Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

CHAPTER 71

INCOME AND FRANCHISE TAXES FOR STATE AND LOCAL REVENUES

SUBCHAPTER I
TAXATION OF INDIVIDUALS AND FIDUCIARIES
71.01 Definitions.
71.02 Imposition of tax.
71.03 Filing returns; certain claims.
71.04 Situs of income; allocation and apportionment.
71.05 Income computation.
71.06 Rates of taxation.
71.07 Credits.
71.08 Minimum tax.
71.09 Payment of estimated taxes.
71.10 General provisions.
SUBCHAPTER II
SPECIAL PROVISIONS APPLICABLE TO FIDUCIARIES
71.12 Conformity.
71.122 Definition.
71.125 Imposition of tax.
71.13 Filing returns.
71.14 Situs of income.
71.15 Income computation.
71.16 Allocation of modifications.
71.17 General provisions.
SUBCHAPTER III
PARTNERSHIPS AND LIMITED LIABILITY COMPANIES
71.19 Conformity.
71.195 Definition.
71.20 Filing returns.
71.21 Computation.
SUBCHAPTER IV
TAXATION OF CORPORATIONS
71.22 Definitions.
71.23 Imposition of tax.
71.24 Filing returns; extensions; payment of tax.
71.25 Situs of income; allocation and apportionment.
71.255 Combined reporting.
71.26 Income computation.
71.265 Previously exempt corporations; basis and depreciation.
71.27 Rates of taxation.
71.275 Rate changes.
71.28 Credits.
71.29 Payments of estimated taxes.
71.30 General provisions.
SUBCHAPTER V
TAX−OPTION CORPORATIONS
71.32 Conformity.
71.33 Intent.
71.34 Definitions.
71.35 Imposition of additional tax on tax−option corporations.
71.36 Tax−option items.
71.362 Situs of income.
71.365 General provisions.
SUBCHAPTER VI
URBAN TRANSIT COMPANIES
71.37 Conformity.
71.38 Definition.
71.385 Determination of cost.
71.39 Imposition of tax.
71.40 Filing of returns.
SUBCHAPTER VII
TAXATION OF INSURANCE COMPANIES
71.42 Definitions.
71.43 Imposition of tax.
71.44 Filing returns; extensions; payment of tax.
71.45 Income computation.
71.46 Rates of taxation.
71.47 Credits.
71.48 Payments of estimated taxes.
71.49 General provisions.
SUBCHAPTER VIII
HOMESTEAD CREDIT
71.51 Purpose.
71.52 Definitions.
71.53 Filing claims.
71.54 Computation of credit.
71.55 General provisions.
SUBCHAPTER IX
FARMLAND PRESERVATION CREDIT
71.57 Purpose.
71.58 Definitions.
71.59 Filing claims.
71.60 Computation.
71.61 General provisions.
71.613 Farmland preservation credit, 2010 and beyond.
SUBCHAPTER X
WITHHOLDING
71.63 Definitions.
71.64 Employers required to withhold.
71.65 Filing returns or reports.
71.66 Employee exemption certificates.
71.67 General provisions.
SUBCHAPTER XI
INFORMATION RETURNS
71.68 Definitions.
71.69 Capital stock transfers.
71.70 Rents or royalties.
71.71 Wages.
71.72 Statement of nonwage payments.
71.73 General provisions.
SUBCHAPTER XII
ADMINISTRATIVE PROVISIONS APPLICABLE TO ALL ENTITIES
71.738 Definitions.
71.74 Department audits, additional assessments and refunds.
71.75 Claims for refund.
71.76 Internal revenue service and other state adjustments.
71.77 Statutes of limitations, assessments and refunds; when permitted.
71.775 Withholding from nonresident members of pass−through entities.
71.78 Confidentiality provisions.
71.80 General administrative provisions.
71.805 Tax avoidance transactions voluntary compliance program.
71.81 Disclosing reportable transactions.
SUBCHAPTER XIII
INTEREST AND PENALTIES
71.82 Interest.
71.83 Penalties.
71.84 Addition to the tax.
71.85 General provisions.
SUBCHAPTER XIV
APPEALS
71.87 Definition.
71.88 Time for filing an appeal.
71.89 Appeal procedures.
71.90 Depositing contested amounts.
SUBCHAPTER XV
COLLECTION OF DELINQUENT TAXES AND STATE AGENCY DEBTS
71.91 Collection provisions.
71.92 Compromises.
71.93 Setoffs for other state agencies.
71.935 Setoffs for municipalities and counties.
71.94 Penalties.
SUBCHAPTER XVI
INTERNAL REVENUE CODE UPDATE
71.98 Internal Revenue Code update.

SUBCHAPTER I

TAXATION OF INDIVIDUALS AND FIDUCIARIES

71.01 Definitions. In this chapter in regard to natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds:

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(1) "Adjusted gross income", when not preceded by the word "federal", means Wisconsin adjusted gross income, unless otherwise defined or the context plainly requires otherwise.

(1am) "Aggregate effective tax rate" means the sum of the effective tax rates imposed by a state, U.S. possession, foreign country, or any combination thereof, on the person or entity.

(1b) For purposes of s. 71.04 (7) (df), (dh), (dj), and (dk), "commercial domicile" means the location from which a trade or business is principally managed and directed, based on any factors the department determines are appropriate, including the location where the greatest number of employees of the trade or business work, have their office or base of operations, or from which the employees are directed or controlled.

(1m) "Department" means the department of revenue.

(1n) For purposes of s. 71.04 (7) (df), (dh), (dj), and (dk), "domicile" means an individual's true, fixed, and permanent home where the individual intends to remain permanently and indefinitely and to which, whenever absent, the individual intends to return, except that no individual may have more than one domicile at any time.

(1t) "Effective tax rate" means the maximum tax rate imposed by the state, U.S. possession, or foreign country, multiplied by the apportionment percentage, if any, applicable to the person or entity under the laws of that state, U.S. possession, or foreign country.

(2) "Entertainer" means a nonresident natural person who, for consideration, furnishes amusement, entertainment or public speaking services, or performs in one or more sporting events in this state and includes both employees and independent contractors.

(3) "Federal net operating loss" of persons other than corporations means net operating loss as determined by the taxpayer under the internal revenue code, or if redetermined by the department, as determined by the department under such code or as may be determined on final appeal therefrom.

(4) "Federal taxable income" and "federal adjusted gross income" of natural persons and fiduciaries mean taxable income or adjusted gross income as determined under the internal revenue code or, if redetermined by the department, as determined by the department under the internal revenue code or as may be determined on final appeal therefrom.

(5) "Fiduciary", "income" and "person" and all other terms not otherwise defined, have the same meaning as in the internal revenue code unless otherwise defined or the context requires otherwise.

(5g) "File" means mail or deliver a document that the department prescribes to the department or, if the department prescribes another method of submitting or another destination, use that other method or submit to that other destination.

(5m) "Head of household" has the meaning given in section 2 (b) and (c) of the internal revenue code, except that "head of household" includes surviving spouse, as defined in section 2 (a) of the internal revenue code.

(5n) For purposes of s. 71.05 (6) (a) 24. and (b) 46., "intangible expenses" include the following, to the extent that the amounts would otherwise be deductible in computing Wisconsin adjusted gross income:

(a) Expenses, losses, and costs for, related to, or directly or indirectly in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.

(b) Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions.

(c) Royalty, patent, technical, and copyright fees.

(d) Licensing fees.

(e) Other similar expenses, losses, and costs.

(5p) "Intangible property" includes stocks, bonds, financial instruments, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

(5s) For purposes of s. 71.05 (6) (a) 24. and (b) 46., "interest expenses" means interest that would otherwise be deductible under section 163 of the Internal Revenue Code and deductible in the computation of Wisconsin adjusted gross income.

(6) (o) For taxable years that begin after December 31, 1999, and before January 1, 2003, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, and as amended by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−280, P.L. 101−508, P.L. 102−90, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−117, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 1999, do not apply to this paragraph with respect to taxable years beginning after December 31, 1999, and before January 1, 2003, except that changes to the Internal Revenue Code made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403

(a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(p) For taxable years that begin after December 31, 2002, and before January 1, 2004, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2002, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, and sections 101 and 301 (a) of P.L. 107−147, and as amended by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−280, P.L. 101−508, P.L. 102−90, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−117, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2002, do not apply to this paragraph with respect to taxable years beginning after December 31, 2002, and before January 1, 2004, except that changes to the Internal Revenue Code made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(q) For taxable years that begin after December 31, 2003, and before January 1, 2005, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2003, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 109 of P.L. 108−121, and section 1201 of P.L. 108−173, and as amended by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−280, P.L. 101−508, P.L. 102−90, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−117, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L.

104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2003, do not apply to this paragraph with respect to taxable years beginning after December 31, 2003, and before January 1, 2005, except that changes to the Internal Revenue Code made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(r) For taxable years that begin after December 31, 2004, and before January 1, 2006, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2004, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, and sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, and as amended by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−280, P.L. 101−508, P.L. 102−90, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−117, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2004, do not apply to this paragraph with respect to taxable years beginning after December 31, 2004, and before January 1, 2006, except that changes to the Internal Revenue Code made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(s) For taxable years that begin after December 31, 2005, and before January 1, 2007, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2005, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422,

847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, and sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, and as amended by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−280, P.L. 101−508, P.L. 102−90, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−117, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2005, do not apply to this paragraph with respect to taxable years beginning after December 31, 2005, and before January 1, 2007, except that changes to the Internal Revenue Code made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(t) For taxable years that begin after December 31, 2006, and before January 1, 2008, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2006, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, and P.L. 109−432, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−280, P.L. 101−508, P.L. 102−90, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−117, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2006, do not apply to this paragraph with respect to taxable years beginning after December 31, 2006, and before January 1, 2008, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(u) For taxable years that begin after December 31, 2007, and before January 1, 2009, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2007, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, and P.L. 110−172, and as amended by P.L. 110−245, excluding sections

110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−280, P.L. 101−508, P.L. 102−90, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−117, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2007, do not apply to this paragraph with respect to taxable years beginning after December 31, 2007, and before January 1, 2009, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, apply for Wisconsin purposes at the same time as for federal purposes.

(um) For taxable years that begin after December 31, 2008, and before January 1, 2011, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2008, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, P.L. 110−172, P.L. 110−185, P.L. 110−234, sections 110, 113, and 301 of P.L. 110−245, P.L. 110−246, except section 15316 of P.L. 110−246, P.L. 110−289, except section 3093 of P.L. 110−289, P.L. 110−317, and P.L. 110−343, except section 301 of division B and section 313 of division C of P.L. 110−343, and as amended by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−280, P.L. 101−508, P.L. 102−90, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−117, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 3093 of P.L. 110−289, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2008, do not apply to this paragraph with respect to taxable years beginning after December 31, 2008, and before January 1, 2011, except that changes to the Internal Revenue Code made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and changes that indirectly affect the provisions applicable to this subchapter made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, apply for Wisconsin purposes at the same time as for federal purposes.

(un) For taxable years that begin after December 31, 2010, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to Decem-

ber 31, 2010, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−432, except sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, P.L. 110−28, except sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−140, sections 2, 3, and 5 of P.L. 110−142, P.L. 110−166, sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−185, P.L. 110−234, section 301 of P.L. 110−245, P.L. 110−246, except sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, sections 3071, 3081, and 3082 of P.L. 110−289, section 9 (e) of P.L. 110−317, P.L. 110−343, except sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 111−5, except sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 201 of P.L. 111−147, P.L. 111−148, except sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, P.L. 111−152, except section 1407 of P.L. 111−152, P.L. 111−203, except section 1601 of P.L. 111−203, P.L. 111−226, except sections 215 and 217 of P.L. 111−226, P.L. 111−240, except sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−312, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−280, P.L. 101−508, P.L. 102−90, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−117, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−245, excluding section 301 of P.L. 110−245, sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, P.L. 110−289, excluding sections 3071, 3081, and 3082 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, P.L. 111−92, P.L. 111−147, excluding section 201 of P.L. 111−147, sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, section 1407 of P.L. 111−152, P.L. 111−192, section 1601 of P.L. 111−203, sections 215 and 217 of P.L. 111−226, sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−325. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes, except that changes made by section 209 of P.L. 109−222, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, sections 110 and 113 of P.L. 110−245, sections 15312, 15313, 15314, and 15342 of P.L. 110−246, sections 3031, 3032, 3033, 3041, 3051, 3052, 3061, and 3092 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, and 211 of division B and section 504 of division C of P.L. 110−343, section 14 of P.L. 111−92, sections 531, 532, and 533 of P.L. 111−147, sections 10908 and 10909 of P.L. 111−148, and section 2043 of P.L. 111−240 do not apply for taxable years beginning before January 1, 2011. Amendments to the federal Internal Revenue Code enacted after December 31, 2010, do not apply to this paragraph with respect to taxable years beginning after December 31, 2010.

(7) Notwithstanding sub. (6), for natural persons, fiduciaries, trusts and estates, at the taxpayer's option, "internal revenue code", for taxable year 1986 and subsequent taxable years, includes any revisions to the federal internal revenue code adopted after January 1, 1986, that relate to the taxation of income derived from any source as a direct consequence of participation in the milk production termination program created by section 101 of P.L. 99−198.

(7m) Notwithstanding sub. (6), for natural persons, fiduciaries, trusts and estates, at the taxpayer's option, "internal revenue code" for taxable years beginning after December 31, 1987, includes any revisions to section 67 (c) of the internal revenue code adopted after January 1, 1988, that relate to the indirect expenses of regulated investment companies.

(7n) Notwithstanding sub. (6), a qualified retirement fund for a taxable year for federal income tax purposes is a qualified retirement fund for the taxable year for purposes of this subchapter.

(7r) (a) Notwithstanding sub. (6), and except as provided in par. (b), for purposes of computing amortization or depreciation, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2000, except that property that, under s. 71.02 (2) (d) 12., 1985 stats., is required to be depreciated for taxable year 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.

(b) Notwithstanding sub. (6), for property acquired and placed in service in taxable years beginning on or after January 1, 2006, a person who is actively engaged in farming may compute amortization and depreciation on property used in farming under any subsequent change to section 101 of P.L. 107−147 or section 201 of P.L. 108−27 enacted after December 31, 2005. For purposes of this paragraph, "actively engaged in farming" has the meaning given in 7 CFR 1400.201, and "farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code. This paragraph does not apply unless a federal law change enacted after December 31, 2005, revises section 101 of P.L. 107−147 or section 201 of P.L. 108−27.

(c) Notwithstanding sub. (6), section 101 of P.L. 109−222, related to extending the increased expense deduction under section 179 of the Internal Revenue Code, applies to property used in farming that is acquired and placed in service in taxable years

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

beginning on or after January 1, 2008, and used by a person who is actively engaged in farming. For purposes of this paragraph, "actively engaged in farming" has the meaning given in 7 CFR 1400.201, and "farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code.

(7u) "Last day prescribed by law" has the meaning given in s. 71.738, except that in s. 71.03 (2) (e) 1. and 2. "last day prescribed by law" includes extensions.

(7v) For purposes of s. 71.05 (6) (a) 24. and (b) 46., "management fees" include expenses and costs, not including interest expenses, pertaining to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting and compliance matters or similar activities, to the extent that the amounts would otherwise be deductible in the computation of Wisconsin adjusted gross income.

(8) "Married person" or "spouse" means a person determined under section 7703 (a) of the internal revenue code to be married, unless the context requires otherwise. A decree of divorce, annulment or legal separation terminates the marriage and the application of ch. 766 to property of the spouses after the date of the decree, unless the decree provides otherwise.

(8g) "Member" does not include a member of a limited liability company treated as a corporation under s. 71.22 (1k).

(8m) "Partner" does not include a partner of a publicly traded partnership treated as a corporation under s. 71.22 (1k).

(8r) "Pay", in regard to submissions to or for the department, means mail or deliver funds to the department or, if the department prescribes another method of submitting or another destination, use that other method or submit to that other destination.

(9) "Person" includes natural persons and fiduciaries, unless the context requires otherwise.

(9ad) "Qualified real estate investment trust" has the meaning given in s. 71.22 (9ad).

(9am) "Related entity" means any person related to a taxpayer as provided under section 267 or 1563 of the Internal Revenue Code during all or a portion of the taxpayer's taxable year and any real estate investment trust under section 856 of the Internal Revenue Code, except a qualified real estate investment trust, if more than 50 percent of any class of the beneficial interests or shares of the real estate investment trust are owned directly, indirectly, or constructively by the taxpayer, or any person related to the taxpayer, during all or a portion of the taxpayer's taxable year. For purposes of this subsection, the constructive ownership rules of section 318 (a) of the Internal Revenue Code, as modified by section 856 (d) (5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

(9an) For purposes of s. 71.05 (6) (a) 24. and (b) 46., "rental expenses" means the gross amounts that would otherwise be deductible in the computation of Wisconsin adjusted gross income for the use of, or the right to use, real property and tangible personal property in connection with real property, including services furnished or rendered in connection with such property, regardless of how reported for financial accounting purposes and regardless of how computed.

(9c) "Sign" means write one's signature or, if the department prescribes another method of authenticating, use that other method.

(10) "Small business stock" means an equity security that the taxpayer has held for at least 5 years and that is issued by a corporation that, on the December 31 before acquisition by the taxpayer, or, for a corporation which was incorporated during the calendar year in which the stock is issued, as of the date of the acquisition of the stock, fulfills all of the following requirements and so certifies to the taxpayer upon acquisitions:

(a) Has at least 50% of its property and at least 50% of its payroll, both as computed under s. 71.25, in this state.

(b) Has no more than 500 employees covered by Wisconsin unemployment insurance, including employees of any corporation that owns more than 50% of the stock of the issuing corporation.

(c) Derives no more than 25% of its gross receipts from rents, interest, dividends and sales of intangible investment assets combined unless the corporation derives less than $3,000 of that income and has not been incorporated for more than 2 calendar years.

(d) Has not issued stock that is listed on the New York stock exchange, the American stock exchange or the National Association of Securities Dealers automated quotation system.

(e) Has not liquidated its assets in whole or in part for tax purposes only in order to fulfill the requirements under this subsection and then reorganized.

(10g) For purposes of s. 71.04 (7) (df), (dh), (dj), and (dk), "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States, unless the context requires that "state" means only the state of Wisconsin.

(11) "Taxable income" when not preceded by the word "federal" means Wisconsin taxable income unless otherwise defined or the context plainly requires otherwise.

(12) "Taxable year" means the taxable period upon the basis of which the taxable income of the taxpayer is computed for federal income tax purposes. The taxable year of a taxpayer who keeps his or her accounting records on the basis of a 52−53 week period ends on the last day of the month closest to the end of the 52−53 week period.

(13) "Wisconsin adjusted gross income" means federal adjusted gross income, with the modifications prescribed in s. 71.05 (6) to (12), (19), (20), (24), (25), and (26).

(14) "Wisconsin net operating loss" of persons other than corporations means "federal net operating loss" adjusted as prescribed in s. 71.05 (6) (a) and (b), (7) to (12) and (19) to (21), except s. 71.05 (6) (b) 9., except that no deductions allowable on schedule A for federal income tax purposes are allowable.

(16) "Wisconsin taxable income" of natural persons means Wisconsin adjusted gross income less the Wisconsin standard deduction, less the personal exemption described under s. 71.05 (23), with losses, depreciation, recapture of benefits, offsets, depletion, deductions, penalties, expenses and other negative income items determined according to the manner that income is or would be allocated, except that the negative income items on individual or separate returns for net rents and other net returns which are marital property attributable to the investment, rental, licensing or other use of nonmarital property shall be allocated to the owner of the property.

History: 1987 a. 312; 1987 a. 411 ss. 6 to 8, 26, 27, 31; 1989 a. 31, 100, 336; 1991 a. 39, 269; 1993 a. 16, 112, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 109; 2003 a. 33; 2005 a. 25, 49, 362; 2007 a. 20, 226; 2009 a. 2, 28, 161, 183; 2011 a. 32.

Wisconsin Tax Policy Within a Federal System. McGaffey. 88 MLR 93 (2004).

Tax Incentive: The Vulnerability of Using Tax Incentives in Wisconsin. Lindsey. 88 MLR 107 (2004).

71.02 Imposition of tax. (1) For the purpose of raising revenue for the state and the counties, cities, villages and towns, there shall be assessed, levied, collected and paid a tax on all net incomes of individuals and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds subject to the tax under s. 71.23 (2), by every natural person residing within the state or by his or her personal representative in case of death, and trusts resident within the state; by every nonresident natural person and trust of this state, upon such income as is derived from property located or business transacted within the state including, but not limited by enumeration, income derived from a limited partner's distributive share of partnership income, income derived from a limited liability company member's distributive share of limited liability company income, income derived from a covenant not to compete to the extent that the covenant was based on a Wiscon-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

sin−based activity, the state lottery under ch. 565, any multijurisdictional lottery under ch. 565 if the winning lottery ticket or lottery share was purchased from a retailer, as defined in s. 565.01 (6), located in this state or from the department, winnings from a casino or bingo hall that is located in this state and that is operated by a Native American tribe or band and pari−mutuel wager winnings or purses under ch. 562, and also by every nonresident natural person upon such income as is derived from the performance of personal services within the state, except as exempted under s. 71.05 (1) to (3). Every natural person domiciled in the state shall be deemed to be residing within the state for the purposes of determining liability for income taxes and surtaxes. A single−owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code is disregarded as a separate entity under this chapter, and its owner is subject to the tax on the entity's income.

(2) In determining whether or not an individual resides within this state for purposes of this section, the following are not relevant:

(a) Contributions made to charitable organizations in this state.

(b) Directorships in corporations operating in this state.

(c) Accounts, as defined in s. 710.05 (1) (a), held in financial institutions, as defined in s. 710.05 (1) (c), located in this state.

(d) Corpuses of trusts, in which the individual is a trustee or a beneficiary, located in this state.

(e) Retention of professional services of brokers, as defined in s. 408.102 (1) (c), and of attorneys and accountants located in this state.

(3) This section shall not be construed to prevent or affect the correction of errors or omissions in the assessments of income for former years under s. 71.74 (1) and (2).

History: 1987 a. 312; 1989 a. 31; 1991 a. 39, 269; 1993 a. 112; 1995 a. 27; 1997 a. 27, 237, 297; 1999 a. 9; 2007 a. 20.

No act of Congress, treaty, state statute, or agreement with any Indian tribe impairs the state's right to impose an income tax on enrolled members of one tribe who live and work on a reservation of a different tribe. Ethnicity does not confer any more rights within a tribe on an American Indian who is not a member of the tribe than a non−Indian has. LaRock v. DOR, 2001 WI 7, 241 Wis. 2d 87, 621 N.W.2d 907, 99−0951.

The Menominee tribe and tribal members residing and working in Menominee county are not subject to the state income tax. 66 Atty. Gen. 290.

71.03 Filing returns; certain claims. (1) DEFINITION. In this section, "gross income" means all income, from whatever source derived and in whatever form realized, whether in money, property or services, which is not exempt from Wisconsin income taxes. "Gross income" includes, but is not limited to, the following items: compensation for services, including salaries, wages and fees, commissions and similar items; gross income derived from business; interest; rents; royalties; dividends; alimony and separate maintenance payments; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive shares of partnership gross income except distributive shares of the income of publicly traded partnerships treated as corporations under s. 71.22 (1k); distributive shares of limited liability company gross income except distributive shares of the income of limited liability companies treated as corporations under s. 71.22 (1k); income in respect of a decedent; and income from an interest in an estate or trust. "Gross income" from a business or farm consists of the total gross receipts without reduction for cost of goods sold, expenses or any other amounts. The gross rental amounts received from rental properties are included in gross income without reduction for expenses or any other amounts. "Gross income" from the sale of securities, property or other assets consists of the gross selling price without reduction for the cost of the assets, expenses of sale or any other amounts. "Gross income" from an annuity, retirement plan or profit sharing plan consists of the gross amount received without reduction for the employee's contribution to the annuity or plan.

(2) PERSONS REQUIRED TO FILE; OTHER REQUIREMENTS. The following shall report in accordance with this section:

(a) *Natural persons.* Except as provided in sub. (6) (b):

1. Every individual domiciled in this state during the entire taxable year who has a gross income at or above a threshold amount which shall be determined annually by the department of revenue. The threshold amounts shall be determined for categories of individuals based on filing status and age, and shall include categories for single individuals; individuals who file as a head of household; married couples who file jointly; and married persons who file separately. The department of revenue shall establish a threshold amount for each category of individual at an amount at which no individual in that category whose gross income is below that amount has a state income tax liability.

2. Every nonresident person and every person who changes domicile into or out of this state during the taxable year shall file a return if the person is unmarried and has gross income of $2,000 or more, or if the person is married and the combined gross income of the person and his or her spouse is $2,000 or more.

3. For taxable years beginning before January 1, 1993, every natural person for whom a deduction from tax under s. 71.07 (8) (b) is allowable to another taxpayer for the taxable year shall file a return if that natural person has any amount of unearned income and that person has gross income of $550 or more.

4. For taxable years beginning after December 31, 1992, and before January 1, 1994, every natural person for whom a deduction from tax under s. 71.07 (8) (b) is allowable to another taxpayer for the taxable year shall file a return if that natural person has any amount of unearned income and that person has gross income of $600 or more.

5. For taxable years beginning on or after January 1, 1994, every natural person for whom a deduction from tax under s. 71.07 (8) (b) is allowable to another taxpayer for the taxable year shall file a return if that natural person has any amount of unearned income and that person has gross income of at least $500 adjusted for inflation in the manner prescribed by sections 1 (f) (3) to (6) and 63 (c) (4) of the internal revenue code. The department of revenue shall incorporate the changes in the income tax forms and instructions.

(b) *Deceased person.* The personal representative or other person charged with the property of a decedent shall file the return of the decedent required under this section.

(c) *Person to make return for individual unable to file.* The guardian, custodian or other person charged with the care of the person or property of an individual who is unable to make a return required under this section shall file a return for such individual.

(d) *Husband and wife joint filing.* 1. Except as provided in subds. 2. and 3. and par. (e), a husband and a wife may file a joint return for income tax purposes even though one of the spouses has no gross income or no deductions.

2. No joint return may be filed if either the husband or wife at any time during the taxable year is a nonresident alien, unless an election is in effect for the taxable year under section 6013 (g) or (h) of the internal revenue code.

3. No joint return may be filed if the husband and wife have different taxable years, except that if their taxable years begin on the same day and end on different days because of the death of either or both the joint return may be filed with respect to the taxable year of each unless the surviving spouse remarries before the close of his or her taxable year or unless the taxable year of either spouse is a fractional part of a year under section 443 (a) (1) of the internal revenue code.

(e) *Death of a spouse; joint returns.* For the taxable year in which the death of one spouse or both spouses occurs:

1. A joint return may be filed and shall be signed by both the decedent's personal representative and the surviving spouse, if any, if a personal representative is appointed before the last day prescribed by law, including extensions, for filing the return of the surviving spouse.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. A joint return may be filed by the surviving spouse with respect to both that spouse and the decedent if no return for the taxable year has been filed by the decedent and no personal representative is appointed at the time the joint return is filed or before the last day prescribed by law, including extensions, for filing the return of the surviving spouse.

3. If a personal representative of the decedent is appointed after the filing of the joint return by the surviving spouse, the personal representative may disaffirm the joint return by filing, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was filed. If the joint return is disaffirmed, the return filed by the survivor is the survivor's separate return and the tax on the return shall be determined by excluding all items properly includable in the return of the decedent spouse.

(f) *Election by a spouse.* The election under par. (d) may be made by a spouse if the requirements of section 6013 (f) of the internal revenue code are met.

(g) *Joint return following separate return.* Except as provided in par. (i), if an individual has filed a separate return for a taxable year for which a joint return could have been filed by the individual and the individual's spouse under par. (d) or (e) and the time prescribed by law for timely filing the return for that taxable year has expired, the individual and the individual's spouse may file a joint return for that taxable year. A joint return filed by the husband and wife under this paragraph is their return for that taxable year, and all payments, credits, refunds or other repayments made or allowed with respect to the separate return of each spouse for that taxable year shall be taken into account in determining the extent to which the tax based upon the joint return has been paid. If a joint return is filed under this paragraph, any election, other than the election to file a separate return, made by either spouse in that spouse's separate return for that taxable year with respect to the treatment of any income, deduction or credit of that spouse may not be changed in the filing of the joint return if that election would have been irrevocable if the joint return had not been filed.

(h) *Death of a spouse after separate return.* In the taxable year in which the death of one or both spouses occurs, a joint return may be filed by the decedent's personal representative and the surviving spouse, if any, under this paragraph if one or both spouses filed a separate return for a taxable year for which a joint return could have been filed. If any condition under par. (i) occurs before a personal representative is appointed, a joint return may not be filed under this paragraph.

(i) *Election precluded.* The election under par. (g) or (h) may not be made if any of the following conditions applies:

1. The amount shown as tax upon that joint return is not paid in full at or before the time the joint return is filed.

2. Four or more years from the last day prescribed by law for filing the return for that taxable year have elapsed, determined without regard to any extension of time granted to either spouse.

3. There has been mailed to either spouse, with respect to that taxable year, a notice of adjustment under ss. 71.74 to 71.77 and the spouse, as to that notice, files a petition for redetermination under subch. XIV, except that, if both spouses request and the department consents, the election under par. (g) may be made.

4. Either spouse has commenced a suit in any court for the recovery of any part of the tax for that taxable year.

5. Either spouse has entered into a closing agreement with respect to that taxable year or if any civil or criminal case arising against either spouse with respect to that taxable year has been compromised.

(j) *Joint return assumed.* For purposes of subchs. XII and XIII, a joint return is deemed to have been filed under this section if any of the following conditions applies:

1. Both spouses filed separate returns before filing the joint return, on the day when the last separate return was filed, but not earlier than the last day prescribed by law for filing the return of either spouse.

2. Only one spouse filed a separate return before filing the joint return and the other spouse had less than $3,420 of gross income for that taxable year, on the day of the filing of that separate return, but not earlier than the last day prescribed by law for the filing of that separate return.

3. Only one spouse filed a separate return before filing the joint return and the other spouse had $3,420 or more of gross income for that taxable year, on the date the joint return was filed.

(k) *Filing date assumed.* For purposes of s. 71.75, a joint return filed under this section is deemed to be filed on the last day prescribed by law for filing the return for that taxable year, determined without regard to any extension of time granted to either spouse.

(L) *Limits extended.* If a joint return is filed under this section, the periods of limitations under ss. 71.74 to 71.77 and subch. XV on the making of assessments and the beginning of levy or of a proceeding in court for collection shall, with respect to the return, be extended to the extent necessary to include one year immediately after the date of the filing of the joint return, computed without regard to par. (j).

(m) *Separate return following joint return.* 1. Except as provided in subds. 3. and 5., for a taxable year for which a joint return has been filed, separate returns may be filed by the spouses on or before the last day prescribed by law for timely filing the return of either has elapsed.

2. If a husband and wife change from a joint return to separate returns within the time prescribed in subd. 1., the tax paid on the joint return shall be allocated between them in proportion to the tax liability shown on each separate return.

3. In the taxable year in which the death of one or both spouses occurs, a separate return may be filed under this paragraph within the time prescribed in subd. 1., or as provided for a personal representative under par. (e) if a joint return has been filed under par. (e) by the surviving spouse or by the decedent's personal representative and the surviving spouse. If a separate return is filed by the surviving spouse or by the decedent's personal representative under this paragraph, the joint return previously filed shall be the separate return of the surviving spouse or the decedent for whom the separate return was not filed, unless both the surviving spouse and the decedent's personal representative file a separate return under this paragraph. The tax on the separate return of the surviving spouse shall be determined by excluding all items properly includable in the separate return of the decedent, and the tax on the separate return of the decedent shall be determined by excluding all items properly includable in the return of the surviving spouse.

4. The time allowed the personal representative to disaffirm the joint return by the filing of a separate return does not establish a new due date for the return of the deceased spouse, and sub. (8) and ss. 71.91 and 71.92 apply to that return.

5. A separate return may not be filed unless the amount shown upon that separate return is paid in full on or before the date when the separate return is filed.

Cross−reference: See also s. Tax 2.08, Wis. adm. code.

(3) FRACTIONAL PART OF YEAR. If a natural person or fiduciary files a federal income tax return for a fractional part of the year, the person shall file a Wisconsin income tax return for that fractional year. That person shall compute and report income on the basis of the period for which that return is filed, and that fractional year shall constitute a taxable year.

(4) ELECTION TO HAVE DEPARTMENT COMPUTE TAX. (a) Natural persons whose total income is not in excess of $10,000 and consists entirely of wages subject to withholding for Wisconsin tax purposes and not more than $200 total of dividends, interest and other wages not subject to Wisconsin withholding, and who have elected the Wisconsin standard deduction and have not claimed either the credit for homestead property tax relief or deductions

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

for expenses incurred in earning such income, shall, at their election, not be required to record on their income tax returns the amount of the tax imposed on their Wisconsin taxable income. Married persons shall be permitted this election only if the joint income of the husband and wife does not exceed $10,000, if both report their incomes on the same joint income tax return form, and if both make this election.

(b) The tax on income reported by persons making the election under par. (a) shall be computed by the department of revenue. After applying all known applicable credits, the department shall notify the taxpayer by mail of the amount of taxes due or the amount of taxes to be refunded.

(5) COPY OF FEDERAL RETURN. To the extent necessary for the administration of the tax imposed by this chapter, when required under rules prescribed or orders issued by the department or upon the written request of the department, natural persons and fiduciaries subject to this chapter shall file with the department a true and complete copy of their federal income tax return and any other return or statement filed with, or made to, or any document received from, the internal revenue service.

Cross−reference: See also s. Tax 2.10, Wis. adm. code.

(6) TIME RETURN REQUIRED. (a) Reports required under this section shall be made on or before April 15 following the close of a year referred to in sub. (2) (a), or if such person's fiscal year is other than the calendar year then on or before the 15th day of the 4th month following the close of such fiscal year, or if the return is for less than a full taxable year on the date applicable for federal income taxes under the Internal Revenue Code, to the department of revenue, in the manner and form prescribed by the department of revenue, whether notified to do so or not. Such persons shall be subject to the same penalties for failure to report as those who receive notice. If the taxpayer is unable to make his or her own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

Cross−reference: See also s. Tax 2.09, Wis. adm. code.

(b) Nothing in this section precludes the department of revenue from requiring any person other than a corporation to file an income tax return when in the judgment of the department a return should be filed.

(6m) TIME TO FILE CLAIMS; NO RETURN REQUIRED. A claim for a credit under s. 71.07 (3m) or subch. VIII or IX that is filed by a natural person who is not required to file a report under sub. (2) (a) shall be filed on a calendar year basis in conformity with the filing requirements in subs. (6) and (7).

(7) EXTENSION OF TIME TO FILE. Returns of natural persons and fiduciaries that require a statement of amounts or information contained or entered on a corresponding return under the internal revenue code shall be filed within the time fixed under that code for filing of the corresponding federal return. Any extension of time granted by law or by the internal revenue service for the filing of that corresponding federal return extends the time for filing under this chapter if a copy of the taxpayer's application to the internal revenue service requesting the extension is filed with the return under this chapter or if a copy of any request for an extension required by the internal revenue service is filed with the return under this chapter or at an earlier date that the department prescribes by rule and if the taxpayer pays the Wisconsin tax in the manner applicable to federal income taxes under the internal revenue code. Taxes payable upon the filing of the return do not become delinquent during the period of an extension but are subject to interest at the rate of 12% per year during such period except as follows:

(a) For taxable years beginning after December 31, 1989, and before January 1, 1991, for persons who served in support of Operation Desert Shield, Operation Desert Storm or an operation that is a successor to Operation Desert Shield or Operation Desert Storm in the United States, or for persons who served in Egypt, Israel, Diego Garcia or Germany, or for persons who qualify for a federal extension of time to file under 26 USC 7508, who served outside the United States because of their participation in Operation Desert Shield, Operation Desert Storm or an operation that is a successor to Operation Desert Shield or Operation Desert Storm in the Desert Shield or Desert Storm theater of operations.

(b) For taxable years beginning after December 31, 1994, and before January 1, 1997, for persons who served in support of Operation Balkan Endeavor or an operation that is a successor to Operation Balkan Endeavor, or for persons who served in Croatia, Bosnia and Herzegovina, Serbia, Macedonia, Montenegro, Hungary, Austria, Slovakia, Czech Republic or Slovenia, or for persons who qualify for a federal extension of time to file under 26 USC 7508, who served outside the United States because of their participation in Operation Balkan Endeavor or an operation that is a successor to Operation Balkan Endeavor in the Balkan Endeavor theater of operations.

(c) For taxable years beginning after December 31, 2000, and before January 1, 2003, for persons who served in support of Operation Enduring Freedom or an operation that is a successor to Operation Enduring Freedom in the United States, or for persons who qualify for a federal extension of time to file under 26 USC 7508, who served outside the United States because of their participation in Operation Enduring Freedom or an operation that is a successor to Operation Enduring Freedom in the Enduring Freedom theater of operations.

(d) For taxable years beginning after December 31, 2002, for persons who served in support of Operation Iraqi Freedom or an operation that is a successor to Operation Iraqi Freedom in the United States, or for persons who qualify for a federal extension of time to file under 26 USC 7508, who served outside the United States because of their participation in Operation Iraqi Freedom or an operation that is a successor to Operation Iraqi Freedom in the Iraqi Freedom theater of operations.

(e) For taxable years beginning after December 31, 2005, for persons who qualify for a federal extension of time to file under 26 USC 7508.

(f) For taxable years beginning after December 31, 2008, for persons who qualify for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action.

Cross−reference: See also s. Tax 2.88, Wis. adm. code.

(8) PAYMENT OF TAX. (a) All income and franchise taxes shall be paid to the department of revenue, at its office at Madison or at such other place the department designates.

(b) The final payment of taxes on incomes of persons other than corporations who file on a calendar year basis shall be made on or before April 15 following the close of the calendar year, except for persons electing to have the department compute their tax under sub. (4). If the return of a person other than a corporation is made on the basis of a fiscal year, such final payment shall be made on or before the 15th day of the 4th month following the close of such fiscal year, except for persons electing to have the department compute their tax under sub. (4).

(c) If the taxpayer elects under sub. (4) (a) to have the department compute the tax on his or her income and the taxpayer files his or her return on or before the date on which such return is required to be filed, the amount of taxes due thereon, as stated in the notice from the department under sub. (4) (b), shall become delinquent if not paid on or before the due date stated in the notice to the taxpayer. Such amounts of taxes due shall not be subject to any interest, other than extension interest, prior to the date of delinquency. Taxes due on returns filed after the date on which returns are required to be filed shall be deemed delinquent as of the due date of the return.

(d) The department of revenue shall accept in advance income taxes and surtaxes from taxpayers desirous of making such payments before the same shall become due and payable. Advance payment of taxes under this provision shall not relieve the taxpayer from additional taxes which may result from subsequent

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

legislation or from additional taxable income disclosed or discovered subsequent to such payment.

(e) No person is required to pay a balance due of less than $1.

History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 3, 39, 269, 301, 305, 315; 1993 a. 16, 112, 204, 213, 491; 1995 a. 255, 428; 1999 a. 9; 2001 a. 23, 102; 2003 a. 83; 2005 a. 25, 49; 2009 a. 28.

NOTE: 1991 Wis. Act 301, which affected this section, contains extensive legislative council notes.

71.04 Situs of income; allocation and apportionment. **(1)** SITUS. (a) All income or loss of resident individuals and resident estates and trusts shall follow the residence of the individual, estate or trust. Income or loss of nonresident individuals and nonresident estates and trusts from business, not requiring apportionment under sub. (4), (10) or (11), shall follow the situs of the business from which derived, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state. All items of income, loss and deductions of nonresident individuals and nonresident estates and trusts derived from a tax−option corporation not requiring apportionment under sub. (9) shall follow the situs of the business of the corporation from which derived, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state. Income or loss of nonresident individuals and nonresident estates and trusts derived from rentals and royalties from real estate or tangible personal property, or from the operation of any farm, mine or quarry, or from the sale of real property or tangible personal property shall follow the situs of the property from which derived. Income from personal services of nonresident individuals, including income from professions, shall follow the situs of the services. A nonresident limited partner's distributive share of partnership income shall follow the situs of the business, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state. A nonresident limited liability company member's distributive share of limited liability company income shall follow the situs of the business, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state. Income of nonresident individuals, estates and trusts from the state lottery under ch. 565 is taxable by this state. Income of nonresident individuals, estates and trusts from any multijurisdictional lottery under ch. 565 is taxable by this state, but only if the winning lottery ticket or lottery share was purchased from a retailer, as defined in s. 565.01 (6), located in this state or from the department. Income of nonresident individuals, nonresident trusts and nonresident estates from pari−mutuel winnings or purses under ch. 562 is taxable by this state. Income of nonresident individuals, estates and trusts from winnings from a casino or bingo hall that is located in this state and that is operated by a Native American tribe or band shall follow the situs of the casino or bingo hall. Income derived by a nonresident individual from a covenant not to compete is taxable by this state to the extent that the covenant was based on a Wisconsin−based activity. All other income or loss of nonresident individuals and nonresident estates and trusts, including income or loss derived from land contracts, mortgages, stocks, bonds and securities or from the sale of similar intangible personal property, shall follow the residence of such persons, except as provided in par. (b) and sub. (9), except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state.

(b) For purposes of determining the situs of income under this section:

1. The situs of income derived by any taxpayer as the beneficiary of the estate of a decedent or of a trust estate shall be determined as if such income had been received without the intervention of a fiduciary.

2. The situs of income received by a trustee, which income, under the internal revenue code, is taxable to the grantor of the trust or to any person other than the trust, shall be determined as if such income had been actually received directly by such grantor or such other person, without the intervention of the trust.

3. The residence of an estate or trust shall be as provided under s. 71.14.

(2) PART−YEAR RESIDENT LIABILITY DETERMINATION. Liability to taxation for income which follows the residence of the recipient, in the case of persons other than corporations, who move into or out of the state within the year, shall be determined for such year on the basis of the income received (or accrued, if on the accrual basis) during the portion of the year that any such person was a resident of Wisconsin. The net income of such person assignable to the state for such year shall be used in determining the income subject to assessment under this chapter.

(3) PARTNERS AND LIMITED LIABILITY COMPANY MEMBERS. (a) *Part−year residents, time of residence.* Partners or members who are residents of this state for less than a full taxable year shall compute taxes for that year on their share of partnership or limited liability company income or loss under this chapter on the part of the taxable year during which they are residents in the following manner:

1. Assign an equal portion of each item of income, loss or deduction to each day of the partnership's or limited liability company's taxable year.

2. Multiply each daily portion of those items of income, loss or deduction by a fraction that represents the partner's or member's portion, on that day, of the total partnership or limited liability company interest.

3. Net the items of income, loss or deduction, after the calculation under subd. 2., for all of the days during which the partner or member was a resident of this state.

(b) *Part−year residents, nonresidents.* All partners or members who are residents of this state for less than a full taxable year or who are nonresidents shall compute taxes for that year on their share of partnership or limited liability company income or loss under this chapter for the part of the taxable year during which they are nonresidents by recognizing their proportionate share of all items of income, loss or deduction attributable to a business in, services performed in, or rental of property in, this state.

(c) *Disregarding agreements.* In computing taxes under this chapter a partner or member shall disregard, for purposes of determining the situs of partnership income of partners, all provisions in partnership or limited liability company agreements that do any of the following:

1. Characterize the consideration for payments to the partner or member as services or the use of capital.

2. Allocate to the partner or member, as income from or gain from sources outside this state, a greater proportion of the partner's or member's distributive share of partnership or limited liability company income or gain than the ratio of partnership or company income or gain from sources outside this state to partnership or company income or gain from all sources.

3. Allocate to a partner or member a greater proportion of a partnership or limited liability company item of loss or deduction from sources in this state than the partner's or member's proportionate share of total partnership or company loss or deduction.

4. Determine a partner's or member's distributive share of an item of partnership or limited liability company income, gain, loss or deduction for federal income tax purposes if the principal purpose of that determination is to avoid or evade the tax under this chapter.

(4) NONRESIDENT ALLOCATION AND APPORTIONMENT FORMULA. Nonresident individuals and nonresident estates and trusts

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

engaged in business within and without the state shall be taxed only on such income as is derived from business transacted and property located within the state. The amount of such income attributable to Wisconsin may be determined by an allocation and separate accounting thereof, when the business of such nonresident individual or nonresident estate or trust within the state is not an integral part of a unitary business, but the department of revenue may permit an allocation and separate accounting in any case in which it is satisfied that the use of such method will properly reflect the income taxable by this state. In all cases in which allocation and separate accounting is not permissible, the determination shall be made in the following manner: for all businesses except air carriers, financial organizations, telecommunications companies, pipeline companies, public utilities, railroads, sleeping car companies and car line companies there shall first be deducted from the total net income of the taxpayer the part thereof (less related expenses, if any) that follows the situs of the property or the residence of the recipient. The remaining net income shall be apportioned to this state by use of the following:

(a) For taxable years beginning before January 1, 2006, an apportionment fraction composed of a sales factor under sub. (7) representing 50% of the fraction, a property factor under sub. (5) representing 25% of the fraction, and a payroll factor under sub. (6) representing 25% of the fraction.

(b) For taxable years beginning after December 31, 2005, and before January 1, 2007, an apportionment fraction composed of a sales factor under sub. (7) representing 60% of the fraction, a property factor under sub. (5) representing 20% of the fraction, and a payroll factor under sub. (6) representing 20% of the fraction.

(c) For taxable years beginning after December 31, 2006, and before January 1, 2008, an apportionment fraction composed of a sales factor under sub. (7) representing 80% of the fraction, a property factor under sub. (5) representing 10% of the fraction, and a payroll factor under sub. (6) representing 10% of the fraction.

(d) For taxable years beginning after December 31, 2007, an apportionment fraction composed of the sales factor under sub. (7).

(e) For taxable years beginning after December 31, 2005, and before January 1, 2008, the apportionment fraction for the remaining net income of a financial organization shall include a sales factor that represents more than 50% of the apportionment fraction, as determined by rule by the department. For taxable years beginning after December 31, 2007, the apportionment fraction for the remaining net income of a financial organization is composed of a sales factor, as determined by rule by the department.

Cross−reference: See also s. Tax 2.41, Wis. adm. code.

(4m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years beginning before January 1, 2008, if both the numerator and the denominator of the sales factor under sub. (7) related to a taxpayer's remaining net income are zero, the sales factor under sub. (7) is eliminated from the apportionment formula to determine the taxpayer's remaining net income under sub. (4).

2. For taxable years beginning after December 31, 2007, if both the numerator and the denominator of the sales factor under sub. (7) related to a taxpayer's remaining net income are zero, none of the taxpayer's remaining net income is apportioned to this state.

(b) 1. For taxable years beginning before January 1, 2008, if the numerator of the sales factor under sub. (7) related to a taxpayer's remaining net income is a negative number and the denominator of the sales factor under sub. (7) related to a taxpayer's remaining net income is a positive number, a negative number, or zero, the sales factor under sub. (7) is zero.

2. For taxable years beginning after December 31, 2007, if the numerator of the sales factor under sub. (7) related to a taxpayer's remaining net income is a negative number and the denominator of the sales factor under sub. (7) related to a taxpayer's remaining net income is a positive number, a negative number, or zero, none of the taxpayer's remaining net income is apportioned to this state.

(c) 1. For taxable years beginning before January 1, 2008, if the numerator of the sales factor under sub. (7) related to a taxpayer's remaining net income is a positive number and the denominator of the sales factor under sub. (7) related to a taxpayer's remaining net income is zero or a negative number, the sales factor under sub. (7) is one.

2. For taxable years beginning after December 31, 2007, if the numerator of the sales factor under sub. (7) related to a taxpayer's remaining net income is a positive number and the denominator of the sales factor under sub. (7) related to a taxpayer's remaining net income is zero or a negative number, all of the taxpayer's remaining net income is apportioned to this state.

(5) PROPERTY FACTOR. For purposes of sub. (4) and for taxable years beginning before January 1, 2008:

(a) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period. Cash on hand or in the bank, shares of stock, notes, bonds, accounts receivable, or other evidence of indebtedness, special privileges, franchises, goodwill, or property the income of which is not taxable or is separately allocated, shall not be considered tangible property nor included in the apportionment.

(b) Property used in the production of nonapportionable income or losses shall be excluded from the numerator and denominator of the property factor. Property used in the production of both apportionable and nonapportionable income or losses shall be partially excluded from the numerator and denominator of the property factor so as to exclude, as near as possible, the portion of such property producing the nonapportionable income or loss.

(c) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental. Net annual rental is the annual rental paid by the taxpayer less any annual rental received by the taxpayer from sub−rentals.

(d) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the secretary of revenue may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(6) PAYROLL FACTOR. For purposes of sub. (4) and for taxable years beginning before January 1, 2008:

(a) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(b) Compensation is paid in this state if:

1. The individual's service is performed entirely within this state;

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

3. A portion of the service is performed within this state and the base of operations of the individual is in this state;

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

5. A portion of the service is performed within this state 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 this state; or

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

6. The individual is neither a resident of nor performs services in this state but is directed or controlled from an office in this state and returns to this state 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.

(c) Compensation related to the operation, maintenance, protection or supervision of property used in the production of both apportionable and nonapportionable income or losses shall be partially excluded from the numerator and denominator of the payroll factor so as to exclude, as near as possible, the portion of pay related to the operation, maintenance, protection and supervision of property used in the production of nonapportionable income.

(d) Payments made to an independent contractor or any person not properly classified as an employee are excluded from the payroll factor.

(e) If the taxpayer has no employees or the department determines that employees are not a substantial income−producing factor, the department may order or permit the elimination of the payroll factor.

(7) SALES FACTOR. For purposes of sub. (4):

(a) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. For sales of tangible personal property, the numerator of the sales factor is the sales of the taxpayer during the tax period under par. (b) 1. and 2. plus 100 percent of the sales of the taxpayer during the tax period under pars. (b) 2m. and 3. and (c). For purposes of applying pars. (b) 2m. and 3. and (c), if a taxpayer is within another state's jurisdiction for income or franchise tax purposes for any part of the taxable year, it is considered to be within that state's jurisdiction for income or franchise tax purposes for the entire taxable year.

(b) Sales of tangible personal property are in this state if any of the following occur:

1. The property is delivered or shipped to a purchaser, other than the federal government, within this state regardless of the f.o.b. point or other conditions of the sale.

2. The property is shipped from an office, store, warehouse, factory or other place of storage in this state and delivered to the federal government within this state regardless of the f.o.b. point or other conditions of sale.

2m. The property is shipped from an office, store, warehouse, factory or other place of storage in this state and delivered to the federal government outside this state and the taxpayer is not within the jurisdiction, for income or franchise tax purposes, of the destination state.

3. The property is shipped from an office, store, warehouse, factory or other place of storage in this state to a purchaser other than the federal government and the taxpayer is not within the jurisdiction, for income or franchise tax purposes, of the destination state.

(c) Sales of tangible personal property by an office in this state to a purchaser in another state and not shipped or delivered from this state are in this state if the taxpayer is not within the jurisdiction for income tax purposes of either the state from which the property is delivered or shipped or of the destination state.

(df) 1. Gross receipts from the use of computer software are in this state if the purchaser or licensee uses the computer software at a location in this state.

2. Computer software is used at a location in this state if the purchaser or licensee uses the computer software in the regular course of business operations in this state, for personal use in this state, or if the purchaser or licensee is an individual whose domicile is in this state. If the purchaser or licensee uses the computer software in more than one state, the gross receipts shall be divided among those states having jurisdiction to impose an income tax on the taxpayer in proportion to the use of the computer software in those states. To determine computer software use in this state, the department may consider the number of users in each state where the computer software is used, the number of site licenses or workstations in this state, and any other factors that reflect the use of computer software in this state.

(dh) 1. Gross receipts from services are in this state if the purchaser of the service received the benefit of the service in this state.

2. The benefit of a service is received in this state if any of the following applies:

a. The service relates to real property that is located in this state.

b. The service relates to tangible personal property that is located in this state at the time that the service is received or tangible personal property that is delivered directly or indirectly to customers in this state.

c. The service is provided to an individual who is physically present in this state at the time that the service is received.

d. The service is provided to a person engaged in a trade or business in this state and relates to that person's business in this state.

3. If the purchaser of a service receives the benefit of a service in more than one state, the gross receipts from the performance of the service are included in the numerator of the sales factor according to the portion of the service received in this state.

(dj) 1. Except as provided in par. (df), gross royalties and other gross receipts received for the use or license of intangible property, including patents, copyrights, trademarks, trade names, service names, franchises, licenses, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals, technical know−how, contracts, and customer lists, are sales in this state if any of the following applies:

a. The purchaser or licensee uses the intangible property in the operation of a trade or business at a location in this state. If the purchaser or licensee uses the intangible property in the operation of a trade or business in more than one state, the gross royalties and other gross receipts from the use of the intangible property shall be divided between those states having jurisdiction to impose an income tax on the taxpayer in proportion to the use of the intangible property in those states.

b. The purchaser or licensee is billed for the purchase or license of the use of the intangible property at a location in this state.

c. The purchaser or licensee of the use of the intangible property has its commercial domicile in this state.

(dk) 1. Sales of intangible property, excluding securities, are sales in this state if any of the following applies:

a. The purchaser uses the intangible property in the regular course of business operations in this state or for personal use in this state. If the purchaser uses the intangible property in more than one state, the sales shall be divided between those states having jurisdiction to impose an income tax on the taxpayer in proportion to the use of the intangible property in those states.

b. The purchaser is billed for the purchase of the intangible property at a location in this state.

c. The purchaser of the intangible property has its commercial domicile in this state.

(e) In this subsection, "sales" includes, but is not limited to, the following items related to the production of business income:

1. Gross receipts from the sale of inventory.

2. Gross receipts from the operation of farms, mines and quarries.

3. Gross receipts from the sale of scrap or by−products.

4. Gross commissions.

5. Gross receipts from personal and other services.

6. Gross rents from real property or tangible personal property.

7. Interest on trade accounts and trade notes receivable.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

8. A partner's or member's share of the partnership's or limited liability company's gross receipts.

9. Gross management fees.

10. Gross royalties from income−producing activities.

11. Gross franchise fees from income−producing activities.

(f) The following items are among those that are not included in "sales" in this subsection:

1. Gross receipts and gain or loss from the sale of tangible business assets, except those under par. (e) 1., 2. and 3.

2. Gross receipts and gain or loss from the sale of nonbusiness real or tangible personal property.

3. Gross rents and rental income or loss from real property or tangible personal property if that real property or tangible personal property is not used in the production of business income.

4. Royalties from nonbusiness real property or nonbusiness tangible personal property.

5. Proceeds and gain or loss from the redemption of securities.

6. Interest, except interest under par. (e) 7., and dividends.

7. Gross receipts and gain or loss from the sale of intangible assets, except those under par. (e) 1.

8. Dividends deductible by corporations in determining net income.

9. Gross receipts and gain or loss from the sale of securities.

10. Proceeds and gain or loss from the sale of receivables.

11. Refunds, rebates and recoveries of amounts previously expended or deducted.

12. Other items not includable in apportionable income.

13. Foreign exchange gain or loss.

14. Royalties and income from passive investments in the property under s. 71.25 (5) (a) 21.

16. Pari−mutuel wager winnings or purses under ch. 562.

(8) RAILROADS, FINANCIAL ORGANIZATIONS AND PUBLIC UTILITIES. (a) 1. "Financial organization", as used in this section, means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, brokerage house, underwriter or any type of insurance company.

2. As used in this section, "financial organization" includes any subsidiary of an entity described in subd. 1., if a significant purpose for the subsidiary is to hold investments or if the subsidiary primarily functions to hold investments.

(b) 1. For taxable years beginning before January 1, 2006, "public utility", as used in this section, means any business entity described under subd. 2. and any business entity which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications or the production, transmission, sale, delivery, or furnishing of electricity, water or steam, the rates of charges for goods or services of which have been established or approved by a federal, state or local government or governmental agency.

2. In this section, for taxable years beginning after December 31, 2005, "public utility" means any business entity providing service to the public and engaged in the transportation of goods and persons for hire, as defined in s. 194.01 (4), regardless of whether or not the entity's rates or charges for services have been established or approved by a federal, state or local government or governmental agency.

(c) The net business income of railroads, sleeping car companies, car line companies, pipeline companies, financial organizations, telecommunications companies, air carriers, and public utilities requiring apportionment shall be apportioned pursuant to rules of the department of revenue, but the income taxed is limited to the income derived from business transacted and property located within the state.

Cross−reference: See also s. Tax 2.46, 2.47, 2.475, 2.49, 2.495, 2.50, and 2.502, Wis. adm. code.

(9) NONRESIDENT INCOME FROM MULTISTATE TAX−OPTION CORPORATION. Nonresident individuals and nonresident estates and trusts deriving income from a tax−option corporation which is engaged in business within and without this state shall be taxed only on the income of the corporation derived from business transacted and property located in this state and losses and other items of the corporation deductible by such shareholders shall be limited to their proportionate share of the Wisconsin loss or other item, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state. For purposes of this subsection, all intangible income of tax−option corporations passed through to shareholders is business income that follows the situs of the business, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state.

(10) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any nonresident individual or nonresident estate or trust engaged in business in and outside of this state and required to apportion its income as provided in this section, it shall be shown to the satisfaction of the department of revenue that the use of any one of the 3 factors provided under sub. (4) gives an unreasonable or inequitable final average ratio because of the fact that such nonresident individual or nonresident estate or trust does not employ, to any appreciable extent in its trade or business in producing the income taxed, the factors made use of in obtaining such ratio, this factor may, with the approval of the department of revenue, be omitted in obtaining the final average ratio which is to be applied to the remaining net income. This subsection does not apply to taxable years beginning after December 31, 2007.

(11) DEPARTMENT MAY APPORTION BY RULE. If the income of any such nonresident individual or nonresident estate or trust properly assignable to the state of Wisconsin cannot be ascertained with reasonable certainty by the methods under this section, then the same shall be apportioned and allocated under such rules as the department of revenue may prescribe.

History: 1987 a. 312; 1987 a. 411 ss. 34 to 40, 61; 1989 a. 31; 1989 a. 56 s. 259; 1991 a. 39, 189, 269; 1993 a. 112, 204, 491; 1995 a. 27; 1997 a. 27, 237; 1999 a. 9; 2003 a. 37; 2005 a. 25; 2007 a. 20; 2009 a. 2, 28.

Cross−reference: See also s. Tax 2.39, Wis. adm. code.

71.05 Income computation. (1) EXEMPT AND EXCLUDABLE INCOME. There shall be exempt from taxation under this subchapter the following:

(a) *Retirement systems.* All payments received from the U.S. civil service retirement system, the U.S. military employee retirement system, the employee's retirement system of the city of Milwaukee, Milwaukee County employees' retirement system, sheriff's annuity and benefit fund of Milwaukee County, police officer's annuity and benefit fund of Milwaukee, fire fighter's annuity and benefit fund of Milwaukee, or the public employee trust fund as successor to the Milwaukee public school teachers' annuity and retirement fund and to the Wisconsin state teachers retirement system, which are paid on the account of any person who was a member of the paying or predecessor system or fund as of December 31, 1963, or was retired from any of the systems or funds as of December 31, 1963, but such exemption shall not exclude from gross income tax sheltered annuity benefits.

Cross−reference: See also s. Tax 2.94, Wis. adm. code.

(ae) *Pension, individual retirement income.* Except for a payment that is exempt under par. (a), (am), or (an), or that is exempt as a railroad retirement benefit, for taxable years beginning after December 31, 2008, up to $5,000 of payments or distributions

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

received each year by an individual from a qualified retirement plan under the Internal Revenue Code or from an individual retirement account established under 26 USC 408, if all of the following conditions apply:

1. The individual is at least 65 years of age before the close of the taxable year to which the exemption claim relates.

2. If the individual is single or files as head of household, his or her federal adjusted gross income in the year to which the exemption claim relates is less than $15,000.

3. If the individual is married and is a joint filer, the couple's federal adjusted gross income in the year to which the exemption claim relates is less than $30,000.

4. If the individual is married and files a separate return, the sum of both spouses' federal adjusted gross income in the year to which the exemption claim relates is less than $30,000.

(am) *Military retirement systems.* All retirement payments received from the U.S. military employee retirement system, to the extent that such payments are not exempt under par. (a) or (ae).

(an) *Uniformed services retirement benefits.* All retirement payments received from the U.S. government that relate to service with the coast guard, the commissioned corps of the national oceanic and atmospheric administration, or the commissioned corps of the public health service, to the extent that such payments are not exempt under par. (a), (ae), or (am).

(b) *State legislature allowance for expenses.* All amounts received in accordance with s. 13.123 (1) (a) which are spent for the purposes specified in s. 13.123 (1) (a) if the person does not claim a deduction for travel expenses away from home on legislative days. In this chapter, the place of residence of a member of the state legislature within the legislative district which the member represents shall be considered the member's home.

(c) *Certain interest income.* Interest received on bonds or notes issued by any of the following:

1. The Wisconsin Housing and Economic Development Authority under s. 234.65, if the bonds are used to fund an economic development loan to finance construction, renovation, or development of property that would be exempt under s. 70.11 (36).

1m. The Wisconsin Housing and Economic Development Authority under s. 234.08 or 234.61, on or after January 1, 2004, if the bonds or notes are issued to fund multifamily affordable housing projects or elderly housing projects.

3. A local exposition district created under subch. II of ch. 229.

4. A local professional baseball park district created under subch. III of ch. 229.

5. A local professional football stadium district created under subch. IV of ch. 229.

6. A local cultural arts district created under subch. V of ch. 229.

7. The Wisconsin Aerospace Authority.

8. The Wisconsin Health and Educational Facilities Authority under s. 231.03 (6), on or after October 27, 2007, if the proceeds from the bonds or notes that are issued are used by a health facility, as defined in s. 231.01 (5), to fund the acquisition of information technology hardware or software.

10. A commission created under s. 66.0304, if any of the following applies:

a. The bonds or notes are used to fund multifamily affordable housing projects or elderly housing projects in this state, and the Wisconsin Housing and Economic Development Authority has the authority to issue its bonds or notes for the project being funded.

b. The bonds or notes are used by a health facility, as defined in s. 231.01 (5), to fund the acquisition of information technology hardware or software, in this state, and the Wisconsin Health and Educational Facilities Authority has the authority to issue its bonds or notes for the project being funded.

c. The bonds or notes are issued to fund a redevelopment project in this state or a housing project in this state, and the authority exists for bonds or notes to be issued by an entity described under s. 66.1201, 66.1333, or 66.1335.

12. The Wisconsin Housing and Economic Development Authority, if the bonds or notes are issued to provide loans to a public affairs network under s. 234.75 (4).

(f) *Income from the sales of certain insurance policies.* Income received by the original policyholder or original certificate holder who has a catastrophic or life−threatening illness or condition from the sale of a life insurance policy or certificate, or the sale of the death benefit under a life insurance policy or certificate, under a life settlement contract, as defined in s. 632.69 (1) (k). In this paragraph, "catastrophic or life−threatening illness or condition" includes AIDS, as defined in s. 49.686 (1) (a), and HIV infection, as defined in s. 49.686 (1) (d).

(2) NONRESIDENT RECIPROCITY. All payments received by natural persons domiciled outside Wisconsin who derive income from the performance of personal services in Wisconsin shall be excluded from Wisconsin gross income to the extent that it is subjected to an income tax imposed by the state of domicile; provided that the law of the state of domicile allows a similar exclusion of income from personal services earned in such state by natural persons domiciled in Wisconsin, or a credit against the tax imposed by such state on such income equal to the Wisconsin tax on such income.

Cross−reference: See also s. Tax 2.02, Wis. adm. code.

(3) MENOMINEE INDIAN TRIBE; DISTRIBUTION OF ASSETS. No distribution of assets from the United States to the members of the Menominee Indian tribe as defined in s. 49.385 or their lawful distributees, or to any corporation, or organization, created by the tribe or at its direction pursuant to section 8, P.L. 83−399, as amended, and no issuance of stocks, bonds, certificates of indebtedness, voting trust certificates or other securities by any such corporation or organization, or voting trust, to such members of the tribe or their lawful distributees shall be subject to income taxes under this chapter; provided, that so much of any cash distribution made under said P.L. 83−399 as consists of a share of any interest earned on funds deposited in the treasury of the United States pursuant to the supplemental appropriation act, 1952, (65 Stat. 736, 754) shall not by virtue of this subsection be exempt from the individual income tax of this state in the hands of the recipients for the year in which paid. For the purpose of ascertaining the gain or loss resulting from the sale or other disposition of such assets and stocks, bonds, certificates of indebtedness and other securities under this chapter, the fair market value of such property, on termination date as defined in s. 70.057 (1), 1967 stats., shall be the basis for determining the amount of such gain or loss.

(5) FRACTIONAL YEAR. When an income tax return is required to be filed for a fractional part of a year under s. 71.03 (3), the Wisconsin taxable income shall be placed on an annual basis using the method applicable for federal income taxes under section 443 (b) (1) of the internal revenue code.

(6) MODIFICATIONS AND TRANSITIONAL ADJUSTMENTS. Some of the modifications referred to in s. 71.01 (13) and (14) are:

(a) *Additions.* To federal adjusted gross income add:

1. The amount of any interest, except interest under par. (b) 1., less related expenses, which is not included in federal adjusted gross income, and except the amount of any interest or original issue discount derived from bonds issued under subch. IV of ch. 18.

Cross−reference: See also s. Tax 3.095, Wis. adm. code.

2. Losses not allocable or apportionable to this state under s. 71.04.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

3. Any amount deducted as a capital loss carry−over from any taxable year prior to the 1965 taxable year.

4. The amount of any lump sum distribution taxable under section 402 (d) (1) of the internal revenue code (relating to distributions from employee benefit plans).

5. Any amount deducted as a capital loss carry−over from any taxable year prior to the 1975 taxable year if the capital asset which generated the loss had a situs outside of Wisconsin.

6. Any amount received in taxable year 1979 or thereafter by a Wisconsin resident shareholder as a proportionate share of the earnings and profits of a tax−option corporation which was accumulated prior to the beginning of its 1979 taxable year and not considered a dividend when received under section 1375 (d) (1) of the internal revenue code as amended to December 31, 1978.

7. Any amount deducted under section 170 (i) of the internal revenue code (relating to the deduction of charitable contributions by individuals who do not itemize deductions).

8. Wages paid to an entertainer or entertainment corporation unless the taxpayer complies with ss. 71.63 (3) (b), 71.64 (4) and (5) and 71.80 (15) (b).

9. Any amount excluded from adjusted gross income under section 641 (c) (1) of the internal revenue code (relating to gain on the sale of any property by a trust within 2 years of acquisition).

10. For the taxable year, for a person who is not "actively engaged in farming," as that term is used in 7 CFR 1400.201, combined net losses, exclusive of net gains from the sale or exchange of capital or business assets and exclusive of net profits, from businesses, from rents, from partnerships, from limited liability companies, from S corporations, from estates, or from trusts, under section 165 of the Internal Revenue Code, except losses allowable under sections 1211 and 1231 of the Internal Revenue Code, otherwise includable in calculating Wisconsin income if those losses are incurred in the operation of a farming business, as defined in section 464 (e) 1. of the Internal Revenue Code to the extent that those combined net losses exceed $20,000 if nonfarm Wisconsin adjusted gross income exceeds $55,000 but does not exceed $75,000, exceed $17,500 if nonfarm Wisconsin adjusted gross income exceeds $75,000 but does not exceed $100,000, exceed $15,000 if nonfarm Wisconsin adjusted gross income exceeds $100,000 but does not exceed $150,000, exceed $12,500 if nonfarm Wisconsin adjusted gross income exceeds $150,000 but does not exceed $200,000, exceed $10,000 if nonfarm Wisconsin adjusted gross income exceeds $200,000 but does not exceed $250,000, exceed $7,500 if nonfarm Wisconsin adjusted gross income exceeds $250,000 but does not exceed $300,000, exceed $5,000 if nonfarm Wisconsin adjusted gross income exceeds $300,000 but does not exceed $600,000, and exceed $0 if nonfarm adjusted gross income exceeds $600,000, except that the amounts applicable to married persons filing separately are 50% of the amounts specified in this subdivision.

12. All penalties for early withdrawals from time savings accounts and deposits deducted for federal income tax purposes and paid while the individual charged with the penalty was a nonresident of this state; all reforestation expenses related to property not in this state, deducted for federal income tax purposes and paid while the individual paying the expense was not a resident of this state; all contributions to individual retirement accounts, simplified employee pension plans and self−employment retirement plans and all deductible employee contributions, deducted for federal income tax purposes and in excess of that amount multiplied by a fraction the numerator of which is the individual's wages and net earnings from a trade or business taxable by this state and the denominator of which is the individual's total wages and net earnings from a trade or business; the contributions to a Keogh plan deducted for federal income tax purposes and in excess of that amount multiplied by a fraction the numerator of which is the individual's net earnings from a trade or business, taxable by this state, and the denominator of which is the individual's total net earnings from a trade or business; the amount of health insurance costs of self−employed individuals deducted under section 162 (L) of the internal revenue code for federal income tax purposes and in excess of that amount multiplied by a fraction the numerator of which is the individual's net earnings from a trade or business, taxable by this state, and the denominator of which is the individual's total net earnings from a trade or business; and the amount of self−employment taxes deducted under section 164 (f) of the internal revenue code for federal income tax purposes and in excess of that amount multiplied by a fraction the numerator of which is the individual's net earnings from a trade or business, taxable by this state, and the denominator of which is the individual's total net earnings from a trade or a business.

13. The amount claimed by a fiduciary as an itemized deduction under section 164 or 216 (a) (1) of the internal revenue code on the federal fiduciary return.

14. Any amount received as a proportionate share of the earnings and profits of a corporation that is an S corporation for federal income tax purposes if those earnings and profits accumulated during a year for which the shareholders have elected under s. 71.365 (4) not to be a tax−option corporation, to the extent not included in federal adjusted gross income for the current year.

15. Except as provided under s. 71.07 (3p) (c) 5., the amount of the credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), and (8r) and not passed through by a partnership, limited liability company, or tax−option corporation that has added that amount to the partnership's, company's, or tax−option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

NOTE: Subd. 15. is shown as affected by 2011 Wis. Acts 212 , 232, and 237 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

16. Any amount recognized as a loss under section 1001 (c) of the Internal Revenue Code if a surviving spouse and a distributee exchange their interests in marital property under s. 766.31 (3) (b).

17. The amount received under s. 71.07 (3m) (c) or 71.60, or both, that is not included in federal adjusted gross income.

18. Any amount deducted as moving expenses under section 217 of the internal revenue code if the expense relates to a move made by an individual who changes his or her domicile from this state as a result of the move or if the expense relates to a move made by an individual who is not domiciled in this state as a result of the move.

20. The amount of any excess distribution, as that term is used in section 1291 (b) of the Internal Revenue Code, from a passive foreign investment company.

21. For taxable years beginning after December 31, 2007, and before January 1, 2009, any amount deducted as income attributable to domestic production activities under section 199 of the Internal Revenue Code if the individual claiming the deduction is a nonresident or part−year resident of this state and if the domestic production activities income is not attributable to a trade or business that is taxable by this state.

22. For taxable years beginning after December 31, 2007, and before January 1, 2009, if an individual is a nonresident or part−year resident of this state and a portion of the amount the individual deducted as income attributable to domestic production activities under section 199 of the Internal Revenue Code is attributable to a trade or business that is taxable by this state, the amount deducted under section 199 for federal income tax purposes and in excess of that amount, multiplied by a fraction, the numerator of which is the individual's net earnings from the trade or business that is taxable by this state and the denominator of which is the individual's total net earnings from the trade or business to which the deduction under section 199 of the Internal Revenue Code applies.

23. Any amount deducted by an individual under section 62 (a) (20) of the Internal Revenue Code related to attorney fees or court costs, involving an unlawful discrimination claim, if the

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

individual is a nonresident or part−year resident of this state and if the judgment or settlement resulting from the claim is not taxable by this state.

24. The amount deducted or excluded under the Internal Revenue Code for interest expenses, rental expenses, intangible expenses, and management fees that are directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

25. The amount computed under s. 71.07 (5n) in the previous taxable year and not passed through by a partnership, limited liability company, or tax−option corporation that has added that amount to the partnership's, company's, or tax−option corporation's income under s. 71.21 (4) (a) or 71.34 (1k) (m) and not included in federal adjusted gross income.

(b) *Subtractions.* From federal adjusted gross income subtract to the extent included in federal taxable or adjusted gross income unless the modification is an item, other than a capital gain deduction under s. 71.36 or interest on U.S. obligations, that is passed through to an individual from a tax−option corporation and would be included in that corporation's income if it were not a tax−option corporation:

1. The amount of any interest or dividend income which is by federal law exempt from taxation by this state less the related expense in regard to both the distributable and nondistributable interest and dividend income on a fiduciary return.

Cross−reference: See also ss. Tax 3.095 and 3.096, Wis. adm. code.

2. Net income not allocated or apportioned to this state under s. 71.04.

3. 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 except amounts used to calculate the credit under s. 71.07 (5).

Cross−reference: See also s. Tax 3.098, Wis. adm. code.

3m. As provided under s. 71.07 (3s) (c) 7., the amount of the credit under s. 71.07 (3s) that the taxpayer added back to income under s. 71.05 (6) (a) at the time that the taxpayer first claimed the credit.

4. Disability payments other than disability payments that are paid from a retirement plan, the payments from which are exempt under sub. (1) (ae), (am), and (an), if the individual either is single or is married and files a joint return, to the extent those payments are excludable under section 105 (d) of the Internal Revenue Code as it existed immediately prior to its repeal in 1983 by section 122 (b) of P.L. 98−21, except that if an individual is divorced during the taxable year that individual may subtract an amount only if that person is disabled and the amount that may be subtracted then is $100 for each week that payments are received or the amount of disability pay reported as income, whichever is less. If the exclusion under this subdivision is claimed on a joint return and only one of the spouses is disabled, the maximum exclusion is $100 for each week that payments are received or the amount of disability pay reported as income, whichever is less.

5. Any amounts that are recoveries of federal itemized deductions for which no tax benefit was received for Wisconsin purposes.

6. For the original purchaser of small business stock that is purchased at the time that the business is incorporated, the amount of net capital gains on small business stock otherwise subject to the tax under s. 71.02 if the taxpayer has not acquired the stock by gift, has not acquired the stock in a stock−for−stock exchange and submits with the taxpayer's return a copy of the certification under s. 71.01 (10).

8. The difference between the amount included in federal adjusted gross income for the current year and the amount calculated under section 85 of the internal revenue code (relating to unemployment compensation) as that section existed on December 31, 1985.

9. On assets held more than one year and on all assets acquired from a decedent, 30 percent of the capital gain as computed under the internal revenue code, not including capital gains for which the federal tax treatment is determined under section 406 of P.L. 99−514; not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason; and not including amounts treated as capital gain for federal income tax purposes from the sale or exchange of a lottery prize. For purposes of this subdivision, the capital gains and capital losses for all assets shall be netted before application of the percentage.

9m. On farm assets held more than one year and on all farm assets acquired from a decedent, to the extent that they are not subtracted under subd. 9. or 10., 60 percent of the capital gain as computed under the Internal Revenue Code, not including capital gains for which the federal tax treatment is determined under section 406 of P.L. 99−514; not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason; and not including amounts treated as capital gain for federal income tax purposes from the sale or exchange of a lottery prize. In this subdivision, "farm assets" means livestock, farm equipment, farm real property, and farm depreciable property. For purposes of this subdivision, the capital gains and capital losses for all assets shall be netted before application of the percentage.

10. Farm losses added to income under par. (a) 10. in any of the 15 preceding years, to the extent that they are not offset against farm income of any year between the loss year and the taxable year for which the modification under this subdivision is claimed and to the extent that they do not exceed the net profits or net gains from the sale or exchange of capital or business assets in the current taxable year from the same farming business or portion of that business to which the limits on deductible farm losses under par. (a) 10. applied in the loss year.

11. The amount of recapture under s. 71.07 (2di) (e).

12. Any amount recognized as a gain under section 1001 (c) of the Internal Revenue Code if a surviving spouse and a distributee exchange their interests in marital property under s. 766.31 (3) (b).

13. Any amount of basic, special and incentive pay income or compensation, as those terms are used in 37 USC chapters 3 and 5, received from the federal government by a person who is a member of a reserve component of the U.S. armed forces, as defined in 26 USC 7701 (a) (15), and is below the grade of commissioned officer, for services performed for Operation Desert Shield or Operation Desert Storm. In this subdivision, "services performed for Operation Desert Shield or Operation Desert Storm" means service in a unit of the U.S. armed forces if:

a. The person is activated for Operation Desert Shield or Operation Desert Storm; and

b. The service occurs during the period that there is in effect a designation by the president of the United States that the service is part of Operation Desert Shield or Operation Desert Storm.

14. Up to $500 per month of basic, special and incentive pay income or compensation, as those terms are used in 37 USC chapters 3 and 5, received from the federal government by a person who is a member of a reserve component of the U.S. armed forces, as defined in 26 USC 7701 (a) (15), and is a commissioned officer, for services performed for Operation Desert Shield or Operation Desert Storm. In this subdivision, "services performed for Operation Desert Shield or Operation Desert Storm" means service in a unit of the U.S. armed forces if:

a. The person is activated for Operation Desert Shield or Operation Desert Storm; and

b. The service occurs during the period that there is in effect a designation by the president of the United States that the service is part of Operation Desert Shield or Operation Desert Storm.

2009−10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Oct. 1, 2012. Statutory changes effective on or prior to Oct. 1, 2012 are printed as currently in effect. Changes effective after Oct. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (10−3−12)

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

17. For taxable years beginning after December 31, 1992, and before January 1, 1994, an amount paid by a self−employed person, or an amount paid by a person who is the employee of another person if the person's employer pays no amount of money toward the person's medical care insurance, for medical care insurance for the person, his or her spouse and the person's dependents, calculated as follows:

a. Twenty−five percent of the amount paid by the person for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the person, his or her spouse and the person's dependents and provides surgical, medical, hospital, major medical or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness or injury.

b. From the amount calculated under subd. 17. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For a person who is a nonresident or a part−year resident of this state, modify the amount calculated under subd. 17. b. by multiplying the amount by a fraction the numerator of which is the person's net earnings from a trade or business taxable by this state and the denominator of which is the person's total net earnings from a trade or business.

d. Reduce the amount calculated under subd. 17. b. or c. to the person's aggregate net earnings from a trade or business that are taxable by this state.

18. For taxable years beginning after December 31, 1993, and before January 1, 1995, an amount paid by a self−employed person, or an amount paid by a person who is the employee of another person if the person's employer pays no amount of money toward the person's medical care insurance, for medical care insurance for the person, his or her spouse and the person's dependents, calculated as follows:

a. Fifty percent of the amount paid by the person for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the person, his or her spouse and the person's dependents and provides surgical, medical, hospital, major medical or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness or injury.

b. From the amount calculated under subd. 18. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For a person who is a nonresident or a part−year resident of this state, modify the amount calculated under subd. 18. b. by multiplying the amount by a fraction the numerator of which is the person's net earnings from a trade or business taxable by this state and the denominator of which is the person's total net earnings from a trade or business.

d. Reduce the amount calculated under subd. 18. b. or c. to the person's aggregate net earnings from a trade or business that are taxable by this state.

19. For taxable years beginning on or after January 1, 1995, an amount paid by a self−employed person for medical care insurance for the person, his or her spouse and the person's dependents, calculated as follows:

a. One hundred percent of the amount paid by the person for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the person, his or her spouse and the person's dependents and provides surgical, medical, hospital, major medical or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness or injury.

b. From the amount calculated under subd. 19. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For a person who is a nonresident or a part−year resident of this state, modify the amount calculated under subd. 19. b. by multiplying the amount by a fraction the numerator of which is the person's net earnings from a trade or business that are taxable by this state and the denominator of which is the person's total net earnings from a trade or business.

d. Reduce the amount calculated under subd. 19. b. or c. to the person's aggregate net earnings from a trade or business that are taxable by this state.

20. For taxable years beginning on or after January 1, 1995, and before January 1, 2006, an amount paid by a person who is the employee of another person if the person's employer pays no amount of money toward the person's medical care insurance, for medical care insurance for the person, his or her spouse and the person's dependents, calculated as follows:

a. Fifty percent of the amount paid by the person for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the person, his or her spouse and the person's dependents and provides surgical, medical, hospital, major medical or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness or injury.

b. From the amount calculated under subd. 20. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For a person who is a nonresident or a part−year resident of this state, modify the amount calculated under subd. 20. b. by multiplying the amount by a fraction the numerator of which is the person's net earnings from a trade or business taxable by this state and the denominator of which is the person's total net earnings from a trade or business.

d. Reduce the amount calculated under subd. 20. b. or c. to the person's aggregate net earnings from a trade or business that are taxable by this state.

21. a. For taxable years beginning before January 1, 2007, the difference between the amount of social security benefits included in federal adjusted gross income for the current year and the amount calculated under section 86 of the Internal Revenue Code as that section existed on December 31, 1992.

b. For taxable years beginning before January 1, 2008, the difference between the amount of social security benefits included in federal adjusted gross income for the current year and the amount calculated under section 86 of the Internal Revenue Code as that section existed on December 31, 1992.

c. For taxable years beginning after December 31, 2007, the amount of social security benefits included in federal adjusted gross income under section 86 of the Internal Revenue Code.

