

## DEPARTMENT OF TAXATION

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**Tax 2.75 Recoveries.** (Section 71.03 (1) (1), Wis. Stats.) Recoveries of items previously charged off as loss or as expense (including recoveries through health and accident insurance or otherwise of payments deducted pursuant to section 71.05 (9), Wis. Stats.), are taxable income in the year of recovery.

**Tax 2.76 Refunds of taxes.** (Section 71.03 (1) (1), Wis. Stats.) Refunds of federal, state or local taxes together with interest thereon which were allowed as deductions from gross income in previous years are taxable income.

**Tax 2.77 Strike benefits.** (Section 71.03 (1) (1), Wis. Stats.) Members of a labor organization who receive benefits from a union while on strike realize taxable income in the amount of the benefits received. Dues and strike assessments paid to labor unions are deductible from income.

**Tax 2.78 Merchandise taken from stock for personal use.** (Section 71.03 (1) (1), Wis. Stats.) Merchants who consume a portion of their stock of goods held for sale must report as income the cost value of the merchandise consumed.

**Tax 2.79 Prizes.** (Section 71.03 (1) (1), Wis. Stats.) A prize won is taxable income when received. Any expenses incurred in connection with winning a prize are deductible from the amount received.

**Tax 2.80 Improvements on leased real estate, income to lessor.** (Section 71.03 (1) (1), Wis. Stats.) If improvements are made on leased property and the life of such improvements extends beyond the terms of the lease, the lessor derives taxable income at the expiration of the lease, the amount of which is represented by the fair market value of the improvements at the time.

**Tax 2.81 Damages received.** (Section 71.03 (1) (1), Wis. Stats.) Damages may result in taxable income when recovered on account of injury to property, interference with property rights or breach of contract, when the amounts received as damages are in excess of the income tax cost of the property destroyed. Damages recovered for libel of business reputation are taxable income. Damages received for personal injury, assault and battery, sickness, alienation of affections, breach of promise, surrender of custody of minor child and similar personal damages are not taxable income.

**Tax 2.82 Mileage received.** (Section 71.03 (1) (1), Wis. Stats.) The excess of mileage received over actual expenditures is taxable income.

**Tax 2.83 Per diem allowances received.** (Section 71.03 (1) (1), Wis. Stats.) The excess of per diem allowances received over actual expenditures is taxable income.

**Tax 2.84 Life insurance premium paid for officers and employes.** (Section 71.03 (1) (1), Wis. Stats.) Life insurance premiums paid for officers and employes where such officers or employes are the insured are taxable income to them in the amount of the premiums paid. However, such premiums paid do not constitute taxable income to officers and employes in the case of non-permanent group insurance.

**Tax 2.85 Accommodations furnished, as part of compensation.** (Section 71.03 (1) (l), Wis. Stats.) The reasonable value of accommodations furnished to officers or employes as part of their compensation, such as board and lodging to hotel managers, and use of residences furnished to clergymen, teachers, public employes and household servants, is taxable income.

**Tax 2.86 Income from cancellation of government contracts.** (Section 71.03 (1) (l), Wis. Stats.) Compensation under cancelled government contracts not reported in the return for the year in which claim therefor was filed must be included as income in the year in which such claim is allowed.

**Tax 2.87 Contributions for line extension.** (Section 71.03 (1) (l), Wis. Stats.) Amounts received by a public utility from its customers in consideration of the extension of its service lines are taxable income. If and when such amounts are subsequently refunded, they are valid deductions in the year of refund.

**Tax 2.90 Withholding; wages.** (Section 71.19 Wis. Stats.) (1) The term 'wages' means all remuneration for services performed by an employe for his employer unless specifically excepted under section 71.19, Wis. Stats.

(2) The name by which remuneration for services is designated is immaterial. Thus, salaries, fees, bonuses, commissions on sales, commissions on insurance premiums, pensions and retired pay are wages within the meaning of the statute if paid as compensation for services performed by the employe for his employer.

(3) The basis upon which the remuneration is paid is immaterial in determining whether the remuneration constitutes wages. Thus it may be paid on the basis of piecework, or a percentage of the profits, and may be paid hourly, daily, weekly, monthly or annually.

(4) Generally the medium in which the remuneration is paid is also immaterial. It may be paid in cash or in something other than cash, as, for example, stocks, bonds or other forms of property. (See however section 71.19 (1) (i), Wis. Stats., relating to the exclusion from wages of remuneration paid in any medium other than cash for services not in the course of the employer's trade or business). If services are paid for in a medium other than cash, the fair market value of the thing taken in payment is the amount to be included as wages. If the services were rendered at a stipulated price, in the absence of evidence to the contrary, such price will be presumed to be the fair value of the remuneration received. If a corporation transfers to its employe its own stock as remuneration for services rendered by the employe, the amount of such remuneration is the fair market value of the stock at the time of the transfer.

(5) Remuneration for services, unless such remuneration is specifically excepted by the statute, constitutes wages even though at the time paid the relationship of employer and employe no longer exists between the person in whose employ the services were performed and the individual who performed them.

(6) In general, pensions and retired pay are wages subject to withholding. So called pensions awarded by one to whom no services have been rendered are mere gifts or gratuities and do not constitute wages.

(7) Amounts paid specifically—either as advances or reimbursements—for traveling or other bona fide ordinary and necessary expenses incurred or reasonably expected to be incurred in the business of the employer are not wages and are not subject to withholding. Traveling and other reimbursed expenses must be identified either by making a separate payment or by specifically indicating the separate amounts where both wages and expense allowances are combined in a single payment.

(8) Amounts of so-called 'vacation allowances' paid to an employe constitutes wages. Thus the salary of an employe on vacation, paid notwithstanding his absence from work, constitutes wages.

(9) Any payments made by an employer to an employe on account of dismissal, that is, involuntary separation from the service of the employer, constitutes wages regardless of whether the employer is legally bound by contract, statute or otherwise to make such payments.

(10) Any amount deducted by an employer from the remuneration of an employe is considered to be a part of the employe's remuneration and is considered to be paid to the employe as remuneration at the time the deduction is made. It is immaterial that any act or law requires or permits such deductions.

(11) The term 'wages' includes the amount paid by an employer on behalf of an employe, without deduction from the remuneration of or other reimbursement from the employe, on account of any tax imposed upon the employe by any taxing authority.

(12) The value of any meals or lodging furnished to an employe by his employer is subject to withholding on the fair market value thereof.

(13) Ordinarily, facilities or privileges (such as entertainment, medical services, or so-called 'courtesy' discounts on purchases) furnished or offered by an employer to his employes generally, are not considered as wages subject to withholding, if such facilities or privileges are of relatively small value and are offered or furnished by the employer merely as a means of promoting the health, good will, contentment or efficiency of his employes.

(14) Tips or gratuities paid directly to an employe by a customer of an employer, and not accounted for by the employe to the employer, are not subject to withholding.

**History:** Cr. Register, January, 1963, No. 85, eff. 2-1-63.

*See also Cr. Register, March 1963, eff. 1-1-63*

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