting practice . . ." (Section 71.07 (2) (b), Wis. Stats. (1969))

2. Includes the cost of fuel and electricity used in the manufacturing process during the year and the sales tax paid thereon.

3. Includes the total costs of all the manufacturing operations of a corporation in this state.

(2) CREDIT ALLOWABLE. (a) 1973 and subsequent taxable years. Section 71.043 (2), Wis. Stats., provides that "The tax imposed upon or measured by corporation net income of the taxable year 1973 and subsequent taxable years pursuant to s. 71.01 (1) or (2) may be reduced by an amount equal to the sales and use tax under ch. 77 paid by the corporation in such taxable year on fuel and electricity consumed in manufacturing tangible personal property in this state. . . ."

(b) 1972 taxable year. Section 71.043 (1), Wis. Stats., provides that "The tax imposed upon or measured by corporation net income of the taxable year 1972 pursuant to s. 71.01 (1) or (2) may be reduced by an amount equal to so much of the sales and use tax under ch. 77 paid by the corporation in such taxable year on fuel and electricity consumed in manufacturing tangible personal property in this state as was paid on fuel and electricity costs in excess of 2% of the cost of manufacturing within this state as determined pursuant to s. 71.07 (2) (b). Such deduction may not exceed 50% of the tax computed without such reduction."

(3) CARRY FORWARD OF UNUSED CREDIT. (a) Any unused 1972 sales tax credit shall not be carried forward.

(b) If a corporation is entitled to a sales and use tax credit for 1973 and subsequent tax years under section 71.043(2), Wis. Stats., such credit, to the extent not offset by the tax liability of the same year, may be offset against the tax liability of the subsequent year and each succeeding year up to a total of 5 years or when the credit has been completely offset, whichever occurs first.

(c) The sales tax credit computed for 1973 and subsequent tax years shall first be offset against the income or franchise tax liability computed for the tax year before an unused credit from a prior year may be applied.

Note: An example of the computation and application of the credit follows:

Computation of Income or Franchise Tax Payable after Sales Tax Credit

	#1 1972	#2 1973	#3 1974
a. Income (franchise) tax payable before sales tax credit	\$ 4,000.00	\$ 1,000.00	\$10,000.00
b. Sales tax credit of current year available (schedule below)	\$ 3,076.92	\$ 3,846.15	\$ 3,846.15
c. Current year's credit allowable (1972 and 1973)	\$ 2,000.00*	\$ 1,000.00	
d. Carry forward of unused 1973 credit		\$ (2,846.15)	\$ 2,846.15
e. Total credit allowable in 1974 (b & d)			\$ 6,692.30
f. Income (franchise) tax payable after sales tax credit	\$ 2,000.00	\$ -0-	\$ 3,307.70

*The credit in 1972 was limited to 50% of the income or franchise tax computed without such reduction, and there is no provision for carrying forward the unused 1972 credit.

Computation of Sales Tax Credit Available.

	(a) Annual Total 1972-3-4	(b) 4% Tax Paid Credit Available
Wisconsin cost of manufacturing for the year (including fuel and electricity)	\$1,000,000	
Cost of fuel and electricity directly consumed in manufacturing in Wisconsin	\$ 100,000	
Sales tax credit available in 1973 and subsequent years: $\$100,000 \div 1.04 = \$96,153.85 \times 4\% =$		\$3,846.15 (1)
Less 2% of 1972 cost manufacturing in Wisconsin Base for 1972 sales tax credit computation	-\$ 20,000 \$ 80,000	
Sales tax credit available in 1972: $\$80,000 \div 1.04 =$ $\$76,923.08 \times 4\% =$		\$3,076.92 (1)

In this example all the amounts shown under column (a) above include the 4% tax paid on fuel and electricity directly consumed in manufacturing during the year.

(1) An alternative method of computation is to divide \$100,000 or \$80,000 by 26.

History: Cr. Register, February, 1978, No. 266, eff. 3-1-78.

Tax 2.12 Amended income and franchise tax returns. (1) WHEN SHALL BE FILED. (a) The department shall accept amended returns to correct Wisconsin income tax returns previously filed.

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(b) Because an amended return is not the original return, it shall not begin or extend the statute of limitation periods for the assessment of additional tax or the claim of a refund.