22. For taxable years beginning after December 31, 1995, an amount up to $5,000 that is expended during the period that consists of the year to which the claim relates and the prior 2 taxable years, by a full−year resident of this state who is an adoptive parent, for adoption fees, court costs or legal fees relating to the adoption of a child, for whom a final order of adoption has been entered under s. 48.91 (3) during the taxable year.

23. Any increase in value of a tuition unit that is purchased under a tuition contract under s. 16.64, except that the subtraction

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

under this subdivision may not be claimed by any individual who received a refund under s. 16.64 (7) (a) 2., 3. or 4.

25. All gains that are not excluded from taxation under subd. 9., on business assets or on assets used in farming, including shares in a corporation or trust that meets the standards under s. 182.001 (1), or both, held more than one year, that are sold or otherwise disposed of to persons who are related to the seller or transferor by blood, marriage or adoption within the 3rd degree of kinship as determined under s. 990.001 (16), as computed under the Internal Revenue Code, not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason.

26. For taxable years beginning on or after January 1, 1998, an amount paid by a person for a long−term care insurance policy for the person and his or her spouse, calculated as follows:

a. One hundred percent of the amount paid by the person for a long−term care insurance policy. In this subdivision, "long−term care insurance policy" means a disability insurance policy or certificate advertised, marketed, offered or designed primarily to provide coverage for care that is provided in the insured person's home or in institutional and community−based settings and that is convalescent or custodial care or care for a chronic condition or terminal illness; the term does not include a medicare supplement policy or medicare replacement policy or a continuing care contract, as defined in s. 647.01 (2). "Long−term care insurance policy" applies to a policy that covers the person and his or her spouse.

b. From the amount calculated under subd. 26. a., subtract the amounts deducted from gross income for a long−term care insurance policy in the calculation of federal adjusted gross income.

c. For a person who is a nonresident or a part−year resident of this state, modify the amount calculated under subd. 26. b. by multiplying the amount by a fraction the numerator of which is the person's wages, unearned income and net earnings from a trade or business that are taxable by this state and the denominator of which is the person's total wages, unearned income and net earnings from a trade or business.

d. Reduce the amount calculated under subd. 26. b. or c. to the person's aggregate wages, unearned income and net earnings from a trade or business that are taxable by this state.

28. An amount paid by a claimant for tuition expenses and mandatory student fees for a student who is the claimant or who is the claimant's child and the claimant's dependent who is claimed under section 151 (c) of the Internal Revenue Code, to attend any university, college, technical college or a school approved under s. 38.50, that is located in Wisconsin or to attend a public vocational school or public institution of higher education in Minnesota under the Minnesota−Wisconsin reciprocity agreement under s. 39.47, calculated as follows:

a. Subject to subd. 28. am., an amount equal to one of the following per student for each year to which the claim relates: for taxable years beginning before January 1, 2009, not more than twice the average amount charged by the board of regents of the University of Wisconsin System at 4−year institutions for resident undergraduate academic fees for the most recent fall semester, as determined by the board of regents by September 1 of that semester; for taxable years beginning after December 31, 2008, and subject to subd. 28. am., $6,000.

am. Notwithstanding subd. 28. a., for taxable years beginning after December 31, 2008, the department of revenue and the Board of Regents of the University of Wisconsin System shall continue making the calculation described under subd. 28. a. Notwithstanding subd. 28. a., once this calculation exceeds $6,000, the deduction for tuition expenses and mandatory student fees, as described in subd. 28. (intro.), shall be based on an amount equal to not more than twice the average amount charged by the Board of Regents of the University of Wisconsin System at 4−year institutions for resident undergraduate academic fees for the most recent fall semester, as determined by the Board of Regents by September 1 of that semester, per student for each year to which the claim relates, and the deduction that may be claimed under this subd. 28. am. first applies to taxable years beginning on the January 1 after the calculation of the Board of Regents, that must occur by September 1, exceeds $6,000.

b. From the amount calculated under subd. 28. a. or am., if the claimant is single or married and filing as head of household and his or her federal adjusted gross income is more than $50,000 but not more than $60,000, subtract the product of the amount calculated under subd. 28. a. or am. and the value of a fraction, the denominator of which is $10,000 and the numerator of which is the difference between the claimant's federal adjusted gross income and $50,000.

c. From the amount calculated under subd. 28. a. or am., if the claimant is married and filing jointly and the claimant's and his or her spouse's federal adjusted gross income is more than $80,000 but not more than $100,000, subtract the product of the amount calculated under subd. 28. a. or am. and the value of a fraction, the denominator of which is $20,000 and the numerator of which is the difference between the claimant's and his or her spouse's federal adjusted gross income and $80,000.

d. From the amount calculated under subd. 28. a. or am., if the claimant is married and filing separately and the claimant's federal adjusted gross income is more than $40,000 but not more than $50,000, subtract the product of the amount calculated under subd. 28. a. or am. and the value of a fraction, the denominator of which is $10,000 and the numerator of which is the difference between the claimant's federal adjusted gross income and $40,000.

e. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 28. a., am., b., c. or d. by a fraction the numerator of which is the individual's wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income and net earnings from a trade or business. In this subd. 28. e., for married persons filing separately "wages, salary, tips, unearned income and net earnings from a trade or business" means the separate wages, salary, tips, unearned income and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income and net earnings from a trade or business" means the total wages, salary, tips, unearned income and net earnings from a trade or business of both spouses.

f. Reduce the amount calculated under subd. 28. a., am., b., c., d. or e. to the individual's aggregate wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by this state.

g. No modification may be claimed under this subdivision by a claimant who is single or married and filing as head of household if the claimant's federal adjusted gross income is more than $60,000, by a claimant who is married and filing jointly if the claimant's and his or her spouse's federal adjusted gross income is more than $100,000 or by a claimant who is married and filing separately if the claimant's federal adjusted gross income is more than $50,000.

h. No modification may be claimed under this subdivision for an amount paid for tuition expenses and mandatory student fees, as described under this subdivision, if the source of the payment is an amount withdrawn from a college savings account, as described in s. 16.641 or from a college tuition and expenses program, as described in s. 16.64, and if the owner of the account or a parent, grandparent, great−grandparent, aunt, or uncle of the beneficiary, who contributed to the account, has claimed a deduction under subd. 32. or 33. that relates to such an amount.

29. The amount claimed as a federal miscellaneous itemized deduction under the Internal Revenue Code for repayment of an amount included in income in a previous year to the extent that the repayment was previously included in Wisconsin adjusted gross

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

income, except that no amount that is used in calculating the credit under s. 71.07 (1) may be included in the calculation under this subdivision.

30. For taxable years beginning after December 31, 1998, any settlement received for claims against any person for any recovered assets, or any amount of assets or any gain generated on such assets, that were stolen from, hidden from or otherwise lost by an individual who was persecuted by Nazi Germany or any Axis regime during any period from 1933 to 1945 and have been recovered, returned or otherwise paid to the original victim or his or her heirs or beneficiaries. The assets to which this subdivision applies includes cash, bonds, stocks, deposits in a financial institution, proceeds from a life or other type of insurance policy, jewelry, precious metals, artwork or any other item of value owned by such a victim during any period from 1920 to 1945.

31. Any increase in value of a college savings account, as described in s. 16.641, except that the subtraction under this subdivision may not be claimed by any individual who has made a nonqualified withdrawal, as described in s. 16.641 (2) (e).

32. An amount paid into a college savings account, as described in s. 16.641, by the owner of the account or by a parent, grandparent, great−grandparent, aunt, or uncle of the beneficiary, if the beneficiary of the account is one of the following: the claimant; the claimant's child; the claimant's grandchild; the claimant's great−grandchild; or the claimant's niece or nephew; calculated as follows:

a. An amount equal to not more than $3,000 per beneficiary, by each contributor, or $1,500 by each contributor who is married and files separately, to an account for each year to which the claim relates, except that the total amount for which a deduction may be claimed under this subdivision and under subd. 33., per beneficiary by any claimant may not exceed $3,000 each year, or $1,500 each year by any claimant who is married and files separately. In the case of a married couple, the total deduction under this subdivision and under subd. 33., per beneficiary by the married couple may not exceed $3,000 each year. In the case of divorced parents, the total deduction under this subdivision and under subd. 33., per beneficiary by the formerly married couple, may not exceed $3,000, and the maximum amount that may be deducted by each former spouse is $1,500, unless the divorce judgment specifies a different division of the $3,000 maximum that may be claimed by each former spouse.

b. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 32. a. by a fraction the numerator of which is the individual's wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income and net earnings from a trade or business. In this subd. 32. b., for married persons filing separately "wages, salary, tips, unearned income and net earnings from a trade or business" means the separate wages, salary, tips, unearned income and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income and net earnings from a trade or business" means the total wages, salary, tips, unearned income and net earnings from a trade or business of both spouses.

c. Reduce the amount calculated under subd. 32. a. or b. to the individual's aggregate wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by this state.

33. An amount paid into a college tuition and expenses program, as described in s. 16.64, by the owner of the account or by a parent, grandparent, great−grandparent, aunt, or uncle of the beneficiary, if the beneficiary of the account is one of the following: the claimant; the claimant's child; the claimant's grandchild; the claimant's great−grandchild; or the claimant's niece or nephew; calculated as follows:

a. An amount equal to not more than $3,000 per beneficiary, by each contributor, or $1,500 by each contributor who is married and files separately, to an account for each year to which the claim relates, except that the total amount for which a deduction may be claimed under this subdivision and under subd. 32., per beneficiary by any claimant may not exceed $3,000 each year, or $1,500 each year by any claimant who is married and files separately. In the case of a married couple, the total deduction under this subdivision and under subd. 32., per beneficiary by the married couple may not exceed $3,000 each year. In the case of divorced parents, the total deduction under this subdivision and under subd. 32., per beneficiary by the formerly married couple, may not exceed $3,000, and the maximum amount that may be deducted by each former spouse is $1,500, unless the divorce judgment specifies a different division of the $3,000 maximum that may be claimed by each former spouse.

b. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 33. a. by a fraction the numerator of which is the individual's wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income and net earnings from a trade or business. In this subd. 33. b., for married persons filing separately "wages, salary, tips, unearned income and net earnings from a trade or business" means the separate wages, salary, tips, unearned income and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income and net earnings from a trade or business" means the total wages, salary, tips, unearned income and net earnings from a trade or business of both spouses.

c. Reduce the amount calculated under subd. 33. a. or b. to the individual's aggregate wages, salary, tips, unearned income and net earnings from a trade or business that are taxable by this state.

34. Any amount of basic, special, and incentive pay income or compensation, as those terms are used in 37 USC chapters 3 and 5, received from the federal government by a person who is a member of a reserve component of the U.S. armed forces, after being called into active federal service under the provisions of 10 USC 12302 (a) or 10 USC 12304, or into special state service authorized by the federal department of defense under 32 USC 502 (f), that is paid to the person for a period of time during which the person is on active duty.

35. For taxable years beginning after December 31, 2005, an amount paid by an individual who is the employee of another person if the individual's employer pays no amount of money toward the individual's medical care insurance, for medical care insurance for the individual, his or her spouse, and the individual's dependents, calculated as follows:

a. One hundred percent of the amount paid by the individual for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents and provides surgical, medical, hospital, major medical, or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness, or injury.

b. From the amount calculated under subd. 35. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 35. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 35. c., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

d. Reduce the amount calculated under subd. 35. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

36. For taxable years beginning after December 31, 2006, and before January 1, 2008, an amount paid by an individual, other than a person to whom subd. 19. applies, who has no employer and no self−employment income, for medical care insurance for the individual, his or her spouse, and the individual's dependents, calculated as follows:

a. Thirty−three and four−tenths percent of the amount paid by the individual for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents and provides surgical, medical, hospital, major medical, or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness, or injury.

b. From the amount calculated under subd. 36. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 36. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 36. c., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

d. Reduce the amount calculated under subd. 36. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

37. For taxable years beginning after December 31, 2007, and before January 1, 2011, an amount paid by an individual, other than a person to whom subd. 19. applies, who has no employer and no self−employment income, for medical care insurance for the individual, his or her spouse, and the individual's dependents, calculated as follows:

a. Sixty−six and seven−tenths percent of the amount paid by the individual for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents and provides surgical, medical, hospital, major medical, or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness, or injury.

b. From the amount calculated under subd. 37. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 37. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 37. c., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

d. Reduce the amount calculated under subd. 37. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

38. For taxable years beginning after December 31, 2010, an amount paid by an individual, other than a person to whom subd. 19. applies, who has no employer and no self−employment income, for medical care insurance for the individual, his or her spouse, and the individual's dependents, calculated as follows:

a. One hundred percent of the amount paid by the individual for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents and provides surgical, medical, hospital, major medical, or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness, or injury.

b. From the amount calculated under subd. 38. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 38. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 38. c., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

d. Reduce the amount calculated under subd. 38. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

39. For taxable years beginning after December 31, 2007, and before January 1, 2011, an amount paid by an individual who is the employee of another person, if the individual's employer pays a portion of the cost of the individual's medical care insurance, for medical care insurance for the individual, his or her spouse, and the individual's dependents, calculated as follows:

a. Ten percent of the amount paid by the individual for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents and provides surgical, medical, hospital, major medical, or other health service

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness, or injury.

b. From the amount calculated under subd. 39. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 39. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 39. c., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

d. Reduce the amount calculated under subd. 39. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

40. For taxable years beginning after December 31, 2010, and before January 1, 2012, an amount paid by an individual who is the employee of another person, if the individual's employer pays a portion of the cost of the individual's medical care insurance, for medical care insurance for the individual, his or her spouse, and the individual's dependents, calculated as follows:

a. Twenty−five percent of the amount paid by the individual for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents and provides surgical, medical, hospital, major medical, or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness, or injury.

b. From the amount calculated under subd. 40. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 40. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 40. c., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

d. Reduce the amount calculated under subd. 40. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

41. For taxable years beginning after December 31, 2011, and before January 1, 2013, an amount paid by an individual who is the employee of another person, if the individual's employer pays a portion of the cost of the individual's medical care insurance, for medical care insurance for the individual, his or her spouse, and the individual's dependents, calculated as follows:

a. Forty−five percent of the amount paid by the individual for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents and provides surgical, medical, hospital, major medical, or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness, or injury.

b. From the amount calculated under subd. 41. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 41. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 41. c., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

d. Reduce the amount calculated under subd. 41. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

42. For taxable years beginning after December 31, 2012, an amount paid by an individual who is the employee of another person, if the individual's employer pays a portion of the cost of the individual's medical care insurance, for medical care insurance for the individual, his or her spouse, and the individual's dependents, calculated as follows:

a. One hundred percent of the amount paid by the individual for medical care insurance. In this subdivision, "medical care insurance" means a medical care insurance policy that covers the individual, his or her spouse, and the individual's dependents and provides surgical, medical, hospital, major medical, or other health service coverage, and includes payments made for medical care benefits under a self−insured plan, but "medical care insurance" does not include hospital indemnity policies or policies with ancillary benefits such as accident benefits or benefits for loss of income resulting from a total or partial inability to work because of illness, sickness, or injury.

b. From the amount calculated under subd. 42. a., subtract the amounts deducted from gross income for medical care insurance in the calculation of federal adjusted gross income.

c. For an individual who is a nonresident or part−year resident of this state, multiply the amount calculated under subd. 42. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 42. c., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and

net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

d. Reduce the amount calculated under subd. 42. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

43. Subject to subd. 43. e. and f., one of the following allowable amounts, specified in subd. 43. a. to d., of employment−related expenses claimed by the claimant under section 21 of the Internal Revenue Code in the taxable year to which that claim relates:

a. For taxable years beginning after December 31, 2010, and before January 1, 2012, up to $750 if the claimant has one qualified individual and up to $1,500 if the claimant has more than one qualified individual.

b. For taxable years beginning after December 31, 2011, and before January 1, 2013, up to $1,500 if the claimant has one qualified individual and up to $3,000 if the claimant has more than one qualified individual.

c. For taxable years beginning after December 31, 2012, and before January 1, 2014, up to $2,250 if the claimant has one qualified individual and up to $4,500 if the claimant has more than one qualified individual.

d. For taxable years beginning after December 31, 2013, up to $3,000 if the claimant has one qualified individual and up to $6,000 if the claimant has more than one qualified individual.

e. A claimant who claims the subtraction under this subdivision is subject to the special rules in 26 USC 21 (e) (2) and (4).

f. An individual who is a nonresident or part−year resident of this state and who claims the subtraction under this subdivision shall multiply the amount calculated under subd. 43. a., b., c., or d. by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 43. f., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

44. For taxable years beginning after December 31, 2006, the amount of any incentive payment received by an individual under s. 23.33 (5r) in the taxable year to which the claim relates.

45. An amount added to federal adjusted gross income under par. (a) 24., to the extent that the conditions under s. 71.80 (23) are satisfied.

46. An amount added, pursuant to par. (a) 24. or s. 71.26 (2) (a) 7., 71.34 (1k) (j), or 71.45 (2) (a) 16., to the federal income of a related entity that paid interest expenses, rental expenses, intangible expenses, or management fees to the individual or fiduciary, to the extent that the related entity could not offset such amount with the deduction allowable under subd. 45. or s. 71.26 (2) (a) 8., 71.34 (1k) (k), or 71.45 (2) (a) 17.

47. a. In this subdivision, "locates to this state" means moving either 51 percent or more of the workforce payroll of the business or at least $200,000 of wages, as defined in section 3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the first taxable year to which a modification under this subdivision relates.

am. For taxable years beginning after December 31, 2010, for 2 consecutive taxable years beginning with the taxable year in which the claimant's business locates to this state from another state or another country and begins doing business in this state, as defined in s. 71.22 (1r), and subject to the limitations provided under subd. 47. d. and e., the profit or loss from a trade or business as reported on federal income tax return schedules C and F or their equivalents, plus ordinary gain or loss on the sale of business assets, as determined under s. 71.01 (6), but not less than zero, multiplied by the apportionment fraction determined in s. 71.04 (4) and subject to s. 71.04 (7).

b. With respect to partners and members of limited liability companies, for taxable years beginning after December 31, 2010, for 2 consecutive taxable years beginning with the taxable year in which the partnership's or limited liability company's business locates to this state from another state or another country and begins doing business in this state, as defined in s. 71.22 (1r), and subject to the limitations provided under subd. 47. d. and e., the partner's or member's distributive share of taxable income as calculated under section 703 of the Internal Revenue Code; plus the items of income and gain under section 702 of the Internal Revenue Code, including taxable state and municipal bond interest and excluding nontaxable interest income or dividend income from federal government obligations; minus the items of loss and deduction under section 702 of the Internal Revenue Code, except items that are not deductible under s. 71.21; plus guaranteed payments to partners under section 707 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r); and plus or minus, as appropriate, transitional adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19), multiplied by the apportionment fraction determined in s. 71.04 (4) and subject to s. 71.04 (7) or by separate accounting. No amounts subtracted under this subd. 47. b. may be included in the modification under par. (b) 9. or 9m.

c. With respect to shareholders of a tax−option corporation, for taxable years beginning after December 31, 2010, for 2 consecutive taxable years beginning with the taxable year in which the tax−option corporation's business locates to this state from another state or another country and begins doing business in this state, as defined in s. 71.22 (1r), and subject to the limitations provided under subd. 47. d. and e., the shareholder's distributive share of the entity's net income or loss as determined under this chapter, including interest income from federal, state, and municipal government obligations, multiplied by the apportionment fraction determined in s. 71.25 (6m) and subject to s. 71.25 (9) or by separate accounting. No amounts subtracted under this subdivision may be included in the modification under par. (b) 9. or 9m.

d. No modification may be made under this subdivision if the person, partnership, limited liability company, or tax−option corporation has done business in this state during any of the 2 taxable years preceding the first taxable year in which the modification would otherwise be allowed.

e. The department shall promulgate rules to administer this subdivision.

Cross−reference: See also s. Tax 2.957, Wis. adm. code.

47m. An amount equal to the increase in the number of full−time equivalent employees employed by the taxpayer in this state during the taxable year, multiplied by $4,000 for a business with gross receipts of no greater than $5,000,000 in the taxable year or $2,000 for a business with gross receipts greater than $5,000,000 in the taxable year. For purposes of this subdivision, the increase in the number of full−time equivalent employees employed by the taxpayer in this state during the taxable year is determined by subtracting from the number of full−time equivalent employees employed by the taxpayer in this state during the taxable year, as determined by computing the average employee count from the taxpayer's quarterly unemployment insurance reports or other information as required by the department for the taxable year, the number of full−time equivalent employees employed by the taxpayer in this state during the immediately preceding taxable year, as determined by computing the average employee count from the taxpayer's quarterly unemployment insurance reports or other

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

information as required by the department for the immediately preceding taxable year. No person may claim a deduction under this subdivision if the person may claim a deduction under this subchapter based on the person relocating the person's business from another state to this state and in an amount equal to the person's tax liability. The department shall promulgate rules to administer this subdivision.

NOTE: Subd. 47m. was created as subd. 47. by 2011 Wis. Act 5 and renumbered to subd. 47m. by the legislative reference bureau under s. 13.92 (1) (bm) 2.

Cross−reference: See also s. Tax 3.05, Wis. adm. code.

(7) ADDITION OR SUBTRACTION OF TRANSITIONAL ADJUSTMENTS. Add or subtract, as appropriate, any transitional adjustments computed under sub. (13).

(8) LOSSES. (a) The carry back of losses to reduce income of prior years shall not be permitted. There shall be added any amount deducted as a federal net operating loss carry−over and there shall be subtracted for the first taxable year for which the subtraction may be made any Wisconsin net operating loss carry−forward allowable under par. (b) in an amount not in excess of the Wisconsin taxable income computed before the deduction of the Wisconsin net operating loss carry−forward.

(b) A Wisconsin net operating loss may be carried forward against Wisconsin taxable incomes of the next 15 taxable years, if the taxpayer was subject to taxation under this chapter in the taxable year in which the loss was sustained, to the extent not offset against other income of the year of loss and to the extent not offset against Wisconsin modified taxable income of any year between the loss year and the taxable year for which the loss carry−forward is claimed. In this paragraph, "Wisconsin modified taxable income" means Wisconsin taxable income with the following exceptions: a net operating loss deduction or offset for the loss year or any taxable year thereafter is not allowed, the deduction for long−term capital gains under subs. (6) (b) 9. and 9m. and (25) is not allowed, the amount deductible for losses from sales or exchanges of capital assets may not exceed the amount includable in income for gains from sales or exchanges of capital assets and "Wisconsin modified taxable income" may not be less than zero.

(9) PARTNERS OR LIMITED LIABILITY COMPANY MEMBERS. In determining Wisconsin adjusted gross income or Wisconsin taxable income of a partner or member, any applicable modification described in this section which relates to an item of partnership or limited liability company income, gain, loss or deduction shall be made in accordance with the partner's or member's distributive share, for federal income tax purposes, of the item to which the modification relates. Where a partner's or member's distributive share of any such item is not required to be taken into account separately for federal income tax purposes or the modification relates to no ascertainable item of the partnership or limited liability company income of the current year, each partner's or member's share of such modification shall be proportional to his or her distributive share for federal income tax purposes of partnership or company taxable income or loss generally.

(10) OTHER ADJUSTMENTS. Add to or subtract from federal adjusted gross income, as appropriate:

(b) Except as provided in sub. (21), the shareholder's proportionate share of the amount by which any item of income, loss or deduction of a tax−option corporation subject to taxation under this chapter differs from federal taxable income, loss or deduction of the corporation for the same year attributed to its shareholders, and any amount necessary to prevent the double inclusion or omission of any item of income, loss, deduction or basis, except that credits against gross tax may not be subtracted under this paragraph.

(c) The amount required so that the net capital loss, after netting capital gains and capital losses to arrive at total capital gain or loss, is offset against ordinary income only to the extent of $500. Losses in excess of $500 shall be carried forward to the next taxable year and offset against ordinary income up to the limit under this paragraph. Losses shall be used in the order in which they accrue.

(d) Any item of income, loss or deduction passed through from a corporation that is an S corporation for federal income tax purposes and is, under s. 71.365 (4), not a tax−option corporation.

(e) Add or subtract, as appropriate, on sale, exchange, abandonment or other disposition in a transaction in which gain or loss is recognized by the owner of the property acquired from a decedent, the difference between the federal basis and the Wisconsin basis. For this purpose, property acquired from a decedent is as described in section 1014 of the internal revenue code, exclusive of property constituting income under section 102 (b) of the internal revenue code. The Wisconsin basis of property acquired from a decedent is determined under the internal revenue code, except that the value used for property is the value properly includable for Wisconsin death tax purposes rather than the value of property includable for federal estate tax purposes. In this paragraph, property deemed to be includable for Wisconsin death tax purposes includes exempt property under s. 72.15 (5), 1985 stats., but the exclusion under s. 72.12 (6) (b), 1985 stats., is not deemed to be property properly includable. If at least 50% of the marital property held by a decedent and the decedent's surviving spouse is includable for purposes of computing the federal estate tax, all of the decedent's and the decedent's spouse's marital property and all of the decedent's individual property is deemed property properly includable for Wisconsin death tax purposes.

(f) The amount necessary to reflect the inapplicability of section 66 (a) of the internal revenue code to the computation of income under this chapter.

(g) The amount necessary to reflect the applicability of s. 71.10 (6) (b) to (d) to the computation of income under this chapter.

(h) The amount necessary to reflect any other differences between the treatment of marital income for federal income tax purposes and the treatment of marital income under this chapter or under rules promulgated under this chapter.

(i) 1. Subject to the conditions in this paragraph, an individual may subtract up to $10,000 from federal adjusted gross income if he or she, or his or her dependent who is claimed under section 151 (c) of the Internal Revenue Code, while living, donates one or more of his or her human organs to another human being for human organ transplantation, as defined in s. 146.345 (1), except that in this paragraph, "human organ" means all or part of a liver, pancreas, kidney, intestine, lung, or bone marrow. A subtract modification that is claimed under this paragraph may be claimed in the taxable year in which the human organ transplantation occurs.

2. An individual may claim the subtract modification under subd. 1. only once, and the subtract modification may be claimed for only the following unreimbursed expenses that are incurred by the claimant and related to the claimant's organ donation:

a. Travel expenses.

b. Lodging expenses.

c. Lost wages.

3. The subtract modification under subd. 1. may not be claimed by a part−year resident or a nonresident of this state.

(11) WASTE TREATMENT PLANT; POLLUTION ABATEMENT EQUIPMENT. (a) The federal adjusted basis at the end of the calendar year 1968 or corresponding fiscal year of waste treatment plant or pollution abatement equipment acquired pursuant to order or recommendation of the committee on water pollution, state board of health, city council, village board or county board pursuant to s. 59.07 (53) or (85), 1971 stats., may be treated as a subtraction modification on the return of the calendar year 1969 or corresponding fiscal year but not in later years. In case of such subtraction an add modification shall be made in 1969 and later taxable years to reverse federal depreciation or amortization of such basis or to correct gain or loss on disposition. The cost of such plant or

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

equipment acquired in 1969 or thereafter pursuant to order, recommendation or approval of the committee on water pollution, department of resource development, department of natural resources, state board of health, city council, village board, or county board pursuant to s. 59.07 (53) or (85), 1971 stats., (less any federal depreciation or amortization taken) may be deducted as a subtraction modification or as subtraction modifications in the year or years in which paid or accrued, dependent on the method of accounting employed. In case of such election, appropriate add modifications shall be made in subsequent years to reverse federal depreciation or amortization or to correct gain or loss on disposition. This paragraph is intended to apply only to depreciable property except that where wastes are disposed of through a lagoon process, lagooning costs and the cost of land containing such lagoons may be treated as depreciable property for purposes of this paragraph. In no event may any amount in excess of cost be deducted. The taxpayer shall file with the department copies of all recommendations, orders or approvals relating to installation of such property and such other documents or data relating thereto as the department requests.

(b) The cost of the following described property, less any federal depreciation or amortization taken, may be deducted as a subtraction modification or as subtraction modifications in the year or years in which paid or accrued, dependent on the method of accounting employed: All property purchased or constructed as a waste treatment facility utilized for the treatment of industrial wastes, as defined in s. 281.01 (5), or air contaminants, as defined in s. 285.01 (1), but not for other wastes, as defined in s. 281.01 (7), for the purpose of abating or eliminating pollution of surface waters, the air, or waters of the state and, if the property's owner is taxed under ch. 76, if the property is approved by the department of revenue. In case of such election, appropriate add modifications shall be made in subsequent years to reverse federal depreciation or amortization or to correct gain or loss on disposition. This paragraph is intended to apply only to depreciable property except that where wastes are disposed of through a lagoon process, lagooning costs and the cost of land containing such lagoons may be treated as depreciable property for purposes of this paragraph. In no event may any amount in excess of cost be deducted. Paragraph (a) applies to all property purchased prior to July 31, 1975, or purchased and constructed in fulfillment of a written construction contract or formal written bid, which contract was entered into or which bid was made prior to July 31, 1975.

(12) BASIS. (a) Except as provided in pars. (b) and (c), the Wisconsin basis of an asset owned by an individual, estate or trust and acquired before the individual became a resident of this state or before the estate or trust became subject to taxation under this chapter is the federal adjusted basis.

(b) Whenever an individual acquires a new residence, as defined in section 1034 (a) of the internal revenue code, in this state, the adjusted basis of the new residence is not required to be reduced as required under sections 1016 (a) (7) and 1034 (e) of the internal revenue code upon the sale or exchange of an old residence located outside this state if:

1. The sale or exchange of the old residence occurred in taxable year 1975 or thereafter and the individual was not a resident of this state at the time of sale or exchange of the old residence; or

2. The sale or exchange of the old residence occurred before taxable year 1975, regardless of whether the individual was a resident of this state at the time of sale or exchange of the old residence.

(c) Whenever a resident of this state sells or exchanges a principal residence located outside this state and the nonrecognition of gain provision of section 1034 (a) of the internal revenue code does not apply to that sale or exchange, the adjusted basis of the residence sold or exchanged is not required to be reduced as required by sections 1016 (a) (7) and 1034 (e) of the internal revenue code for any nonrecognized gain on the sale or exchange of any old principal residence located outside this state if:

1. The sale or exchange of the old residence occurred in taxable year 1975 or thereafter and the individual was not a resident of this state at the time of sale or exchange of the old residence; or

2. The sale or exchange of the old residence occurred before taxable year 1975, regardless of whether the individual was a resident of this state at the time of sale or exchange of the old residence.

(d) Property exchanged under s. 766.31 (3) (b) shall be treated as if acquired by gift for the determination of basis.

Cross−reference: See also s. Tax 2.30, Wis. adm. code.

(13) TRANSITIONAL ADJUSTMENTS. It is the purpose of this subsection to prevent the double inclusion or omission of any item of income, deduction or basis by reason of change to reporting on the basis of federal taxable income or federal adjusted gross income.

(a) *Definitions.* In this subsection:

1. "Adjusted basis" of a liability or reserve account created by accruals or other charges deducted from income for federal or Wisconsin income tax purposes is the current balance of such account on the transitional date.

2. "Changing basis assets" means inventories and assets or accounts, including liability and reserve accounts created by accruals or other charges deducted from income, other than annuity contracts or constant basis assets. "Changing basis assets" include property subject to deprecation, depletion or amortization of cost, premium or discount; capitalized intangible expenses such as trademark expense, research and development expense and loan expense if the same are being amortized for federal income tax purposes; and accruals, reserves and deferrals of either income or expense.

3. "Constant basis assets" means assets, other than inventories, the federal adjusted basis of which does not affect and is not affected by the computation of the taxpayer's federal taxable income except when such asset is sold, exchanged, abandoned or otherwise disposed of.

4. "Federal adjusted basis" means the adjusted basis of the asset or account for the purpose of determining gain on the sale or other disposition thereof computed as of the transitional date for federal income tax purposes.

5. "Owner" means successively the owner of changing basis assets or constant basis assets as of the transitional date and any subsequent owner whose basis for such assets is found by reference to the basis therefor of another person.

6. "Transitional date" means the first day of the taxpayer's 1965 taxable year.

7. "Wisconsin adjusted basis" means the adjusted basis of the asset or account which would have been applicable in determining gain on the sale or other disposition thereof on the day preceding the transitional date.

(b) With respect to a constant basis asset any excess of federal adjusted basis over Wisconsin adjusted basis shall be added to income, and any excess of Wisconsin adjusted basis over federal adjusted basis shall be subtracted from income in the year in which such asset is sold, exchanged, abandoned or otherwise disposed of by the owner in a transaction in which gain or loss is recognized to the owner.

(14) TRANSITIONAL ADJUSTMENT; LOSS CARRY−FORWARDS. The amount of any long−term capital loss carry−forward from any taxable year prior to the 1982 taxable year which is not allowed as a deduction under section 1211 (b) of the internal revenue code may be deducted, subject to the annual limitations provided in section 1211 (b) of the internal revenue code. A deduction is authorized under this subsection only when the amount of capital loss or capital loss carry−forward deducted in determining federal adjusted gross income for the taxable year is less than the limitations provided in section 1211 (b) of the internal revenue code. For taxable years 1982 to 1985 for married persons, the annual limitation referred to in this subsection shall be determined under the separate return provisions of section 1211 (b) (2) of the internal reve-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

nue code. For taxable year 1986 and thereafter for married persons, the annual limitation shall be determined under section 1211 (b) of the internal revenue code.

(15) TRANSITION. In regard to property that, under s. 71.02 (2) (d) 12., 1985 stats., is required to be depreciated for taxable year 1986 under the internal revenue code as amended to December 31, 1980, and that was placed in service by the taxpayer during taxable year 1986 and thereafter but before the property is used in the production of income subject to taxation under this chapter, the property's adjusted basis and the depreciation or other deduction schedule are not required to be changed from the amount allowable on the owner's federal income tax returns for any year because the property is used in the production of income subject to taxation under this chapter.

(16) DEPRECIATION CONTINUATION. Property that, under s. 71.02 (2) (d) 12., 1985 stats., is required to be depreciated for taxable year 1986 under the internal revenue code as amended to December 31, 1980, shall continue to be depreciated under the internal revenue code as amended to December 31, 1980.

(17) DIFFERENCE IN BASIS. With respect to depreciable property that, under s. 71.02 (2) (d) 12., 1985 stats., is required to be depreciated for taxable year 1986 under the internal revenue code as amended to December 31, 1980, and that was disposed of in taxable year 1986 and thereafter, any difference between the adjusted basis for federal income tax purposes and the adjusted basis under this chapter shall be taken into account in determining net income or loss in the year or years that the gain or loss is reportable under this chapter.

(18) CARRY−OVER BASIS PRECLUDED. With respect to property that, under s. 71.02 (2) (d) 12., 1985 stats., is required to be depreciated for taxable year 1986 under the internal revenue code as amended to December 31, 1980, and that was acquired in a transaction occurring in taxable year 1986 and thereafter in which the adjusted basis of the property in the hands of the transferee is the same as the adjusted basis of the property in the hands of the transferor, the Wisconsin adjusted basis of that property on the date of transfer is the adjusted basis allowable under the depreciation provisions of the internal revenue code as defined for Wisconsin purposes for the property in the hands of the transferor.

(19) MODIFICATION OF FEDERAL ADJUSTED GROSS INCOME. Whenever a person other than a corporation acquires, after the transitional date, as defined in sub. (13) (a) 6., a constant basis asset, the federal basis of which is different from the Wisconsin basis, an appropriate modification of federal adjusted gross income shall be made in the year of sale, exchange, abandonment or other disposition of such asset properly to reflect the income consequences of such difference. Whenever such a person acquires, after said transitional date, a changing basis asset the federal basis of which is different from the Wisconsin basis, appropriate modifications of federal adjusted gross income shall be made each year properly to reflect the income consequences of such difference; in any such case the secretary of revenue or his or her delegate may agree with the taxpayer for an amortization of such difference in basis over a period of 5 years or less.

(20) PARTNERSHIP INTERESTS. Whenever a person other than a corporation sells, exchanges or otherwise disposes of an ownership interest in a partnership in a transaction in which gain or loss is recognized, an appropriate modification to federal adjusted gross income may be made in the year of disposition to reflect an increase or decrease in the basis of the partnership interest equal to any reductions or additions in such basis occurring in calendar or fiscal years prior to 1975 as a result of losses or gains relating to business or property which had a situs outside of this state under the provisions of s. 71.07, 1985 stats., in effect for years prior to 1975.

(21) CAPITAL GAIN AND LOSS TREATMENT FOR ADJUSTMENTS FOR DIFFERENCE IN WISCONSIN AND FEDERAL BASIS OF CAPITAL ASSETS. Notwithstanding the provisions of subs. (7), (10) (b) and (e), (13), (19) and (20), the amount of any adjustment relating to the basis of a capital asset shall be combined with other long−term or short−term capital gains and losses reportable for the taxable year or carry−over year, as appropriate. The provisions of sections 1202, 1211 and 1212 of the internal revenue code, to the extent recognized or allowed by this chapter (including any addition required by s. 71.05 (1) (a) 2., 1983 stats., for the taxable year 1983), apply to the resulting net gain or loss determined. Add or subtract, as appropriate, from federal adjusted gross income of the taxable year or a carry−over year an amount to reflect the income consequences of making the amount of a basis adjustment required under this subsection subject to capital gain and loss treatment.

(22) STANDARD DEDUCTION. (a) *Election of deductions; husband and wife deductions.* Natural persons who have not elected the federal standard deduction, or tax tables based on adjusted gross income, in filing their federal income tax return, may elect the Wisconsin standard deduction in reporting Wisconsin's taxable income of the same year.

(b) *Deduction precluded.* The standard deduction shall not be allowed in computing the taxable income of:

1. A nonresident alien individual.

2. A U.S. citizen entitled to the benefits of section 931 of the internal revenue code for federal income tax purposes, applicable with respect to taxation of individuals on 1973 income, and income of subsequent years.

3. An individual making a return for a period of less than 12 months because of a change in his or her annual accounting period.

4. An estate or trust, common trust fund, partnership or limited liability company.

(c) *Deduction limits; 1987.* For taxable year 1987, the Wisconsin standard deduction is whichever of the following amounts is appropriate. For a single individual who has a Wisconsin adjusted gross income of less than $7,500, the standard deduction is $5,200. For a single individual who has a Wisconsin adjusted gross income of at least $7,500 but not more than $50,830, the standard deduction is the amount obtained by subtracting from $5,200 12% of Wisconsin adjusted gross income in excess of $7,500 but not less than $0. For a single individual who has a Wisconsin adjusted gross income of more than $50,830, the standard deduction is $0. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of less than $10,000, the standard deduction is $7,560. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of at least $10,000 but not more than $70,480, the standard deduction is the amount obtained by subtracting from $7,560 12.5% of aggregate Wisconsin adjusted gross income in excess of $10,000 but not less than $0. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of more than $70,480, the standard deduction is $0. For a married individual filing separately who has a Wisconsin adjusted gross income of less than $4,750, the standard deduction is $3,590. For a married individual filing separately who has a Wisconsin adjusted gross income of at least $4,750 but not more than $33,470, the standard deduction is the amount obtained by subtracting from $3,590 12.5% of Wisconsin adjusted gross income in excess of $4,750 but not less than $0. For a married individual filing separately who has a Wisconsin adjusted gross income of more than $33,470, the standard deduction is $0. The secretary of revenue shall prepare a table under which deductions under this paragraph shall be determined. That table shall be published in the department's instructional booklets.

(d) *Deduction limits; 1988 to 1993.* Except as provided in par. (f), for taxable years beginning on or after January 1, 1988, but before January 1, 1994, the Wisconsin standard deduction is whichever of the following amounts is appropriate. For a single individual who has a Wisconsin adjusted gross income of less than $7,500, the standard deduction is $5,200. For a single individual who has a Wisconsin adjusted gross income of at least $7,500 but not more than $50,830, the standard deduction is the amount

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

obtained by subtracting from $5,200 12% of Wisconsin adjusted gross income in excess of $7,500 but not less than $0. For a single individual who has a Wisconsin adjusted gross income of more than $50,830, the standard deduction is $0. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of less than $10,000, the standard deduction is $8,900. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of at least $10,000 but not more than $55,000, the standard deduction is the amount obtained by subtracting from $8,900 19.778% of aggregate Wisconsin adjusted gross income in excess of $10,000 but not less than $0. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of more than $55,000, the standard deduction is $0. For a married individual filing separately who has a Wisconsin adjusted gross income of less than $4,750, the standard deduction is $4,230. For a married individual filing separately who has a Wisconsin adjusted gross income of at least $4,750 but not more than $26,140, the standard deduction is the amount obtained by subtracting from $4,230 19.778% of Wisconsin adjusted gross income in excess of $4,750 but not less than $0. For a married individual filing separately who has a Wisconsin adjusted gross income of more than $26,140, the standard deduction is $0. The secretary of revenue shall prepare a table under which deductions under this paragraph shall be determined. That table shall be published in the department's instructional booklets.

(dm) *Deduction limits; 1994 to 1999.* Except as provided in par. (f), for taxable years beginning after December 31, 1993, and before January 1, 2000, the Wisconsin standard deduction is whichever of the following amounts is appropriate. For a single individual who has a Wisconsin adjusted gross income of less than $7,500, the standard deduction is $5,200. For a single individual who has a Wisconsin adjusted gross income of at least $7,500, the standard deduction is the amount obtained by subtracting from $5,200 12% of Wisconsin adjusted gross income in excess of $7,500 but not less than $0. For a head of household who has a Wisconsin adjusted gross income of less than $7,500, the standard deduction is $7,040. For a head of household who has a Wisconsin adjusted gross income of at least $7,500, the standard deduction is the amount obtained by subtracting from $7,040 22.515% of Wisconsin adjusted gross income in excess of $7,500 but not less than $0, until the adjusted gross income amount at which the standard deduction is equal to the standard deduction for a single individual at the same adjusted gross income amount. For a head of household who has a Wisconsin adjusted gross income of more than this amount, the standard deduction shall be calculated as if the head of household were a single individual. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of less than $10,000, the standard deduction is $8,900. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of at least $10,000, the standard deduction is the amount obtained by subtracting from $8,900 19.778% of aggregate Wisconsin adjusted gross income in excess of $10,000 but not less than $0. For a married individual filing separately who has a Wisconsin adjusted gross income of less than $4,750, the standard deduction is $4,230. For a married individual filing separately who has a Wisconsin adjusted gross income of at least $4,750, the standard deduction is the amount obtained by subtracting from $4,230 19.778% of Wisconsin adjusted gross income in excess of $4,750 but not less than $0. The secretary of revenue shall prepare a table under which deductions under this paragraph shall be determined. That table shall be published in the department's instructional booklets.

(dp) *Deduction limits, 2000 and thereafter.* Except as provided in par. (f), for taxable years beginning after December 31, 1999, the Wisconsin standard deduction is whichever of the following amounts is appropriate. For a single individual who has a Wisconsin adjusted gross income of less than $10,380, the standard deduction is $7,200. For a single individual who has a Wisconsin adjusted gross income of at least $10,380, the standard deduction is the amount obtained by subtracting from $7,200 12% of Wisconsin adjusted gross income in excess of $10,380 but not less than $0. For a head of household who has a Wisconsin adjusted gross income of less than $10,380, the standard deduction is $9,300. For a head of household who has a Wisconsin adjusted gross income of at least $10,380, the standard deduction is the amount obtained by subtracting from $9,300 22.515% of Wisconsin adjusted gross income in excess of $10,380, but not less than $0, until the adjusted gross income amount at which the standard deduction is equal to the standard deduction for a single individual at the same adjusted gross income amount. For a head of household who has a Wisconsin adjusted gross income of more than this amount, the standard deduction shall be calculated as if the head of household were a single individual. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of less than $14,570, the standard deduction is $12,970. For a married couple filing jointly that has an aggregate Wisconsin adjusted gross income of at least $14,570, the standard deduction is the amount obtained by subtracting from $12,970 19.778% of aggregate Wisconsin adjusted gross income in excess of $14,570 but not less than $0. For a married individual filing separately who has a Wisconsin adjusted gross income of less than $6,920, the standard deduction is $6,160. For a married individual filing separately who has a Wisconsin adjusted gross income of at least $6,920, the standard deduction is the amount obtained by subtracting from $6,160 19.778% of Wisconsin adjusted gross income in excess of $6,920 but not less than $0. The secretary of revenue shall prepare a table under which deductions under this paragraph shall be determined. That table shall be published in the department's instructional booklets.

(ds) *Standard deduction indexing.* For taxable years beginning after December 31, 1998, and before January 1, 2000, the dollar amounts of the standard deduction that is allowable under par. (dm) and all of the dollar amounts of Wisconsin adjusted gross income under par. (dm) shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the year before the previous year, as determined by the federal department of labor. Each amount that is revised under this paragraph shall be rounded to the nearest multiple of $10 if the revised amount is not a multiple of $10 or, if the revised amount is a multiple of $5, such an amount shall be increased to the next higher multiple of $10. The department of revenue shall annually adjust the changes in dollar amounts required under this paragraph and incorporate the changes into the income tax forms and instructions.

(dt) *Standard deduction indexing, 2001 and thereafter.* For taxable years beginning after December 31, 2000, the dollar amounts of the standard deduction that is allowable under par. (dp) and all of the dollar amounts of Wisconsin adjusted gross income under par. (dp) shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 1999, as determined by the federal department of labor, except that for taxable years beginning after December 31, 2011, the adjustment may occur only if the resulting amount is greater than the corresponding amount that was calculated for the previous year. Each amount that is revised under this paragraph shall be rounded to the nearest multiple of $10 if the revised amount is not a multiple of $10 or, if the revised amount is a multiple of $5, such an amount shall be increased to the next higher multiple of $10. The department of revenue shall annually adjust the changes in dollar amounts required under this paragraph and incorporate the changes into the income tax forms and instructions.

(e) *Proration for fiscal year filer.* For a fiscal year taxpayer, any increase in the standard deduction over the standard deduction

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

permissible in the previous calendar year must be prorated by taking into account the number of days of the taxpayer's fiscal year falling in each calendar year.

(f) *Limitation for dependent who files return.* 1. For taxable years beginning before January 1, 1993, in the case of a taxpayer with respect to whom a deduction under s. 71.07 (8) is allowable to another person, the Wisconsin standard deduction shall not exceed the taxpayer's earned income, as defined in section 911 (d) (2) of the internal revenue code, that is taxable under this chapter if that earned income is more than $550 and shall not be less than $550 if that earned income is $550 or less.

2. For taxable years beginning after December 31, 1992, and before January 1, 1994, in the case of a taxpayer with respect to whom a deduction under s. 71.07 (8) is allowable to another person, the Wisconsin standard deduction shall not exceed the taxpayer's earned income, as defined in section 911 (d) (2) of the internal revenue code, that is taxable under this chapter if that earned income is more than $600 and shall not be less than $600 if that earned income is $600 or less.

3. For taxable years beginning on or after January 1, 1994, and before January 1, 1998, in the case of a taxpayer with respect to whom a deduction under s. 71.07 (8) is allowable to another person, the Wisconsin standard deduction shall be $500 adjusted for inflation in the manner prescribed by sections 1 (f) (3) to (6) and 63 (c) (4) of the Internal Revenue Code. The department of revenue shall incorporate the changes in the income tax forms and instructions.

4. a. For taxable years beginning after December 31, 1997, in the case of a taxpayer with respect to whom an exemption under sub. (23) (b) 2. is allowable to another person, the Wisconsin standard deduction shall be the lesser of the amount under subd. 4. b. or one of the amounts calculated under subd. 4. c., whichever amount under subd. 4. c. is greater.

b. The standard deduction that may be claimed by an individual under par. (dm) or (dp), based on the individual's filing status.

c. $500, as adjusted for inflation in the manner prescribed by sections 1 (f) (3) to (6) and 63 (c) (4) of the Internal Revenue Code or the taxpayer's earned income, as defined in section 911 (d) (2) of the Internal Revenue Code, plus $250, as adjusted for inflation in the manner prescribed by sections 1 (f) (3) to (6) and 63 (c) (4) of the Internal Revenue Code.

d. The department shall incorporate the changes in this subdivision in the income tax forms and instructions.

(g) *Nonresidents.* With respect to nonresident natural persons deriving income from property located, business transacted or personal or professional services performed in this state, including natural persons changing their domicile into or from this state, the Wisconsin standard deduction and itemized deductions are based on federal adjusted gross income, and as provided in par. (f) 4., and are limited by such fraction of that amount as Wisconsin adjusted gross income is of federal adjusted gross income. In this paragraph, for married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse, and for married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses.

(h) *Part−year residents.* If a person and that person's spouse are not both domiciled in this state during the entire taxable year, the Wisconsin standard deduction or itemized deduction on a joint return is determined by multiplying the Wisconsin standard deduction or itemized deduction, each calculated on the basis of federal adjusted gross income, and as provided in par. (f) 4., by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income. For a married person who is not domiciled in this state for the entire taxable year and who files a separate return, the Wisconsin standard deduction and itemized deduction are determined under par. (g).

(23) PERSONAL EXEMPTIONS. In computing Wisconsin taxable income, an individual taxpayer may subtract the following amounts:

(a) For taxable years that begin after December 31, 1999, and before January 1, 2001:

1. A personal exemption of $600 if the taxpayer is required to file a return under s. 71.03 (2) (a) 1. or 2. and $600 for the taxpayer's spouse, except if the spouse is filing separately or as a head of household.

2. An exemption of $600 for each individual for whom the taxpayer is entitled to an exemption for the taxable year under section 151 (c) of the Internal Revenue Code.

3. An additional exemption of $200 if the taxpayer has reached the age of 65 before the close of the taxable year to which his or her tax return relates and $200 for the taxpayer's spouse if he or she has reached the age of 65 before the close of the taxable year to which his or her tax return relates, except if the spouse is filing separately or as a head of household.

(b) For taxable years that begin after December 31, 2000:

1. A personal exemption of $700 if the taxpayer is required to file a return under s. 71.03 (2) (a) 1. or 2. and $700 for the taxpayer's spouse, except if the spouse is filing separately or as a head of household.

2. An exemption of $700 for each individual for whom the taxpayer is entitled to an exemption for the taxable year under section 151 (c) of the Internal Revenue Code.

3. An additional exemption of $250 if the taxpayer has reached the age of 65 before the close of the taxable year to which his or her tax return relates and $250 for the taxpayer's spouse if he or she has reached the age of 65 before the close of the taxable year to which his or her tax return relates, except if the spouse is filing separately or as a head of household.

(c) With respect to persons who change their domicile into or from this state during the taxable year and nonresident persons, personal exemptions under pars. (a) and (b) shall be limited to the fraction of the amount so determined that Wisconsin adjusted gross income is of federal adjusted gross income. In this paragraph, for married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse and for married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses. If a person and that person's spouse are not both domiciled in this state during the entire taxable year, their personal exemptions on a joint return are determined by multiplying the personal exemption that would be available to each of them if they were both domiciled in this state during the entire taxable year by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

(24) INCOME TAX DEFERRAL; LONG−TERM CAPITAL ASSETS. (a) In this subsection:

1. "Claimant" means an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax−option corporation.

2. "Financial institution" has the meaning given in s. 69.30 (1) (b).

3. "Long−term capital gain" means the gain realized from the sale of any capital asset held more than one year that is treated as a long−term gain under the Internal Revenue Code.

4. "Qualified new business venture" means a business certified under s. 238.20 or s. 560.2085, 2009 stats.

(b) For taxable years beginning after December 31, 2010, a claimant may subtract from federal adjusted gross income any amount, up to $10,000,000, of a long−term capital gain if the claimant does all of the following:

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

1. Deposits the gain into a segregated account in a financial institution.

2. Within 180 days after the sale of the asset that generated the gain, invests all of the proceeds in the account described under subd. 1. in a qualified new business venture.

3. After making the investment as described under subd. 2., notifies the department, on a form prepared by the department, that the claimant will not declare on the claimant's income tax return the gain described under subd. 1. because the claimant has reinvested the capital gain as described under subd. 2. The form shall be sent to the department along with the claimant's income tax return for the year to which the claim relates.

(c) The basis of the investment described in par. (b) 2. shall be calculated by subtracting the gain described in par. (b) 1. from the amount of the investment described in par. (b) 2.

(d) If a claimant defers the payment of income taxes on a capital gain under this subsection, the claimant may not use the gain described under par. (b) 1. to net capital gains and losses, as described under sub. (10) (c).

(25) CAPITAL GAINS EXCLUSION; WISCONSIN−SOURCE ASSETS. (a) In this subsection:

1. "Claimant" means an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax−option corporation.

2. "Qualifying gain" means the gain realized from the sale of any asset which is a Wisconsin capital asset in the year it is purchased by the claimant and for at least 2 of the subsequent 4 years; that is purchased after December 31, 2010; that is held for at least 5 uninterrupted years; and that is treated as a long−term gain under the Internal Revenue Code; except that a qualifying gain may not include any amount for which the claimant claimed a subtraction under sub. (24) (b) or any gain described under sub. (26) (b) 1.

3. "Wisconsin business" means a business certified by the Wisconsin Economic Development Corporation under s. 238.145.

4. "Wisconsin capital asset" means any of the following:

a. Real or tangible personal property that is located in this state and used in a Wisconsin business.

b. Stock or other ownership interest in a Wisconsin business.

(b) For taxable years beginning after December 31, 2015, for a Wisconsin capital asset that is purchased after December 31, 2010, and held for at least 5 years, a claimant may subtract from federal adjusted gross income the lesser of one of the following amounts, to the extent that it is not subtracted under sub. (6) (b) 9. or 9m.:

1. The amount of the claimant's federal net capital gain as reported on Schedule D of the claimant's federal income tax return for the taxable year to which the claim relates, but this subdivision applies only if, in that taxable year, the claimant has a qualifying gain.

2. The amount of the claimant's qualifying gain in the year to which the claim relates.

(26) INCOME TAX DEFERRAL; LONG−TERM WISCONSIN CAPITAL ASSETS. (a) In this subsection:

1. "Claimant" means an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax−option corporation.

2. "Financial institution" has the meaning given in s. 69.30 (1) (b).

3. "Long−term capital gain" means the gain realized from the sale of any capital asset held more than one year that is treated as a long−term gain under the Internal Revenue Code.

4. "Qualified Wisconsin business" means a business certified by the Wisconsin Economic Development Corporation under s. 238.146.

(b) For taxable years beginning after December 31, 2010, a claimant may subtract from federal adjusted gross income any amount of a long−term capital gain if the claimant does all of the following:

1. Deposits the gain into a segregated account in a financial institution.

2. Within 180 days after the sale of the asset that generated the gain, invests all of the proceeds in the account described under subd. 1. in a qualified Wisconsin business.

3. After making the investment as described under subd. 2., notifies the department, on a form prepared by the department, that the claimant will not declare on the claimant's income tax return the gain described under subd. 1. because the claimant has reinvested the capital gain as described under subd. 2. The form shall be sent to the department along with the claimant's income tax return for the year to which the claim relates.

(c) The basis of the investment described in par. (b) 2. shall be calculated by subtracting the gain described in par. (b) 1. from the amount of the investment described in par. (b) 2.

(d) If a claimant defers the payment of income taxes on a capital gain under this subsection, the claimant may not use the gain described under par. (b) 1. to net capital gains and losses, as described under sub. (10) (c).

(e) If a claimant claims the subtraction under this subsection, the claimant may not use the gain described under par. (b) 1. to claim a subtraction under sub. (24).

(f) If a claimant claims the subtraction under this subsection, the gain described under par. (b) 1. may not be used as a qualifying gain under sub. (25).

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25, 216, 254, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 205, 265, 269, 276, 295, 332, 344; 2011 a. 3, 5, 10, 32, 212, 232, 237; 2011 a. 260 ss. 80, 81; s. 13.92 (1) (bm) 2., (2) (i).

Shareholder distributions derived from investments in direct obligations of the federal government are exempt under sub. (6) (b) 1. Capital Preservation v. DOR 145 Wis. 2d 841, 429 N.W.2d 551 (Ct. App. 1988).

The fact that federal employees whose service is interrupted can repurchase prior years of employment for benefit determination purposes does not erase their absence from employment on December 31, 1963 so that they may be considered to have been employed on that date under sub. (1) (a). Hafner v. DOR, 2000 WI App 216, 239 Wis. 2d 218, 619 N.W.2d 300, 00−0511.

Sub. (6) (a) 1. requires adding to Wisconsin income all types of interest excluded from federal interest. All distributions characterized as interest under federal tax law must be included as interest income. Borge v. Wisconsin Tax Appeals Commission, 2002 WI App 14, 250 Wis. 2d 624, 639 N.W.2d 757, 01−0488.

When an agreement is silent on the allocation of a payment between a covenant not to compete and other claims or compensation, the commission may make a reasonable allocation if it is: 1) based on credible evidence; 2) the parties intended a portion of the payment as compensation for the covenant not to compete; and 3) the payment is economically reasonable. Schwartz v. DOR, 2002 WI App 255, 258 Wis. 2d 112, 653 N.W.2d 150, 02−0372.

Under sub. (1) (a), if one was a member of one of the listed funds on December 31, 1963, retirement benefits paid on that person's behalf may not be exempt. Withdrawal of contributions terminated membership and the purchase of previously forfeited years of service did not reinstate the account as of December 31, 1963. Kamps v. DOR, 2003 WI App 106, 264 Wis. 2d 794, 663 N.W.2d 306, 02−2355.

Sub. (6) (b) 5. requires that there must be a recovery of a federal itemized deduction, for which no tax benefit was received for Wisconsin purposes. The tax benefit rule means that if an amount deducted from gross income in one taxable year is recoverable in a later year, the recovery is income in the later year. Dettwiler v. Wisconsin Department of Revenue, 2007 WI App 125, 301 Wis. 2d 512, 731 N.W.2d 663, 06−1660.

Adoption Assistance Offers Tax Relief. Franklin. Wis. Law. Feb. 1998.

71.06 Rates of taxation. (1) FIDUCIARIES, SINGLE INDIVIDUALS AND HEADS OF HOUSEHOLDS; 1986 TO 1997. The tax to be assessed, levied and collected upon the taxable incomes of all fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, and single individuals for taxable years beginning on or after August 1, 1986, and before January 1, 1994, and upon the taxable incomes of all fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, and single individuals and heads of households for taxable years beginning after December 31, 1993, and before January 1, 1998, shall be computed at the following rates:

(a) On all taxable income from $0 to $7,500, 4.9%.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(b) On all taxable income exceeding $7,500 but not exceeding $15,000, 6.55%.

(c) On all taxable income exceeding $15,000, 6.93%.

(1m) FIDUCIARIES, SINGLE INDIVIDUALS AND HEADS OF HOUSEHOLDS; 1997 TO 1999. The tax to be assessed, levied and collected upon the taxable incomes of all fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, and single individuals and heads of households shall be computed at the following rates for taxable years beginning after December 31, 1997, and before January 1, 2000:

(a) On all taxable income from $0 to $7,500, 4.77%.

(b) On all taxable income exceeding $7,500 but not exceeding $15,000, 6.37%.

(c) On all taxable income exceeding $15,000, 6.77%.

(1n) FIDUCIARIES, SINGLE INDIVIDUALS AND HEADS OF HOUSEHOLDS; 2000. The tax to be assessed, levied and collected upon the taxable incomes of all fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, and single individuals and heads of households shall be computed at the following rates for taxable years beginning after December 31, 1999, and before January 1, 2001:

(a) On all taxable income from $0 to $7,500, 4.73%.

(b) On all taxable income exceeding $7,500 but not exceeding $15,000, 6.33%.

(c) On all taxable income exceeding $15,000 but not exceeding $112,500, 6.55%.

(d) On all taxable income exceeding $112,500, 6.75%.

(1p) FIDUCIARIES, SINGLE INDIVIDUALS AND HEADS OF HOUSEHOLDS; AFTER 2000. The tax to be assessed, levied and collected upon the taxable incomes of all fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, and single individuals and heads of households shall be computed at the following rates for taxable years beginning after December 31, 2000:

(a) On all taxable income from $0 to $7,500, 4.6%.

(b) On all taxable income exceeding $7,500 but not exceeding $15,000, 6.15%.

(c) On all taxable income exceeding $15,000 but not exceeding $112,500, 6.5%.

(d) On all taxable income exceeding $112,500 but not exceeding $225,000, 6.75%.

(e) On all taxable income exceeding $225,000, 7.75 percent.

(2) MARRIED PERSONS. The tax to be assessed, levied and collected upon the taxable incomes of all married persons shall be computed at the following rates:

(a) For joint returns, for taxable years beginning after July 31, 1986, and before January 1, 1998:

1. On all taxable income from $0 to $10,000, 4.9%.

2. On all taxable income exceeding $10,000 but not exceeding $20,000, 6.55%.

3. On all taxable income exceeding $20,000, 6.93%.

(b) For married persons filing separately, for taxable years beginning after July 31, 1986, and before January 1, 1998:

1. On all taxable income from $0 to $5,000, 4.9%.

2. On all taxable income exceeding $5,000 but not exceeding $10,000, 6.55%.

3. On all taxable income exceeding $10,000, 6.93%.

(c) For joint returns, for taxable years beginning after December 31, 1997, and before January 1, 2000:

1. On all taxable income from $0 to $10,000, 4.77%.

2. On all taxable income exceeding $10,000 but not exceeding $20,000, 6.37%.

3. On all taxable income exceeding $20,000, 6.77%.

(d) For married persons filing separately, for taxable years beginning after December 31, 1997, and before January 1, 2000:

1. On all taxable income from $0 to $5,000, 4.77%.

2. On all taxable income exceeding $5,000 but not exceeding $10,000, 6.37%.

3. On all taxable income exceeding $10,000, 6.77%.

(e) For joint returns, for taxable years beginning after December 31, 1999, and before January 1, 2001:

1. On all taxable income from $0 to $10,000, 4.73%.

2. On all taxable income exceeding $10,000 but not exceeding $20,000, 6.33%.

3. On all taxable income exceeding $20,000 but not exceeding $150,000, 6.55%.

4. On all taxable income exceeding $150,000, 6.75%.

(f) For married persons filing separately, for taxable years beginning after December 31, 1999, and before January 1, 2001:

1. On all taxable income from $0 to $5,000, 4.73%.

2. On all taxable income exceeding $5,000 but not exceeding $10,000, 6.33%.

3. On all taxable income exceeding $10,000 but not exceeding $75,000, 6.55%.

4. On all taxable income exceeding $75,000, 6.75%.

(g) For joint returns, for taxable years beginning after December 31, 2000:

1. On all taxable income from $0 to $10,000, 4.6%.

2. On all taxable income exceeding $10,000 but not exceeding $20,000, 6.15%.

3. On all taxable income exceeding $20,000 but not exceeding $150,000, 6.5%.

4. On all taxable income exceeding $150,000 but not exceeding $300,000, 6.75%.

5. On all taxable income exceeding $300,000, 7.75 percent.

(h) For married persons filing separately, for taxable years beginning after December 31, 2000:

1. On all taxable income from $0 to $5,000, 4.6%.

2. On all taxable income exceeding $5,000 but not exceeding $10,000, 6.15%.

3. On all taxable income exceeding $10,000 but not exceeding $75,000, 6.5%.

4. On all taxable income exceeding $75,000 but not exceeding $150,000, 6.75%.

5. On all taxable income exceeding $150,000, 7.75 percent.

(2e) BRACKET INDEXING. (a) For taxable years beginning after December 31, 1998, and before January 1, 2000, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1m) and (2) (c) and (d), and for taxable years beginning after December 31, 1999, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1n), (1p) (a) to (c), and (2) (e), (f), (g) 1. to 3., and (h) 1. to 3., shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 1997, as determined by the federal department of labor, except that for taxable years beginning after December 31, 2000, and before January 1, 2002, the dollar amount in the top bracket under subs. (1p) (c) and (d), (2) (g) 3. and 4. and (h) 3. and 4. shall be increased by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 1999, as determined by the federal department of labor, except that for taxable years beginning after December 31, 2011, the adjustment may occur only if the resulting amount is greater than the corresponding amount that was calculated for the previous year. Each amount that is revised under this paragraph shall be rounded to the nearest multiple of $10 if the revised amount is not a multiple of $10 or, if the revised amount is a multi-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

ple of $5, such an amount shall be increased to the next higher multiple of $10. The department of revenue shall annually adjust the changes in dollar amounts required under this paragraph and incorporate the changes into the income tax forms and instructions.

(b) For taxable years beginning after December 31, 2009, the maximum dollar amount in each tax bracket, and the corresponding minimum dollar amount in the next bracket, under subs. (1p) (d) and (2) (g) 4. and (h) 4., and the dollar amount in the top bracket under subs. (1p) (e) and (2) (g) 5. and (h) 5., shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August 2008, as determined by the federal department of labor, except that for taxable years beginning after December 31, 2011, the adjustment may occur only if the resulting amount is greater than the corresponding amount that was calculated for the previous year. Each amount that is revised under this paragraph shall be rounded to the nearest multiple of $10 if the revised amount is not a multiple of $10 or, if the revised amount is a multiple of $5, such an amount shall be increased to the next higher multiple of $10. The department of revenue shall annually adjust the changes in dollar amounts required under this paragraph and incorporate the changes into the income tax forms and instructions.

(2m) RATE CHANGES. If a rate under sub. (1), (1m), (1n), (1p) or (2) changes during a taxable year, the taxpayer shall compute the tax for that taxable year by the methods applicable to the federal income tax under section 15 of the internal revenue code.

(2s) NONRESIDENTS AND PART−YEAR RESIDENTS. (a) For taxable years beginning after December 31, 1996, and before January 1, 1998, with respect to nonresident individuals, including individuals changing their domicile into or from this state, the tax brackets under subs. (1) and (2) shall be multiplied by a fraction, the numerator of which is Wisconsin adjusted gross income and the denominator of which is federal adjusted gross income. In this paragraph, for married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse, and for married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses. If an individual and that individual's spouse are not both domiciled in this state during the entire taxable year, the tax brackets under subs. (1) and (2) on a joint return shall be multiplied by a fraction, the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

(b) For taxable years beginning after December 31, 1997, and before January 1, 2000, with respect to nonresident individuals, including individuals changing their domicile into or from this state, the tax brackets under subs. (1m) and (2) (c) and (d) shall be multiplied by a fraction, the numerator of which is Wisconsin adjusted gross income and the denominator of which is federal adjusted gross income. In this paragraph, for married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse, and for married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses. If an individual and that individual's spouse are not both domiciled in this state during the entire taxable year, the tax brackets under subs. (1m) and (2) (c) and (d) on a joint return shall be multiplied by a fraction, the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

(c) For taxable years beginning after December 31, 1999, and before January 1, 2001, with respect to nonresident individuals, including individuals changing their domicile into or from this state, the tax brackets under subs. (1n) and (2) (e) and (f) shall be multiplied by a fraction, the numerator of which is Wisconsin adjusted gross income and the denominator of which is federal adjusted gross income. In this paragraph, for married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse, and for married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses. If an individual and that individual's spouse are not both domiciled in this state during the entire taxable year, the tax brackets under subs. (1n) and (2) (e) and (f) on a joint return shall be multiplied by a fraction, the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

(d) For taxable years beginning after December 31, 2000, with respect to nonresident individuals, including individuals changing their domicile into or from this state, the tax brackets under subs. (1p) and (2) (g) and (h) shall be multiplied by a fraction, the numerator of which is Wisconsin adjusted gross income and the denominator of which is federal adjusted gross income. In this paragraph, for married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse, and for married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses. If an individual and that individual's spouse are not both domiciled in this state during the entire taxable year, the tax brackets under subs. (1p) and (2) (g) and (h) on a joint return shall be multiplied by a fraction, the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

(3) TAX TABLE. The secretary of revenue shall prepare a table from which the tax in effect on taxable personal income shall be determined. Such table shall be published in the department's appropriate instructional booklets. The form and the tax computations of the table shall be substantially as follows:

(a) The title thereof shall be "Tax Table".

(b) The first 2 columns shall contain the minimum and the maximum amounts, respectively, of taxable income in brackets of not more than $100. Computation of tax on taxable income in excess of the amount shown on the table may be set forth at the foot of such table.

(c) The 3rd column shall show the amount of the tax payable for each bracket before the allowance of any credit. The tax shall be computed at the rates in effect, which rates shall be applied to the amount of income at the middle of each bracket. The amount of tax for each bracket shall be computed to the nearest dollar.

History: 1987 a. 312; 1989 a. 31; 1993 a. 16; 1997 a. 27, 41, 237; 1999 a. 9; 2001 a. 16; 2009 a. 28.

71.07 Credits. (1) CLAIM OF RIGHT CREDIT. Any natural person may credit against taxes otherwise due under this chapter the decrease in tax under this chapter for the prior taxable year that would be attributable to subtracting income taxed for that year under the claim of right doctrine but repaid, as calculated under section 1341 of the internal revenue code, if the income repaid is greater than $3,000 and the amount is not subtracted in computing Wisconsin adjusted gross income or used in computing the credit under sub. (5) (a). If the allowable amount of the claim exceeds the claimant's taxes due under this chapter the amount of the claim not used to offset those taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft drawn on the general fund.

(2) COMMUNITY DEVELOPMENT FINANCE AUTHORITY CREDIT. Any individual receiving a credit under s. 71.09 (12m), 1985 stats., may carry forward to the next succeeding 15 taxable years the amount of the credit not offset against taxes for the year of purchase to the extent not offset by those taxes otherwise due in all intervening years between the year for which the credit was computed and the year for which the carry−forward is claimed.

(2dd) DEVELOPMENT ZONES DAY CARE CREDIT. (a) In this subsection:

1. "Day care center benefits" means benefits provided at a child care facility that is licensed under s. 48.65 or 48.69 and that for compensation provides care for at least 6 children or benefits

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

provided at a facility for persons who are physically or mentally incapable of caring for themselves.

2. "Employment−related day care expenses" means amounts paid or incurred by a claimant, during the 2−year period beginning with the day that the member of the targeted group begins work for the claimant, for providing or making day care center benefits available to a qualifying individual in order to enable a member of a targeted group to be employed by the claimant.

4. "Member of a targeted group" means a person under sub. (2dj) (am) 1.

5. "Qualifying individual" means a dependent of a member of a targeted group who is employed by a claimant and with respect to whom the member is entitled to a deduction under section 151 (c) of the internal revenue code for federal income tax purposes, a dependent of a member of a targeted group who is employed by a claimant if the dependent is physically or mentally incapable of caring for himself or herself or the spouse of a member of a targeted group who is employed by the claimant if the spouse is physically or mentally incapable of caring for himself or herself.

(b) Except as provided in s. 73.03 (35), for any taxable year for which that person is certified under s. 560.765 (3), 2009 stats., and begins business operations in a zone under s. 560.71, 2009 stats., after July 29, 1995, or certified under s. 560.797 (4) (a), 2009 stats., for each zone for which the person is certified or entitled a person may credit against taxes otherwise due under this subchapter employment−related day care expenses, up to $1,200 for each qualifying individual.

(c) Subsection (2di) (b), (c), (d) 1., (f) and (g), as it applies to the credit under sub. (2di), applies to the credit under this subsection.

(d) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(dm) No credit may be allowed under this subsection unless the claimant includes with the claimant's return a statement from the department of commerce verifying the amount of qualifying employment−related day care expenses.

(e) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(2de) DEVELOPMENT ZONES ENVIRONMENTAL REMEDIATION CREDIT. (a) Except as provided in s. 73.03 (35), for any taxable year for which a person is certified under s. 560.765 (3), 2009 stats., and begins business operations in a zone under s. 560.71, 2009 stats., after July 29, 1995, or certified under s. 560.797 (4) (a), 2009 stats., for each zone for which the person is certified or entitled the person may claim as a credit against taxes otherwise due under this subchapter an amount equal to 7.5% of the amount that the person expends to remove or contain environmental pollution, as defined in s. 299.01 (4), in the zone or to restore soil or groundwater that is affected by environmental pollution, as defined in s. 299.01 (4), in the zone if the person fulfills all of the following requirements:

1. Begins the work, other than planning and investigating, for which the credit is claimed after the area that includes the site where the work is done is designated a development zone under s. 560.71, 2009 stats., or an enterprise development zone under s. 560.797, 2009 stats., and after the claimant is certified under s. 560.765 (3), 2009 stats., or certified under s. 560.797 (4) (a), 2009 stats.

(b) Subsection (2di) (b), (c), (d), (f) and (g), as it applies to the credit under sub. (2di), applies to the credit under this subsection.

(c) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(d) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(2di) DEVELOPMENT ZONES INVESTMENT CREDIT. (a) Except as provided in pars. (dm) and (f) and s. 73.03 (35), for any taxable year for which the person is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits, any person may claim as a credit against taxes otherwise due under this chapter 2.5% of the purchase price of depreciable, tangible personal property, or 1.75% of the purchase price of depreciable, tangible personal property that is expensed under section 179 of the internal revenue code for purposes of the taxes under this chapter, except that:

1. The investment must be in property that is purchased after the person is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits and that is used for at least 50% of its use in the conduct of the person's business operations at a location in a development zone under subch. VI of ch. 560, 2009 stats., or, if the property is mobile, the base of operations of the property for at least 50% of its use must be a location in a development zone.

2. The credit under this subsection may be claimed only by the person who purchased the property the investment in which is the basis for the credit, except that only partners may claim the credit based on purchases by a partnership, only members may claim the credit based on purchases by a limited liability company and except that only shareholders may claim the credit based on purchases by a tax−option corporation.

3. If the credit is claimed for used property, the claimant may not have used the property for business purposes at a location outside the development zone. If the credit is attributable to a partnership, limited liability company or tax−option corporation, that entity may not have used the property for business purposes at a location outside the development zone.

4. No credit is allowed under this subsection for property which is the basis for a credit under sub. (2dL).

(b) 2. If the claimant is located on an Indian reservation, as defined in s. 560.86 (5), 2009 stats., and is an American Indian, as defined in s. 560.86 (1), 2009 stats., an Indian business, as defined in s. 560.86 (4), 2009 stats., or a tribal enterprise, and if the allowable amount of the credit under this subsection exceeds the taxes otherwise due under this chapter on or measured by the claimant's income, the amount of the credit not used as an offset against those taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft. In this subdivision, "tribal enterprise" means a business that is at least 51% owned and controlled by the governing body of one or more Indian tribes, is actively managed by the governing body, or by the designee of the governing body, of one or more Indian tribes and is currently performing a useful business function.

3. Partnerships, limited liability companies and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners or members. The corporation, partnership or company shall compute the amount of the credit that may be claimed by each of its shareholders, partners or members and shall provide that information to each of its shareholders, partners or members. Partners, members of limited liability companies and shareholders of tax−option corporations may claim the credit based on the partnership's, company's or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income from the partnership's, company's or corporation's business operations in the development zone; except that partners, members, and shareholders in a development zone under s. 560.795 (1) (e), 2009 stats., may offset the credit against the amount of the tax attributable to their income from all of the partnership's, company's, or corporation's business operations; and against the tax attributable to their income from the partnership's, company's or corporation's directly related business operations.

(c) Except as provided in par. (b) 2., the carry−over provisions of s. 71.28 (4) (e) and (f) as they relate to the credit under s. 71.28

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(4) relate to the credit under this subsection and apply as if the development zone continued to exist.

(d) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of a verification from the department of commerce that the claimant may claim tax benefits under s. 560.795 (3), 2009 stats.

2. A statement from the department of commerce verifying the purchase price of the investment and verifying that the investment fulfills the requirements under par. (a).

(dm) In calculating the credit under par. (a), a claimant shall reduce the purchase price of the property by a percentage equal to the percentage of use of the property during the taxable year the property is first placed into service that is for a purpose not specified under par. (a) 1.

(e) The recapture provisions under section 47 (a) (5) of the internal revenue code as amended to December 31, 1985, as they apply to the credit under section 46 of the internal revenue code, apply to the credit under this subsection, except that those provisions also apply if the property for which the credit is claimed is moved out of the development zone or, for mobile property, if the base of operations is moved out of the zone and except that the determination of whether or not property is 3−year property shall be made under section 168 of the internal revenue code.

(f) If a person who is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits becomes ineligible for such tax benefits, that person may claim no credits under this subsection for the taxable year that includes the day on which the person becomes ineligible for tax benefits or succeeding taxable years and that person may carry over no unused credits from previous years to offset tax under this chapter for the taxable year that includes the day on which the person becomes ineligible for tax benefits or succeeding taxable years.

(g) If a person who is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

(h) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4) applies to the credit under this subsection.

(i) No credit may be claimed under this subsection for taxable years that begin after December 31, 1997, and end before January 1, 2000. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(2dj) DEVELOPMENT ZONES JOBS CREDIT. (am) Except as provided under par. (f) or s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3), 2009 stats., for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter an amount calculated as follows:

1. Modify "member of a targeted group", as defined in section 51 (d) of the internal revenue code as amended to December 31, 1995, to include persons unemployed as a result of a business action subject to s. 109.07 (1m) and dislocated workers, as defined in 29 USC 2801 (9), and to require a member of a targeted group to be a resident of this state.

2. Modify "designated local agency", as defined in section 51 (d) (15) of the internal revenue code, to include the local workforce development board established under 29 USC 2832 for the area that includes the development zone in which the employee in respect to whom the credit under this subsection is claimed works, if the department of commerce approves the criteria used for certification, and the department of commerce.

3. Modify the rule for certification under section 51 (d) (16) (A) of the internal revenue code to allow certification within the period beginning with the first day of employment of the employee.

4. a. If certified under s. 560.765 (3), 2009 stats., for tax benefits before January 1, 1992, modify "qualified wages" as defined in section 51 (b) of the internal revenue code to exclude wages paid before the claimant is certified for tax benefits and to exclude wages that are paid to employees for work at any location that is not in a development zone under subch. VI of ch. 560, 2009 stats. For purposes of this subd. 4. a., mobile employees work at their base of operations and leased or rented employees work at the location where they perform services.

b. If certified under s. 560.765 (3), 2009 stats., for tax benefits after December 31, 1991, modify "qualified wages" as defined in section 51 (b) of the internal revenue code to exclude wages paid before the claimant is certified for tax benefits and to exclude wages that are paid to employees for work at any location that is not in a development zone under subch. VI of ch. 560, 2009 stats. For purposes of this subd. 4. b., mobile employees and leased or rented employees work at their base of operations.

4c. Modify the rule for ineligible individuals under section 51 (i) (1) of the internal revenue code to allow credit for the wages of related individuals paid by an Indian business, as defined in s. 560.86 (4), 2009 stats., or a tribal enterprise, as defined in sub. (2di) (b) 2., if the Indian business or tribal enterprise is located in a development zone designated under s. 560.71 (3) (c) 2., 2009 stats.

4e. Modify section 51 (c) (2) of the internal revenue code to specify that the rules for on−the−job training and work supplementation payments also apply to those kinds of payments funded by this state.

4g. Delete section 51 (c) (4) of the internal revenue code.

4h. Modify section 51 (a) of the internal revenue code so that the amount of the credit is 25% of the qualified first−year wages if the wages are paid to an applicant for a Wisconsin works employment position for service either in an unsubsidized position or in a trial job under s. 49.147 (3) and so that the amount of the credit is 20% of the qualified first−year wages if the wages are not paid to such an applicant.

4i. Modify section 51 (b) (3) of the internal revenue code so that the amount of the qualified first−year wages that may be taken into account is $13,000.

4m. Modify the rule on remuneration under section 51 (f) of the internal revenue code so that it does not apply to persons who are exempt from tax under this chapter.

4t. If certified under s. 560.765 (3), 2009 stats., for tax benefits before January 1, 1992, modify section 51 (i) (3) of the internal revenue code so that for leased or rented employees, except employees of a leasing agency certified for tax benefits who perform services directly for the agency in a development zone, the minimum employment periods apply to the time that they perform services in a development zone for a single lessee or renter, not to their employment by the leasing agency.

5. Calculate the credit under section 51 of the internal revenue code.

6. For persons for whom a credit may be claimed under subd. 5., modify "qualified wages" under section 51 (b) of the internal revenue code so that those wages are based on the wages attributable to service rendered during the one−year period beginning with the date one year after the date on which the individual begins work for the employer.

7. Modify section 51 of the internal revenue code as under subds. 1. to 4t.

8. Calculate the credit under section 51 of the internal revenue code based on qualified wages for the 2nd year as determined under subds. 6. and 7.

8m. For each person, whether or not he or she is a member of a targeted group, who is determined by the department of commerce to be a resident of the development zone in which he or she is employed, calculate a credit equal to 10% of the wages earned by such person during the 1st and 2nd years of the person's

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

employment in the development zone, up to a maximum credit of $600 per year.

9. Add the amounts under subds. 5., 8. and 8m.

(b) In computing the credit under this subsection, the wages of leased or rented employees may be claimed only by their employer, not by the person to whom they are rented or leased.

(c) The credit under this subsection may not be claimed by partnerships, limited liability companies and tax−option corporations but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners or members. The corporation, partnership or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners or members and shall provide that information to each of its shareholders, partners or members. That credit may be claimed by partners, members of limited liability companies and shareholders of tax−option corporations in proportion to their ownership interests.

(e) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the claimant's certification for tax benefits under s. 560.765 (3), 2009 stats.

