

CR 90-163

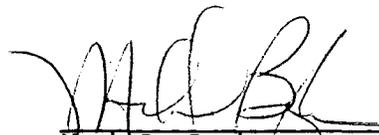
CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF REVENUE )

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to income and franchise tax was duly approved and adopted by this department on March 6, 1991.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the city of Madison, this 6<sup>th</sup> day of March, 1991.



Mark D. Bugher  
Secretary of Revenue

MDB:MPW:ssa  
CKLEG/642

RECEIVED

MAR 15 1991  
3:20  
Revisor of Statutes  
Bureau

7-1-91

RECEIVED  
MAR 15 1991  
REVENUE DEPARTMENT

ORDER OF THE DEPARTMENT OF REVENUE  
REPEALING, RENUMBERING, AMENDING AND CREATING RULES

The Wisconsin Department of Revenue adopts an order to repeal Tax 2.40, 2.48(1)(a), (b) and (c) and 2.94(1)(a) and (3)(b); to renumber Tax 2.94(1)(c) and 3.095(1)(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (L), (m) and (n), (2)(a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (L), (m), (n), (o), (p), (q), (r), (s), (t), (u), (v), (w), (x), (y), (z), (za) and (zb) and (4)(a), (b), (d) and (e); to renumber and amend Tax 2.94(1)(b) and (3)(c) and 3.095(1)(k); to amend Tax 2.165(title), 2.48(title) and (1)(title) and (intro.), 2.94(title), (2) and (3)(title) and (a) and 3.095(title); to repeal and recreate Tax 2.48(2); and to create Tax 2.165(5), 2.48(3), (4) and (5) and 3.095(1)(a), (b), (f), (g), (i), (q), (r) and (v), (2)(a), (d), (f), (g), (m), (o), (p), (q), (r), (s), (t), (u), (w), (zh), (zq) and (zr) and (4)(b) and (e), relating to individual income and corporation franchise or income taxes.

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Analysis by the Department of Revenue

Statutory authority: s. 71.80(1)(c), Stats.

Statutes interpreted: ss. 71.02(1)(b) and (2)(h) and 71.10(3m) and (16), 1985 Stats., and ss. 71.05(1)(a) and (6)(a)1 and (b)1 and 71.25(5), (6) and (10)(c), Stats.

SECTION 1. Tax 2.165(title), relating to change in taxable year, is amended to account for the renumbering of s. 71.02(1)(d) and (k), Stats., and to specify that the 1985 statutes apply. See SECTION 2.

SECTION 2. Tax 2.165(5) is created because of the amendment to ss. 71.01(12), 71.03(3)(a) (renumbered (3)) and (6)(a), 71.05(5), 71.22(10) and 71.24(6)(d), Stats., the creation of s. 71.06(2m), Stats., and the repeal of s. 71.03(3)(b), Stats., by 1989 Wisconsin Act 31 which federalized the definition of taxable year and the treatment of short taxable years. In addition, the federalization of the corporate franchise or income tax law made portions of Tax 2.165 obsolete.

SECTION 3. Tax 2.40, relating to nonapportionable income, is repealed because subs. (2), (3), (3m) and (4) are obsolete and subs. (1) and (5) are a restatement of s. 71.25(6), Stats.

SECTION 4. Tax 2.48(title), relating to apportionment of interstate pipelines, is amended due to the renumbering of ch. 71, Stats., by 1987 Wisconsin Act 312. Subsection (1)(intro.) is amended to remove obsolete language and improve readability.

SECTION 5. Tax 2.48(1)(a), (b) and (c) are repealed as the factors are given in subs. (3), (4) and (5).

SECTION 6. Tax 2.48(2) is repealed and recreated to expand the definition of compensation as provided in s. 71.25(8)(b), (c) and (d), Stats.

SECTION 7. Tax 2.48(3) and (4) are created to provide more information regarding 2 apportionment factors described in s. 71.25(7) and (8). Subsection (5) is created to incorporate the definition of traffic unit formerly in repealed sub. (1)(b).

SECTIONS 8 THROUGH 13. Tax 2.94, relating to tax sheltered annuities, is revised to conform to proper rule format; to delete obsolete language; to change statutory language to the renumbered statutes as affected by 1987 Wisconsin Act 312; and to clarify that a person must have been participating in or retired from the system as of December 31, 1963, in order to qualify for the exempt treatment of the normal retirement benefits.

SECTION 14. Tax 3.095(title), relating to interest from municipal, state and federal securities, is amended due to the renumbering of ch. 71, Stats., by 1987 Wisconsin Act 312.