(c) If an amended return shows a refund, it shall be filed within 4 years of the due date of the original return. However, a claim for a refund of the tax assessed by an office audit shall be filed within 2 years of the date assessed if no petition for redetermination was filed and if the year is not closed by field audit.

(2) FORMS. (a) The following forms may be used for filing an amended return:

1. Form 1X for individuals.
2. Form 4X for corporations.

(b) If forms other than those specified in par. (a) are used to amend a tax return, such forms shall be clearly marked across the top of the first page "AMENDED RETURN."

Note: The department accepts amended individual income tax, corporate income tax, and franchise tax returns to allow taxpayers to correct overstatements or understatements of net income and computations of tax contained on their original return.

Forms 1X and 4X are similar in format and use to Forms 1040X and 1120X, the amended U.S. individual and corporate returns. Although the use of these 2 state forms is not mandatory, the department prefers that they be used. They are designed to simplify the filing and expedite the processing of the information. Copies may be obtained from any Wisconsin department of revenue office.

History: Cr. Register, August, 1976, No. 248, eff. 9-1-76.

Tax 2.13 Moving expenses. (section 71.05 (1) (a) 7 and (b) 4, Wis. Stats.) (1) **GENERAL.** Certain moving expenses qualify for a deduction in arriving at federal adjusted gross income. When a person *moves into* Wisconsin, such expenses are allowed as a deduction in computing Wisconsin adjusted gross income. The deductibility of moving expenses incurred in *moving from* Wisconsin was changed for 1975 and subsequent taxable years by the enactment of section 71.05 (1) (a) 7, which provides for an add modification for "Moving expenses incurred to move from this state".

(2) **TREATMENT OF MOVING EXPENSES INCURRED IN MOVING FROM WISCONSIN.** (a) *1975 and Subsequent Taxable Years.* For 1975 and subsequent taxable years, moving expenses incurred in moving from Wisconsin may be deducted in arriving at federal adjusted gross income for federal income tax purposes. However, an add modification (section 71.05 (1) (a) 7) shall be made for such expenses in determining Wisconsin adjusted gross income. The following example illustrates the add modification for such moving expenses for a taxpayer moving from Wisconsin to New York:

Wisconsin Gross Income	\$18,000
New York Gross Income	600
Moving Expenses to New York	<u>(4,000)</u>
Federal Adjusted Gross Income	\$14,600
*Add Modification for Moving Expenses to New York	4,000
Subtract Modification: New York Gross Income	<u>(600)</u>
Wisconsin Adjusted Gross Income	<u>\$18,000</u>

*The add modification of \$4,000 for moving expenses to New York is entered in Part II, page 2 of the Wisconsin income tax return, Form 1.

(b) *1974 and Prior Taxable Years.* 1. For 1974 and prior taxable years for Wisconsin income tax purposes, moving expenses incurred in moving from Wisconsin may be applied to reduce adjusted gross income earned outside Wisconsin. However, when such moving expenses exceed the adjusted gross income earned outside Wisconsin, the excess cannot be added back in arriving at Wisconsin adjusted gross income because there is no statutory provision for that type of modification. The only modification applicable is set forth in section 71.05 (1) (b) 4 which limits the subtraction of income earned outside Wisconsin to a net figure. Section 71.05 (1) (b) (intro) and 4 provides as follows: "Subtract, to the extent included in federal taxable or adjusted gross income: . . . Any other amount not subject to taxation under this chapter, less any amount allocable thereto which has been deducted in the computation of federal taxable or adjusted gross income."

2. The following 2 examples illustrate the treatment of moving expenses for 1974 and prior taxable years for a Wisconsin resident moving to New York in arriving at Wisconsin adjusted gross income. They also illustrate that a subtract modification cannot be made to federal adjusted gross income unless outside Wisconsin income exceeded the moving expenses in 1974 and prior taxable years.

Example 1

Wisconsin Gross Income	\$18,000
New York Gross Income	600
Moving Expenses to New York	<u>(4,000)</u>
Federal Adjusted Gross Income	<u>\$14,600</u>

Wisconsin adjusted gross income is also \$14,600 in this example. Since the moving expenses of \$4,000 exceed the New York gross income of \$600, there is no subtract modification of New York income in arriving at Wisconsin adjusted gross income. The excess of moving expenses over New York gross income is not added back in arriving at Wisconsin adjusted gross income.