3. a. If certified under s. 560.765 (3), 2009 stats., for tax benefits before January 1, 1992, a statement from the department of commerce verifying the amount of qualifying wages and verifying that the employees were hired for work only in a development zone or are mobile employees whose base of operations is in a development zone.

b. If certified under s. 560.765 (3), 2009 stats., for tax benefits after December 31, 1991, a statement from the department of commerce verifying the amount of qualifying wages and verifying that the employees were hired for work only in a development zone or are mobile employees or leased or rented employees whose base of operations is in a development zone.

4. A copy of any claims for the credit under section 51 of the internal revenue code that are based on wages that also are the basis for a claim under this subsection.

(f) The rules under sub. (2di) (f) and (g) as they apply to the credit under that subsection apply to the credit under this subsection.

(g) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4) applies to the credit under this subsection.

(h) The rules under sub. (2di) (b) and (c) as they apply to the credit under that subsection apply to the credit under this subsection.

(i) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(2dL) DEVELOPMENT ZONES LOCATION CREDIT. (a) Except as provided in pars. (ag), (ar), (bm) and (f) and s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3), 2009 stats., for tax benefits, any person may claim as a credit against taxes otherwise due under this subchapter an amount equal to 2.5% of the amount expended by that person to acquire, construct, rehabilitate or repair real property in a development zone under subch. VI of ch. 560, 2009 stats.

(ag) If the credit under par. (a) is claimed for an amount expended to construct, rehabilitate, remodel or repair property, the claimant must have begun the physical work of construction, rehabilitation, remodeling or repair, or any demolition or destruction in preparation for the physical work, after the place where the property is located was designated a development zone under s. 560.71, 2009 stats., and the completed project must be placed in service after the claimant is certified for tax benefits under s. 560.765 (3), 2009 stats. In this paragraph, "physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications or stabilizing the property to prevent deterioration.

(ar) If the credit under par. (a) is claimed for an amount expended to acquire property, the property must have been acquired by the claimant after the place where the property is located was designated a development zone under s. 560.71, 2009 stats., and the completed project must be placed in service after the claimant is certified for tax benefits under s. 560.765 (3), 2009 stats., and the property must not have been previously owned by the claimant or a related person during the 2 years prior to the designation of the development zone under s. 560.71, 2009 stats. No credit is allowed for an amount expended to acquire property until the property, either in its original state as acquired by the claimant or as subsequently constructed, rehabilitated, remodeled or repaired, is placed in service.

(aw) In par. (ar), property is previously owned by a claimant or a related person if a claimant may not deduct a loss from a sale to, or exchange of property with, that related person under section 267 of the internal revenue code, except that section 267 (b) of the internal revenue code is modified so that any ownership percentage, rather than 50% ownership, makes a claimant subject to section 267 (a) (1) of the internal revenue code for purposes of this subsection.

(b) No credit is allowed under this subsection for property which is the basis for a credit under sub. (2di).

(bm) In calculating the credit under par. (a) a claimant shall reduce the amount expended to acquire property by a percentage equal to the percentage of the area of the real property not used for the purposes for which the claimant is certified to claim tax benefits under s. 560.765 (3), 2009 stats., and shall reduce the amount expended for other purposes by the amount expended on the part of the property not used for the purposes for which the claimant is certified to claim tax benefits under s. 560.765 (3), 2009 stats.

(c) If the claimant is located on an Indian reservation, as defined in s. 560.86 (5), 2009 stats., and is an American Indian, as defined in s. 560.86 (1), 2009 stats., an Indian business, as defined in s. 560.86 (4), 2009 stats., or a tribal enterprise, as defined in sub. (2di) (b) 2., and if the allowable amount of the credit under par. (a) exceeds the taxes otherwise due under this chapter on or measured by the claimant's income, the amount of the credit not used as an offset against those taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft.

(d) Except as provided in par. (c), the carry−over provisions of s. 71.28 (4) (e) and (f) as they relate to the credit under s. 71.28 (4) relate to the credit under this subsection and apply as if the development zone continued to exist.

(e) Partnerships, limited liability companies and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners or members. The corporation, partnership or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners or members and provide that information to its shareholders, partners or members. Partners, members of limited liability companies and shareholders of tax−option corporations may claim the credit based on the partnership's, company's or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income from the partnership's, company's or corporation's business operations in the development zone and against the tax attributable to their income from the partnership's, company's or corporation's directly related business operations.

(f) Subsection (2di) (d), (f) and (g) as it applies to the credit under that subsection applies to the credit under this subsection.

(g) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4) applies to the credit under this subsection.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(h) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(2dm) DEVELOPMENT ZONE CAPITAL INVESTMENT CREDIT. (a) In this subsection:

1. "Certified" means entitled under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., to claim tax benefits or certified under s. 238.395 (5), 238.398 (5), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats.

2. "Claimant" means a person who files a claim under this subsection.

3. "Development zone" means a development opportunity zone under s. 238.395 (1) (e) and (f) or 238.398 or s. 560.795 (1) (e) and (f), 2009 stats., or s. 560.798, 2009 stats., or an airport development zone under s. 238.3995 or s. 560.7995, 2009 stats.

4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to the department of commerce or the Wisconsin Economic Development Corporation designating the place where the property is located as a development zone and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code, except that section 267 (b) of the Internal Revenue Code is modified so that if the claimant owns any part of the property, rather than 50% ownership, the claimant is subject to section 267 (a) (1) of the Internal Revenue Code for purposes of this subsection.

(b) Subject to the limitations provided in this subsection and in s. 73.03 (35), for any taxable year for which the claimant is certified, a claimant may claim as a credit against the taxes imposed under s. 71.02 an amount that is equal to 3% of the following:

1. The purchase price of depreciable, tangible personal property.

2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a development zone.

(c) A claimant may claim the credit under par. (b) 1., if the tangible personal property is purchased after the claimant is certified and the personal property is used for at least 50% of its use in the claimant's business at a location in a development zone or, if the property is mobile, the property's base of operations for at least 50% of its use is at a location in a development zone.

(d) A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after the place where the property is located was designated a development zone, or if the completed project is placed in service after the claimant is certified. In this paragraph, "physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing the property to prevent deterioration.

(e) A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after the place where the property is located was designated a development zone, or if the completed project is placed in service after the claimant is certified.

(f) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the verification that the claimant may claim tax benefits under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., or is certified under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats.

2. A statement from the department of commerce or the Wisconsin Economic Development Corporation verifying the purchase price of the investment and verifying that the investment fulfills the requirements under par. (b).

(g) In calculating the credit under par. (b) a claimant shall reduce the amount expended to acquire property by a percentage equal to the percentage of the area of the real property not used for the purposes for which the claimant is certified and shall reduce the amount expended for other purposes by the amount expended on the part of the property not used for the purposes for which the claimant is certified.

(h) The carry−over provisions of s. 71.28 (4) (e) and (f) as they relate to the credit under s. 71.28 (4) relate to the credit under this subsection.

(hm) A claimant may claim the credit under this subsection, including any credits carried over, against the amount of the tax otherwise due under this subchapter.

(i) Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners, or members. The corporation, partnership, or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners, or members and provide that information to its shareholders, partners, or members. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit based on the partnership's, company's, or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income from the partnership's, company's, or corporation's business operations in the development zone; except that partners, members, and shareholders in a development zone under s. 238.395 (1) (e) or s. 560.795 (1) (e), 2009 stats., may offset the credit against the amount of the tax attributable to their income.

(j) If a person who is entitled under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., to claim tax benefits becomes ineligible for such tax benefits, or if a person's certification under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., is revoked, that person may claim no credits under this subsection for the taxable year that includes the day on which the person becomes ineligible for tax benefits, the taxable year that includes the day on which the certification is revoked, or succeeding taxable years, and that person may carry over no unused credits from previous years to offset tax under this chapter for the taxable year that includes the day on which the person becomes ineligible for tax benefits, the taxable year that includes the day on which the certification is revoked, or succeeding taxable years.

(k) If a person who is entitled under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., to claim tax benefits or certified under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

(L) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4) applies to the credit under this subsection.

(2dr) DEVELOPMENT ZONES RESEARCH CREDIT. (a) *Credit.* Any person may credit against taxes otherwise due under this chapter an amount equal to 5% of the amount obtained by subtracting from the person's qualified research expenses, as defined in section 41 of the internal revenue code, except that "qualified research expenses" include only expenses incurred by the claimant in a development zone under subch. VI of ch. 560, 2009 stats., except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

applies until the department permits its revocation and except that "qualified research expenses" do not include compensation used in computing the credit under sub. (2dj) nor research expenses incurred before the claimant is certified for tax benefits under s. 560.765 (3), 2009 stats., the person's base amount, as defined in section 41 (c) of the internal revenue code, in a development zone, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.04 (7) (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj) 1. and (dk) 1. and research expenses used in calculating the base amount include research expenses incurred before the claimant is certified for tax benefits under s. 560.765 (3), 2009 stats., in a development zone, if the claimant submits with the claimant's return a copy of the claimant's certification for tax benefits under s. 560.765 (3), 2009 stats., and a statement from the department of commerce verifying the claimant's qualified research expenses for research conducted exclusively in a development zone. The rules under s. 73.03 (35) apply to the credit under this paragraph. The rules under sub. (2di) (f) and (g), as they apply to the credit under that subsection, apply to claims under this paragraph. Section 41 (h) of the internal revenue code does not apply to the credit under this paragraph.

(b) *Development opportunity zones.* The development zones research credit under par. (a), as it applies to a person certified under s. 560.765 (3), 2009 stats., applies to a person that conducts economic activity in a development opportunity zone under s. 560.795 (1), 2009 stats., and that is entitled to tax benefits under s. 560.795 (3), 2009 stats., subject to the limits under s. 560.795 (2), 2009 stats. A development opportunity zone credit under this paragraph may be calculated using expenses incurred by a claimant beginning on the effective date under s. 560.795 (2) (a), 2009 stats., of the development opportunity zone designation of the area in which the claimant conducts economic activity.

(bm) *Adjustments.* Adjustments for acquisitions and dispositions of a major portion of a trade or business shall be made under section 41 of the internal revenue code as limited by this subsection.

(c) *Annualization.* In the case of any short taxable year, qualified research expenses shall be annualized as prescribed by the department of revenue.

(d) *Proration.* If a portion of qualified research expenses is incurred partly within and partly outside this state and the amount incurred in this state cannot be accurately determined, a portion of the qualified expenses shall be reasonably allocated to this state. Expenses incurred entirely outside this state for the benefit of research in this state are not allocable to this state under this paragraph.

(e) *Change of business or ownership.* In the case of a change in ownership or business of a person, section 383 of the internal revenue code, as limited by this subsection, applies to the carry−over of unused credits.

(f) *Carry−over.* If a credit computed under this subsection is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance may be carried forward and credited against Wisconsin income or franchise taxes otherwise due for the following 15 taxable years to the extent not offset by these taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry−forward credit is claimed.

(g) *Administration.* The department of revenue has full power to administer the credits provided in this subsection and may take any action, conduct any proceeding and proceed as it is authorized in respect to income and franchise taxes imposed in this chapter. The income and franchise tax provisions in this chapter relating to assessments, refunds, appeals, collection, interest and penalties apply to the credits under this subsection.

(h) *Timely claim.* No credit may be allowed under this subsection unless it is claimed within the period specified in s. 71.75 (2).

(i) *Sunset.* No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(2ds) DEVELOPMENT ZONES SALES TAX CREDIT. (a) In this subsection:

1. "Development zone" means a zone designated under s. 560.71, 2009 stats.

2. "Eligible property" means construction materials and supplies and other materials that are used to construct, rehabilitate, repair or remodel real property that is eligible for the credit under sub. (2dL) and investment credit property.

3. "Investment credit property" means depreciable, tangible personal property that is eligible for the credit under sub. (2di) and leased or rented depreciable, tangible personal property that would be eligible for the credit under sub. (2di) if it had been purchased.

(b) Except as provided in pars. (dm) and (e) and s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3), 2009 stats., for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter the taxes paid under subchs. III and V of ch. 77 on their purchases, leases and rentals of eligible property. Partnerships, limited liability companies and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their partners, members or shareholders. The partnership, limited liability company or corporation shall compute the amount of credit that may be claimed by each of its partners, members or shareholders and shall provide that information to each of its partners, members or shareholders. Partners, members of a limited liability company and shareholders of tax−option corporations may claim the credit based on the partnership's, company's or corporation's activities in proportion to their ownership interest.

(d) No credit may be allowed under this subsection unless the claimant submits with the claimant's return:

1. A copy of the claimant's certification for tax benefits under s. 560.765 (3), 2009 stats.

2. A statement from the department of commerce verifying the amount of taxes paid under subchs. III and V of ch. 77 for eligible property by the claimant.

(dm) In calculating the credit under par. (b) a claimant shall reduce the sales tax paid for building supplies and materials by the reduction under sub. (2dL) (bm) and shall reduce the sales tax paid for investment credit property by the percentage reduction under sub. (2di) (dm).

(e) The rules under sub. (2di) (f) and (g) as they apply to the credit under that subsection apply to the credit under this subsection.

(f) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4) applies to the credit under this subsection.

(h) The rules under sub. (2di) (b) and (c) as they apply to the credit under that subsection apply to the credit under this subsection.

(i) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(2dx) DEVELOPMENT ZONES CREDIT. (a) *Definitions.* In this subsection:

1. "Brownfield" means an industrial or commercial facility the expansion or redevelopment of which is complicated by environmental contamination.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. "Development zone" means a development zone under s. 238.30 or s. 560.70, 2009 stats., a development opportunity zone under s. 238.395 or s. 560.795, 2009 stats., an enterprise development zone under s. 238.397 or s. 560.797, 2009 stats., an agricultural development zone under s. 238.398 or s. 560.798, 2009 stats., or an airport development zone under s. 238.3995 or s. 560.7995, 2009 stats.

3. "Environmental remediation" means removal or containment of environmental pollution, as defined in s. 299.01 (4), and restoration of soil or groundwater that is affected by environmental pollution, as defined in s. 299.01 (4), in a brownfield if that removal, containment or restoration fulfills the requirement under sub. (2de) (a) 1. and investigation unless the investigation determines that remediation is required and that remediation is not undertaken.

4. "Full−time job" means a regular, nonseasonal full−time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and receives benefits that are not required by federal or state law. "Full−time job" does not include initial training before an employment position begins.

5. "Member of a targeted group" means a person who resides in an area designated by the federal government as an economic revitalization area, a person who is employed in an unsubsidized job but meets the eligibility requirements under s. 49.145 (2) and (3) for a Wisconsin Works employment position, a person who is employed in a trial job, as defined in s. 49.141 (1) (n), or in a real work, real pay project position under s. 49.147 (3m), a person who is eligible for child care assistance under s. 49.155, a person who is a vocational rehabilitation referral, an economically disadvantaged youth, an economically disadvantaged veteran, a supplemental security income recipient, a general assistance recipient, an economically disadvantaged ex−convict, a qualified summer youth employee, as defined in 26 USC 51 (d) (7), a dislocated worker, as defined in 29 USC 2801 (9), or a food stamp recipient, if the person has been certified in the manner under sub. (2dj) (am) 3. by a designated local agency, as defined in sub. (2dj) (am) 2.

(b) *Credit.* Except as provided in pars. (be) and (bg) and in s. 73.03 (35), and subject to s. 238.385 or s. 560.785, 2009 stats., for any taxable year for which the person is entitled under s. 238.395 (3) or s. 560.795 (3), 2009 stats., to claim tax benefits or certified under s. 238.365 (3), 238.397 (4), 238.398 (3), or 238.3995 (4) or s. 560.765 (3), 2009 stats., s. 560.797 (4), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., any person may claim as a credit against the taxes otherwise due under this chapter the following amounts:

1. Fifty percent of the amount expended for environmental remediation in a development zone.

2. The amount determined by multiplying the amount determined under s. 238.385 (1) (b) or s. 560.785 (1) (b), 2009 stats., by the number of full−time jobs created in a development zone and filled by a member of a targeted group and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

3. The amount determined by multiplying the amount determined under s. 238.385 (1) (c) or s. 560.785 (1) (c), 2009 stats., by the number of full−time jobs created in a development zone and not filled by a member of a targeted group and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

4. The amount determined by multiplying the amount determined under s. 238.385 (1) (bm) or s. 560.785 (1) (bm), 2009 stats., by the number of full−time jobs retained, as provided in the rules under s. 238.385 or s. 560.785, 2009 stats., excluding jobs for which a credit has been claimed under sub. (2dj), in an enterprise development zone under s. 238.397 or s. 560.797, 2009 stats., and for which significant capital investment was made and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

5. The amount determined by multiplying the amount determined under s. 238.385 (1) (c) or s. 560.785 (1) (c), 2009 stats., by the number of full−time jobs retained, as provided in the rules under s. 238.385 or s. 560.785, 2009 stats., excluding jobs for which a credit has been claimed under sub. (2dj), in a development zone and not filled by a member of a targeted group and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

(be) *Offset.* A claimant in a development zone under s. 238.395 (1) (e) or s. 560.795 (1) (e), 2009 stats., may offset any credits claimed under this subsection, including any credits carried over, against the amount of the tax otherwise due under this subchapter attributable to all of the claimant's income and against the tax attributable to income from directly related business operations of the claimant.

(bg) *Other entities.* For claimants in a development zone under s. 238.395 (1) (e) or s. 560.795 (1) (e), 2009 stats., partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners, or members. The corporation, partnership, or company shall compute the amount of the credit that may be claimed by each of its shareholders, partners, or members and shall provide that information to each of its shareholders, partners, or members. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit based on the partnership's, company's, or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income.

(c) *Credit precluded.* If the certification of a person for tax benefits under s. 238.365 (3), 238.397 (4), 238.398 (3), or 238.3995 (4) or s. 560.765 (3), 2009 stats., s. 560.797 (4), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., is revoked, or if the person becomes ineligible for tax benefits under s. 238.395 (3) or s. 560.795 (3), 2009 stats., that person may not claim credits under this subsection for the taxable year that includes the day on which the certification is revoked; the taxable year that includes the day on which the person becomes ineligible for tax benefits; or succeeding taxable years and that person may not carry over unused credits from previous years to offset tax under this chapter for the taxable year that includes the day on which certification is revoked; the taxable year that includes the day on which the person becomes ineligible for tax benefits; or succeeding taxable years.

(d) *Carry−over precluded.* If a person who is entitled under s. 238.395 (3) or s. 560.795 (3), 2009 stats., to claim tax benefits or certified under s. 238.365 (3), 238.397 (4), 238.398 (3), or 238.3995 (4) or s. 560.765 (3), 2009 stats., s. 560.797 (4), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., for tax benefits ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

(e) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection. Subsection (2dj) (c), as it applies to the credit under sub. (2dj), applies to the credit under this subsection. Claimants shall include with their returns a copy of their certification for tax benefits and a copy of the department of commerce's verification of their expenses.

(2dy) ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this subsection, "claimant" means a person who files a claim

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

under this subsection and is certified under s. 238.301 (2) or s. 560.701 (2), 2009 stats., and authorized to claim tax benefits under s. 238.303 or s. 560.703, 2009 stats.

(b) *Filing claims.* Subject to the limitations under this subsection and ss. 238.301 to 238.306 or ss. 560.701 to 560.706, 2009 stats., for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08, up to the amount of the tax, the amount authorized for the claimant under s. 238.303 or s. 560.703, 2009 stats.

(c) *Limitations.* 1. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification under s. 238.301 (2) or s. 560.701 (2), 2009 stats., and a copy of the claimant's notice of eligibility to receive tax benefits under s. 238.303 (3) or s. 560.703 (3), 2009 stats.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their authorization to claim tax benefits under s. 238.303 or s. 560.703, 2009 stats. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Except as provided in subd. 2., s. 71.28 (4) (e) and (f), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If a claimant's certification is revoked under s. 238.305 or s. 560.705, 2009 stats., or if a claimant becomes ineligible for tax benefits under s. 238.302 or s. 560.702, 2009 stats., the claimant may not claim credits under this subsection for the taxable year that includes the day on which the certification is revoked; the taxable year that includes the day on which the claimant becomes ineligible for tax benefits; or succeeding taxable years and the claimant may not carry over unused credits from previous years to offset the tax imposed under s. 71.02 or 71.08 for the taxable year that includes the day on which certification is revoked; the taxable year that includes the day on which the claimant becomes ineligible for tax benefits; or succeeding taxable years.

3. Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(3) FARMLAND PRESERVATION CREDIT. The farmland preservation credit under subch. IX may be claimed against taxes otherwise due.

(3g) TECHNOLOGY ZONES CREDIT. (a) Subject to the limitations under this subsection and ss. 73.03 (35m) and 238.23 and s. 560.96, 2009 stats., a business that is certified under s. 238.23 (3) or s. 560.96 (3), 2009 stats., may claim as a credit against the taxes imposed under s. 71.02 an amount equal to the sum of the following, as established under s. 238.23 (3) (c) or s. 560.96 (3) (c), 2009 stats.:

1. The amount of real and personal property taxes imposed under s. 70.01 that the business paid in the taxable year.

2. Ten percent of the following amounts of capital investments that are made by the business in the technology zone in the year to which the claim relates:

a. The purchase price of depreciable, tangible personal property.

b. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a technology zone.

3. Fifteen percent of the amount that is spent for the first 12 months of wages for each job that is created in a technology zone after certification.

(b) The department of revenue shall notify the department of commerce or the Wisconsin Economic Development Corporation of all claims under this subsection.

(c) Section 71.28 (4) (e), (f), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under par. (a).

(d) Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (a). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(e) 1. No amount described under par. (a) 2. may be used in the calculation of a credit under this subsection if that amount is used in the calculation of any other credit under this chapter.

2. The investments that relate to the amount described under par. (a) 2. for which a claimant makes a claim under this subsection must be retained for use in the technology zone for the period during which the claimant's business is certified under s. 238.23 (3) or s. 560.96 (3), 2009 stats.

(f) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the verification that the claimant's business is certified under s. 238.23 (3) or s. 560.96 (3), 2009 stats., and that the business has entered into an agreement under s. 238.23 (3) (d) or s. 560.96 (3) (d), 2009 stats.

2. A statement from the department of commerce or the Wisconsin Economic Development Corporation verifying the purchase price of the investment described under par. (a) 2. and verifying that the investment fulfills the requirement under par. (e) 2.

(3h) BIODIESEL FUEL PRODUCTION CREDIT. (a) *Definitions.* In this subsection:

1. "Biodiesel fuel" has the meaning given in s. 168.14 (2m) (a).

2. "Claimant" means a person who is engaged in the business of producing biodiesel fuel in this state and who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2011, and before January 1, 2015, for a claimant who produces at least 2,500,000 gallons of biodiesel fuel in this state in the taxable year, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, an amount that is equal to the number of gallons of biodiesel fuel produced by the claimant in this state in the taxable year multiplied by 10 cents.

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is $1,000,000.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their biodiesel fuel production, as described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h) as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(3m) FARMLAND TAX RELIEF CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means an owner, as defined in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year for which a credit under this subsection is claimed, except as follows:

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

a. When 2 or more individuals of a household are able to qualify individually as a claimant, they may determine between them who the claimant shall be. If they are unable to agree, the matter shall be referred to the secretary of revenue, whose decision is final.

b. For partnerships except publicly traded partnerships treated as corporations under s. 71.22 (1k), or limited liability companies, except limited liability companies treated as corporations under s. 71.22 (1k), "claimant" means each individual partner or member.

c. For purposes of filing a claim under this subsection, the personal representative of an estate and the trustee of a trust shall be deemed owners of farmland. "Claimant" does not include the estate of a person who is a nonresident of this state on the person's date of death, a trust created by a nonresident person, a trust which receives Wisconsin real property from a nonresident person or a trust in which a nonresident settlor retains a beneficial interest.

d. For purposes of filing a claim under this subsection, when land is subject to a land contract, the claimant shall be the vendee under the contract.

e. For purposes of filing a claim under this subsection, when a guardian has been appointed in this state for a ward who owns the farmland, the claimant shall be the guardian on behalf of the ward.

f. For a tax−option corporation, "claimant" means each individual shareholder.

2. "Department" means the department of revenue.

3. "Farmland" means 35 or more acres of real property, exclusive of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007 stats., and owned by the claimant or any member of the claimant's household during the taxable year for which a credit under this subsection is claimed if the farm of which the farmland is a part, during that year, produced not less than $6,000 in gross farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or if the farm of which the farmland is a part, during that year and the 2 years immediately preceding that year, produced not less than $18,000 in such profits, or if at least 35 acres of the farmland, during all or part of that year, was enrolled in the conservation reserve program under 16 USC 3831 to 3836.

4. "Gross farm profits" means gross receipts, excluding rent, from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market value at the time of disposition of payments in kind for placing land in federal programs or payments from the federal dairy termination program under 7 USC 1446 (d), less the cost or other basis of livestock or other items purchased for resale which are sold or otherwise disposed of during the taxable year.

5. "Household" means an individual and his or her spouse and all minor dependents.

6. "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on the farmland owned by the claimant or any member of the claimant's household in any calendar year under ch. 70, less the tax credit, if any, afforded in respect of the property by s. 79.10. "Property taxes accrued" shall not exceed $10,000. If farmland is owned by a tax−option corporation, limited liability company or by 2 or more persons or entities as joint tenants, tenants in common or partners or is marital property or survivorship marital property and one or more such persons, entities or owners is not a member of the claimant's household, "property taxes accrued" is that part of property taxes levied on the farmland, reduced by the tax credit under s. 79.10, that reflects the ownership percentage of the claimant and the claimant's household. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the local treasurer for collection. If farmland is sold during the calendar year of the levy the "property taxes accrued" for the seller is the amount of the tax levy, reduced by the tax credit under s. 79.10, prorated to each in the closing agreement pertaining to the sale of the farmland, except that if the seller does not reimburse the buyer for any part of those property taxes there are no "property taxes accrued" for the seller, and the "property taxes accrued" for the buyer is the property taxes levied on the farmland, reduced by the tax credit under s. 79.10, minus, if the seller reimburses the buyer for part of the property taxes, the amount prorated to the seller in the closing agreement. With the claim for credit under this subsection, the seller shall submit a copy of the closing agreement and the buyer shall submit a copy of the closing agreement and a copy of the property tax bill.

(b) *Filing claims.* 1. 'Eligibility and qualifications.' a. Subject to the limitations provided in this subsection and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin income taxes otherwise due, the amount derived under par. (c). If the allowable amount of claim exceeds the income taxes otherwise due on the claimant's income or if there are no Wisconsin income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft paid from the appropriations under s. 20.835 (2) (ka) and (q).

b. Every claimant under this subsection shall supply, at the request of the department, in support of the claim, a copy of the property tax bill relating to the farmland and certification by the claimant that all taxes owed by the claimant on the property for which the claim is made for the year before the year for which the claim is made have been paid.

2. 'Ineligible claims.' No credit may be allowed under this subsection:

a. Unless a claim is filed with the department in conformity with the filing requirements in s. 71.03 (6) and (7).

b. If the department determines that ownership of the farmland has been transferred to the claimant for the purpose of maximizing benefits under this subsection.

(c) *Computation.* 1. Any claimant may claim against taxes otherwise due under this chapter a percentage, as determined by the department under subd. 3., of the property taxes accrued in the taxable year to which the claim relates, up to a maximum claim of $1,500, except that the credit under this subsection plus the credit under subch. IX may not exceed 95% of the property taxes accrued on the farm.

2. Any claimant may claim against taxes otherwise due under this chapter, on an income or franchise tax return that includes the levy date, an additional one−time credit of 4.2% of the property taxes accrued, that are levied in December 1989, up to a maximum of $420.

3. The department shall annually adjust the percentage that is used to determine the amount of a claim under subd. 1. based on the estimated number of claims and the amount estimated to be expended from the appropriation under s. 20.835 (2) (q), as determined under s. 79.13. The department shall incorporate the annually adjusted percentage into the income tax forms and instructions.

(d) *General provisions.* Section 71.61 (1) to (4) as it applies to the credit under subch. IX applies to the credit under this subsection.

(e) *Sunset.* No new claim may be filed under this subsection for a taxable year that begins after December 31, 2009.

(3n) DAIRY AND LIVESTOCK FARM INVESTMENT CREDIT. (a) In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

1m. "Dairy animals" includes heifers raised as replacement dairy animals.

1p. "Dairy farm" includes a facility used to raise heifers as replacement dairy animals.

2. "Dairy farm modernization or expansion" means the construction, the improvement, or the acquisition of buildings or

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

facilities, or the acquisition of equipment, for dairy animal housing, confinement, animal feeding, milk production, or waste management, including the following, if used exclusively related to dairy animals and if acquired and placed in service in this state during taxable years that begin after December 31, 2003, and before January 1, 2017:

a. Freestall barns.

b. Fences.

c. Watering facilities.

d. Feed storage and handling equipment.

e. Milking parlors.

f. Robotic equipment.

g. Scales.

h. Milk storage and cooling facilities.

i. Bulk tanks.

j. Manure pumping and storage facilities.

k. Digesters.

L. Equipment used to produce energy.

4. "Livestock" means cattle, not including dairy animals; swine; poultry, including farm−raised pheasants, but not including other farm−raised game birds or ratites; fish that are raised in aquaculture facilities; sheep; and goats.

5. "Livestock farm modernization or expansion" means the construction, the improvement, or the acquisition of buildings or facilities, or the acquisition of equipment, for livestock housing, confinement, feeding, or waste management, including the following, if used exclusively related to livestock and if acquired and placed in service in this state during taxable years that begin after December 31, 2005, and before January 1, 2017:

a. Birthing structures.

b. Rearing structures.

c. Feedlot structures.

d. Feed storage and handling equipment.

e. Fences.

f. Watering facilities.

g. Scales.

h. Manure pumping and storage facilities.

i. Digesters.

j. Equipment used to produce energy.

k. Fish hatchery buildings.

L. Fish processing buildings.

m. Fish rearing ponds.

6. a. For taxable years that begin after December 31, 2003, and before January 1, 2006, "used exclusively," related to dairy animals, means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

b. For taxable years that begin after December 31, 2005, and before January 1, 2017, "used exclusively," related to livestock, dairy animals, or both, means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) 1. Subject to the limitations provided in this subsection, for taxable years that begin after December 31, 2003, and before January 1, 2017, a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08 an amount equal to 10% of the amount the claimant paid in the taxable year for dairy farm modernization or expansion related to the operation of the claimant's dairy farm.

2. Subject to the limitations provided in this subsection, for taxable years that begin after December 31, 2005, and before January 1, 2017, a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08 an amount equal to 10 percent of the amount the claimant paid in the taxable year for livestock farm modernization or expansion related to the operation of the claimant's livestock farm.

(c) No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

(d) The aggregate amount of credits that a claimant may claim under this subsection is $75,000, except that no more than $50,000 of this amount may be based on costs incurred prior to May 27, 2010.

(e) 1. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed the limitation under par. (d). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

2. If 2 or more persons own and operate the dairy or livestock farm, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the farm shall not exceed the limitation under par. (d).

(f) Section 71.28 (4) (e), (f), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

Cross−reference: See also s. Tax 2.99, Wis. adm. code.

(3p) DAIRY MANUFACTURING FACILITY INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

1m. "Dairy cooperative" means a business organized under ch. 185 or 193 for the purpose of obtaining or processing milk.

2. "Dairy manufacturing" means processing milk into dairy products or processing dairy products for sale commercially.

3. "Dairy manufacturing modernization or expansion" means constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for dairy manufacturing, including the following, if used exclusively for dairy manufacturing and if acquired and placed in service in this state during taxable years that begin after December 31, 2006, and before January 1, 2015, or, in the case of dairy cooperatives, if acquired and placed in service in this state during taxable years that begin after December 31, 2008, and before January 1, 2017:

a. Building construction, including storage and warehouse facilities.

b. Building additions.

c. Upgrades to utilities, including water, electric, heat, and waste facilities.

d. Milk intake and storage equipment.

e. Processing and manufacturing equipment, including pipes, motors, pumps, valves, pasteurizers, homogenizers, vats, evaporators, dryers, concentrators, and churns.

f. Packaging and handling equipment, including sealing, bagging, boxing, labeling, conveying, and product movement equipment.

g. Warehouse equipment, including storage racks.

h. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products.

i. Computer software and hardware used for managing the claimant's dairy manufacturing operation, including software and hardware related to logistics, inventory management, and production plant controls.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

4. "Used exclusively" means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.535 or s. 560.207, 2009 stats., except as provided in par. (c) 5., for taxable years beginning after December 31, 2006, and before January 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000 for each of the claimant's dairy manufacturing facilities.

2m. a. The maximum amount of the credits that may be claimed under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2007−08 is $600,000, as allocated under s. 560.207, 2009 stats.

b. The maximum amount of the credits that may be claimed by all claimants, other than members of dairy cooperatives, under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2008−09, and in each fiscal year thereafter, is $700,000, as allocated under s. 93.535 or s. 560.207, 2009 stats.

bm. The maximum amount of the credits that may be claimed by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2009−10 is $600,000, as allocated under s. 560.207, 2009 stats., and the maximum amount of the credits that may be claimed by members of dairy cooperatives under this subsection and ss. 71.28 (3p) and 71.47 (3p) in fiscal year 2010−11, and in each fiscal year thereafter, is $700,000, as allocated under s. 93.535 or s. 560.207, 2009 stats.

3. Partnerships, limited liability companies, tax−option corporations, and dairy cooperatives may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000 for each of the entity's dairy manufacturing facilities. A partnership, limited liability company, tax−option corporation, or dairy cooperative shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest. Members of a dairy cooperative may claim the credit in proportion to the amount of milk that each member delivers to the dairy cooperative, as determined by the dairy cooperative.

4. If 2 or more persons own and operate a dairy manufacturing facility, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the dairy manufacturing facility shall not exceed $200,000.

5. A claimant who is a member of a dairy cooperative may claim the credit in the year after the year in which the dairy manufacturing modernization or expansion occurs, based on amounts described under par. (b) that are paid by the dairy cooperative, for taxable years beginning after December 31, 2008, and before January 1, 2018. The amount of the credits computed and not passed through by a partnership, limited liability company, or tax−option corporation that has added that amount to the partnership's, company's, or tax−option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) shall be added to a claimant's income in the year in which the cooperative member is allowed to claim the credit.

6. No credit may be allowed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's credit certification and allocation under s. 93.535 or s. 560.207, 2009 stats.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. Except as provided in subd. 3., if the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bn).

3. With regard to claims that are based on amounts described under par. (b) that are paid by a dairy cooperative, if the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

Cross−reference: See also ch. ATCP 163, Wis. adm. code.

(3q) JOBS TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person certified to receive tax benefits under s. 238.16 (2) or s. 560.2055 (2), 2009 stats.

2. "Eligible employee" means, for taxable years beginning before January 1, 2011, an eligible employee under s. 560.2055 (1) (b), 2009 stats., who satisfies the wage requirements under s. 560.2055 (3) (a) or (b), 2009 stats., or, for taxable years beginning after December 31, 2010, an eligible employee under s. 238.16 (1) (b) who satisfies the wage requirements under s. 238.16 (3) (a) or (b).

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 238.16 or s. 560.2055, 2009 stats., for taxable years beginning after December 31, 2009, a claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08 any of the following.

1. The amount of wages that the claimant paid to an eligible employee in the taxable year, not to exceed 10 percent of such wages, as determined by the Wisconsin Economic Development Corporation under s. 238.16 or the department of commerce under s. 560.2055, 2009 stats.

2. The amount of the costs incurred by the claimant in the taxable year, as determined under s. 238.16 or s. 560.2055, 2009 stats., to undertake the training activities described under s. 238.16 (3) (c) or s. 560.2055 (3) (c), 2009 stats.

(c) *Limitations.* 1. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

2. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification for tax benefits under s. 238.16 (2) or s. 560.2055 (2), 2009 stats.

3. The maximum amount of credits that may be awarded under this subsection and ss. 71.28 (3q) and 71.47 (3q) for the period beginning on January 1, 2010, and ending on June 30, 2013, is $14,500,000, not including the amount of any credits reallocated under s. 238.15 (3) (d) or s. 560.205 (3) (d), 2009 stats.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under ss. 71.02 and 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bb), except that the amounts certified under this subdivision for taxable years beginning after December 31, 2009, and before January 1, 2012, shall be paid in taxable years beginning after December 31, 2011.

(3r) MEAT PROCESSING FACILITY INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Meat processing" means processing livestock into meat products or processing meat products for sale commercially.

3. "Meat processing modernization or expansion" means constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for meat processing, including the following, if used exclusively for meat processing and if acquired and placed in service in this state during taxable years that begin after December 31, 2008, and before January 1, 2017:

a. Building construction, including livestock handling, product intake, storage, and warehouse facilities.

b. Building additions.

c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing, and waste facilities.

d. Livestock intake and storage equipment.

e. Processing and manufacturing equipment, including cutting equipment, mixers, grinders, sausage stuffers, meat smokers, curing equipment, cooking equipment, pipes, motors, pumps, and valves.

f. Packaging and handling equipment, including sealing, bagging, boxing, labeling, conveying, and product movement equipment.

g. Warehouse equipment, including storage and curing racks.

h. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products.

i. Computer software and hardware used for managing the claimant's meat processing operation, including software and hardware related to logistics, inventory management, production plant controls, and temperature monitoring controls.

4. "Used exclusively" means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.545 or s. 560.208, 2009 stats., for taxable years beginning after December 31, 2008, and before January 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for meat processing modernization or expansion related to the claimant's meat processing operation.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000.

3. a. The maximum amount of the credits that may be allocated under this subsection and ss. 71.28 (3r) and 71.47 (3r) in fiscal year 2009−10 is $300,000, as allocated under s. 560.208, 2009 stats.

b. The maximum amount of the credits that may be allocated under this subsection and ss. 71.28 (3r) and 71.47 (3r) in fiscal year 2010−11, and in each fiscal year thereafter, is $700,000, as allocated under s. 93.545 or s. 560.208, 2009 stats.

4. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate the meat processing operation, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the meat processing operation shall not exceed $200,000.

6. No credit may be allowed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's credit certification and allocation under s. 93.545 or s. 560.208, 2009 stats.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bd).

Cross−reference: See also ch. ATCP 164, Wis. adm. code.

(3rm) WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Used primarily" means used to the exclusion of all other uses except for use not exceeding 25 percent of total use.

3. "Woody biomass" means trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest or woodland or on agricultural land.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.547 or s. 560.209, 2009 stats., for taxable years beginning after December 31, 2009, and before January 1, 2016, a claimant may claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for equipment that is used primarily to harvest or process woody biomass that is used as fuel or as a component of fuel.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $100,000.

3. The maximum amount of the credits that may be claimed under this subsection and ss. 71.28 (3rm) and 71.47 (3rm) is $900,000, as allocated under s. 93.547 or s. 560.209, 2009 stats.

4. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $100,000. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

5. If 2 or more persons own and operate a woody biomass harvesting or processing operation, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the operation shall not exceed $100,000.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bc).

Cross−reference: See also ch. ATCP 166, Wis. adm. code.

(3rn) FOOD PROCESSING PLANT AND FOOD WAREHOUSE INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Food processing plant" has the meaning given in s. 97.29 (1) (h), except that it does not include dairy plants licensed under s. 97.20 or meat establishments licensed under s. 97.42.

3. "Food warehouse" has the meaning given in s. 97.27 (1) (b).

4. "Food processing plant or food warehouse modernization or expansion" means constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for food processing or food warehousing, including the following, if used exclusively for food processing or food warehousing and if acquired and placed in service in this state during taxable years that begin after December 31, 2009, and before January 1, 2017:

a. Food intake, handling, storage, and warehouse facilities.

b. Building additions.

c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing, and waste facilities.

d. Installing energy savings equipment or equipment that converts waste to energy.

e. Food or raw material intake and storage equipment.

f. Processing and manufacturing equipment, including vats, cookers, freezers, pipes, motors, pumps, and valves.

g. Packaging and handling equipment, including cleaning, sealing, bagging, boxing, labeling, conveying, and product movement equipment.

h. Warehouse equipment, including storage racks and loading and unloading equipment.

i. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment to produce energy, fuel, or industrial products.

j. Computer software or hardware for managing the claimant's food processing or food warehousing operation, including software and hardware related to logistics, inventory management, production plant controls, and temperature monitoring controls.

5. "Used exclusively" means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.54 or s. 560.2056, 2009 stats., for taxable years beginning after December 31, 2009, and before January 1, 2017, a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for food processing or food warehousing modernization or expansion related to the operation of the claimant's food processing plant or food warehouse.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000.

3. a. The maximum amount of the credits that may be allocated under this subsection and ss. 71.28 (3rn) and 71.47 (3rn) in fiscal year 2009−10 is $1,000,000, as allocated under s. 560.2056, 2009 stats.

b. The maximum amount of the credits that may be allocated under this subsection and ss. 71.28 (3rn) and 71.47 (3rn) in fiscal year 2010−11 is $1,200,000, as allocated under s. 560.2056, 2009 stats.

c. The maximum amount of the credits that may be allocated under this subsection and ss. 71.28 (3rn) and 71.47 (3rn) in fiscal year 2011−12, and in each year thereafter, is $700,000, as allocated under s. 93.54 or s. 560.2056, 2009 stats.

4. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate the food processing plant or food warehouse, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the food processing operation shall not exceed $200,000.

6. No credit may be allowed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's credit certification and allocation under s. 93.54 or s. 560.2056, 2009 stats.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (be).

Cross−reference: See also ch. ATCP 165, Wis. adm. code.

(3s) MANUFACTURING SALES TAX CREDIT. (a) In this subsection:

1. "Manufacturing" has the meaning given in s. 77.54 (6m), 2007 stats.

2. "Sales and use tax under ch. 77 paid by the person" includes use taxes paid directly by the person and sales and use taxes paid by the person's supplier and passed on to the person whether separately stated on the invoice or included in the total price.

(b) The tax imposed under s. 71.02 or 71.08 shall be reduced by an amount equal to the sales and use tax under ch. 77 paid by the person in such taxable year on fuel and electricity consumed in manufacturing tangible personal property in this state. Shareholders in a tax−option corporation and partners may claim the credit under this subsection, based on eligible sales and use taxes paid by the partnership or tax−option corporation, in proportion to the ownership interest of each partner or shareholder. The partnership or tax−option corporation shall calculate the amount of the credit which may be claimed by each partner or shareholder and shall provide that information to the partner or shareholder.

(c) 1. The credit under par. (b), including any credits carried over, may be offset only against the amount of the tax imposed upon or measured by the business operations of the claimant in which the fuel and electricity are consumed. Except as provided in subd. 7., if the credit computed is not entirely offset against

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

taxes otherwise due, the unused balance shall be carried forward and credited against taxes otherwise due for the following 20 taxable years to the extent not offset by taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry−forward credit is claimed.

2. For shareholders in a tax−option corporation, the credit may be offset only against the tax imposed on the shareholder's prorated share of the tax−option corporation's income.

3. For partners, the credit may be offset only against the tax imposed on the partner's distributive share of partnership income.

4. If a tax−option corporation becomes liable for tax for a taxable year that begins on or after January 1, 1998, the corporation may offset the credit against the tax due, with any remaining credit computed for a taxable year that begins on or after January 1, 1998, passing through to the shareholders.

5. If a corporation that is not a tax−option corporation has a carry−over credit from a taxable year that begins on or after January 1, 1998, and becomes a tax−option corporation before the credit carried over is used, the unused portion of the credit may be used by the tax−option corporation's shareholders on a prorated basis.

6. If the shareholders of a tax−option corporation have carry−over credits and the corporation becomes a corporation other than a tax−option corporation after October 14, 1997, and before the credits carried over are used, the unused portion of the credits may be used by the corporation that is not a tax−option corporation.

7. No credit may be claimed under this subsection for taxable years that begin after December 31, 2005. For credits that are claimed but unused under this subsection for taxable years that begin before January 1, 2006, up to 50 percent may be used in each of the following 2 taxable years if the taxpayer has $25,000 or less in unused credits as of January 1, 2006. For taxable years beginning after December 31, 2005, and before January 1, 2008, a taxpayer who has more than $25,000 in unused credits as of January 1, 2006, may deduct an amount in each year that is equal to 50 percent of the amount the taxpayer added back to income under s. 71.05 (6) (a) at the time that the taxpayer first claimed the credit or, with regard to credits passed through from a partnership, limited liability company, or tax−option corporation, 50 percent of the amount that the entity added back to its income and was included in the partner's, member's, or shareholder's Wisconsin net income at the time that the credit was first claimed.

(3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this subsection, "claimant" means a person who files a claim under this subsection.

(b) *Credit.* Subject to the limitations provided in this subsection and in s. 560.28, 2009 stats., for taxable years beginning after December 31, 2007, a claimant may claim as a credit, amortized over 15 taxable years starting with the taxable year beginning after December 31, 2007, against the tax imposed under s. 71.02 and 71.08, up to the amount of the tax, an amount equal to the claimant's unused credits under s. 71.07 (3s).

(c) *Limitations.* 1. No credit may be claimed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's certification by the department of commerce under s. 560.28, 2009 stats., except that, with regard to credits claimed by partners of a partnership, members of a limited liability company, or shareholders of a tax−option corporation, the entity shall provide a copy of its certification under s. 560.28, 2009 stats., to the partner, member, or shareholder to submit with his or her return.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on the amount of their unused credits under s. 71.07 (3s). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. The amount of any unused credit under this subsection in any taxable year may be carried forward to subsequent taxable years, up to 15 taxable years.

(3w) ENTERPRISE ZONE JOBS CREDIT. (a) *Definitions.* In this subsection:

1. "Base year" means the taxable year beginning during the calendar year prior to the calendar year in which the enterprise zone in which the claimant is located takes effect.

2. "Claimant" means a person who is certified to claim tax benefits under s. 238.399 (5) or s. 560.799 (5), 2009 stats., and who files a claim under this subsection.

3. "Full−time employee" means a full−time employee, as defined in s. 238.399 (1) (am) or s. 560.799 (1) (am), 2009 stats.

4. "Enterprise zone" means a zone designated under s. 238.399 or s. 560.799, 2009 stats.

5. "State payroll" means the amount of payroll apportioned to this state, as determined under s. 71.04 (6).

5d. "Tier I county or municipality" means a tier I county or municipality, as determined under s. 238.399 or s. 560.799, 2009 stats.

5e. "Tier II county or municipality" means a tier II county or municipality, as determined under s. 238.399 or s. 560.799, 2009 stats.

5m. "Wages" means wages under section 3306 (b) of the Internal Revenue Code, determined without regard to any dollar limitations.

6. "Zone payroll" means the amount of state payroll that is attributable to wages paid to full−time employees for services that are performed in an enterprise zone. "Zone payroll" does not include the amount of wages paid to any full−time employees that exceeds $100,000.

(b) *Filing claims; payroll.* Subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 an amount calculated as follows:

1. Determine the amount that is the lesser of:

a. The number of full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the enterprise zone in the taxable year, minus the number of full−time employees whose annual wages were greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the area that comprises the enterprise zone in the base year.

b. The number of full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the state in the taxable year, minus the number of full−time employees whose annual wages were greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the state in the base year.

2. Determine the claimant's average zone payroll by dividing total wages for full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the enterprise zone in the taxable year by the number of full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

in a tier II county or municipality and who the claimant employed in the enterprise zone in the taxable year.

3. For employees in a tier I county or municipality, subtract $20,000 from the amount determined under subd. 2. and for employees in a tier II county or municipality, subtract $30,000 from the amount determined under subd. 2.

4. Multiply the amount determined under subd. 3. by the amount determined under subd. 1.

5. Multiply the amount determined under subd. 4. by the percentage determined by under s. 238.399 or s. 560.799, 2009 stats., not to exceed 7 percent.

(bm) *Filing supplemental claims.* 1. In addition to the credits under par. (b) and subds. 2., 3., and 4., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 an amount equal to a percentage, as determined under s. 238.399 or s. 560.799, 2009 stats., not to exceed 100 percent, of the amount the claimant paid in the taxable year to upgrade or improve the job−related skills of any of the claimant's full−time employees, to train any of the claimant's full−time employees on the use of job−related new technologies, or to provide job−related training to any full−time employee whose employment with the claimant represents the employee's first full−time job. This subdivision does not apply to employees who do not work in an enterprise zone.

2. In addition to the credits under par. (b) and subds. 1., 3., and 4., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 an amount equal to the percentage, as determined under s. 238.399 or s. 560.799, 2009 stats., not to exceed 7 percent, of the claimant's zone payroll paid in the taxable year to all of the claimant's full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality, not including the wages paid to the employees determined under par. (b) 1., or greater than $30,000 in a tier II county or municipality, not including the wages paid to the employees determined under par. (b) 1., and who the claimant employed in the enterprise zone in the taxable year, if the total number of such employees is equal to or greater than the total number of such employees in the base year. A claimant may claim a credit under this subdivision for no more than 5 consecutive taxable years.

3. In addition to the credits under par. (b) and subds. 1., 2., and 4., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 up to 10 percent of the claimant's significant capital expenditures, as determined under s. 238.399 (5m) or s. 560.799 (5m), 2009 stats.

4. In addition to the credits under par. (b) and subds. 1., 2., and 3., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., for taxable years beginning after December 31, 2009, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08, up to 1 percent of the amount that the claimant paid in the taxable year to purchase tangible personal property, items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services from Wisconsin vendors, as determined under s. 238.399 (5) (e) or s. 560.799 (5) (e), 2009 stats., except that the claimant may not claim the credit under this subdivision and subd. 3. for the same expenditures.

(c) *Limitations.* 1. If the allowable amount of the claim under this subsection exceeds the taxes otherwise due on the claimant's income under s. 71.02, the amount of the claim that is not used to offset those taxes shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation under s. 20.835 (2) (co).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under pars. (b) and (bm). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification for tax benefits under s. 238.399 (5) or (5m) or s. 560.799 (5) or (5m), 2009 stats.

4. No claimant may claim a credit under this subsection if the basis for which the credit is claimed is also the basis for which another credit is claimed under this subchapter.

(d) *Administration.* Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection. Claimants shall include with their returns a copy of their certification for tax benefits, and a copy of the verification of their expenses, from the department of commerce or the Wisconsin Economic Development Corporation.

(4) HOMESTEAD CREDIT. The homestead credit under subch. VIII may be claimed by individuals against taxes otherwise due.

(5) ITEMIZED DEDUCTIONS CREDIT. Single persons, married persons filing separately and married persons filing jointly may claim as a credit against, but not to exceed the amount of, Wisconsin net income taxes due an amount calculated as follows:

(a) Add the amounts allowed as itemized deductions under the internal revenue code except:

1. Interest paid to purchase or hold securities issued by the federal government or by any of its instrumentalities the interest on which is exempt from taxation under s. 71.05 (6) (b) 1.

2. Taxes under section 164 or 216 (a) (1) of the internal revenue code.

3. Casualty and theft deductions under section 165 (c) (3) of the internal revenue code, except for casualty losses that are directly related to a presidentially declared disaster under 26 USC 7508A.

4. Expenses to move from this state under section 217 of the internal revenue code.

5. Interest incurred to purchase or refinance a residence that is not a principal residence and is not in this state, and interest incurred to purchase or refinance a residence that is a boat.

6. The amount claimed for repayment of income previously taxed under this chapter if that amount is used in calculating the credit under sub. (1).

7. Miscellaneous itemized deductions under the Internal Revenue Code, without regard to whether such deductions are subject to the 2% floor as described in section 67 of the Internal Revenue Code.

8. Any employment−related educational expense that is claimed as an itemized deduction under the Internal Revenue Code to the extent that such an amount is also claimed as a subtract modification under s. 71.05 (6) (b) 28.

15. The amount claimed as a deduction for medical care insurance under section 213 of the Internal Revenue Code that is exempt from taxation under s. 71.05 (6) (b) 17. to 20., 35., 36., 37., 38., 39., 40., 41., and 42. and the amount claimed as a deduction for a long−term care insurance policy under section 213 (d) (1) (D) of the Internal Revenue Code, as defined in section 7702B (b) of the Internal Revenue Code that is exempt from taxation under s. 71.05 (6) (b) 26.

(b) Subtract the standard deduction under s. 71.05 (22) from the amount under par. (a).

(c) Multiply the amount under par. (b) by .05.

(d) With respect to persons who change their domicile into or from this state during the taxable year and nonresident persons, the credit under this subsection shall be limited to the fraction of

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

the amount so determined that Wisconsin adjusted gross income is of federal adjusted gross income. In this paragraph, for married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse and for married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses. If a person and that person's spouse are not both domiciled in this state during the entire taxable year, their credit under this subsection on a joint return shall be limited to the fraction of the amount so determined that their joint Wisconsin adjusted gross income is of their joint federal adjusted gross income.

(5b) EARLY STAGE SEED INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Fund manager" means an investment fund manager certified under s. 238.15 (2) or s. 560.205 (2), 2009 stats.

(b) *Filing claims.* 1. For taxable years beginning after December 31, 2004, subject to the limitations provided under this subsection and s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount of those taxes, 25 percent of the claimant's investment paid to a fund manager that the fund manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009 stats.

2. In the case of a partnership, limited liability company, or tax−option corporation, the computation of the 25 percent limitation under subd. 1. shall be determined at the entity level rather than the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity's organizational documents. The entity shall provide to the department of revenue and to the department of commerce or the Wisconsin Economic Development Corporation the names and tax identification numbers of the claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

(c) *Limitations.* Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest or as specially allocated in their organizational documents.

(d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. The Wisconsin adjusted basis of any investment for which a credit is claimed under par. (b) shall be reduced by the amount of the credit that is offset against Wisconsin income taxes. The Wisconsin basis of a partner's interest in a partnership, a member's interest in a limited liability company, or stock in a tax−option corporation shall be adjusted to reflect adjustments made under this subdivision.

3. Except as provided under s. 238.15 (3) (d) (intro.), for investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

(5d) ANGEL INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Bona fide angel investment" means a purchase of an equity interest, or any other expenditure, as determined by rule under s. 238.15 or s. 560.205, 2009 stats., that is made by any of the following:

a. A person who reviews new businesses or proposed new businesses for potential investment of the person's money.

b. A network of persons who satisfy subd. 1.

2. "Claimant" means an individual who files a claim under this subsection.

2m. "Person" means a partnership or limited liability company that is a nonoperating entity, as determined by the department of commerce or the Wisconsin Economic Development Corporation, a natural person, or fiduciary.

3. "Qualified new business venture" means a business that is certified under s. 238.15 (1) or s. 560.205 (1), 2009 stats.

(b) *Filing claims.* Subject to the limitations provided in this subsection and in s. 238.15 or s. 560.205, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08, up to the amount of those taxes, the following:

1. For taxable years beginning before January 1, 2008, in each taxable year for 2 consecutive years, beginning with the taxable year as certified by the department of commerce or the Wisconsin Economic Development Corporation, an amount equal to 12.5 percent of the claimant's bona fide angel investment made directly in a qualified new business venture.

2. For taxable years beginning after December 31, 2007, for the taxable year certified by the department of commerce or the Wisconsin Economic Development Corporation, an amount equal to 25 percent of the claimant's bona fide angel investment made directly in a qualified new business venture.

(c) *Limitations.* 1. Except as provided in s. 73.03 (63), the maximum amount of the credits that may be claimed under this subsection for all taxable years combined is $47,500,000.

2. For taxable years beginning before January 1, 2008, the maximum amount of a claimant's investment that may be used as the basis for a credit under this subsection is $2,000,000 for each investment made directly in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009 stats.

3m. Partnerships and limited liability companies may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership or limited liability company shall compute the amount of credit that each of its partners or members may claim and shall provide that information to each of them. Partners and members of limited liability companies may claim the credit in proportion to their ownership interest or as specially allocated in their organizational documents.

4. A claimant may claim the credit under this subsection for an investment that was made in a business that was located outside of this state if the investment was made no more than 60 days before the business relocated to this state and the business was certified as a qualified new business venture no later than 180 days after relocating to this state.

(d) *Administration.* 1. Except as provided under s. 238.15 (3) (d) (intro.), for investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

2. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

3. Subsection (9e) (d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

4. The Wisconsin adjusted basis of any investment for which a credit is claimed under par. (b) shall be reduced by the amount of the credit that is offset against Wisconsin income taxes.

(5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Internet equipment used in the broadband market" means equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobits per second in either direction.

(b) *Filing claims.* Subject to the limitations provided in this subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first taxable year following the taxable year in which the claimant claims a deduction under s. 77.585 (9), a claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, in each taxable year for 2 years, the amount of sales and use tax certified by the department of commerce that resulted from the claimant claiming a deduction under s. 77.585 (9).

(c) *Limitations.* 1. No credit may be allowed under this subsection unless the claimant satisfies the requirements under s. 77.585 (9).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their use of sales and use tax exemptions certified by the department of commerce as described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. The total amount of the credits and the sales and use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed by all claimants under this subsection and ss. 71.28 (5e), 71.47 (5e), and 77.585 (9) is $7,500,000, as determined by the department of commerce.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4) applies to the credit under this subsection.

(5f) FILM PRODUCTION SERVICES CREDIT. (a) *Definitions.* In this subsection:

1. "Accredited production" means a film, video, broadcast advertisement, or television production, as approved by the department of commerce or the department of tourism, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds $50,000. "Accredited production" also means an electronic game, as approved by the department of commerce or the department of tourism, for which the aggregate salary and wages included in the cost of the production for the period ending 36 months after the month in which the principal programming, filming, or taping of the production begins exceeds $100,000. "Accredited production" does not include any of the following, regardless of the production costs:

a. News, current events, or public programming or a program that includes weather or market reports.

b. A talk show.

c. A production with respect to a questionnaire or contest.

d. A sports event or sports activity.

e. A gala presentation or awards show.

f. A finished production that solicits funds.

g. A production for which the production company is required under 18 USC 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program.

h. A production produced primarily for industrial, corporate, or institutional purposes.

2. "Claimant" means a person who files a claim under this subsection.

3. "Production expenditures" means any expenditures that are incurred in this state and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make−up, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar expenditure as determined by the department of commerce or the department of tourism. "Production expenditures" do not include salary, wages, or labor−related contract payments.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 any of the following amounts:

1. An amount equal to 25 percent of the salary, wages, or labor−related contract payments paid by the claimant in the taxable year to individuals, including actors, who were residents of this state at the time that they were paid and who worked on an accredited production in this state, not including the salary, wages, or contract payments paid to any individual who was paid more than $250,000.

3. An amount equal to 25 percent of the production expenditures paid by the claimant in the taxable year to produce an accredited production.

(c) *Limitations.* 1. A claimant may not claim a credit under this subsection if less than 35 percent of the total budget for the accredited production is spent in this state.

2. The total amount of the credits that a claimant may claim under [par. (b) 2.] in a taxable year shall not exceed an amount equal to the first $20,000 of salary, wages, or labor−related contract payments paid to each individual described in [par. (b) 2.] in the taxable year.

NOTE: The cross−reference in brackets does not exist as the result of the governor's partial veto of 2009 Wis. Act 28.

3. No credit may be claimed under par. (b) 3. for the purchase of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) the sale of which is not sourced to this state, as provided under s. 77.522.

5. The maximum amount of the credits that may be claimed under this subsection and sub. (5h) and ss. 71.28 (5f) and (5h) and 71.47 (5f) and (5h) in fiscal year is $ 500,000.

6. No credit may be allowed under this subsection unless the claimant files an application with the department of commerce or the department of tourism, at the time and in the manner prescribed by the department of commerce or the department of tourism, and the department of commerce or the department of tourism approves the application. The claimant shall submit a fee with the application in an amount equal to 2 percent of the claimant's budgeted production expenditures or $500, whichever is less. The claimant shall submit a copy of the approved application with the claimant's return.

7. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 or no tax is due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

draft drawn from the appropriation account under s. 20.835 (2) (bm).

(5g) HEALTH INSURANCE RISK-SHARING PLAN ASSESSMENTS CREDIT. (a) *Definitions.* In this subsection, "claimant" means a partner, limited liability company member, or tax−option corporation shareholder who files a claim under this subsection and who is a partner, member, or shareholder of an entity that is an insurer, as defined in s. 149.10 (5).

(b) *Filing claims.* Subject to the limitations provided under this subsection, for taxable years beginning after December 31, 2005, a claimant may claim as a credit against the taxes imposed under s. 71.02 an amount that is equal to the amount of the assessment under s. 149.13 that the claimant paid in the claimant's taxable year, multiplied by the percentage determined under par. (c) 1.

(c) *Limitations.* 1. The department of revenue, in consultation with the office of the commissioner of insurance, shall determine the percentage under par. (b) for each claimant for each taxable year. The percentage shall be equal to $5,000,000 divided by the aggregate assessment under s. 149.13. The office of the commissioner of insurance shall provide to each claimant that participates in the cost of administering the plan the aggregate assessment at the time that it notifies the claimant of the claimant's assessment. The aggregate amount of the credit under this subsection and ss. 71.28 (5g), 71.47 (5g), and 76.655 for all claimants participating in the cost of administering the plan under ch. 149 shall not exceed $5,000,000 in each fiscal year.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. The amount of any credits that a claimant is awarded under this subsection for taxable years beginning after December 31, 2005, and before January 1, 2008, may first be claimed against the tax imposed under this subchapter for taxable years beginning after December 31, 2007, and in the manner determined by the department of revenue.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5h) FILM PRODUCTION COMPANY INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection and who does business in this state as a film production company.

2. "Film production company" means an entity that exclusively creates accredited productions, as defined in sub. (5f) (a) 1.

3. "Physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing property to prevent deterioration.

4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to doing business in this state as a film production company and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code, except that section 267 of the Internal Revenue Code is modified so that if the claimant owns any part of the property, rather than 50 percent ownership, the claimant is subject to section 267 of the Internal Revenue Code for purposes of this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 an amount that is equal to 15 percent of the following that the claimant paid in the taxable year to establish or operate a film production company in this state:

1. The purchase price of depreciable, tangible personal property and items, property, and goods under s. 77.52 (1) (b), (c), and (d), if the sale of the tangible personal property, items, property, or goods is sourced to this state under s. 77.522.

2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the tangible personal property, or item, property, or good under s. 77.52 (1) (b), (c), or (d), is purchased after December 31, 2008, and the tangible personal property, item, property, or good is used for at least 50 percent of its use in the claimant's business as a film production company.

2. A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after December 31, 2008, and the completed project is placed in service after December 31, 2008.

3. A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after December 31, 2008, and the completed project is placed in service after December 31, 2008.

4. No claim may be allowed under this subsection unless the department of commerce or the department of tourism certifies, in writing, that the credits claimed under this subsection are for expenses related to establishing or operating a film production company in this state and the claimant submits a copy of the certification with the claimant's return.

4m. The maximum amount of the credits that may be claimed under this subsection and sub. (5f) and ss. 71.28 (5f) and (5h) and 71.47 (5f) and (5h) in fiscal year is $500,000.

5. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.02 or 71.08 or no tax is due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bL).

(5i) ELECTRONIC MEDICAL RECORDS CREDIT. (a) *Definitions.* In this subsection, "claimant" means a person who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2011, a claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08, up to the amount of those taxes, an amount equal to 50 percent of the amount the claimant paid in the taxable year for information technology hardware or software that is used to maintain medical records in electronic form, if the claimant is a health care provider, as defined in s. 146.81 (1) (a) to (p).

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(c) *Limitations.* 1. The maximum amount of the credits that may be claimed under this subsection and ss. 71.28 (5i) and 71.47 (5i) in a taxable year is $10,000,000, as allocated under s. 73.15 or s. 560.204, 2009 stats.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5j) ETHANOL AND BIODIESEL FUEL PUMP CREDIT. (a) *Definitions.* In this subsection:

1. "Biodiesel fuel" has the meaning given in s. 168.14 (2m) (a).

2. "Claimant" means a person who files a claim under this subsection.

2d. "Diesel replacement renewable fuel" includes biodiesel and any other fuel derived from a renewable resource that meets all of the applicable requirements of the American Society for Testing and Materials for that fuel and that the department of commerce or the department of safety and professional services designates by rule as a diesel replacement renewable fuel.

2m. "Gasoline replacement renewable fuel" includes ethanol and any other fuel derived from a renewable resource that meets all of the applicable requirements of the American Society for Testing and Materials for that fuel and that the department of commerce or the department of safety and professional services designates by rule as a gasoline replacement renewable fuel.

3. "Motor vehicle fuel" has the meaning given in s. 78.005 (13).

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2007, and before January 1, 2018, a claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08, up to the amount of the taxes, an amount that is equal to 25 percent of the amount that the claimant paid in the taxable year to install or retrofit pumps located in this state that dispense motor vehicle fuel marketed as gasoline and 85 percent ethanol or a higher percentage of ethanol or motor vehicle fuel marketed as diesel fuel and 20 percent biodiesel fuel or that mix fuels from separate storage tanks and allow the end user to choose the percentage of gasoline replacement renewable fuel or diesel replacement renewable fuel in the motor vehicle fuel dispensed.

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is an amount that is equal to $5,000 for each service station for which the claimant has installed or retrofitted pumps as described under par. (b).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. The department of commerce or the department of safety and professional services shall establish standards to adequately prevent, in the distribution of conventional fuel to an end user, the inadvertent distribution of fuel containing a higher percentage of renewable fuel than the maximum percentage established by the federal environmental protection agency for use in conventionally−fueled engines.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5k) COMMUNITY REHABILITATION PROGRAM CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Community rehabilitation program" means a nonprofit entity, county, municipality, or state or federal agency that directly provides, or facilitates the provision of, vocational rehabilitation services to individuals who have disabilities to maximize the employment opportunities, including career advancement, of such individuals.

3. "Vocational rehabilitation services" include education, training, employment, counseling, therapy, placement, and case management.

4. "Work" includes production, packaging, assembly, food service, custodial service, clerical service, and other commercial activities that improve employment opportunities for individuals who have disabilities.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after July 1, 2011, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of those taxes, an amount equal to 5 percent of the amount the claimant paid in the taxable year to a community rehabilitation program to perform work for the claimant's business, pursuant to a contract.

(c) *Limitations.* 1. The maximum amount of the credit that any claimant may claim under this subsection in a taxable year is $25,000 for each community rehabilitation program for which the claimant enters into a contract to have the community rehabilitation program perform work for the claimant's business.

2. No credit may be claimed under this subsection unless the claimant submits with the claimant's return a form, as prescribed by the department of revenue, that verifies that the claimant has entered into a contract with a community rehabilitation program and that the program has received payment from the claimant for work provided by the program, consistent with par. (b).

3. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5m) WORKING FAMILIES TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means an individual who is eligible to claim the credit under this subsection.

2. "Department" means the department of revenue.

3. "Household" means a claimant and an individual related to the claimant as husband or wife.

4. "Net tax liability" means a claimant's income tax liability after he or she completes the computations listed in s. 71.10 (4) (a) to (dr).

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of those taxes, one of the following amounts:

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

1. If the claimant is single and his or her adjusted gross income is less than $9,000 in the year to which the claim relates, an amount equal to his or her net tax liability.

2. If the claimant is single and his or her adjusted gross income is at least $9,000 but less than $10,000 in the year to which the claim relates, an amount that is calculated as follows:

a. Calculate the value of a fraction, the denominator of which is $1,000 and the numerator of which is the difference between the claimant's adjusted gross income and $9,000.

b. Subtract from 1.0 the amount that is calculated under subd. 2. a.

c. Multiply the amount of the claimant's net income tax liability by the amount that is calculated under subd. 2. b.

3. If the claimant is married and filing jointly and the sum of the claimant's adjusted gross income and his or her spouse's adjusted gross income is less than $18,000 in the year to which the claim relates, an amount equal to the married couple's net tax liability.

4. If the claimant is married and filing jointly and the sum of the claimant's adjusted gross income and his or her spouse's adjusted gross income is at least $18,000 but less than $19,000 in the year to which the claim relates, an amount that is calculated as follows:

a. Calculate the value of a fraction, the denominator of which is $1,000 and the numerator of which is the difference between the married couple's adjusted gross income and $18,000.

b. Subtract from 1.0 the amount that is calculated under subd. 4. a.

c. Multiply the amount of the married couple's net income tax liability by the amount that is calculated under subd. 4. b.

5. If the claimant is married and filing separately and his or her adjusted gross income is less than $9,000 in the year to which the claim relates, an amount equal to his or her net tax liability.

6. If the claimant is married and filing separately and his or her adjusted gross income is at least $9,000 but less than $10,000 in the year to which the claim relates, an amount that is calculated as follows:

a. Calculate the value of a fraction, the denominator of which is $1,000 and the numerator of which is the difference between the claimant's adjusted gross income and $9,000.

b. Subtract from 1.0 the amount that is calculated under subd. 6. a.

c. Multiply the amount of the claimant's net income tax liability by the amount that is calculated under subd. 6. b.

(c) *Limitations.* 1. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

2. Part−year residents and nonresidents of this state are not eligible for the credit under this subsection.

3. Except as provided in subd. 4., only one credit per household is allowed each year.

4. If a married couple files separately, each spouse may claim the credit calculated under par. (b) 5. or 6., except a married person living apart from the other spouse and treated as single under section 7703 (b) of the Internal Revenue Code may claim the credit under par. (b) 1. or 2.

5. The credit under this subsection may not be claimed by a person who may be claimed as a dependent on the individual income tax return of another taxpayer.

(d) *Administration.* The department of revenue may enforce the credit under this subsection and may take any action, conduct any proceeding and proceed as it is authorized in respect to taxes under this chapter. The income tax provisions in this chapter relating to assessments, refunds, appeals, collection, interest and penalties apply to the credit under this subsection.

(5n) MANUFACTURING AND AGRICULTURE CREDIT. (a) *Definitions.* In this subsection:

1. "Agriculture property factor" means a fraction, the numerator of which is the average value of the claimant's real property and improvements assessed under s. 70.32 (2) (a) 4., owned or rented and used in this state by the claimant during the taxable year to produce, grow, or extract qualified production property, and the denominator of which is the average value of all of the claimant's real property and improvements owned or rented during the taxable year and used by the claimant to produce, grow, or extract qualified production property.

2. "Claimant" means a person who files a claim under this subsection.

3. "Direct costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible under section 162 of the Internal Revenue Code and identified as direct costs in the claimant's managerial or cost accounting records.

4. "Indirect costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible under section 162 of the Internal Revenue Code, other than cost of goods sold and direct costs, and identified as indirect costs in the claimant's managerial or cost accounting records.

5. a. "Manufacturing property factor" means a fraction, the numerator of which is the average value of the claimant's real and personal property assessed under s. 70.995, owned or rented and used in this state by the claimant during the taxable year to manufacture qualified production property, and the denominator of which is the average value of all the claimant's real and personal property owned or rented during the taxable year and used by the claimant to manufacture qualified production property.

b. For purposes of subd. 5. a., property owned by the claimant is valued at its original cost and property rented by the claimant is valued at an amount equal to the annual rental paid by the claimant, less any annual rental received by the claimant from sub−rentals, multiplied by 8.

c. For purposes of subd. 5. a., the average value of property is determined by averaging the values at the beginning and ending of the taxable year, except that the secretary of revenue may require the averaging of monthly values during the taxable year, if such averaging is reasonably required to properly reflect the average value of the claimant's property.

6. "Production gross receipts" means gross receipts from the lease, rental, license, sale, exchange, or other disposition of qualified production property.

7. "Production gross receipts factor" means a fraction, the numerator of which is production gross receipts and the denominator of which is all gross income from whatever source, except for those items specifically excluded under the Internal Revenue Code as adopted by this state and otherwise excluded under Wisconsin law. For purposes of the denominator, income includes gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross income from pass−through entities, and all other gross receipts that are included in income, before apportionment for Wisconsin tax purposes under s. 71.04 (4).

8. "Qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold that are allocable to such receipts, the direct costs that are allocable to such receipts, and the indirect costs multiplied by the production gross receipts factor. "Qualified production activities income" does not include any of the following:

a. Income from film production.

b. Income from producing, transmitting, or distributing electricity, natural gas, or potable water.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

c. Income from constructing real property.

d. Income from engineering or architectural services performed with respect to constructing real property.

e. Income from the sale of food and beverages prepared by the claimant at a retail establishment.

f. Income from the lease, rental, license, sale, exchange, or other disposition of land.

9. "Qualified production property" means either of the following:

a. Tangible personal property manufactured in whole or in part by the claimant on property that is assessed as manufacturing property under s. 70.995.

b. Tangible personal property produced, grown, or extracted in whole or in part by the claimant on or from property assessed as agricultural property under s. 70.32 (2) (a) 4.

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, an amount equal to one of the following percentages of the claimant's eligible qualified production activities income in the taxable year:

1. For taxable years beginning after December 31, 2012, and before January 1, 2014, 1.875 percent.

2. For taxable years beginning after December 31, 2013, and before January 1, 2015, 3.75 percent.

3. For taxable years beginning after December 31, 2014, and before January 1, 2016, 5.526 percent.

4. For taxable years beginning after December 31, 2015, 7.5 percent.

(c) *Limitations.* Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their share of the income described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. For purposes of determining a claimant's eligible qualified production activities income under this subsection, the claimant shall multiply the claimant's qualified production activities income from property manufactured by the claimant by the manufacturing property factor and qualified production activities income from property produced, grown, or extracted by the claimant by the agriculture property factor.

(5r) POSTSECONDARY EDUCATION CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a sole proprietor, a partner, a member of a limited liability company, or a shareholder of a tax−option corporation who files a claim under this subsection.

2. "Course of instruction" has the meaning given in s. 38.50 (1) (c).

3. "Family member" has the meaning given in s. 157.061 (7).

4. "Managing employee" means an individual who wholly or partially exercises operational or managerial control over, or who directly or indirectly conducts, the operation of the claimant's business.

5. "Paid or incurred" includes any amount paid by the claimant to reimburse an individual for the tuition that the individual paid or incurred.

6. "Qualified postsecondary institution" means all of the following:

a. A University of Wisconsin System institution, a technical college system institution, or a regionally accredited 4−year nonprofit college or university having its regional headquarters and principal place of business in this state.

b. A school approved under s. 38.50, if the delivery of education occurs in this state.

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02 an amount equal to the following:

1. Twenty−five percent of the tuition that the claimant paid or incurred for an individual to participate in an education program of a qualified postsecondary institution, if the individual was enrolled in a course of instruction and eligible for a grant from the Federal Pell Grant Program.

2. Thirty percent of the tuition that the claimant paid or incurred for an individual to participate in an education program of a qualified postsecondary institution, if the individual was enrolled in a course of instruction that relates to a projected worker shortage in this state, as determined by the local workforce development boards established under 29 USC 2832, and if the individual was eligible for a grant from the Federal Pell Grant Program.

(c) *Limitations.* 1. No credit may be allowed under par. (b) unless the claimant certifies to the department of revenue that the claimant will not be reimbursed for any amount of tuition for which the claimant claims a credit under par. (b).

2. A claimant may not claim the credit under par. (b) for any tuition amounts that the individual described under par. (b) excluded under s. 71.05 (6) (b) 28. or under section 127 of the Internal Revenue Code.

3. A claimant may not claim the credit under par. (b) for any tuition amounts that the claimant paid or incurred for a family member of the claimant or for a family member of a managing employee unless all of the following apply:

a. The family member was employed an average of at least 20 hours per week as an employee of the claimant, or the claimant's business, during the one−year period prior to commencing participation in the education program in connection with which the claimant claims a credit under par. (b).

b. The family member is enrolled in a course of instruction that is substantially related to the claimant's business.

3m. A claimant may not claim the credit under par. (b) for any tuition amounts that the claimant paid or incurred for an individual who is not a resident of this state.

4. The claimant shall claim the credit for the taxable year in which the individual graduates from a course of instruction in an amount equal to the total amount the claimant paid or incurred under par. (b) for all taxable years in which the claimant paid or incurred such amounts related to that individual.

5. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of tuition under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5rm) WATER CONSUMPTION CREDIT. (a) *Definitions.* In this subsection:

1. "Ccf" means 100 cubic feet.

2. "Claimant" means a person who files a claim under this subsection, who is an industrial customer of a municipal water utility that is located in a federal renewal community zone in this state, and whose average annual water consumption from that utility for a 24−month period exceeds 1,000,000 Ccf.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2009, and before January 1, 2020, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, the amount determined as follows, except that the maximum amount that a claimant may claim in a taxable year under this subsection is $300,000:

1. Subtract the claimant's 2009 water usage costs from the claimant's water usage costs for the taxable year.

2. If the amount determined under subd. 1. is a positive number, multiply that amount by 0.50.

(c) *Limitations.* Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(6) MARRIED PERSONS CREDIT. (a) For taxable years beginning before January 1, 1998, married persons filing a joint return, except those who reduce their gross income under section 911 or 931 of the internal revenue code, may claim as a credit against, but not to exceed the amount of, Wisconsin net income taxes otherwise due an amount equal to 2% of the earned income of the spouse with the lower earned income, but not more than $300. In this paragraph, "earned income" means qualified earned income, as defined in section 221 (b) of the internal revenue code as amended to December 31, 1985, plus employee business expenses under section 62 (2) (B) to (D) of that code, allocable to Wisconsin under s. 71.04, plus amounts received by the individual for services performed in the employ of the individual's spouse minus the amount of disability income excluded under s. 71.05 (6) (b) 4. and minus any other amount not subject to tax under this chapter. Earned income is computed notwithstanding the fact that each spouse owns an undivided one−half interest in the whole of the marital property. A marital property agreement or unilateral statement under ch. 766 transferring income between spouses has no effect in computing earned income under this paragraph.

(am) 1. In this paragraph, "earned income" means qualified earned income, as defined in section 221 (b) of the internal revenue code as amended to December 31, 1985, plus employee business expenses under section 62 (2) (B) to (D) of that code, allocable to Wisconsin under s. 71.04, plus amounts received by the individual for services performed in the employ of the individual's spouse minus the amount of disability income excluded under s. 71.05 (6) (b) 4. and minus any other amount not subject to tax under this chapter. Earned income is computed notwithstanding the fact that each spouse owns an undivided one−half interest in the whole of the marital property. A marital property agreement or unilateral statement under ch. 766 transferring income between spouses has no effect in computing earned income under this paragraph.

2. Married persons filing a joint return, except those who reduce their gross income under section 911 or 931 of the Internal Revenue Code, may claim as a credit against the tax imposed under s. 71.02, up to the amount of those taxes, an amount equal to one of the following:

a. For taxable years beginning after December 31, 1997, and before January 1, 1999, 2.17% of the earned income of the spouse with the lower earned income, but not more than $304.

b. For taxable years beginning after December 31, 1998, and before January 1, 2000, 2.5% of the earned income of the spouse with the lower earned income, but not more than $350.

c. For taxable years beginning after December 31, 1999, and before January 1, 2001, 2.75% of the earned income of the spouse with the lower earned income, but not more than $440.

d. For taxable years beginning after December 31, 2000, 3% of the earned income of the spouse with the lower earned income, but not more than $480.

(b) A claimant who has filed a timely claim under this subsection may file an amended claim with the department of revenue within 4 years of the last day prescribed by law for filing the original claim.

(6e) VETERANS AND SURVIVING SPOUSES PROPERTY TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means an eligible unremarried surviving spouse, an eligible veteran, or an eligible spouse who files a claim under this subsection.

1m. "Eligible spouse" means the spouse of an eligible veteran who files a separate return.

2. "Eligible unremarried surviving spouse" means an unremarried surviving spouse of one of the following, as verified by the department of veterans affairs:

a. An individual who had served on active duty in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces; who was a resident of this state at the time of entry into that active service or who had been a resident of this state for any consecutive 5−year period after entry into that active duty service; and who, while a resident of this state, died while on active duty.

b. An individual who had served on active duty under honorable conditions in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces; who was a resident of this state at the time of entry into that active service or who had been a resident of this state for any consecutive 5−year period after entry into that active duty service; who was a resident of this state at the time of his or her death; and who had either a service−connected disability rating of 100 percent under 38 USC 1114 or 1134 or a 100 percent disability rating based on individual unemployability.

c. An individual who had served in the national guard or a reserve component of the U.S. armed forces; who was a resident of this state at the time of entry into that service or who had been a resident of this state for any consecutive 5−year period after entry into that service; and who, while a resident of this state, died in the line of duty while on active or inactive duty for training purposes.

3. "Eligible veteran" means an individual who is verified by the department of veterans affairs as meeting all of the following conditions:

a. Served on active duty under honorable conditions in the U.S. armed forces or in forces incorporated in the U.S. armed forces.

b. Was a resident of this state at the time of entry into that active service or had been a resident of this state for any consecutive 5−year period after entry into that service.

c. Is currently a resident of this state for purposes of receiving veterans benefits under ch. 45.

d. Has either a service−connected disability rating of 100 percent under 38 USC 1114 or 1134 or a 100 percent disability rating based on individual unemployability.

3e. "Individual unemployability" means a condition under which a veteran has a service−connected disability rating of either 60 percent under 38 USC 1114 or 1134 or two or more service−connected disability conditions where one condition has at least a 40 percent scheduler rating and the combined scheduler rating for all conditions is at least 70 percent, and has an administrative adjustment added to his or her service−connected disability, due to individual unemployability, such that the federal Department of Veterans Affairs rates the veteran 100 percent disabled.