SECTIONS 15 THROUGH 54. Twenty-three securities are added to the list of securities, the interest of which is either taxable or exempt, reviewed by the Department of Revenue. Accordingly, various paragraphs are renumbered so that the securities may be listed in alphabetical order.

SECTIONS 55 THROUGH 58. The list of municipal or state securities, the interest of which is exempt for individual income tax purposes, are alphabetized and 2 securities are added as provided in s. 66.431(5)(a)4.c, Stats., and s. 71.05(6)(a)1, Stats., as amended by 1989 Wisconsin Act 46.

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SECTION 1. Tax 2.165(title) is amended to read:

Tax 2.165(title) CHANGE IN TAXABLE YEAR. (ss. 71.02(1)(b) and (2)(h) and 71.10(3m) and (16), 1985 Stats.)

SECTION 2. Tax 2.165(5) is created to read:

Tax 2.165(5) APPLICABILITY. As a result of 1989 Wisconsin Act 31 which generally federalized Wisconsin's treatment of taxable years, this section does not apply to taxable years beginning on or after August 1, 1988.

SECTION 3. Tax 2.40 is repealed.

SECTION 4. Tax 2.48(title) and (1)(title) and (intro.) are amended to read:

Tax 2.48(title) APPORTIONMENT OF NET BUSINESS INCOMES OF INTERSTATE PIPELINE COMPANIES. (s. 71.25(10)(c), Stats.) (1)(title) GENERAL. With respect to the imposition of the Wisconsin income franchise or franchise income tax ~~on or~~ measured by or on net income ~~of the calendar year 1969, or~~

~~corresponding fiscal year, and thereafter, the apportionable,~~ the income of a pipeline company operating within and without Wisconsin shall be apportioned to Wisconsin on the basis of the arithmetical average of the ~~following-3 ratios:~~ 3 factors in subs. (3), (4) and (5).

SECTION 5. Tax 2.48(1)(a), (b) and (c) are repealed.

SECTION 6. Tax 2.48(2) is repealed and recreated to read:

Tax 2.48(2) DEFINITIONS. In this section: (a) "Compensation" includes:

1. Wages, salaries, commissions and any other form of remuneration paid to employes for personal services.

2. The value of board, rent, housing, lodging and other benefits or services furnished to employes by the taxpayer in return for personal services, provided that these amounts constitute income to the recipient under the federal internal revenue code for the year for which the payroll factor is computed. In the case of employes not subject to the federal internal revenue code, such as citizens of foreign countries employed in foreign countries, the determination of whether the benefits or services constitute income to the employes shall be made as though the employes are subject to the federal internal revenue code.

3. Deductible management or service fees paid, or management or service fees allocated by the department under s. 71.10(1), 71.30(2) or 71.80(1)(b), Stats., to a related corporation, as defined in s. 267(f)(1) of the internal revenue code, as consideration for the performance of personal services. The recipient of these fees may not include the compensation paid to its employes with respect to the personal services in either the numerator or denominator of its payroll factor.

(b) "Traffic unit" means the transportation for a distance of one mile of one barrel of oil, one gallon of gasoline or one thousand cubic feet of natural or casinghead gas, or other appropriate measure of product.

SECTION 7. Tax 2.48(3), (4) and (5) are created to read:

Tax 2.48(3) PROPERTY FACTOR. (a) Numerator; denominator. The numerator of the property factor shall include the average value of the real and tangible personal property owned and used by the taxpayer in Wisconsin in the production of apportionable income during the tax period. The denominator shall include average value of all of the real and tangible personal property located everywhere owned and used by the taxpayer in the production of apportionable income during the tax period. Property in transit on the date or dates for determining its average value, as described in par. (e), shall be considered to be at its destination, for purposes of computing the property factor. The value of mobile or movable property such as construction equipment, trucks or airplanes which is located within and without Wisconsin during the tax period shall be determined for purposes of the numerator of the factor on the basis of a ratio of time used, serviced or stored within Wisconsin to total time used, serviced or stored during the tax period. However, an automobile assigned to a traveling employe shall be included in the numerator of the factor if the employe's compensation is assigned to Wisconsin under the payroll factor.

