

## 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).

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.

**Tax 2.04 Information returns; forms WT-9, 9b, and 9X for corporations.** (Sections 71.04 (1) and (2), 71.10 (1), (8m) and (8n) Wis. Stats.). All corporations carrying on activities within this state, whether taxable or not under this chapter, shall file with the department of revenue, on or before January 31 of each year on forms WT-9 or 9b 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 not, and to non-residents of all payments for the performance of personal services in Wisconsin, whether subject to withholding or not, provided that 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. Form WT-7 (Employers Annual Reconciliation of Wisconsin Income Tax Withheld from Wages) should accompany forms WT-9. Statements of payments to residents of Wisconsin within the preceding calendar year of interest and dividends, including dividends paid in capital stock, and payments to residents and non-residents of

**History:** Cr. Register, January, 1960, No. 49, eff. 2-1-60; r. and recr. Register, May, 1964, No. 101; am. Register, March, 1966, No. 123, eff. 4-1-66; am. Register, December, 1966, No. 132, eff. 1-1-67; am. Register, February, 1975, No. 230, eff. 3-1-75.

**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.

(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 2.14 Aggregate personal exemption of husband and wife.** The aggregate personal exemption allowable to a husband and wife pursuant to section 71.09 (6) (a), Wis. Stats., when each files a return, may be divided between them 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 recr., Register, September, 1964, No. 105, eff. 10-1-64; am. Register, March, 1966, No. 123, eff. 4-1-66.

**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, 1966, 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.

**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 2.17 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 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.

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(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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