4. "Principal dwelling" has the meaning given in sub. (9) (a) 2.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

5. "Property taxes" means real and personal property taxes, exclusive of special assessments, delinquent interest, and charges for service, paid by a claimant, and the claimant's spouse if filing a joint return, on the eligible veteran's or unremarried surviving spouse's principal dwelling in this state during the taxable year for which credit under this subsection is claimed, less any property taxes paid which are properly includable as a trade or business expense under section 162 of the Internal Revenue Code. If the principal dwelling on which the taxes were paid is owned by 2 or more persons or entities as joint tenants or tenants in common or is owned by spouses as marital property, "property taxes" is that part of property taxes paid that reflects the ownership percentage of the claimant, except that this limitation does not apply to spouses who file a joint return. If the principal dwelling is sold during the taxable year, the "property taxes" for the seller and buyer shall be the amount of the tax prorated to each in the closing agreement pertaining to the sale or, if not so provided for in the closing agreement, the tax shall be prorated between the seller and buyer in proportion to months of their respective ownership. "Property taxes" includes monthly municipal permit fees in respect to a principal dwelling collected under s. 66.0435 (3) (c).

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02 the amount of the claimant's property taxes. If the allowable amount of the claim exceeds the income taxes otherwise due on the claimant's income, the amount of the claim not used as an offset against those taxes shall be certified by the department of revenue to the department of administration for payment to the claimant by check, share draft, or other draft from the appropriation under s. 20.835 (2) (em).

(c) *Limitations.* 1. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

2. No credit may be allowed under this subsection if the individual, or the individual's spouse, files a claim under sub. (3m) or (9) or subch. VIII or IX that relates to the same taxable year for which a claim is made under this subsection.

3. If an eligible veteran and an eligible spouse file separate returns, each spouse may claim a credit under this subsection based on their respective ownership interest in the eligible veteran's principal dwelling.

(d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

(6m) ARMED FORCES MEMBER TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means an active duty member of the U.S. armed forces, as defined in 26 USC 7701 (a) (15).

2. "Military income" means an amount of basic, special or incentive pay income, as those terms are used in 37 USC chapters 3 and 5, received by a claimant from the federal government.

(b) *Filing claims.* Subject to the limitations and conditions provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of those taxes, one of the following amounts:

1. For taxable years beginning before January 1, 2006, an amount up to $200 of military income for services performed by the claimant while he or she is stationed outside of the United States.

2. For taxable years beginning after December 31, 2005, an amount up to $300 of military income for services performed by the claimant while he or she is stationed outside of the United States.

(c) *Limitations and conditions.* 1. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

2. Part−year residents and nonresidents of this state are not eligible for the credit under this subsection.

3. If both spouses of a married couple meet the definition of claimant under par. (a) 1., each spouse may claim the credit under this subsection.

4. No credit may be claimed under this subsection by an individual who claims the subtraction under s. 71.05 (6) (b) 34.

(d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

(6n) VETERAN EMPLOYMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Disabled veteran" means a veteran who is verified by the department of veteran affairs to have a service−connected disability rating of at least 50 percent under 38 USC 1114 or 1134.

3. "Full−time job" means a regular, nonseasonal full−time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays.

4. "Part−time job" means a regular, nonseasonal part−time position in which an individual, as a condition of employment, is required to work fewer than 2,080 hours per year, including paid leave and holidays.

5. "Veteran" means a person who is verified by the department of veteran affairs to have served on active duty under honorable conditions in the U.S. armed forces, in forces incorporated as part of the U.S. armed forces, in the national guard, or in a reserve component of the U.S. armed forces.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2011, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, an amount equal to any of the following:

1. For each disabled veteran the claimant hires in the taxable year to work a full−time job at the claimant's business in this state, $4,000 in the taxable year in which the disabled veteran is hired and $2,000 in each of the 3 taxable years following the taxable year in which the disabled veteran is hired.

2. Subject to par. (c) 4., for each disabled veteran the claimant hires in the taxable year to work a part−time job at the claimant's business in this state, $2,000 in the taxable year in which the disabled veteran is hired and $1,000 in each of the 3 taxable years following the taxable year in which the disabled veteran is hired.

(c) *Limitations.* 1. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their hiring of disabled veterans, as described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

2. No credit may be claimed under this subsection in any taxable year in which the disabled veteran voluntarily or involuntarily leaves his or her employment with the claimant.

3. A claimant may claim a credit under this subsection only for hiring a disabled veteran who has received unemployment compensation benefits for at least one week prior to being hired by the claimant, who was receiving such benefits at the time that he or she was hired by the claimant, and who was eligible to receive such benefits at the time the benefits were paid.

4. With regard to a credit claimed under par. (b) 2., the amount that the claimant may claim is determined as follows:

a. Divide the number of hours that the disabled veteran worked for the claimant during the taxable year by 2,080.

b. Multiply the amount of the credit under par. (b) 2., as appropriate, by the number determined under subd. 4. a.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(7) OTHER STATE TAX CREDIT. (a) In this subsection, "state" includes the District of Columbia, but does not include the commonwealth of Puerto Rico or the several territories organized by Congress.

(b) If a resident individual, estate or trust pays a net income tax to another state, that resident individual, estate or trust may credit the net tax paid to that other state on that income against the net income tax otherwise payable to the state on income of the same year. The credit may not be allowed unless the income taxed by the other state is also considered income for Wisconsin tax purposes. The credit may not be allowed unless claimed within the time provided in s. 71.75 (2), but s. 71.75 (4) does not apply to those credits. For purposes of this paragraph, amounts declared and paid under the income tax law of another state are considered a net income tax paid to that other state only in the year in which the income tax return for that state was required to be filed. Income and franchise taxes paid to another state by a tax−option corporation, partnership, or limited liability company that is treated as a partnership may be claimed as a credit under this paragraph by that corporation's shareholders, that partnership's partners, or that limited liability company's members who are residents of this state and who otherwise qualify under this paragraph.

Cross−reference: See also s. Tax 2.955, Wis. adm. code.

(8) PERSONAL EXEMPTIONS CREDIT FOR NATURAL PERSONS. On income of calendar year 1986 and corresponding fiscal years and thereafter, there may be deducted from the tax after it has been computed according to the rates of this section personal exemptions for natural persons as follows:

(a) An exemption of one of the following amounts if the taxpayer has reached the age of 65 prior to the close of the calendar or fiscal year and if one of the following applies:

1. If the taxpayer is an individual, the taxpayer files an individual return, and has adjusted gross income of less than $30,000 in the year to which the claim relates, $25.

2. If the taxpayer is an individual, the taxpayer files an individual return, and has adjusted gross income of at least $30,000 but less than $31,000 in the year to which the claim relates, the amount obtained by subtracting from $25 2.5% of the amount by which the taxpayer's adjusted gross income exceeds $30,000.

3. If the taxpayer is married, the taxpayer files a joint return, and has adjusted gross income of less than $40,000 in the year to which the claim relates, $25.

4. If the taxpayer is married, the taxpayer files a joint return, and has adjusted gross income of at least $40,000 but less than $41,000 in the year to which the claim relates, the amount obtained by subtracting from $25 2.5% of the amount by which the taxpayer's adjusted gross income exceeds $40,000.

5. If the taxpayer is married, the taxpayer files a separate return, and has adjusted gross income of less than $20,000 in the year to which the claim relates, $25.

6. If the taxpayer is married, the taxpayer files a separate return and has adjusted gross income of at least $20,000 but less than $21,000 in the year to which the claim relates, the amount obtained by subtracting from $25 2.5% of the amount by which the taxpayer's adjusted gross income exceeds $20,000.

(b) An exemption of $50 for each person for whom the taxpayer is entitled to an exemption for the taxable year under section 151 (c) of the federal internal revenue code.

(c) With respect to persons who change their domicile into or from this state during the taxable year and nonresident persons, personal exemptions shall be limited to the fraction of the amount so determined that Wisconsin adjusted gross income is of federal adjusted gross income. In this paragraph, for married persons filing separately "adjusted gross income" means the separate adjusted gross income of each spouse and for married persons filing jointly "adjusted gross income" means the total adjusted gross income of both spouses. If a person and that person's spouse are not both domiciled in this state during the entire taxable year, their personal exemptions on a joint return are determined by multiplying the personal exemption that would be available to each of them if they were both domiciled in this state during the entire taxable year by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income.

(d) No new claim may be filed under this subsection for a taxable year that begins after December 31, 1999.

(8r) BEGINNING FARMER AND FARM ASSET OWNER TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Agricultural assets" means machinery, equipment, facilities, or livestock that is used in farming.

2. "Beginning farmer" means a person who meets the conditions specified in s. 93.53 (2).

3. "Claimant" means a beginning farmer who files a claim under this subsection or an established farmer who files a claim under this subsection.

4. "Educational institution" means the Wisconsin Technical College System, the University of Wisconsin−Extension, the University of Wisconsin−Madison, or any other institution that is approved by the department of agriculture, trade and consumer protection under s. 93.53 (6) (a).

5. "Established farmer" means a person who meets the conditions specified in s. 93.53 (3).

6. "Farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code.

7. "Financial management program" means a course in farm financial management that is offered by an educational institution.

8. "Lease amount" is the amount of the cash payment paid by a beginning farmer to an established farmer each year for leasing the established farmer's agricultural assets.

(b) *Filing claims.* 1. For taxable years beginning after December 31, 2010, and subject to the limitations provided in this subsection, a beginning farmer may claim as a credit against the tax imposed under s. 71.02 or 71.08, on a one−time basis, the amount paid by the beginning farmer to enroll in a financial management program in the year to which the claim relates. If the allowable amount of the claim exceeds the income taxes otherwise due on the beginning farmer's income, the amount of the claim not used as an offset against those taxes shall be certified by the department of revenue to the department of administration for payment to the claimant by check, share draft, or other draft from the appropriation under s. 20.835 (2) (en).

2. For taxable years beginning after December 31, 2010, and subject to the limitations provided in this subsection, an established farmer may claim as a credit against the tax imposed under s. 71.02 or 71.08 15 percent of the lease amount received by the established farmer in the year to which the claim relates. If the allowable amount of the claim exceeds the income taxes otherwise due on the established farmer's income, the amount of the claim not used as an offset against those taxes shall be certified by the department of revenue to the department of administration for payment to the claimant by check, share draft, or other draft from the appropriation under s. 20.835 (2) (en).

(c) *Limitations.* 1. An established farmer may only claim the credit under this subsection for the first 3 years of any lease of the established farmer's agricultural assets to a beginning farmer.

2. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

3. Along with a claimant's income tax return, a claimant shall submit to the department a certificate of eligibility provided under s. 93.53 (5) (b) or (c).

4. No credit may be claimed under this subsection by a part−year resident or a nonresident of this state.

5. The right to file a claim under this subsection is personal to the claimant and does not survive the claimant's death. When

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

a claimant dies after having filed a timely claim the amount thereof shall be disbursed under s. 71.75 (10). The right to file a claim under this subsection may be exercised on behalf of a living claimant by the claimant's legal guardian or attorney−in−fact.

6. The maximum credit that a beginning farmer may claim under this subsection is $500.

7. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on the amounts received by the entities under par. (b) 2. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

(9) SCHOOL PROPERTY TAX CREDIT. (a) In this subsection:

1. "Claimant" means a natural person who files a claim or on whose behalf a claim is filed under this subsection but does not include an estate, fiduciary or trust.

2. "Principal dwelling" means any dwelling, whether owned or rented, and the land surrounding it that is reasonably necessary for use of the dwelling as a primary dwelling of the claimant and may include a part of a multidwelling or multipurpose building and a part of the land upon which it is built that is used as the claimant's primary dwelling.

3. "Property taxes" means real and personal property taxes, exclusive of special assessments, delinquent interest and charges for service, paid by a claimant on the claimant's principal dwelling during the taxable year for which credit under this subsection is claimed, less any property taxes paid which are properly includable as a trade or business expense under section 162 of the Internal Revenue Code. If the principal dwelling on which the taxes were paid is owned by 2 or more persons or entities as joint tenants or tenants in common or is owned by spouses as marital property, "property taxes" is that part of property taxes paid that reflects the ownership percentage of the claimant. If the principal dwelling is sold during the taxable year the "property taxes" for the seller and buyer shall be the amount of the tax prorated to each in the closing agreement pertaining to the sale or, if not so provided for in the closing agreement, the tax shall be prorated between the seller and buyer in proportion to months of their respective ownership. "Property taxes" includes monthly municipal permit fees in respect to a principal dwelling collected under s. 66.0435 (3) (c).

4. "Rent constituting property taxes" means 25 percent of rent if heat is not included, or 20 percent of rent if heat is included, paid during the taxable year for which credit is claimed under this subsection, at arm's length, for the use of a principal dwelling and contiguous land, excluding any payment for domestic, food, medical or other services which are unrelated to use of the dwelling as housing, less any rent paid that is properly includable as a trade or business expense under the internal revenue code. "Rent" includes space rental paid to a landlord for parking a mobile home or manufactured home. Rent shall be apportioned among the occupants of a principal dwelling according to their respective contribution to the total amount of rent paid. "Rent" does not include rent paid for the use of housing which was exempt from property taxation, except housing for which payments in lieu of taxes were made under s. 66.1201 (22).

(b) 1. Subject to the limitations under this subsection and except as provided in subds. 2., 4. and 5., a claimant may claim as a credit against, but not to exceed the amount of, taxes under s. 71.02, 10% of the first $2,000 of property taxes or rent constituting property taxes, or 10% of the first $1,000 of property taxes or rent constituting property taxes of a married person filing separately.

2. Subject to the limitations under this subsection, a claimant may claim as a credit against, but not to exceed the amount of, taxes under s. 71.02, the amounts specified in the proposal under 1997 Wisconsin Act 237, section 9256 (2c).

4. For taxable years beginning after December 31, 1998, and before January 1, 2000, subject to the limitations under this subsection a claimant may claim as a credit against, but not to exceed the amount of, taxes under s. 71.02, 8.4% of the first $0 of property taxes or rent constituting property taxes, or 8.4% of the first $0 of property taxes or rent constituting property taxes of a married person filing separately.

5. For taxable years beginning after December 31, 1999, subject to the limitations under this subsection a claimant may claim as a credit against, but not to exceed the amount of, taxes under s. 71.02, 12% of the first $2,500 of property taxes or rent constituting property taxes, or 12% of the first $1,250 of property taxes or rent constituting property taxes of a married person filing separately.

(c) For an unmarried person or a married person filing a separate return who is a part−year resident of this state, the credit under this subsection is limited to that fraction of the amount determined under this subsection that Wisconsin adjusted gross income is of federal adjusted gross income. No credit is allowed under this subsection for unmarried persons or married persons filing separate returns who are nonresidents of this state. If one spouse is not domiciled in this state during the entire taxable year, the credit on a joint return is determined by multiplying the school property tax credit that would be available to them if both spouses were domiciled in this state during the entire taxable year by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income. No credit is allowed under this subsection on a joint return if both spouses are nonresidents of this state.

(d) No credit may be allowed under this subsection unless it is claimed within the period specified in s. 71.75 (2).

(e) In any case in which a principal dwelling is rented by a person from another person under circumstances deemed by the department of revenue to be not at arm's length, the department may determine rent at arm's length, and, for purposes of this subsection, such determination shall be final.

(f) The department of revenue, on its forms and instructions, shall refer to the credit under this subsection as the school property tax credit.

(9e) EARNED INCOME TAX CREDIT. (a) For taxable years beginning before January 1, 1994, any natural person may credit against the tax imposed under s. 71.02 an amount equal to one of the following percentages of the federal basic earned income credit for which the person is eligible for the taxable year under section 32 (b) (1) (A) to (C) of the internal revenue code:

1. If the person has one qualifying child who has the same principal place of abode as the person, 5%.

2. If the person has 2 qualifying children who have the same principal place of abode as the person, 25%.

3. If the person has more than 2 qualifying children who have the same principal place of abode as the person, 75%.

(ac) For taxable years beginning after December 31, 1994, and before January 1, 1996, any natural person may credit against the tax imposed under s. 71.02 an amount equal to one of the following percentages of the federal basic earned income credit for which the person is eligible for the taxable year under section 32 (b) (1) (A) to (C) of the internal revenue code:

1. If the person has one qualifying child who has the same principal place of abode as the person, 4%.

2. If the person has 2 qualifying children who have the same principal place of abode as the person, 16%.

3. If the person has 3 or more qualifying children who have the same principal place of abode as the person, 50%.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(ad) For taxable years beginning after December 31, 1993, and before January 1, 1995, a person who has one qualifying child who has the same principal place of abode as the person may credit against the tax imposed under s. 71.02 an amount equal to the amount calculated by one of the following methods, based on the person's earned income or federal adjusted gross income:

1. If the person's federal adjusted gross income is below the phase−out income threshold under par. (at) and the person's earned income is the maximum credit income under par. (at) or less, the credit shall be the person's earned income multiplied by 1.15%.

2. If the person's federal adjusted gross income is below the phase−out income threshold under par. (at) and the person's earned income is more than the maximum credit income under par. (at) but not more than the phase−out income threshold, the credit shall be the maximum credit income multiplied by 1.15%.

3. If the person's federal adjusted gross income is below the phase−out income threshold under par. (at) and the person's earned income is more than the phase−out income threshold but not more than the maximum income under par. (at), the credit shall be the amount obtained by subtracting from the maximum credit under par. (at), the amount obtained by multiplying by 0.82%, the difference between the person's earned income and the phase−out income threshold.

4. If the person's federal adjusted gross income is at or above the phase−out income threshold under par. (at) but not more than the maximum income under par. (at), the credit shall be the lesser of one of the following:

a. If the person's earned income is the maximum credit income under par. (at) or less, the person's earned income multiplied by 1.15%.

b. If the person's earned income is more than the maximum credit income under par. (at) but not more than the phase−out income threshold under par. (at), the maximum credit income multiplied by 1.15%.

c. If the person's earned income is more than the phase−out income threshold under par. (at) but not more than the maximum income under par. (at), the amount obtained by subtracting from the maximum credit under par. (at), the amount obtained by multiplying by 0.82%, the difference between the person's earned income and the phase−out income threshold.

d. The amount obtained by subtracting from the maximum credit under par. (at), the amount obtained by multiplying by 0.82%, the difference between the person's federal adjusted gross income and the phase−out income threshold under par. (at).

(af) For taxable years beginning after December 31, 1995, and before January 1, 2011, any natural person may credit against the tax imposed under s. 71.02 an amount equal to one of the following percentages of the federal basic earned income credit for which the person is eligible for the taxable year under section 32 (b) (1) (A) to (C) of the Internal Revenue Code:

1. If the person has one qualifying child who has the same principal place of abode as the person, 4%.

2. If the person has 2 qualifying children who have the same principal place of abode as the person, 14%.

3. If the person has 3 or more qualifying children who have the same principal place of abode as the person, 43%.

(ah) For taxable years beginning after December 31, 1993, and before January 1, 1995, a person who has 2 qualifying children who have the same principal place of abode as the person may credit against the tax imposed under s. 71.02 an amount equal to the amount calculated by one of the following methods, based on the person's earned income or federal adjusted gross income:

1. If the person's federal adjusted gross income is below the phase−out income threshold under par. (at) and the person's earned income is the maximum credit income under par. (at) or less, the credit shall be the person's earned income multiplied by 6.25%.

2. If the person's federal adjusted gross income is below the phase−out income threshold under par. (at) and the person's earned income is more than the maximum credit income under par. (at) but not more than the phase−out income threshold, the credit shall be the maximum credit income multiplied by 6.25%.

3. If the person's federal adjusted gross income is below the phase−out income threshold under par. (at) and the person's earned income is more than the phase−out income threshold but not more than the maximum income under par. (at), the credit shall be the amount obtained by subtracting from the maximum credit under par. (at), the amount obtained by multiplying by 4.47%, the difference between the person's earned income and the phase−out income threshold.

4. If the person's federal adjusted gross income is at or above the phase−out income threshold under par. (at) but not more than the maximum income under par. (at), the credit shall be the lesser of one of the following:

a. If the person's earned income is the maximum credit income under par. (at) or less, the person's earned income multiplied by 6.25%.

b. If the person's earned income is more than the maximum credit income under par. (at) but not more than the phase−out income threshold under par. (at), the maximum credit income multiplied by 6.25%.

c. If the person's earned income is more than the phase−out income threshold under par. (at) but not more than the maximum income under par. (at), the amount obtained by subtracting from the maximum credit under par. (at), the amount obtained by multiplying by 4.47%, the difference between the person's earned income and the phase−out income threshold.

d. The amount obtained by subtracting from the maximum credit under par. (at), the amount obtained by multiplying by 4.47%, the difference between the person's federal adjusted gross income and the phase−out income threshold under par. (at).

(aj) For taxable years beginning after December 31, 2010, an individual may credit against the tax imposed under s. 71.02 an amount equal to one of the following percentages of the federal basic earned income credit for which the person is eligible for the taxable year under section 32 (b) (1) (A) to (C) of the Internal Revenue Code:

1. If the person has one qualifying child who has the same principal place of abode as the person, 4 percent.

2. If the person has 2 qualifying children who have the same principal place of abode as the person, 11 percent.

3. If the person has 3 or more qualifying children who have the same principal place of abode as the person, 34 percent.

(ap) For taxable years beginning after December 31, 1993, and before January 1, 1995, a person who has more than 2 qualifying children who have the same principal place of abode as the person may credit against the tax imposed under s. 71.02 an amount equal to the amount calculated by one of the following methods, based on the person's earned income or federal adjusted gross income:

1. If the person's federal adjusted gross income is below the phase−out income threshold under par. (at) and the person's earned income is the maximum credit income under par. (at) or less, the credit shall be the person's earned income multiplied by 18.75%.

2. If the person's federal adjusted gross income is below the phase−out income threshold under par. (at) and the person's earned income is more than the maximum credit income under par. (at) but not more than the phase−out income threshold, the credit shall be the maximum credit income multiplied by 18.75%.

3. If the person's federal adjusted gross income is below the phase−out income threshold under par. (at) and the person's

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

earned income is more than the phase−out income threshold but not more than the maximum income under par. (at), the credit shall be the amount obtained by subtracting from the maximum credit under par. (at), the amount obtained by multiplying by 13.40%, the difference between the person's earned income and the phase−out income threshold.

4. If the person's federal adjusted gross income is at or above the phase−out income threshold under par. (at) but not more than the maximum income under par. (at), the credit shall be the lesser of one of the following:

a. If the person's earned income is the maximum credit income under par. (at) or less, the person's earned income multiplied by 18.75%.

b. If the person's earned income is more than the maximum credit income under par. (at) but not more than the phase−out income threshold under par. (at), the maximum credit income multiplied by 18.75%.

c. If the person's earned income is more than the phase−out income threshold under par. (at) but not more than the maximum income under par. (at), the amount obtained by subtracting from the maximum credit under par. (at), the amount obtained by multiplying by 13.40%, the difference between the person's earned income and the phase−out income threshold.

d. The amount obtained by subtracting from the maximum credit under par. (at), the amount obtained by multiplying by 13.40%, the difference between the person's federal adjusted gross income and the phase−out income threshold under par. (at).

(at) 1. For taxable years beginning after December 31, 1993, and before January 1, 1995:

a. The maximum credit income is $7,980.

b. The phase−out income threshold is $12,570.

c. The maximum income is $23,740.

3. For taxable years beginning after December 31, 1993, and before January 1, 1995, the maximum credit is one of the following amounts:

a. If the person has one qualifying child who has the same principal place of abode as the person, the maximum credit income under subd. 1. a. multiplied by 1.15%.

b. If the person has 2 qualifying children who have the same principal place of abode as the person, the maximum credit income under subd. 1. a. multiplied by 6.25%.

c. If the person has more than 2 qualifying children who have the same principal place of abode as the person, the maximum credit income under subd. 1. a. multiplied by 18.75%.

(b) No credit may be allowed under this subsection to married persons, except married persons living apart who are treated as single under section 7703 (b) of the internal revenue code, if the husband and wife report their income on separate income tax returns for the taxable year.

(c) Part−year residents and nonresidents of this state are not eligible for the credit under this subsection.

(d) The department of revenue may enforce the credit under this subsection and may take any action, conduct any proceeding and proceed as it is authorized in respect to taxes under this chapter. The income tax provisions in this chapter relating to assessments, refunds, appeals, collection, interest and penalties apply to the credit under this subsection.

(e) No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

(f) Except as provided in s. 71.80 (3) and (3m), if the allowable amount of the claim under this subsection exceeds the taxes otherwise due under this chapter or no taxes are due under this chapter, the amount of the claim not used to offset taxes due shall be certified by the department of revenue to the department of administration for payment by check, share draft or other draft drawn from the appropriation under s. 20.835 (2) (f) or (kf).

(g) 1. If an individual claims the credit under this subsection and claims the federal advance earned income tax credit, the individual may request that his or her employer add to his or her paycheck an advance payment amount calculated under subd. 2.

2. The advance payment amount that an individual's employer shall add to the individual's paycheck, as described in subd. 1., shall be equal to a percentage of the amount that the individual's employer adds to the individual's paycheck as an advance earned income tax credit payment under federal law. The percentage shall be the same percentage as is specified in par. (af), based on the number of qualifying children that the individual has.

3. An employer may deduct from the aggregate amount that the employer would otherwise be required to withhold from employee wages and forward to the department, under ss. 71.64 and 71.65, the total amount of any advance payments the employer makes under subd. 2.

4. The department shall prepare any forms and instructions that may be necessary to facilitate the addition of the advance payment amount calculated under subd. 2. to an individual's paycheck and any changes to the withholding procedures as described under subd. 3.

Cross−reference: See also ss. Tax 2.07 and 2.97, Wis. adm. code.

(9m) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. (a) Any person may credit against taxes otherwise due under this chapter, up to the amount of those taxes, an amount equal to 5% of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the internal revenue code, for certified historic structures on property located in this state if the physical work of construction or destruction in preparation for construction begins after December 31, 1988, and the rehabilitated property is placed in service after June 30, 1989.

(c) No person may claim the credit under this subsection unless the claimant includes with the claimant's return evidence that the rehabilitation was recommended by the state historic preservation officer for approval by the secretary of the interior under 36 CFR 67.6 before the physical work of construction, or destruction in preparation for construction, began and that the rehabilitation was approved by the secretary of the interior under 36 CFR 67.6.

(cm) Any credit claimed under this subsection for Wisconsin purposes shall be claimed at the same time as for federal purposes.

(d) The Wisconsin adjusted basis of the building shall be reduced by the amount of any credit awarded under this subsection. The Wisconsin adjusted basis of a partner's interest in a partnership, of a member's interest in a limited liability company or of stock in a tax−option corporation shall be adjusted to take into account adjustments made under this paragraph.

(e) The provisions of s. 71.28 (4) (e), (f), (g) and (h), as they apply to the credit under s. 71.28 (4), apply to the credit under this subsection.

(f) A partnership, limited liability company, or tax−option corporation may not claim the credit under this subsection. The partners of a partnership, members of a limited liability company, or shareholders in a tax−option corporation may claim the credit under this subsection based on eligible costs incurred by the partnership, company, or tax−option corporation. The partnership, limited liability company, or tax−option corporation shall calculate the amount of the credit which may be claimed by each partner, member, or shareholder and shall provide that information to the partner, member, or shareholder. For shareholders of a tax−option corporation, the credit may be allocated in proportion to the ownership interest of each shareholder. Credits computed by a partnership or limited liability company may be claimed in proportion to the ownership interests of the partners or members or allocated to partners or members as provided in a written agreement among the partners or members that is entered into no later than the last day of the taxable year of the partnership or limited liability company, for which the credit is claimed. For a partnership or limited liability company that places property in service after June 29, 2008, and before January 1, 2009, the credit attributable to such property may be allocated, at the election of the partnership or limited liability company, to partners or members for

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

a taxable year of the partnership or limited liability company that ends after June 29, 2008, and before January 1, 2010. Any partner or member who claims the credit as provided under this paragraph shall attach a copy of the agreement, if applicable, to the tax return on which the credit is claimed. A person claiming the credit as provided under this paragraph is solely responsible for any tax liability arising from a dispute with the department of revenue related to claiming the credit.

(g) 1. If a person who claims the credit under this subsection elects to claim the credit based on claiming amounts for expenditures as the expenditures are paid, rather than when the rehabilitation work is completed, the person shall file an election form with the department, in the manner prescribed by the department.

2. Notwithstanding s. 71.77, the department may adjust or disallow the credit claimed under this subsection within 4 years after the date that the state historical society notifies the department that the expenditures for which the credit was claimed do not comply with the standards for certification promulgated under s. 44.02 (24).

Cross−reference: See also s. Tax 2.956, Wis. adm. code.

(9r) STATE HISTORIC REHABILITATION CREDIT. (a) For taxable years beginning on or after August 1, 1988, any natural person may credit against taxes otherwise due under s. 71.02 an amount equal to 25% of the costs of preservation or rehabilitation of historic property located in this state, including architectural fees and costs incurred in preparing nomination forms for listing in the national register of historic places in Wisconsin or the state register of historic places, if the nomination is made within 5 years prior to submission of a preservation or rehabilitation plan under par. (b) 3. b., and if the physical work of construction or destruction in preparation for construction begins after December 31, 1988, except that the credit may not exceed $10,000, or $5,000 for married persons filing separately, for any preservation or rehabilitation project.

Cross−reference: See also s. Tax 2.956, Wis. adm. code.

(b) The department of revenue shall approve the credit under this subsection if all of the following conditions are met:

1. The costs are incurred and the claim is submitted by the owner of the historic property.

1m. The costs included in the claim relate only to preservation or rehabilitation work done to any of the following:

a. The exterior of the historic property.

b. The interior of a window sash if work is done to the exterior of the window sash.

c. Structural elements of the historic property.

d. The heating or ventilating systems.

e. Electrical or plumbing systems, but not electrical or plumbing fixtures.

2. The historic property, including outbuildings that contribute to the significance of the historic property, is an owner−occupied personal residence if the residence is not actively used in a trade or business, held for the production of income or held for sale or other disposition in the ordinary course of the claimant's trade or business.

3. The state historical society certifies that:

a. The property is listed on the national register of historic places in Wisconsin or the state register of historic places, or is determined by the state historical society to be eligible for listing on the national register of historic places in Wisconsin or the state register of historic places, or is located in a historic district which is listed in the national register of historic places in Wisconsin or the state register of historic places and is certified by the state historic preservation officer as being of historic significance to the district, or is an outbuilding of an otherwise eligible property certified by the state historic preservation officer as contributing to the historic significance of the property.

b. The proposed preservation or rehabilitation plan complies with standards promulgated under s. 44.02 (24) and the completed preservation or rehabilitation substantially complies with the proposed plan.

4. The preservation or rehabilitation work is completed within 2 years after the date that the physical work of construction or destruction in preparation for construction begins, except in the case of any preservation or rehabilitation which is initially planned for completion in phases, in which case the work shall be completed within 5 years after the date that the physical work of construction or destruction in preparation for construction begins.

5. The expenditures for preservation or rehabilitation of the historic property exceed $10,000.

6. The costs are not incurred to acquire any building or interest in a building or to enlarge existing building.

7. The costs were not incurred before the state historical society approved the proposed preservation or rehabilitation plan under subd. 3. b.

(c) The Wisconsin adjusted basis of the historic property shall be reduced by the amount of any credit awarded under this subsection.

(f) No natural person may claim a credit under this subsection and under sub. (9m) for the same expenses.

(g) The provisions of s. 71.28 (4) (f), (g) and (h), as they apply to the credit under s. 71.28 (4), apply to the credit under this subsection.

(i) If the historic property is owned by 2 or more natural persons that hold legal title or equitable title as a land contract vendee and are not joint tenants, tenants in common or spouses owning marital property, the credit under this subsection may be claimed as follows:

1. For projects benefiting one owner, a natural person may claim the credit based on eligible costs incurred individually.

2. For projects benefiting 2 or more owners, a natural person may claim the credit based on eligible costs incurred by the benefiting owners in proportion to the natural person's ownership interest.

(j) No natural person may claim the credit under this subsection for any of the following:

2. Rehabilitation of historic property if the historic property was acquired by the claimant under an agreement requiring the claimant to sell or otherwise dispose of the historic property back to the previous owner within 5 years after the date that the historic property was acquired.

(k) A natural person who receives a credit under this subsection shall add to his or her liability for taxes imposed under s. 71.02 one of the following percentages of the amount of the credits received under this subsection for rehabilitating or preserving the property if, within 5 years after the date on which the preservation or rehabilitation work that was the basis of the credit is completed, the person either sells or conveys the property by deed or land contract or the state historical society certifies to the department of revenue that the historic property has been altered to the extent that it does not comply with the standards promulgated under s. 44.02 (24):

1. If the sale, conveyance or noncompliance occurs during the first year after the date on which the preservation or rehabilitation is completed, 100%.

2. If the sale, conveyance or noncompliance occurs during the 2nd year after the date on which the preservation or rehabilitation is completed, 80%.

3. If the sale, conveyance or noncompliance occurs during the 3rd year after the date on which the preservation or rehabilitation is completed, 60%.

4. If the sale, conveyance or noncompliance occurs during the 4th year after the date on which the preservation or rehabilitation is completed, 40%.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

5. If the sale, conveyance or noncompliance occurs during the 5th year after the date on which the preservation or rehabilitation is completed, 20%.

Cross−reference: See also ch. HS 3, Wis. adm. code.

(10) CREDITS NOT ALLOWED. The credits under s. 71.28 (4) and (5) may not be claimed by partners, including partners of a publicly traded partnership treated as a corporation under s. 71.22 (1k), members of a limited liability company, including members of a limited liability company treated as a corporation under s. 71.22 (1k), or shareholders of a tax−option corporation.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11, 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 s. 80; s. 35.17 correction in (2dr) (a), (5n) (a) (intro.).

71.08 Minimum tax. (1) IMPOSITION. If the tax imposed on a natural person, married couple filing jointly, trust, or estate under s. 71.02, not considering the credits under ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (6), (6e), (8r), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other states under s. 71.07 (7), is less than the tax under this section, there is imposed on that natural person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

(a) Adjust the alternative minimum taxable income, as defined in section 55 (b) (2) of the internal revenue code, by the amounts under s. 71.05 (6) to (21), except s. 71.05 (6) (a) 13. and (b) 5. and (8), by the amounts needed to modify federal alternative tax net operating loss deductions to reflect differences between Wisconsin net operating loss deductions and federal net operating loss deductions for minimum tax purposes. The department of revenue shall by rule define Wisconsin net operating loss deductions for minimum tax purposes.

(b) Subtract the amount under section 57 (a) (5) of the internal revenue code from the amount under par. (a).

(bm) For stocks acquired after December 31, 1987, under incentive stock options, as defined in section 422A (b) of the internal revenue code:

1. At the time that the incentive stock option is included in alternative minimum taxable income under section 56 (b) (3) of the internal revenue code, subtract from the amount in par. (b) 20% of the amount included in federal alternative minimum taxable income under section 56 (b) (3) of the internal revenue code.

2. At the time that the stock that was subject to subd. 1. is disposed of, add 20% of the gain or loss adjustment resulting from the basis adjustment made under section 56 (b) (3) of the internal revenue code to the amount in par. (b).

(c) For nonresidents and part−year residents, adjust the amount under par. (bm) so that itemized deductions and personal exemptions are prorated on the basis of the ratio of Wisconsin adjusted gross income to federal adjusted gross income.

(d) Subtract from the amount under par. (c) the appropriate amount under section 55 (d) (1) and (3) of the internal revenue code; except that surviving spouses shall be treated as single individuals; except that the amount under par. (c), not the federal alternative minimum taxable income, shall be used in calculating the phase−out and except that for nonresidents and part−year residents the amount under section 55 (d) (1) and (3) of the internal revenue code shall be prorated on the basis of the ratio of Wisconsin adjusted gross income to federal adjusted gross income.

(e) Multiply the amount under par. (d) by 6.5%.

(2) JOINT LIABILITY. If the requirements under sub. (1) are applicable and the spouses file a joint income tax return, they shall file a joint minimum tax return and are jointly and severally liable for the tax imposed under sub. (1) and for the interest, penalties, fees, additions to tax and additional assessments with respect to the tax.

(3) ADMINISTRATION. The department of revenue shall have full power to impose, enforce and collect the minimum tax provided in this section and may take any action, conduct any proceeding and in all respects proceed as it is authorized in respect to income taxes imposed in this chapter. The income tax provisions in this chapter relating to assessments, refunds, appeals, collection, interest and penalties shall apply to the minimum tax.

(4) TAX BENEFIT RULE. The department of revenue shall promulgate rules to provide that the amount under sub. (1) may be reduced to prevent the inclusion of any amounts, except the federal standard deductions, itemized deductions and personal exemptions, that do not reflect a benefit in respect to the tax imposed under s. 71.02.

History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27, 237; 1999 a. 9; 2001 a. 109; 2003 a. 99, 135, 255, 326; 2005 a. 25, 177, 361, 479, 483; 2007 a. 20, 97; 2009 a. 2, 28, 269, 295; 2011 a. 260 ss. 24, 80.

71.09 Payment of estimated taxes. (1) DEFINITIONS. In this section:

(a) "Farmers or fishers" are individuals, estates or trusts whose estimated gross income from farming or fishing for the taxable year is at least two−thirds of the total estimated gross income from all sources for the taxable year or individuals, estates or trusts whose gross income from farming or fishing for the preceding taxable year was at least two−thirds of the total gross income from all sources shown on that return. If a person files a joint return, the income of both that person and that person's spouse shall be considered in determining whether the person is a farmer or fisher.

(am) "Return" means a return that would show the tax properly due.

(b) "Tax shown on the return" and "tax for the taxable year" mean the net tax imposed under s. 71.02 after reduction for exemptions to, and credits against, that tax but before reduction by amounts withheld under subch. X and before reduction for amounts paid as estimated tax under this section for that tax plus the tax imposed under s. 71.08 before reduction for amounts paid as estimated tax under this section for that tax plus the surcharge imposed under s. 77.93 before reduction for amounts paid as estimated tax under this section for that surcharge.

(2) WHO SHALL PAY. Every individual, estate and trust deriving income subject to taxation under this chapter, other than wages as defined in s. 71.63 (6) upon which taxes are withheld by the individual's employer under subch. X, shall pay estimated income tax, the surcharge under s. 77.93 and alternative minimum tax. This section does not apply to any person on active duty with the U.S. armed forces while stationed outside the continental United States. This section does not apply to any taxable year ending before the date 2 years after the date of a decedent's death with respect to the estate of such decedent or any trust all of which is treated under subpart E of part I of subchapter J of chapter 1 of the internal revenue code as owned by the decedent and to which the residue of the decedent's estate will pass under his or her will. This section does not apply to any trust that is subject to tax under this chapter on unrelated business taxable income as defined under section 512 of the internal revenue code. Those trusts are subject to estimated tax payments under s. 71.29.

(3) FARMERS OR FISHERS. Payments of estimated income tax required by sub. (2) from farmers or fishers may be made at any time on or before the 15th day of the first month of the succeeding taxable year.

(4) FARMERS OR FISHERS EXCEPTION. Except as provided in sub. (1) (am), if on or before the first day of the 3rd month of the succeeding taxable year a farmer or a fisher files a return for the taxable year, for which estimated taxes were required on or before the 15th day of the first month of the succeeding taxable year under sub. (3), and pays in full the amount computed on the return

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

as payable, then that payment satisfies any required estimated tax installments.

(5) AMOUNT. The amount of the estimated income tax shall be the total estimated tax, including surtaxes, if any, reduced by the amount, if any, the individual, estate or trust determines will be withheld from wages pursuant to subch. X.

(7) REFUND CARRY−FORWARD. If the taxpayer claims a refund on any tax return and, concurrent with or subsequent to the filing of the return upon which such refund is claimed, is required to pay an estimated tax, and at the time of paying that tax the refund has not been paid, he or she may deduct the amount of such refund from the first installment of estimated taxes, and any excess from the succeeding installments. If a refund is paid after the due date of the last installment, its receipt shall be reflected on the income tax return covering the year. If the refund is disallowed in whole or in part after the due date of the last installment, that disallowance must be reflected on the income tax return covering the year.

(8) PREPAYMENTS. Any installment of the estimated tax under this section may be paid prior to the date prescribed for its payment.

(9) SHORT YEAR. Application of this section to taxable years of less than 12 full months shall be made pursuant to rules of the department.

Cross−reference: See also s. Tax 2.89, Wis. adm. code.

(10) OVERPAYMENT. When the amount of an installment payment of estimated tax exceeds the amount determined to be the correct amount of such installment payment, the overpayment shall be credited against the unpaid installment, if any.

(11) EXCEPTIONS TO INTEREST. No interest is required under s. 71.84 (1) if any of the following conditions apply:

(a) The tax shown on the return or, if no return is filed, the tax, minus amounts withheld under subch. X, is less than $200.

(b) The preceding taxable year was 12 months, the taxpayer had no liability under s. 71.02 or 71.08 for that year and the taxpayer was a resident of this state for all of that year.

(c) The secretary of revenue determines that because of casualty, disaster or other unusual circumstances it is not equitable to impose interest.

(d) The secretary of revenue determines that the taxpayer retired during the taxable year or during the preceding taxable year after having attained age 62 or becoming disabled except that this paragraph does not apply upon a showing by the department under s. 73.16 (4).

(e) For taxable years beginning after December 31, 2008, the taxpayer qualifies for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action.

(f) The taxpayer has underpaid the taxpayer's estimated taxes due to the change in brackets under s. 71.06 (1p) (e) and (2) (g) 5. and (h) 5. This paragraph applies only in the first taxable year to which these bracket changes apply.

(12) INSTALLMENT DUE DATES. Taxpayers shall make estimated payments in 4 installments, on or before the 15th day of each of the following months:

(a) The 4th month of the taxable year.

(b) The 6th month of the taxable year.

(c) The 9th month of the taxable year.

(d) The first month of the next taxable year.

(13) INSTALLMENT AMOUNTS. (a) Except as provided in pars. (b), (c) and (d), the amount of each installment required under sub. (12) is 25% of the lower of the following amounts:

1. Ninety percent of the tax shown on the return for the taxable year or, if no return is filed, 90% of the tax for the taxable year.

2. The tax shown on the return for the preceding year. If a husband and wife who filed separate returns for the preceding taxable year file a joint return, the tax shown on the return for the preceding year is the sum of the taxes shown on the separate returns of the husband and wife. If a husband and wife who filed a joint return for the preceding taxable year file separate returns, the tax shown on the return for the preceding year is the husband's or wife's proportion of that tax based on what their respective tax liabilities for that year would have been had they filed separately.

(b) Paragraph (a) 2. does not apply if the preceding taxable year was less than 12 months or if the taxpayer did not file a return for the preceding taxable year.

(c) Paragraph (a) 2. does not apply if the taxpayer is an estate or trust and has a taxable income of $20,000 or more.

(d) If 22.5% for the first installment, 45% for the 2nd installment, 67.5% for the 3rd installment and 90% for the 4th installment of the tax for the taxable year computed by annualizing, under methods prescribed by the department of revenue, the taxpayer's income for the months in the taxable year ending before the installment's due date is less than the installment required under par. (a), the taxpayer may pay the amount under this paragraph rather than the amount under par. (a). Any taxpayer who pays an amount calculated under this paragraph shall increase the next installment computed under par. (a) by an amount equal to the difference between the amount paid under this paragraph and the amount that would have been paid under par. (a). The income of any estate or trust for the months in the taxable year ending before the date one month before the due date for the installment shall be annualized in calculating the installments under this paragraph.

(14) EXCEPTION TO FINAL INSTALLMENT. If a taxpayer files a return for a calendar year on or before January 31 of the succeeding calendar year (or if a taxpayer on a fiscal year basis files a return on or before the last day of the first month immediately succeeding the close of such fiscal year) and pays in full at the time of such filing the amount computed on the return as payable, then, if estimated taxes are not required to be paid on or before the 15th day of the 9th month of the taxable year but are required to be paid on or before January 15 of the succeeding taxable year (or the date corresponding thereto in the case of a fiscal year), such return shall be considered as such payment.

(15) EXEMPTION FROM WITHHOLDING. (a) Any individual deriving income from wages, as defined in s. 71.63 (6), which is subject to taxation under this chapter who pays 100% of the estimated tax for the following calendar or taxable year on or before the last day of the current calendar or taxable year is entitled to complete exemption from payroll withholding under subch. X for such following calendar or taxable year.

(b) No employer shall recognize exemption from payroll withholding for any employee who does not furnish a certificate prepared by the department of revenue satisfactorily showing that the employee has paid the estimated tax within the time and manner prescribed in this subsection with respect to the calendar or taxable year for which such exemption is sought.

(c) So far as applicable the additions to tax prescribed in this section shall apply to estimated taxes paid under this subsection.

(d) No employer shall force or attempt to coerce an employee into estimating and prepaying his or her income taxes. The penalty under s. 71.83 (2) (a) 4. applies to any employer who violates this paragraph.

(16) JOINT PAYMENTS. Married persons may jointly pay estimated taxes unless either spouse is a nonresident alien or the spouses have different taxable years. If they do pay jointly, the provisions under this section applicable to individuals are applicable to the married persons jointly. If a married person files a separate return for a taxable year for which a joint payment was made, the payments may be allocated between themselves as they choose, but if they do not agree on an allocation the department of revenue shall allocate the payments to each spouse on the basis of the ratio of taxes shown on their separate returns or pursuant to default assessment under s. 71.74 (3). If either spouse pays separately, no part of the payment may be allocated to the other spouse.

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 16, 204; 1997 a. 27; 2009 a. 28; 2011 a. 68.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

71.10 General provisions. (1) ALLOCATION OF GROSS INCOME, DEDUCTIONS, CREDITS BETWEEN 2 OR MORE BUSINESSES. In any case of 2 or more organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, whether or not affiliated, and whether or not unitary) owned or controlled directly or indirectly by the same interests, the secretary or the secretary's delegate may distribute, apportion or allocate gross income, deductions, credits or allowances between or among such organizations, trades or businesses, if the secretary determines that such distribution, apportionment or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades or businesses. The authority granted under this subsection is in addition to, and not a limitation of or dependent on, the provisions of ss. 71.05 (6) (a) 24. and (b) 45., 71.26 (2) (a) 7. and 8., 71.34 (1k) (j) and (k), 71.45 (2) (a) 16. and 17., and 71.80 (23).

(1m) TRANSACTIONS WITHOUT ECONOMIC SUBSTANCE. (a) If any person, directly or indirectly, engages in a transaction or series of transactions without economic substance to create a loss or to reduce taxable income or to increase credits allowed in determining Wisconsin tax, the department shall determine the amount of a taxpayer's taxable income or tax so as to reflect what would have been the taxpayer's taxable income or tax if not for the transaction or transactions without economic substance causing the reduction in taxable income or tax.

(b) A transaction has economic substance only if the taxpayer shows all of the following:

1. The transaction changes the taxpayer's economic position in a meaningful way, apart from federal, state, local, and foreign tax effects.

2. The taxpayer has a substantial nontax purpose for entering into the transaction and the transaction is a reasonable means of accomplishing the substantial nontax purpose. A transaction has a substantial nontax purpose if it has substantial potential for profit, disregarding any tax effects.

(c) With respect to transactions between members of a controlled group as defined in section 267 (f) (1) of the Internal Revenue Code, such transactions shall be presumed to lack economic substance and the taxpayer shall bear the burden of establishing by clear and convincing evidence that a transaction or a series of transactions between the taxpayer and one or more members of the controlled group has economic substance.

(2) ASSESSMENT OF INCOME DISTRIBUTABLE TO A NONRESIDENT BENEFICIARY. The income of a trust distributable or distributed to a nonresident beneficiary shall be assessed as the income of other nonresidents is assessed. No personal exemptions shall be allowed in assessing the income of such nonresident beneficiary unless that person makes a complete return under this chapter.

(4) COMPUTATION ORDER. Notwithstanding any other provisions in this chapter, all persons other than corporations computing liability for the tax under s. 71.02 shall make computations in the following order:

(a) Tax under s. 71.06.

(b) Personal exemptions under s. 71.07 (8).

(c) The credit under s. 71.07 (5).

(cd) Postsecondary education credit under s. 71.07 (5r).

(ce) Water consumption credit under s. 71.07 (5rm).

(cm) The armed forces member tax credit under s. 71.07 (6m).

(cn) Biodiesel fuel production credit under s. 71.07 (3h).

(cp) Health Insurance Risk−Sharing Plan assessments credit under s. 71.07 (5g).

(cq) Veteran employment credit under s. 71.07 (6n).

(cr) Manufacturing and agriculture credit under s. 71.07 (5n).

(d) School property tax credit under s. 71.07 (9).

(dm) Supplement to federal historic rehabilitation credit under s. 71.07 (9m).

(dr) State historic rehabilitation credit under s. 71.07 (9r).

(du) Working families tax credit under s. 71.07 (5m).

(es) Community rehabilitation program credit under s. 71.07 (5k).

(f) Alternative minimum tax under s. 71.08, including any surtax on alternative minimum tax.

(g) Married persons credit under s. 71.07 (6).

(gb) The manufacturing sales tax credit under s. 71.07 (3s).

(gbb) Manufacturing investment credit under s. 71.07 (3t).

(gbm) Dairy investment credit under s. 71.07 (3n).

(gc) Ethanol and biodiesel fuel pump credit under s. 71.07 (5j).

(gd) Development zones jobs credit under s. 71.07 (2dj).

(ge) Development zones sales tax credit under s. 71.07 (2ds).

(gg) Development zones investment credit under s. 71.07 (2di).

(gm) Development zones research credit under s. 71.07 (2dr).

(gr) Development zones location credit under s. 71.07 (2dL).

(grb) Development zone capital investment credit under s. 71.07 (2dm).

(grd) Technology zones credit under s. 71.07 (3g).

(gs) Development zones day care credit under s. 71.07 (2dd).

(gt) Development zones environmental remediation credit under s. 71.07 (2de).

(gu) Development zones credit under s. 71.07 (2dx).

(gv) Economic development tax credit under s. 71.07 (2dy).

(gwb) Early stage seed investment credit under s. 71.07 (5b).

(gx) Angel investment credit under s. 71.07 (5d).

(gxx) Electronic medical records credit under s. 71.07 (5i).

(gy) Internet equipment credit under s. 71.07 (5e).

(h) Payments to other states under s. 71.07 (7).

(i) The total of claim of right credit under s. 71.07 (1), farmland preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s. 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s. 71.07 (3rm), food processing plant and food warehouse investment credit under s. 71.07 (3rn), film production services credit under s. 71.07 (5f), film production company investment credit under s. 71.07 (5h), veterans and surviving spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w), beginning farmer and farm asset owner tax credit under s. 71.07 (8r), earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under subch. X.

(j) Any amount computed under s. 71.83 (1) (c).

(5) ENDANGERED RESOURCES. (a) *Definitions.* In this subsection:

1. "Conservation fund" means the fund under s. 25.29.

2. "Endangered resources program" means purchasing or improving land or habitats for any native Wisconsin endangered or threatened species as defined in s. 29.604 (2) (a) or (b) or for any nongame species as defined in s. 29.001 (60), conducting the natural heritage inventory program under s. 23.27 (3), conducting wildlife and resource research and surveys and providing wildlife management services, providing for wildlife damage control or the payment of claims for damage associated with endangered or threatened species, repaying the general fund for amounts expended under s. 20.370 (1) (fb) in fiscal year 1983−84 and the payment of administrative expenses related to the administration of this subsection.

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), any individual filing an income tax return may designate on the return any amount of additional payment or any amount of a refund due that individual for the endangered resources program.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the endangered resources program when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided under par. (d) if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3), the department of revenue shall deduct the amount designated on the return for the endangered resources program from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the endangered resources program:

1. The department shall reduce the designation for the endangered resources program to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the endangered resources program.

2. The designation for the endangered resources program is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual who is owed a refund which does not equal or exceed the amount designated on the return for the endangered resources program, after crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections, the department shall reduce the designation for the endangered resources program to reflect the actual amount of the refund the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the endangered resources program, the designation is void.

(f) *Void designation.* If a designation for the endangered resources program is void, the department of revenue shall disregard the designation and determine amounts due, owed, refunded and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the department of natural resources and the department of administration:

1. The total amount of the administrative costs, including data processing costs, incurred by the department of revenue in administering this subsection during the previous fiscal year.

3. The total amount received from all designations for the endangered resources program made by taxpayers during the previous fiscal year.

4. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 3.

5. From the moneys received from designations for the endangered resources program, an amount equal to the sum of administrative expenses, including data processing costs, certified under subd. 1. shall be deposited in the general fund and credited to the appropriation under s. 20.566 (1) (hp), and the net amount remaining certified under subd. 4. shall be deposited in the conservation fund and credited to the appropriation under s. 20.370 (1) (fs).

6. Amounts designated for the endangered resources program under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department within 18 months after the date taxes are due or the date the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department of revenue under this subdivision shall be deducted from the moneys received under this subsection in the fiscal year that the refund is certified.

(5e) LOCAL PROFESSIONAL FOOTBALL STADIUM DISTRICT DONATION. (a) *Definitions.* In this subsection:

1. "Department" means the department of revenue.

2. "Football donation" means a designation made under this subsection, the net proceeds of which shall be deposited into the fund under s. 229.8257 to be used for maintenance and operating costs of a football stadium under s. 229.821 (6).

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual as a football donation.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return as a football donation when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided under par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3), the department shall deduct the amount designated on the return as a football donation from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return as a football donation:

1. The department shall reduce the designation for the football donation to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return as a football donation.

2. The designation for the football donation is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual who is owed a refund that does not equal or exceed the amount designated on the return as a football donation, after crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections, the department shall reduce the designation for the football donation to reflect the actual amount of the refund the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the football donation, the designation is void.

(f) *Void designation.* If a designation for the football donation is void, the department shall disregard the designation and determine amounts due, owed, refunded and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the district board under subch. IV of ch. 229 and the department of administration:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for football donations made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

4. From the moneys received from designations for football donations, an amount equal to the sum of administrative expenses,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

including data processing costs, certified under subd. 1. shall be deposited into the general fund and credited to the appropriation under s. 20.566 (1) (hp), and the net amount remaining that is certified under subd. 3. shall be deposited into the fund created under s. 229.8257 and credited for maintenance and operating costs of a football stadium under s. 229.821 (6).

(i) *Amounts subject to refund.* Amounts designated for football donations under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department within 18 months after the date on which taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year that the refund is certified.

(5f) CANCER RESEARCH PROGRAM. (a) *Definitions.* In this subsection:

1. "Cancer research program" means the program under s. 255.055 that provides moneys for cancer research and the payment of administrative expenses related to the administration of this subsection.

2. "Department" means the department of revenue.

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for the cancer research program.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the cancer research program when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3), the department of revenue shall deduct the amount designated on the return for the cancer research program from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the cancer research program:

1. The department shall reduce the designation for the cancer research program to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the cancer research program.

2. The designation for the cancer research program is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund which does not equal or exceed the amount designated on the return for the cancer research program, after crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections, the department shall reduce the designation for the cancer research program to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the cancer research program, the designation is void.

(f) *Void designation.* If a designation for the cancer research program is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the Board of Regents of the University of Wisconsin System, the Medical College of Wisconsin, Inc., the department of administration, and the state treasurer:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for the cancer research program made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations.* From the moneys received from designations for the cancer research program, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and, of the net amount remaining that is certified under par. (h) 3., an amount equal to 50 percent shall be credited to the appropriation account under s. 20.250 (2) (g) and an amount equal to 50 percent shall be credited to the appropriation account under s. 20.285 (1) (k) for cancer research conducted by the University of Wisconsin Carbone Cancer Center.

(j) *Amounts subject to refund.* Amounts designated for the cancer research program under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

(5fm) FIRE FIGHTERS MEMORIAL CHECKOFF. (a) *Definitions.* In this subsection:

1. "Corporation" means the Wisconsin State Firefighters Memorial, Inc.

2. "Department" means the department of revenue.

(b) *Voluntary payments.* 1. 'Designation on return.' Every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for the fire fighters memorial.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the fire fighters memorial when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for the fire fighters memorial from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the fire fighters memorial:

1. The department shall reduce the designation for the fire fighters memorial to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the fire fighters memorial.

2. The designation for the fire fighters memorial is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(d) *Errors; insufficient refund.* If an individual is owed a refund that does not equal or exceed the amount designated on the return for the fire fighters memorial, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for the fire fighters memorial to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the fire fighters memorial, the designation is void.

(f) *Void designation.* If a designation for the fire fighters memorial is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the corporation, the department of administration, and the state treasurer all of the following:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for the fire fighters memorial made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

4. The total of all annual net amounts that have been certified under subd. 3. in the current year and any previous year.

(i) *Appropriations.* From the moneys received from designations for the fire fighters memorial, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited into the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the net amount remaining that is certified under par. (h) 3. shall be transferred to the corporation for the construction, improvement, and maintenance of the fire fighters memorial.

(j) *Amounts subject to refund.* Amounts designated for the fire fighters memorial under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

(k) *Sunset.* No individual may make a designation described under par. (b) 1. that relates to any taxable year beginning on or after January 1 of the year in which the secretary of revenue certifies under par. (h) 4. that the total net amount exceeds $400,000.

(5g) VETERANS TRUST FUND DONATIONS. (a) *Definitions.* In this subsection:

1. "Department" means the department of revenue.

2. "Veterans trust fund" means the fund under s. 25.36.

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual as a veterans trust fund donation.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return as a veterans trust fund donation when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department of revenue shall deduct the amount designated on the return as a veterans trust fund donation from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return as a veterans trust fund donation:

1. The department shall reduce the designation for the veterans trust fund to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return as a veterans trust fund donation.

2. The designation for the veterans trust fund donation is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund which does not equal or exceed the amount designated on the return as a veterans trust fund donation, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for the veterans trust fund donation to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the veterans trust fund donation, the designation is void.

(f) *Void designation.* If a designation for the veterans trust fund donation is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the department of veterans affairs, the department of administration, and the state treasurer:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for veterans trust fund donations made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations.* From the moneys received from designations for veterans trust fund donations, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited into the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the net amount remaining that is certified under par. (h) 3. shall be deposited into the veterans trust fund and used for veterans programs under s. 25.36 (1).

(j) *Amounts subject to refund.* Amounts designated as veterans trust fund donations under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

(5h) PROSTATE CANCER RESEARCH PROGRAM. (a) *Definitions.* In this subsection:

1. "Department" means the department of revenue.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. "Prostate cancer research program" means the program under s. 255.054 that provides money for prostate cancer research and the payment of administrative expenses related to the administration of this subsection.

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for the prostate cancer research program.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the prostate cancer research program when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for the prostate cancer research program from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the prostate cancer research program:

1. The department shall reduce the designation for the prostate cancer research program to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the prostate cancer research program.

2. The designation for the prostate cancer research program is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund that does not equal or exceed the amount designated on the return for the prostate cancer research program, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for the prostate cancer research program to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the prostate cancer research program, the designation is void.

(f) *Void designation.* If a designation for the prostate cancer research program is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the Board of Regents of the University of Wisconsin System, the Medical College of Wisconsin, Inc., the department of administration, and the state treasurer all of the following:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for the prostate cancer research program made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations.* From the moneys received from designations for the prostate cancer research program, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and, of the net amount remaining that is certified under par. (h) 3., an amount equal to 50 percent shall be credited to the appropriation account under s. 20.250 (2) (h) and an amount equal to 50 percent shall be credited to the appropriation account under s. 20.285 (1) (k) for the use specified under s. 255.054 (1).

(j) *Amounts subject to refund.* Amounts designated for the prostate cancer research program under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

(k) *Sunset.* This subsection does not apply to any taxable year that begins after December 31, 2011.

(5i) MILITARY FAMILY RELIEF FUND CHECKOFF. (a) *Definitions.* In this subsection:

1. "Department" means the department of revenue.

2. "Military family relief fund" means the fund under s. 25.38.

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for the military family relief fund.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the military family relief fund when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for the military family relief fund from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the military family relief fund:

1. The department shall reduce the designation for the military family relief fund to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the military family relief fund.

2. The designation for the military family relief fund is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund that does not equal or exceed the amount designated on the return for the military family relief fund, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for the military family relief fund to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the military family relief fund, the designation is void.

(f) *Void designation.* If a designation for the military family relief fund is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the department of military affairs, the department of administration, and the state treasurer all of the following:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for the military family relief fund made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations.* From the moneys received from designations for the military family relief fund, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the net amount remaining that is certified under par. (h) 3. shall be deposited in the military family relief fund and credited to the appropriation under s. 20.465 (2) (r).

(j) *Amounts subject to refund.* Amounts designated for the military family relief fund under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

(5j) FEEDING AMERICA; SECOND HARVEST FOOD BANKS CHECKOFF. (a) *Definitions.* In this subsection:

1. "Department" means the department of revenue.

2. "Second Harvest" means Second Harvest food banks in Wisconsin that are members of Feeding America.

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for Second Harvest.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for Second Harvest when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for Second Harvest from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for Second Harvest:

1. The department shall reduce the designation for Second Harvest to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for Second Harvest.

2. The designation for Second Harvest is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund that does not equal or exceed the amount designated on the return for Second Harvest, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for Second Harvest to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for Second Harvest, the designation is void.

(f) *Void designation.* If a designation for Second Harvest is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the department of administration and the state treasurer all of the following:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for Second Harvest made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations.* From the moneys received from designations for Second Harvest, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the department shall annually pay the following percentages of the net amount remaining that is certified under par. (h) 3. from the appropriation under s. 20.855 (4) (ge):

1. Sixty−five percent to Second Harvest that is located in the city of Milwaukee.

2. Twenty percent to Second Harvest that is located in the city of Madison.

3. Fifteen percent to Second Harvest that is located in the city of Eau Claire.

(j) *Amounts subject to refund.* Amounts designated for Second Harvest under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

(5k) AMERICAN RED CROSS, BADGER CHAPTER CHECKOFF. (a) *Definitions.* In this subsection:

1. "Badger Chapter" means the Badger Chapter of the American Red Cross.

2. "Department" means the department of revenue.

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for the Badger Chapter.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the Badger Chapter when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for the Badger Chapter from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the Badger Chapter:

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

1. The department shall reduce the designation for the Badger Chapter to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the Badger Chapter.

2. The designation for the Badger Chapter is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund that does not equal or exceed the amount designated on the return for the Badger Chapter, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for the Badger Chapter to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the Badger Chapter, the designation is void.

(f) *Void designation.* If a designation for the Badger Chapter is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the department of health services, the department of administration, and the state treasurer all of the following:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for the Badger Chapter made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations.* From the moneys received from designations for the Badger Chapter, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the net amount remaining that is certified under par. (h) 3. shall be credited to the appropriation under s. 20.435 (1) (gd).

(j) *Amounts subject to refund.* Amounts designated for the Badger Chapter under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

(5km) SPECIAL OLYMPICS WISCONSIN CHECKOFF. (a) *Definitions.* In this subsection:

1. "Department" means the department of revenue.

2. "Special Olympics" means the Special Olympics Wisconsin, Inc.

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for the Special Olympics.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for the Special Olympics when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for the Special Olympics from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for the Special Olympics:

1. The department shall reduce the designation for the Special Olympics to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for the Special Olympics.

2. The designation for the Special Olympics is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund that does not equal or exceed the amount designated on the return for the Special Olympics, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for the Special Olympics to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for the Special Olympics, the designation is void.

(f) *Void designation.* If a designation for the Special Olympics is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the department of administration and the state treasurer all of the following:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for the Special Olympics made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations.* From the moneys received from designations for the Special Olympics, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the net amount remaining that is certified under par. (h) 3. shall be credited to the appropriation under s. 20.255 (3) (ge).

(j) *Amounts subject to refund.* Amounts designated for the Special Olympics under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

NOTE: Sub. (5km) was created as sub. (5k) by 2011 Wis. Act 76 and renumbered to sub. (5km) by the legislative reference bureau under s. 13.92 (1) (bm) 2.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(5m) MULTIPLE SCLEROSIS PROGRAMS CHECKOFF. (a) *Definitions.* In this subsection:

1. "Department" means the department of revenue.

2. "Society" means the National Multiple Sclerosis Society.

(b) *Voluntary payments.* 1. 'Designation on return.' Subject to sub. (5s), every individual filing an income tax return who has a tax liability or is entitled to a tax refund may designate on the return any amount of additional payment or any amount of a refund due that individual for programs for people with multiple sclerosis.

2. 'Designation added to tax owed.' If the individual owes any tax, the individual shall remit in full the tax due and the amount designated on the return for programs for people with multiple sclerosis when the individual files a tax return.

3. 'Designation deducted from refund.' Except as provided in par. (d), if the individual is owed a refund for that year after crediting under ss. 71.75 (9) and 71.80 (3) and (3m), the department shall deduct the amount designated on the return for programs for people with multiple sclerosis from the amount of the refund.

(c) *Errors; failure to remit correct amount.* If an individual who owes taxes fails to remit an amount equal to or in excess of the total of the actual tax due, after error corrections, and the amount designated on the return for programs for people with multiple sclerosis:

1. The department shall reduce the designation for programs for people with multiple sclerosis to reflect the amount remitted in excess of the actual tax due, after error corrections, if the individual remitted an amount in excess of the actual tax due, after error corrections, but less than the total of the actual tax due, after error corrections, and the amount originally designated on the return for programs for people with multiple sclerosis.

2. The designation for programs for people with multiple sclerosis is void if the individual remitted an amount equal to or less than the actual tax due, after error corrections.

(d) *Errors; insufficient refund.* If an individual is owed a refund that does not equal or exceed the amount designated on the return for programs for people with multiple sclerosis, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections, the department shall reduce the designation for programs for people with multiple sclerosis to reflect the actual amount of the refund that the individual is otherwise owed, after crediting under ss. 71.75 (9) and 71.80 (3) and (3m) and after error corrections.

(e) *Conditions.* If an individual places any conditions on a designation for programs for people with multiple sclerosis, the designation is void.

(f) *Void designation.* If a designation for programs for people with multiple sclerosis is void, the department shall disregard the designation and determine amounts due, owed, refunded, and received without regard to the void designation.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the individual income tax return.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the society, the department of administration, and the state treasurer all of the following:

1. The total amount of the administrative costs, including data processing costs, incurred by the department in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for programs for people with multiple sclerosis made by taxpayers during the previous fiscal year.

3. The net amount remaining after the administrative costs, including data processing costs, under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations, disbursement of funds to the society.* From the moneys received from designations for programs for people with multiple sclerosis, an amount equal to the sum of administrative expenses, including data processing costs, certified under par. (h) 1. shall be deposited in the general fund and credited to the appropriation account under s. 20.566 (1) (hp), and the net amount remaining that is certified under par. (h) 3. shall be forwarded to the society, for disbursement under par. (k).

(j) *Amounts subject to refund.* Amounts designated for programs for people with multiple sclerosis under this subsection are not subject to refund to the taxpayer unless the taxpayer submits information to the satisfaction of the department, within 18 months after the date on which the taxes are due or the date on which the return is filed, whichever is later, that the amount designated is clearly in error. Any refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year for which the refund is certified.

(k) *Disbursements by the society.* The society shall disburse all of the funds that it receives under par. (i) to entities located in Wisconsin that operate health−related programs for people with multiple sclerosis, and the entities that receive the funds shall pledge to the society that they will use the money they receive solely for health−related programs for people with multiple sclerosis in Wisconsin.

(L) *Report to legislature, governor.* Not later than January 1, 2007, and annually thereafter, the society shall prepare a report detailing the entities to which the society distributed funds under par. (k), the amount of money each entity received, and the health−related multiple sclerosis programs on which the money was spent. The report shall be distributed to the appropriate standing committees of the legislature in the manner provided under s. 13.172 (3) and to the governor.

(5s) LIMITATIONS ON CHECKOFFS. (a) For taxable years beginning after December 31, 2011, individuals may not have the option of making a designation to more than 10 individual income checkoffs and the department may not place more than 10 checkoffs on the income tax form. If a checkoff is created for taxable years beginning after December 31, 2011, and before January 1, 2015, the department may not place it on the form, and no designations may be made to the checkoff, for a taxable year that begins before January 1, 2015, except that this limitation does not apply to a checkoff created in a bill that is introduced in both houses of the legislature before June 1, 2011. The limitations in this paragraph do not apply to the checkoff under sub. (5fm).

(b) For taxable years beginning after December 31, 2011, there may be no individual income tax checkoffs of a temporary nature other than the checkoff under sub. (5fm).

(c) Beginning in September 2014, based on the amounts certified by the secretary of revenue in August or September 2013, and 2014, as specified in subs. (5) (h), (5e) (h), (5f) (h), (5g) (h), (5h) (h), (5i) (h), (5j) (h), (5k) (h), (5km) (h), and (5m) (h), and for every 2−year period thereafter, the secretary of revenue shall rank the checkoffs based on the total amount of designations received for each checkoff for each 2−year period. For each 2−year period, beginning with 2014, the secretary of revenue shall rank every checkoff that is created under this section.

(d) 1. If more than 11 checkoffs exist under this section after August 14, 2014, and every 2 years thereafter, not including the checkoff under sub. (5fm), only the 8 highest ranking checkoffs for which designations were made in the previous 2−year period may appear on the income tax form for the next 2 taxable years.

2. The remaining 2 checkoffs for which designations may be made and which shall be placed on the income tax form for the next 2 taxable years, in place of the 2 lowest ranking checkoffs, shall be checkoffs that have not received any designations during the previous 2−year period.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

3. The 2 remaining checkoffs, described under subd. 2., shall be the 2 oldest checkoffs, based on the date each checkoff was placed on a list of checkoffs, maintained by the department, that are eligible to be placed on the form. If 2 or more checkoffs have been placed on the list at the same time, the oldest checkoff shall then be calculated according to their effective dates.

4. If 10 checkoffs exist under this section after August 14, 2014, not including the checkoff under sub. (5fm), those 10 checkoffs may appear on the income tax form for the next 2 taxable years.

5. If 11 checkoffs exist under this section after August 14, 2014, not including the checkoff under sub. (5fm), only the 9 highest ranking checkoffs for which designations were made in the previous 2−year period may appear on the income tax form for the next 2 taxable years. The remaining checkoff for which designations may be made and which shall be placed on the income tax form for the next 2 taxable years, in place of the lowest ranking checkoff, shall be a checkoff that has not received any designations during the previous 2−year period. This last checkoff shall be selected using the method described under subd. 3.

(6) MARRIED PERSONS. (a) *Joint returns.* Persons filing a joint return are jointly and severally liable for the tax, interest, penalties, fees, additions to tax and additional assessments under this chapter applicable to the return. Except as provided in par. (e), a person shall be relieved of liability in regard to a joint return in the manner specified in section 6015 (a) to (d) and (f) of the Internal Revenue Code.

(b) *Separate returns.* Except as provided in par. (e), a spouse filing a separate return may be relieved of liability for the tax, interest, penalties, fees, additions to tax and additional assessments under this chapter in the manner specified in section 66 (c) of the Internal Revenue Code. The department may not apply ch. 766 in assessing a taxpayer with respect to marital property income the taxpayer did not report if that taxpayer failed to notify the taxpayer's spouse about the amount and nature of the income before the due date, including extensions, for filing the return for the taxable year in which the income was derived. The department shall include all of that marital property income in the gross income of the taxpayer and exclude all of that marital property income from the gross income of the taxpayer's spouse.

(c) *Marital property agreements.* The department of revenue shall notify a taxpayer whose separate return is under audit that a marital property agreement or unilateral statement under ch. 766 is effective for tax purposes for any period during which both spouses are domiciled in this state only if it is filed with the department before any assessment resulting from the audit is issued. A marital property agreement or unilateral statement under ch. 766 does not affect the determination of the income that is taxable by this state, or of the person who is required to report taxable income to this state, during the period that one or both spouses are not domiciled in this state or if it was not filed with the department before an assessment was issued.

(d) *Part−year residents and nonresidents.* If a spouse is not domiciled in this state for the entire taxable year, the tax liability and reporting obligation of both spouses during the period a spouse is not domiciled in this state shall be determined without regard to ch. 766 except as provided in this chapter.

(e) *Application for relief.* A person who seeks relief from liability under par. (a) or (b) shall apply for relief with the department, on a form prescribed by the department, within 2 years after the date on which the department first begins collection activities after July 27, 2005.

(6m) RETURNS OF FORMERLY MARRIED AND REMARRIED PERSONS. (a) Except as provided in par. (c), a formerly married or remarried person filing a return for a period during which the person was married may be relieved of liability for the tax, interest, penalties, fees, additions to tax and additional assessments under this chapter from that period as if the person were a spouse under section 66 (c) of the Internal Revenue Code. The department may not apply ch. 766 in assessing the former spouse of the person with respect to marital property income that the former spouse did not report if that former spouse failed to notify the person about the amount and nature of the income before the due date, including extensions, for filing the return for the taxable year during which the income was derived. The department shall include all of that marital property income in the gross income of the former spouse and exclude all of that marital property income from the gross income of the person.

(b) The department may not apply ch. 766 or s. 71.55 (1), 71.61 (1) or 71.80 (3) or (3m) to collect from an individual for any tax liability owed to the department by the individual or by the former spouse of the individual if a judgment of divorce under ch. 767 apportions that liability to the former spouse of the individual and if the individual includes with his or her tax return a copy of that portion of the judgment of divorce that relates to the apportionment of tax liability.

(c) A person who seeks relief from liability under par. (a) shall apply for relief with the department as provided under sub. (6) (e).

(7) MINNESOTA INCOME TAX RECIPROCITY. (a) For purposes of income tax reciprocity reached with the state of Minnesota under s. 71.05 (2), whenever the income taxes on residents of one state which would have been paid to the 2nd state without reciprocity exceed the income taxes on residents of the 2nd state which would have been paid to the first state without reciprocity, the state with the net revenue loss shall receive from the other state the amount of the loss. Interest shall be payable on all delinquent balances relating to taxable years beginning after December 31, 1977. The secretary of revenue may enter into agreements with the state of Minnesota specifying the reciprocity payment due date, conditions constituting delinquency, interest rates and the method of computing interest due on any delinquent amounts.

(b) The data used for computing the loss to either state shall be determined by the respective departments of revenue of both states on or before November 1 of the year following the close of the previous calendar year. If an agreement cannot be reached as to the amount of the loss, the secretary of revenue of this state and the commissioner of taxation of the state of Minnesota shall each appoint a member of a board of arbitration and these members shall appoint a 3rd member of the board. The board shall select one of its members as chairperson. The board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers and documents and hold hearings at such places as it deems necessary. The board shall then make a determination as to the amount to be paid the other state which shall be conclusive. This state shall pay no more than one−half of the cost of such arbitration.

(c) For taxable years beginning after December 31, 2000, this state shall pay Minnesota interest on any reciprocity payment that is due under this subsection. Interest shall be calculated according to the Laws of Minnesota 2002 Chapter 377, or at another rate and under another method of calculation that is agreed to by Minnesota and Wisconsin.

(7e) ILLINOIS INCOME TAX RECIPROCITY. (a) For purposes of income tax reciprocity reached with the state of Illinois under s. 71.05 (2), whenever the income taxes on residents of one state which would have been paid to the 2nd state without reciprocity exceed the income taxes on residents of the 2nd state which would have been paid to the first state without reciprocity, the state with the net revenue loss shall receive from the other state the amount of the loss. Interest shall be payable on all delinquent balances relating to taxable years beginning after December 31, 1999. The secretary of revenue may enter into agreements with the state of Illinois specifying the reciprocity payment due date, conditions constituting delinquency, interest rates and the method of computing interest due on any delinquent amounts.

(b) The data used for computing the loss to either state shall be determined by the respective departments of revenue of both states on or before December 1 of the year following the close of

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

the previous calendar year. If an agreement cannot be reached as to the amount of the loss, the secretary of revenue of this state and the director of taxation of the state of Illinois shall each appoint a member of a board of arbitration and these members shall appoint a 3rd member of the board. The board shall select one of its members as chairperson. The board may administer oaths, take testimony, subpoena witnesses and require their attendance, require the production of books, papers and documents and hold hearings at such places as it considers necessary. The board shall then make a determination as to the amount to be paid the other state which shall be conclusive. This state shall pay no more than 50% of the cost of such arbitration.

(c) 1. The payments under this subsection may be made only if the secretary of revenue of this state and the director of taxation of the state of Illinois enter into a written agreement relating to income tax reciprocity that applies to taxable years beginning after December 31, 1997.

2. Subject to subd. 1., for taxable years beginning after December 31, 1997, and before January 1, 1999, the maximum amount that may be paid to Illinois under this subsection is $5,500,000, and for taxable years beginning after December 31, 1998, and before January 1, 2000, the maximum amount that may be paid to Illinois under this subsection is $8,250,000.

(7m) DISCHARGE OF INDEBTEDNESS; MODIFICATIONS. If a person excludes from gross income an amount of income from a discharge of indebtedness because of discharges of debts described under section 108 (a) of the internal revenue code, the person shall make the adjustments specified in section 108 (b) of the internal revenue code, but the net operating loss under s. 71.01 (14), not the federal net operating loss, and Wisconsin credits, not federal credits, and the capital loss carry−forward as limited under s. 71.05 (10) (c), not the federal capital loss carry−forward, shall be applied, and the reduction rate for a credit carry−over is 6.93%, not 33 1/3%.

(8) PENALTIES. Unless specifically provided in this subchapter, the penalties under subch. XIII apply for failure to comply with this subchapter unless the context requires otherwise.

(9) PUBLICATION OF STANDARD DEDUCTION AND TAX BRACKETS. The department of revenue shall annually publish notice of the standard deduction amounts and the brackets for the individual income tax in the administrative register.

History: 1987 a. 312; 1987 a. 411 ss. 94, 97, 176 to 179; 1987 a. 422 s. 4; 1989 a. 31, 56, 359; 1991 a. 39; 1993 a. 16, 184; 1995 a. 27, 209, 418, 453; 1997 a. 27, 63, 237, 248; 1999 a. 9, 167; 2001 a. 16, 109; 2003 a. 33, 99, 135, 176, 255, 321; 2005 a. 25, 49, 71, 74, 177, 178, 323, 361, 460, 479, 483; 2007 a. 1, 20, 96, 97; 2009 a. 2, 28, 89, 265, 269, 295, 332; 2011 a. 32, 76, 169, 212, 222, 232; 2011 a. 260 ss. 25, 80.

SUBCHAPTER II

SPECIAL PROVISIONS APPLICABLE TO FIDUCIARIES

71.12 Conformity. Unless specifically provided in this subchapter, fiduciaries shall be subject to all of the provisions, requirements and liabilities of this chapter, so far as applicable, unless the context requires otherwise.

History: 1987 a. 312.

71.122 Definition. In this subchapter, "Wisconsin taxable income" means federal taxable income, as defined in s. 71.01 (4), as modified under s. 71.05 (6) to (12), (19) and (20).

History: 1997 a. 27.

71.125 Imposition of tax. (1) Except as provided in sub. (2), the tax imposed by this chapter on individuals and the rates under s. 71.06 (1), (1m), (1n), (1p) and (2) shall apply to the Wisconsin taxable income of estates or trusts, except nuclear decommissioning trust or reserve funds, and that tax shall be paid by the fiduciary.

(2) Each electing small business trust, as defined in section 1361 (e) (1) of the Internal Revenue Code, is subject to tax at the highest rate under s. 71.06 (1), (1m), (1n) or (1p), whichever taxable year is applicable, on its income as computed under section 641 of the Internal Revenue Code, as modified by s. 71.05 (6) to (12), (19) and (20).

History: 1987 a. 312; 1997 a. 27, 237; 1999 a. 9.

71.13 Filing returns. (1) ESTATE OR TRUST. Annual returns of income of an estate or a trust shall be made to the department by the fiduciary thereof at or before the time such income is required to be reported to the internal revenue service under the internal revenue code. Under such rules as the department prescribes, a return made by one of 2 or more joint fiduciaries shall be sufficient compliance with the requirements of this section. A return made pursuant to this subsection shall contain a statement that the fiduciary has sufficient knowledge of the affairs of the person for whom the return is made to enable him or her to make the return, and that the return is, to the best of his or her knowledge and belief, true and correct.

(1m) SCHEDULES TO BENEFICIARIES. Every fiduciary who is required to file a return under sub. (1) shall, on or before the due date of the return, including extensions, provide a schedule to each beneficiary whose share of income, deductions, credits, or other items of the fiduciary may affect the beneficiary's tax liability under this chapter. The schedule shall separately indicate the beneficiary's share of each item.

(2) RETURNS REQUIRED PRIOR TO CLOSING ESTATE OR TRUST. (a) A personal representative or trustee applying to a court having jurisdiction for a discharge of his or her trust and a final settlement of his or her accounts, before the application is granted, shall file all of the following with the department:

1. Returns of income received by the decedent, any previous guardian, personal representative, or trustee, during each of the years open to assessment under s. 71.77, if the returns had not previously been filed, including a return of income for the year of death to the date of death.

2. Returns of income received during the period of the personal representative's or trustee's administration or trust except for the final income tax year of the estate or trust.

3. Gift tax returns or reports, sales and use tax returns, and withholding returns or reports that were required to be filed, if not previously filed.