(b) Valuation. Property owned by the taxpayer is generally valued at its cost net of depreciation and write-offs as determined for Wisconsin franchise or income tax purposes. Any adjustments to net income which affect property, such as capitalizations of repairs, depreciation or amortization adjustments and adjustments to inventory, shall also be included in the property factor. The value of depletable property, such as mines, oil and gas wells and timber, shall be original cost reduced by any extraction to the extent that depletion has been allowed. Inventories shall be included in the factor in accordance with the valuation method used for Wisconsin franchise or income tax purposes. In any case in which the property factor is distorted by

reason of the taxpayer depreciating property in Wisconsin by a method different from that used to depreciate property outside Wisconsin, or in any case in which the Wisconsin net cost cannot be ascertained, the department shall authorize or direct some other method of determining the property fraction that will produce an equitable result.

(c) Leasehold improvements. Leasehold improvements shall, for purposes of the property factor, be treated as property owned by the taxpayer regardless of whether the taxpayer is entitled to remove the improvements or the improvements revert to the lessor upon expiration of the lease. The original cost of leasehold improvements net of amortization shall be included in the factor.

(d) Construction in progress. Property or equipment under construction during the tax period, except inventoriable goods in process, shall be excluded from the factor until the property is actually used by the taxpayer in the regular course of its trade or business. If the property is partially used by the taxpayer in the regular course of its trade or business while under construction, the value of the property to the extent used shall be included in the property factor.

(e) Averaging property values. As a general rule the "average value" of property shall be determined by averaging the value at the beginning and ending of the tax period, but the department of revenue may require or the taxpayer may utilize the averaging of monthly values during the tax period if monthly averaging is reasonably required to properly reflect the average value of the taxpayer's property. Averaging by monthly values will generally be applied if substantial fluctuations in the values of the property exist during the tax period, or where property is acquired after the beginning of the tax period or disposed of before the end of the tax period.

(4) PAYROLL FACTOR. (a) Numerator; denominator. The numerator of the payroll factor shall include the total amount paid in Wisconsin during the tax period by the taxpayer for compensation in the production of apportionable income. The denominator shall include the total compensation paid everywhere during the tax period by the taxpayer in the production of apportionable income.

(b) Compensation paid in Wisconsin. Except as provided in par. (c), compensation is paid in Wisconsin if one of the following applies:

1. The individual's service is performed entirely within Wisconsin.

Example: Corporation A has a manufacturing plant located in Wisconsin. The compensation of an Illinois resident who works at the Wisconsin manufacturing plant is included in the numerator of the payroll factor since the employe's service is performed entirely in Wisconsin.

2. The individual's service is performed within and without Wisconsin, but the service performed without Wisconsin is incidental to the individual's service within Wisconsin.

Example: Corporation B has its headquarters and a manufacturing plant in Wisconsin. Corporation B also has a manufacturing plant located in Indiana. The manager of the Wisconsin manufacturing plant spends two weeks during the tax year at the manufacturing plant located in Indiana training the new plant manager. The compensation of the Wisconsin plant manager is included in the numerator of the payroll factor because the service performed in Indiana is incidental to the service performed in Wisconsin.

3. A portion of the service is performed within Wisconsin and the base of operations of the individual is in Wisconsin.

Example: Corporation C has a sales office located in Wisconsin. A salesperson working out of the Wisconsin office solicits sales in Wisconsin, Minnesota and Iowa. Since a portion of the salesperson's service is performed in Wisconsin and the salesperson's base of operations is in Wisconsin, the compensation of the salesperson is included in the numerator of the payroll factor.

4. A portion of the service is performed within Wisconsin and, if there is no base of operations, the place from which the individual's service is directed or controlled is in Wisconsin.

Example: Corporation D has its regional sales office in Wisconsin. An Iowa resident works out of her home as a salesperson for Corporation D and solicits sales in Iowa, Illinois and Wisconsin. The salesperson is directed from the regional sales office located in Wisconsin. The compensation of the Iowa salesperson is included in the numerator of the payroll factor since a portion of her service is performed in Wisconsin, she has no base of operations and she is directed from Wisconsin.

5. A portion of the service is performed within Wisconsin and neither the base of operations of the individual nor the place from which the service is directed or controlled is in any state in which some part of the service is performed, but the individual's residence is in Wisconsin.

Example: Corporation E is headquartered in and has its sales office in Indiana and maintains inventory in Wisconsin. A Wisconsin resident salesperson solicits sales in Wisconsin and Minnesota. The compensation of the Wisconsin salesperson is included in the numerator of the payroll factor since a portion of the salesperson's service is performed in Wisconsin, the salesperson is a resident of Wisconsin, and the salesperson is directed or controlled from Indiana but performs no services in Indiana.

6. The individual is neither a resident of nor performs services in Wisconsin, but is directed or controlled from an office in Wisconsin and returns to Wisconsin periodically for business purposes and the state in which the individual resides does not have jurisdiction to impose income or franchise taxes on the employer.