Example 2

Wisconsin Gross Income	\$18,000
New York Gross Income	5,000
Moving Expenses to New York	<u>(4,000)</u>
Federal Adjusted Gross Income	\$19,000
*Subtract Modification—\$5,000 (New York Income) less \$4,000 (Moving Expenses)	<u>(1,000)</u>
Wisconsin Adjusted Gross Income	<u>\$18,000</u>

*In accordance with section 71.05 (1) (b) 4, a subtract modification shall be made for the amount not subject to Wisconsin taxation (New York income of \$5,000), less the amount allocable thereto (moving expenses of \$4,000).

History: Cr. Register, February, 1978, No. 266, eff. 3-1-78.

Tax 2.14 Aggregate personal exemptions. The aggregate personal exemptions allowable under section 71.09 (6p) (a) and (b), Wis. Stats., when each files a return, may be divided between husband and wife according to their choice.

History: 1-2-56; am. Register, February, 1958, No. 26, eff. 3-1-58; am. Register, February, 1960, No. 50, eff. 3-1-60; r. and rec., Register, September, 1964, No. 105, eff. 10-1-64; am. Register, March, 1966, No. 123, eff. 4-1-66; am. Register, November, 1977, No. 263, eff. 12-1-77.

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Tax 2.15 Methods of accounting for corporations. (section 71.11 (8), Wis. Stats.) No uniform method of accounting can be prescribed for all corporations, and the law contemplates that each corporation may return its income in accordance with the method of accounting regularly employed in keeping its books. If no method of accounting is regularly employed or if the method employed does not clearly reflect the income, the department of revenue may prescribe the method to be used. A method of accounting will not be regarded as clearly reflecting the income unless all items of gross income and all deductions are treated with reasonable consistency.

History: 1-2-56; am. Register, March, 1960, No. 123, eff. 4-1-66; am. Register, February, 1975, No. 230, eff. 3-1-75.

Tax 2.16 Changes in method of accounting for corporations. (section 71.11 (8), Wis. Stats.) No change in the method of accounting used in reporting income may be made without first obtaining the written permission of the department of revenue. Applications for such change must set forth clearly the nature of the business, the method of accounting used in keeping the books, and the reasons for changing the method of reporting. In changing from a cash basis of accounting to an accrual basis of accounting, income accrued but not yet collected as of the close of the year of change shall be added to income actually received in cash during the year, and expenses accrued but not yet paid as of the close of the year shall be added to expenses actually paid during the year. A change in the accounting treatment of a material item is considered a change in accounting method in this paragraph.

History: 1-2-56, am. Register, September, 1964, No. 105, eff. 10-1-64; am. Register, February, 1975, No. 230, eff. 3-1-75; am. Register, November, 1977, No. 263, eff. 12-1-77.

Tax 2.17 Cash method of accounting for corporations. (section 71.11 (8), Wis. Stats.) The use of the cash method of accounting and reporting does not properly reflect taxable income in cases where, at the end of the taxable year, the records reflect accounts receivable, accounts payable, or inventories.

Tax 2.18 Accrual method of accounting for corporations. (section 71.11 (8), Wis. Stats.) In all cases in which the production, purchase or sale of merchandise of any kind is an income producing factor, inventories are necessary, and no accounting method in regard to purchases and sales will correctly reflect the income except the accrual method. Special methods of accounting employed in special trades or businesses may, with the written approval of the department of revenue, be used in reporting income.

History: 1-2-56, am. Register, September, 1964, No. 105, eff. 10-1-64; am. Register, February, 1975, No. 230, eff. 3-1-75.