(b) Upon receipt of the returns described in par. (a), the department shall immediately determine the amount of taxes including interest, penalties, and costs to be payable, as well as any delinquent income, withholding, sales, use, and gift taxes, penalties, interest, and costs due, and shall certify those amounts to the court. The court shall then enter an order directing the personal representative or trustee to pay the amounts found to be due by the department and take the department's receipt for the amount paid. The receipt shall be evidence of the payment and shall be filed with the court before a final distribution of the estate or trust is ordered and the personal representative or trustee is discharged. The filing of the receipt shall in no manner affect the obligation of the personal representative or trustee to file income, sales, and withholding returns covering transactions reportable during the final taxable year of the estate or trust and to pay income, sales, use and withholding taxes, penalties, interest, and costs due as the result of such transactions.

(3) REQUIRED FILING MAY BE DISPENSED WITH BY COURT. Returns of income required to be made by sub. (2) may be dispensed with by order of the court having jurisdiction in cases where it is clearly evident to the court that no income tax is due or to become due from the trust or estate.

History: 1987 a. 312; 1989 a. 31; 2001 a. 102; 2009 a. 28.

71.14 Situs of income. For purposes of determining the situs of income under this subchapter:

(1) The estate of a decedent shall be considered resident at the domicile of the decedent at the time of his or her death.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(2) A trust created at death by will, contract, declaration of trust or implication of law by a decedent who at the time of death was a resident of this state shall be considered resident at the domicile of the decedent at the time of the decedent's death until transferred by the court having jurisdiction under s. 72.27 to another court's jurisdiction. After jurisdiction is transferred, the trust shall be considered resident at the place to which jurisdiction is transferred. The hearing to transfer jurisdiction shall be held only after giving written notice to the department of revenue under s. 879.05.

(3) Except as provided in sub. (2) and s. 71.04 (1) (b) 2., trusts created by contract, declaration of trust or implication of law that are made irrevocable and were administered in this state before October 29, 1999, shall be considered resident at the place where the trust is being administered. The following trusts shall be considered to be administered in the state of domicile of the corporate trustee of the trust at any time that the grantor of the trust is not a resident of this state:

(a) Trusts that have any assets invested in a common trust fund, as defined in section 584 of the internal revenue code, maintained by a bank or trust company domiciled in this state that is a member of the same affiliated group, as defined in section 1504 of the internal revenue code, as the corporate trustee.

(b) Trusts the assets of which in whole or in part are managed, or about which investment decisions are made, by a corporation domiciled in this state if that corporation and the corporate trustee are members of the same affiliated group, as defined in section 1504 of the internal revenue code.

(3m) (a) Subject to par. (b) and except as provided in sub. (2) and s. 71.04 (1) (b) 2., only the following trusts, or portions of trusts, that become irrevocable on or after October 29, 1999, or that became irrevocable before October 29, 1999, and are first administered in this state on or after October 29, 1999, are resident of this state:

1. Trusts, or portions of trusts, the assets of which consist of property placed in the trust by a person who is a resident of this state at the time that the property was placed in the trust if, at the time that the assets were placed in the trust, the trust was irrevocable.

2. Trusts, or portions of trusts, the assets of which consist of property placed in the trust by a person who is a resident of this state at the time that the trust became irrevocable if, at the time that the property was placed in the trust, the trust was revocable.

(b) A trust described under par. (a):

1. Is revocable if the person whose property constitutes the trust may revest title to the property in that person.

2. Is irrevocable if the power to revest title, as described in subd. 1., does not exist.

(4) The unrelated business taxable income of trusts shall be apportioned under the department of revenue's rules.

History: 1987 a. 312, 411; 1989 a. 31; 1999 a. 9, 185; 2001 a. 16.

71.15 Income computation. (1) The standard deduction shall not be allowed in computing the taxable income of an estate, a trust or a common trust fund.

(2) A personal exemption for the decedent under s. 71.07 (8) shall not be allowed the personal representative, except against the tax on income of the decedent in the year of death. If the decedent would have been entitled to an exemption for the decedent's spouse or a dependent under s. 71.07 (8), had the decedent lived, the exemption shall be allowed to the personal representative so long as over one−half of the support of the spouse or dependent is supplied by the decedent or by the personal representative from the decedent's estate and the gross income of the spouse or dependent for the calendar year in which the taxable year of the personal representative begins is less than $500.

History: 1987 a. 312; 2001 a. 102.

71.16 Allocation of modifications. The Wisconsin modifications applicable to the Wisconsin taxable income or Wisconsin adjusted gross income of estates, trusts and beneficiaries thereof with respect to income derived from such estates or trusts shall be computed and allocated as follows:

(1) A modification or portion thereof which relates to an item of income, gain, loss or deduction which affects the computation of the federal distributable net income of the estate or trust for the current year shall be apportioned among and taken into account by the fiduciary and the beneficiary or beneficiaries in the same proportion that the item to which it relates is considered as distributed among them for federal income tax purposes.

(2) Any remaining modifications or portions thereof shall be taken into account by the fiduciary.

(3) If an additional assessment is made against the fiduciary or any beneficiary as a result of correction of an erroneous allocation of the modifications applicable to the income of an estate or trust, any overpayment resulting from consistent application of such correction to all other taxpayers interested in such estate or trust shall be refunded notwithstanding any rule of law which would otherwise bar such refund.

History: 1987 a. 312.

71.17 General provisions. (1) ASSESSMENT OF TRUST INCOME DISTRIBUTABLE TO NONRESIDENT BENEFICIARY. The income of a trust distributable or distributed to a nonresident beneficiary shall be assessed as the income of other nonresidents is assessed. No personal exemptions shall be allowed in assessing the income of such nonresident beneficiary unless that beneficiary makes a complete return under this chapter.

(2) LIEN ON TRUST ESTATE; INCOME TAXES LEVIED AGAINST BENEFICIARY. All income taxes levied against the income of beneficiaries shall be a lien on that portion of the trust estate or interest therein from which the income taxed is derived, and such taxes shall be paid by the fiduciary, if not paid by the distributee, before the same become delinquent. Every person who, as a fiduciary under the provisions of this subchapter, pays an income tax shall have all the rights and remedies of reimbursement for any taxes assessed against him or her or paid by him or her in such capacity, as provided in s. 70.19 (1) and (2).

(3) LIABILITY FOR PAYMENT OF TAXES DUE FROM DECEDENT. Any income, withholding, sales, use, or gift taxes, penalties, interest, and costs found to be due from a decedent, an estate, or a trust for any of the years open to assessment under s. 71.77 and any delinquent income, withholding, sales, use, or gift taxes, penalties, interest, and costs found to be due shall be assessed against and paid by one of the following:

(a) The personal representative or trustee.

(b) The beneficiaries, in the same ratio that their interest in the estate or trust bears to the total estate or trust, if found to be due after the personal representative or trustee is discharged.

(4) TRUSTS ESTABLISHED OR MAINTAINED OUT−OF−STATE; GRANTOR LIABLE FOR TAX. The establishment or maintenance of a trust outside Wisconsin by a Wisconsin resident as grantor, the income from which trust is taxable to the grantor or to any person other than the trust under the internal revenue code, is hereby declared to be a tax avoidance device designed to avoid the legal application of the Wisconsin income tax to income properly taxable to the grantor or such other person. Any Wisconsin resident who is the grantor of such a trust shall be liable for the Wisconsin income tax on the income of such trust which is federally taxable to such grantor or other person under the internal revenue code.

(5) TRUSTS THAT ARE EXEMPT FROM FEDERAL INCOME TAX. Trusts exempt from federal income tax pursuant to subtitle A, chapter 1, subchapter F of the internal revenue code shall to the same extent be exempt from taxation under this chapter.

(6) FUNERAL TRUSTS. If a qualified funeral trust makes the election under section 685 of the Internal Revenue Code for federal income tax purposes, that election applies for purposes of this

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

chapter and each trust shall compute its own tax and shall apply the rates under s. 71.06 (1), (1m), (1n) or (1p).

History: 1987 a. 312; 1989 a. 31; 1997 a. 237; 1999 a. 9; 2001 a. 102.

SUBCHAPTER III

PARTNERSHIPS AND LIMITED LIABILITY COMPANIES

71.19 Conformity. Unless specifically provided in this subchapter, partnerships and limited liability companies shall be subject to all of the provisions, requirements and liabilities of this chapter, so far as applicable, unless the context requires otherwise.

History: 1987 a. 312; 1993 a. 112.

71.195 Definition. In this subchapter, "partnership" includes limited liability companies and other entities that are treated as partnerships under the Internal Revenue Code, and "partnership" does not include publicly traded partnerships treated as corporations under s. 71.22 (1k).

History: 1997 a. 27; 2005 a. 25.

71.20 Filing returns. (1) Every partnership shall furnish to the department a true and accurate statement, on or before April 15 of each year, except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15th day of the 4th month following the close of such fiscal year, in such manner and form and setting forth such facts as the department deems necessary to enforce this chapter. A partnership that is the owner of a single−owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code shall include that entity's information on the owner's return under this subchapter. The statement shall be subscribed by one of the members of the partnership.

(1m) Every partnership that is required to file a return under sub. (1) shall, on or before the due date of the return, including extensions, provide a schedule to each partner whose share of income, deductions, credits, or other items of the partnership may affect the partner's tax liability under this chapter. The schedule shall separately indicate the partner's share of each item.

(2) Nothing in this section precludes the department of revenue from requiring any person other than a corporation to file an income tax return when in the judgment of the department a return should be filed.

(3) Any extension granted by law or by the Internal Revenue Service for the filing of the federal return that corresponds to the return required under sub. (1) extends the time for filing under this section.

History: 1987 a. 312, 411; 1993 a. 112; 1997 a. 27; 2009 a. 28.
Cross−reference: See also ss. Tax 2.08, 2.09, and 2.10, Wis. adm. code.

71.21 Computation. (1) The net income of a partnership shall be computed in the same manner and on the same basis as provided for computation of the income of persons other than corporations.

(2) The standard deduction shall not be allowed in computing the taxable income of a partnership.

(3) The credits under s. 71.28 (4), (4m), and (5) may not be claimed by a partnership or by partners, including partners of a publicly traded partnership.

(4) (a) The amount of the credits computed by a partnership under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), and (8r) and passed through to partners shall be added to the partnership's income.

NOTE: Par. (a) is shown as affected by 2011 Wis. Acts 212 and 232 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

(b) Amounts computed by a partnership under s. 71.07 (5n) in the previous taxable year and not included in federal ordinary business income shall be added to the partnership's income.

(5) Section 164 (a) (3) of the internal revenue code is modified so that state taxes and taxes of the District of Columbia that are value−added taxes, single business taxes or taxes on or measured by all or a portion of net income, gross income, gross receipts or capital stock are not deductible.

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326; 2005 a. 74, 361, 479, 483; 2007 a. 20, 96; 2009 a. 2, 28, 265, 269, 295, 332; 2011 a. 32, 212, 232; 2011 a. 260 s. 80; s. 13.92 (2) (i).

SUBCHAPTER IV

TAXATION OF CORPORATIONS

71.22 Definitions. In this chapter in regard to corporations and to nuclear decommissioning trust or reserve funds:

(1b) "Aggregate effective tax rate" means the sum of the effective tax rates imposed by a state, U.S. possession, foreign country, or any combination thereof, on the person or entity.

(1g) For purposes of s. 71.25 (9) (df), (dh), (dj), and (dk), "commercial domicile" means the location from which a trade or business is principally managed and directed, based on any factors the department determines are appropriate, including the location where the greatest number of employees of the trade or business work, have their office or base of operations, or from which the employees are directed or controlled.

(1k) "Corporation" includes corporations, publicly traded partnerships treated as corporations in section 7704 of the internal revenue code, limited liability companies treated as corporations under the internal revenue code, joint stock companies, associations, common law trusts and all other entities treated as corporations under section 7701 of the Internal Revenue Code, unless the context requires otherwise. A single−owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code is disregarded as a separate entity under this chapter, and its owner is subject to the tax on or measured by the entity's income. "Corporation" does not include any entity that is a qualified subchapter S subsidiary under s. 71.365 (7).

(1m) "Department" means the department of revenue.

(1r) "Doing business in this state" includes, except as prohibited under P.L. 86−272, issuing credit, debit, or travel and entertainment cards to customers in this state; regularly selling products or services of any kind or nature to customers in this state that receive the product or service in this state; regularly soliciting business from potential customers in this state; regularly performing services outside this state for which the benefits are received in this state; regularly engaging in transactions with customers in this state that involve intangible property and result in receipts flowing to the taxpayer from within this state; holding loans secured by real or tangible personal property located in this state; owning, directly or indirectly, a general or limited partnership interest in a partnership that does business in this state, regardless of the percentage of ownership; and owning, directly or indirectly, an interest in a limited liability company that does business in this state, regardless of the percentage of ownership, if the limited liability company is treated as a partnership for federal income tax purposes. A taxpayer doing business in this state for any part of the taxable year is considered to be doing business in this state for the entire taxable year.

(1t) For purposes of s. 71.25 (9) (df), (dh), (dj), and (dk), "domicile" means an individual's true, fixed, and permanent home where the individual intends to remain permanently and indefinitely and to which, whenever absent, the individual intends to return, except that no individual may have more than one domicile at any time.

(1tm) "Effective tax rate" means the maximum tax rate imposed by the state, U.S. possession, or foreign country, multiplied by the apportionment percentage, if any, applicable to the person or entity under the laws of that state, U.S. possession, or foreign country.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(2) "Entertainment corporation" means a domestic or foreign corporation which derives income from amusement, entertainment or sporting events in this state or from the services of an entertainer, as defined in s. 71.01 (2).

(2m) "File" means mail or deliver a document that the department prescribes to the department or, if the department prescribes another method of submitting or another destination, use that other method or submit to that other destination.

(3) "Gain" means gain as computed under the internal revenue code.

(3g) For purposes of ss. 71.26 (2) (a) 7. and 9. and 71.255 (2) (d) 1., "intangible expenses" include the following, to the extent that the amounts would otherwise be deductible in determining net income under the Internal Revenue Code as modified under s. 71.26 (3):

(a) Expenses, losses, and costs for, related to, or directly or indirectly in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.

(b) Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions.

(c) Royalty, patent, technical, and copyright fees.

(d) Licensing fees.

(e) Other similar expenses, losses, and costs.

(3h) "Intangible property" includes stocks, bonds, financial instruments, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

(3m) For purposes of ss. 71.26 (2) (a) 7. and 9. and 71.255 (2) (d) 1., "interest expenses" means interest that would otherwise be deductible under section 163 of the Internal Revenue Code, as modified under s. 71.26 (3).

(4) (o) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g) and 71.42 (2), "Internal Revenue Code", for taxable years that begin after December 31, 1999, and before January 1, 2003, means the federal Internal Revenue Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, and as amended by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647 excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 1999, do not apply to this paragraph with respect to taxable years beginning after December 31, 1999, and before January 1, 2003, except that changes to the Internal Revenue Code made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(p) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), and 71.42 (2), "Internal Revenue Code," for taxable years that begin after December 31, 2002, and before January 1, 2004, means the federal Internal Revenue Code as amended to December 31, 2002, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, and sections 101 and 301 (a) of P.L. 107−147, and as amended by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647 excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2002, do not apply to this paragraph with respect to taxable years beginning after December 31, 2002, and before January 1, 2004, except that changes to the Internal Revenue Code made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(q) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), and 71.42 (2), "Internal Revenue Code," for taxable years that begin after December 31, 2003, and before January 1, 2005, means the federal Internal Revenue Code as amended to December 31, 2003, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 109 of P.L. 108−121, and section 1201 of P.L. 108−173, and as amended by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647 excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2003, do not apply to this paragraph with respect to taxable years beginning after December 31, 2003, and before January 1, 2005, except that changes to the Internal Revenue Code made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indi-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

rectly affect the provisions applicable to this subchapter made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(r) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), and 71.42 (2), "Internal Revenue Code," for taxable years that begin after December 31, 2004, and before January 1, 2006, means the federal Internal Revenue Code as amended to December 31, 2004, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, and sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, and as amended by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2004, do not apply to this paragraph with respect to taxable years beginning after December 31, 2004, and before January 1, 2006, except that changes to the Internal Revenue Code made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, d P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(s) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), and 71.42 (2), "Internal Revenue Code," for taxable years that begin after December 31, 2005, and before January 1, 2007, means the federal Internal Revenue Code as amended to December 31, 2005, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, and sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, and as amended by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2005, do not apply to this paragraph with respect to taxable years beginning after December 31, 2005, and before January 1, 2007, except that changes to the Internal Revenue Code made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(t) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), and 71.42 (2), "Internal Revenue Code," for taxable years that begin after December 31, 2006, and before January 1, 2008, means the federal Internal Revenue Code as amended to December 31, 2006, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, and P.L. 109−432, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2006, do not apply to this paragraph with respect to taxable years beginning after December 31, 2006, and before January 1, 2008, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(u) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), and 71.42 (2), "Internal Revenue Code," for taxable years that begin after December 31, 2007, and before January 1, 2009, means the federal Internal Revenue Code as amended to December 31, 2007, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, and P.L. 110−172, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e),

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2007, do not apply to this paragraph with respect to taxable years beginning after December 31, 2007, and before January 1, 2009, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, apply for Wisconsin purposes at the same time as for federal purposes.

(um) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), and 71.42 (2), "Internal Revenue Code," for taxable years that begin after December 31, 2008, and before January 1, 2011, means the federal Internal Revenue Code as amended to December 31, 2008, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, P.L. 110−172, P.L. 110−185, P.L. 110−234, sections 110, 113, and 301 of P.L. 110−245, P.L. 110−246, except section 15316 of P.L. 110−246, P.L. 110−289, except section 3093 of P.L. 110−289, P.L. 110−317, and P.L. 110−343, except section 301 of division B and section 313 of division C of P.L. 110−343, and as amended by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 3093 of P.L. 110−289, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2008, do not apply to this paragraph with respect to taxable years beginning after December 31, 2008, and before January 1, 2011, except that changes to the Internal Revenue Code made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and changes that indirectly affect the provisions applicable to this subchapter made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, apply for Wisconsin purposes at the same time as for federal purposes.

(un) Except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), and 71.42 (2), "Internal Revenue Code," for taxable years that begin after December 31, 2010, means the federal Internal Revenue Code as amended to December 31, 2010, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−432, except sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, P.L. 110−28, except sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−140, sections 2, 3, and 5 of P.L. 110−142, P.L. 110−166, sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−185, P.L. 110−234, section 301 of P.L. 110−245, P.L. 110−246, except sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, sections 3071, 3081, and 3082 of P.L. 110−289, section 9 (e) of P.L. 110−317, P.L. 110−343, except sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 111−5, except sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 201 of P.L. 111−147, P.L. 111−148, except sections 1322, 1515, 9003, 9021, 9022, 10108,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

10908, and 10909 of P.L. 111−148, P.L. 111−152, except section 1407 of P.L. 111−152, P.L. 111−203, except section 1601 of P.L. 111−203, P.L. 111−226, except sections 215 and 217 of P.L. 111−226, P.L. 111−240, except sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−312, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−245, excluding section 301 of P.L. 110−245, sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, P.L. 110−289, excluding sections 3071, 3081, and 3082 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, P.L. 111−92, P.L. 111−147, excluding section 201 of P.L. 111−147, sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, section 1407 of P.L. 111−152, P.L. 111−192, section 1601 of P.L. 111−203, sections 215 and 217 of P.L. 111−226, sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−325. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes, except that changes made by section 209 of P.L. 109−222, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, sections 110 and 113 of P.L. 110−245, sections 15312, 15313, 15314, and 15342 of P.L. 110−246, sections 3031, 3032, 3033, 3041, 3051, 3052, 3061, and 3092 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, and 211 of division B and section 504 of division C of P.L. 110−343, section 14 of P.L. 111−92, sections 531, 532, and 533 of P.L. 111−147, sections 10908 and 10909 of P.L. 111−148, and section 2043 of P.L. 111−240 do not apply for taxable years beginning before January 1, 2011. Amendments to the federal Internal Revenue Code enacted after December 31, 2010, do not apply to this paragraph with respect to taxable years beginning after December 31, 2010.

(4m) (m) For taxable years that begin after December 31, 1999, and before January 1, 2003, "Internal Revenue Code", for corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, and as amended by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, and P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 1999, do not apply to this paragraph with respect to taxable years beginning after December 31, 1999, and before January 1, 2003, except that changes to the Internal Revenue Code made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(n) For taxable years that begin after December 31, 2002, and before January 1, 2004, "Internal Revenue Code," for corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended to December 31, 2002, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, and sections 101 and 301 (a) of P.L. 107−147, and as amended by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2002, do not apply to this paragraph with respect to taxable years beginning after December 31, 2002, and before January 1, 2004, except that changes to the Internal Revenue Code made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(o) For taxable years that begin after December 31, 2003, and before January 1, 2005, "Internal Revenue Code," for corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended to December 31, 2003, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 109 of P.L. 108−121, and section 1201 of P.L. 108−173, and as amended by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, d P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2003, do not apply to this paragraph with respect to taxable years beginning after December 31, 2003, and before January 1, 2005, except that changes to the Internal Revenue Code made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(p) For taxable years that begin after December 31, 2004, and before January 1, 2006, "Internal Revenue Code," for corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended to December 31, 2004, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, and sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, and as amended by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2004, do not apply to this paragraph with respect to taxable years beginning after December 31, 2004, and before January 1, 2006, except that changes to the Internal Revenue Code made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(q) For taxable years that begin after December 31, 2005, and before January 1, 2007, "Internal Revenue Code," for corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended to December 31, 2005, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, and sections 101, 105, 201 (a) as it relates to section

1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, and as amended by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2005, do not apply to this paragraph with respect to taxable years beginning after December 31, 2005, and before January 1, 2007, except that changes to the Internal Revenue Code made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(r) For taxable years that begin after December 31, 2006, and before January 1, 2008, "Internal Revenue Code," for corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended to December 31, 2006, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, and P.L. 109−432, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2006, do not apply to this paragraph with respect to taxable years beginning after December 31, 2006, and before January 1, 2008, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(s) For taxable years that begin after December 31, 2007, and before January 1, 2009, "Internal Revenue Code," for corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended to December 31, 2007, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, and P.L. 110−172, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L.

100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227,and P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2007, do not apply to this paragraph with respect to taxable years beginning after December 31, 2007, and before January 1, 2009, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, apply for Wisconsin purposes at the same time as for federal purposes.

(sm) For taxable years that begin after December 31, 2008, and before January 1, 2011, "Internal Revenue Code," for corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended to December 31, 2008, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, P.L. 110−172, P.L. 110−185, P.L. 110−234, sections 110, 113, and 301 of P.L. 110−245, P.L. 110−246, except section 15316 of P.L. 110−246, P.L. 110−289, except section 3093 of P.L. 110−289, P.L. 110−317, and P.L. 110−343, except section 301 of division B and section 313 of division C of P.L. 110−343, and as amended by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−227, and P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 3093 of P.L. 110−289, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2008, do not apply to this paragraph with respect to taxable years beginning after December 31, 2008, and before January 1, 2011, except that changes to the Internal Revenue Code made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and changes that indirectly affect the provisions applicable to this subchapter made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, apply for Wisconsin purposes at the same time as for federal purposes.

(sn) For taxable years that begin after December 31, 2010, "Internal Revenue Code," for corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as amended to December 31, 2010, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−432, except sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, P.L. 110−28, except sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−140, sections 2, 3, and 5 of P.L. 110−142, P.L. 110−166, sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−185, P.L. 110−234, section 301 of P.L. 110−245, P.L. 110−246, except sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, sections 3071, 3081, and 3082 of P.L. 110−289, section 9 (e) of P.L. 110−317, P.L. 110−343, except sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 111−5, except sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 201 of P.L. 111−147, P.L. 111−148, except sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, P.L. 111−152, except section 1407 of P.L. 111−152, P.L. 111−203, except section 1601 of P.L. 111−203, P.L. 111−226, except sections 215 and 217 of P.L. 111−226, P.L. 111−240, except sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−312, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−245, excluding section 301 of P.L. 110−245, sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, P.L. 110−289, excluding sections 3071, 3081, and 3082 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, P.L. 111−92, P.L. 111−147, excluding section 201 of P.L. 111−147, sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, section 1407 of P.L. 111−152, P.L. 111−192, section 1601 of P.L. 111−203, sections 215 and 217 of P.L. 111−226, sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−325. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes, except that changes made by section 209 of P.L. 109−222, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, sections 110 and 113 of P.L. 110−245, sections 15312, 15313, 15314, and 15342 of P.L. 110−246, sections 3031, 3032, 3033, 3041, 3051, 3052, 3061, and 3092 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, and 211 of division B and section 504 of division C of P.L. 110−343, section 14 of P.L. 111−92, sections 531, 532, and 533 of P.L. 111−147, sections 10908 and 10909 of P.L. 111−148, and section 2043 of P.L. 111−240 do not apply for taxable years beginning before January 1, 2011. Amendments to the Internal Revenue Code enacted after December 31, 2010, do not apply to this paragraph with respect to taxable years beginning after December 31, 2010.

(5) Notwithstanding s. 71.26 (2) and (3), for corporations, at the taxpayer's option, "internal revenue code", for taxable year 1986 and subsequent taxable years, includes any revisions to the federal internal revenue code adopted after January 1, 1986, that relate to the taxation of income derived from any source as a direct consequence of participation in the milk production termination program created by section 101 of P.L. 99−198.

(5m) (a) Notwithstanding subs. (4) and (4m), a qualified retirement fund for a taxable year for federal income tax purposes is a qualified retirement fund for the taxable year for purposes of this subchapter.

(b) Notwithstanding subs. (4) and (4m), section 101 of P.L. 109−222, related to extending the increased expense deduction under section 179 of the Internal Revenue Code, applies to property used in farming that is acquired and placed in service in taxable years beginning on or after January 1, 2008, and used by a person who is actively engaged in farming. For purposes of this paragraph, "actively engaged in farming" has the meaning given in 7 CFR 1400.201, and "farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code.

(5s) "Last day prescribed by law" has the meaning given in s. 71.738.

(6) "Loss" means loss as computed under the internal revenue code.

(6d) For purposes of s. 71.26 (2) (a) 7. and 9., "management fees" include expenses and costs, not including interest expenses, pertaining to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting and compliance matters or similar activities, to the extent that the amounts would otherwise be deductible in determining net income under the Internal Revenue Code as modified by s. 71.26 (3).

(6m) "Member" does not include a member of a limited liability company treated as a corporation under sub. (1k).

(7) "Nuclear decommissioning reserve fund" and "nuclear decommissioning trust fund" have the meanings under section 468A of the internal revenue code.

(7m) "Partner" does not include a partner of a publicly traded partnership treated as a corporation under sub. (1k).

(8) "Pay", in regard to submissions to persons other than the department, has the meaning appropriate to the taxpayer's method of accounting.

(9) "Person" includes corporations, unless the context requires otherwise.

(9ad) (a) "Qualified real estate investment trust" means a real estate investment trust, except a real estate investment trust the

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

shares or beneficial interests of which are not regularly traded on an established securities market and more than 50 percent of the voting power or value of any class of the beneficial interests or shares of which are owned or controlled, directly, indirectly or constructively, by a single entity that is treated as an association taxable as a corporation under the Internal Revenue Code.

(b) For purposes of this subsection, the following entities are not considered an association taxable as a corporation:

1. An entity that is exempt from taxation under s. 71.26 (1) and exempt from federal income tax pursuant to the provisions of section 501 (a) of the Internal Revenue Code.

2. A real estate investment trust that is a qualified real estate investment trust.

3. A qualified real estate investment trust subsidiary under section 856 (i) of the Internal Revenue Code that is a subsidiary of a qualified real estate investment trust.

5. A corporation, trust, association, or partnership organized outside the laws of the United States that satisfies all of the following:

a. At least 75 percent of the entity's total asset value at the close of its taxable year consists of real estate assets, as defined in section 856 (c) (5) (B) of the Internal Revenue Code, cash and cash equivalents, and U.S. government securities.

b. The entity is not subject to tax on amounts distributed to its beneficial owners or is exempt from entity−level taxation.

c. The entity distributes at least 85 percent of its taxable income, as computed in the jurisdiction in which it is organized, to the holders of its shares or certificates of beneficial interest on an annual basis.

d. Either no more than 10 percent of the voting power or value in the entity is held directly, indirectly, or constructively by a single entity or individual or the shares or beneficial interests of the entity are regularly traded on an established securities market.

e. The entity is organized in a country that has a tax treaty with the United States.

(c) For purposes of this subsection, the constructive ownership rules of section 318 (a) of the Internal Revenue Code, as modified by section 856 (d) (5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

(9am) "Related entity" means any person related to a taxpayer as provided under section 267 or 1563 of the Internal Revenue Code during all or a portion of the taxpayer's taxable year and any real estate investment trust under section 856 of the Internal Revenue Code, except a qualified real estate investment trust, if more than 50 percent of any class of the beneficial interests or shares of the real estate investment trust are owned directly, indirectly, or constructively by the taxpayer, or any person related to the taxpayer, during all or a portion of the taxpayer's taxable year. For purposes of this subsection, the constructive ownership rules of section 318 (a) of the Internal Revenue Code, as modified by section 856 (d) (5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

(9an) For purposes of s. 71.26 (2) (a) 7. and 9., "rental expenses" means the gross amounts that would otherwise be deductible under the Internal Revenue Code, as modified under s. 71.26 (3), for the use of, or the right to use, real property and tangible personal property in connection with real property, including services furnished or rendered in connection with such property, regardless of how reported for financial accounting purposes and regardless of how computed.

(9g) For purposes of s. 71.25 (9) (df), (dh), (dj), and (dk), "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States, unless the context requires that "state" means only the state of Wisconsin.

(9m) "Subscribe" means write one's signature or, if the department prescribes another method of authenticating, use that other method.

(10) "Taxable year" means the taxable period upon the basis of which the taxable income of the taxpayer is computed for federal income tax purposes. The taxable year of a corporation that keeps its accounting records on the basis of a 52−53 week period ends on the last day of the month closest to the end of the 52−53 week period.

(11) Except as provided in s. 71.45 (2), "Wisconsin net income", for corporations engaged in business wholly within this state, means net income and, for corporations engaged in business both within and outside this state, means the amount assigned to this state under s. 71.25 (6), (10) (c) or (13) or by a separate accounting or allocation, if allowed under s. 71.25 (6), or by another method approved under s. 71.25 (11), (12) or (14).

History: 1987 a. 312; 1987 a. 411 ss. 14, 19, 109, 112; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 112, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237, 252, 299; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25, 49; 2007 a. 20, 226; 2009 a. 2, 28, 161, 183; 2011 a. 32.

71.23 Imposition of tax. (1) INCOME TAX. For the purpose of raising revenue for the state and the counties, cities, villages and towns, there shall be assessed, levied, collected and paid a tax as provided under this chapter on all Wisconsin net incomes of corporations that are not subject to the franchise tax under sub. (2) and that own property within this state; that derive income from sources within this state or from activities that are attributable to this state; or whose business within this state during the taxable year, except as provided under sub. (3), consists exclusively of foreign commerce, interstate commerce, or both, or that buy or sell lottery prizes if the winning tickets were originally bought in this state; except as exempted under s. 71.26 (1). This section shall not be construed to prevent or affect the correction of errors or omissions in the assessments of income for former years under s. 71.74 (1) and (2).

(2) FRANCHISE TAX. For the privilege of exercising its franchise, buying or selling lottery prizes if the winning tickets were originally bought in this state or doing business in this state in a corporate capacity, except as provided under sub. (3), every domestic or foreign corporation, except corporations specified in s. 71.26 (1), and every nuclear decommissioning trust or reserve fund shall annually pay a franchise tax according to or measured by its entire Wisconsin net income of the preceding taxable year at the rate set forth in s. 71.27 (2). In addition, except as provided in sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this state and a nuclear decommissioning trust or reserve fund that is terminated shall pay a special franchise tax according to or measured by its entire Wisconsin net income for the taxable year during which the corporation ceases doing business in this state or the nuclear decommissioning trust or reserve fund is terminated at the rates under s. 71.27 (2). Every corporation organized under the laws of this state shall be deemed to be residing within this state for the purposes of this franchise tax. All provisions of this chapter and ch. 73 relating to income taxation of corporations shall apply to franchise taxes imposed under this subsection, unless the context requires otherwise. The tax imposed by this subsection on national banking associations shall be in lieu of all taxes imposed by this state on national banking associations to the extent it is not permissible to tax such associations under federal law.

(3) ACTIVITIES THAT DO NOT CREATE NEXUS. A foreign corporation may do business, exercise its franchise and own property in this state to the limited extent referred to in the following activities, in addition to those activities permitted under P.L. 86−272, without subjecting itself to the imposition of the income or franchise tax under subs. (1) and (2):

(a) The storage for any length of time in this state in or on property owned by a person other than the foreign corporation of its tangible personal property and the delivery of its tangible personal

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

property to another person in this state when such storage and delivery is for fabricating, processing, manufacturing or printing by that other person in this state.

(b) The storage for any length of time in this state in or on property owned by a person other than the foreign corporation, and the shipment or delivery outside this state by another person in this state, of the entire amount of the foreign corporation's tangible personal property fabricated, processed, manufactured or printed in this state.

(c) If the foreign corporation is a publisher, the purchase from a printer of a printing service or of tangible personal property printed in this state for the publisher and the storage of the printed material for any length of time in this state in or on property owned by a person other than the publisher, whether or not the tangible personal property is subsequently resold or delivered in this state or shipped or delivered outside this state.

(d) The storage for no more than 90 days in this state in or on property owned by a person, other than the foreign corporation, of the foreign corporation's tangible personal property, if the tangible personal property is transferred to the person and is used in this state by the person for fabricating, processing, manufacturing or printing on the parcel of property in or on which the tangible personal property is stored and if the parcel of property has an assessed value, for property tax purposes, of at least $10,000,000 but no more than $11,000,000 on January 1, 1999.

History: 1987 a. 312; 1999 a. 9.

71.24 Filing returns; extensions; payment of tax. **(1)** FILING RETURNS. Every corporation, except corporations all of whose income is exempt from taxation and except as provided in sub. (1m), shall furnish to the department a true and accurate statement, on or before March 15 of each year, except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15th day of the 3rd month following the close of such fiscal year and except that returns for less than a full taxable year shall be furnished on or before the date applicable for federal income taxes under the internal revenue code, in such manner and form and setting forth such facts as the department deems necessary to enforce this chapter. Every corporation that is required to furnish a statement under this subsection and that has income that is not taxable under this subchapter shall include with its statement a report that identifies each item of its nontaxable income. The statement shall be subscribed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary, the fiduciary shall subscribe the return. The fact that an individual's name is subscribed on the return shall be prima facie evidence that the individual is authorized to subscribe the return on behalf of the corporation.

Cross−reference: See also s. Tax 2.09, Wis. adm. code.

(1m) UNRELATED BUSINESS INCOME STATEMENT. Every corporation subject to a tax on unrelated business income under s. 71.26 (1) (a), if that corporation is required to file for federal income tax purposes, shall furnish to the department of revenue a true and accurate statement on or before the date on or before which it is required to file for federal income tax purposes. The requirements about manner, form and subscription under sub. (1) apply to statements under this subsection.

(2) COPIES OF FEDERAL RETURN. Each corporation that is required to file a return under this section shall file with that return a copy of its federal income tax return for the same taxable year.

(3) INACTIVE CORPORATIONS. Whenever a corporation has been completely inactive for an entire taxable year, in lieu of filing the statements and information otherwise required by this section, it may file a declaration, on a form to be provided by the department, subscribed by its president, if a resident of this state, and, if not a resident, then by another officer residing in this state, attesting to such inactivity. Such declaration must be filed prior to the otherwise due date for its Wisconsin return for such taxable year. Thereafter the corporation need not file such statements or information for any subsequent year unless specifically requested to do so by the department or unless in a subsequent year the corporation has been activated or reactivated.

(4) FILING RETURNS BY RECEIVER, TRUSTEE IN BANKRUPTCY OR ASSIGNEE. If a receiver, trustee in bankruptcy or assignee, by order of a court, by operation of law or otherwise, has possession of all or substantially all of the property or business of a corporation, whether or not such property or business is being operated, such receiver, trustee or assignee shall make the return of income for such corporation in the manner and form that corporations are required to make such returns.

(5) DEPARTMENT MAY REQUIRE FILING. Nothing contained in this section shall preclude the department from requiring any corporation to file a return when in the judgment of the department a return should be filed.

(6) CHANGING REPORTING PERIOD. (a) Corporations may not change their basis of reporting from a calendar year to a fiscal year, from a fiscal year to a calendar year, or from one fiscal year to another without first obtaining the approval of the department of revenue unless the internal revenue service has approved the change or unless the change, including a change to a short taxable year, is required by the internal revenue code before approval by the internal revenue service and the reason for the change is explained in the first return filed for the new taxable year. Corporations that make changes on the basis of federal changes shall submit a copy of the internal revenue service's notice of approval, if prior federal approval, other than expeditious approval, was required, or requirement, if prior federal approval was not required or if the corporation qualifies for expeditious approval, to the department of revenue along with the return for the first taxable year for which the change applies.

(b) If a corporation changes its basis of reporting from a calendar year to a fiscal year a separate return shall be made for the period between the close of the last calendar year and the date designated as the close of the fiscal year. If the change is from a fiscal year to a calendar year, a separate return shall be made for the period between the close of the last fiscal year and the following December 31. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. In no case shall a separate income or franchise tax return be made for a period of more than 12 months.

(c) If a separate corporation income tax return is made for a fractional part of a year for federal income tax purposes, the corporation shall file a separate Wisconsin income or franchise tax return for that fractional year. The income shall be computed and reported on the basis of the period for which the separate return is made, and that fractional part of a year shall constitute a taxable year, except that if a corporation terminates, under section 1362 (d) (1) or (2) of the internal revenue code, its election to be treated as an S corporation for federal income tax purposes the corporation may allocate its items of income, loss or deduction between its short taxable year as a tax−option corporation and its short taxable year as a nontax−option corporation according to the method under section 1362 (e) (2) of the internal revenue code.

(d) If a separate income [or franchise] tax return is made for a short period under par. (b) on account of a change in the taxable year, the net income for such short period shall be placed on an annual basis using the method applicable for federal income taxes under section 443 (b) (1) of the internal revenue code.

(7) EXTENSIONS. (a) In the case of a corporation required to file a return, the department of revenue shall allow an automatic extension of 7 months or until the original due date of the corporation's corresponding federal return, whichever is later. Any extension of time granted by law or by the internal revenue service for the filing of corresponding federal returns shall extend the time for filing under this subchapter to 30 days after the federal due date if the corporation reports the extension in the manner specified by the department on the return. Except for payments of estimated

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

taxes, income or franchise taxes payable upon the filing of the tax return shall not become delinquent during such extension period, but shall, except as provided in par. (b), be subject to interest at the rate of 12% per year during such period.

(b) For taxable years beginning after December 31, 2008, for persons who qualify for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action, income or franchise taxes payable upon the filing of the tax return are not subject to interest as otherwise provided under par. (a).

Cross−reference: See also ss. Tax 2.88 and 2.96, Wis. adm. code.

(9) DELINQUENCIES. (a) Corporation franchise and income taxes not paid on or before the 15th day of the 3rd month following the close of the taxable year shall be deemed delinquent.

(b) Additional income or franchise taxes assessed under s. 71.74 (1) to (5), (7) and (8) shall become delinquent if not paid on or before the due date stated in the notice to the taxpayer.

(10) ADVANCE PAYMENTS. The department of revenue shall accept in advance income or franchise taxes and surtaxes from taxpayers desirous of making such payments before the same shall become due and payable. Advance payment of taxes under this subsection shall not relieve the taxpayer from additional taxes which may result from subsequent legislation or from additional taxable income disclosed or discovered subsequent to such payment.

(11) SMALL BALANCES. No person is required to pay a balance due of less than $1.

History: 1987 a. 312; 1987 a. 411 ss. 91, 116; 1989 a. 31; 1991 a. 39; 1993 a. 199; 1995 a. 428; 1997 a. 27; 2007 a. 20; 2009 a. 28 ss. 1618, 1636; 2009 a. 276 s. 39.

Cross−reference: See also s. Tax 2.03, Wis. adm. code.

71.25 Situs of income; allocation and apportionment. For purposes of determining the situs of income under this section and s. 71.255 (5) (a) 1. and 2.:

(1) BENEFICIARIES. The situs of income derived by any taxpayer as the beneficiary of the estate of a decedent or of a trust estate shall be determined as if such income had been received without the intervention of a fiduciary.

(2) GRANTOR TRUSTS. The situs of income received by a trustee, which income, under the internal revenue code, is taxable to the grantor of the trust or to any person other than the trust, shall be determined as if such income had been actually received directly by such grantor or such other person, without the intervention of the trust.

(4) CORPORATIONS ENGAGED IN BUSINESS WHOLLY WITHIN THIS STATE. For corporations engaged in business wholly within this state, all income is subject to, or included in the measure of, the Wisconsin income or franchise tax.

(5) CORPORATIONS ENGAGED IN BUSINESS BOTH WITHIN AND WITHOUT THE STATE. (a) *Apportionable income.* Except as provided in sub. (6), corporations engaged in business both within and without this state are subject to apportionment. Income gain or loss from the sources listed in this paragraph is presumed apportionable as unitary or operational income or other income that has a taxable presence in this state. Apportionable income includes all income or loss of corporations, other than nonapportionable income as specified in par. (b), including, but not limited to, income, gain or loss from the following sources:

1. Sale of inventory.
2. Farms, mines and quarries.
3. Sale of scrap and by−products.
4. Commissions.
5. Sale of real property or tangible personal property used in the production of business income.
6. Royalties from intangible assets.
7. Redemption of securities.
8. Interest on trade accounts and trade notes receivable.
9. Interest and dividends if the operations of the payer are unitary with those of the payee, or if those operations are not unitary but the investment activity from which that income is derived is an integral part of a unitary business and the payer and payee are neither affiliates nor related as parent company and subsidiary. In this subdivision, "investment activity" includes decision making relating to the purchase and sale of stocks and other securities, investing surplus funds and the management and record keeping associated with corporate investments, not including activities of a broker or other agent in maintaining an investment portfolio.
10. Sale of intangible assets if the operations of the company in which the investment was made were unitary with those of the investing company, or if those operations were not unitary but the investment activity from which that gain or loss was derived is an integral part of a unitary business and the companies were neither affiliates nor related as parent company and subsidiary. In this subdivision, "investment activity" has the meaning given under subd. 9.
11. Management fees.
12. Franchise fees.
13. Treble damages.
14. A partner's share of income or loss from a partnership or a member's share of income or loss from a limited liability company.
16. Foreign exchange gain or loss.
17. Sale of receivables.
18. Rentals of, or royalties from, real property or tangible personal property if that real property or tangible personal property is used in the business.
19. Sale or exchange of petroleum at the wellhead.
20. Personal services performed by employees of the corporation.
21. Patents, copyrights, trademarks, trade names, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals and technical know−how.
22. Redemption of the corporation's bonds.
23. Interest on state and federal tax refunds on business income or business property.
24. Pari−mutuel wager winnings or purses under ch. 562.

(b) *Nonapportionable income.* Income, gain or loss from the sale of nonbusiness real property or nonbusiness tangible personal property, rental of nonbusiness real property or nonbusiness tangible personal property and royalties from nonbusiness real property or nonbusiness tangible personal property are nonapportionable and shall be allocated to the situs of the property, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state.

(6) ALLOCATION AND SEPARATE ACCOUNTING AND APPORTIONMENT FORMULA. Corporations engaged in business within and without the state shall be taxed only on such income as is derived from business transacted and property located within the state. The amount of such income attributable to Wisconsin may be determined by an allocation and separate accounting thereof, when the business of such corporation within the state is not an integral part of a unitary business, but the department of revenue may permit an allocation and separate accounting in any case in which it is satisfied that the use of such method will properly reflect the income taxable by this state. In all cases in which allocation and separate accounting is not permissible, the determination shall be made in the following manner: for all businesses except air carriers, financial organizations, telecommunications companies, pipeline companies, public utilities, railroads, sleeping car companies, car line companies and corporations or associations that are subject to a tax on unrelated business income under s. 71.26 (1) (a) there shall first be deducted from the total net

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

income of the taxpayer the part thereof (less related expenses, if any) that follows the situs of the property or the residence of the recipient. The remaining net income shall be apportioned to this state by use of the following:

(a) For taxable years beginning before January 1, 2006, an apportionment fraction composed of a sales factor under sub. (9) representing 50% of the fraction, a property factor under sub. (7) representing 25% of the fraction, and a payroll factor under sub. (8) representing 25% of the fraction.

(b) For taxable years beginning after December 31, 2005, and before January 1, 2007, an apportionment fraction composed of a sales factor under sub. (9) representing 60% of the fraction, a property factor under sub. (7) representing 20% of the fraction, and a payroll factor under sub. (8) representing 20% of the fraction.

(c) For taxable years beginning after December 31, 2006, and before January 1, 2008, an apportionment fraction composed of a sales factor under sub. (9) representing 80% of the fraction, a property factor under sub. (7) representing 10% of the fraction, and a payroll factor under sub. (8) representing 10% of the fraction.

(d) For taxable years beginning after December 31, 2007, an apportionment fraction composed of the sales factor under sub. (9).

(e) For taxable years beginning after December 31, 2005, and before January 1, 2008, the apportionment fraction for the remaining net income of a financial organization shall include a sales factor that represents more than 50% of the apportionment fraction, as determined by rule by the department. For taxable years beginning after December 31, 2007, the apportionment fraction for the remaining net income of a financial organization is composed of a sales factor, as determined by rule by the department.

Cross−reference: See also ss. Tax 2.41 and 2.505, Wis. adm. code.

(6m) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years beginning before January 1, 2008, if both the numerator and the denominator of the sales factor under sub. (9) related to a taxpayer's remaining net income are zero, the sales factor under sub. (9) is eliminated from the apportionment formula to determine the taxpayer's remaining net income under sub. (6).

2. For taxable years beginning after December 31, 2007, if both the numerator and the denominator of the sales factor under sub. (9) related to a taxpayer's remaining net income are zero, none of the taxpayer's remaining net income is apportioned to this state.

(b) 1. For taxable years beginning before January 1, 2008, if the numerator of the sales factor under sub. (9) related to a taxpayer's remaining net income is a negative number and the denominator of the sales factor under sub. (9) related to a taxpayer's remaining net income is a positive number, a negative number, or zero, the sales factor under sub. (9) is zero.

2. For taxable years beginning after December 31, 2007, if the numerator of the sales factor under sub. (9) related to a taxpayer's remaining net income is a negative number and the denominator of the sales factor under sub. (9) related to a taxpayer's remaining net income is a positive number, a negative number, or zero, none of the taxpayer's remaining net income is apportioned to this state.

(c) 1. For taxable years beginning before January 1, 2008, if the numerator of the sales factor under sub. (9) related to a taxpayer's remaining net income is a positive number and the denominator of the sales factor under sub. (9) related to a taxpayer's remaining net income is zero or a negative number, the sales factor under sub. (9) is one.

2. For taxable years beginning after December 31, 2007, if the numerator of the sales factor under sub. (9) related to a taxpayer's remaining net income is a positive number and the denominator of the sales factor under sub. (9) related to a taxpayer's remaining net income is zero or a negative number, all of the taxpayer's remaining net income is apportioned to this state.

(7) PROPERTY FACTOR. For purposes of sub. (6) and for taxable years beginning before January 1, 2008:

(a) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period. Cash on hand or in the bank, shares of stock, notes, bonds, accounts receivable, or other evidence of indebtedness, special privileges, franchises, goodwill, or property the income of which is not taxable or is separately allocated, shall not be considered tangible property nor included in the apportionment.

(b) Property used in the production of nonapportionable income or losses shall be excluded from the numerator and denominator of the property factor. Property used in the production of both apportionable and nonapportionable income or losses shall be partially excluded from the numerator and denominator of the property factor so as to exclude, as near as possible, the portion of such property producing the nonapportionable income or loss.

(c) Property owned by the taxpayer is valued at its original cost. Property rented by the taxpayer is valued at 8 times the net annual rental. Net annual rental is the annual rental paid by the taxpayer less any annual rental received by the taxpayer from sub−rentals.

(d) The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the secretary of revenue may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(8) PAYROLL FACTOR. For purposes of sub. (6) and for taxable years beginning before January 1, 2008:

(a) The payroll factor is a fraction, the numerator of which is the total amount paid in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid everywhere during the tax period.

(b) Compensation is paid in this state if:

1. The individual's service is performed entirely within this state;

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

3. A portion of the service is performed within this state and the base of operations of the individual is in this state;

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

5. A portion of the service is performed within this state 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 this state; or

6. The individual is neither a resident of nor performs services in this state but is directed or controlled from an office in this state and returns to this state 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.

(c) Compensation related to the operation, maintenance, protection or supervision of property used in the production of both apportionable and nonapportionable income or losses shall be partially excluded from the numerator and denominator of the payroll factor so as to exclude, as near as possible, the portion of pay related to the operation, maintenance, protection and supervision of property used in the production of nonapportionable income.

(d) In this subsection, compensation includes deductible management or service fees paid to a related corporation as consider-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

ation for the performance of personal services, and the situs of those fees is in this state if the services fulfill one of the requirements under par. (b). The recipient of the fees may not include the compensation paid to its employees with respect to personal services in either the numerator or denominator of its payroll factor. Except for management or service fees, payments made to a related corporation, an independent contractor or any person not properly classifiable as an employee are excluded. In this paragraph, "related corporation" means a corporation which is part of a controlled group as defined in section 267 (f) (1) of the internal revenue code.

(e) If the company has no employees and pays no management or service fees or the department determines that employees are not a substantial income−producing factor and that the management or service fees paid are insubstantial, the department may order or permit the elimination of the payroll factor.

(9) SALES FACTOR. For purposes of sub. (5):

(a) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. For sales of tangible personal property, the numerator of the sales factor is the sales of the taxpayer during the tax period under par. (b) 1. and 2. plus 100 percent of the sales of the taxpayer during the tax period under pars. (b) 2m. and 3. and (c). For purposes of applying pars. (b) 2m. and 3. and (c), if a taxpayer is within another state's jurisdiction for income or franchise tax purposes for any part of the taxable year, it is considered to be within that state's jurisdiction for income or franchise tax purposes for the entire taxable year.

(b) Sales of tangible personal property are in this state if any of the following occur:

1. The property is delivered or shipped to a purchaser, other than the federal government, within this state regardless of the f.o.b. point or other conditions of the sale.

2. The property is shipped from an office, store, warehouse, factory or other place of storage in this state and delivered to the federal government within this state regardless of the f.o.b. point or other conditions of sale.

2m. The property is shipped from an office, store, warehouse, factory or other place of storage in this state and delivered to the federal government outside this state and the taxpayer is not within the jurisdiction, for income or franchise tax purposes, of the destination state.

3. The property is shipped from an office, store, warehouse, factory or other place of storage in this state to a purchaser other than the federal government and the taxpayer is not within the jurisdiction, for income or franchise tax purposes, of the destination state.

(c) Sales of tangible personal property by an office in this state to a purchaser in another state and not shipped or delivered from this state are in this state if the taxpayer is not within the jurisdiction for income tax purposes of either the state from which the property is delivered or shipped or of the destination state.

(df) 1. Gross receipts from the use of computer software are in this state if the purchaser or licensee uses the computer software at a location in this state.

2. Computer software is used at a location in this state if the purchaser or licensee uses the computer software in the regular course of business operations in this state, for personal use in this state, or if the purchaser or licensee is an individual whose domicile is in this state. If the purchaser or licensee uses the computer software in more than one state, the gross receipts shall be divided among those states having jurisdiction to impose an income tax on the taxpayer in proportion to the use of the computer software in those states. To determine computer software use in this state, the department may consider the number of users in each state where the computer software is used, the number of site licenses or workstations in this state, and any other factors that reflect the use of computer software in this state.

(dh) 1. Gross receipts from services are in this state if the purchaser of the service received the benefit of the service in this state.

2. The benefit of a service is received in this state if any of the following applies:

a. The service relates to real property that is located in this state.

b. The service relates to tangible personal property that is located in this state at the time that the service is received or tangible personal property that is delivered directly or indirectly to customers in this state.

c. The service is provided to an individual who is physically present in this state at the time that the service is received.

d. The service is provided to a person engaged in a trade or business in this state and relates to that person's business in this state.

3. If the purchaser of a service receives the benefit of a service in more than one state, the gross receipts from the performance of the service are included in the numerator of the sales factor according to the portion of the service received in this state.

(dj) Except as provided in par. (df), gross royalties and other gross receipts received for the use or license of intangible property, including patents, copyrights, trademarks, trade names, service names, franchises, licenses, plans, specifications, blueprints, processes, techniques, formulas, designs, layouts, patterns, drawings, manuals, technical know−how, contracts, and customer lists, are sales in this state if any of the following applies:

1. The purchaser or licensee uses the intangible property in the operation of a trade or business at a location in this state. If the purchaser or licensee uses the intangible property in the operation of a trade or business in more than one state, the gross royalties and other gross receipts from the use of the intangible property shall be divided between those states having jurisdiction to impose an income tax on the taxpayer in proportion to the use of the intangible property in those states.

2. The purchaser or licensee is billed for the purchase or license of the use of the intangible property at a location in this state.

3. The purchaser or licensee of the use of the intangible property has its commercial domicile in this state.

(dk) Sales of intangible property, excluding securities, are sales in this state if any of the following applies:

1. The purchaser uses the intangible property in the regular course of business operations in this state or for personal use in this state. If the purchaser uses the intangible property in more than one state, the sales shall be divided between those states having jurisdiction to impose an income tax on the taxpayer in proportion to the use of the intangible property in those states.

2. The purchaser is billed for the purchase of the intangible property at a location in this state.

3. The purchaser of the intangible property has its commercial domicile in this state.

(e) *Sales defined.* In this subsection, "sales" includes, but is not limited to, the following items related to the production of business income:

1. Gross receipts from the sale of inventory.

2. Gross receipts from the operation of farms, mines and quarries.

3. Gross receipts from the sale of scrap or by−products.

4. Gross commissions.

5. Gross receipts from personal and other services.

6. Gross rents from real property or tangible personal property.

7. Interest on trade accounts and trade notes receivable.

8. A partner's share of the partnership's gross receipts or a member's share of the limited liability company's gross receipts.

9. Gross management fees.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

10. Gross royalties from income−producing activities.

11. Gross franchise fees from income−producing activities.

(f) *Items that are not sales.* The following items are among those that are not included in "sales" in this subsection:

1. Gross receipts and gain or loss from the sale of tangible business assets, except those under par. (e) 1., 2. and 3.

2. Gross receipts and gain or loss from the sale of nonbusiness real or tangible personal property.

3. Gross rents and rental income or loss from real property or tangible personal property if that real property or tangible personal property is not used in the production of business income.

4. Royalties from nonbusiness real property or nonbusiness tangible personal property.

5. Proceeds and gain or loss from the redemption of securities.

6. Interest, except interest under par. (e) 7., and dividends.

7. Gross receipts and gain or loss from the sale of intangible assets, except those under par. (e) 1.

8. Dividends deductible by corporations in determining net income.

9. Gross receipts and gain or loss from the sale of securities.

10. Proceeds and gain or loss from the sale of receivables.

11. Refunds, rebates and recoveries of amounts previously expended or deducted.

12. Other items not includable in apportionable income.

13. Foreign exchange gain or loss.

14. Royalties and income from passive investments in the property under sub. (5) (a) 21.

16. Pari−mutuel wager winnings or purses under ch. 562.

(10) RAILROADS, FINANCIAL ORGANIZATIONS AND PUBLIC UTILITIES. (a) 1. In this section, "financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, small loan company, sales finance company, investment company, brokerage house, underwriter or any type of insurance company.

2. As used in this section, "financial organization" includes any subsidiary of an entity described in subd. 1., if a significant purpose for the subsidiary is to hold investments or if the subsidiary primarily functions to hold investments.

(b) 1. In this section, for taxable years beginning before January 1, 2006, "public utility" means any business entity described under subd. 2. and any business entity which owns or operates any plant, equipment, property, franchise, or license for the transmission of communications or the production, transmission, sale, delivery, or furnishing of electricity, water or steam the rates of charges for goods or services of which have been established or approved by a federal, state or local government or governmental agency.

2. In this section, for taxable years beginning after December 31, 2005, "public utility" means any business entity providing service to the public and engaged in the transportation of goods and persons for hire, as defined in s. 194.01 (4), regardless of whether or not the entity's rates or charges for services have been established or approved by a federal, state or local government or governmental agency.

(c) The net business income of railroads, sleeping car companies, car line companies, pipeline companies, financial organizations, telecommunications companies, air carriers, and public utilities requiring apportionment shall be apportioned pursuant to rules of the department of revenue, but the income taxed is limited to the income derived from business transacted and property located within the state.

Cross−reference: See also ss. Tax 2.46, 2.47, 2.475, and 2.48, 2.49, 2.495, 2.50, and 2.502, Wis. adm. code.

(11) DEPARTMENT MAY WAIVE FACTOR. Where, in the case of any corporation engaged in business in and outside of this state and required to apportion its income as provided in sub. (6), it shall be shown to the satisfaction of the department of revenue that the use of any one of the 3 factors provided in sub. (6) gives an unreasonable or inequitable final average ratio because of the fact that such corporation does not employ, to any appreciable extent in its trade or business in producing the income taxed, the factors made use of in obtaining such ratio, this factor may, with the approval of the department of revenue, be omitted in obtaining the final average ratio which is to be applied to the remaining net income. This subsection does not apply to taxable years beginning after December 31, 2007.

(12) DEPARTMENT MAY APPORTION BY RULE. If the income of any such corporation properly assignable to the state of Wisconsin cannot be ascertained with reasonable certainty by the methods under this section, then the same shall be apportioned and allocated under such rules as the department of revenue may prescribe.

Cross−reference: See also s. Tax 2.45, Wis. adm. code.

(13) UNRELATED BUSINESS TAXABLE INCOME. The unrelated business taxable income of organizations that are subject to tax on that income under s. 71.26 (1) (a) shall be apportioned under the department of revenue's rules.

(14) ALTERNATIVE ALLOCATION. (a) Upon request by a corporation on or before January 1, 2000, the department of revenue may authorize a corporation or a subsidiary thereof to use or continue to use a different method of apportioning its income to this state for purposes of this subchapter, and may specify the method of apportionment that the corporation or subsidiary shall use. This paragraph is to be used exclusively in the event of a corporate restructuring that would result in an unfair representation of the degree of business activity in this state. In no instance may the alternative method proposed under the new corporate structure result in less franchise or income tax revenue to the state than the current corporate structure is liable for, given the same overall level of sales, payroll and property.

(b) Before the department of revenue grants permission to any corporation to use an alternative method of allocation under par. (a), the department of revenue shall promulgate rules that specify in more detail the circumstances in which that authority may be granted and the kinds of alternative methods that the department may authorize.

(c) At least 14 days before giving final approval to an alternative method of apportionment under par. (a), the department of revenue shall submit the proposed alternative method of apportionment to the cochairpersons of the joint committee for review of administrative rules, together with a description of the proposed alternative and the reasons for the proposed alternative. If, within 14 days after receipt of the proposed alternative method, the cochairpersons of the joint committee for review of administrative rules do not notify the department of revenue that the proposed alternative must be promulgated as an administrative rule in order to be used, the department of revenue may give final approval to the proposed method without promulgating an administrative rule. If the cochairpersons of the joint committee for review of administrative rules notify the department of revenue within 14 days after receipt of the proposed alternative that the proposed alternative must be promulgated as an administrative rule, the proposed alternative may not be used until it is promulgated as an administrative rule under ch. 227.

Cross−reference: See also s. Tax 2.395, Wis. adm. code.

(15) PARTNERSHIPS AND LIMITED LIABILITY COMPANIES. (a) A general or limited partner's share of the numerator and denominator of a partnership's apportionment factors under this section are included in the numerator and denominator of the general or limited partner's apportionment factors under this section.

(b) If a limited liability company is treated as a partnership, for federal tax purposes, a member's share of the numerator and denominator of a limited liability company's apportionment fac-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

tors under this section are included in the numerator and denominator of the member's apportionment factors under this section.

History: 1987 a. 312; 1987 a. 411 ss. 57, 62, 117 to 123; 1989 a. 31; 1991 a. 39, 269; 1993 a. 112; 1997 a. 299; 1999 a. 9; 2001 a. 16; 2003 a. 37; 2005 a. 25; 2009 a. 2, 28, 276.

Cross−reference: See also ss. Tax 2.39 and 2.395, Wis. adm. code.

Under sub. (6), it is within the department's discretion to decide whether to permit a multistate business to deviate from the apportionment method. Nelson Bros. v. DOR, 152 Wis. 2d 746, 449 N.W.2d 328 (Ct. App. 1989.)

Subjecting an entity's income to apportionment when the entity's operations constitute a "unitary business" under sub. (6) is discussed. Chilstrom Erecting Corp. v. DOR, 174 Wis. 2d 517, 497 N.W.2d 785 (Ct. App. 1993).

A corporation's investment income that served an "operational" function and was not unrelated to corporate functions within the state was subject to apportionment. Port Affiliates, Inc. v. DOR, 190 Wis. 2d 271, 526 N.W.2d 806 (Ct. App. 1994).

71.255 Combined reporting. (1) DEFINITIONS. In this section:

(a) "Combined group" means the group of all persons whose income and apportionment factors are required to be taken into account under sub. (2) to determine a member's share of the net business income or loss apportionable to this state that is attributable to a unitary business.

(b) "Combined report" means a report in the form and manner prescribed by the department that specifies a combined group's income from the unitary business, apportionment factors attributable to the unitary business, and any other tax return information prescribed by the department.

(c) "Commonly controlled group" means any of the following:

1. A parent corporation and any one or more corporations or chains of corporations that are connected to the parent corporation by direct or indirect ownership by the parent corporation, if the parent corporation owns stock representing more than 50 percent of the voting power of at least one of the connected corporations or if the parent corporation or any of the connected corporations owns stock that cumulatively represents more than 50 percent of the voting power of each of the connected corporations.

2. Any 2 or more corporations if a common owner, regardless of whether the owner is a corporate entity, directly or indirectly owns stock representing more than 50 percent of the voting power of the corporations or connected corporations.

3. Any 2 or more corporations if stock representing more than 50 percent of the voting power in each corporation are interests that cannot be separately transferred.

4. Any 2 or more corporations if stock representing more than 50 percent of the voting power in each corporation is directly owned by, or for the benefit of, family members. In this subdivision, "family member" means an individual related by blood, marriage, or adoption within the 3rd degree of kinship, as computed under s. 990.001 (16), or the spouse of such individual.

(d) "Consolidated foreign operating corporation" means a corporation that, for the taxable year, satisfies all of the following conditions:

1. It is a member of a unitary business.

2. It is included in the same federal consolidated return as at least one other corporation in that unitary business.

3. It has active foreign business income, as defined in section 861 (c) (1) B of the Internal Revenue Code, in an amount that is 80 percent or more of the corporation's worldwide income.

(e) "Corporation" means any corporation, as defined in s. 71.22 (1k), wherever located, which if it were doing business in this state would be subject to this chapter. "Corporation" does not include a tax−option corporation.

(f) "Department" means the department of revenue.

(g) "Doing business in this state" has the meaning given in s. 71.22 (1r).

(h) "Domestic" means incorporated, organized, or created in the United States or under the laws of the United States or any state.

(i) "File" has the meaning given in s. 71.22 (2m).

(j) "Foreign" means not incorporated, organized, or created in the United States or under the laws of the United States or any state.

(k) "Intangible expenses" has the meaning given in s. 71.22 (3g) for corporations taxable under this subchapter and the meaning given in s. 71.42 (1sg) for corporations taxable under subch. VII.

(L) "Interest expenses" has the meaning given in s. 71.22 (3m) for corporations taxable under this subchapter and the meaning given in s. 71.42 (1t) for corporations taxable under subch. VII.

(m) "Pass−through entity" means a general or limited partnership, an organization of any kind treated as a partnership for tax purposes under this chapter, a tax−option corporation, a real estate investment trust, a regulated investment company, a real estate mortgage investment conduit, a financial asset securitization investment trust, a trust, or an estate.

(n) "Unitary business" means a single economic enterprise that is made up either of separate parts of a single business entity, of multiple business entities that are related under section 267 or 1563 of the Internal Revenue Code, or of a commonly controlled group of business entities that are sufficiently interdependent, integrated, and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. Two or more business entities are presumed to be a unitary business if the businesses have unity of ownership, operation, and use as indicated by a centralized management or a centralized executive force; centralized purchasing, advertising, or accounting; intercorporate sales or leases; intercorporate services, including administrative, employee benefits, human resources, legal, financial, and cash management services; intercorporate debts; intercorporate use of proprietary materials; interlocking directorates; or interlocking corporate officers. In no event and under no circumstances shall the preceding sentence be construed as exclusive of any and all other factors indicative of a unitary business. For purposes of this section, the term "unitary business" shall be broadly construed, to the extent permitted by the U.S. Constitution. The members of a combined group shall be jointly and severally liable for costs, penalties, interests, and taxes associated with the combined report. Any business conducted by a pass−through entity that is owned directly or indirectly by a corporation shall be treated as conducted by the corporation, to the extent of the corporation's distributive share of the pass−through entity's income, regardless of the percentage of the corporation's ownership interest. A business conducted directly or indirectly by one corporation is unitary with that portion of a business conducted by another corporation through its direct or indirect interest in a pass−through entity if there is a synergy and exchange and flow of value between the 2 parts of the business and the 2 corporations are members of the same commonly controlled group.

(2) CORPORATIONS REQUIRED TO USE COMBINED REPORTING. (a) A corporation, not including a corporation of which all its income is exempt from taxation under s. 71.26 (1) or 71.45 (1), engaged in a unitary business with one or more other corporations in the same commonly controlled group shall report its share of income from that unitary business in the amount determined by a combined report filed by a designated agent of the unitary business, as determined under sub. (7). The combined report shall include the income, determined under sub. (3), and apportionment factor or factors determined under sub. (5), of every corporation in the commonly controlled group that is engaged in the unitary business, except as provided in pars. (b) to (f).

(b) A foreign corporation that is a combined group member shall include in the combined report income that is derived only from sources within the United States as provided in sections 861 to 865 of the Internal Revenue Code. The foreign corporation shall include in the combined report its apportionment factor or factors related only to that income.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(c) Except as provided in par. (d), if 80 percent or more of a corporation's worldwide income is active foreign business income, as defined in section 861 (c) (1) (B) of the Internal Revenue Code, the income and apportionment factor or factors of the corporation shall not be included in the combined report, but the corporation shall compute and allocate or apportion its income from the unitary business separately.

(d) The combined report of the unitary business of which a consolidated foreign operating corporation is a member shall include, and the separate return filed by the consolidated foreign operating corporation shall exclude, the following amounts, to the extent that they are attributable to the unitary business:

1. An income amount equal to the interest expenses and intangible expenses that are paid, accrued, or incurred by any combined group member to or for the benefit of the consolidated foreign operating corporation, except to the extent such amounts constitute income to the consolidated foreign operating corporation from sources outside the United States under sections 861 to 865 of the Internal Revenue Code.

2. To the extent that the amounts were not included under subd. 1., interest income and income generated from intangible property received or accrued by the consolidated foreign operating corporation, except to the extent such amounts constitute income from sources outside the United States under sections 861 to 865 of the Internal Revenue Code. For purposes of this subdivision, income generated from intangible property includes income related to the direct or indirect acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property; income from factoring transactions or discounting transactions; royalty, patent, technical, and copyright fees; licensing fees; and other similar income.

3. Dividends paid or accrued by a real estate investment trust to the consolidated foreign operating corporation, if the real estate investment trust is not a qualified real estate investment trust as defined in s. 71.22 (9ad) and the dividend income is from sources within the United States under sections 861 to 865 of the Internal Revenue Code.

4. Income of the consolidated foreign operating corporation that is equal to gains derived from the sale of real or personal property located in the United States.

5. The apportionment factor or factors attributable to the income described in subds. 1. to 4.

(e) Except for the amounts in par. (d), a consolidated foreign operating corporation shall compute and allocate or apportion its income from the unitary business separately.

(f) 1. The department may require that a combined report include the income and associated apportionment factor or factors of any person who is not otherwise included in a combined group under this subsection, but who is a member of a unitary business, in order to reflect proper apportionment of income of the entire unitary business. The department may require that a combined report include the income and associated apportionment factor or factors of persons that are not corporations.

2. If the department determines that the reported income or loss of a member of a combined group engaged in a unitary business with any person not otherwise included in the combined group under this subsection represents an avoidance or evasion of tax by the person or the combined group member, the department may require all or any part of the income or loss and associated apportionment factor or factors of the person be included in or excluded from the combined report for the unitary business or may require the use of a different apportionment factor or factors. The department may require that a combined report include or exclude the income or loss and associated apportionment factor or factors of persons that are not corporations.

3. The authority granted under this paragraph is in addition to, and not a limitation of or dependent on, the provisions in this chapter enacted to prevent tax avoidance or evasion or to clearly reflect the income of any person. Any determination by the department under this paragraph is presumed correct and the person challenging the determination has the burden of proving by clear and convincing evidence that the determination is incorrect.

(2m) ELECTION TO INCLUDE EVERY MEMBER OF COMMONLY CONTROLLED GROUP. (a) The designated agent as provided in sub. (7) may elect, without first obtaining written approval from the department, to include in its combined group every corporation in its commonly controlled group, regardless of whether such corporations are engaged in the same unitary business as the designated agent. Corporations included in the combined group by operation of this election are required to use combined reporting only to the extent described in sub. (2). The commonly controlled group shall calculate its Wisconsin income and apportionment factors as provided under subs. (3), (4), and (5), and all income of all members of the commonly controlled group, whether or not such income would otherwise be subject to apportionment or allocable to a particular state in the absence of an election under this subsection, shall be treated as apportionable income for purposes of the combined report.

(b) The election under this subsection shall be executed by the designated agent on an original, timely filed combined report. Any corporation that becomes includable in the commonly controlled group subsequent to the year of election shall have waived any objection to its inclusion in the combined report.

(c) An election under this subsection shall be binding for and applicable to the taxable year for which it is made and for the next 9 taxable years. An election may be renewed for another 10 taxable years, without prior written approval from the department after it has been in effect for 10 taxable years. The renewal shall be made on an original, timely filed return for the first taxable year after the completion of a 10−year period for which an election under this subsection was in place. An election that is not renewed shall be revoked. In the case of a revocation, a new election under this subsection shall not be permitted in any of the immediately following 3 taxable years.

(d) The department may not disregard the tax effect of an election under this subsection, or disallow the election, with respect to any controlled group member or members for any year of the election period.

(3) COMPONENTS OF INCOME SUBJECT TO TAX. Each member is responsible for tax based on its taxable income or loss apportioned or allocated to this state, including:

(a) Its share of any business income apportionable to this state of each of the combined groups of which it is a member, as determined under subs. (4) and (5). For financial organizations, as defined in ss. 71.04 (8) (a) and 71.25 (10) (a), business income includes interest, dividends, and receipts from investments of any kind. For purposes of this section, a financial organization shall treat the expenses associated with an investment as business expenses.

(b) Its share of any business income apportionable to this state of a distinct business activity conducted within and outside the state wholly by the member, as determined under s. 71.25 or 71.45.

(c) Its income from a business conducted wholly by the member entirely within the state. If a combined group consists only of corporations that are conducting business entirely within this state, sub. (4) (f) to (j) applies to those corporations.

(d) Its income sourced to this state from the sale or exchange of capital assets, and from involuntary conversions, as determined under sub. (4) (i).

(e) Its nonbusiness income or loss allocable to this state.

(f) Its income that is realized from the purchase and subsequent sale or redemption of lottery prizes, if the winning tickets were originally bought in this state.

(g) Its income or loss allocated or apportioned in an earlier year, required to be taken into account as state source income or loss during the taxable year, other than a net business loss carry−forward.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(h) Its net business loss carry−forward, as determined under sub. (6).

(4) BUSINESS INCOME OF THE COMBINED GROUP. (a) The business income of a combined group is the sum of the income of each member of the combined group as determined under the Internal Revenue Code, as modified under s. 71.26 or 71.45, and except as provided under pars. (b) to (j). If a unitary business includes income from a pass−through entity, the pass−through entity income to be included in the total income of the combined group shall be the member of the combined group's direct and indirect distributive share of the pass−through entity's unitary business income.

(b) 1. Subtract any apportionable income of a distinct business activity conducted within and outside the state wholly by the member, income from a business conducted wholly by the member entirely within this state, the member's nonbusiness income, the member's income realized from the purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state, and its income allocated or apportioned in an earlier year required to be taken into account as state source income during the taxable year.

2. Add any apportionable expense or loss of a distinct business activity conducted within and outside the state wholly by the member, expense or loss from a business conducted wholly by the member entirely within this state, the member's nonbusiness expense or loss, its loss allocated or apportioned in an earlier year required to be taken into account as state source loss during the taxable year, and its net business loss carry−forward.

(c) For combined group members that are consolidated foreign operating corporations, include only the income described in sub. (2) (d) 2. to 4. A combined group may deduct expenses properly attributable to a consolidated foreign operating corporation's income described in sub. (2) (d) 2. to 4., subject to ss. 71.30 (2) and (2m) and 71.80 (1) (b) and (1m).

(d) The modifications provided under ss. 71.26 (2) (a) 7., 8., and 9. and 71.45 (2) (a) 16., 17., and 18. shall not apply with respect to interest expenses or intangible expenses paid, accrued, or incurred by a combined group member to or for the benefit of a consolidated foreign operating corporation.

(f) Except as provided in sub. (2) (d) 3. and except if the modification under s. 71.26 (3) (j) applies, dividends paid by one combined group member to another shall be, to the extent that the dividends are paid out of the earnings and profits of the unitary business included in the combined report, whether in the current taxable year or in a prior taxable year, subtracted from the income of the recipient. This paragraph does not apply to dividends received from members of the unitary business that were not part of the combined group at the time that the dividends were paid.

(g) Except as otherwise provided by rule, business income or loss from an intercompany transaction between members of the same combined group shall be deferred as provided under U.S. Treasury Regulation 1.1502−13. Upon the occurrence of any of the following events, deferred business income or loss resulting from an intercompany transaction between members of a combined group shall be included in the income of the seller and shall be apportioned as business income or loss recognized immediately before the event:

1. The object of the deferred intercompany transaction is resold by the buyer to an entity that is not a member of the combined group.

2. The object of the deferred intercompany transaction is resold by the buyer to an entity that is a member of the combined group for use outside the unitary business in which the buyer and seller are engaged.

3. The object of the deferred intercompany transaction is converted by the buyer or is otherwise transferred to a use outside the unitary business in which the buyer and seller are engaged.

4. The buyer and seller are no longer members of the same combined group, regardless of whether the members are in the same unitary business.

(h) Limitations that apply to charitable contribution deductions shall be applied as provided under section 170 of the Internal Revenue Code in the manner prescribed by the department by rule, as provided under sub. (11).

(i) Gain or loss from the sale or exchange of capital assets, property described by section 1231 (a) (3) of the Internal Revenue Code, and property subject to an involuntary conversion shall be determined as provided under sections 1211, 1222, and 1231 of the Internal Revenue Code in the manner prescribed by the department by rule, as provided under sub. (11).

(j) Any expense of one member of the combined group that is directly or indirectly attributable to the nonbusiness or exempt income of another member of the unitary business shall be allocated to that other member of the unitary business as corresponding nonbusiness or exempt expense, as appropriate.

(5) MEMBER'S SHARE OF BUSINESS INCOME OF THE COMBINED GROUP. (a) For purposes of this subsection, each member of a combined group is doing business in this state if any member of the combined group is doing business in this state and that business relates to the combined group's unitary business. Except as provided in par. (b), a taxpayer's share of the business income apportionable to this state of each combined group of which it is a member shall be the product of the business income of the combined group as determined under sub. (4) and the taxpayer's modified sales factor from the combined group, determined as follows:

1. For a member that is subject to apportionment under s. 71.25 (9), the numerator of the modified sales factor includes the member's sales associated with the combined group's unitary business in this state. Sales under s. 71.25 (9) (b) 2m. and 3. and (c) shall be included in the numerator of the modified sales factor if no member of the combined group is within the jurisdiction of the destination state for income or franchise tax purposes.

2. For a member that is subject to apportionment using a receipts factor under the department's rules pursuant to s. 71.25 (10), the numerator of the modified sales factor includes the member's Wisconsin receipts associated with the combined group's unitary business in this state, as provided by such rules.

3. For a member that is subject to apportionment under s. 71.45 (3), the numerator of the modified sales factor includes the member's premiums that are associated with the combined group's unitary business in this state.

4. The denominator of the modified sales factor shall include the denominator of the sales factor for each combined group member described in subd. 1., the denominator of the receipts factor for each combined group member described in subd. 2., and the denominator of the premiums factor for each combined group member described in subd. 3.

5. For a member that is required under the department's rules to use an apportionment factor or factors other than the sales factor, receipts factor, or premiums factor, the numerator of the modified sales factor for such member is its Wisconsin apportionment percentage on a separate entity basis based on the rules prescribed by the department, multiplied by the member's total sales, as defined in s. 71.25 (9) (e) and (f). The denominator of the modified sales factor for such member is the member's total sales as defined in s. 71.25 (9) (e) and (f).

6. The numerator and denominator, described in subds. 1. to 5., shall include the sales, receipts, or premiums of pass−through entities that are owned directly or indirectly by a corporation in proportion to a ratio the numerator of which is the amount of the corporation's distributive share of the pass−through entity's unitary business income included in the income of the combined group under sub. (4) and the denominator of which is the amount of the pass−through entity's total unitary business income.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

7. The modified sales factor shall exclude transactions between members of the same combined group.

8. For purposes of determining the numerator of the modified sales factor or any apportionment factor or factors determined under par. (b), a taxpayer is considered to be within the jurisdiction for income or franchise tax purposes of any state in which any member of its combined group is within the jurisdiction for income or franchise tax purposes.

(b) If 2 or more members of a combined group would in the absence of this section be required to use differing apportionment formulas from one another, and if the business income of the combined group derived from business transacted in this state of that combined group cannot be ascertained with reasonable certainty by use of the modified sales factor as provided in par. (a), the combined group may petition the department to use a different apportionment computation for the combined report. This paragraph does not apply if less than 30 percent of the business income of the combined group would in the absence of this section be required to be apportioned using a factor or factors other than a single sales factor, a single receipts factor, or a single premiums factor. The department shall deny the petition if the taxpayer cannot show, by clear and convincing evidence, that the apportionment methods described in this subsection do not clearly reflect the income of the unitary business attributable to this state.

(6) CREDITS, NET BUSINESS LOSSES, AND POST−APPORTIONMENT DEDUCTIONS. (a) Except as provided in pars. (b), (bm), and (c) no tax credit, Wisconsin net business loss carry−forward, or other post−apportionment deduction earned by one member of the combined group, but not fully used by or allowed to that member, may be used in whole or in part by another member of the combined group or applied in whole or in part against the total income of the combined group. A member of a combined group may use a carry−forward of a credit, Wisconsin net business loss carry−forward, or other post−apportionment deduction otherwise allowable under s. 71.26 or 71.45, that was incurred by that same member in a taxable year beginning before January 1, 2009.

(b) 1. Subject to the limitations provided under s. 71.26 (3) (n), for each taxable year that a corporation has a net business loss carry−forward, as provided under s. 71.26 (4) or 71.45 (4), that was computed on a combined report for a combined group's unitary business for a taxable year beginning on or after January 1, 2009, the corporation may, after using such net business loss carry−forward to offset its own income for the taxable year, use any remaining net business loss carry−forward to offset the income of all other members of the combined group on a proportionate basis, to the extent such income is attributable to that same unitary business.

2. Unless otherwise provided by the department by rule, if the corporation may no longer be included in the combined group, as determined under this section, the corporation's net business loss carry−forward shall be available only to that corporation.

(bm) 1. In this paragraph, "pre−2009 net business loss carry−forward" means a corporation's total net Wisconsin business loss carry−forward computed under s. 71.26 (4) or 71.45 (4) as of the beginning of its first taxable year that begins after December 31, 2008, but not used by the corporation in any taxable year beginning before January 1, 2012.

2. Starting with the first taxable year beginning after December 31, 2011, and for each of the 19 subsequent taxable years, and subject to the limitations provided under s. 71.26 (3) (n), for each taxable year that a corporation that is a member of a combined group has pre−2009 net business loss carry−forward, the corporation may, after using the pre−2009 net business loss carry−forward to offset its own income for the taxable year, and after using shareable losses to offset its own income for the taxable year, as provided under par. (b) 1., use up to 5 percent of the pre−2009 net business loss carry−forward, until used or expired, to offset the Wisconsin income of all other members of the combined group on a proportionate basis, to the extent such income is attributable to the unitary business. If the full 5 percent of such pre−2009 net business loss carry−forward cannot be fully used to offset the Wisconsin income of all other members of the combined group, the remainder may be added to the portion that may offset the Wisconsin income of all other members of the combined group in a subsequent year, until it is completely used or expired, except that unused pre−2009 net business loss carry−forwards may not be used in any taxable year that begins after December 31, 2031.

3. Unless otherwise provided by the department by rule, if the corporation may no longer be included in the combined group, as determined under this section, the corporation's pre−2009 net business loss carry−forward shall be available only to that corporation.