Example: Corporation F has its sales office in Wisconsin. A salesperson resides in Nebraska and solicits sales in Nebraska and Kansas. Corporation F does not have nexus in Nebraska or Kansas. The salesperson returns to the Wisconsin sales office for two weeks each year for meetings and training. The compensation of the Nebraska salesperson is included in the numerator of the payroll factor since the salesperson is directed from an office in Wisconsin, returns to Wisconsin periodically for business purposes and Corporation F does not have nexus in Nebraska.

(c) Management fee situs. The situs of management or service fees described in sub. (2)(a)3 is in Wisconsin to the extent the related corporation's employees performing the services meet one of the requirements in par. (b).

(d) Services. An individual shall be considered to be performing a service in Wisconsin during the year if the individual performs services for

at least 5 days during the year. The compensation of any one employe may not be split between two or more states during the year; however, this does not apply if the employe is transferred or changes positions during the year.

(e) Excluded compensation. Compensation related to the operation, maintenance, protection or supervision of real or tangible and intangible personal property used in the production of nonapportionable income, and amounts paid to retired employes shall be excluded from both the numerator and the denominator of the payroll factor. Except for management or service fees paid to a related corporation, payments made to an independent contractor or any other person not properly classifiable as an employe are also excluded.

(f) Elimination of factor. In any case in which the company has no employes nor pays management or service fees to a related corporation, or in which the department determines that employes are not a substantial income producing factor, the department may order or permit the elimination of the payroll factor and the use of the arithmetical average of the other 2 factors to arrive at the Wisconsin apportionment percentage.

(5) TRAFFIC UNIT FACTOR. The numerator shall be the total number of traffic units in Wisconsin during the tax period. The denominator shall be the total number of traffic units everywhere during the tax period.

SECTION 8. Tax 2.94(title) is amended to read:

Tax 2.94(title) TAX-SHELTERED ANNUITIES. (s. 71.05(1)(a), Stats.)

SECTION 9. Tax 2.94(1)(a) is repealed.

SECTION 10. Tax 2.94(1)(b) and (c) are renumbered Tax 2.94(1)(a) and (b) and Tax 2.94(1)(a) as renumbered is amended to read:

Tax 2.94(1)(a) When Payments for a tax-sheltered annuity is purchased for an employe by a public school system or by an exempt educational, charitable or religious organization, the-deposit-used-to-acquire-this-annuity may-be-excluded which are excludable from the employe's gross income in the

year of payment under section 403(b) of the internal revenue code, are also  
excludable in the year of payment for Wisconsin income tax purposes.

~~Accordingly, since January 1, 1965, when Wisconsin adopted the internal  
revenue code as the basis for computing Wisconsin taxable income, these  
payments also have been excluded from employees' taxable income for Wisconsin  
income tax purposes. Prior to that date, such payments were taxable for  
Wisconsin income tax purposes.~~

Note to Revisor: Insert the following note after sub. (1)(a):

Note: The exclusion from gross income as provided in sub. (1)(a) is  
effective January 1, 1965, when Wisconsin adopted the internal revenue code as  
the basis for computing Wisconsin taxable income. Payments prior to January  
1, 1965, were taxable for Wisconsin income tax purposes.

SECTION 11. Tax 2.94(2) and (3)(title) and (a) are amended to read:

Tax 2.94(2)(title) MILWAUKEE CITY AND COUNTY EMPLOYE AND STATE TEACHERS  
RETIREMENT SYSTEMS. Normal retirement benefits received from systems  
enumerated in s. ~~71.03(2)(d)~~ 71.05(1)(a), Stats., are exempt as provided by  
that section. The exemption is limited to payments from the accounts of those  
persons who were members of any of the systems on December 31, 1963, or who  
were retired from any of the systems on or before December 31, 1963. However,  
benefits received from tax-sheltered annuity deposits described in sub. (1)  
administered by such these systems do not qualify for the exclusion from  
Wisconsin taxable income provided by ~~that statute~~ s. 71.05(1)(a), Stats.  
Tax-sheltered annuity benefits shall be ~~treated the same~~ included in gross  
income for Wisconsin income tax purposes as they are for federal income tax  
purposes; ~~that is, they shall be included in gross income,~~ except as provided  
in sub. (3).

(3)(title) STATE TEACHERS RETIREMENT SYSTEM. (a) Tax-sheltered annuity  
benefits received by retired teachers on and after January 1, 1974, shall be  
included in taxable income. No subtraction modification from federal adjusted  
gross income shall may be allowed, except as provided in par. ~~(e)~~ (b).