Tax 2.19 Instalment method of accounting for corporations. (section 71.11 (8), Wis. Stats.). (1) Subject to the approval of the department of revenue, a sale or other disposition by a corporation of real property, or a casual sale or other casual disposition of personal property (other than personal property of a kind which would properly be included in the inventory of the taxpayer if on hand at the close of the income year) for a price exceeding \$1000, may be returned on the instalment basis in the case of a sale or other disposition in an income year beginning on or after January 1, 1967, provided that in the income year of the sale or other disposition there are no payments or the payments (exclusive of evidences of indebtedness of the purchaser) do not exceed

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30% of the selling price. On the instalment basis there shall be returned as income from the instalment sale in any income year that proportion of the instalment payments actually received in that year which the gross profit realized or to be realized when payment is completed, bears to the total contract price.

(2) Use of the instalment method, in each instance, shall be conditional upon the implied agreement of the corporation to take into income in any year in which it distributes the instalment obligation, the unreported balance of gain on the instalment sale or exchange.

(3) The instalment method shall not be permitted with respect to any instalment sale or exchange made subsequent to adoption of a plan of liquidation to which section 71.337, Wis. Stats., applies.

(4) Corporations regularly engaged in the business of selling personal property and keeping records on the instalment basis will be required to report for franchise or income tax purposes on the accrual basis.

(5) The expenses incident to each instalment sale or exchange must be deferred on the same basis that the profit arising from the sale or exchange is deferred.

(6) When property is sold or exchanged on the instalment basis at a loss, the loss may not be deferred beyond the income year in which the sale or exchange takes place.

History: 1-2-56; am. (2), Register, March, 1966, No. 123, eff. 4-1-66; r. and recr. Register, October, 1966, No. 130, effective with respect to income years beginning on and after January 1, 1967; am. Register, February, 1975, No. 230, eff. 3-1-75.

Tax 2.20 Accounting for acceptance corporations, dealers in commercial paper, mortgage discount companies and small loan companies. (section 71.11 (8), Wis. Stats.) (1) Except as otherwise provided in subsection (3) hereof, acceptance corporations and dealers in commercial paper must report the discount on the purchase of paper as income in the year of such purchase.

(2) Where the records of such acceptance corporations and dealers in commercial paper are kept upon the deferred profit basis, schedules should be attached to the tax returns clearly setting forth the unrealized profit accounts and reconciling the income and surplus per books with the taxable net income.

(3) Acceptance corporations and dealers in commercial paper may elect to report their taxable income on the deferred profit basis, provided that their books and records are kept on that basis and provided further that both the deferment of income, and the expenses incurred in producing said income is made in accordance with accepted accounting principles and practice. The election to so report

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(2) An employe who had incurred no Wisconsin income tax liability for the preceding taxable year and anticipates no liability for a current taxable year shall be exempt from withholding if the employe provides his or her employer with a completed Form WT-4E ("Exemption from Withholding of Wisconsin Income Tax"). For this purpose, a tax liability is "incurred" if the employe had for the preceding year or anticipates for the current year a net Wisconsin income tax due (gross tax less personal exemptions on a Wisconsin return). If an employe is married, the net tax of the employe's spouse shall not be considered in determining if the employe may claim this exemption.

Note: Forms WT-4 and WT-4E may be obtained by mail request to Wisconsin Department of Revenue, P.O. Box 58, Madison, Wisconsin 53701.

History: Cr. Register, November, 1977, No. 263, eff. 12-1-77.

Tax 2.93 Withholding from wages of a deceased employe and from death benefit payments. (sections 71.19(1)(j) and 71.20(1), Wis. Stats.) (1) GENERAL. Section 71.20(1), Wis. Stats., requires employers to withhold Wisconsin income tax from payments of wages "to an employe". Various types of payments are made to the estate or to beneficiaries of a deceased employe which resulted from the deceased person's employment. The department shall follow the federal internal revenue service's policy in determining whether withholding of income tax is required from such payments.

(2) PAYMENTS SUBJECT TO WITHHOLDING. An uncashed check originally received by a decedent prior to the date of death and reissued subsequently to the decedent's personal representative shall be subject to withholding of Wisconsin income tax.

(3) PAYMENTS NOT SUBJECT TO WITHHOLDING. The following types of payments to a decedent's personal representative or heir shall not be subject to withholding of Wisconsin income tax: (a) Payments representing wages accrued to the date of death but not paid until after death.

(b) Accrued vacation and sick pay.

(c) Termination and severance pay.

(d) Death benefits such as pensions, annuities and distributions from a decedent's interest in an employer's qualified stock bonus plan or profit sharing plan (section 71.19(1)(j), Wis. Stats.).