4. The department shall promulgate rules to administer this paragraph.

(c) 1. Subject to the limitations provided under s. 71.26 (3) (n), for each taxable year that a corporation that is a member of a combined group has an unused credit or credit carry−forward under s. 71.28 (4) or (5) or 71.47 (4) or (5), the corporation may, after using that credit or credit carry−forward to offset its own tax liability for the taxable year, use that credit or credit carry−forward to offset the tax liability of all other members of the combined group on a proportionate basis, to the extent such tax liability is attributable to the unitary business.

2. Unless otherwise provided by the department by rule, if the corporation may no longer be included in the combined group, as determined by this section, the corporation's unused credits shall be available only to that corporation.

(7) DESIGNATED AGENT. (a) Each combined group shall have one designated agent. Except as prescribed by the department by rule, the designated agent is the parent corporation of the combined group. If there is no such parent corporation, the designated agent may be appointed in the manner prescribed by the department.

(b) Except as prescribed by the department, only the designated agent may act on behalf of the members of the combined group for matters relating to the combined report. The designated agent's responsibilities include:

1. Filing a combined report under sub. (2) (a).

2. Filing any extension under s. 71.24 or 71.44.

3. Filing any amended combined reports or claims for refunds or credits.

4. Sending and receiving all correspondence with the department regarding the combined report.

5. Remitting all taxes, including estimated taxes, to the department. For purposes of computing interest on late payments, all payments remitted are deemed to be made on a pro rata basis by all members of the combined group, unless otherwise specified by the designated agent.

6. Participating on behalf of the combined group members in any investigation or hearing requested by the department regarding a combined report, producing all information requested by the department regarding the combined report, and filing any appeal related to the combined report, investigation, or hearing. Any appeal filed by the designated agent shall be considered to be filed by all members of the combined group.

7. Executing waivers, closing agreements, powers of attorney, and other documents as necessary or required regarding the combined report filed under sub. (2) (a). Any waiver, agreement, power of attorney, or document executed by the designated agent shall be considered as executed by all members of the combined group.

8. Receiving notices regarding the combined report. Any such notice the designated agent receives is considered received by all members of the combined group.

9. Receiving refunds relating to the combined report. Any such refund shall be paid to and in the name of the designated agent and shall discharge any liability of the state to any member of the combined group regarding the refund.

2009−10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Oct. 1, 2012. Statutory changes effective on or prior to Oct. 1, 2012 are printed as currently in effect. Changes effective after Oct. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (10−3−12)

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

10. Other responsibilities as determined by rule by the department.

(8) TAXABLE YEAR OF COMBINED GROUP. The combined group's taxable year is determined as follows:

(a) If 2 or more members of a combined group file a federal consolidated return, the combined group's taxable year is the taxable year of the federal consolidated group. In all other cases, the taxable year is the taxable year of the designated agent under sub. (7).

(b) If a taxable year of a member of a combined group differs from the taxable year of the combined group, the designated agent shall elect to determine the portion of that member's income to be included in one of the following ways:

1. A separate income statement prepared from the books and records for the months included in the combined group's taxable year.

2. Including all of the income for the year that ends during the combined group's taxable year.

(c) For corporations that are subject to an election under par. (b), the same election shall be made for each member of the combined group subject to the election, the same election shall be made in each succeeding year, and the election is irrevocable except upon written approval by the department.

(9) PART−YEAR MEMBERS OF A COMBINED GROUP. If a corporation becomes a member of a combined group or ceases to be a member of a combined group after the beginning of the taxable year of the combined group, the corporation's income shall be determined as provided under subs. (3), (4), and (5) for the portion of the year in which the corporation was a member of the combined group and that income shall be included in the combined report. The income for the remaining short period shall be reported on a separate return or separate combined report.

(10) TRANSITION. The department shall deem timely paid the estimated tax payments attributable to income includable in the combined report for installments that become due during the period beginning on January 1, 2009, and ending on March 6, 2009, provided that such estimated tax payments are paid by the next installment due date that follows in sequence following March 6, 2009. However, if the next installment due date that follows in sequence following March 6, 2009, is less than 45 days after March 6, 2009, such estimated tax payments, in addition to the payment due less than 45 days after March 6, 2009, shall be deemed timely paid if paid by the next subsequent installment due date.

(11) CONFORMITY WITH FEDERAL CONSOLIDATED RETURN REGULATIONS. The department may promulgate any rules necessary to create uniformity between the treatment of transactions entered into by members of a federal consolidated group under federal regulations, including any income, expense, gain, or loss limitations applicable to such transactions, and treatment of transactions entered into by members of a combined group under this section, including any income, expense, gain, or loss limitations applicable to such transactions.

History: 2009 a. 2, 28, 276; 2011 a. 32.

Cross−reference: See also ss. Tax 2.60 and 2.67, Wis. adm. code.

"Slicing a Shadow": The Debate over Combined Reporting and Its Effect on Wisconsin's Business Climate. Flinchbaugh. 92 MLR 829 (2009).

71.26 Income computation. (1) EXEMPT AND EXCLUDABLE INCOME. There shall be exempt from taxation under this subchapter income as follows:

(a) *Certain corporations.* Income of corporations organized under ch. 185, except income of a cooperative health care association organized under s. 185.981, or of a service insurance corporation organized under ch. 613, that is derived from a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which are bona fide cooperatives operated without pecuniary profit to any shareholder or member, or operated on a cooperative plan pursuant to which they determine and distribute their proceeds in substantial compliance with s. 185.45, and the income, except the unrelated business taxable income as defined in section 512 of the internal revenue code and except income that is derived from a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3), of all religious, scientific, educational, benevolent or other corporations or associations of individuals not organized or conducted for pecuniary profit. This paragraph does not apply to the income of savings banks, mutual loan corporations or savings and loan associations. This paragraph does not apply to income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state. This paragraph applies to the income of credit unions except to the income of any credit union that is derived from public deposits for any taxable year in which the credit union is approved as a public depository under ch. 34 and acts as a depository of state or local funds under s. 186.113 (20). For purposes of this paragraph, the income of a credit union that is derived from public deposits is the product of the credit union's gross annual income for the taxable year multiplied by a fraction, the numerator of which is the average monthly balance of public deposits in the credit union during the taxable year, and the denominator of which is the average monthly balance of all deposits in the credit union during the taxable year.

(am) *Veterans service organizations.* Income of a veterans service organization that is chartered under federal law.

(b) *Political units.* Income received by the United States, the state and all counties, cities, villages, towns, school districts, technical college districts, joint local water authorities created under s. 66.0823, long−term care districts under s. 46.2895 or other political units of this state.

(be) *Certain authorities.* Income of the University of Wisconsin Hospitals and Clinics Authority, of the Health Insurance Risk−Sharing Plan Authority, of the Fox River Navigational System Authority, of the Wisconsin Economic Development Corporation, and of the Wisconsin Aerospace Authority.

(bm) *Certain local districts.* Income of a local exposition district created under subch. II of ch. 229, a local professional baseball park district created under subch. III of ch. 229, a local professional football stadium district created under subch. IV of ch. 229, or a local cultural arts district created under subch. V of ch. 229.

(c) *Cooperative associations or corporations.* Income of cooperative associations or corporations engaged in marketing farm products for producers, which turn back to such producers the net proceeds of the sales of their products; provided that such corporations or associations have at least 25 stockholders or members delivering such products and that their dividends have not, during the preceding 5 years, exceeded 8% per year; also income of associations and corporations engaged solely in processing and marketing farm products for one such cooperative association or corporation and which do not charge for such marketing and processing more than a sufficient amount to pay the cost of such marketing and processing and 8% dividends on their capital stock and to add 5% to their surplus.

(d) *Bank in liquidation.* Income of any bank placed in the hands of the division of banking for liquidation under s. 220.08, if the tax levied, assessed or collected under this chapter on account of such bank diminishes the assets thereof so that full payment of all depositors cannot be made. Whenever the division of banking certifies to the department of revenue that the tax or any part thereof levied and assessed under this chapter against any such bank will so diminish the assets thereof that full payment of all depositors cannot be made, the department of revenue shall cancel and abate such tax or part thereof, together with any penalty thereon. This paragraph shall apply to unpaid taxes which were levied and assessed subsequent to the time the bank was taken over by the division of banking.

(e) *Menominee Indian tribe; distribution of assets.* No distribution of assets from the United States to the members of the Menominee Indian tribe as defined in s. 49.385 or their lawful dis-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

tributees, or to any corporation, or organization, created by the tribe or at its direction pursuant to section 8 of P.L. 83−399, as amended, and no issuance of stocks, bonds, certificates of indebtedness, voting trust certificates or other securities by any such corporation or organization, or voting trust, to such members of the tribe or their lawful distributees shall be subject to income or franchise taxes under this chapter; provided that so much of any cash distribution made under said P.L. 83−399 as consists of a share of any interest earned on funds deposited in the treasury of the United States pursuant to the supplemental appropriation act, 1952, (65 Stat. 736, 754) shall not by virtue of this paragraph be exempt from the individual income tax of this state in the hands of the recipients for the year in which paid. For the purpose of ascertaining the gain or loss resulting from the sale or other disposition of such assets and stocks, bonds, certificates of indebtedness and other securities under this chapter, the fair market value of such property, on termination date as defined in s. 70.057 (1), 1967 stats., shall be the basis for determining the amount of such gain or loss.

(f) *Real estate mortgage investment conduits.* The income of a real estate mortgage investment conduit that is exempt for federal income tax purposes under section 860A of the internal revenue code.

(g) For taxable years beginning after December 31, 2006, the amount of any incentive payment received by an individual under s. 23.33 (5r) in the taxable year to which the claim relates.

(h) An amount equal to the increase in the number of full−time equivalent employees employed by the taxpayer in this state during the taxable year, multiplied by $4,000 for a business with gross receipts of no greater than $5,000,000 in the taxable year or $2,000 for a business with gross receipts greater than $5,000,000 in the taxable year. For purposes of this paragraph, the increase in the number of full−time equivalent employees employed by the taxpayer in this state during the taxable year is determined by subtracting from the number of full−time equivalent employees employed by the taxpayer in this state during the taxable year, as determined by computing the average employee count from the taxpayer's quarterly unemployment insurance reports or other information as required by the department for the taxable year, the number of full−time equivalent employees employed by the taxpayer in this state during the immediately preceding taxable year, as determined by computing the average employee count from the taxpayer's quarterly unemployment insurance reports or other information as required by the department for the immediately preceding taxable year. No person may claim a deduction under this paragraph if the person may claim a credit under this subchapter based on the person relocating the person's business from another state to this state and in an amount equal to the person's tax liability. The department shall promulgate rules to administer this paragraph.

Cross−reference: See also s. Tax 3.05, Wis. adm. code.

(1m) EXEMPTION FROM THE INCOME TAX. The interest and income from the following obligations are exempt from the tax imposed under s. 71.23 (1):

(b) Those issued under s. 66.1201.

(c) Those issued under s. 66.1333.

(d) Those issued under s. 66.1335.

(e) Those issued under s. 234.65 to fund an economic development loan to finance construction, renovation or development of property that would be exempt under s. 70.11 (36).

(em) Those issued under s. 234.08 or 234.61, on or after January 1, 2004, if the obligations are issued to fund multifamily affordable housing projects or elderly housing projects.

(f) Those issued under subch. II of ch. 229.

(g) Those issued under s. 66.0621 by a local professional baseball park district, a local professional football stadium district, or a local cultural arts district.

(h) Those issued under s. 114.70 or 114.74.

(i) Those issued under s. 231.03 (6), on or after October 27, 2007, if the proceeds from the obligations that are issued are used by a health facility, as defined in s. 231.01 (5), to fund the acquisition of information technology hardware or software.

(k) Those issued under s. 66.0304, if any of the following applies:

1. The bonds or notes are used to fund multifamily affordable housing projects or elderly housing projects in this state, and the Wisconsin Housing and Economic Development Authority has the authority to issue its bonds or notes for the project being funded.

2. The bonds or notes are used by a health facility, as defined in s. 231.01 (5), to fund the acquisition of information technology hardware or software, in this state, and the Wisconsin Health and Educational Facilities Authority has the authority to issue its bonds or notes for the project being funded.

3. The bonds or notes are issued to fund a redevelopment project in this state or a housing project in this state, and the authority exists for bonds or notes to be issued by an entity described under s. 66.1201, 66.1333, or 66.1335.

(m) Those issued by the Wisconsin Housing and Economic Development Authority to provide loans to a public affairs network under s. 234.75 (4).

(2) NET INCOME. (a) *Corporations in general.* The "net income" of a corporation means the gross income as computed under the Internal Revenue Code as modified under sub. (3) and modified as follows:

1. Minus the amount of recapture under s. 71.28 (1di).

2. Plus the amount of credit computed under s. 71.28 (1), (3), (4), (4m), and (5).

3. Minus, as provided under s. 71.28 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income under this paragraph at the time that the taxpayer first claimed the credit.

4. Plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), (8r), and (9s) and not passed through by a partnership, limited liability company, or tax−option corporation that has added that amount to the partnership's, limited liability company's, or tax−option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

NOTE: Subd. 4. is shown as affected by 2011 Wis. Acts 212 and 232 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

5. Plus the amount of losses from the sale or other disposition of assets the gain from which would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and minus deductions, as computed under the Internal Revenue Code as modified under sub. (3).

6. Plus or minus, as appropriate, an amount equal to the difference between the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

7. Plus the amount deducted or excluded under the Internal Revenue Code for interest expenses, rental expenses, intangible expenses, and management fees that are directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

8. Minus the amount added to gross income under subd. 7., to the extent that the conditions under s. 71.80 (23) are satisfied.

9. Minus the amount added, pursuant to subd. 7. or s. 71.05 (6) (a) 24., 71.34 (1k) (j), or 71.45 (2) (a) 16., to the federal income of a related entity that paid interest expenses, rental expenses, intangible expenses, or management fees to the corporation, to the extent that the related entity could not offset such amount with the

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

deduction allowable under subd. 8. or s. 71.05 (6) (b) 45., 71.34 (1k) (k), or 71.45 (2) (a) 17.

10. Minus the amount computed under s. 71.05 (6) (b) 47. b.

11. Plus the amount computed under s. 71.28 (5n) in the previous taxable year that is not included in federal taxable income.

(b) *Regulated investment companies, real estate mortgage investment conduits, real estate investment trusts and financial asset securitization investment trusts.* 15. For taxable years that begin after December 31, 1999, and before January 1, 2003, for a corporation, conduit or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, and as amended by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit or trust as determined under the Internal Revenue Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, and as amended by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L.110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and except that the appropriate amount shall be added or subtracted to reflect differences between the depreciation or adjusted basis for federal income tax purposes and the depreciation or adjusted basis under this chapter of any property disposed of during the taxable year. The Internal Revenue Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, and as amended by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 1999, do not apply to this subdivision with respect to taxable years that begin after December 31, 1999, and before January 1, 2003, except that changes to the Internal Revenue Code made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

16. For taxable years that begin after December 31, 2002, and before January 1, 2004, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 2002, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, and sections 101 and 301 (a) of P.L. 107−147, and as amended by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code as amended to December 31, 2002, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, and sections 101 and 301 (a) of P.L. 107−147, and as amended by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provi-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

sions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and except that the appropriate amount shall be added or subtracted to reflect differences between the depreciation or adjusted basis for federal income tax purposes and the depreciation or adjusted basis under this chapter of any property disposed of during the taxable year. The Internal Revenue Code as amended to December 31, 2002, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, and sections 101 and 301 (a) of P.L. 107−147, and as amended by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2002, do not apply to this subdivision with respect to taxable years that begin after December 31, 2002, and before January 1, 2004, except that changes to the Internal Revenue Code made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

17. For taxable years that begin after December 31, 2003, and before January 1, 2005, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 2003, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 109 of P.L. 108−121, and section 1201 of P.L. 108−173, and as amended by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, exclud-

ing sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code as amended to December 31, 2003, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 109 of P.L. 108−121, and section 1201 of P.L. 108−173, and as amended by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and except that the appropriate amount shall be added or subtracted to reflect differences between the depreciation or adjusted basis for federal income tax purposes and the depreciation or adjusted basis under this chapter of any property disposed of during the taxable year. The Internal Revenue Code as amended to December 31, 2003, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 109 of P.L. 108−121, and section 1201 of P.L. 108−173, and as amended by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2003, do not apply to this subdivision with respect to taxable years that begin after December 31, 2003, and before January 1, 2005, except that changes to the Internal Revenue Code made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

18. For taxable years that begin after December 31, 2004, and before January 1, 2006, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 2004, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, and sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, and as amended by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code as amended to December 31, 2004, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, and sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, and as amended by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and except that the appropriate amount shall be added or subtracted to reflect differences between the depreciation or adjusted basis for federal income tax purposes and the depreciation or adjusted basis under this chapter of any property disposed of during the taxable year. The Internal Revenue Code as amended to December 31, 2004, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, and sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, and as amended by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2004, do not apply to this subdivision with respect to taxable years that begin after December 31, 2004, and before January 1, 2006, except that changes to the Internal Revenue Code made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

19. For taxable years that begin after December 31, 2005, and before January 1, 2007, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 2005, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, and sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, and as amended by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code as amended to December 31, 2005, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L.

109−73, and sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, and as amended by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, 109−227, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and except that the appropriate amount shall be added or subtracted to reflect differences between the depreciation or adjusted basis for federal income tax purposes and the depreciation or adjusted basis under this chapter of any property disposed of during the taxable year. The Internal Revenue Code as amended to December 31, 2005, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, and sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, and as amended by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2005, do not apply to this subdivision with respect to taxable years that begin after December 31, 2005, and before January 1, 2007, except that changes to the Internal Revenue Code made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

20. For taxable years that begin after December 31, 2006, and before January 1, 2008, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 2006, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, and P.L. 109−432, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L.

107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code as amended to December 31, 2006, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, and P.L. 109−432, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and except that the appropriate amount shall be added or subtracted to reflect differences between the depreciation or adjusted basis for federal income tax purposes and the depreciation or adjusted basis under this chapter of any property disposed of during the taxable year. The Internal Revenue Code as amended to December 31, 2006, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, and P.L. 109−432, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2006, do not apply to this subdivision with respect to taxable years that begin after December 31, 2006, and before January 1, 2008, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

apply for Wisconsin purposes at the same time as for federal purposes.

21. For taxable years that begin after December 31, 2007, and before January 1, 2009, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 2007, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, and P.L. 110−172, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code as amended to December 31, 2007, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, and P.L. 110−172, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and except that the appropriate amount shall be added or subtracted to reflect differences between the depreciation or adjusted basis for federal income tax purposes and the depreciation or adjusted basis under this chapter of any property disposed of during the taxable year. The Internal Revenue Code as amended to December 31, 2007, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections

101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, and P.L. 110−172, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2007, do not apply to this subdivision with respect to taxable years that begin after December 31, 2007, and before January 1, 2009, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, apply for Wisconsin purposes at the same time as for federal purposes.

22. For taxable years that begin after December 31, 2008, and before January 1, 2011, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 2008, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, P.L. 110−172, P.L. 110−185, P.L. 110−234, sections 110, 113, and 301 of P.L. 110−245, P.L. 110−246, except section 15316 of P.L. 110−246, P.L. 110−289, except section 3093 of P.L. 110−289, P.L. 110−317, and P.L. 110−343, except section 301 of division B and section 313 of division C of P.L. 110−343, and as amended by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 3093 of P.L. 110−289, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code as amended to December 31, 2008, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, P.L. 110−172, P.L. 110−185, P.L. 110−234, sections 110, 113, and 301 of P.L. 110−245, P.L. 110−246, except section 15316 of P.L. 110−246, P.L. 110−289, except section 3093 of P.L. 110−289, P.L. 110−317, and P.L. 110−343, except section 301 of division B and section 313 of division C of P.L. 110−343, and as amended by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 3093 of P.L. 110−289, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and except that the appropriate amount shall be added or subtracted to reflect differences between the depreciation or adjusted basis for federal income tax purposes and the depreciation or adjusted basis under this chapter of any property disposed of during the taxable year. The Internal Revenue Code as amended to December 31, 2008, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, P.L. 110−172, P.L. 110−185, P.L. 110−234, sections 110, 113, and 301 of P.L. 110−245, P.L. 110−246, except section 15316 of P.L. 110−246, P.L. 110−289, except section 3093 of P.L. 110−289, P.L. 110−317, and P.L. 110−343, except section 301 of division B and section 313 of division C of P.L. 110−343, and as amended by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 3093 of P.L. 110−289, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the Internal Revenue Code enacted after December 31, 2008, do not apply to this subdivision with respect to taxable years that begin after December 31, 2008, and before January 1, 2011, except that changes to the Internal Revenue Code made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and changes that indirectly affect the provisions applicable to this subchapter made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325,

apply for Wisconsin purposes at the same time as for federal purposes.

23. For taxable years that begin after December 31, 2010, for a corporation, conduit, or common law trust which qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code as amended to December 31, 2010, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−432, except sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, P.L. 110−28, except sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−140, sections 2, 3, and 5 of P.L. 110−142, P.L. 110−166, sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−185, P.L. 110−234, section 301 of P.L. 110−245, P.L. 110−246, except sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, sections 3071, 3081, and 3082 of P.L. 110−289, section 9 (e) of P.L. 110−317, P.L. 110−343, except sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 111−5, except sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 201 of P.L. 111−147, P.L. 111−148, except sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, P.L. 111−152, except section 1407 of P.L. 111−152, P.L. 111−203, except section 1601 of P.L. 111−203, P.L. 111−226, except sections 215 and 217 of P.L. 111−226, P.L. 111−240, except sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−312, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−245, excluding section 301 of P.L. 110−245, sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, P.L. 110−289, excluding sections 3071, 3081, and 3082 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, P.L. 111−92, P.L. 111−147, excluding section 201 of P.L. 111−147, sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, section 1407 of P.L. 111−152, P.L. 111−192, section 1601 of P.L. 111−203, sections 215 and 217 of P.L. 111−226, sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−325, "net income" means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code as amended to December 31, 2010, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−432, except sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, P.L. 110−28, except sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−140, sections 2, 3, and 5 of P.L. 110−142, P.L. 110−166, sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−185, P.L. 110−234, section 301 of P.L. 110−245, P.L. 110−246, except sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, sections 3071, 3081, and 3082 of P.L. 110−289, section 9 (e) of P.L. 110−317, P.L. 110−343, except sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 111−5, except sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 201 of P.L. 111−147, P.L. 111−148, except sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, P.L. 111−152, except section 1407 of P.L. 111−152, P.L. 111−203, except section 1601 of P.L. 111−203, P.L. 111−226, except sections 215 and 217 of P.L. 111−226, P.L. 111−240, except sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−312, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−245, excluding section 301 of P.L. 110−245, sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, P.L. 110−289, excluding sections 3071, 3081, and 3082 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, P.L. 111−92, P.L. 111−147, excluding section 201 of P.L. 111−147, sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, section 1407 of P.L. 111−152, P.L. 111−192, section 1601 of P.L. 111−203, sections 215 and 217 of P.L. 111−226, sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−325, except that property that, under s. 71.02 (1) (c) 8. to 11., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and except that the appropriate amount shall be added or subtracted to reflect differences between the depreciation or adjusted basis for federal income tax purposes and the depreciation or adjusted basis under this chapter of any property disposed of during the taxable year. The Internal Revenue Code as amended to December 31, 2010, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−432, except sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, P.L. 110−28, except sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−140, sections 2, 3, and 5 of P.L. 110−142, P.L. 110−166, sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−185, P.L. 110−234, section 301 of P.L. 110−245, P.L. 110−246, except sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, sections 3071, 3081, and 3082 of P.L. 110−289, section 9 (e) of P.L. 110−317, P.L. 110−343, except sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 111−5, except sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 201 of P.L. 111−147, P.L. 111−148, except sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, P.L. 111−152, except section 1407 of P.L. 111−152, P.L. 111−203, except section 1601 of P.L. 111−203, P.L. 111−226, except sections 215 and 217 of P.L. 111−226, P.L. 111−240, except sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−312, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−245, excluding section 301 of P.L. 110−245, sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, P.L. 110−289, excluding sections 3071, 3081, and 3082 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, P.L. 111−92, P.L. 111−147, excluding section 201 of P.L. 111−147, sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, section 1407 of P.L. 111−152, P.L. 111−192, section 1601 of P.L. 111−203, sections 215 and 217 of P.L. 111−226, sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−325, applies for Wisconsin purposes at the same time as for federal purposes, except that changes made by section 209 of P.L. 109−222, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, sections 110 and 113 of P.L. 110−245, sections 15312, 15313, 15314, and 15342 of P.L. 110−246, sections 3031, 3032, 3033, 3041, 3051, 3052, 3061, and 3092 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, and 211 of division B and section 504 of division C of P.L. 110−343, section 14 of P.L. 111−92, sections 531, 532, and 533 of P.L. 111−147, sections 10908 and 10909 of P.L. 111−148, and section 2043 of P.L. 111−240 do not apply for taxable years beginning before January 1, 2011. Amendments to the Internal Revenue Code enacted after December 31, 2010, do not apply to this subdivision with respect to taxable years that begin after December 31, 2010.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(3) MODIFICATIONS. The income of a corporation shall be computed under the internal revenue code, except a corporation under sub. (2) (b), as modified in the following ways:

(ag) Section 61 (relating to the definition of gross income) is modified to exclude income received by the original policyholder or original certificate holder who has a catastrophic or life−threatening illness or condition from the sale of a life insurance policy or certificate, or the sale of the death benefit under a life insurance policy or certificate, under a life settlement contract, as defined in s. 632.69 (1) (k). In this paragraph, "catastrophic or life−threatening illness or condition" includes AIDS, as defined in s. 49.686 (1) (a), and HIV infection, as defined in s. 49.686 (1) (d).

(ar) Section 78 (relating to treating taxes as dividends) is excluded.

(b) Section 103 (relating to an exemption for interest) is excluded and replaced, for corporations subject to taxation under s. 71.23 (1), by the rule that any interest income not included in federal taxable income, except interest under sub. (1m), is added to federal taxable income and any interest income which is by federal law exempt from taxation by this state is excluded, and replaced, for corporations subject to taxation under s. 71.23 (2), by the rule that any interest income not included in federal taxable income is added to federal taxable income.

(c) Section 108 (b) (relating to reduction of tax attributes) is modified so that the net operating loss under sub. (4), not the federal net operating loss, and Wisconsin credits, not federal credits, are applied, and the reduction rate for a credit carry−over is 7.9%, not 33 1/3%.

(d) Section 133 (relating to an exclusion for interest) is excluded.

(e) Section 162 (relating to trade or business expenses) is modified as follows:

1. So that payments for wages, salaries, commissions and bonuses of employees and officers may be deducted only if the name, address and amount paid to each resident of this state to whom compensation of $600 or more has been paid during the taxable year is reported or if the department of revenue is satisfied that failure to report has resulted in no revenue loss to this state.

2. So that payments for rent may be deducted only if the amount paid, together with the names and addresses of the parties to whom rent has been paid, is reported as provided under s. 71.70 (2).

3. So that payments for wages, salaries, bonuses, interest or other expenses paid to an entertainer or entertainment corporation may be deducted only if the corporation complies with ss. 71.63 (3) (b), 71.64 (4) and (5) and 71.80 (15) (e).

(f) Section 164 (a) is modified so that foreign taxes are not deductible unless the income on which the tax is based is taxable under this chapter and so that gross receipts taxes assessed in lieu of property taxes, the license fee under s. 76.28 and the taxes under ss. 70.375, 76.81 and 76.91 are deductible.

(g) Section 164 (a) (3) is modified so that state taxes and taxes of the District of Columbia that are value−added taxes, single business taxes or taxes on or measured by all or a portion of net income, gross income, gross receipts or capital stock are not deductible.

(h) Section 164 (a) (4) as it relates to a deduction for the windfall profits tax is excluded.

(hd) Section 164 (a) as it relates to a deduction for the environmental tax that is imposed under section 59A is excluded.

(hm) Section 171 is modified so that the rules for federally taxable bonds also apply to bonds that are taxable under par. (b) and the rules for federally tax−exempt bonds apply to bonds that are exempt from tax under this chapter.

(i) Section 172 is excluded and replaced by the treatment of business loss carry−forwards under sub. (4).

(j) Sections 243, 244, 245, 246 and 246A are excluded and replaced by the rule that corporations may deduct from income dividends received from a corporation with respect to its common stock if the corporation receiving the dividends owns, directly or indirectly, during the entire taxable year at least 70% of the total combined voting stock of the payor corporation. In this paragraph, "dividends received" means gross dividends minus taxes on those dividends paid to a foreign nation and claimed as a deduction under this chapter. The same dividends may not be deducted more than once.

Cross−reference: See also s. Tax 3.03, Wis. adm. code.

(k) Section 247 (relating to dividends on preferred stock of public utilities) is excluded.

(L) Section 265 is excluded and replaced by the rule that any amount otherwise deductible under this chapter that is directly or indirectly related to income wholly exempt from taxes imposed by this chapter or to losses from the sale or other disposition of assets the gain from which would be exempt under this paragraph if the assets were sold or otherwise disposed of at a gain is not deductible. In this paragraph, "wholly exempt income", for corporations subject to franchise or income taxes, includes amounts received from affiliated or subsidiary corporations for interest, dividends or capital gains that, because of the degree of common ownership, control or management between the payor and payee, are not subject to taxes under this chapter. In this paragraph, "wholly exempt income", for corporations subject to income taxation under this chapter, also includes interest on obligations of the United States. In this paragraph, "wholly exempt income" does not include income excludable, not recognized, exempt or deductible under specific provisions of this chapter. If any expense or amount otherwise deductible is indirectly related both to wholly exempt income or loss and to other income or loss, a reasonable proportion of the expense or amount shall be allocated to each type of income or loss, in light of all the facts and circumstances.

(m) Section 267 (relating to transactions between related taxpayers) is modified so that gains may be reduced only if the corresponding loss was incurred while the corporation was subject to tax under this chapter.

(ms) Section 291 (a) (3) is modified so that it does not apply to deductions that are allocable to income that is taxable under this chapter.

(n) Sections 381, 382 and 383 (relating to carry−overs in certain corporate acquisitions) are modified so that they apply to losses under sub. (4) and credits under s. 71.28 (1di), (1dL), (1dm), (1dx), (3), (4), (4m), and (5) instead of to federal credits and federal net operating losses.

(o) Section 468A (relating to nuclear decommissioning trust and reserve funds) is modified so that the deduction under section 468A (a) is allowed only if the fund is subject to tax under this chapter.

(p) Sections 501 to 511 and 513 to 528 (relating to exempt organizations) are excluded, except as they pertain to the definitions of unrelated business taxable income in section 512, and replaced by the treatment of exemptions under sub. (1).

(q) Sections 613 and 613A (relating to percentage depletion) are excluded.

(s) Sections 951 to 964 (relating to controlled foreign corporations) are excluded, and, for taxable years beginning on or after January 1, 2006, sections 951 to 965 (relating to controlled foreign corporations) are excluded.

(t) Sections 991 to 994, 995 as amended by section 802 of P.L. 98−369, and section 999 as amended by section 802 of P.L. 98−369 (relating to domestic international sales corporations) are excluded.

(tm) Section 1016 (a) is modified so that the rules for federally taxable bonds also apply to bonds that are taxable under par. (b)

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

and the rules for federally tax−exempt bonds apply to bonds that are exempt from tax under this chapter.

(u) Section 1017 (relating to adjustments to basis because of discharge of indebtedness) is modified to reflect the modification under par. (c).

(v) Section 1033 is modified so that it does not apply to involuntary conversions of property in this state that produces nonbusiness income and that is replaced with similar property outside this state and to involuntary conversions of property in this state that produces business income and that is replaced with property outside this state if at the time of replacement the taxpayer is not subject to tax under this chapter.

(x) Sections 1501 to 1505, 1551, 1552, 1563 and 1564 (relating to consolidated returns) are excluded, except that U.S. Treasury Regulation 1.1502−13, relating to deferred gain or loss from an intercompany transaction, applies to transactions between combined group members under s. 71.255 (4) (g).

(y) 1. Except as provided in subd. 2., a corporation shall compute amortization and depreciation under the federal Internal Revenue Code as amended to December 31, 2000, except that property first placed in service by the taxpayer on or after January 1, 1983, but before January 1, 1987, that, under s. 71.04 (15) (b) and (br), 1985 stats., is required to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and property first placed in service in taxable year 1981 or thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985 stats., is required to be depreciated under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.

2. For property acquired and placed in service in taxable years beginning on or after January 1, 2006, a corporation that is actively engaged in farming may compute amortization and depreciation on property used in farming under any subsequent change to section 101 of P.L. 107−147 or section 201 of P.L. 108−27 enacted after December 31, 2005. For purposes of this subdivision, "actively engaged in farming" has the meaning given in 7 CFR 1400.201, and "farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code. This subdivision does not apply unless a federal law change enacted after December 31, 2005, revises section 101 of P.L. 107−147 or section 201 of P.L. 108−27.

(4) NET BUSINESS LOSS CARRY−FORWARD. (a) Except as provided in par. (b), a corporation, except a tax−option corporation or an insurer to which s. 71.45 (4) applies, may offset against its Wisconsin net business income any Wisconsin net business loss sustained in any of the next 15 preceding taxable years, if the corporation was subject to taxation under this chapter in the taxable year in which the loss was sustained, to the extent not offset by other items of Wisconsin income in the loss year and by Wisconsin net business income of any year between the loss year and the taxable year for which an offset is claimed. For purposes of this subsection Wisconsin net business income or loss shall consist of all the income attributable to the operation of a trade or business in this state, less the business expenses allowed as deductions in computing net income. The Wisconsin net business income or loss of corporations engaged in business within and without the state shall be determined under s. 71.25 (6) and (10) to (12). Nonapportionable losses having a Wisconsin situs under s. 71.25 (5) (b) shall be included in Wisconsin net business loss; and nonapportionable income having a Wisconsin situs under s. 71.25 (5) (b), whether taxable or exempt, shall be included in other items of Wisconsin income and Wisconsin net business income for purposes of this subsection.

(b) A corporation that is part of a combined group under s. 71.255 may offset against its Wisconsin net business income any unused pre−2009 net business loss carry−forward under s. 71.255 (6) (bm) for the 20 taxable years that begin after December 31, 2011.

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25, 74, 335, 361, 362, 479, 483; 2007 a. 20, 96, 97, 151, 226; 2009 a. 2, 28, 161, 165, 180, 183, 205, 265, 269, 295, 332, 344; 2011 a. 3, 5, 7, 10, 32, 212, 232; 2011 a. 260 s. 80; s. 13.92 (2) (i); s. 35.17 correction in (2) (a) 10.

Under s. 71.06 (1), [now 71.26 (4)], the loss carry−over privilege was limited to an "identical taxpayer"; merging corporations are not entitled to the privilege. DOR v. U.S. Shoe Corp. 158 Wis. 2d 123, 462 N.W.2d 233 (Ct. App. 1990).

Revisions to sub. (1) (a) by 1995 Act 27 were constitutional. Group Health Cooperative of Eau Claire v. DOR, 229 Wis. 2d 846, 601 N.W.2d 1 (Ct. App. 1999), 98−1264.

71.265 Previously exempt corporations; basis and depreciation. The Wisconsin adjusted basis of the property of any corporation that has, in any taxable year before it ceases to be exempt from tax under this chapter, taken depreciation or amortization of depreciable property for federal income tax purposes shall be the adjusted basis of that property as computed for federal income tax purposes as of the beginning of the taxable year in which the corporation ceases to be exempt. The corporation may continue, after it ceases to be exempt, to depreciate that property under the method used previously for federal income tax purposes.

History: 1987 a. 399; 1987 a. 411 s. 33; Stats. 1987 s. 71.265.

71.27 Rates of taxation. (1) The taxes to be assessed, levied and collected upon Wisconsin net incomes of corporations shall be computed at the rate of 7.9%.

(2) The corporation franchise tax imposed under s. 71.23 (2) and measured by Wisconsin net income shall be computed at the rate of 7.9%.

History: 1987 a. 312; 2009 a. 28, 276.

71.275 Rate changes. If a rate under s. 71.27 changes during a taxable year, the taxpayer shall compute the tax for that taxable year by the methods applicable to the federal income tax under section 15 of the internal revenue code.

History: 1989 a. 31.

71.28 Credits. (1) COMMUNITY DEVELOPMENT FINANCE CREDIT. (a) Any corporation which contributes an amount to the community development finance authority under s. 233.03, 1985 stats., or to the housing and economic development authority under s. 234.03 (32) and, in the same year, purchases common stock or partnership interests of the community development finance company issued under s. 233.05 (2), 1985 stats., or s. 234.95 (2) in an amount no greater than the contribution to the authority may credit against taxes otherwise due an amount equal to 75% of the purchase price of the stock or partnership interests. The credit received under this paragraph may not exceed 75% of the contribution to the community development finance authority.

(b) Any corporation receiving a credit under this subsection may carry forward to the next succeeding 15 taxable years the amount of the credit not offset against taxes for the year of purchase to the extent not offset by those taxes otherwise due in all intervening years between the year for which the credit was computed and the year for which the carry−forward is claimed.

(c) A claimant who has filed a timely claim under this subsection may file an amended claim with the department of revenue within 4 years of the last day prescribed by law for filing the original claim.

(1dd) DEVELOPMENT ZONES DAY CARE CREDIT. (a) In this subsection:

1. "Day care center benefits" means benefits provided at a child care facility that is licensed under s. 48.65 or 48.69 and that for compensation provides care for at least 6 children or benefits provided at a facility for persons who are physically or mentally incapable of caring for themselves.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. "Employment−related day care expenses" means amounts paid or incurred by a claimant, during the 2−year period beginning with the day that the member of the targeted group begins work for the claimant, for providing or making day care center benefits available to a qualifying individual in order to enable a member of a targeted group to be employed by the claimant.

4. "Member of a targeted group" means a person under sub. (1dj) (am) 1.

5. "Qualifying individual" means a dependent of a member of a targeted group who is employed by a claimant and with respect to whom the member is entitled to a deduction under section 151 (c) of the internal revenue code for federal income tax purposes, a dependent of a member of a targeted group who is employed by a claimant if the dependent is physically or mentally incapable of caring for himself or herself or the spouse of a member of a targeted group who is employed by the claimant if the spouse is physically or mentally incapable of caring for himself or herself.

(b) Except as provided in s. 73.03 (35), for any taxable year for which that person is certified under s. 560.765 (3), 2009 stats., and begins business operations in a zone under s. 560.71, 2009 stats., after July 29, 1995, entitled under s. 560.795 (3) (a), 2009 stats., and begins business operations in a zone under s. 560.795, 2009 stats., after July 29, 1995, or certified under s. 560.797 (4) (a), 2009 stats., for each zone for which the person is certified or entitled a person may credit against taxes otherwise due under this subchapter employment−related day care expenses, up to $1,200 for each qualifying individual.

(c) Subsection (1di) (b), (c), (d) 1., (f) and (g), as it applies to the credit under sub. (1di), applies to the credit under this subsection.

(d) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(dm) No credit may be allowed under this subsection unless the claimant includes with the claimant's return a statement from the department of commerce verifying the amount of qualifying employment−related day care expenses.

(e) The credit under this subsection, as it applies to a person certified under s. 560.765 (3), 2009 stats., applies to a corporation that conducts economic activity in a zone under s. 560.795 (1), 2009 stats., and that is entitled to tax benefits under s. 560.795 (3), 2009 stats., subject to the limits under s. 560.795 (2), 2009 stats. A credit under this subsection may be credited using expenses incurred by a claimant on July 29, 1995.

(f) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1de) DEVELOPMENT ZONES ENVIRONMENTAL REMEDIATION CREDIT. (a) Except as provided in s. 73.03 (35), for any taxable year for which a person is certified under s. 560.765 (3), 2009 stats., and begins business operations in a zone under s. 560.71, 2009 stats., after July 29, 1995, entitled under s. 560.795 (3) (a), 2009 stats., and begins business operations in a zone under s. 560.795, 2009 stats., after July 29, 1995, or certified under s. 560.797 (4) (a), 2009 stats., for each zone for which the person is certified or entitled the person may claim as a credit against taxes otherwise due under this subchapter an amount equal to 7.5% of the amount that the person expends to remove or contain environmental pollution, as defined in s. 299.01 (4), in the zone or to restore soil or groundwater that is affected by environmental pollution, as defined in s. 299.01 (4), in the zone if the person fulfills all of the following requirements:

1. Begins the work, other than planning and investigating, for which the credit is claimed after the area that includes the site where the work is done is designated a development zone under s. 560.71, 2009 stats., a development opportunity zone under s. 560.795, 2009 stats., or an enterprise development zone under s. 560.797, 2009 stats., and after the claimant is certified under s. 560.765 (3), 2009 stats., entitled under s. 560.795 (3) (a), 2009 stats., or certified under s. 560.797 (4) (a), 2009 stats.

(b) Subsection (1di) (b), (c), (d), (f) and (g), as it applies to the credit under sub. (1di), applies to the credit under this subsection.

(c) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(d) The credit under this subsection, as it applies to a person certified under s. 560.765 (3), 2009 stats., applies to a corporation that conducts economic activity in a zone under s. 560.795 (1), 2009 stats., and that is entitled to tax benefits under s. 560.795 (3), 2009 stats., subject to the limits under s. 560.795 (2), 2009 stats. A credit under this subsection may be credited using expenses incurred by a claimant on July 29, 1995.

(e) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1di) DEVELOPMENT ZONES INVESTMENT CREDIT. (a) Except as provided in pars. (dm) and (f) and s. 73.03 (35), for any taxable year for which the person is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits, any person may claim as a credit against taxes otherwise due under this chapter 2.5% of the purchase price of depreciable, tangible personal property, or 1.75% of the purchase price of depreciable, tangible personal property that is expensed under section 179 of the internal revenue code for purposes of the taxes under this chapter, except that:

1. The investment must be in property that is purchased after the person is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits and that is used for at least 50% of its use in the conduct of the person's business operations at a location in a development zone under subch. VI of ch. 560, 2009 stats., or, if the property is mobile, the base of operations of the property for at least 50% of its use must be a location in a development zone.

2. The credit under this subsection may be claimed only by the person who purchased the property the investment in which is the basis for the credit, except that only partners may claim the credit based on purchases by a partnership, only members may claim the credit based on purchases by a limited liability company and except that only shareholders may claim the credit based on purchases by a tax−option corporation.

3. If the credit is claimed for used property, the claimant may not have used the property for business purposes at a location outside the development zone. If the credit is attributable to a partnership, limited liability company or tax−option corporation, that entity may not have used the property for business purposes at a location outside the development zone.

4. No credit is allowed under this subsection for property which is the basis for a credit under sub. (1dL).

(b) 2. If the claimant is located on an Indian reservation, as defined in s. 560.86 (5), 2009 stats., and is an American Indian, as defined in s. 560.86 (1), 2009 stats., an Indian business, as defined in s. 560.86 (4), 2009 stats., or a tribal enterprise, as defined in s. 71.07 (2di) (b) 2., and if the allowable amount of the credit under this subsection exceeds the taxes otherwise due under this chapter on or measured by the claimant's income, the amount of the credit not used as an offset against those taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft.

3. Partnerships, limited liability companies and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners or members. The corporation, partnership or limited liability company shall compute the amount of the credit that may be claimed by each of its shareholders, partners or members and shall provide that information to each of its shareholders, partners or members. Partners, members of limited liability companies

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

and shareholders of tax−option corporations may claim the credit based on the partnership's, company's or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income from the partnership's, company's or corporation's business operations in the development zone; except that partners, members, and shareholders in a development zone under s. 560.795 (1) (e), 2009 stats., may offset the credit against the amount of the tax attributable to their income from all of the partnership's, company's, or corporation's business operations; and against the tax attributable to their income from the partnership's, company's or corporation's directly related business operations.

(c) Except as provided in par. (b) 2., the carry−over provisions of sub. (4) (e) and (f) as they relate to the credit under that subsection relate to the credit under this subsection and apply as if the development zone continued to exist.

(d) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of a verification from the department of commerce that the claimant may claim tax benefits under s. 560.795 (3), 2009 stats.

2. A statement from the department of commerce verifying the purchase price of the investment and verifying that the investment fulfills the requirements under par. (a).

(dm) In calculating the credit under par. (a), a claimant shall reduce the purchase price of the property by a percentage equal to the percentage of use of the property during the taxable year the property is first placed into service that is for a purpose not specified under par. (a) 1.

(e) The recapture provisions under section 47 (a) (5) of the internal revenue code as amended to December 31, 1985, as they apply to the credit under section 46 of the internal revenue code, apply to the credit under this subsection, except that those provisions also apply if the property for which the credit is claimed is moved out of the development zone or, for mobile property, if the base of operations is moved out of the zone and except that the determination of whether or not property is 3−year property shall be made under section 168 of the internal revenue code.

(f) If a person who is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits becomes ineligible for such tax benefits, that person may claim no credits under this subsection for the taxable year that includes the day on which the person becomes ineligible for tax benefits or succeeding taxable years and that person may carry over no unused credits from previous years to offset tax under this chapter for the taxable year that includes the day on which the person becomes ineligible for tax benefits or succeeding taxable years.

(g) If a person who is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

(h) Subsection (4) (g) and (h) as it applies to the credit under that subsection applies to the credit under this subsection.

(i) The development zones credit under this subsection, as it applies to a person certified under s. 560.765 (3), 2009 stats., applies to a corporation that conducts economic activity in a development opportunity zone under s. 560.795 (1), 2009 stats., and that is entitled to tax benefits under s. 560.795 (3), 2009 stats., subject to the limits under s. 560.795 (2), 2009 stats. A development opportunity zone credit under this paragraph may be calculated using expenses incurred by a claimant beginning on the effective date under s. 560.795 (2) (a), 2009 stats., of the development opportunity zone designation of the area in which the claimant conducts economic activity.

(j) No credit may be claimed under this subsection for taxable years that begin after December 31, 1997, and end before January 1, 2000. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1dj) DEVELOPMENT ZONES JOBS CREDIT. (am) Except as provided under par. (f) or s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3), 2009 stats., for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter an amount calculated as follows:

1. Modify "member of a targeted group", as defined in section 51 (d) of the internal revenue code as amended to December 31, 1995, to include persons unemployed as a result of a business action subject to s. 109.07 (1m) and dislocated workers, as defined in 29 USC 2801 (9), and to require a member of a targeted group to be a resident of this state.

2. Modify "designated local agency", as defined in section 51 (d) (15) of the internal revenue code, to include the local workforce development board established under 29 USC 2832 for the area that includes the development zone in which the employee in respect to whom the credit under this subsection is claimed works, if the department of commerce approves the criteria used for certification, and the department of commerce.

3. Modify the rule for certification under section 51 (d) (16) (A) of the internal revenue code to allow certification within the period beginning with the first day of employment of the employee.

4. a. If certified under s. 560.765 (3), 2009 stats., for tax benefits before January 1, 1992, modify "qualified wages" as defined in section 51 (b) of the internal revenue code to exclude wages paid before the claimant is certified for tax benefits and to exclude wages that are paid to employees for work at any location that is not in a development zone under subch. VI of ch. 560, 2009 stats. For purposes of this subd. 4. a., mobile employees work at their base of operations and leased or rented employees work at the location where they perform services.

b. If certified under s. 560.765 (3), 2009 stats., for tax benefits after December 31, 1991, modify "qualified wages" as defined in section 51 (b) of the internal revenue code to exclude wages paid before the claimant is certified for tax benefits and to exclude wages that are paid to employees for work at any location that is not in a development zone under subch. VI of ch. 560, 2009 stats. For purposes of this subd. 4. b., mobile employees and leased or rented employees work at their base of operations.

4c. Modify the rule for ineligible individuals under section 51 (i) (1) of the internal revenue code to allow credit for the wages of related individuals paid by an Indian business, as defined in s. 560.86 (4), 2009 stats., or a tribal enterprise, as defined in s. 71.07 (2di) (b) 2., if the Indian business or tribal enterprise is located in a development zone designated under s. 560.71 (3) (c) 2., 2009 stats.

4e. Modify section 51 (c) (2) of the internal revenue code to specify that the rules for on−the−job training and work supplementation payments also apply to those kinds of payments funded by this state.

4g. Delete section 51 (c) (4) of the internal revenue code.

4h. Modify section 51 (a) of the internal revenue code so that the amount of the credit is 25% of the qualified first−year wages if the wages are paid to an applicant for a Wisconsin works employment position for service either in an unsubsidized position or in a trial job under s. 49.147 (3) and so that the amount of the credit is 20% of the qualified first−year wages if the wages are not paid to such an applicant.

4i. Modify section 51 (b) (3) of the internal revenue code so that the amount of the qualified first−year wages that may be taken into account is $13,000.

4m. Modify the rule on remuneration under section 51 (f) of the internal revenue code so that it does not apply to persons who are exempt from tax under this chapter.

4t. If certified under s. 560.765 (3), 2009 stats., for tax benefits before January 1, 1992, modify section 51 (i) (3) of the internal

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

revenue code so that for leased or rented employees, except employees of a leasing agency certified for tax benefits who perform services directly for the agency in a development zone, the minimum employment periods apply to the time that they perform services in a development zone for a single lessee or renter, not to their employment by the leasing agency.

5. Calculate the credit under section 51 of the internal revenue code.

6. For persons for whom a credit may be claimed under subd. 5., modify "qualified wages" under section 51 (b) of the internal revenue code so that those wages are based on the wages attributable to service rendered during the one−year period beginning with the date one year after the date on which the individual begins work for the employer.

7. Modify section 51 of the internal revenue code as under subds. 1. to 4t.

8. Calculate the credit under section 51 of the internal revenue code based on qualified wages for the 2nd year as determined under subds. 6. and 7.

8m. For each person, whether or not he or she is a member of a targeted group, who is determined by the department of commerce to be a resident of the development zone in which he or she is employed, calculate a credit equal to 10% of the wages earned by such person during the 1st and 2nd years of the person's employment in the development zone, up to a maximum credit of $600 per year.

9. Add the amounts under subds. 5., 8. and 8m.

(b) In computing the credit under this subsection, the wages of leased or rented employees may be claimed only by their employer, not by the person to whom they are rented or leased.

(c) The credit under this subsection may not be claimed by partnerships, limited liability companies and tax−option corporations but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners or members. The corporation, partnership or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners or members and shall provide that information to each of its shareholders, partners or members. That credit may be claimed by partners, members of limited liability companies and shareholders of tax−option corporations in proportion to their ownership interests.

(e) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the claimant's certification for tax benefits under s. 560.765 (3), 2009 stats.

3. a. If certified under s. 560.765 (3), 2009 stats., for tax benefits before January 1, 1992, a statement from the department of commerce verifying the amount of qualifying wages and verifying that the employees were hired for work only in a development zone or are mobile employees whose base of operations is in a development zone.

b. If certified under s. 560.765 (3), 2009 stats., for tax benefits after December 31, 1991, a statement from the department of commerce verifying the amount of qualifying wages and verifying that the employees were hired for work only in a development zone or are mobile employees or leased or rented employees whose base of operations is in a development zone.

4. A copy of any claims for the credit under section 51 of the internal revenue code that are based on wages that also are the basis for a claim under this subsection.

(f) The rules under sub. (1di) (f) and (g) as they apply to the credit under that subsection apply to the credit under this subsection.

(g) Subsection (4) (g) and (h) as it applies to the credit under that subsection applies to the credit under this subsection.

(h) The rules under sub. (1di) (b) and (c) as they apply to the credit under that subsection apply to the credit under this subsection.

(i) The development zones credit under this subsection, as it applies to a person certified under s. 560.765 (3), 2009 stats., applies to a corporation that conducts economic activity in a development opportunity zone under s. 560.795 (1), 2009 stats., and that is entitled to tax benefits under s. 560.795 (3), 2009 stats., subject to the limits under s. 560.795 (2), 2009 stats. A development opportunity zone credit under this paragraph may be calculated using expenses incurred by a claimant beginning on the effective date under s. 560.795 (2) (a), 2009 stats., of the development opportunity zone designation of the area in which the claimant conducts economic activity.

(j) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1dL) DEVELOPMENT ZONES LOCATION CREDIT. (a) Except as provided in pars. (ag), (ar), (bm) and (f) and s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3), 2009 stats., for tax benefits, any person may claim as a credit against taxes otherwise due under this subchapter an amount equal to 2.5% of the amount expended by that person to acquire, construct, rehabilitate or repair real property in a development zone under subch. VI of ch. 560, 2009 stats.

(ag) If the credit under par. (a) is claimed for an amount expended to construct, rehabilitate, remodel or repair property, the claimant must have begun the physical work of construction, rehabilitation, remodeling or repair, or any demolition or destruction in preparation for the physical work, after the place where the property is located was designated a development zone under s. 560.71, 2009 stats., and the completed project must be placed in service after the claimant is certified for tax benefits under s. 560.765 (3), 2009 stats. In this paragraph, "physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications or stabilizing the property to prevent deterioration.

(ar) If the credit under par. (a) is claimed for an amount expended to acquire property, the property must have been acquired by the claimant after the place where the property is located was designated a development zone under s. 560.71, 2009 stats., and the completed project must be placed in service after the claimant is certified for tax benefits under s. 560.765 (3), 2009 stats., and the property must not have been previously owned by the claimant or a related person during the 2 years prior to the designation of the development zone under s. 560.71, 2009 stats. No credit is allowed for an amount expended to acquire property until the property, either in its original state as acquired by the claimant or as subsequently constructed, rehabilitated, remodeled or repaired, is placed in service.

(aw) In par. (ar), property is previously owned by a claimant or a related person if a claimant may not deduct a loss from a sale to, or exchange of property with, that related person under section 267 of the internal revenue code, except that section 267 (b) of the internal revenue code is modified so that any ownership percentage, rather than 50% ownership, makes a claimant subject to section 267 (a) (1) of the internal revenue code for purposes of this subsection.

(b) No credit is allowed under this subsection for property which is the basis for a credit under sub. (1di).

(bm) In calculating the credit under par. (a) a claimant shall reduce the amount expended to acquire property by a percentage equal to the percentage of the area of the real property not used for the purposes for which the claimant is certified to claim tax benefits under s. 560.765 (3), 2009 stats., and shall reduce the amount expended for other purposes by the amount expended on the part of the property not used for the purposes for which the claimant is certified to claim tax benefits under s. 560.765 (3), 2009 stats.

(c) If the claimant is located on an Indian reservation, as defined in s. 560.86 (5), 2009 stats., and is an American Indian,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

as defined in s. 560.86 (1), 2009 stats., an Indian business, as defined in s. 560.86 (4), 2009 stats., or a tribal enterprise, as defined in s. 71.07 (2di) (b) 2., and if the allowable amount of the credit under par. (a) exceeds the taxes otherwise due under this chapter on or measured by the claimant's income, the amount of the credit not used as an offset against those taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft.

(d) Except as provided in par. (c), the carry−over provisions of sub. (4) (e) and (f) as they relate to the credit under that subsection relate to the credit under this subsection and apply as if the development zone continued to exist.

(e) Partnerships, limited liability companies and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners or members. The corporation, partnership or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners or members and provide that information to its shareholders, partners or members. Partners, members of limited liability companies and shareholders of tax−option corporations may claim the credit based on the partnership's, company's or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income from the partnership's, company's or corporation's business operations in the development zone and against the tax attributable to their income from the partnership's, company's or corporation's directly related business operations.

(f) Subsection (1di) (d), (f) and (g) as it applies to the credit under that subsection applies to the credit under this subsection.

(g) Subsection (4) (g) and (h) as it applies to the credit under that subsection applies to the credit under this subsection.

(i) The development zones credit under this subsection, as it applies to a person certified under s. 560.765 (3), 2009 stats., applies to a corporation that conducts economic activity in a development opportunity zone under s. 560.795 (1), 2009 stats., and that is entitled to tax benefits under s. 560.795 (3), 2009 stats., subject to the limits under s. 560.795 (2), 2009 stats. A development opportunity zone credit under this paragraph may be calculated using expenses incurred by a claimant beginning on the effective date under s. 560.795 (2) (a), 2009 stats., of the development opportunity zone designation of the area in which the claimant conducts economic activity.

(j) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1dm) DEVELOPMENT ZONE CAPITAL INVESTMENT CREDIT. (a) In this subsection:

1. "Certified" means entitled under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., to claim tax benefits or certified under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats.

2. "Claimant" means a person who files a claim under this subsection.

3. "Development zone" means a development opportunity zone under s. 238.395 (1) (e) and (f) or 238.398 or s. 560.795 (1) (e) and (f), 2009 stats., or s. 560.798, 2009 stats., or an airport development zone under s. 238.3995 or s. 560.7995, 2009 stats.

4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to the department of commerce or the Wisconsin Economic Development Corporation designating the place where the property is located as a development zone and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code, except that section 267 (b) of the Internal Revenue Code is modified so that if the claimant owns any part of the property, rather than 50% ownership, the claimant is subject to section 267 (a) (1) of the Internal Revenue Code for purposes of this subsection.

(b) Subject to the limitations provided in this subsection and in s. 73.03 (35), for any taxable year for which the claimant is certified, a claimant may claim as a credit against the taxes imposed under s. 71.23 an amount that is equal to 3% of the following:

1. The purchase price of depreciable, tangible personal property.

2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a development zone.

(c) A claimant may claim the credit under par. (b) 1., if the tangible personal property is purchased after the claimant is certified and the personal property is used for at least 50% of its use in the claimant's business at a location in a development zone or, if the property is mobile, the property's base of operations for at least 50% of its use is at a location in a development zone.

(d) A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after the place where the property is located was designated a development zone, or if the completed project is placed in service after the claimant is certified. In this paragraph, "physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing the property to prevent deterioration.

(e) A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after the place where the property is located was designated a development zone, or if the completed project is placed in service after the claimant is certified.

(f) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the verification that the claimant may claim tax benefits under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., or is certified under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats.

2. A statement from the department of commerce or the Wisconsin Economic Development Corporation verifying the purchase price of the investment and verifying that the investment fulfills the requirements under par. (b).

(g) In calculating the credit under par. (b) a claimant shall reduce the amount expended to acquire property by a percentage equal to the percentage of the area of the real property not used for the purposes for which the claimant is certified and shall reduce the amount expended for other purposes by the amount expended on the part of the property not used for the purposes for which the claimant is certified.

(h) The carry−over provisions of sub. (4) (e) and (f) as they relate to the credit under sub. (4) relate to the credit under this subsection.

(hm) A claimant may claim the credit under this subsection, including any credits carried over, against the amount of the tax otherwise due under this subchapter.

(i) Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners, or members. The corporation, partnership, or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners, or members and provide that information to its shareholders, partners, or members. Partners, members of limited liability com-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

panies, and shareholders of tax−option corporations may claim the credit based on the partnership's, company's, or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income from the partnership's, company's, or corporation's business operations in the development zone; except that partners, members, and shareholders in a development zone under s. 238.395 (1) (e) or s. 560.795 (1) (e), 2009 stats., may offset the credit against the amount of the tax attributable to their income.

(j) If a person who is entitled under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., to claim tax benefits becomes ineligible for such tax benefits, or if a person's certification under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., is revoked, that person may claim no credits under this subsection for the taxable year that includes the day on which the person becomes ineligible for tax benefits, the taxable year that includes the day on which the certification is revoked, or succeeding taxable years, and that person may carry over no unused credits from previous years to offset tax under this chapter for the taxable year that includes the day on which the person becomes ineligible for tax benefits, the taxable year that includes the day on which the certification is revoked, or succeeding taxable years.

(k) If a person who is entitled under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., to claim tax benefits or certified under s. 238.395 (5), 239.398 (3) [s. 238.398 (3)], or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

NOTE: The correct cross−reference is shown in brackets corrective legislation is pending.

(L) Subsection (4) (g) and (h) as it applies to the credit under sub. (4) applies to the credit under this subsection.

(1ds) DEVELOPMENT ZONES SALES TAX CREDIT. (a) In this subsection:

1. "Development zone" means a zone designated under s. 560.71, 2009 stats.

2. "Eligible property" means construction materials and supplies and other materials that are used to construct, rehabilitate, repair or remodel real property that is eligible for the credit under sub. (1dL) and investment credit property.

3. "Investment credit property" means depreciable, tangible personal property that is eligible for the credit under sub. (1di) and leased or rented depreciable, tangible personal property that would be eligible for the credit under sub. (1di) if it had been purchased.

(b) Except as provided in pars. (dm) and (e) and s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3), 2009 stats., for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter the taxes paid under subchs. III and V of ch. 77 on their purchases, leases and rentals of eligible property. Partnerships, limited liability companies and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their partners, members or shareholders. The partnership, limited liability company or corporation shall compute the amount of credit that may be claimed by each of its partners, members or shareholders and shall provide that information to its partners, members or shareholders. Partners, members of limited liability companies and shareholders of tax−option corporations may claim the credit based on the partnership's, company's or corporation's activities in proportion to their ownership interest.

(d) No credit may be allowed under this subsection unless the claimant submits with the claimant's return:

1. A copy of the claimant's certification for tax benefits under s. 560.765 (3), 2009 stats.

2. A statement from the department of commerce verifying the amount of taxes paid under subchs. III and V of ch. 77 for eligible property by the claimant.

(dm) In calculating the credit under par. (b) a claimant shall reduce the sales tax paid for building supplies and materials by the reduction under sub. (1dL) (bm) and shall reduce the sales tax paid for investment credit property by the percentage reduction under sub. (1di) (dm).

(e) The rules under sub. (1di) (f) and (g) as they apply to the credit under that subsection apply to the credit under this subsection.

(f) Subsection (4) (g) and (h) as it applies to the credit under that subsection applies to the credit under this subsection.

(h) The rules under sub. (1di) (b) and (c) as they apply to the credit under that subsection apply to the credit under this subsection.

(i) The development zones credit under this subsection, as it applies to a person certified under s. 560.765 (3), 2009 stats., applies to a corporation that conducts economic activity in a development opportunity zone under s. 560.795 (1), 2009 stats., and that is entitled to tax benefits under s. 560.795 (3), 2009 stats., subject to the limits under s. 560.795 (2), 2009 stats. A development opportunity zone credit under this paragraph may be calculated using expenses incurred by a claimant beginning on the effective date under s. 560.795 (2) (a), 2009 stats., of the development opportunity zone designation of the area in which the claimant conducts economic activity.

(j) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1dx) DEVELOPMENT ZONES CREDIT. (a) *Definitions.* In this subsection:

1. "Brownfield" means an industrial or commercial facility the expansion or redevelopment of which is complicated by environmental contamination.

2. "Development zone" means a development zone under s. 238.30 or s. 560.70, 2009 stats., a development opportunity zone under s. 238.395 or s. 560.795, 2009 stats., an enterprise development zone under s. 238.397 or s. 560.797, 2009 stats., an agricultural development zone under s. 238.398 or s. 560.798, 2009 stats., or an airport development zone under s. 238.3995 or s. 560.7995, 2009 stats.

3. "Environmental remediation" means removal or containment of environmental pollution, as defined in s. 299.01 (4), and restoration of soil or groundwater that is affected by environmental pollution, as defined in s. 299.01 (4), in a brownfield if that removal, containment or restoration fulfills the requirement under sub. (1de) (a) 1. and investigation unless the investigation determines that remediation is required and that remediation is not undertaken.

4. "Full−time job" means a regular, nonseasonal full−time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and receives benefits that are not required by federal or state law. "Full−time job" does not include initial training before an employment position begins.

5. "Member of a targeted group" means a person who resides in an area designated by the federal government as an economic revitalization area, a person who is employed in an unsubsidized job but meets the eligibility requirements under s. 49.145 (2) and (3) for a Wisconsin Works employment position, a person who is employed in a trial job, as defined in s. 49.141 (1) (n), or in a real work, real pay project position under s. 49.147 (3m), a person who

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

is eligible for child care assistance under s. 49.155, a person who is a vocational rehabilitation referral, an economically disadvantaged youth, an economically disadvantaged veteran, a supplemental security income recipient, a general assistance recipient, an economically disadvantaged ex−convict, a qualified summer youth employee, as defined in 26 USC 51 (d) (7), a dislocated worker, as defined in 29 USC 2801 (9), or a food stamp recipient, if the person has been certified in the manner under sub. (1dj) (am) 3. by a designated local agency, as defined in sub. (1dj) (am) 2.

(b) *Credit.* Except as provided in pars. (be) and (bg) and in s. 73.03 (35), and subject to s. 238.385 or s. 560.785, 2009 stats., for any taxable year for which the person is entitled under s. 238.395 (3) or s. 560.795 (3), 2009 stats., to claim tax benefits or certified under s. 238.365 (3), 238.397 (4), 238.398 (3), or 238.3995 (4) or s. 560.765 (3), 2009 stats., s. 560.797 (4), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., any person may claim as a credit against the taxes otherwise due under this chapter the following amounts:

1. Fifty percent of the amount expended for environmental remediation in a development zone.

2. The amount determined by multiplying the amount determined under s. 238.385 (1) (b) or s. 560.785 (1) (b), 2009 stats., by the number of full−time jobs created in a development zone and filled by a member of a targeted group and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

3. The amount determined by multiplying the amount determined under s. 238.385 (1) (c) or s. 560.785 (1) (c), 2009 stats., by the number of full−time jobs created in a development zone and not filled by a member of a targeted group and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

4. The amount determined by multiplying the amount determined under s. 238.385 (1) (bm) or s. 560.785 (1) (bm), 2009 stats., by the number of full−time jobs retained, as provided in the rules under s. 238.385 or s. 560.785, 2009 stats., excluding jobs for which a credit has been claimed under sub. (1dj), in an enterprise development zone under s. 238.397 or s. 560.797, 2009 stats., and for which significant capital investment was made and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

5. The amount determined by multiplying the amount determined under s. 238.385 (1) (c) or s. 560.785 (1) (c), 2009 stats., by the number of full−time jobs retained, as provided in the rules under s. 238.385 or s. 560.785, 2009 stats., excluding jobs for which a credit has been claimed under sub. (1dj), in a development zone and not filled by a member of a targeted group and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

(be) *Offset.* A claimant in a development zone under s. 238.395 (1) (e) or s. 560.795 (1) (e), 2009 stats., may offset any credits claimed under this subsection, including any credits carried over, against the amount of the tax otherwise due under this subchapter attributable to all of the claimant's income and against the tax attributable to income from directly related business operations of the claimant.

(bg) *Other entities.* For claimants in a development zone under s. 238.395 (1) (e) or s. 560.795 (1) (e), 2009 stats., partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners, or members. The corporation, partnership, or company shall compute the amount of the credit that may be claimed by each of its shareholders, partners, or members and shall provide that information to each of its shareholders, partners, or members. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit based on the partnership's, company's, or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income.

(c) *Credit precluded.* If the certification of a person for tax benefits under s. 238.365 (3), 238.397 (4), 238.398 (3), or 238.3995 (4) or s. 560.765 (3), 2009 stats., s. 560.797 (4), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., is revoked, or if the person becomes ineligible for tax benefits under s. 238.395 (3) or s. 560.795 (3), 2009 stats., that person may not claim credits under this subsection for the taxable year that includes the day on which the certification is revoked; the taxable year that includes the day on which the person becomes ineligible for tax benefits; or succeeding taxable years and that person may not carry over unused credits from previous years to offset tax under this chapter for the taxable year that includes the day on which certification is revoked; the taxable year that includes the day on which the person becomes ineligible for tax benefits; or succeeding taxable years.

(d) *Carry−over precluded.* If a person who is entitled under s. 238.395 (3) or s. 560.795 (3), 2009 stats., to claim tax benefits or certified under s. 238.365 (3), 238.397 (4), 238.398 (3), or 238.3995 (4) or s. 560.765 (3), 2009 stats., s. 560.797 (4), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., for tax benefits ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

(e) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection. Subsection (1dj) (c), as it applies to the credit under sub. (1dj), applies to the credit under this subsection. Claimants shall include with their returns a copy of their certification for tax benefits and a copy of the department of commerce's verification of their expenses.

(1dy) ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this subsection, "claimant" means a person who files a claim under this subsection and is certified under s. 238.301 (2) or s. 560.701 (2), 2009 stats., and authorized to claim tax benefits under s. 238.303 or s. 560.703, 2009 stats.

(b) *Filing claims.* Subject to the limitations under this subsection and ss. 238.301 to 238.306 or s. 560.701 to 560.706, 2009 stats., for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax, the amount authorized for the claimant under s. 238.303 or s. 560.703, 2009 stats.

(c) *Limitations.* 1. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification under s. 238.301 (2) or s. 560.701 (2), 2009 stats., and a copy of the claimant's notice of eligibility to receive tax benefits under s. 238.303 (3) or s. 560.703 (3), 2009 stats.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their authorization to claim tax benefits under s. 238.303 or s. 560.703, 2009 stats. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Except as provided in subd. 2., sub. (4) (e) and (f), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. If a claimant's certification is revoked under s. 238.305 or s. 560.705, 2009 stats., or if a claimant becomes ineligible for tax

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

benefits under s. 238.302 or s. 560.702, 2009 stats., the claimant may not claim credits under this subsection for the taxable year that includes the day on which the certification is revoked; the taxable year that includes the day on which the claimant becomes ineligible for tax benefits; or succeeding taxable years and the claimant may not carry over unused credits from previous years to offset the tax imposed under s. 71.23 for the taxable year that includes the day on which certification is revoked; the taxable year that includes the day on which the claimant becomes ineligible for tax benefits; or succeeding taxable years.

3. Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(2) FARMLAND PRESERVATION CREDIT. The farmland preservation credit under subch. IX may be claimed against taxes otherwise due subject to the provisions, requirements and conditions of that subchapter.

(2m) FARMLAND TAX RELIEF CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means an owner, as defined in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year for which a credit under this subsection is claimed, except as follows:

a. When 2 or more individuals of a household are able to qualify individually as a claimant, they may determine between them who the claimant shall be. If they are unable to agree, the matter shall be referred to the secretary of revenue, whose decision is final.

b. For partnerships, except publicly traded partnerships treated as corporations under s. 71.22 (1k), or limited liability companies, except limited liability companies treated as corporations under s. 71.22 (1k), "claimant" means each individual partner or member.

c. For purposes of filing a claim under this subsection, the personal representative of an estate and the trustee of a trust shall be deemed owners of farmland. "Claimant" does not include the estate of a person who is a nonresident of this state on the person's date of death, a trust created by a nonresident person, a trust which receives Wisconsin real property from a nonresident person or a trust in which a nonresident settlor retains a beneficial interest.

d. For purposes of filing a claim under this subsection, when land is subject to a land contract, the claimant shall be the vendee under the contract.

e. For purposes of filing a claim under this subsection, when a guardian has been appointed in this state for a ward who owns the farmland, the claimant shall be the guardian on behalf of the ward.

f. For a tax−option corporation, "claimant" means each individual shareholder.

2. "Department" means the department of revenue.

3. "Farmland" means 35 or more acres of real property, exclusive of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007 stats., and owned by the claimant or any member of the claimant's household during the taxable year for which a credit under this subsection is claimed if the farm of which the farmland is a part, during that year, produced not less than $6,000 in gross farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or if the farm of which the farmland is a part, during that year and the 2 years immediately preceding that year, produced not less than $18,000 in such profits, or if at least 35 acres of the farmland, during all or part of that year, was enrolled in the conservation reserve program under 16 USC 3831 to 3836.

4. "Gross farm profits" means gross receipts, excluding rent, from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market value at the time of disposition of payments in kind for placing land in federal programs or payments from the federal dairy termination program under 7 USC 1446 (d), less the cost or other basis of livestock or other items purchased for resale which are sold or otherwise disposed of during the taxable year.

5. "Household" means an individual and his or her spouse and all minor dependents.

6. "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on the farmland owned by the claimant or any member of the claimant's household in any calendar year under ch. 70, less the tax credit, if any, afforded in respect of the property by s. 79.10. "Property taxes accrued" shall not exceed $10,000. If farmland is owned by a tax−option corporation, a limited liability company or by 2 or more persons or entities as joint tenants, tenants in common or partners or is marital property or survivorship marital property and one or more such persons, entities or owners is not a member of the claimant's household, "property taxes accrued" is that part of property taxes levied on the farmland, reduced by the tax credit under s. 79.10, that reflects the ownership percentage of the claimant and the claimant's household. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the local treasurer for collection. If farmland is sold during the calendar year of the levy the "property taxes accrued" for the seller is the amount of the tax levy, reduced by the tax credit under s. 79.10, prorated to each in the closing agreement pertaining to the sale of the farmland, except that if the seller does not reimburse the buyer for any part of those property taxes there are no "property taxes accrued" for the seller, and the "property taxes accrued" for the buyer is the property taxes levied on the farmland, reduced by the tax credit under s. 79.10, minus, if the seller reimburses the buyer for part of the property taxes, the amount prorated to the seller in the closing agreement. With the claim for credit under this subsection, the seller shall submit a copy of the closing agreement and the buyer shall submit a copy of the closing agreement and a copy of the property tax bill.

(b) *Filing claims.* 1. 'Eligibility and qualifications.' a. Subject to the limitations provided in this subsection and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin income taxes otherwise due, the amount derived under par. (c). If the allowable amount of claim exceeds the income taxes otherwise due on the claimant's income or if there are no Wisconsin income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft paid from the appropriations under s. 20.835 (2) (ka) and (q).

b. Every claimant under this subsection shall supply, at the request of the department, in support of the claim, a copy of the property tax bill relating to the farmland and certification by the claimant that all taxes owed by the claimant on the property for which the claim is made for the year before the year for which the claim is made have been paid.

2. 'Ineligible claims.' No credit may be allowed under this subsection:

a. Unless a claim is filed with the department in conformity with the filing requirements in s. 71.24 (1), (1m) and (7).

b. If the department determines that ownership of the farmland has been transferred to the claimant for the purpose of maximizing benefits under this subsection.

(c) *Computation.* 1. Any claimant may claim against taxes otherwise due under this chapter a percentage, as determined by the department under subd. 3., of the property taxes accrued in the taxable year to which the claim relates, up to a maximum claim of $1,500, except that the credit under this subsection plus the credit under subch. IX may not exceed 95% of the property taxes accrued on the farm.

2. Any claimant may claim against taxes otherwise due under this chapter, on an income or franchise tax return that includes the levy date, an additional one−time credit of 4.2% of the property

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

taxes accrued, that are levied in December 1989, up to a maximum of $420.

3. The department shall annually adjust the percentage that is used to determine the amount of a claim under subd. 1. based on the estimated number of claims and the amount estimated to be expended from the appropriation under s. 20.835 (2) (q), as determined under s. 79.13. The department shall incorporate the annually adjusted percentage into the income tax forms and instructions.

(d) *General provisions.* Section 71.61 (1) to (4) as it applies to the credit under subch. IX applies to the credit under this subsection.

(e) *Sunset.* No new claim may be filed under this subsection for a taxable year that begins after December 31, 2009.

(3) MANUFACTURING SALES TAX CREDIT. (a) In this subsection:

1. "Manufacturing" has the meaning given in s. 77.54 (6m), 2007 stats.

2. "Sales and use tax under ch. 77 paid by the corporation" includes use taxes paid directly by the corporation and sales and use taxes paid by the corporation's supplier and passed on to the corporation whether separately stated on the invoice or included in the total price.

(b) The tax imposed upon or measured by corporation Wisconsin net income under s. 71.23 (1) or (2) shall 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. Shareholders of a tax−option corporation and partners may claim the credit under this subsection, based on eligible sales and use taxes paid by the tax−option corporation or partnership, in proportion to the ownership interest of each shareholder or partner. The tax−option corporation or partnership shall calculate the amount of the credit that may be claimed by each shareholder or partner and shall provide that information to the shareholder or partner.

(c) 1. Except as provided in subd. 7., if the credit computed under par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance shall be carried forward and credited against Wisconsin income or franchise taxes otherwise due for the following 20 taxable years to the extent not offset by these taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry−forward credit is claimed.

2. For shareholders in a tax−option corporation, the credit may be offset only against the tax imposed on the shareholder's prorated share of the tax−option corporation's income.

3. For partners, the credit may be offset only against the tax imposed on the partner's distributive share of partnership income.

4. If a tax−option corporation becomes liable for tax for a taxable year that begins on or after January 1, 1998, the corporation may offset the credit against the tax due, with any remaining credit computed for a taxable year that begins on or after January 1, 1998, passing through to the shareholders.

5. If a corporation that is not a tax−option corporation has a carry−over credit from a taxable year that begins on or after January 1, 1998, and becomes a tax−option corporation before the credit carried over is used, the unused portion of the credit may be used by the tax−option corporation's shareholders on a prorated basis.

6. If the shareholders of a tax−option corporation have carry−over credits and the corporation becomes a corporation other than a tax−option corporation after October 14, 1997, and before the credits carried over are used, the unused portion of the credits may be used by the corporation that is not a tax−option corporation.

7. No credit may be claimed under this subsection for taxable years that begin after December 31, 2005. For credits that are claimed but unused under this subsection for taxable years that begin before January 1, 2006, up to 50 percent may be used in each of the following 2 taxable years if the taxpayer has $25,000 or less in unused credits as of January 1, 2006. For taxable years beginning after December 31, 2005, and before January 1, 2008, a taxpayer who has more than $25,000 in unused credits as of January 1, 2006, may deduct an amount in each year that is equal to 50 percent of the amount the taxpayer added back to income under s. 71.26 (2) (a) at the time that the taxpayer first claimed the credit or, with regard to credits passed through from a partnership, limited liability company, or tax−option corporation, 50 percent of the amount that the entity added back to its income and was included in the partner's, member's, or shareholder's Wisconsin net income at the time that the credit was first claimed.

Cross−reference: See also s. Tax 2.11, Wis. adm. code.

(3g) TECHNOLOGY ZONES CREDIT. (a) Subject to the limitations under this subsection and ss. 73.03 (35m) and 238.23 and s. 560.96, 2009 stats., a business that is certified under s. 238.23 (3) or s. 560.96 (3), 2009 stats., may claim as a credit against the taxes imposed under s. 71.23 an amount equal to the sum of the following, as established under s. 238.23 (3) (c) or s. 560.96 (3) (c), 2009 stats.:

1. The amount of real and personal property taxes imposed under s. 70.01 that the business paid in the taxable year.

2. Ten percent of the following amounts of capital investments that are made by the business in the technology zone in the year to which the claim relates:

a. The purchase price of depreciable, tangible personal property.

b. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a technology zone.

3. Fifteen percent of the amount that is spent for the first 12 months of wages for each job that is created in a technology zone after certification.

(b) The department of revenue shall notify the department of commerce or the Wisconsin Economic Development Corporation of all claims under this subsection.

(c) Subsection (4) (e), (f), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under par. (a).

(d) Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (a). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(e) 1. No amount described under par. (a) 2. may be used in the calculation of a credit under this subsection if that amount is used in the calculation of any other credit under this chapter.

2. The investments that relate to the amount described under par. (a) 2. for which a claimant makes a claim under this subsection must be retained for use in the technology zone for the period during which the claimant's business is certified under s. 238.23 (3) or s. 560.96 (3), 2009 stats.

(f) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the verification that the claimant's business is certified under s. 238.23 (3) or s. 560.96 (3), 2009 stats., and that the business has entered into an agreement under s. 238.23 (3) (d) or s. 560.96 (3) (d), 2009 stats.

2. A statement from the department of commerce or the Wisconsin Economic Development Corporation verifying the purchase price of the investment described under par. (a) 2. and verifying that the investment fulfills the requirement under par. (e) 2.

(3h) BIODIESEL FUEL PRODUCTION CREDIT. (a) *Definitions.* In this subsection:

1. "Biodiesel fuel" has the meaning given in s. 168.14 (2m) (a).

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. "Claimant" means a person who is engaged in the business of producing biodiesel fuel in this state and who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2011, and before January 1, 2015, for a claimant who produces at least 2,500,000 gallons of biodiesel fuel in this state in the taxable year, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax, an amount that is equal to the number of gallons of biodiesel fuel produced by the claimant in this state in the taxable year multiplied by 10 cents.

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is $1,000,000.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their biodiesel fuel production, as described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Subsection (4) (e) to (h) as it applies to the credit under sub. (4), applies to the credit under this subsection.

(3n) DAIRY AND LIVESTOCK FARM INVESTMENT CREDIT. (a) In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

1m. "Dairy animals" includes heifers raised as replacement dairy animals.

1p. "Dairy farm" includes a facility used to raise heifers as replacement dairy animals.

2. "Dairy farm modernization or expansion" means the construction, the improvement, or the acquisition of buildings or facilities, or acquiring equipment, for dairy animal housing, confinement, animal feeding, milk production, or waste management, including the following, if used exclusively related to dairy animals and if acquired and placed in service in this state during taxable years that begin after December 31, 2003, and before January 1, 2017:

a. Freestall barns.

b. Fences.

c. Watering facilities.

d. Feed storage and handling equipment.

e. Milking parlors.

f. Robotic equipment.

g. Scales.

h. Milk storage and cooling facilities.

i. Bulk tanks.

j. Manure pumping and storage facilities.

k. Digesters.

L. Equipment used to produce energy.

4. "Livestock" means cattle, not including dairy animals; swine; poultry, including farm−raised pheasants, but not including other farm−raised game birds or ratites; fish that are raised in aquaculture facilities; sheep; and goats.