SECTION 12. Tax 2.94(3)(b) is repealed.

SECTION 13. Tax 2.94(3)(c) is renumbered Tax 2.94(3)(b) and amended to read:

Tax 2.94(3)(b) If a school system purchased a tax-sheltered annuity for an employe prior to January 1, 1965, and the employe paid a Wisconsin income tax on the tax-sheltered annuity deposit which was used to pay the 1964 annuity premium, a subtraction modification under s. ~~71.05(1)(b)4~~ 71.05(6)(b)3, Stats., shall be allowed for the tax-sheltered annuity benefits received on or after January 1, 1974, which are included in federal adjusted gross income and upon which the employe previously paid a Wisconsin income tax. The allowable subtraction modification is the amount of deposit on which the Wisconsin tax was previously paid less that portion, if any, of the tax-sheltered annuity benefits excludable from Wisconsin taxable income because of receipt prior to January 1, 1974, ~~as illustrated in the following examples which assume that the taxpayer files its tax return on a calendar basis.~~

Note to Revisor: The examples following sub. (3)(b) as renumbered should be replaced with the following:

Examples: In each example below, assume the employe is a taxpayer who files tax returns on a calendar year basis.

1) An employe made a deposit of \$200 for the purchase of a tax-sheltered annuity in 1964, and this amount was included in Wisconsin taxable income. When the employe retires after December 31, 1973, a subtraction modification under s. 71.05(6)(b)3, Stats., is permitted for the first \$200 of tax-sheltered annuity benefits received. All subsequent benefits are taxable with no subtraction modification allowed.

2) An employe made a deposit of \$300 for the purchase of a tax-sheltered annuity in 1964, and this amount was included in Wisconsin taxable income. The employe retired prior to January 1, 1974, and \$120 of the benefits received were not included in Wisconsin taxable income. A subtraction modification under s. 71.05(6)(b)3, Stats., is permitted for the next \$180 (\$300 - \$120) received after December 31, 1973. All subsequent benefits are taxable with no subtraction modification allowed.

3) An employe made a deposit of \$160 for the purchase of a tax-sheltered annuity in 1964, and this amount was included in Wisconsin taxable income. The employe retired prior to January 1, 1974, and treated \$200 of the benefits as nontaxable for Wisconsin income tax purposes. All the benefits received after December 31, 1973, are taxable with no subtraction modification allowed.

SECTION 14. Tax 3.095(title) is amended to read:

Tax 3.095(title) INCOME TAX STATUS OF INTEREST AND DIVIDENDS FROM MUNICIPAL, STATE AND FEDERAL OBLIGATIONS RECEIVED BY INDIVIDUALS AND FIDUCIARIES. (s. 71.05(6)(a)1 and (b)1, Stats.)

SECTION 15. Tax 3.095(1)(a) is renumbered Tax 3.095(1)(c).

SECTION 16. Tax 3.095(1)(a) is created to read:

Tax 3.095(1)(a) Asian Development Bank bonds, 22 U.S.C. § 290i-9.

SECTION 17. Tax 3.095(1)(b) is renumbered Tax 3.095(1)(d).

SECTION 18. Tax 3.095(1)(b) is created to read:

Tax 3.095(1)(b) College Construction Loan Insurance Association obligations, 20 U.S.C. § 1132.

SECTION 19. Tax 3.095(1)(c), (d), (e) and (f) are renumbered Tax 3.095(1)(e), (h), (j) and (k).

SECTION 20. Tax 3.095(1)(f) is created to read:

Tax 3.095(1)(f) Federal Assets Financing Trust participation certificates, 12 U.S.C. § 1717(c).

SECTION 21. Tax 3.095(1)(g) is renumbered Tax 3.095(1)(L).

SECTION 22. Tax 3.095(1)(g) is created to read:

Tax 3.095(1)(g) Federal Financing Bank bonds, 12 U.S.C. § 2288.

SECTION 23. Tax 3.095(1)(h) and (i) are renumbered Tax 3.095(1)(m) and (n).

SECTION 24. Tax 3.095(1)(i) is created to read:

Tax 3.095(1)(i) Federal Home Loan Mortgage Corporation obligations, 12 U.S.C. § 1455.

SECTION 25. Tax 3.095(1)(j), (k), (L), (m) and (n) are renumbered Tax 3.095(1)(o), (p), (s), (t) and (u) and Tax 3.095(1)(p) as renumbered is amended to read:

Tax 3.095(1)(p) International Bank for Reconstruction and Development bonds, also known as World Bank bonds, 22 U.S.C. § 286.