History: Cr. Register, February, 1978, No. 266, eff. 3-1-78.

Tax 2.96 Extension of time to file corporation franchise or income tax returns. (section 71.10(5)(a), Wis. Stats.) (1) GENERAL. Corporation franchise or income tax returns (Forms 4 and 5) are due on or before the 15th day of the 3rd month following the close of a corporation's taxable year unless an extension of time for filing has been granted. Such returns and inventory reports (Form 10) due on and after April 24, 1976 may be filed within the same extension period allowed for filing corresponding federal income tax returns under the internal revenue code. In the alternative, for such returns, a corporation may obtain an extension from the department for a period not to exceed 30 days, if the extension is requested prior to the original due date of the return.

(2) PROCEDURE. (a) *The 30 day extension from department.* A request for a 30 day extension (Form IC-830) from the department shall be filed in duplicate by the taxpayer prior to the original due date of the

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tax return. A payment submitted with the extension request will be acknowledged on the copy of the extension request which is returned to the taxpayer.

(b) *The 3-month federal extension.* 1. A copy of federal extension Form 7004 shall be attached to a Wisconsin franchise or income tax return filed under the federal automatic 3-month extension provision for the Wisconsin return to be considered timely filed.

2. A taxpayer using a federal extension who desires to minimize interest charges during the extension period may pay any estimated tax liability on or before the 15th day of the 3rd month following the taxable year. This may be done by attaching a remittance either to an amended "Wisconsin Declaration of Estimated Corporation Franchise or Income Tax" form or to a copy of the federal extension (Form 7004) and mailing them to the department of revenue.

(c) *Additional federal extensions.* If an additional extension of time has been granted by the internal revenue service, a copy of both sides of the extension (Form 7005), showing the action and signature of the district director, shall be filed with the department within 10 days of the date the approved form is received by the taxpayer. Timely filing of this form shall extend the due date of the Wisconsin return for the same period. A copy of Form 7005 shall also be attached to the Wisconsin return when filed.

(d) *Federal termination or refusal to grant extension.* If the internal revenue service terminates or refuses to grant an extension, the corresponding Wisconsin franchise or income tax return shall be filed on or before the date of termination fixed by the internal revenue service.

(3) **INTEREST CHARGES AND LATE FILING FEES.** (a) Any additional tax due with the complete return which is not paid by the original due date is subject to interest at 9% per year during the extension period and 1½% per month from the end of the extension period until the date of payment.

(b) Any required installments of estimated tax unpaid as of the original due date of the return are subject to interest at 1½% per month until paid regardless of any extensions granted for filing the return.

(c) Corporation returns and inventory reports filed after the extension period are each subject to a \$10 late filing fee.

(4) **CONSOLIDATED RETURNS.** Because Wisconsin does not permit the filing of consolidated returns, a copy of the automatic federal extension (Form 7004) shall be attached to the Wisconsin franchise or income tax return of each member of an affiliated group filing a Wisconsin tax return. A copy of any approved additional federal extension (Form 7005) shall be submitted for each such corporation within 10 days of its receipt by the taxpayer and a copy of Form 7005 shall be attached to the Wisconsin return when it is filed.

(5) **DOMESTIC INTERNATIONAL SALES CORPORATIONS.** Since a Domestic International Sales Corporation's (DISC's) federal annual information return (Form 1120 DISC) is not due for federal purposes until the 15th day of the 9th month following the end of the taxable year and the DISC's Wisconsin return (Form 4 or 5) is due on or before the 15th day of the 3rd month following the end of the taxable year, a federal extension for a DISC cannot apply to the Wisconsin return. If a complete

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Wisconsin return cannot be filed by the due date, a tentative return may be filed by such date or a 30 day extension may be requested under section 71.10 (5) (a), Wis. Stats.. A tentative return then shall be filed before the end of the extension period to avoid the imposition of late filing penalties.

Note: Requests for extensions and related correspondence, documents or remittances shall be mailed to the Wisconsin Department of Revenue, P.O. Box 8908, Madison, Wisconsin 53708.

History: Cr. Register, February, 1978, No. 266, eff. 3-1-78.