5. "Livestock farm modernization or expansion" means the construction, the improvement, or the acquisition of buildings or facilities, or the acquisition of equipment, for livestock housing, confinement, feeding, or waste management, including the following, if used exclusively related to livestock and if acquired and placed in service in this state during taxable years that begin after December 31, 2005, and before January 1, 2017:

a. Birthing structures.

b. Rearing structures.

c. Feedlot structures.

d. Feed storage and handling equipment.

e. Fences.

f. Watering facilities.

g. Scales.

h. Manure pumping and storage facilities.

i. Digesters.

j. Equipment used to produce energy.

k. Fish hatchery buildings.

L. Fish processing buildings.

m. Fish rearing ponds.

6. a. For taxable years that begin after December 31, 2003, and before January 1, 2006, "used exclusively," related to dairy animals, means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

b. For taxable years that begin after December 31, 2005, and before January 1, 2017, "used exclusively," related to livestock, dairy animals, or both, means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) 1. Subject to the limitations provided in this subsection, for taxable years that begin after December 31, 2003, and before January 1, 2017, a claimant may claim as a credit against the tax imposed under s. 71.23 an amount equal to 10% of the amount the claimant paid in the taxable year for dairy farm modernization or expansion related to the operation of the claimant's dairy farm.

2. Subject to the limitations provided in this subsection, for taxable years that begin after December 31, 2005, and before January 1, 2017, a claimant may claim as a credit against the tax imposed under s. 71.23 an amount equal to 10 percent of the amount the claimant paid in the taxable year for livestock farm modernization or expansion related to the operation of the claimant's livestock farm.

(c) No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

(d) The aggregate amount of credits that a claimant may claim under this subsection is $75,000, except that no more than $50,000 of this amount may be based on costs incurred prior to May 27, 2010.

(e) 1. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed the limitation under par. (d). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

2. If 2 or more persons own and operate the dairy or livestock farm, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the farm shall not exceed the limitation under par. (d).

(f) Subsection (4) (e), (f), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

Cross−reference: See also s. Tax 2.99, Wis. adm. code.

(3p) DAIRY MANUFACTURING FACILITY INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

1m. "Dairy cooperative" means a business organized under ch. 185 or 193 for the purpose of obtaining or processing milk.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. "Dairy manufacturing" means processing milk into dairy products or processing dairy products for sale commercially.

3. "Dairy manufacturing modernization or expansion" means constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for dairy manufacturing, including the following, if used exclusively for dairy manufacturing and if acquired and placed in service in this state during taxable years that begin after December 31, 2006, and before January 1, 2015, or, in the case of dairy cooperatives, if acquired and placed in service in this state during taxable years that begin after December 31, 2008, and before January 1, 2017:

a. Building construction, including storage and warehouse facilities.

b. Building additions.

c. Upgrades to utilities, including water, electric, heat, and waste facilities.

d. Milk intake and storage equipment.

e. Processing and manufacturing equipment, including pipes, motors, pumps, valves, pasteurizers, homogenizers, vats, evaporators, dryers, concentrators, and churns.

f. Packaging and handling equipment, including sealing, bagging, boxing, labeling, conveying, and product movement equipment.

g. Warehouse equipment, including storage racks.

h. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products.

i. Computer software and hardware used for managing the claimant's dairy manufacturing operation, including software and hardware related to logistics, inventory management, and production plant controls.

4. "Used exclusively" means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.535 or s. 560.207, 2009 stats., except as provided in par. (c) 5., for taxable years beginning after December 31, 2006, and before January 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000 for each of the claimant's dairy manufacturing facilities.

2m. a. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2007−08 is $600,000, as allocated under s. 560.207, 2009 stats.

b. The maximum amount of the credits that may be claimed by all claimants, other than members of dairy cooperatives, under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2008−09, and in each fiscal year thereafter, is $700,000, as allocated under s. 93.535 or s. 560.207, 2009 stats.

bm. The maximum amount of the credits that may be claimed by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2009−10 is $600,000, as allocated under s. 560.207, 2009 stats., and the maximum amount of the credits that may be claimed by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.47 (3p) in fiscal year 2010−11, and in each fiscal year thereafter, is $700,000, as allocated under s. 93.535 or s. 560.207, 2009 stats.

3. Partnerships, limited liability companies, tax−option corporations, and dairy cooperatives may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000 for each of the entity's dairy manufacturing facilities. A partnership, limited liability company, tax−option corporation, or dairy cooperative shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest. Members of a dairy cooperative may claim the credit in proportion to the amount of milk that each member delivers to the dairy cooperative, as determined by the dairy cooperative.

4. If 2 or more persons own and operate a dairy manufacturing facility, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the dairy manufacturing facility shall not exceed $200,000.

5. A claimant who is a member of a dairy cooperative may claim the credit in the year after the year in which the dairy manufacturing modernization or expansion occurs, based on amounts described under par. (b) that are paid by the dairy cooperative, for taxable years beginning after December 31, 2008, and before January 1, 2018. The amount of the credits computed and not passed through by a partnership, limited liability company, or tax−option corporation that has added that amount to the partnership's, company's, or tax−option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) shall be added to a claimant's income in the year in which the cooperative member is allowed to claim the credit.

6. No credit may be allowed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's credit certification and allocation under s. 93.535 or s. 560.207, 2009 stats.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. Except as provided in subd. 3., if the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bn).

3. With regard to claims that are based on amounts described under par. (b) that are paid by a dairy cooperative, if the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

Cross−reference: See also ch. ATCP 163, Wis. adm. code.

(3q) JOBS TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person certified to receive tax benefits under s. 238.16 (2) or s. 560.2055 (2), 2009 stats.

2. "Eligible employee" means, for taxable years beginning before January 1, 2011, an eligible employee under s. 560.2055 (1) (b), 2009 stats., who satisfies the wage requirements under s. 560.2055 (3) (a) or (b), 2009 stats., or, for taxable years beginning after December 31, 2010, an eligible employee under s. 238.16 (1) (b) who satisfies the wage requirements under s. 238.16 (3) (a) or (b).

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 238.16 or s. 560.2055, 2009 stats., for taxable years beginning after December 31, 2009, a claimant may claim

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

as a credit against the taxes imposed under s. 71.23 any of the following:

1. The amount of wages that the claimant paid to an eligible employee in the taxable year, not to exceed 10 percent of such wages, as determined under s. 238.16 or s. 560.2055, 2009 stats.

2. The amount of the costs incurred by the claimant in the taxable year, as determined under s. 238.16 or s. 560.2055, 2009 stats., to undertake the training activities described under s. 238.16 (3) (c) or s. 560.2055 (3) (c), 2009 stats.

(c) *Limitations.* 1. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

2. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification for tax benefits under s. 238.16 (2) or s. 560.2055 (2), 2009 stats.

3. The maximum amount of credits that may be awarded under this subsection and ss. 71.07 (3q) and 71.47 (3q) for the period beginning on January 1, 2010, and ending on June 30, 2013, is $14,500,000, not including the amount of any credits reallocated under s. 238.15 (3) (d) or s. 560.205 (3) (d), 2009 stats.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bb), except that the amounts certified under this subdivision for taxable years beginning after December 31, 2009, and before January 1, 2012, shall be paid in taxable years beginning after December 31, 2011.

(3r) MEAT PROCESSING FACILITY INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Meat processing" means processing livestock into meat products or processing meat products for sale commercially.

3. "Meat processing modernization or expansion" means constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for meat processing, including the following, if used exclusively for meat processing and if acquired and placed in service in this state during taxable years that begin after December 31, 2008, and before January 1, 2017:

a. Building construction, including livestock handling, product intake, storage, and warehouse facilities.

b. Building additions.

c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing, and waste facilities.

d. Livestock intake and storage equipment.

e. Processing and manufacturing equipment, including cutting equipment, mixers, grinders, sausage stuffers, meat smokers, curing equipment, cooking equipment, pipes, motors, pumps, and valves.

f. Packaging and handling equipment, including sealing, bagging, boxing, labeling, conveying, and product movement equipment.

g. Warehouse equipment, including storage and curing racks.

h. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products.

i. Computer software and hardware used for managing the claimant's meat processing operation, including software and hardware related to logistics, inventory management, production plant controls, and temperature monitoring controls.

4. "Used exclusively" means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.545 or s. 560.208, 2009 stats., for taxable years beginning after December 31, 2008, and before January 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for meat processing modernization or expansion related to the claimant's meat processing operation.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000.

3. a. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3r) and 71.47 (3r) in fiscal year 2009−10 is $300,000, as allocated under s. 560.208, 2009 stats.

b. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3r) and 71.47 (3r) in fiscal year 2010−11, and in each fiscal year thereafter, is $700,000, as allocated under s. 93.545 or s. 560.208, 2009 stats.

4. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate the meat processing operation, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the meat processing operation shall not exceed $200,000.

6. No credit may be allowed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's credit certification and allocation under s. 93.545 or s. 560.208, 2009 stats.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bd).

Cross−reference: See also ch. ATCP 164, Wis. adm. code.

(3rm) WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. "Used primarily" means used to the exclusion of all other uses except for use not exceeding 25 percent of total use.

3. "Woody biomass" means trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest or woodland or on agricultural land.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.547 or s. 560.209, 2009 stats., for taxable years beginning after December 31, 2009, and before January 1, 2016, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for equipment that is used primarily to harvest or process woody biomass that is used as fuel or as a component of fuel.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $100,000.

3. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (3rm) and 71.47 (3rm) is $900,000, as allocated under s. 93.547 or s. 560.209, 2009 stats.

4. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $100,000. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate a woody biomass harvesting or processing operation, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the operation shall not exceed $100,000.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bc).

Cross−reference: See also ch. ATCP 166, Wis. adm. code.

(3rn) FOOD PROCESSING PLANT AND FOOD WAREHOUSE INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Food processing plant" has the meaning given in s. 97.29 (1) (h), except that it does not include dairy plants licensed under s. 97.20 or meat establishments licensed under s. 97.42.

3. "Food warehouse" has the meaning given in s. 97.27 (1) (b).

4. "Food processing plant or food warehouse modernization or expansion" means constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for food processing or food warehousing, including the following, if used exclusively for food processing or food warehousing and if acquired and placed in service in this state during taxable years that begin after December 31, 2009, and before January 1, 2017:

a. Food intake, handling, storage, and warehouse facilities.

b. Building additions.

c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing, and waste facilities.

d. Installing energy savings equipment or equipment that converts waste to energy.

e. Food or raw material intake and storage equipment.

f. Processing and manufacturing equipment, including vats, cookers, freezers, pipes, motors, pumps, and valves.

g. Packaging and handling equipment, including cleaning, sealing, bagging, boxing, labeling, conveying, and product movement equipment.

h. Warehouse equipment, including storage racks and loading and unloading equipment.

i. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment to produce energy, fuel, or industrial products.

j. Computer software or hardware for managing the claimant's food processing or food warehousing operation, including software and hardware related to logistics, inventory management, production plant controls, and temperature monitoring controls.

5. "Used exclusively" means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.54 or s. 560.2056, 2009 stats., for taxable years beginning after December 31, 2009, and before January 1, 2017, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for food processing or food warehousing modernization or expansion related to the operation of the claimant's food processing plant or food warehouse.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000.

3. a. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3rn) and 71.47 (3rn) in fiscal year 2009−10 is $1,000,000, as allocated under s. 560.2056, 2009 stats.

b. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3rn) and 71.47 (3rn) in fiscal year 2010−11 is $1,200,000, as allocated under s. 560.2056, 2009 stats.

c. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3rn) and 71.47 (3rn) in fiscal year 2011−12, and in each year thereafter, is $700,000, as allocated under s. 93.54 or s. 560.2056, 2009 stats.

4. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate the food processing plant or food warehouse, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the food processing operation shall not exceed $200,000.

6. No credit may be allowed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's credit certification and allocation under s. 93.54 or s. 560.2056, 2009 stats.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (be).

Cross−reference: See also ch. ATCP 165, Wis. adm. code.

(3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this subsection, "claimant" means a person who files a claim under this subsection.

(b) *Credit.* Subject to the limitations provided in this subsection and in s. 560.28, 2009 stats., for taxable years beginning after December 31, 2007, a claimant may claim as a credit, amortized over 15 taxable years starting with the taxable year beginning after December 31, 2007, against the tax imposed under s. 71.23, up to the amount of the tax, an amount equal to the claimant's unused credits under s. 71.28 (3).

(c) *Limitations.* 1. No credit may be claimed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's certification by the department of commerce under s. 560.28, 2009 stats., except that, with regard to credits claimed by partners of a partnership, members of a limited liability company, or shareholders of a tax−option corporation, the entity shall provide a copy of its certification under s. 560.28, 2009 stats., to the partner, member, or shareholder to submit with his or her return.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on the amount of their unused credits under s. 71.28 (3). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. The amount of any unused credit under this subsection in any taxable year may be carried forward to subsequent taxable years, up to 15 taxable years.

(3w) ENTERPRISE ZONE JOBS CREDIT. (a) *Definitions.* In this subsection:

1. "Base year" means the taxable year beginning during the calendar year prior to the calendar year in which the enterprise zone in which the claimant is located takes effect.

2. "Claimant" means a person who is certified to claim tax benefits under s. 238.399 (5) or s. 560.799 (5), 2009 stats., and who files a claim under this subsection.

3. "Full−time employee" means a full−time employee, as defined in s. 238.399 (1) (am) or s. 560.799 (1) (am), 2009 stats.

4. "Enterprise zone" means a zone designated under s. 238.399 or s. 560.799, 2009 stats.

5. "State payroll" means the amount of payroll apportioned to this state, as determined under s. 71.25 (8).

5d. "Tier I county or municipality" means a tier I county or municipality, as determined under s. 238.399 or s. 560.799, 2009 stats.

5e. "Tier II county or municipality" means a tier II county or municipality, as determined under s. 238.399 or s. 560.799, 2009 stats.

5m. "Wages" means wages under section 3306 (b) of the Internal Revenue Code, determined without regard to any dollar limitations.

6. "Zone payroll" means the amount of state payroll that is attributable to wages paid to full−time employees for services that are performed in an enterprise zone. "Zone payroll" does not include the amount of wages paid to any full−time employees that exceeds $100,000.

(b) *Filing claims; payroll.* Subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.23 an amount calculated as follows:

1. Determine the amount that is the lesser of:

a. The number of full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the enterprise zone in the taxable year, minus the number of full−time employees whose annual wages were greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the area that comprises the enterprise zone in the base year.

b. The number of full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the state in the taxable year, minus the number of full−time employees whose annual wages were greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the state in the base year.

2. Determine the claimant's average zone payroll by dividing total wages for full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the enterprise zone in the taxable year by the number of full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the enterprise zone in the taxable year.

3. For employees in a tier I county or municipality, subtract $20,000 from the amount determined under subd. 2. and for employees in a tier II county or municipality, subtract $30,000 from the amount determined under subd. 2.

4. Multiply the amount determined under subd. 3. by the amount determined under subd. 1.

5. Multiply the amount determined under subd. 4. by the percentage determined under s. 238.399 or s. 560.799, 2009 stats., not to exceed 7 percent.

(bm) *Filing supplemental claims.* 1. In addition to the credits under par. (b) and subds. 2., 3., and 4., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.23 an amount equal to a percentage, as determined under s. 238.399 or s. 560.799, 2009 stats., not to exceed 100 percent, of the amount the claimant paid in the taxable year to upgrade or improve the job−related skills of any of the claimant's full−time employees, to train any of the claimant's full−time employees on the use of job−related new technologies, or to provide job−related training to any full−time employee whose employment with the claimant represents the employee's first full−time job. This subdivision does not apply to employees who do not work in an enterprise zone.

2. In addition to the credits under par. (b) and subds. 1., 3., and 4., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.23 an amount equal to the percentage, as determined under s. 238.399 or s. 560.799, 2009 stats., not to exceed 7 percent, of the claimant's zone payroll paid in the taxable year to all of the claimant's full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality, not including the wages paid to the employees determined under par. (b) 1., or greater than $30,000 in a tier II

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

county or municipality, not including the wages paid to the employees determined under par. (b) 1., and who the claimant employed in the enterprise zone in the taxable year, if the total number of such employees is equal to or greater than the total number of such employees in the base year. A claimant may claim a credit under this subdivision for no more than 5 consecutive taxable years.

3. In addition to the credits under par. (b) and subds. 1., 2., and 4., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.23 up to 10 percent of the claimant's significant capital expenditures, as determined under s. 238.399 (5m) or s. 560.799 (5m), 2009 stats.

4. In addition to the credits under par. (b) and subds. 1., 2., and 3., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., for taxable years beginning after December 31, 2009, a claimant may claim as a credit against the tax imposed under s. 71.23, up to 1 percent of the amount that the claimant paid in the taxable year to purchase tangible personal property, items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services from Wisconsin vendors, as determined under s. 238.399 (5) (e) or s. 560.799 (5) (e), 2009 stats., except that the claimant may not claim the credit under this subdivision and subd. 3. for the same expenditures.

(c) *Limitations.* 1. If the allowable amount of the claim under this subsection exceeds the taxes otherwise due on the claimant's income under s. 71.23, the amount of the claim that is not used to offset those taxes shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation under s. 20.835 (2) (co).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under pars. (b) and (bm). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification for tax benefits under s. 238.399 (5) or (5m) or s. 560.799 (5) or (5m), 2009 stats.

4. No claimant may claim a credit under this subsection if the basis for which the credit is claimed is also the basis for which another credit is claimed under this subchapter.

(d) *Administration.* Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection. Claimants shall include with their returns a copy of their certification for tax benefits, and a copy of the verification of their expenses, from the department of commerce or the Wisconsin Economic Development Corporation.

(4) RESEARCH CREDIT. (ab) *Definitions.* In this subsection:

1. "Frame" includes:

a. Every part of a motorcycle, except the tires.

b. In the case of a truck, the control system and the fuel and drive train, excluding any comfort features located in the cab or the tires.

c. In the case of a generator, the control modules, fuel train, fuel scrubbing process, fuel mixers, generator, heat exchangers, exhaust train, and similar components.

2. "Internal combustion engine" includes substitute products such as fuel cell, electric, and hybrid drives.

3. "Vehicle" means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. "Vehicle" includes any truck, tractor, motorcycle, snowmobile, all−terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

(ad) *Credit.* 1. Except as provided in subds. 2. and 3., any corporation may credit against taxes otherwise due under this chapter an amount equal to 5 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

2. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

3. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid−electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2., (df), 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(af) *Computation.* If in any taxable year a corporation claims a credit under par. (ad) 1., 2., or 3., or any combination of those credits, the corporation may use a different computation method to calculate each of the credits and may choose to change the computation method once for each credit without the department's approval.

(am) *Development zone additional research credit.* 1. In addition to the credit under par. (ad), any corporation may credit against taxes otherwise due under this chapter an amount equal to 5 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" include only expenses incurred by the claimant in a development zone under subch. II of ch. 238 or subch. VI of ch. 560, 2009 stats., except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation and except that "qualified research expenses" do not include compensation used in computing the credit under sub. (1dj) nor research expenses incurred before the claimant is certified for tax benefits under s. 238.365 (3) or s. 560.765 (3), 2009 stats., the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, in a development zone, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk) and research expenses used in calculating the base amount include research expenses incurred before the claimant is certified for tax benefits under s. 238.365 (3) or s. 560.765 (3), 2009 stats., in a development zone, if the claimant submits with the claimant's return a copy of the claimant's certification for tax benefits under s. 238.365 (3) or s. 560.765 (3), 2009 stats., and a statement from the department of commerce or the Wisconsin Economic Development Corporation verifying the claimant's qualified research expenses for research conducted exclusively in a development zone. The rules under s. 73.03 (35) apply to the credit under this subdivision. The rules under sub. (1di) (f) and (g) as they apply to the credit under that subsection apply to claims under this subdivision. Section 41 (h) of the Internal Revenue Code does not apply to the credit under this subdivision.

2. The development zones credit under subd. 1., as it applies to a person certified under s. 238.365 (3) or s. 560.765 (3), 2009 stats., applies to a corporation that conducts economic activity in a development opportunity zone under s. 238.395 (1) or s. 560.795 (1), 2009 stats., and that is entitled to tax benefits under s. 238.395 (3) or s. 560.795 (3), 2009 stats., subject to the limits under s. 238.395 (2) or s. 560.795 (2), 2009 stats. A development opportunity zone credit under this subdivision may be calculated using expenses incurred by a claimant beginning on the effective date under s. 238.395 (2) (a) or s. 560.795 (2) (a), 2009 stats., of the development opportunity zone designation of the area in which the claimant conducts economic activity.

3. No credit may be claimed under this paragraph for taxable years that begin on January 1, 1998, or thereafter. Credits under this paragraph for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, and thereafter.

(b) *Adjustments.* For taxable year 1985 and subsequent years, adjustments for acquisitions and dispositions of a major portion of a trade or business shall be made under section 41 of the internal revenue code as limited by this subsection.

(c) *Annualization.* In the case of any short taxable year, qualified research expenses shall be annualized as prescribed by the department of revenue.

(d) *Proration.* If a portion of qualified research expenses is incurred partly within and partly outside this state and the amount incurred in this state cannot be accurately determined, a portion of the qualified expenses shall be reasonably allocated to this state. Expenses incurred entirely outside this state for the benefit of research in this state are not allocable to this state under this paragraph.

(e) *Change of business or ownership.* In the case of a change in ownership or business of a corporation, section 383 of the internal revenue code, as limited by this subsection, applies to the carry−over of unused credits.

(f) *Carry−over.* If a credit computed under this subsection is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance may be carried forward and credited against Wisconsin income or franchise taxes otherwise due for the following 15 taxable years to the extent not offset by these taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry−forward credit is claimed.

(g) *Administration.* The department of revenue has full power to administer the credits provided in this subsection and may take any action, conduct any proceeding and proceed as it is authorized in respect to income and franchise taxes imposed in this chapter. The income and franchise tax provisions in this chapter relating to assessments, refunds, appeals, collection, interest and penalties apply to the credits under this subsection.

(h) *Timely claim.* No credit may be allowed under this subsection unless it is claimed within the period specified in s. 71.75 (2).

(i) *Nonclaimants.* The credits under this subsection may not be claimed by a partnership, except a publicly traded partnership treated as a corporation under s. 71.22 (1k), limited liability company, except a limited liability company treated as a corporation under s. 71.22 (1k), or tax−option corporation or by partners, including partners of a publicly traded partnership, members of a limited liability company or shareholders of a tax−option corporation.

(4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this subsection, "qualified research expenses" means qualified research expenses as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research conducted in this state for the taxable year and except that "qualified research expenses" do not include compensation used in computing the credits under subs. (1dj) and (1dx).

(b) *Credit.* Subject to the limitations provided under this subsection, for taxable years beginning on or after January 1, 2011, a corporation may claim as a credit against the tax imposed under s. 71.23, up to the amount of those taxes, an amount equal to the amount of qualified research expenses paid or incurred by the corporation in the taxable year that exceeds the amount calculated as follows:

1. Determine the average amount of the qualified research expenses paid or incurred by the corporation in the 3 taxable years immediately preceding the taxable year for which a credit is claimed under this subsection.

2. Multiply the amount determined under subd. 1. by 1.25.

(c) *Limitations.* Subsection (4) (b) to (d) and (i), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. If a credit computed under this subsection is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance may be carried forward and credited against Wisconsin income or franchise taxes otherwise due for the following 5 taxable years to the extent not offset by these taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry−forward credit is claimed.

(5) RESEARCH FACILITIES CREDIT. (ab) *Definitions.* In this subsection:

1. "Frame" includes:

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

a. Every part of a motorcycle, except the tires.

b. In the case of a truck, the control system and the fuel and drive train, excluding any comfort features located in the cab or the tires.

c. In the case of a generator, the control modules, fuel train, fuel scrubbing process, fuel mixers, generator, heat exchangers, exhaust train, and similar components.

2. "Internal combustion engine" includes substitute products such as fuel cell, electric, and hybrid drives.

3. "Vehicle" means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. "Vehicle" includes any truck, tractor, motorcycle, snowmobile, all−terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

(ad) *Credit.* 1. Except as provided in subds. 2. and 3., for taxable year 1986 and subsequent years, any corporation may credit against taxes otherwise due under this chapter an amount equal to 5 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

2. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses paid or incurred by the claimant for research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

3. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses paid or incurred by the claimant for research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid−electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

(b) *Calculation and administration.* Subsection (4) (b) to (i) as it relates to the credit under that subsection applies to the credit under this subsection.

(5b) EARLY STAGE SEED INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Fund manager" means an investment fund manager certified under s. 238.15 (2) or s. 560.205 (2), 2009 stats.

(b) *Filing claims.* 1. For taxable years beginning after December 31, 2004, subject to the limitations provided under this subsection and s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of those taxes, 25 percent of the claimant's investment paid to a fund manager that the fund manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009 stats.

2. In the case of a partnership, limited liability company, or tax−option corporation, the computation of the 25 percent limitation under subd. 1. shall be determined at the entity level rather than the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity's organizational documents. The entity shall provide to the department of revenue and to the department of commerce or the Wisconsin Economic Development Corporation the names and tax identification numbers of the claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

(c) *Limitations.* Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest or as specially allocated in their organizational documents.

(d) *Administration.* 1. Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. The Wisconsin adjusted basis of any investment for which a credit is claimed under par. (b) shall be reduced by the amount of the credit that is offset against Wisconsin income taxes. The Wisconsin basis of a partner's interest in a partnership, a member's interest in a limited liability company, or stock in a tax−option corporation shall be adjusted to reflect adjustments made under this subdivision.

3. Except as provided under s. 238.15 (3) (d) (intro.), for investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

(5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Internet equipment used in the broadband market" means equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobits per second in either direction.

(b) *Filing claims.* Subject to the limitations provided in this subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first taxable year following the taxable year in which the claimant claims a deduction under s. 77.585 (9), a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of those taxes, in each taxable year for 2 years, the amount of sales and use tax certified by the department of commerce that resulted from the claimant claiming a deduction under s. 77.585 (9).

(c) *Limitations.* 1. No credit may be allowed under this subsection unless the claimant satisfies the requirements under s. 77.585 (9).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their use of sales and use tax exemptions certified by the department of commerce as described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and sharehold-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

ers of tax−option corporations may claim the credit in proportion to their ownership interests.

3. The total amount of the credits and the sales and use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed by all claimants under this subsection and ss. 71.07 (5e), 71.47 (5e), and 77.585 (9) is $7,500,000, as determined by the department of commerce.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(5f) FILM PRODUCTION SERVICES CREDIT. (a) *Definitions.* In this subsection:

1. "Accredited production" means a film, video, broadcast advertisement, or television production, as approved by the department of commerce or the department of tourism, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds $50,000. "Accredited production" also means an electronic game, as approved by the department of commerce or the department of tourism, for which the aggregate salary and wages included in the cost of the production for the period ending 36 months after the month in which the principal programming, filming, or taping of the production begins exceeds $100,000. "Accredited production" does not include any of the following, regardless of the production costs:

a. News, current events, or public programming or a program that includes weather or market reports.

b. A talk show.

c. A production with respect to a questionnaire or contest.

d. A sports event or sports activity.

e. A gala presentation or awards show.

f. A finished production that solicits funds.

g. A production for which the production company is required under 18 USC 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program.

h. A production produced primarily for industrial, corporate, or institutional purposes.

2. "Claimant" means a person who files a claim under this subsection.

3. "Production expenditures" means any expenditures that are incurred in this state and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make−up, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar expenditure as determined by the department of commerce or the department of tourism. "Production expenditures" do not include salary, wages, or labor−related contract payments.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.23 any of the following amounts:

1. An amount equal to 25 percent of the salary, wages, or labor−related contract payments paid by the claimant in the taxable year to individuals, including actors, who were residents of this state at the time that they were paid and who worked on an accredited production in this state, not including the salary, wages, or contract payments paid to any individual who was paid more than $250,000.

3. An amount equal to 25 percent of the production expenditures paid by the claimant in the taxable year to produce an accredited production.

(c) *Limitations.* 1. A claimant may not claim a credit under this subsection if less than 35 percent of the total budget for the accredited production is spent in this state.

2. The total amount of the credits that a claimant may claim under [par. (b) 2.] in a taxable year shall not exceed an amount equal to the first $20,000 of salary, wages, or labor−related contract payments paid to each individual described in [par. (b) 2.] in the taxable year.

NOTE: The cross−reference in brackets does not exist as the result of the governor's partial veto of 2009 Wis. Act 28.

3. No credit may be claimed under par. (b) 3. for the purchase of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) the sale of which is not sourced to this state, as provided under s. 77.522.

5. The maximum amount of the credits that may be claimed under this subsection and sub. (5h) and ss. 71.07 (5f) and (5h) and 71.47 (5f) and (5h) in fiscal year is $500,000.

6. No credit may be allowed under this subsection unless the claimant files an application with the department of commerce or the department of tourism, at the time and in the manner prescribed by the department of commerce or the department of tourism, and the department of commerce or the department of tourism approves the application. The claimant shall submit a fee with the application in an amount equal to 2 percent of the claimant's budgeted production expenditures or $500, whichever is less. The claimant shall submit a copy of the approved application with the claimant's return.

7. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credits under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.23 or no tax is due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bm).

(5g) HEALTH INSURANCE RISK-SHARING PLAN ASSESSMENTS CREDIT. (a) *Definitions.* In this subsection, "claimant" means an insurer, as defined in s. 149.10 (5), who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided under this subsection, for taxable years beginning after December 31, 2005, a claimant may claim as a credit against the taxes imposed under s. 71.23 an amount that is equal to the amount of assessment under s. 149.13 that the claimant paid in the claimant's taxable year, multiplied by the percentage determined under par. (c) 1.

(c) *Limitations.* 1. The department of revenue, in consultation with the office of the commissioner of insurance, shall determine the percentage under par. (b) for each claimant for each taxable year. The percentage shall be equal to $5,000,000 divided by the aggregate assessment under s. 149.13. The office of the commissioner of insurance shall provide to each claimant that participates in the cost of administering the plan the aggregate assessment at the time that it notifies the claimant of the claimant's assessment. The aggregate amount of the credit under this subsection and ss. 71.07 (5g), 71.47 (5g), and 76.655 for all claimants participating in the cost of administering the plan under ch. 149 shall not exceed $5,000,000 in each fiscal year.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. The amount of any credits that a claimant is awarded under this subsection for taxable years beginning after December 31, 2005, and before January 1, 2008, may first be claimed against the tax imposed under this subchapter for taxable years beginning after December 31, 2007, and in the manner determined by the department of revenue.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(5h) FILM PRODUCTION COMPANY INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection and who does business in this state as a film production company.

2. "Film production company" means an entity that exclusively creates accredited productions, as defined in sub. (5f) (a) 1.

3. "Physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing property to prevent deterioration.

4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to doing business in this state as a film production company and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code, except that section 267 of the Internal Revenue Code is modified so that if the claimant owns any part of the property, rather than 50 percent ownership, the claimant is subject to section 267 of the Internal Revenue Code for purposes of this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.23 an amount that is equal to 15 percent of the following that the claimant paid in the taxable year to establish or operate a film production company in this state:

1. The purchase price of depreciable, tangible personal property and items, property, and goods under s. 77.52 (1) (b), (c), and (d), if the sale of the tangible personal property, items, property, or goods is sourced to this state under s. 77.522.

2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the tangible personal property, or item, property, or good under s. 77.52 (1) (b), (c), or (d), is purchased after December 31, 2008, and the tangible personal property, item, property, or good is used for at least 50 percent of its use in the claimant's business as a film production company.

2. A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after December 31, 2008, and the completed project is placed in service after December 31, 2008.

3. A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after December 31, 2008, and the completed project is placed in service after December 31, 2008.

4. No claim may be allowed under this subsection unless the department of commerce or the department of tourism certifies, in writing, that the credits claimed under this subsection are for expenses related to establishing or operating a film production company in this state and the claimant submits a copy of the certification with the claimant's return.

4m. The maximum amount of the credits that may be claimed under this subsection and sub. (5f) and ss. 71.07 (5f) and (5h) and 71.47 (5f) and (5h) in fiscal year is $500,000.

5. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit under sub. (4), applies to the credits under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.23 or no tax is due under s. 71.23, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bL).

(5i) ELECTRONIC MEDICAL RECORDS CREDIT. (a) *Definitions.* In this subsection, "claimant" means a person who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2011, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of those taxes, an amount equal to 50 percent of the amount the claimant paid in the taxable year for information technology hardware or software that is used to maintain medical records in electronic form, if the claimant is a health care provider, as defined in s. 146.81 (1) (a) to (p).

(c) *Limitations.* 1. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (5i) and 71.47 (5i) in a taxable year is $10,000,000, as allocated under s. 73.15 or s. 560.204, 2009 stats.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(5j) ETHANOL AND BIODIESEL FUEL PUMP CREDIT. (a) *Definitions.* In this subsection:

1. "Biodiesel fuel" has the meaning given in s. 168.14 (2m) (a).

2. "Claimant" means a person who files a claim under this subsection.

2d. "Diesel replacement renewable fuel" includes biodiesel and any other fuel derived from a renewable resource that meets all of the applicable requirements of the American Society for Testing and Materials for that fuel and that the department of commerce or the department of safety and professional services designates by rule as a diesel replacement renewable fuel.

2m. "Gasoline replacement renewable fuel" includes ethanol and any other fuel derived from a renewable resource that meets all of the applicable requirements of the American Society for

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

Testing and Materials for that fuel and that the department of commerce or the department of safety and professional services designates by rule as a gasoline replacement renewable fuel.

3. "Motor vehicle fuel" has the meaning given in s. 78.005 (13).

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2007, and before January 1, 2018, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of the taxes, an amount that is equal to 25 percent of the amount that the claimant paid in the taxable year to install or retrofit pumps located in this state that dispense motor vehicle fuel marketed as gasoline and 85 percent ethanol or a higher percentage of ethanol or motor vehicle fuel marketed as diesel fuel and 20 percent biodiesel fuel or that mix fuels from separate storage tanks and allow the end user to choose the percentage of gasoline replacement renewable fuel or diesel replacement renewable fuel in the motor vehicle fuel dispensed.

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is an amount that is equal to $5,000 for each service station for which the claimant has installed or retrofitted pumps as described under par. (b).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. The department of commerce or the department of safety and professional services shall establish standards to adequately prevent, in the distribution of conventional fuel to an end user, the inadvertent distribution of fuel containing a higher percentage of renewable fuel than the maximum percentage established by the federal environmental protection agency for use in conventionally−fueled engines.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(5k) COMMUNITY REHABILITATION PROGRAM CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Community rehabilitation program" means a nonprofit entity, county, municipality, or state or federal agency that directly provides, or facilitates the provision of, vocational rehabilitation services to individuals who have disabilities to maximize the employment opportunities, including career advancement, of such individuals.

3. "Vocational rehabilitation services" include education, training, employment, counseling, therapy, placement, and case management.

4. "Work" includes production, packaging, assembly, food service, custodial service, clerical service, and other commercial activities that improve employment opportunities for individuals who have disabilities.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after July 1, 2011, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of those taxes, an amount equal to 5 percent of the amount the claimant paid in the taxable year to a community rehabilitation program to perform work for the claimant's business, pursuant to a contract.

(c) *Limitations.* 1. The maximum amount of the credit that any claimant may claim under this subsection in a taxable year is $25,000 for each community rehabilitation program for which the claimant enters into a contract to have the community rehabilitation program perform work for the claimant's business.

2. No credit may be claimed under this subsection unless the claimant submits with the claimant's return a form, as prescribed by the department of revenue, that verifies that the claimant has entered into a contract with a community rehabilitation program and that the program has received payment from the claimant for work provided by the program, consistent with par. (b).

3. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(5n) MANUFACTURING AND AGRICULTURE CREDIT. (a) *Definitions.* In this subsection:

1. "Agriculture property factor" means a fraction, the numerator of which is the average value of the claimant's real property and improvements assessed under s. 70.32 (2) (a) 4., owned or rented and used in this state by the claimant during the taxable year to produce, grow, or extract qualified production property, and the denominator of which is the average value of all of the claimant's real property and improvements owned or rented during the taxable year and used by the claimant to produce, grow, or extract qualified production property.

2. "Claimant" means a person who files a claim under this subsection.

3. "Direct costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible under section 162 of the Internal Revenue Code and identified as direct costs in the claimant's managerial or cost accounting records.

4. "Indirect costs" includes all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business that are deductible under section 162 of the Internal Revenue Code, other than cost of goods sold and direct costs, and identified as indirect costs in the claimant's managerial or cost accounting records.

5. a. "Manufacturing property factor" means a fraction, the numerator of which is the average value of the claimant's real and personal property assessed under s. 70.995, owned or rented and used in this state by the claimant during the taxable year to manufacture qualified production property, and the denominator of which is the average value of all the claimant's real and personal property owned or rented during the taxable year and used by the claimant to manufacture qualified production property.

b. For purposes of subd. 6. a. [subd. 5. a.], property owned by the claimant is valued at its original cost and property rented by the claimant is valued at an amount equal to the annual rental paid by the claimant, less any annual rental received by the claimant from sub−rentals, multiplied by 8.

NOTE: The correct cross−reference is shown in brackets. Corrective legislation is pending.

c. For purposes of subd. 6. a. [subd. 5. a.], the average value of property is determined by averaging the values at the beginning and ending of the taxable year, except that the secretary of revenue may require the averaging of monthly values during the taxable

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

year, if such averaging is reasonably required to properly reflect the average value of the claimant's property.

NOTE: The correct cross−reference is shown in brackets. Corrective legislation is pending.

6. "Production gross receipts" means gross receipts from the lease, rental, license, sale, exchange, or other disposition of qualified production property.

7. "Production gross receipts factor" means a fraction, the numerator of which is production gross receipts and the denominator of which is all gross income from whatever source, except for those items specifically excluded under the Internal Revenue Code as adopted by this state and otherwise excluded under Wisconsin law. For purposes of the denominator, income includes gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross income from pass−through entities, and all other gross receipts that are included in income, before apportionment for Wisconsin tax purposes under s. 71.25 (6).

8. "Qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold that are allocable to such receipts, the direct costs that are allocable to such receipts, and the indirect costs multiplied by the production gross receipts factor. "Qualified production activities income" does not include any of the following:

a. Income from film production.

b. Income from producing, transmitting, or distributing electricity, natural gas, or potable water.

c. Income from constructing real property.

d. Income from engineering or architectural services performed with respect to constructing real property.

e. Income from the sale of food and beverages prepared by the claimant at a retail establishment.

f. Income from the lease, rental, license, sale, exchange, or other disposition of land.

9. "Qualified production property" means either of the following:

a. Tangible personal property manufactured in whole or in part by the claimant on property that is assessed as manufacturing property under s. 70.995.

b. Tangible personal property produced, grown, or extracted in whole or in part by the claimant on or from property assessed as agricultural property under s. 70.32 (2) (a) 4.

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax, an amount equal to one of the following percentages of the claimant's eligible qualified production activities income in the taxable year:

1. For taxable years beginning after December 31, 2012, and before January 1, 2014, 1.875 percent.

2. For taxable years beginning after December 31, 2013, and before January 1, 2015, 3.75 percent.

3. For taxable years beginning after December 31, 2014, and before January 1, 2016, 5.526 percent.

4. For taxable years beginning after December 31, 2015, 7.5 percent.

(c) *Limitations.* Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their share of the income described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. Except as provided in subd. 3., for purposes of determining a claimant's eligible qualified production activities income under this subsection, the claimant shall multiply the claimant's qualified production activities income from property manufactured by the claimant by the manufacturing property factor and qualified production activities income from property produced, grown, or extracted by the claimant by the agriculture property factor.

3. The amount of the eligible qualified production activities income that a claimant may claim in computing the credit under par. (b) is the lesser of the following:

a. The eligible qualified production activities income determined under subd. 2.

b. Income apportioned to this state under s. 71.25 (5), (6), and (6m).

c. Income determined to be taxable under s. 71.255 (2).

(5r) POSTSECONDARY EDUCATION CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a corporation that files a claim under this subsection.

2. "Course of instruction" has the meaning given in s. 38.50 (1) (c).

3. "Family member" has the meaning given in s. 157.061 (7).

4. "Managing employee" means an individual who wholly or partially exercises operational or managerial control over, or who directly or indirectly conducts, the operation of the claimant's business.

5. "Paid or incurred" includes any amount paid by the claimant to reimburse an individual for the tuition that the individual paid or incurred.

6. "Qualified postsecondary institution" means all of the following:

a. A University of Wisconsin System institution, a technical college system institution, or a regionally accredited 4−year nonprofit college or university having its regional headquarters and principal place of business in this state.

b. A school approved under s. 38.50, if the delivery of education occurs in this state.

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.23 an amount equal to the following:

1. Twenty−five percent of the tuition that the claimant paid or incurred for an individual to participate in an education program of a qualified postsecondary institution, if the individual was enrolled in a course of instruction and eligible for a grant from the Federal Pell Grant Program.

2. Thirty percent of the tuition that the claimant paid or incurred for an individual to participate in an education program of a qualified postsecondary institution, if the individual was enrolled in a course of instruction that relates to a projected worker shortage in this state, as determined by the local workforce development boards established under 29 USC 2832, and if the individual was eligible for a grant from the Federal Pell Grant Program.

(c) *Limitations.* 1. No credit may be allowed under par. (b) unless the claimant certifies to the department of revenue that the claimant will not be reimbursed for any amount of tuition for which the claimant claims a credit under par. (b).

2. A claimant may not claim the credit under par. (b) for any tuition amounts that the individual described under par. (b) excluded under section 127 of the Internal Revenue Code.

3. A claimant may not claim the credit under par. (b) for any tuition amounts that the claimant paid or incurred for a family member of a managing employee unless all of the following apply:

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

a. The family member was employed an average of at least 20 hours per week as an employee of the claimant, or the claimant's business, during the one−year period prior to commencing participation in the education program in connection with which the claimant claims a credit under par. (b).

b. The family member is enrolled in a course of instruction that is substantially related to the claimant's business.

3m. A claimant may not claim the credit under par. (b) for any tuition amounts that the claimant paid or incurred for an individual who is not a resident of this state.

4. The claimant shall claim the credit for the taxable year in which the individual graduates from a course of instruction in an amount equal to the total amount the claimant paid or incurred under par. (b) for all taxable years in which the claimant paid or incurred such amounts related to that individual.

5. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of tuition under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(5rm) WATER CONSUMPTION CREDIT. (a) *Definitions.* In this subsection:

1. "Ccf" means 100 cubic feet.

2. "Claimant" means a person who files a claim under this subsection, who is an industrial customer of a municipal water utility that is located in a federal renewal community zone in this state, and whose average annual water consumption from that utility for a 24−month period exceeds 1,000,000 Ccf.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2009, and before January 1, 2020, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax, the amount determined as follows, except that the maximum amount that a claimant may claim in a taxable year under this subsection is $300,000:

1. Subtract the claimant's 2009 water usage costs from the claimant's water usage costs for the taxable year.

2. If the amount determined under subd. 1. is a positive number, multiply that amount by 0.50.

(c) *Limitations.* Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(6) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. (a) Any person may credit against taxes otherwise due under this chapter, up to the amount of those taxes, an amount equal to 5% of the costs of qualified rehabilitation expenditures, as defined in section 47 (c) (2) of the internal revenue code, for certified historic structures on property located in this state if the physical work of construction or destruction in preparation for construction begins after December 31, 1988, and the rehabilitated property is placed in service after June 30, 1989.

(c) No person may claim the credit under this subsection unless the claimant includes with the claimant's return evidence that the rehabilitation was recommended by the state historic preservation officer for approval by the secretary of the interior under 36 CFR 67.6 before the physical work of construction, or destruction in preparation for construction, began and that the rehabilitation was approved by the secretary of the interior under 36 CFR 67.6.

(cm) Any credit claimed under this subsection for Wisconsin purposes shall be claimed at the same time as for federal purposes.

(d) The Wisconsin adjusted basis of the building shall be reduced by the amount of any credit awarded under this subsection. The Wisconsin adjusted basis of a partner's interest in a partnership, of a member's interest in a limited liability company or of stock in a tax−option corporation shall be adjusted to take into account adjustments made under this paragraph.

(e) The provisions of sub. (4) (e), (f), (g) and (h), as they apply to the credit under that subsection, apply to the credit under this subsection.

(f) A partnership, limited liability company, or tax−option corporation may not claim the credit under this subsection. The partners of a partnership, members of a limited liability company, or shareholders in a tax−option corporation may claim the credit under this subsection based on eligible costs incurred by the partnership, limited liability company, or tax−option corporation. The partnership, limited liability company, or tax−option corporation shall calculate the amount of the credit which may be claimed by each partner, member, or shareholder and shall provide that information to the partner, member, or shareholder. For shareholders of a tax−option corporation, the credit may be allocated in proportion to the ownership interest of each shareholder. Credits computed by a partnership or limited liability company may be claimed in proportion to the ownership interests of the partners or members or allocated to partners or members as provided in a written agreement among the partners or members that is entered into no later than the last day of the taxable year of the partnership or limited liability company, for which the credit is claimed. For a partnership or limited liability company that places property in service after June 29, 2008, and before January 1, 2009, the credit attributable to such property may be allocated, at the election of the partnership or limited liability company, to partners or members for a taxable year of the partnership or limited liability company that ends after June 29, 2008, and before January 1, 2010. Any partner or member who claims the credit as provided under this paragraph shall attach a copy of the agreement, if applicable, to the tax return on which the credit is claimed. A person claiming the credit as provided under this paragraph is solely responsible for any tax liability arising from a dispute with the department of revenue related to claiming the credit.

(g) 1. If a person who claims the credit under this subsection elects to claim the credit based on claiming amounts for expenditures as the expenditures are paid, rather than when the rehabilitation work is completed, the person shall file an election form with the department, in the manner prescribed by the department.

2. Notwithstanding s. 71.77, the department may adjust or disallow the credit claimed under this subsection within 4 years after the date that the state historical society notifies the department that the expenditures for which the credit was claimed do not comply with the standards for certification promulgated under s. 44.02 (24).

(6n) VETERAN EMPLOYMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Disabled veteran" means a veteran who is verified by the department of veteran affairs to have a service−connected disability rating of at least 50 percent under 38 USC 1114 or 1134.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

3. "Full−time job" means a regular, nonseasonal full−time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays.

4. "Part−time job" means a regular, nonseasonal part−time position in which an individual, as a condition of employment, is required to work fewer than 2,080 hours per year, including paid leave and holidays.

5. "Veteran" means a person who is verified by the department of veteran affairs to have served on active duty under honorable conditions in the U.S. armed forces, in forces incorporated as part of the U.S. armed forces, in the national guard, or in a reserve component of the U.S. armed forces.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2011, a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of the tax, an amount equal to any of the following:

1. For each disabled veteran the claimant hires in the taxable year to work a full−time job at the claimant's business in this state, $4,000 in the taxable year in which the disabled veteran is hired and $2,000 in each of the 3 taxable years following the taxable year in which the disabled veteran is hired.

2. Subject to par. (c) 4., for each disabled veteran the claimant hires in the taxable year to work a part−time job at the claimant's business in this state, $2,000 in the taxable year in which the disabled veteran is hired and $1,000 in each of the 3 taxable years following the taxable year in which the disabled veteran is hired.

(c) *Limitations.* 1. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their hiring of disabled veterans, as described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

2. No credit may be claimed under this subsection in any taxable year in which the disabled veteran voluntarily or involuntarily leaves his or her employment with the claimant.

3. A claimant may claim a credit under this subsection only for hiring a disabled veteran who has received unemployment compensation benefits for at least one week prior to being hired by the claimant, who was receiving such benefits at the time that he or she was hired by the claimant, and who was eligible to receive such benefits at the time the benefits were paid.

4. With regard to a credit claimed under par. (b) 2., the amount that the claimant may claim is determined as follows:

a. Divide the number of hours that the disabled veteran worked for the claimant during the taxable year by 2,080.

b. Multiply the amount of the credit under par. (b) 2., as appropriate, by the number determined under subd. 4. a.

(d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(8r) BEGINNING FARMER AND FARM ASSET OWNER TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Agricultural assets" means machinery, equipment, facilities, or livestock that is used in farming.

2. "Beginning farmer" means a person who meets the conditions specified in s. 93.53 (2).

3. "Claimant" means an established farmer who files a claim under this subsection.

4. "Established farmer" means a person who meets the conditions specified in s. 93.53 (3).

5. "Farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code.

6. "Lease amount" is the amount of the cash payment paid by a beginning farmer to an established farmer each year for leasing the established farmer's agricultural assets.

(b) *Filing claims.* For taxable years beginning after December 31, 2010, and subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.23 an amount equal to 15 percent of the lease amount received by the claimant in the taxable year. If the allowable amount of the claim exceeds the taxes otherwise due on the claimant's income, the amount of the claim not used as an offset against those taxes shall be certified by the department of revenue to the department of administration for payment to the claimant by check, share draft, or other draft from the appropriation under s. 20.835 (2) (en).

(c) *Limitations.* 1. A claimant may only claim the credit under this subsection for the first 3 years of any lease of the claimant's agricultural assets to a beginning farmer.

2. Along with a claimant's income tax return, a claimant shall submit to the department a certificate of eligibility provided under s. 93.53 (5) (c).

3. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on the amounts received by the entities under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Subsection (4) (e), (g), and (h), as it applies to the credit under that sub. (4), applies to the credit under this subsection.

(9s) RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Locates to this state" means moving either 51 percent or more of the workforce payroll of the business or at least $200,000 of wages, as defined in section 3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the first taxable year to which a credit under this subsection relates.

(b) *Filing claims.* Subject to the limitations provided under this subsection, for taxable years beginning after December 31, 2010, for 2 consecutive taxable years beginning with the taxable year in which the claimant's business locates to this state from another state or another country and begins doing business in this state, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of the taxes, the amount of the claimant's tax liability under this subchapter after applying all other allowable credits, deductions, and exclusions.

(c) *Limitations.* 1. No person may claim a credit under this subsection if the person has done business in this state during any of the 2 taxable years preceding the first taxable year in which the person would otherwise be eligible to claim a credit under par. (b).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection.

(d) *Administration.* 1. Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. The department shall promulgate rules to administer this subsection.

Cross−reference: See also s. Tax 2.957, Wis. adm. code.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 s. 80; s. 35.17 correction in (1dm) (a) 1.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

71.29 Payments of estimated taxes. (1) DEFINITIONS. In this section:

(a) "Return" means a return that would show the tax properly due.

(b) "Tax shown on the return" and "tax for the taxable year" mean the net taxes imposed under s. 71.23 (1) or (2) after reduction for credits against those taxes but before reduction for amounts paid as estimated tax under this section plus the surcharge imposed under s. 77.93 before reduction for amounts paid as estimated tax under this section for that surcharge.

(c) "Virtually exempt entity" means any entity, other than a corporation, that is subject to a tax under this chapter on unrelated business taxable income as defined under section 512 of the internal revenue code.

(2) WHO SHALL PAY. Every corporation subject to tax under s. 71.23 (1) or (2) and every virtually exempt entity subject to tax under s. 71.125 or 71.23 (1) or (2) shall pay an estimated tax.

(3) REFUND CARRY−FORWARD. If a corporation or virtually exempt entity claims a refund on any tax return and, concurrent with or subsequent to filing the return upon which that refund is claimed, is required to pay an estimated tax, and at the time of paying that tax the refund has not been paid, the corporation or virtually exempt entity may deduct the amount of that refund from the first installment of estimated taxes and may deduct any excess from the succeeding installments.

(3m) REFUNDS. The department of revenue may refund estimated taxes after the completion of the taxable year to which the estimated taxes relate if the refund is at least 10% of the taxes estimated for that taxable year and is at least $500. A refund under this subsection may be subject to s. 71.84 (2) (c).

(4) PREPAYMENTS. Any installment of the estimated tax under this section may be paid before the due date.

(5) SHORT YEAR. Application of this section to taxable years of less than 12 full months shall be made under the department of revenue's rules.

Cross−reference: See also s. Tax 2.89, Wis. adm. code.

(6) OVERPAYMENTS. If the amount of an installment payment of estimated tax exceeds the amount determined to be the correct amount of that payment, the overpayment shall be credited against the next unpaid installment.

(7) EXCEPTION TO INTEREST. No interest is required under s. 71.84 (2) (a) or (b) for a corporation or virtually exempt entity if any of the following conditions apply:

(a) The tax shown on the return or, if no return is filed, the tax is less than $500.

(b) The preceding taxable year was 12 months, the corporation or virtually exempt entity had no liability under s. 71.125 or 71.23 (1) or (2) for that year and the corporation or virtually exempt entity has a Wisconsin net income of less than $250,000 for the current taxable year.

(c) For taxable years beginning after December 31, 2008, the taxpayer qualifies for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action.

(8) INSTALLMENT DUE DATES. Taxpayers shall make estimated payments in 4 installments, on or before the 15th day of each of the following months:

(a) The 3rd month of the taxable year.

(b) The 6th month of the taxable year.

(c) The 9th month of the taxable year.

(d) The 12th month of the taxable year.

(9) INSTALLMENT AMOUNTS; INCOME OF LESS THAN $250,000. (a) For corporations or virtually exempt entities that have Wisconsin net incomes of less than $250,000, except as provided in pars. (b) and (c), the amount of each installment required under sub. (8) is 25% of the lower of the following amounts:

1. Ninety percent of the tax shown on the return for the taxable year or, if no return is filed, 90% of the tax for the taxable year.

2. The tax shown on the return for the preceding year.

(b) Paragraph (a) 2. does not apply if the preceding taxable year was less than 12 months or if the corporation did not file a return for the preceding year.

(c) If 22.5% for the first installment, 45% for the 2nd installment, 67.5% for the 3rd installment and 90% for the 4th installment of the tax for the taxable year computed by annualizing, under methods prescribed by the department of revenue, the corporation's income, or the virtually exempt entity's unrelated business taxable income, for the months in the taxable year ending before the installment's due date is less than the installment required under par. (a), the corporation or virtually exempt entity may pay the amount under this paragraph rather than the amount under par. (a). For purposes of computing annualized income under this paragraph, the apportionment percentage computed under s. 71.25 (6) and (10) to (12) from the return filed for the previous taxable year may be used if that return was filed with the department of revenue on or before the due date of the installment for which the income is being annualized and if the apportionment percentage on that previous year's return was greater than zero. For purposes of computing annualized income of corporations that are subject to a tax under this chapter on unrelated business taxable income, as defined under section 512 of the internal revenue code, and virtually exempt entities, the taxpayer's income for the months in the taxable year ending before the date one month before the due date for the installment shall be used. Any corporation or virtually exempt entity that pays an amount calculated under this paragraph shall increase the next installment computed under par. (a) by an amount equal to the difference between the amount paid under this paragraph and the amount that would have been paid under par. (a).

(10) INSTALLMENT AMOUNTS; INCOME OF $250,000 OR MORE. (a) Except as provided in par. (c), for corporations or virtually exempt entities that have Wisconsin net incomes of $250,000 or more, the amount of each installment required under sub. (8) is 25% of the amount under par. (b).

(b) Ninety percent of the tax shown on the return for the taxable year or, if no return is filed, 90% of the tax for the taxable year.

(c) If 22.5% for the first installment, 45% for the 2nd installment, 67.5% for the 3rd installment and 90% for the 4th installment of the tax for the taxable year computed by annualizing, under methods prescribed by the department of revenue, the corporation's income, or the virtually exempt entity's unrelated business taxable income, for the months in the taxable year ending before the installment's due date is less than the installment required under par. (a), the corporation or virtually exempt entity may pay the amount under this paragraph rather than the amount under par. (a). For purposes of computing annualized income under this paragraph, the apportionment percentage computed under s. 71.25 (6) and (10) to (12) from the return filed for the previous taxable year may be used if that return is filed with the department of revenue on or before the due date of the installment for which the income is being annualized and the apportionment percentage on that previous year's return is greater than zero or may be used if that return is filed with the department of revenue on or before the due date of the 3rd installment, the apportionment percentage on that previous year's return is greater than zero and the apportionment percentage used in the computation of the first 2 installments is not less than the apportionment percentage on that previous year's return. For purposes of computing annualized income of corporations that are subject to a tax under this chapter on unrelated business taxable income, as defined under section 512 of the internal revenue code, and virtually exempt entities, the taxpayer's income for the months in the taxable year ending before the date one month before the due date for the installment shall be used. Any corporation or virtually exempt entity that pays an amount calculated under this paragraph shall increase the next installment computed under par. (a) by an amount equal to the difference between the amount paid under this paragraph and the amount that would have been paid under par. (a).

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(11) EXCEPTION TO FINAL INSTALLMENT. If a corporation or virtually exempt entity files a return for a calendar year on or before January 31 of the succeeding calendar year (or if a corporation or virtually exempt entity on a fiscal year basis files a return on or before the last day of the first month immediately succeeding the close of such fiscal year) and pays in full at the time of such filing the amount computed on the return as payable, then, if estimated taxes are not required to be paid on or before the 15th day of the 9th month of the taxable year but are required to be paid on or before the 15th day of the 12th month of the taxable year, such return shall be considered as payment.

History: 1987 a. 312; 1987 a. 411 ss. 111, 140 to 143; 1989 a. 31; 1991 a. 39; 1993 a. 16, 204; 1997 a. 27; 2009 a. 28.

71.30 General provisions. (1) ACCOUNTING METHOD. (a) A corporation shall use a method of accounting authorized under the internal revenue code and shall use the same method used for federal income tax purposes if that method is authorized under the internal revenue code.

(b) A corporation that changes its method of accounting while subject to taxation under this chapter shall make the adjustments required under the internal revenue code, except that in the last year that a corporation is subject to taxation under this chapter it shall take into account all of the remaining adjustments required by this chapter because of a change in method of accounting.

(2) ALLOCATION OF GROSS INCOME, DEDUCTIONS, CREDITS BETWEEN 2 OR MORE BUSINESSES. In any case of 2 or more organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, whether or not affiliated, and whether or not unitary) owned or controlled directly or indirectly by the same interests, the secretary or his or her delegate may distribute, apportion or allocate gross income, deductions, credits or allowances between or among such organizations, trades or businesses, if he or she determines that such distribution, apportionment or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades or businesses. The authority granted under this subsection is in addition to, and not a limitation of or dependent on, the provisions of ss. 71.05 (6) (a) 24. and (b) 45., 71.26 (2) (a) 7. and 8., 71.34 (1k) (j) and (k), 71.45 (2) (a) 16. and 17., and 71.80 (23).

(2m) TRANSACTIONS WITHOUT ECONOMIC SUBSTANCE. (a) If any person, directly or indirectly, engages in a transaction or series of transactions without economic substance to create a loss or to reduce taxable income or to increase credits allowed in determining Wisconsin tax, the department shall determine the amount of a taxpayer's taxable income or tax so as to reflect what would have been the taxpayer's taxable income or tax if not for the transaction or transactions without economic substance causing the reduction in taxable income or tax.

(b) A transaction has economic substance only if the taxpayer shows both of the following:

1. The transaction changes the taxpayer's economic position in a meaningful way, apart from federal, state, local, and foreign tax effects.

2. The taxpayer has a substantial nontax purpose for entering into the transaction and the transaction is a reasonable means of accomplishing the substantial nontax purpose. A transaction has a substantial nontax purpose if it has substantial potential for profit, disregarding any tax effects.

(c) With respect to transactions between members of a controlled group as defined in section 267 (f) (1) of the Internal Revenue Code, such transactions shall be presumed to lack economic substance and the taxpayer shall bear the burden of establishing by clear and convincing evidence that a transaction or a series of transactions between the taxpayer and one or more members of the controlled group has economic substance.

(3) COMPUTATIONS ORDER. Notwithstanding any other provisions in this chapter, corporations computing liability for the tax under s. 71.23 (1) or (2) shall make computations in the following order:

(a) Tax under s. 71.23 (1) or (2).

(b) Manufacturing sales tax credit under s. 71.28 (3).

(bb) Manufacturing investment credit under s. 71.28 (3t).

(bm) Dairy investment credit under s. 71.28 (3n).

(bn) Community rehabilitation program credit under s. 71.28 (5k).

(c) Research credit under s. 71.28 (4).

(cd) Postsecondary education credit under s. 71.28 (5r).

(ce) Water consumption credit under s. 71.28 (5rm).

(cn) Biodiesel fuel production credit under s. 71.28 (3h).

(d) Research facilities credit under s. 71.28 (5).

(db) Super research and development credit under s. 71.28 (4m).

(dm) Health Insurance Risk−Sharing Plan assessments credit under s. 71.28 (5g).

(dn) Manufacturing and agriculture credit under s. 71.28 (5n).

(dp) Veteran employment credit under s. 71.28 (6n).

(ds) Ethanol and biodiesel fuel pump credit under s. 71.28 (5j).

(e) Community development finance credit under s. 71.28 (1).

(eb) Development zones jobs credit under s. 71.28 (1dj).

(ec) Development zones sales tax credit under s. 71.28 (1ds).

(eg) Development zones investment credit under s. 71.28 (1di).

(eh) Development zones location credit under s. 71.28 (1dL).

(ei) Development zone capital investment credit under s. 71.28 (1dm).

(ej) Development zones day care credit under s. 71.28 (1dd).

(ek) Development zones environmental remediation credit under s. 71.28 (1de).

(eL) Development zones credit under s. 71.28 (1dx).

(ema) Economic development tax credit under s. 71.28 (1dy).

(eon) Technology zones credit under s. 71.28 (3g).

(eop) Early stage seed investment credit under s. 71.28 (5b).

(ep) Supplement to federal historic rehabilitation credit under s. 71.28 (6).

(epa) Electronic medical records credit under s. 71.28 (5i).

(es) Internet equipment credit under s. 71.28 (5e).

(ex) Relocated business credit under s. 71.28 (9s).

(f) The total of farmland preservation credit under subch. IX, farmland tax relief credit under s. 71.28 (2m), dairy manufacturing facility investment credit under s. 71.28 (3p), jobs credit under s. 71.28 (3q), meat processing facility investment credit under s. 71.28 (3r), woody biomass harvesting and processing credit under s. 71.28 (3rm), food processing plant and food warehouse investment credit under s. 71.28 (3rn), enterprise zone jobs credit under s. 71.28 (3w), film production services credit under s. 71.28 (5f), film production company investment credit under s. 71.28 (5h), beginning farmer and farm asset owner tax credit under s. 71.28 (8r), and estimated tax payments under s. 71.29.

(4) DEFENSE CONTRACT RENEGOTIATION. If the renegotiation or price redetermination of any corporation defense contract or subcontract by the government of the United States or any agency thereof or the voluntary adjustment of prices, costs or profits on any such contract or subcontract results in a reduction of income, the amount of any repayment or credit pursuant to such renegotiation, price redetermination or adjustment, including any federal income taxes credited as a part thereof, shall be allowed as a deduction from the corporate taxable income of the year in which said income was reported for taxation. Any federal income tax previously paid upon any income so repaid or credited shall be disallowed as a deduction from income of the year in which such tax was originally deducted, to the extent that such tax constituted an allowable deduction for said year. Any corporate taxpayer affected by such renegotiation, price redetermination or voluntary adjustment may within one year after the final determination thereof file a claim for refund and secure the same without inter-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

est, and the department of revenue shall make appropriate adjustments on account of said tax deductions without interest, notwithstanding the limitations of s. 71.75 or other applicable statutes.

(5) DISC INCOME COMBINING. In the case of a parent corporation, its DISC or affiliate, the net income of a DISC derived from business transacted with its parent shall be combined with the income of the parent corporation and the net income of a DISC derived from business transacted with the parent's affiliated corporation shall be combined with the net income of the affiliated corporation to determine the amount of income subject to taxation under this chapter for the DISC, the parent corporation or the affiliate of the parent corporation as separate taxable entities. The net income of the parent corporation shall not include dividends received from the DISC paid from income previously combined for taxation under this subsection. "DISC" (domestic international sales corporation) has the meaning specified in section 992 of the internal revenue code as amended to December 31, 1979. For purposes of this subsection, a corporation is affiliated if at least 50% of its total combined voting stock is owned directly or indirectly by its parent corporation.

(6) INSTALLMENT METHOD; DISTRIBUTIONS AND FINAL YEAR. A corporation entitled to use the installment method of accounting shall take the unreported balance of gain on all installment obligations into income in the taxable year of their distribution, transfer or acquisition by another person or for the final taxable year for which it files or is required to file a return under this chapter, whichever year occurs first.

(7) PENALTIES. Unless specifically provided in this subchapter, the penalties under subch. XIII apply for failure to comply with the provisions of this subchapter unless the context requires otherwise.

(8) PRICING EFFECT ON TAXABLE INCOME. (a) When any corporation liable to taxation under this chapter conducts its business in such a manner as either directly or indirectly to benefit the members or stockholders thereof or any person interested in such business, by selling its products or the goods or commodities in which it deals at less than the fair price which might be obtained therefor, or where a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a substantial portion of its stock in such a manner as to create a loss or improper net income, the department may determine the amount of taxable income to such corporation for the calendar or fiscal year, having due regard to the reasonable profits which but for such arrangement or understanding might or could have been obtained from dealing in such products, goods or commodities.

(b) For the purpose of this chapter, if a corporation which is required to file an income or franchise tax return is affiliated with or related to any other corporation through stock ownership by the same interests or as parent or subsidiary corporations or has income that is regulated through contract or other arrangement, the department of revenue may require such consolidated statements as in its opinion are necessary in order to determine the taxable income received by any one of the affiliated or related corporations or to determine whether the corporations are a unitary business.

(9) RESERVE ACCOUNT TRANSFER TO SURPLUS. If any transfer of a reserve or other account or portion thereof is in effect a transfer to surplus, so much of such transfer as had been accumulated through deductions from the gross or taxable income of the years open to audit under s. 71.74 (1) and (2) shall be included in the gross or taxable income of such years, and so much of such transfer as has been accumulated through deductions from the gross or taxable income of the years following January 1, 1911, and not open to audit under s. 71.74 (1) and (2) shall be included in the gross or taxable income of the year in which such transfer was effected.

(10) ENDANGERED RESOURCES. (a) *Definitions.* In this subsection:

1. "Conservation fund" means the fund under s. 25.29.

2. "Endangered resources program" means purchasing or improving land or habitats for any native Wisconsin endangered or threatened species, as defined in s. 29.604 (2) (a) or (b), or for any nongame species, as defined in s. 29.001 (60); conducting the natural heritage inventory program under s. 23.27 (3); conducting wildlife and resource research and surveys; providing wildlife management services; providing for wildlife damage control or the payment of claims for damage associated with endangered or threatened species; and the payment of administrative expenses related to the administration of this subsection.

(b) *Voluntary payments.* 1. 'Designation on return.' A corporation filing an income or franchise tax return may designate on the return any amount of additional payment or any amount of a refund that is due the corporation for the endangered resources program.

2. 'Designation added to tax owed.' If the corporation owes any tax, the corporation shall remit in full the tax due and the amount designated on the return for the endangered resources program when the corporation files a tax return.

3. 'Designation deducted from refund.' Except as provided under par. (d), and subject to ss. 71.75 (9) and 71.80 (3), if the corporation is owed a refund, the department shall deduct the amount designated on the return for the endangered resources program from the amount of the refund.

(c) *Errors; failure to remit correct amount.* 1. 'Reduced designation.' If a corporation remits an amount that exceeds the tax due, after error corrections, but that is less than the total of the tax due, after error corrections, and the amount that is designated by the corporation on the return for the endangered resources program, the department shall reduce the designation for the endangered resources program to reflect the amount remitted that exceeds the tax due, after error corrections.

2. 'Void designation.' The designation for the endangered resources program is void if the corporation remits an amount equal to or less than the tax due, after error corrections.

(d) *Errors; insufficient refund.* If a corporation is owed a refund that is less than the amount designated on the return for the endangered resources program, after attachment and crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections, the department shall reduce the designation for the endangered resources program to reflect the actual amount of the refund the corporation is otherwise owed.

(e) *Conditions.* If a corporation places any conditions on a designation for the endangered resources program, the designation is void.

(f) *Void designation.* If a designation for the endangered resources program is void, the department shall disregard the designation and determine the amounts due, owed, refunded and received.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the corporate income and franchise tax returns.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the department of natural resources and the department of administration:

1. The total amount of the administrative costs, including data processing costs, incurred by the department of revenue in administering this subsection during the previous fiscal year.

2. The total amount received from all designations for the endangered resources program made by corporations during the previous fiscal year.

3. The net amount remaining after the administrative costs under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations.* From the moneys received from designations for the endangered resources program, an amount equal to the sum of administrative expenses certified under par. (h) 1. shall

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

be deposited into the general fund and credited to the appropriation under s. 20.566 (1) (hp), and the net amount remaining certified under par. (h) 3. shall be deposited into the conservation fund and credited to the appropriation under s. 20.370 (1) (fs).

(j) *Refunds.* An amount designated for the endangered resources program under this subsection is not subject to refund to a corporation that designates a donation under par. (b) unless the corporation submits information to the satisfaction of the department within 18 months from the date that taxes are due from the corporation or from the date that the corporation filed the return, whichever is later, that the amount designated is clearly in error. A refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year that the refund is certified under 71.75 (7).

(11) VETERANS TRUST FUND. (a) *Definitions.* In this subsection, "veterans trust fund" means the fund under s. 25.36.

(b) *Voluntary payments.* 1. 'Designation on return.' A corporation filing an income or franchise tax return may designate on the return any amount of additional payment or any amount of a refund that is due the corporation as a donation to the veterans trust fund to be used for veterans programs under s. 25.36 (1).

2. 'Designation added to tax owed.' If the corporation owes any tax, the corporation shall remit in full the tax due and the amount designated on the return as a donation to the veterans trust fund when the corporation files a tax return.

3. 'Designation deducted from refund.' Except as provided under par. (d), and subject to ss. 71.75 (9) and 71.80 (3), if the corporation is owed a refund, the department shall deduct the amount designated on the return as a donation to the veterans trust fund from the amount of the refund.

(c) *Errors; failure to remit correct amount.* 1. 'Reduced designation.' If a corporation remits an amount that exceeds the tax due, after error corrections, but that is less than the total of the tax due, after error corrections, and the amount designated by the corporation on the return as a donation to the veterans trust fund, the department shall reduce the designation to reflect the amount remitted that exceeds the tax due, after error corrections.

2. 'Void designation.' The designation for a donation to the veterans trust fund is void if the corporation remits an amount equal to or less than the tax due, after error corrections.

(d) *Errors; insufficient refund.* If a corporation is owed a refund that is less than the amount designated on the return as a donation to the veterans trust fund, after attachment and crediting under ss. 71.75 (9) and 71.80 (3) and after error corrections, the department shall reduce the designation to reflect the actual amount of the refund the corporation is otherwise owed.

(e) *Conditions.* If a corporation places any conditions on a designation for a donation to the veterans trust fund, the designation is void.

(f) *Void designation.* If a designation for a donation to the veterans trust fund is void, the department shall disregard the designation and determine the amounts due, owed, refunded, and received.

(g) *Tax return.* The secretary of revenue shall provide a place for the designations under this subsection on the corporate income and franchise tax returns.

(h) *Certification of amounts.* Annually, on or before September 15, the secretary of revenue shall certify to the department of veterans affairs and the department of administration:

1. The total amount of the administrative costs, including data processing costs, incurred by the department of revenue in administering this subsection during the previous fiscal year.

2. The total amount received from all designations to the veterans trust fund under this subsection made by corporations during the previous fiscal year.

3. The net amount remaining after the administrative costs under subd. 1. are subtracted from the total received under subd. 2.

(i) *Appropriations.* From the moneys received from designations to the veterans trust fund under this subsection, an amount equal to the sum of administrative expenses certified under par. (h) 1. shall be deposited into the general fund and credited to the appropriation under s. 20.566 (1) (hp), and the net amount remaining certified under par. (h) 3. shall be deposited into the veterans trust fund and used for the veterans programs under s. 25.36 (1).

(j) *Refunds.* An amount designated as a donation to the veterans trust fund under this subsection is not subject to refund to a corporation that designates the donation unless the corporation submits information to the satisfaction of the department within 18 months from the date that taxes are due from the corporation or from the date that the corporation filed the return, whichever is later, that the amount designated is clearly in error. A refund granted by the department under this paragraph shall be deducted from the moneys received under this subsection in the fiscal year that the refund is certified under 71.75 (7).

History: 1987 a. 312; 1987 a. 411 ss. 144, 145, 182 to 185; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33, 99, 135, 255; 2005 a. 25, 74, 361, 479, 483; 2007 a. 20, 226; 2009 a. 2, 28, 265, 269, 295, 332; 2011 a. 3, 32, 212, 222, 232; 2011 a. 260 ss. 26, 80.

SUBCHAPTER V

TAX−OPTION CORPORATIONS

71.32 Conformity. Unless specifically provided in this subchapter, tax−option corporations shall be subject to all of the provisions, requirements and liabilities of this chapter, so far as applicable, unless the context requires otherwise.

History: 1987 a. 312.

71.33 Intent. It is the intent of this subchapter and other subchapters relating to the treatment of tax−option corporations and their shareholders to prevent the double inclusion or omission of any item of income, deduction or basis.

History: 1987 a. 312.

71.34 Definitions. In this subchapter:

(1am) "Aggregate effective tax rate" means the sum of the effective tax rates imposed by a state, U.S. possession, foreign country, or any combination thereof, on the person or entity.

(1b) "Effective tax rate" means the maximum tax rate imposed by the state, U.S. possession, or foreign country, multiplied by the apportionment percentage, if any, applicable to the person or entity under the laws of that state, U.S. possession, or foreign country.

(1c) For purposes of sub. (1k) (j) and (L), "intangible expenses" include the following, to the extent that the amounts would otherwise be deductible in computing Wisconsin adjusted gross income:

(a) Expenses, losses, and costs for, related to, or directly or indirectly in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.

(b) Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions.

(c) Royalty, patent, technical, and copyright fees.

(d) Licensing fees.

(e) Other similar expenses, losses, and costs.

(1d) "Intangible property" includes stocks, bonds, financial instruments, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

(1e) For purposes of sub. (1k) (j) and (L), "interest expenses" means interest that would otherwise be deductible under section 163 of the Internal Revenue Code and deductible in the computation of Wisconsin adjusted gross income.

(1g) (o) "Internal Revenue Code" for tax−option corporations, for taxable years that begin after December 31, 1999, and

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

before January 1, 2003, means the federal Internal Revenue Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, and as amended by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107.22, P.L. 107.116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that section 1366 (f) (relating to pass−through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 1999, do not apply to this paragraph with respect to taxable years beginning after December 31, 1999, and before January 1, 2003, except that changes to the Internal Revenue Code made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(p) "Internal Revenue Code" for tax−option corporations, for taxable years that begin after December 31, 2002, and before January 1, 2004, means the federal Internal Revenue Code as amended to December 31, 2002, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, and sections 101 and 301 (a) of P.L. 107−147, and as amended by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that section 1366 (f) (relating to pass−through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2002, do not apply to this paragraph with respect to taxable years beginning after December 31, 2002, and before January 1, 2004, except that changes to the Internal Revenue Code made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(q) "Internal Revenue Code" for tax−option corporations, for taxable years that begin after December 31, 2003, and before January 1, 2005, means the federal Internal Revenue Code as amended to December 31, 2003, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 109 of P.L. 108−121, and section 1201 of P.L. 108−173, and as amended by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that section 1366 (f) (relating to pass−through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2003, do not apply to this paragraph with respect to taxable years beginning after December 31, 2003, and before January 1, 2005, except that changes to the Internal Revenue Code made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(r) "Internal Revenue Code" for tax−option corporations, for taxable years that begin after December 31, 2004, and before January 1, 2006, means the federal Internal Revenue Code as amended to December 31, 2004, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, and sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, and as amended by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S

(a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that section 1366 (f) (relating to pass−through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2004, do not apply to this paragraph with respect to taxable years beginning after December 31, 2004, and before January 1, 2006, except that changes to the Internal Revenue Code made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(s) "Internal Revenue Code" for tax−option corporations, for taxable years that begin after December 31, 2005, and before January 1, 2007, means the federal Internal Revenue Code as amended to December 31, 2005, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, and sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, and as amended by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that section 1366 (f) (relating to pass−through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2005, do not apply to this paragraph with respect to taxable years beginning after December 31, 2005, and before January 1, 2007, except that changes to the Internal Revenue Code made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(t) "Internal Revenue Code" for tax−option corporations, for taxable years that begin after December 31, 2006, and before January 1, 2008, means the federal Internal Revenue Code as amended to December 31, 2006, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, and P.L. 109−432, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, except that section 1366 (f) (relating to pass−through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2006, do not apply to this paragraph with respect to taxable years beginning after December 31, 2006, and before January 1, 2008, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(u) "Internal Revenue Code" for tax−option corporations, for taxable years that begin after December 31, 2007, and before January 1, 2009, means the federal Internal Revenue Code as amended to December 31, 2007, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, and P.L. 110−172, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, except that section 1366 (f) (relating to pass−through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2007, do not apply to this paragraph with respect to taxable years beginning after December 31, 2007, and before January 1, 2009, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

of division B of P.L. 111−5, and P.L. 111−192, apply for Wisconsin purposes at the same time as for federal purposes.

(um) "Internal Revenue Code" for tax−option corporations, for taxable years that begin after December 31, 2008, and before January 1, 2011, means the federal Internal Revenue Code as amended to December 31, 2008, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, P.L. 110−172, P.L. 110−185, P.L. 110−234, sections 110, 113, and 301 of P.L. 110−245, P.L. 110−246, except section 15316 of P.L. 110−246, P.L. 110−289, except section 3093 of P.L. 110−289, P.L. 110−317, and P.L. 110−343, except section 301 of division B and section 313 of division C of P.L. 110−343, and as amended by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 3093 of P.L. 110−289, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, except that section 1366 (f) (relating to pass−through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2008, do not apply to this paragraph with respect to taxable years beginning after December 31, 2008, and before January 1, 2011, except that changes to the Internal Revenue Code made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and changes that indirectly affect the provisions applicable to this subchapter made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, apply for Wisconsin purposes at the same time as for federal purposes.

(un) "Internal Revenue Code" for tax−option corporations, for taxable years that begin after December 31, 2010, means the federal Internal Revenue Code as amended to December 31, 2010, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−432, except sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, P.L. 110−28, except sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−140, sections 2, 3, and 5 of P.L. 110−142, P.L. 110−166, sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−185, P.L. 110−234, section 301 of P.L. 110−245, P.L. 110−246, except sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, sections 3071, 3081, and 3082 of P.L. 110−289, section 9 (e) of P.L. 110−317, P.L. 110−343, except sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 111−5, except sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 201 of P.L. 111−147, P.L. 111−148, except sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, P.L. 111−152, except section 1407 of P.L. 111−152, P.L. 111−203, except section 1601 of P.L. 111−203, P.L. 111−226, except sections 215 and 217 of P.L. 111−226, P.L. 111−240, except sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−312, and as indirectly affected in the provisions applicable to this subchapter by P.L. 99−514, P.L. 100−203, P.L. 100−647, excluding sections 803 (d) (2) (B), 805 (d) (2), 812 (c) (2), 821 (b) (2), and 823 (c) (2) of P.L. 99−514 and section 1008 (g) (5) of P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−245, excluding section 301 of P.L. 110−245, sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, P.L. 110−289, excluding sections 3071, 3081, and 3082 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, P.L. 111−92, P.L. 111−147, excluding section 201 of P.L. 111−147, sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, section 1407 of P.L. 111−152, P.L. 111−192, section 1601 of P.L. 111−203, sections 215 and 217 of P.L. 111−226, sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−325, except that section 1366 (f) (relating to pass−through of items to shareholders) is modified by substituting the tax under s. 71.35 for the taxes under sections 1374 and 1375. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes, except that changes made by section 209 of P.L. 109−222, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, sections 110 and 113 of P.L. 110−245, sections 15312, 15313, 15314, and 15342 of P.L. 110−246, sections 3031, 3032, 3033, 3041, 3051, 3052, 3061, and 3092 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, and 211 of division B and section 504 of division C of P.L. 110−343, section 14 of P.L. 111−92, sections 531, 532, and 533 of P.L. 111−147, sections 10908 and 10909 of P.L. 111−148, and section 2043 of P.L. 111−240 do not apply for taxable years beginning before January 1, 2011. Amendments to the federal Internal Revenue Code enacted after December 31, 2010, do not apply to this paragraph with respect to taxable years beginning after December 31, 2010.

(1h) For purposes of sub. (1k) (j) and (L), "management fees" include expenses and costs, not including interest expenses, pertaining to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting and compliance matters or similar activities, to the extent that the amounts would otherwise be deductible in the computation of Wisconsin adjusted gross income.

(1k) "Net income or loss" of a tax−option corporation means net income or loss computed under the internal revenue code, as defined under sub. (1g), except that:

(ag) Section 164 (a) (3) of the internal revenue code is modified so that state taxes and taxes of the District of Columbia that are value−added taxes, single business taxes or taxes on or measured by all or a portion of net income, gross income, gross receipts or capital stock are not deductible.

(ar) Section 1363 (a) of the internal revenue code does not apply.

(b) The items referred to in section 1366 (a) (1) (A) of the internal revenue code shall be included.

(c) The deduction referred to in sections 212 and 703 (a) (2) (E) of the internal revenue code shall be allowed.

(d) An addition or subtraction, as appropriate, shall be made for the net amount of state and federal differences including differences arising from the different basis of assets disposed of in a transaction in which gain or loss is recognized for state tax purposes, different depreciation methods or difference in basis of depreciable assets, different elections, or transitional adjustments due to differences in the statutes for taxable years 1986 and 1987 pertaining to the computation of net income of a tax−option corporation.