SECTION 26. Tax 3.095(1)(q), (r) and (v) are created to read:

Tax 3.095(1)(q) Rural Telephone debentures, 7 U.S.C. § 947(a).

(r) Small Business Administration notes, 15 U.S.C. § 633.

(v) World Bank bonds, also known as International Bank for Reconstruction and Development bonds, 22 U.S.C. § 286.

SECTION 27. Tax 3.095(2)(a) is renumbered Tax 3.095(2)(b).

SECTION 28. Tax 3.095(2)(a) is created to read:

Tax 3.095(2)(a) Armed Services Housing Mortgage Insurance debentures, 12 U.S.C. § 1748b(f).

SECTION 29. Tax 3.095(2)(b), (c) and (d) are renumbered Tax 3.095(2)(c), (e) and (h).

SECTION 30. Tax 3.095(2)(d) is created to read:

Tax 3.095(2)(d) Commodity Credit Corporation bonds, 15 U.S.C. § 713a-5.

SECTION 31. Tax 3.095(2)(e) and (f) are renumbered Tax 3.095(2)(i) and (j).

SECTION 32. Tax 3.095(2)(f) is created to read:

Tax 3.095(2)(f) Farm Credit System Financial Assistance Corporation notes, bonds and debentures, 12 U.S.C. § 2278b-10(b).

SECTION 33. Tax 3.095(2)(g) is renumbered Tax 3.095(2)(k).

SECTION 34. Tax 3.095(2)(g) is created to read:

Tax 3.095(2)(g) Federal Deposit Insurance Corporation bonds, 12 U.S.C. § 1825.

SECTION 35. Tax 3.095(2)(h), (i), (j), (k), (L) and (m) are renumbered Tax 3.095(2)(L), (n), (v), (x), (y) and (z).

SECTION 36. Tax 3.095(2)(m) is created to read:

Tax 3.095(2)(m) Federal Land Bank Association bonds, notes and debentures, 12 U.S.C. § 2055.

SECTION 37. Tax 3.095(2)(n) and (o) are renumbered Tax 3.095(2)(za) and (zb).

SECTION 38. Tax 3.095(2)(o) is created to read:

Tax 3.095(2)(o) Federal Savings and Loan Insurance Corporation bonds, 12 U.S.C. § 1725(e).

SECTION 39. Tax 3.095(2)(p) is renumbered Tax 3.095(2)(zc).

SECTION 40. Tax 3.095(2)(p) is created to read:

Tax 3.095(2)(p) Financial Assistance Corporation bonds, notes and debentures, 12 U.S.C. § 2278b.

SECTION 41. Tax 3.095(2)(q) is renumbered Tax 3.095(2)(zd).

SECTION 42. Tax 3.095(2)(q) is created to read:

Tax 3.095(2)(q) Financing Corporation obligations, 12 U.S.C. § 1441.

SECTION 43. Tax 3.095(2)(r) is renumbered Tax 3.095(2)(zf).

SECTION 44. Tax 3.095(2)(r) is created to read:

Tax 3.095(2)(r) General Insurance Fund debentures issued to acquire housing projects, 12 U.S.C. § 1747g(g).

SECTION 45. Tax 3.095(2)(s) is renumbered Tax 3.095(2)(ze).

SECTION 46. Tax 3.095(2)(s) is created to read:

Tax 3.095(2)(s) General Insurance Fund debentures issued under the War Housing Insurance Law, 12 U.S.C. § 1739(d).

SECTION 47. Tax 3.095(2)(t) is renumbered Tax 3.095(2)(zg).

SECTION 48. Tax 3.095(2)(t) is created to read:

Tax 3.095(2)(t) Guam bonds, 48 U.S.C. § 1423a.

SECTION 49. Tax 3.095(2)(u) is renumbered Tax 3.095(2)(zi).

SECTION 50. Tax 3.095(2)(u) is created to read:

Tax 3.095(2)(u) Industrial Development bonds of East Samoa, 48 U.S.C. § 1670.

SECTION 51. Tax 3.095(2)(v) and (w) are renumbered Tax 3.095(2)(zj) and (zk).

SECTION 52. Tax 3.095(2)(w) is created to read:

Tax 3.095(2)(w) Proprietary zero-coupon certificates, 31 U.S.C. § 3124.

Example: Proprietary zero-coupon certificates include CATS, TIGRs, Cougars, ETRs, Lions, STARS, Zebras, etc.

SECTION 53. Tax 3.095(2)(x), (y), (z), (za) and (zb) are renumbered Tax 3.095(2)(zL), (zm), (zn), (zo) and (zp).

SECTION 54. Tax 3.095(2)(zh), (zq) and (zr) are created to read:

Tax 3.095(2)(zh) Puerto Rico Water Resource Authority Series B debentures, 48 U.S.C. § 745.

(zq) Virgin Islands general obligation bonds, 48 U.S.C. § 1574(b)(ii)(A).

(zr) Virgin Islands Public Improvement bonds, 48 U.S.C. § 1574(b)(i).

SECTION 55. Tax 3.095(4)(a) and (b) are renumbered Tax 3.095(4)(d) and (h).

SECTION 56. Tax 3.095(4)(b) is created to read:

Tax 3.095(4)(b) Higher education bonds issued by the state of Wisconsin, s. 71.05(6)(a)1, Stats.

SECTION 57. Tax 3.095(4)(d) and (e) are renumbered Tax 3.095(4)(g) and (a).

SECTION 58. Tax 3.095(4)(e) is created to read:

Tax 3.095(4)(e) Redevelopment authority bonds issued by municipalities located in Wisconsin, s. 66.431(5)(a)4.c, Stats.

Note to Revisor: The note at the end of s. Tax 3.095 should be revised to read:

Note: 1) This section lists examples of interest and dividends payable on state, municipal and federal obligations which are taxable and tax exempt.

2) Section 71.05(6)(a)1, Stats. (1987-88), previously numbered 71.05(1)(a)1, Stats. (1985-86), provides for the inclusion in Wisconsin income of natural persons and fiduciaries of any interest, less related expenses, received on state and municipal obligations.

3) Section 71.05(6)(b)1, Stats. (1987-88), previously numbered s. 71.05(1)(b)1, Stats. (1985-86), provides for the exclusion from Wisconsin income of natural persons and fiduciaries of any interest or dividend income which is by federal law exempt from taxation by Wisconsin.

4) For periods prior to August 1, 1987, interest accrued from District of Columbia Development Land Agency bonds, Export-Import Bank of the United States debentures, Farmer's Home Administration insured notes, Government National Mortgage Association bonds, Small Business Investment Company debentures and transit bonds of the Washington Metropolitan Area Transit Authority was not subject to the Wisconsin income tax if payment of principal and interest on such obligations was guaranteed by the United States. As a result of the U.S. Supreme Court decision in the case of Rockford Life Insurance Company v. Illinois Department of Revenue et al., 96 L Ed 2nd 152, the Department of Revenue does not consider these financial instruments to be direct and primary obligations of the United States so as to qualify for exemption from state income taxation. Therefore, by emergency rule effective August 1, 1987, the Department of Revenue amended this rule to reverse its prior interpretation and to provide that interest which accrues on these financial instruments on or after August 1, 1987, is subject to Wisconsin income tax.

5) Subsection (4) provides that interest accrued on certain state, municipal and other local government securities issued on or before January 28, 1987, is not subject to Wisconsin income tax. This is due to the fact that no modification is provided for in Wisconsin law that would add to federal adjusted gross income interest from these securities if the interest has been excluded from federal adjusted gross income by any reason other than or in addition to section 103 of the Internal Revenue Code.

6) 1987 Wisconsin Act 27 amended s. 71.05(1)(a)1, Stats. (1985-86), to provide for the addition to federal adjusted gross income, of any interest not included in federal adjusted gross income which is not specifically exempted from state taxation. This change applies only to securities issued after January 28, 1987. Prior to this act, this addition only applied to interest excluded from federal adjusted gross income solely by section 103 of the Internal Revenue Code.

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The rules contained in this order shall take effect on the first day of the month following publication as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

The proposed rule order does not have a significant economic impact on a substantial number of small businesses.

Date: March 6, 1991

DEPARTMENT OF REVENUE  
By: [Signature]  
Mark D. Bugher  
Secretary of Revenue

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TAX

Bill No. / Adm. Rule No.

2.165, 2.40, 2.48, 2.94 and 3.095

FISCAL ESTIMATE

ORIGINAL  
 CORRECTED

UPDATED  
 SUPPLEMENTAL

Amendment No. if Applicable

DOA-2048 (R 10/88)

Subject

Income and Franchise Tax Rule Changes

Fiscal Effect

State:  No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

- Increase Existing Appropriation     Increase Existing Revenues
- Decrease Existing Appropriation    Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget    Yes    No

Decrease Costs

Local:  No local government costs

1.  Increase Costs  
 Permissive    Mandatory

3.  Increase Revenues  
 Permissive    Mandatory

5. Types of Local Governmental Units Affected:  
 Towns    Villages    Cities

2.  Decrease Costs  
 Permissive    Mandatory

4.  Decrease Revenues  
 Permissive    Mandatory

Counties    Others \_\_\_\_\_

Fund Sources Affected

GPR    FED    PRO    PRS    SEG    SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

Various changes are made to the rules covering taxable years, apportionment, tax-sheltered annuities and interest from municipal, state and federal obligations. The changes eliminate obsolete language, renumber certain provisions and clarify the effect of current law. As such, the changes have no fiscal effect.

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Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)  
Wisconsin Department of Revenue  
John Tuohy, 266-7817

Authorized Signature/Telephone No.

*Margaret M. Deems*

Date

4/28/90

**FISCAL ESTIMATE WORKSHEET**

1989 Session

Detailed Estimate of Annual Fiscal Effect  ORIGINAL  UPDATED TAX  CORRECTED  SUPPLEMENTAL  
 DOA-2047(R 10/88)

Journal Bill No. Adm. Rule No. Amendment No.  
 2.165, 2.40, 2.48, 2.94 and 3.095

Subject  
 Income and Franchise Tax Rule Changes

**I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):**

**II. Annualized Costs:** Note: Treat fiscal costs like a "checkbook": increased costs reduce available funds (-); decreased costs increase available funds (+). **Annualized Fiscal impact on State funds from:**

A. State Costs by Category	Annualized Fiscal impact on State funds from:	
	Increased Costs	Decreased Costs
Salaries and Fringes	\$ -	\$ -
Staff Support Costs	-	-
Other State Costs	-	-
Local Assistance	-	-
Aids to Individuals or Organizations	-	-
<b>TOTAL State Costs by Category</b>	<b>\$ -</b>	<b>\$ -</b>

B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$ -	\$ -
FED	-	-
PRO/PRS	-	-
SEG/SEG-S	-	-

C. FTE Position Changes	Increased Pos. + ( )	Decreased Pos. - ( )

III. State Revenues-	Complete this only when proposal will increase or decrease state revenues, such as taxes, license fees, etc.	Decreased Rev.	Increased Rev.
GPR Taxes		\$ -	\$ -
GPR Earned		-	-
FED		-	-
PRO/PRS		-	-
SEG/SEG-S		-	-
<b>TOTAL State Revenues</b>		<b>\$ -</b>	<b>\$ -</b>

**Net Annualized Fiscal Impact on State & Local Funds**

State	Annual Increases	Annual Decreases	Local	Annual Increases	Annual Decreases
Total Costs	\$ -	\$ +	Total Costs	\$ -	\$ +
Total Revenues	+	-	Total Revenues	+	-
<b>NET Impact on State Funds</b>	\$ (+) or None (-)		<b>NET Impact on Local Funds</b>	\$ (+) or None (-)	

Agency/Prepared by: (Name & Phone No.)  
 Wisconsin Department of Revenue  
 John Tuohy, 266-7817

Authorized Signature/Telephone No. 266-2700 | Date  
*W. Duane M. Deen* 6/29/90



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

Tommy G. Thompson  
Governor

Mark D. Bugar  
Secretary of Revenue

March 7, 1991

Gary L. Poulson  
Assistant Revisor  
2nd Floor  
119 Martin Luther King, Jr. Blvd.  
Madison, Wisconsin 53703

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Re: Clearinghouse Rule 90-163

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to income and franchise tax.

These materials are filed with you pursuant to s. 227.20(1), Stats.

Sincerely,

Mark D. Bugar  
Secretary of Revenue

MDB:MPW:ssa  
CKLEG/641

Enclosure

cc: Douglas J. LaFollette, Secretary of State  
Prentice Hall, Inc.  
Commerce Clearinghouse, Inc.



**State of Wisconsin** ● **DEPARTMENT OF REVENUE**

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466 ● FAX 608-266-5718

**Tommy G. Thompson**  
Governor

**Mark D. Bugher**  
Secretary of Revenue

March 7, 1991

Douglas LaFollette  
Secretary of State  
30 West Mifflin Street, 10th Floor  
Madison, Wisconsin 53703

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 90-163.

These materials are filed with you pursuant to s. 227.20, Stats.

Sincerely,

Mark D. Bugher  
Secretary of Revenue

MDB:MPW:ssa  
CKLEG/640

Enclosure

cc: Revisor of Statutes

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Bureau