(e) An addition shall be made for the amount of credit computed under s. 71.28 (3) and used by the corporation in the current year.

(f) An addition shall be made for the amount of interest, less related expenses, excluded by reason of section 103 of the internal revenue code (relating to interest received on state and municipal obligations and on volunteer fire department and mass transit obligations) or any other federal law.

(g) An addition shall be made for credits computed by a tax−option corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), and (8r) and passed through to shareholders.

NOTE: Par. (g) is shown as affected by 2011 Wis. Acts 212 and 232 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

(h) Section 162 of the internal revenue code (relating to trade or business expenses) is modified so that payments for wages, salaries, bonuses, interest or other expenses paid to an entertainer or entertainment corporation may be deducted only if the corporation complies with ss. 71.63 (3) (b), 71.64 (4) and (5) and 71.80 (15) (e).

(i) In section 1366 (f) of the Internal Revenue Code, the tax under s. 71.35 is substituted for the taxes under sections 1374 and 1375 of the Internal Revenue Code.

(j) An addition shall be made for any amount deducted or excluded under the Internal Revenue Code for interest expenses, rental expenses, intangible expenses, and management fees that are directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

(k) A deduction shall be allowed for the amount added to gross income under par. (j), to the extent that the conditions under s. 71.80 (23) are satisfied.

(L) A deduction shall be allowed for the amount added, pursuant to par. (j) or s. 71.05 (6) (a) 24., 71.26 (2) (a) 7., or 71.45 (2) (a) 16., to the federal income of a related entity that paid interest expenses, rental expenses, intangible expenses, or management fees to the corporation, to the extent that the related entity could not offset such amount with the deduction allowable under par. (k) or s. 71.05 (6) (b) 45., 71.26 (2) (a) 8., or 71.45 (2) (a) 17.

(m) An addition shall be made for the amount computed under s. 71.28 (5n) in the previous taxable year that is not included in federal ordinary business income.

(1L) "Qualified real estate investment trust" has the meaning given in s. 71.22 (9ad).

(1m) (a) Notwithstanding sub. (1g), a qualified retirement fund for a taxable year for federal income tax purposes is a qualified retirement fund for the taxable year for purposes of this subchapter.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(b) Notwithstanding sub. (1g), section 101 of P.L. 109−222, related to extending the increased expense deduction under section 179 of the Internal Revenue Code, applies to property used in farming that is acquired and placed in service in taxable years beginning on or after January 1, 2008, and used by a person who is actively engaged in farming. For purposes of this paragraph, "actively engaged in farming" has the meaning given in 7 CFR 1400.201, and "farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code.

(1p) "Related entity" means any person related to a taxpayer as provided under section 267 or 1563 of the Internal Revenue Code during all or a portion of the taxpayer's taxable year and any real estate investment trust under section 856 of the Internal Revenue Code, except a qualified real estate investment trust, if more than 50 percent of any class of the beneficial interests or shares of the real estate investment trust are owned directly, indirectly, or constructively by the taxpayer, or any person related to the taxpayer, during all or a portion of the taxpayer's taxable year. For purposes of this subsection, the constructive ownership rules of section 318 (a) of the Internal Revenue Code, as modified by section 856 (d) (5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

(1r) For purposes of sub. (1k) (j) and (L), "rental expenses" means the gross amounts that would otherwise be deductible in the computation of Wisconsin adjusted gross income for the use of, or the right to use, real property and tangible personal property in connection with real property, including services furnished or rendered in connection with such property, regardless of how reported for financial accounting purposes and regardless of how computed.

(2) "Tax−option corporation" means a corporation which is treated as an S corporation under subchapter S of the internal revenue code and has not elected out of tax−option corporation status under s. 71.365 (4) (a) for the current taxable year.

(3) "Tax−option item" means an item of income, loss or deduction.

(4) "Wisconsin net income", for tax−option corporations engaged in business wholly within this state, means net income and, for tax−option corporations engaged in business both within and outside this state, means the amount assigned to this state under s. 71.25.

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326; 2005 a. 25, 49, 74, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 161, 183, 265, 269, 295, 332; 2011 a. 32, 212, 232; 2011 a. 260 s. 80; s. 13.92 (2) (i).

71.35 Imposition of additional tax on tax−option corporations. In addition to the other taxes imposed under this chapter, there is imposed on every tax−option corporation, except a corporation that qualifies for the exception under section 1374 (c) (1) of the internal revenue code and that has not elected to change from tax−option status under s. 71.365 (4) (a) for that taxable year, that has a net recognized built−in gain, as defined in section 1374 (d) (2) of the internal revenue code, during a recognition period, as defined in section 1374 (d) (7) of the internal revenue code as modified by this section, a tax computed under section 1374 of the internal revenue code except that the rate is that under s. 71.27 (2), the net recognized built−in gain is computed using the Wisconsin basis of the assets and the Wisconsin apportionment percentage for the current taxable year, the taxable income is the Wisconsin taxable income and the credit and net operating losses are those under this chapter rather than the federal credits and net operating losses. The tax under this section does not apply if the return is filed pursuant to a federal S corporation election made before January 1, 1987, and the corporation has not elected to change its status under s. 71.365 (4) (a) for any intervening year. If a corporation that elected to change from tax−option status under s. 71.365 (4) (a) subsequently elects to become a tax−option corporation, its recognition period begins with the first day of the first taxable year affected by the subsequent election.

History: 1987 a. 312; 1989 a. 31.

71.36 Tax−option items. (1) It is the intent of this section that shareholders of tax−option corporations include in their Wisconsin adjusted gross income their proportionate share of the corporation's tax−option items unless the corporation elects under s. 71.365 (4) (a) not to be a tax−option corporation.

(1m) (a) A tax−option corporation may deduct from its net income all amounts included in the Wisconsin adjusted gross income of its shareholders, the capital gain deduction under s. 71.05 (6) (b) 9. and all amounts not taxable to nonresident shareholders under ss. 71.04 (1) and (4) to (9) and 71.362.

(b) For purposes of this subsection, interest on any of the following obligations is not included in shareholders' income:

1. Interest on federal obligations.

2. Interest on obligations issued under s. 66.0304 by a commission if the bonds or notes are used to fund multifamily affordable housing projects or elderly housing projects in this state, and the Wisconsin Housing and Economic Development Authority has the authority to issue its bonds or notes for the project being funded, or if the bonds or notes are used by a health facility, as defined in s. 231.01 (5), to fund the acquisition of information technology hardware or software, in this state, and the Wisconsin Health and Educational Facilities Authority has the authority to issue its bonds or notes for the project being funded, or if the bonds or notes are issued to fund a redevelopment project in this state or a housing project in this state, and the authority exists for bonds or notes to be issued by an entity described under s. 66.1201, 66.1333, or 66.1335.

3. Interest on obligations issued under s. 66.0621 by a local professional baseball park district, a local professional football stadium district, or a local cultural arts district.

4. Interest on obligations issued under ss. 66.1201, 66.1333, and 66.1335.

5. Interest on obligations issued under s. 234.65 to fund an economic development loan to finance construction, renovation or development of property that would be exempt under s. 70.11 (36).

6. Interest on obligations issued under subch. II of ch. 229.

(c) The proportionate share of the net loss of a tax−option corporation shall be attributed and made available to shareholders on a Wisconsin basis but subject to the limitation and carry−over rules as prescribed by section 1366 (d) of the Internal Revenue Code. Net operating losses of the corporation to the extent attributed or made available to a shareholder may not be used by the corporation for further tax benefit. For purposes of computing the Wisconsin adjusted gross income of shareholders, tax−option items shall be reported by the shareholders and those tax−option items, including capital gains and losses, shall retain the character they would have if attributed to the corporation, including their character as business income. In computing the tax liability of a shareholder, no credit against gross tax that would be available to the tax−option corporation if it were a nontax−option corporation may be claimed.

(2) A tax−option corporation shall separately state all tax−option items the separate treatment of which may affect the liability of any shareholder for tax under this chapter.

(3) (a) The tax treatment of all tax−option items shall be determined at the corporate level.

(b) All shareholders of tax−option corporations shall treat tax−option items on their returns under this chapter in a manner consistent with the manner in which those tax−option items are treated on the corporation's Wisconsin income or franchise tax return or shall notify the department of revenue of any inconsistency and the reason for it.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(4) Every tax−option corporation that is required to file a return under s. 71.24 (1) shall, on or before the due date of the return, including extensions, provide a schedule to each shareholder whose share of income, deductions, credits, or other items of the tax−option corporation may affect the shareholder's tax liability under this chapter. The schedule shall separately indicate the shareholder's share of each item.

History: 1987 a. 312; 1995 a. 27, 56; 1999 a. 65; 1999 a. 150 s. 672; 1999 a. 167; 2001 a. 38; 2009 a. 28, 205.

71.362 Situs of income. (1) All tax−option items of nonresident individuals, nonresident estates and nonresident trusts derived from a tax−option corporation not requiring apportionment under sub. (2) shall follow the situs of the business of the corporation from which they are derived, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state.

(2) Nonresident individuals, nonresident estates and nonresident trusts deriving income from a tax−option corporation which is engaged in business within and without this state shall be taxed only on the income of the corporation derived from business transacted and property located in this state and losses and other items of the corporation deductible by such shareholders shall be limited to their proportionate share of the Wisconsin loss or other item, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state. For purposes of this subsection, all intangible income of tax−option corporations passed through to shareholders is business income that follows the situs of the business, except that all income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state.

History: 1987 a. 312; 1999 a. 9.

71.365 General provisions. (1) ADJUSTED BASIS OF SHAREHOLDERS' STOCK IN TAX−OPTION CORPORATION. For purposes of this chapter, the adjusted basis of a shareholder in the stock and indebtedness of a tax−option corporation shall be determined in the manner prescribed by the internal revenue code for a shareholder of an S corporation, except that the nature and amount of items affecting that basis shall be determined under this chapter. This subsection does not apply to 1978 and earlier taxable years of corporations which were S corporations for federal income tax purposes or to taxable years of corporations for which an election has been made under sub. (4) (a).

(1m) TAX−OPTION CORPORATIONS; DEPRECIATION. (a) Except as provided in par. (b), a tax−option corporation shall compute amortization and depreciation under the federal Internal Revenue Code as amended to December 31, 2000, except that property first placed in service by the taxpayer on or after January 1, 1983, but before January 1, 1987, that, under s. 71.04 (15) (b) and (br), 1985 stats., is required to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and property first placed in service in taxable year 1981 or thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985 stats., is required to be depreciated under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980. Any difference between the adjusted basis for federal income tax purposes and the adjusted basis under this chapter shall be taken into account in determining net income or loss in the year or years for which the gain or loss is reportable under this chapter. If that property was placed in service by the taxpayer during taxable year 1986 and thereafter but before the property is used in the production of income subject to taxation under this chapter, the property's adjusted basis and the depreciation or other deduction schedule are not required to be changed from the amount allowable on the owner's federal income tax returns for any year because the property is used in the production of income subject to taxation under this chapter. If that property was acquired in a transaction in taxable year 1986 or thereafter in which the adjusted basis of the property in the hands of the transferee is the same as the adjusted basis of the property in the hands of the transferor, the Wisconsin adjusted basis of that property on the date of transfer is the adjusted basis allowable under the Internal Revenue Code as defined for Wisconsin purposes for the property in the hands of the transferor.

(b) For property acquired and placed in service in taxable years beginning on or after January 1, 2006, a tax−option corporation that is actively engaged in farming may compute amortization and depreciation on property used in farming under any subsequent change to section 101 of P.L. 107−147 or section 201 of P.L. 108−27 enacted after December 31, 2005. For purposes of this paragraph, "actively engaged in farming" has the meaning given in 7 CFR 1400.201, and "farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code. This paragraph does not apply unless a federal law change enacted after December 31, 2005, revises section 101 of P.L. 107−147 or section 201 of P.L. 108−27.

(2) CORPORATION BUSINESS LOSS CARRY−FORWARD PROHIBITION. The corporation net business loss carry−forward provided by s. 71.26 (4) may not be claimed by a tax−option corporation.

(3) CREDITS NOT ALLOWED. The credits under s. 71.28 (4), (4m), and (5) may not be claimed by a tax−option corporation or shareholders of a tax−option corporation.

(4) ELECTION TO CHANGE FROM TAX−OPTION STATUS. (a) If persons who hold more than 50% of the shares on the day on which this election is made consent, a corporation that is an S corporation for federal income tax purposes and that does not have a qualified subchapter S subsidiary may elect, on or before the due date or extended due date of its return under this chapter, not to be a tax−option corporation for that taxable year and for later taxable years until its status is again changed.

(b) If persons who, on the day on which the election occurs, hold more than 50% of the shares of a corporation that has elected out under par. (a) consent, a corporation that is an S corporation for federal income tax purposes may elect, on or before the due date or extended due date of its return under this chapter, to be a tax−option corporation for that taxable year, except that no corporation electing under par. (a) and no successor of such a corporation may be a tax−option corporation for any of the next 4 taxable years after the taxable year to which its election under par. (a) first applies.

(5) FEDERAL RETURN COPY. A tax−option corporation shall file with its state franchise or income tax return an exact copy of its federal income tax return for the same year and shall file any other return or statement filed with or made to, or any document received from, the U.S. internal revenue service, and any form required of that corporation and prescribed by the department of revenue, affecting the taxation of its shareholders.

(6) NOTICE TO SHAREHOLDERS OF APPEALS AND OTHER PROCEEDINGS. Any notice of determination by the department of any tax−option item may be contested by a tax−option corporation under subch. XIV. A tax−option corporation shall timely notify all shareholders of any administrative or judicial proceeding about the determination of any tax−option item. Each shareholder may participate in any such proceeding and shall be bound by the final determination in that proceeding.

(7) QUALIFIED SUBCHAPTER S SUBSIDIARIES. If a tax−option corporation elects to treat a subsidiary as a qualified subchapter S subsidiary for federal purposes, that election also applies for this chapter. If this state has jurisdiction to impose the taxes under this chapter on the qualified subchapter S subsidiary, this state has the jurisdiction to impose the taxes under this chapter on the tax−option corporation.

(9) ADJUSTMENT UNDER RULES. A corporation that elects under sub. (4) (a) not to be a tax−option corporation and a corporation that elects to become a tax−option corporation shall adjust its

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

income, under rules promulgated by the department of revenue, for the taxable year for which that election is first effective to avoid the omission or double inclusion of any item of income, loss or deduction.

History: 1987 a. 312; 1987 a. 411 ss. 40, 50, 147; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 109; 2005 a. 362; 2009 a. 28.

Cross−reference: See also s. Tax 2.03, Wis. adm. code.

SUBCHAPTER VI

URBAN TRANSIT COMPANIES

71.37 Conformity. Unless otherwise provided in this subchapter or the context requires otherwise, urban transit companies are subject to this chapter.

History: 1987 a. 312.

71.38 Definition. In this subchapter, "urban mass transportation of passengers" means the transportation of passengers by means of vehicles having a passenger−carrying capacity of 10 or more persons including the operator, such capacity to be determined by dividing by 20 the total seating space measured in inches, when such transportation takes place entirely within contiguous cities, villages or towns and in cities, villages or towns contiguous to that in which the carrier has its principal place of business, or within or between cities, villages or towns located within a radius of 10 miles of the city, village or town in which the carrier has its principal place of business, or entirely within one city, village or town contiguous thereto, or within a county having a population of 500,000 or more or within such county and the counties contiguous thereto, or suburban operations classified as such by the department of transportation.

History: 1987 a. 312; 1993 a. 16, 246.

71.385 Determination of cost. The cost of property used and useful in providing urban mass transportation of passengers and the depreciation accrued on such property shall be determined on the basis of the reports and orders on file with the department of transportation.

History: 1987 a. 312; 1993 a. 16.

71.39 Imposition of tax. (1) SPECIAL TAX; COMPUTATION. In lieu of the income and franchise tax rates prescribed in s. 71.27, there shall be assessed, levied and collected upon the taxable income of every corporation whose principal source (defined for purposes of this subchapter as being 50% or more) of gross income is the urban mass transportation of passengers a special income tax of 50% determined in accordance with this chapter, except that:

(a) United States income, excess or war profits and defense taxes shall be allowed as a deduction from gross income to the extent of the total payment actually made during the tax year.

(b) A deduction shall be allowed from such taxable income before the imposition of the special tax levied by this section, in an amount equivalent to 8% of the amount by which the cost of the property of such corporation used and useful in providing its urban mass transportation of passengers exceeds the cumulated amount of the depreciation accrued against such property as of the end of the fiscal year for which the income or franchise tax return is filed.

(c) An amount shall be added to such taxable income, before imposition of the special tax levied by this section, which amount shall be equivalent to the interest paid during the year in the operation of the business from which its income is derived.

(2) DETERMINATION OF NET BUSINESS LOSS. The addition to and deductions from income of urban transit companies under sub. (1) shall be used in determining the Wisconsin net business loss of such companies to be offset against the Wisconsin net business income as determined under this section for purposes of s. 71.26 (4).

History: 1987 a. 312; 1991 a. 39.

71.40 Filing of returns. The special income tax assessed under this subchapter shall be reported in an income or franchise tax return filed in accordance with this chapter, except as modified by this subchapter. The tax so reported and assessed shall be payable to the department of revenue.

History: 1987 a. 312; 1991 a. 39.

SUBCHAPTER VII

TAXATION OF INSURANCE COMPANIES

71.42 Definitions. In this subchapter:

(1b) "Aggregate effective tax rate" means the sum of the effective tax rates imposed by a state, U.S. possession, foreign country, or any combination thereof, on the person or entity.

(1g) "Corporation" means insurance corporations, insurance joint stock companies, insurance associations and insurance common law trusts, unless the context requires otherwise.

(1m) "Department" means the department of revenue.

(1s) "Effective tax rate" means the maximum tax rate imposed by the state, U.S. possession, or foreign country, multiplied by the apportionment percentage, if any, applicable to the person or entity under the laws of that state, U.S. possession, or foreign country.

(1sg) For purposes of ss. 71.45 (2) (a) 16. and 18. and 71.255 (2) (d) 1., "intangible expenses" include the following, to the extent that the amounts would otherwise be deductible in computing net income under the Internal Revenue Code, as adjusted under s. 71.45 (2):

(a) Expenses, losses, and costs for, related to, or directly or indirectly in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.

(b) Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions.

(c) Royalty, patent, technical, and copyright fees.

(d) Licensing fees.

(e) Other similar expenses, losses, and costs.

(1sh) "Intangible property" includes stocks, bonds, financial instruments, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.

(1t) For purposes of ss. 71.45 (2) (a) 16. and 18. and 71.255 (2) (d) 1., "interest expenses" means interest that would otherwise be deductible under section 163 of the Internal Revenue Code, as adjusted under s. 71.45 (2).

(2) (n) For taxable years that begin after December 31, 1999, and before January 1, 2003, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1999, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66 and sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, and as amended by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58,

P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 1999, do not apply to this paragraph with respect to taxable years beginning after December 31, 1999, and before January 1, 2003, except that changes to the Internal Revenue Code made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101, 301 (a), and 406 of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(o) For taxable years that begin after December 31, 2002, and before January 1, 2004, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2002, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, and sections 101 and 301 (a) of P.L. 107−147, and as amended by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2002, do not apply to this paragraph with respect to taxable years beginning after December 31, 2002, and before January 1, 2004, except that changes to the Internal Revenue Code made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L.

108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(p) For taxable years that begin after December 31, 2003, and before January 1, 2005, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2003, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 109 of P.L. 108−121, and section 1201 of P.L. 108−173, and as amended by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, excluding section 109 of P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2003, do not apply to this paragraph with respect to taxable years beginning after December 31, 2003, and before January 1, 2005, except that changes to the Internal Revenue Code made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 307, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(q) For taxable years that begin after December 31, 2004, and before January 1, 2006, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2004, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, and sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, and as amended by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2004, do not apply to this paragraph with respect to taxable years beginning after December 31, 2004, and before January 1, 2006, except that changes to the Internal Revenue Code made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(r) For taxable years that begin after December 31, 2005, and before January 1, 2007, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2005, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, and sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, and as amended by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, and P.L. 110−458, excluding sections 811 and 844 of P.L. 109−280, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2005, do not apply to this paragraph with respect to taxable years beginning after December 31, 2005, and before January 1, 2007, except that changes to the Internal Revenue Code made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(s) For taxable years that begin after December 31, 2006, and before January 1, 2008, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2006, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, and P.L. 109−432, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sec-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

tions 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2006, do not apply to this paragraph with respect to taxable years beginning after December 31, 2006, and before January 1, 2008, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, and P.L. 110−458, apply for Wisconsin purposes at the same time as for federal purposes.

(t) For taxable years that begin after December 31, 2007, and before January 1, 2009, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2007, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, sections 811 and 844 of P.L. 109−280, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, and P.L. 110−172, and as amended by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, 512, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, excluding sections 811 and 844 of P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2007, do not apply to this paragraph with respect to taxable years beginning after December 31, 2007, and before January 1, 2009, except that changes to the Internal Revenue Code made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−458, section 1541 of division B of P.L. 111−5, and P.L. 111−192, apply for Wisconsin purposes at the same time as for federal purposes.

(tm) For taxable years that begin after December 31, 2008, and before January 1, 2011, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2008, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−432, P.L. 110−28, P.L. 110−140, P.L. 110−141, P.L. 110−142, P.L. 110−166, P.L. 110−172, P.L. 110−185, P.L. 110−234, sections 110, 113, and 301 of P.L. 110−245, P.L. 110−246, except section 15316 of P.L. 110−246, P.L. 110−289, except section 3093 of P.L. 110−289, P.L. 110−317, and P.L. 110−343, except section 301 of division B and section 313 of division C of P.L. 110−343, and as amended by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 209, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, P.L. 110−245, excluding sections 110, 113, and 301 of P.L. 110−245, section 15316 of P.L. 110−246, section 3093 of P.L. 110−289, section 301 of division B and section 313 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2008, do not apply to this paragraph with respect to taxable years beginning after December 31, 2008, and before January 1, 2011, except that changes to the Internal Revenue Code made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, and changes that indirectly affect the provisions applicable to this subchapter made by sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 301 of P.L. 111−147, P.L. 111−192, section 1601 of P.L. 111−203, section 215 of P.L. 111−226, section 2112 of P.L. 111−240, and P.L. 111−325, apply for Wisconsin purposes at the same time as for federal purposes.

(tn) For taxable years that begin after December 31, 2010, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2010, excluding sections 103, 104, and 110 of P.L. 102−227, sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, sections 1, 3, 4, and 5 of P.L. 106−519, sections 162 and 165 of P.L. 106−554, P.L. 106−573, section 431 of P.L. 107−16, sections 101 and 301 (a) of P.L. 107−147, sections 106, 201, and 202 of P.L. 108−27, section 1201 of P.L. 108−173, sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 109−1, sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, section 11146 of P.L. 109−59, section 301 of P.L. 109−73, sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−432, except sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, P.L. 110−28, except sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−140, sections 2, 3, and 5 of P.L. 110−142, P.L. 110−166, sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−185, P.L. 110−234, section 301 of P.L. 110−245, P.L. 110−246, except sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, sections 3071, 3081, and 3082 of P.L. 110−289, section 9 (e) of P.L. 110−317, P.L. 110−343, except sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 111−5, except sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, section 201 of P.L. 111−147, P.L. 111−148, except sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, P.L. 111−152, except section 1407 of P.L. 111−152, P.L. 111−203, except section 1601 of P.L. 111−203, P.L. 111−226, except sections 215 and 217 of P.L. 111−226, P.L. 111−240, except sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−312, and as indirectly affected by P.L. 99−514, P.L. 100−203, P.L. 100−647, P.L. 101−73, P.L. 101−140, P.L. 101−179, P.L. 101−239, P.L. 101−508, P.L. 102−227, excluding sections 103, 104, and 110 of P.L. 102−227, P.L. 102−318, P.L. 102−486, P.L. 103−66, excluding sections 13113, 13150 (d), 13171 (d), 13174, and 13203 (d) of P.L. 103−66, P.L. 103−296, P.L. 103−337, P.L. 103−465, P.L. 104−7, P.L. 104−188, excluding sections 1123 (b), 1202 (c), 1204 (f), 1311, and 1605 (d) of P.L. 104−188, P.L. 104−191, P.L. 104−193, P.L. 105−33, P.L. 105−34, P.L. 105−178, P.L. 105−206, P.L. 105−277, P.L. 106−36, P.L. 106−170, P.L. 106−230, P.L. 106−554, excluding sections 162 and 165 of P.L. 106−554, P.L. 107−15, P.L. 107−16, excluding section 431 of P.L. 107−16, P.L. 107−22, P.L. 107−116, P.L. 107−134, P.L. 107−147, excluding sections 101 and 301 (a) of P.L. 107−147, P.L. 107−181, P.L. 107−210, P.L. 107−276, P.L. 107−358, P.L. 108−27, excluding sections 106, 201, and 202 of P.L. 108−27, P.L. 108−121, P.L. 108−173, excluding section 1201 of P.L. 108−173, P.L. 108−203, P.L. 108−218, P.L. 108−311, excluding sections 306, 308, 316, 401, and 403 (a) of P.L. 108−311, P.L. 108−357, excluding sections 101, 102, 201, 211, 242, 244, 336, 337, 422, 847, 909, and 910 of P.L. 108−357, P.L. 108−375, P.L. 108−476, P.L. 109−7, P.L. 109−58, excluding sections 1305, 1308, 1309, 1310, 1323, 1324, 1325, 1326, 1328, 1329, 1348, and 1351 of P.L. 109−58, P.L. 109−59, excluding section 11146 of P.L. 109−59, P.L. 109−73, excluding section 301 of P.L. 109−73, P.L. 109−135, excluding sections 101, 105, 201 (a) as it relates to section 1400S (a), 402 (e), 403 (e), (j), and (q), and 405 of P.L. 109−135, P.L. 109−151, P.L. 109−222, excluding sections 101, 207, 503, and 513 of P.L. 109−222, P.L. 109−227, P.L. 109−280, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, P.L. 110−245, excluding section 301 of P.L. 110−245, sections 4, 15312, 15313, 15314, 15316, and 15342 of P.L. 110−246, P.L. 110−289, excluding sections 3071, 3081, and 3082 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, 211, and 301 of division B and sections 313 and 504 of division C of P.L. 110−343, P.L. 110−351, P.L. 110−458, sections 1261, 1262, 1401, 1402, 1521, 1522, 1531, and 1541 of division B of P.L. 111−5, P.L. 111−92, P.L. 111−147, excluding section 201 of P.L. 111−147, sections 1322, 1515, 9003, 9021, 9022, 10108, 10908, and 10909 of P.L. 111−148, section 1407 of P.L. 111−152, P.L. 111−192, section 1601 of P.L. 111−203, sections 215 and 217 of P.L. 111−226, sections 2014, 2043, 2111, 2112, and 2113 of P.L. 111−240, and P.L. 111−325, except that "Internal Revenue Code" does not include section 847 of the federal Internal Revenue Code. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes, except that changes made by section 209 of P.L. 109−222, sections 117, 406, 409, 410, 412, 417, 418, 424, and 425 of division A and section 403 of division C of P.L. 109−432, sections 8215, 8231, 8232, 8234, and 8236 of P.L. 110−28, P.L. 110−141, P.L. 110−142, excluding sections 2, 3, and 5 of P.L. 110−142, P.L. 110−172, excluding sections 3 (b) and 11 (b), (e), and (g) of P.L. 110−172, sections 110 and 113 of P.L. 110−245, sections 15312, 15313, 15314, and 15342 of P.L. 110−246, sections 3031, 3032, 3033, 3041, 3051, 3052, 3061, and 3092 of P.L. 110−289, P.L. 110−317, excluding section 9 (e) of P.L. 110−317, sections 116, 208, and 211 of division B and section 504 of division C of P.L. 110−343, section 14 of P.L. 111−92, sections 531, 532, and 533 of P.L. 111−147, sections 10908 and 10909 of P.L. 111−148, and section 2043 of P.L. 111−240 do not apply for taxable years beginning before January 1, 2011. Amendments to the federal Internal Revenue Code enacted after December 31, 2010, do not apply to this paragraph with respect to taxable years beginning after December 31, 2010.

(2m) Notwithstanding sub. (2), a qualified retirement fund for a taxable year for federal income tax purposes is a qualified retirement fund for the taxable year for purposes of this subchapter.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(2s) "Last day prescribed by law" has the meaning given in s. 71.738.

(3) "Life insurance" includes annuities.

(3c) For purposes of s. 71.45 (2) (a) 16. and 18., "management fees" include expenses and costs, not including interest expenses, pertaining to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting and compliance matters or similar activities, to the extent that the amounts would otherwise be deductible in determining net income under the Internal Revenue Code as adjusted under s. 71.45 (2).

(3d) "Member" does not include a member of a limited liability company treated as a corporation under s. 71.22 (1k).

(3h) "Partner" does not include a partner of a publicly traded partnership treated as a corporation under s. 71.22 (1k).

(3m) "Pay" means mail or deliver funds to the department or, if the department prescribes another method of payment or another destination, use that other method or submit to that other destination.

(4) "Person" includes corporations, unless the context requires otherwise.

(4d) "Qualified real estate investment trust" has the meaning given in s. 71.22 (9ad).

(4m) "Related entity" means any person related to a taxpayer as provided under section 267 or 1563 of the Internal Revenue Code during all or a portion of the taxpayer's taxable year and any real estate investment trust under section 856 of the Internal Revenue Code, except a qualified real estate investment trust, if more than 50 percent of any class of the beneficial interests or shares of the real estate investment trust are owned directly, indirectly, or constructively by the taxpayer, or any person related to the taxpayer, during all or a portion of the taxpayer's taxable year. For purposes of this subsection, the constructive ownership rules of section 318 (a) of the Internal Revenue Code, as modified by section 856 (d) (5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

(4n) For purposes of s. 71.45 (2) (a) 16. and 18., "rental expenses" means the gross amounts that would otherwise be deductible under the Internal Revenue Code, as adjusted under s. 71.45 (2), for the use of, or the right to use, real property and tangible personal property in connection with real property, including services furnished or rendered in connection with such property, regardless of how reported for financial accounting purposes and regardless of how computed.

(5) "Taxable year" has the meaning under s. 71.22 (10).

History: 1987 a. 312; 1987 a. 411 ss. 5, 148, 149; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33; 2005 a. 25, 49; 2007 a. 20, 226; 2009 a. 2, 28, 161, 183; 2011 a. 32.

71.43 Imposition of tax. (1) INCOME TAX. For the purpose of raising revenue for the state and the counties, cities, villages and towns, there shall be assessed, levied, collected and paid a tax as provided under this chapter on all Wisconsin net incomes of corporations that are not subject to the franchise tax under sub. (2) and that own property within this state; that derive income from sources within this state or from activities that are attributable to this state; or whose business within this state during the taxable year, except as provided under s. 71.23 (3), consists exclusively of foreign commerce, interstate commerce, or both, or that buy or sell lottery prizes if the winning tickets were originally bought in this state; except as exempted under ss. 71.26 (1) and 71.45 (1) (a). This section shall not be construed to prevent or affect the correction of errors or omissions in the assessments of income for former years under s. 71.74 (1) and (2).

(2) FRANCHISE TAX ON CORPORATIONS. For the privilege of exercising its franchise, buying or selling lottery prizes if the winning tickets were originally bought in this state or doing business in this state in a corporate capacity, except as provided under s. 71.23 (3), every domestic or foreign corporation, except corporations specified in ss. 71.26 (1) and 71.45 (1) (a), shall annually pay a franchise tax according to or measured by its entire Wisconsin net income of the preceding taxable year at the rates set forth in s. 71.46 (2). In addition, except as provided in ss. 71.23 (3), 71.26 (1) and 71.45 (1) (a), a corporation that ceases doing business in this state shall pay a special franchise tax according to or measured by its entire Wisconsin net income for the taxable year during which the corporation ceases doing business in this state at the rate under s. 71.46 (2). Every corporation organized under the laws of this state shall be deemed to be residing within this state for the purposes of this franchise tax. All provisions of this chapter and ch. 73 relating to income taxation of corporations shall apply to franchise taxes imposed under this subsection, unless the context requires otherwise. The tax imposed by this subsection on insurance companies subject to taxation under this chapter shall be based on Wisconsin net income computed under s. 71.45, and no other provision of this chapter relating to computation of taxable income for other corporations shall apply to such insurance companies, except for s. 71.255. All other provisions of this chapter shall apply to insurance companies subject to taxation under this chapter unless the context clearly requires otherwise.

History: 1987 a. 312; 1989 a. 31; 1999 a. 9; 2007 a. 20; 2009 a. 2.

Sub. (2) is discriminatory within the meaning of 31 U.S.C. 3124 (1) (a) and in violation of that provision. American Family Mutual Insurance Co. v. DOR, 214 Wis. 2d 577, 571 N.W.2d 710 (Ct. App. 1997), 97−1105.

71.44 Filing returns; extensions; payment of tax. (1) FILING RETURNS. (a) Every corporation, except corporations all of whose income is exempt from taxation and except as provided in sub. (1m), shall furnish to the department a true and accurate statement, on or before March 15 of each year, except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15th day of the 3rd month following the close of such fiscal year and except that returns for less than a full taxable year shall be furnished on or before the date applicable for federal income taxes under the internal revenue code, in such manner and form and setting forth such facts as the department deems necessary to enforce this chapter. Every corporation that is required to furnish a statement under this paragraph and that has income that is not taxable under this subchapter shall include with its statement a report that identifies each item of its nontaxable income. The statement shall be subscribed by the president, vice president, treasurer, assistant treasurer, chief accounting officer or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary, the fiduciary shall subscribe the return. The fact that an individual's name is subscribed on the return shall be prima facie evidence that the individual is authorized to subscribe the return on behalf of the corporation.

Cross−reference: See also s. Tax 2.09, Wis. adm. code.

(b) Each corporation that is required to file a return under this section shall file with that return a copy of its federal income tax return for the same taxable year.

(c) Whenever a corporation has been completely inactive for an entire taxable year, in lieu of filing the statements and information otherwise required by this section, it may file a declaration, on a form to be provided by the department, subscribed by its president, if a resident of this state, and, if not a resident, then by another officer residing in this state, attesting to such inactivity. Such declaration must be filed prior to the otherwise due date for its Wisconsin return for such taxable year. Thereafter the corporation need not file such statements or information for any subsequent year unless specifically requested to do so by the department or unless in a subsequent year the corporation has been activated or reactivated. If a corporation files a false declaration of complete inactivity, or, after filing a declaration, becomes activated or reactivated and fails to file timely statements and information hereunder covering such year or years of activity or reactivity its officers at the time of such filing or failure shall be jointly and severally liable for a civil penalty of $25 for such filing or each

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

such failure, which penalty may be assessed and collected as income or franchise taxes are assessed and collected.

(d) Nothing contained in this subsection shall preclude the department from requiring any corporation to file a return when in the judgment of the department a return should be filed.

(1m) UNRELATED BUSINESS INCOME. Every corporation subject to a tax on unrelated business income under s. 71.26 (1) (a), if that corporation is required to file for federal income tax purposes, shall furnish to the department of revenue a true and accurate statement on or before the date on or before which it is required to file for federal income tax purposes. The requirements about manner, form and subscription under sub. (1) apply to statements under this subsection.

(2) CHANGING ACCOUNTING PERIODS. (a) Corporations may not change their basis of reporting from a calendar year to a fiscal year, from a fiscal year to a calendar year, or from one fiscal year to another without first obtaining the approval of the department of revenue unless the internal revenue service has approved the change or unless the change, including a change to a short taxable year, is required by the internal revenue code before approval by the internal revenue service and the reason for the change is explained in the first return filed for the new taxable year. Corporations that make changes on the basis of federal changes shall submit a copy of the internal revenue service's notice of approval, if prior federal approval, other than expeditious approval, was required, or requirement, if prior federal approval was not required or if the corporation qualifies for expeditious approval, to the department of revenue along with the return for the first taxable year for which the change applies.

(b) If a corporation changes its basis of reporting from a calendar year to a fiscal year a separate return shall be made for the period between the close of the last calendar year and the date designated as the close of the fiscal year. If the change is from a fiscal year to a calendar year, a separate return shall be made for the period between the close of the last fiscal year and the following December 31. If the change is from one fiscal year to another fiscal year a separate return shall be made for the period between the close of the former fiscal year and the date designated as the close of the new fiscal year. In no case shall a separate income or franchise tax return be made for a period of more than 12 months.

(c) If a separate corporation income tax return is made for a fractional part of a year for federal income tax purposes, the corporation shall file a separate Wisconsin income or franchise tax return for that fractional year. The income shall be computed and reported on the basis of the period for which the separate return is made, and that fractional part of a year shall constitute a taxable year, except that if a corporation terminates, under section 1362 (d) (1) or (2) of the internal revenue code, its election to be treated as an S corporation for federal income tax purposes the corporation may allocate its items of income, loss or deduction between its short taxable year as a tax−option corporation and its short taxable year as a nontax−option corporation according to the method under section 1362 (e) (2) of the internal revenue code.

(d) If a separate income or franchise tax return is made for a short period under par. (b) on account of a change in the taxable year, the net income for such short period shall be placed on an annual basis using the method applicable for federal income taxes under section 443 (b) (1) of the internal revenue code.

(3) EXTENSIONS. (a) In the case of a corporation required to file a return, the department of revenue shall allow an automatic extension of 7 months or until the original due date of the corporation's corresponding federal return, whichever is later. Any extension of time granted by law or by the internal revenue service for the filing of corresponding federal returns shall extend the time for filing under this subchapter to 30 days after the federal due date if the corporation reports the extension in the manner specified by the department on the return. Except for payments of estimated taxes, income or franchise taxes payable upon the filing of the tax return shall not become delinquent during such extension period, but shall, except as provided in par. (b), be subject to interest at the rate of 12% per year during such period.

(b) For taxable years beginning after December 31, 2008, for persons who qualify for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action, income or franchise taxes payable upon the filing of the tax return are not subject to interest as otherwise provided under par. (a).

Cross−reference: See also ss. Tax 2.88 and 2.96, Wis. adm. code.

(4) PAYMENT OF TAX. (b) Corporation franchise and income taxes not paid on or before the 15th day of the 3rd month following the close of the taxable year shall be deemed delinquent.

(c) The department of revenue shall accept in advance income or franchise taxes and surtaxes from taxpayers desirous of making such payments before the same shall become due and payable. Advance payment of taxes under this provision shall not relieve the taxpayer from additional taxes which may result from subsequent legislation or from additional taxable income disclosed or discovered subsequent to such payment.

(d) No person is required to pay a balance due of less than $1.

History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1993 a. 199; 1995 a. 428; 1997 a. 27; 2007 a. 20; 2009 a. 28.

Cross−reference: See also s. Tax 2.03, Wis. adm. code.

71.45 Income computation. (1) EXEMPT AND EXCLUDABLE INCOME. There shall be exempt from taxation under this subchapter income as follows:

(a) Income of insurers exempt from federal income taxation pursuant to section 501 (c) (15) of the internal revenue code, town mutuals organized under or subject to ch. 612, foreign insurers, and domestic insurers engaged exclusively in life insurance business, domestic insurers insuring against financial loss by reason of nonpayment of principal, interest and other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness secured by a mortgage, deed of trust or other instrument constituting a lien or charge on real estate and corporations organized under ch. 185, but not including income of cooperative health care associations organized under s. 185.981, or of a service insurance corporation organized under ch. 613, that is derived from a health maintenance organization as defined in s. 609.01 (2) or a limited service health organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which are bona fide cooperatives operated without pecuniary profit to any shareholder or member, or operated on a cooperative plan pursuant to which they determine and distribute their proceeds in substantial compliance with s. 185.45. This paragraph does not apply to income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state.

(b) For taxable years beginning after December 31, 2006, the amount of any incentive payment received by an individual under s. 23.33 (5r) in the taxable year to which the claim relates.

(c) An amount equal to the increase in the number of full−time equivalent employees employed by the taxpayer in this state during the taxable year, multiplied by $4,000 for a business with gross receipts of no greater than $5,000,000 in the taxable year or $2,000 for a business with gross receipts greater than $5,000,000 in the taxable year. For purposes of this paragraph, the increase in the number of full−time equivalent employees employed by the taxpayer in this state during the taxable year is determined by subtracting from the number of full−time equivalent employees employed by the taxpayer in this state during the taxable year, as determined by computing the average employee count from the taxpayer's quarterly unemployment insurance reports or other information as required by the department for the taxable year, the number of full−time equivalent employees employed by the taxpayer in this state during the immediately preceding taxable year, as determined by computing the average employee count from the taxpayer's quarterly unemployment insurance reports or other information as required by the department for the immediately

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

preceding taxable year. No person may claim a deduction under this paragraph if the person may claim a credit under this subchapter based on the person relocating the person's business from another state to this state and in an amount equal to the person's tax liability. The department shall promulgate rules to administer this paragraph.

Cross−reference: See also s. Tax 3.05, Wis. adm. code.

(1t) EXEMPTION FROM THE INCOME TAX. The interest and income from the following obligations are exempt from the tax imposed under s. 71.43 (1):

(b) Those issued under s. 66.1201.

(c) Those issued under s. 66.1333.

(d) Those issued under s. 66.1335.

(e) Those issued under s. 234.65 to fund an economic development loan to finance construction, renovation or development of property that would be exempt under s. 70.11 (36).

(em) Those issued under s. 234.08 or 234.61, on or after January 1, 2004, if the obligations are issued to fund multifamily affordable housing projects or elderly housing projects.

(f) Those issued under subch. II of ch. 229.

(g) Those issued under s. 66.0621 by a local professional baseball park district, a local professional football stadium district, or a local cultural arts district.

(h) Those issued under s. 114.70 or 114.74.

(i) Those issued under s. 231.03 (6), on or after October 27, 2007, if the proceeds from the obligations that are issued are used by a health facility, as defined in s. 231.01 (5), to fund the acquisition of information technology hardware or software.

(k) Those issued under s. 66.0304, if any of the following applies:

1. The bonds or notes are used to fund multifamily affordable housing projects or elderly housing projects in this state, and the Wisconsin Housing and Economic Development Authority has the authority to issue its bonds or notes for the project being funded.

2. The bonds or notes are used by a health facility, as defined in s. 231.01 (5), to fund the acquisition of information technology hardware or software, in this state, and the Wisconsin Health and Educational Facilities Authority has the authority to issue its bonds or notes for the project being funded.

3. The bonds or notes are issued to fund a redevelopment project in this state or a housing project in this state, and the authority exists for bonds or notes to be issued by an entity described under s. 66.1201, 66.1333, or 66.1335.

(m) Those issued by the Wisconsin Housing and Economic Development Authority to provide loans to a public affairs network under s. 234.75 (4).

(2) DETERMINATION OF NET INCOME. (a) Insurers subject to taxation under this chapter shall pay a tax according to or measured by net income. Such tax is payable under s. 71.44 (1). Except as provided in sub. (5), "net income" of an insurer subject to taxation under this chapter means federal taxable income as determined in accordance with the provisions of the internal revenue code adjusted as follows:

1. By adding to federal taxable income the amount of any loss carry−forward or carry−back, including any capital loss carry−forward or carry−back, deducted in the calculation of federal taxable income.

2. By adding to federal taxable income, if not already included therein, the amount of any federal tax refund or portion thereof previously applied to reduce the amount of tax payable under this chapter.

3. For insurers subject to taxation under s. 71.43 (1), by adding to federal taxable income the amount of any interest income, except interest under sub. (1t), that is not included in federal taxable income except the amount of any interest income which is by federal law exempt from taxation by this state and, for insurers subject to taxation under s. 71.43 (2), by adding to federal taxable income the amount of any interest income which is not included in federal taxable income.

4. By adding to federal taxable income an amount equal to dividend income received during the taxable year to the extent such dividend income was used as a deduction in determining federal taxable income.

5. By adding to federal taxable income the amount of taxes imposed by this or any other state, or the District of Columbia, that are value−added taxes, single business taxes or taxes on or measured by net income, gross income, gross receipts or capital stock, if any, that are deducted in the calculation of federal taxable income except that gross receipts taxes assessed in lieu of property taxes are deductible from gross income.

5m. By adding to federal taxable income the amount of the environmental tax that is imposed under section 59A of the internal revenue code and that is deducted in calculating federal taxable income.

6. By adding or subtracting, as appropriate, the difference between the federal basis and the Wisconsin basis of any asset sold, exchanged, abandoned or otherwise disposed of in a taxable transaction during the taxable year.

7. By adding or subtracting, as appropriate, the amount required to reflect the fact that property that, under s. 71.01 (4) (g) 7. to 10., 1985 stats., is required to be depreciated for taxable years 1983 to 1986 under the internal revenue code as amended to December 31, 1980, shall continue to be depreciated under the internal revenue code as amended to December 31, 1980.

8. By subtracting from federal taxable income dividends received that are deductible under s. 71.26 (3) (j) and are included in federal taxable income.

9. By subtracting from federal taxable income any net capital losses not offset against capital gains to the extent that subtraction is allowed to other corporations in computing net income under s. 71.26 (2).

10. By adding to federal taxable income the amount of credit computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), (8r), and (9s) and not passed through by a partnership, limited liability company, or tax−option corporation that has added that amount to the partnership's, limited liability company's, or tax−option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

NOTE: Subd. 10. is shown as affected by 2011 Wis. Acts 212 and 232 and as merged by the legislative reference bureau under s. 13.92 (2) (i).

10b. By subtracting from federal taxable income, as provided under s. 71.47 (3) (c) 7., the amount of the credit under s. 71.47 (3) that the taxpayer added to income under subd. 10. at the time that the taxpayer first claimed the credit.

10m. By adding to federal taxable income the amount deducted under section 847 of the Internal Revenue Code.

11. By subtracting from federal taxable income the amount of any recapture under s. 71.47 (1di) (e).

13. By adding or subtracting, as appropriate, the depreciation deduction under the federal Internal Revenue Code as amended to December 31, 2000, except that property first placed in service by the taxpayer on or after January 1, 1983, but before January 1, 1987, that, under s. 71.04 (15) (b) and (br), 1985 stats., is required to be depreciated under the Internal Revenue Code as amended to December 31, 1980, and property first placed in service in taxable year 1981 or thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985 stats., is required to be depreciated under the Internal Revenue Code as amended to December 31, 1980, shall continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980.

14. By subtracting from federal taxable income the amount that is included in that income from the sale by the original policyholder or original certificate holder who has a catastrophic or life−threatening illness or condition of a life insurance policy or certifi-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

cate, or the sale of the death benefit under a life insurance policy or certificate, under a life settlement contract, as defined in s. 632.69 (1) (k). In this subdivision, "catastrophic or life−threatening illness or condition" includes AIDS, as defined in s. 49.686 (1) (a), and HIV infection, as defined in s. 49.686 (1) (d).

15. By subtracting from federal taxable income all income that is realized from the purchase and subsequent sale or redemption of lottery prizes that is treated as nonapportionable income under sub. (3r).

16. By adding to federal taxable income any amount deducted or excluded under the Internal Revenue Code for interest expenses, rental expenses, intangible expenses, and management fees that are directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

17. By subtracting from federal taxable income the amount added to federal taxable income under subd. 16., to the extent that the conditions under s. 71.80 (23) are satisfied.

18. A deduction shall be allowed for the amount added, pursuant to subd. 16. or s. 71.05 (6) (a) 24., 71.26 (2) (a) 7., or 71.34 (1k) (j), to the federal income of a related entity that paid interest expenses, rental expenses, intangible expenses, or management fees to the insurer, to the extent that the related entity could not offset such amount with the deduction allowable under subd. 17. or s. 71.05 (6) (b) 45., 71.26 (2) (a) 8., or 71.34 (1k) (k).

(b) 1. With respect to any domestic insurer engaged in the sale of life insurance and also other insurance, the net income figure derived by application of par. (a) shall be multiplied by a fraction, the numerator of which is the net gain from operations on insurance, other than life insurance, and the denominator of which is the total net gain from operations; except that the multiplier is zero if the numerator is zero or the numerator is negative and the adjusted federal taxable income is positive or the numerator is positive and the adjusted federal taxable income is negative, and except that the multiplier is one if the numerator is positive and the denominator is zero or negative and the adjusted federal taxable income is positive or the numerator is negative and the denominator is zero or positive and the adjusted federal taxable income is negative or the numerator, the denominator and the adjusted federal taxable income are positive and the numerator is greater than the denominator, and except that if the numerator and denominator are both negative and the adjusted federal taxable income is negative the multiplier is positive but may not be more than one.

2. For purposes of the numerator, "net gain from operations on insurance, other than life insurance" includes net income, after dividends to policyholders, but before federal income taxes and foreign income or franchise taxes, from fire and casualty insurance; net gain from operations, after dividends to policyholders and before federal income taxes, from accident and health insurance; and net realized capital gains or losses on investments from accident and health insurance operations, said net realized capital gains or losses to be apportioned among life and accident and health insurance lines in the same manner as net investment income is required to be apportioned by the commissioner of insurance. "Net gain from operations", "net income", "net realized capital gains or losses", and "net investment income" shall be calculated and reported as required under rules adopted by the commissioner of insurance.

3. For purposes of the denominator, "total net gain from operations" includes net income, after dividends to policyholders, but before federal income taxes and foreign income or franchise taxes, from fire and casualty insurance; net gain from operations after dividends to policyholders and before federal income taxes, from accident and health and life insurance; and net realized capital gains or losses on investments from accident and health and life insurance operations. "Net income", "net gain from operations", and "net realized capital gains or losses" shall be calculated and reported as required under rules adopted by the commissioner of insurance.

4. The resultant figure shall constitute Wisconsin net income for purposes of the Wisconsin franchise tax measured by net income except with respect to such of said insurers as had, in the taxable year, premiums written on insurance other than life insurance where the subject of such insurance was resident, located or to be performed outside this state.

(3) APPORTIONMENT. Except as provided in sub. (3d), to determine Wisconsin income for purposes of the franchise tax, domestic insurers that, in the taxable year, have received premiums, other than life insurance premiums, written for insurance on property or risks resident, located or to be performed outside this state shall multiply the net income figure derived by application of sub. (2) by the arithmetic average of the following 2 percentages:

(a) Subject to sub. (3d), the percentage determined by dividing the sum of direct premiums written for insurance other than life insurance, with respect to all property and risks resident, located, or to be performed in this state, and assumed premiums written for reinsurance, other than life insurance, with respect to all property and risks resident, located, or to be performed in this state, by the sum of direct premiums written for insurance on all property and risks, other than life insurance, wherever located, and assumed premiums written for reinsurance on all property and risks, other than life insurance, wherever located. In this paragraph, "direct premiums" means direct premiums as reported for the taxable year on an annual statement that is filed by the insurer with the commissioner of insurance under s. 601.42 (1g) (a). In this paragraph, "assumed premiums" means assumed reinsurance premiums from domestic insurance companies as reported for the taxable year on an annual statement that is filed with the commissioner of insurance under s. 601.42 (1g) (a).

(b) 1. Subject to sub. (3d), the percentage determined by dividing the payroll, exclusive of life insurance payroll, paid in this state in the taxable year by total payroll, exclusive of life insurance payroll, paid everywhere in the taxable year.

2. Under subd. 1., payroll is paid in this state if the individual's service is performed entirely in this state; or the individual's service is performed both in and outside of this state, but the service performed outside of this state is incidental to the individual's service in this state; or some service is performed in this state and the base of operations, or if there is no base of operations, the place from which the service is directed or controlled is in this state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(3d) PHASE IN; DOMESTIC INSURERS. (a) For taxable years beginning after December 31, 2005, and before January 1, 2007, a domestic insurer that is subject to apportionment under sub. (3) and this subsection shall multiply the net income figure derived by the application of sub. (2) by an apportionment fraction composed of the percentage under sub. (3) (a) representing 60% of the fraction and the percentage under sub. (3) (b) 1. representing 40% of the fraction.

(b) For taxable years beginning after December 31, 2006, and before January 1, 2008, a domestic insurer that is subject to apportionment under sub. (3) and this subsection shall multiply the net income figure derived by the application of sub. (2) by an apportionment fraction composed of the percentage under sub. (3) (a) representing 80% of the fraction and the percentage under sub. (3) (b) 1. representing 20% of the fraction.

(c) For taxable years beginning after December 31, 2007, a domestic insurer that is subject to apportionment under sub. (3) and this subsection shall multiply the net income figure derived by the application of sub. (2) by the percentage under sub. (3) (a).

(3e) APPORTIONMENT FORMULA COMPUTATION. (a) 1. For taxable years beginning before January 1, 2008, if both the numerator and the denominator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income are zero, the percentage under sub. (3) (a) is eliminated from the apportionment formula to determine the taxpayer's income under sub. (3).

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. For taxable years beginning after December 31, 2007, if both the numerator and the denominator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income are zero, none of the taxpayer's net income is apportioned to this state.

(b) 1. For taxable years beginning before January 1, 2008, if the numerator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is a negative number and the denominator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number, or zero, the percentage under sub. (3) (a) is zero.

2. For taxable years beginning after December 31, 2007, if the numerator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is a negative number and the denominator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is a positive number, a negative number, or zero, none of the taxpayer's net income is apportioned to this state.

(c) 1. For taxable years beginning before January 1, 2008, if the numerator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is a positive number and the denominator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is zero or a negative number, the percentage under sub. (3) (a) is one.

2. For taxable years beginning after December 31, 2007, if the numerator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is a positive number and the denominator used to determine the percentage under sub. (3) (a) related to a taxpayer's net income is zero or a negative number, all of the taxpayer's net income is apportioned to this state.

(3m) ARITHMETIC AVERAGE. Except as provided in sub. (3d), the arithmetic average of the 2 percentages referred to in sub. (3) shall be applied to the net income figure arrived at by the successive application of sub. (2) (a) and (b) with respect to Wisconsin insurers to which sub. (2) (a) and (b) applies and which have received premiums, other than life insurance premiums, written for insurance on property or risks resident, located or to be performed outside this state, to arrive at Wisconsin income constituting the measure of the franchise tax.

(3r) ALLOCATION OF CERTAIN PROCEEDS. All income that is realized from the purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state shall be allocated to this state.

(4) NET BUSINESS LOSS CARRY−FORWARD. (a) Except as provided in par. (b), insurers computing tax under this subchapter may subtract from Wisconsin net income any Wisconsin net business loss sustained in any of the next 15 preceding taxable years to the extent not offset by Wisconsin net business income of any year between the loss year and the taxable year for which an offset is claimed and computed without regard to sub. (2) (a) 8. and 9. and this subsection and limited to the amount of net income, but no loss incurred for a taxable year before taxable year 1987 by a nonprofit service plan of sickness care under ch. 148, or dental care under s. 447.13 may be treated as a net business loss of the successor service insurer under ch. 613 operating by virtue of s. 148.03 or 447.13.

(b) An insurer that is part of a combined group under s. 71.255 may offset against its Wisconsin net business income any unused pre−2009 net business loss carry−forward under s. 71.255 (6) (bm) for the 20 taxable years that begin after December 31, 2011.

(5) EXCEPTIONS. The net income of a cooperative health care association organized under s. 185.981, or of a service insurance corporation organized under ch. 613, that is derived from a health maintenance organization, as defined in s. 609.01 (2), or a limited service health organization, as defined in s. 609.01 (3), is the net income that would be determined if the cooperative health care association or service insurance corporation were subject to federal income taxation and as if that income were that of an insurance company.

(6) PARTNERSHIPS AND LIMITED LIABILITY COMPANIES. (a) A general or limited partner's share of the numerator and denominator of a partnership's apportionment factors under this section are included in the numerator and denominator of the general or limited partner's apportionment factors under this section.

(b) If a limited liability company is treated as a partnership, for federal tax purposes, a member's share of the numerator and denominator of a limited liability company's apportionment factors under this section are included in the numerator and denominator of the member's apportionment factors under this section.

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326; 2005 a. 74, 297, 335, 361, 479, 483; 2007 a. 20, 96, 226; 2009 a. 2, 28, 165, 205, 265, 269, 295, 332, 344; 2011 a. 3, 5, 32, 212, 232; 2011 a. 260 s. 80; 13.92 (2) (i).

Revisions to sub. (1) by 1995 Act 27 were constitutional. Group Health Cooperative of Eau Claire v. DOR, 229 Wis. 2d 846, 601 N.W.2d 1 (Ct. App. 1999), 98−1264.

71.46 Rates of taxation. (1) The taxes to be assessed, levied and collected upon Wisconsin net incomes of corporations shall be computed at the rate of 7.9%.

(2) The corporation franchise tax imposed under s. 71.43 (2) and measured by Wisconsin net income shall be computed at the rate of 7.9%.

(3) The tax imposed under this subchapter on each domestic insurer on or measured by its entire net income attributable to lines of insurance in this state may not exceed 2% of the gross premiums, as defined in s. 76.62, received during the taxable year by the insurer on all policies on those lines of insurance if the subject of that insurance was resident, located or to be performed in this state plus 7.9% of the income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state.

History: 1987 a. 312; 1999 a. 9.

71.47 Credits. (1) COMMUNITY DEVELOPMENT FINANCE CREDIT. (a) Any corporation which contributes an amount to the community development finance authority under s. 233.03, 1985 stats., or to the housing and economic development authority under s. 234.03 (32) and in the same year purchases common stock or partnership interests of the community development finance company issued under s. 233.05 (2), 1985 stats., or s. 234.95 (2) in an amount no greater than the contribution to the authority, may credit against taxes otherwise due an amount equal to 75% of the purchase price of the stock or partnership interests. The credit received under this paragraph may not exceed 75% of the contribution to the community development finance authority.

(b) Any corporation receiving a credit under this subsection may carry forward to the next succeeding 15 taxable years the amount of the credit not offset against taxes for the year of purchase to the extent not offset by those taxes otherwise due in all intervening years between the year for which the credit was computed and the year for which the carry−forward is claimed.

(c) A claimant who has filed a timely claim under this subsection may file an amended claim with the department of revenue within 4 years of the last day prescribed by law for filing the original claim.

(1dd) DEVELOPMENT ZONES DAY CARE CREDIT. (a) In this subsection:

1. "Day care center benefits" means benefits provided at a child care facility that is licensed under s. 48.65 or 48.69 and that for compensation provides care for at least 6 children or benefits provided at a facility for persons who are physically incapable of caring for themselves.

2. "Employment−related day care expenses" means amounts paid or incurred by a claimant, during the 2−year period beginning with the day that the member of the targeted group begins work for the claimants for providing or making day care center benefits available to a qualifying individual in order to enable a member of a targeted group to be employed by the claimant.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

4. "Member of a targeted group" means a person under sub. (1dj) (am) 1.

5. "Qualifying individual" means a dependent of a member of a targeted group who is employed by a claimant and with respect to whom the member is entitled to a deduction under section 151 (c) of the internal revenue code for federal income tax purposes, a dependent of a member of a targeted group who is employed by a claimant if the dependent is physically or mentally incapable of caring for himself or herself or the spouse of a member of a targeted group who is employed by the claimant if the spouse is physically or mentally incapable of caring for himself or herself.

(b) Except as provided in s. 73.03 (35), for any taxable year for which that person is certified under s. 560.765 (3), 2009 stats., and begins business operations in a zone under s. 560.71, 2009 stats., after July 29, 1995, or certified under s. 560.797 (4) (a), 2009 stats., for each zone for which the person is certified or entitled a person may credit against taxes otherwise due under this subchapter employment−related day care expenses, up to $1,200 for each qualifying individual.

(c) Subsection (1di) (b), (c), (d) 1., (f) and (g), as it applies to the credit under sub. (1di), applies to the credit under this subsection.

(d) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(dm) No credit may be allowed under this subsection unless the claimant includes with the claimant's return a statement from the department of commerce verifying the amount of qualifying employment−related day care expenses.

(e) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1de) DEVELOPMENT ZONES ENVIRONMENTAL REMEDIATION CREDIT. (a) Except as provided in s. 73.03 (35), for any taxable year for which a person is certified under s. 560.765 (3), 2009 stats., and begins business operations in a zone under s. 560.71, 2009 stats., after July 29, 1995, or certified under s. 560.797 (4) (a), 2009 stats., for each zone for which the person is certified or entitled the person may claim as a credit against taxes otherwise due under this subchapter an amount equal to 7.5% of the amount that the person expends to remove or contain environmental pollution, as defined in s. 299.01 (4), in the zone or to restore soil or groundwater that is affected by environmental pollution, as defined in s. 299.01 (4), in the zone if the person fulfills all of the following requirements:

1. Begins the work, other than planning and investigating, for which the credit is claimed after the area that includes the site where the work is done is designated a development zone under s. 560.71, 2009 stats., or an enterprise development zone under s. 560.797, 2009 stats., and after the claimant is certified under s. 560.765 (3), 2009 stats., or certified under s. 560.797 (4) (a), 2009 stats.

(b) Subsection (1di) (b), (c), (d), (f) and (g), as it applies to the credit under s. 71.07 (2di), applies to the credit under this subsection.

(c) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(d) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1di) DEVELOPMENT ZONES INVESTMENT CREDIT. (a) Except as provided in pars. (dm) and (f) and s. 73.03 (35), for any taxable year for which the person is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits, any person may claim as a credit against taxes otherwise due under this chapter 2.5% of the purchase price of depreciable, tangible personal property, or 1.75% of the purchase price of depreciable, tangible personal property that is expensed under section 179 of the internal revenue code for purposes of the taxes under this chapter, except that:

1. The investment must be in property that is purchased after the person is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits and that is used for at least 50% of its use in the conduct of the person's business operations at a location in a development zone under subch. VI of ch. 560, 2009 stats., or, if the property is mobile, the base of operations of the property for at least 50% of its use must be a location in a development zone.

2. The credit under this subsection may be claimed only by the person who purchased the property the investment in which is the basis for the credit, except that only partners may claim the credit based on purchases by a partnership, only members may claim the credit based on purchases by a limited liability company and except that only shareholders may claim the credit based on purchases by a tax−option corporation.

3. If the credit is claimed for used property, the claimant may not have used the property for business purposes at a location outside the development zone. If the credit is attributable to a partnership, limited liability company or tax−option corporation, that entity may not have used the property for business purposes at a location outside the development zone.

4. No credit is allowed under this subsection for property which is the basis for a credit under sub. (1dL).

(b) 2. If the claimant is located on an Indian reservation, as defined in s. 560.86 (5), 2009 stats., and is an American Indian, as defined in s. 560.86 (1), 2009 stats., an Indian business, as defined in s. 560.86 (4), 2009 stats., or a tribal enterprise, as defined in s. 71.07 (2di) (b) 2., and if the allowable amount of the credit under this subsection exceeds the taxes otherwise due under this chapter on or measured by the claimant's income, the amount of the credit not used as an offset against those taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft.

3. Partnerships, limited liability companies and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners or members. The corporation, partnership or limited liability company shall compute the amount of the credit that may be claimed by each of its shareholders, partners or members and shall provide that information to each of its shareholders, partners or members. Partners, members of limited liability companies and shareholders of tax−option corporations may claim the credit based on the partnership's, company's or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income from the partnership's, company's or corporation's business operations in the development zone; except that a claimant in a development zone under s. 560.795 (1) (e), 2009 stats., may offset the credit, including any credits carried over, against the amount of the tax otherwise due under this chapter attributable to all of the claimant's income; and against the tax attributable to their income from the partnership's, company's or corporation's directly related business operations.

(c) Except as provided in par. (b) 2., the carry−over provisions of sub. (4) (e) and (f) as they relate to the credit under that subsection relate to the credit under this subsection and apply as if the development zone continued to exist.

(d) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of a verification from the department of commerce that the claimant may claim tax benefits under s. 560.795 (3), 2009 stats.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. A statement from the department of commerce verifying the purchase price of the investment and verifying that the investment fulfills the requirements under par. (a).

(dm) In calculating the credit under par. (a), a claimant shall reduce the purchase price of the property by a percentage equal to the percentage of use of the property during the taxable year the property is first placed into service that is for a purpose not specified under par. (a) 1.

(e) The recapture provisions under section 47 (a) (5) of the internal revenue code as amended to December 31, 1985, as they apply to the credit under section 46 of the internal revenue code, apply to the credit under this subsection, except that those provisions also apply if the property for which the credit is claimed is moved out of the development zone or, for mobile property, if the base of operations is moved out of the zone and except that the determination of whether or not property is 3−year property shall be made under section 168 of the internal revenue code.

(f) If a person who is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits becomes ineligible for such tax benefits, that person may claim no credits under this subsection for the taxable year that includes the day on which the person becomes ineligible for tax benefits or succeeding taxable years and that person may carry over no unused credits from previous years to offset tax under this chapter for the taxable year that includes the day on which the person becomes ineligible for tax benefits or succeeding taxable years.

(g) If a person who is entitled under s. 560.795 (3), 2009 stats., to claim tax benefits ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

(h) Subsection (4) (g) and (h) as it applies to the credit under that subsection applies to the credit under this subsection.

(i) No credit may be claimed under this subsection for taxable years that begin after December 31, 1997, and end before January 1, 2000. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1dj) DEVELOPMENT ZONES JOBS CREDIT. (am) Except as provided under par. (f) or s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3), 2009 stats., for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter an amount calculated as follows:

1. Modify "member of a targeted group", as defined in section 51 (d) of the internal revenue code as amended to December 31, 1995, to include persons unemployed as a result of a business action subject to s. 109.07 (1m) and dislocated workers, as defined in 29 USC 2801 (9), and to require a member of a targeted group to be a resident of this state.

2. Modify "designated local agency", as defined in section 51 (d) (15) of the internal revenue code, to include the local workforce development board established under 29 USC 2832 for the area that includes the development zone in which the employee in respect to whom the credit under this subsection is claimed works, if the department of commerce approves the criteria used for certification, and the department of commerce.

3. Modify the rule for certification under section 51 (d) (16) (A) of the internal revenue code to allow certification within the period beginning with the first day of employment of the employee.

4. a. If certified under s. 560.765 (3), 2009 stats., for tax benefits before January 1, 1992, modify "qualified wages" as defined in section 51 (b) of the internal revenue code to exclude wages paid before the claimant is certified for tax benefits and to exclude wages that are paid to employees for work at any location that is not in a development zone under subch. VI of ch. 560, 2009 stats. For purposes of this subd. 4. a., mobile employees work at their base of operations and leased or rented employees work at the location where they perform services.

b. If certified under s. 560.765 (3), 2009 stats., for tax benefits after December 31, 1991, modify "qualified wages" as defined in section 51 (b) of the internal revenue code to exclude wages paid before the claimant is certified for tax benefits and to exclude wages that are paid to employees for work at any location that is not in a development zone under subch. VI of ch. 560, 2009 stats. For purposes of this subd. 4. b., mobile employees and leased or rented employees work at their base of operations.

4c. Modify the rule for ineligible individuals under section 51 (i) (1) of the internal revenue code to allow credit for the wages of related individuals paid by an Indian business, as defined in s. 560.86 (4), 2009 stats., or a tribal enterprise, as defined in s. 71.07 (2di) (b) 2., if the Indian business or tribal enterprise is located in a development zone designated under s. 560.71 (3) (c) 2., 2009 stats.

4e. Modify section 51 (c) (2) of the internal revenue code to specify that the rules for on−the−job training and work supplementation payments also apply to those kinds of payments funded by this state.

4g. Delete section 51 (c) (4) of the internal revenue code.

4h. Modify section 51 (a) of the internal revenue code so that the amount of the credit is 25% of the qualified first−year wages if the wages are paid to an applicant for a Wisconsin works employment position for service either in an unsubsidized position or in a trial job under s. 49.147 (3) and so that the amount of the credit is 20% of the qualified first−year wages if the wages are not paid to such an applicant.

4i. Modify section 51 (b) (3) of the internal revenue code so that the amount of the qualified first−year wages that may be taken into account is $13,000.

4m. Modify the rule on remuneration under section 51 (f) of the internal revenue code so that it does not apply to persons who are exempt from tax under this chapter.

4t. If certified under s. 560.765 (3), 2009 stats., for tax benefits before January 1, 1992, modify section 51 (i) (3) of the internal revenue code so that for leased or rented employees, except employees of a leasing agency certified for tax benefits who perform services directly for the agency in a development zone, the minimum employment periods apply to the time that they perform services in a development zone for a single lessee or renter, not to their employment by the leasing agency.

5. Calculate the credit under section 51 of the internal revenue code.

6. For persons for whom a credit may be claimed under subd. 5., modify "qualified wages" under section 51 (b) of the internal revenue code so that those wages are based on the wages attributable to service rendered during the one−year period beginning with the date one year after the date on which the individual begins work for the employer.

7. Modify section 51 of the internal revenue code as under subds. 1. to 4t.

8. Calculate the credit under section 51 of the internal revenue code based on qualified wages for the 2nd year as determined under subds. 6. and 7.

8m. For each person, whether or not he or she is a member of a targeted group, who is determined by the department of commerce to be a resident of the development zone in which he or she is employed, calculate a credit equal to 10% of the wages earned by such person during the 1st and 2nd years of the person's employment in the development zone, up to a maximum credit of $600 per year.

9. Add the amounts under subds. 5., 8. and 8m.

(b) In computing the credit under this subsection, the wages of leased or rented employees may be claimed only by their employer, not by the person to whom they are rented or leased.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(c) The credit under this subsection may not be claimed by partnerships, limited liability companies and tax−option corporations but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners or members. The corporation, partnership or limited liability company shall compute the amount of the credit that may be claimed by each of its shareholders, partners or members and shall provide that information to each of its shareholders, partners or members. That credit may be claimed by partners, members of limited liability companies and shareholders of tax−option corporations in proportion to their ownership interests.

(e) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the claimant's certification for tax benefits under s. 560.765 (3), 2009 stats.

3. a. If certified under s. 560.765 (3), 2009 stats., for tax benefits before January 1, 1992, a statement from the department of commerce verifying the amount of qualifying wages and verifying that the employees were hired for work only in a development zone or are mobile employees whose base of operations is in a development zone.

b. If certified under s. 560.765 (3), 2009 stats., for tax benefits after December 31, 1991, a statement from the department of commerce verifying the amount of qualifying wages and verifying that the employees were hired for work only in a development zone or are mobile employees or leased or rented employees whose base of operations is in a development zone.

4. A copy of any claims for the credit under section 51 of the internal revenue code that are based on wages that also are the basis for a claim under this subsection.

(f) The rules under sub. (1di) (f) and (g) as they apply to the credit under that subsection apply to the credit under this subsection.

(g) Subsection (4) (g) and (h) as it applies to the credit under that subsection applies to the credit under this subsection.

(h) The rules under sub. (1di) (b) and (c) as they apply to the credit under that subsection apply to the credit under this subsection.

(i) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1dL) DEVELOPMENT ZONES LOCATION CREDIT. (a) Except as provided in pars. (ag), (ar), (bm) and (f) and s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3), 2009 stats., for tax benefits, any person may claim as a credit against taxes otherwise due under this subchapter an amount equal to 2.5% of the amount expended by that person to acquire, construct, rehabilitate or repair real property in a development zone under subch. VI of ch. 560, 2009 stats.

(ag) If the credit under par. (a) is claimed for an amount expended to construct, rehabilitate, remodel or repair property, the claimant must have begun the physical work of construction, rehabilitation, remodeling or repair, or any demolition or destruction in preparation for the physical work, after the place where the property is located was designated a development zone under s. 560.71, 2009 stats., and the completed project must be placed in service after the claimant is certified for tax benefits under s. 560.765 (3), 2009 stats. In this paragraph, "physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications or stabilizing the property to prevent deterioration.

(ar) If the credit under par. (a) is claimed for an amount expended to acquire property, the property must have been acquired by the claimant after the place where the property is located was designated a development zone under s. 560.71, 2009 stats., and the completed project must be placed in service after the claimant is certified for tax benefits under s. 560.765 (3), 2009 stats., and the property must not have been previously owned by the claimant or a related person during the 2 years prior to the designation of the development zone under s. 560.71, 2009 stats. No credit is allowed for an amount expended to acquire property until the property, either in its original state as acquired by the claimant or as subsequently constructed, rehabilitated, remodeled or repaired, is placed in service.

(aw) In par. (ar), property is previously owned by a claimant or a related person if a claimant may not deduct a loss from a sale to, or exchange of property with, that related person under section 267 of the internal revenue code, except that section 267 (b) of the internal revenue code is modified so that any ownership percentage, rather than 50% ownership, makes a claimant subject to section 267 (a) (1) of the internal revenue code for purposes of this subsection.

(b) No credit is allowed under this subsection for property which is the basis for a credit under sub. (1di).

(bm) In calculating the credit under par. (a) a claimant shall reduce the amount expended to acquire property by a percentage equal to the percentage of the area of the real property not used for the purposes for which the claimant is certified to claim tax benefits under s. 560.765 (3), 2009 stats., and shall reduce the amount expended for other purposes by the amount expended on the part of the property not used for the purposes for which the claimant is certified to claim tax benefits under s. 560.765 (3), 2009 stats.

(c) If the claimant is located on an Indian reservation, as defined in s. 560.86 (5), 2009 stats., and is an American Indian, as defined in s. 560.86 (1), 2009 stats., an Indian business, as defined in s. 560.86 (4), 2009 stats., or a tribal enterprise, as defined in s. 71.07 (2di) (b) 2., and if the allowable amount of the credit under par. (a) exceeds the taxes otherwise due under this chapter on or measured by the claimant's income, the amount of the credit not used as an offset against those taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft.

(d) Except as provided in par. (c), the carry−over provisions of sub. (4) (e) and (f) as they relate to the credit under that subsection relate to the credit under this subsection and apply as if the development zone continued to exist.

(e) Partnerships, limited liability companies and tax−option corporations may not claim the credit under this subsection, but the eligibility for and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners or members. The corporation, partnership or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners or members and provide that information to its shareholders, partners or members. Partners, members of limited liability companies and shareholders of tax−option corporations may claim the credit based on the partnership's, company's or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income from the partnership's, company's or corporation's business operations in the development zone and against the tax attributable to their income from the partnership's, company's or corporation's directly related business operations.

(f) Subsection (1di) (d), (f) and (g) as it applies to the credit under that subsection applies to the credit under this subsection.

(g) Subsection (4) (g) and (h) as it applies to the credit under that subsection applies to the credit under this subsection.

(h) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1dm) DEVELOPMENT ZONE CAPITAL INVESTMENT CREDIT. (a) In this subsection:

1. "Certified" means entitled under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., to claim tax benefits or certified

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats.

2. "Claimant" means a person who files a claim under this subsection.

3. "Development zone" means a development opportunity zone under s. 238.395 (1) (e) and (f) or 238.398 or s. 560.795 (1) (e) and (f), 2009 stats., or s. 560.798, 2009 stats., or an airport development zone under s. 238.3995 or s. 560.7995, 2009 stats.

4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to the department of commerce or the Wisconsin Economic Development Corporation designating the place where the property is located as a development zone and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code, except that section 267 (b) of the Internal Revenue Code is modified so that if the claimant owns any part of the property, rather than 50% ownership, the claimant is subject to section 267 (a) (1) of the Internal Revenue Code for purposes of this subsection.

(b) Subject to the limitations provided in this subsection and in s. 73.03 (35), for any taxable year for which the claimant is certified, a claimant may claim as a credit against the taxes imposed under s. 71.43 an amount that is equal to 3% of the following:

1. The purchase price of depreciable, tangible personal property.

2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a development zone.

(c) A claimant may claim the credit under par. (b) 1., if the tangible personal property is purchased after the claimant is certified and the personal property is used for at least 50% of its use in the claimant's business at a location in a development zone or, if the property is mobile, the property's base of operations for at least 50% of its use is at a location in a development zone.

(d) A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after the place where the property is located was designated a development zone, or if the completed project is placed in service after the claimant is certified. In this paragraph, "physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing the property to prevent deterioration.

(e) A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after the place where the property is located was designated a development zone, or if the completed project is placed in service after the claimant is certified.

(f) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the verification that the claimant may claim tax benefits under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., or is certified under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats.

2. A statement from the department of commerce or the Wisconsin Economic Development Corporation verifying the purchase price of the investment and verifying that the investment fulfills the requirements under par. (b).

(g) In calculating the credit under par. (b) a claimant shall reduce the amount expended to acquire property by a percentage equal to the percentage of the area of the real property not used for the purposes for which the claimant is certified and shall reduce the amount expended for other purposes by the amount expended on the part of the property not used for the purposes for which the claimant is certified.

(h) The carry−over provisions of s. 71.28 (4) (e) and (f) as they relate to the credit under s. 71.28 (4) relate to the credit under this subsection.

(hm) A claimant may claim the credit under this subsection, including any credits carried over, against the amount of the tax otherwise due under this subchapter.

(i) Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners, or members. The corporation, partnership, or limited liability company shall compute the amount of credit that may be claimed by each of its shareholders, partners, or members and provide that information to its shareholders, partners, or members. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit based on the partnership's, company's, or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income from the partnership's, company's, or corporation's business operations in the development zone; except that partners, members, and shareholders in a development zone under s. 238.395 (1) (e) or s. 560.795 (1) (e), 2009 stats., may offset the credit against the amount of the tax attributable to their income.

(j) If a person who is entitled under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., to claim tax benefits becomes ineligible for such tax benefits, or if a person's certification under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., is revoked, that person may claim no credits under this subsection for the taxable year that includes the day on which the person becomes ineligible for tax benefits, the taxable year that includes the day on which the certification is revoked, or succeeding taxable years, and that person may carry over no unused credits from previous years to offset tax under this chapter for the taxable year that includes the day on which the person becomes ineligible for tax benefits, the taxable year that includes the day on which the certification is revoked, or succeeding taxable years.

(k) If a person who is entitled under s. 238.395 (3) (a) 4. or s. 560.795 (3) (a) 4., 2009 stats., to claim tax benefits or certified under s. 238.395 (5), 238.398 (3), or 238.3995 (4) or s. 560.795 (5), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

(L) Section 71.28 (4) (g) and (h) as it applies to the credit under s. 71.28 (4) applies to the credit under this subsection.

(1ds) DEVELOPMENT ZONES SALES TAX CREDIT. (a) In this subsection:

1. "Development zone" means a zone designated under s. 560.71, 2009 stats.

2. "Eligible property" means construction materials and supplies and other materials that are used to construct, rehabilitate, repair or remodel real property that is eligible for the credit under sub. (1dL) and investment credit property.

3. "Investment credit property" means depreciable, tangible personal property that is eligible for the credit under sub. (1di) and leased or rented depreciable, tangible personal property that would be eligible for the credit under sub. (1di) if it had been purchased.

(b) Except as provided in pars. (dm) and (e) and s. 73.03 (35), for any taxable year for which the person is certified under s. 560.765 (3), 2009 stats., for tax benefits, any person may claim as a credit against taxes otherwise due under this chapter the taxes paid under subchs. III and V of ch. 77 on their purchases, leases

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

and rentals of eligible property. Partnerships, limited liability companies and tax−option corporations may not claim the credit under this subsection but the eligibility for, and the amount of, that credit shall be determined on the basis of their economic activity, not that of their partners, members or shareholders. The partnership, limited liability company or corporation shall compute the amount of the credit that may be claimed by each of its partners, members or shareholders and shall provide that information to each of its partners, members or shareholders. Partners, members of limited liability companies and shareholders of tax−option corporations may claim the credit based on the partnership's, company's or corporation's activities in proportion to their ownership interest.

(d) No credit may be allowed under this subsection unless the claimant submits with the claimant's return:

1. A copy of the claimant's certification for tax benefits under s. 560.765 (3), 2009 stats.

2. A statement from the department of commerce verifying the amount of taxes paid under subchs. III and V of ch. 77 for eligible property by the claimant.

(dm) In calculating the credit under par. (b) a claimant shall reduce the sales tax paid for building supplies and materials by the reduction under sub. (1dL) (bm) and shall reduce the sales tax paid for investment credit property by the percentage reduction under sub. (1di) (dm).

(e) The rules under sub. (1di) (f) and (g) as they apply to the credit under that subsection apply to the credit under this subsection.

(f) Subsection (4) (g) and (h) as it applies to the credit under that subsection applies to the credit under this subsection.

(h) The rules under sub. (1di) (b) and (c) as they apply to the credit under that subsection apply to the credit under this subsection.

(i) No credit may be claimed under this subsection for taxable years that begin on January 1, 1998, or thereafter. Credits under this subsection for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(1dx) DEVELOPMENT ZONES CREDIT. (a) *Definitions.* In this subsection:

1. "Brownfield" means an industrial or commercial facility the expansion or redevelopment of which is complicated by environmental contamination.

2. "Development zone" means a development zone under s. 238.30 or s. 560.70, 2009 stats., a development opportunity zone under s. 238.395 or s. 560.795, 2009 stats., or an enterprise development zone under s. 238.397 or s. 560.797, 2009 stats., an agricultural development zone under s. 238.398 or s. 560.798, 2009 stats., or an airport development zone under s. 238.3995 or s. 560.7995, 2009 stats.

3. "Environmental remediation" means removal or containment of environmental pollution, as defined in s. 299.01 (4), and restoration of soil or groundwater that is affected by environmental pollution, as defined in s. 299.01 (4), in a brownfield if that removal, containment or restoration fulfills the requirement under sub. (1de) (a) 1. and investigation unless the investigation determines that remediation is required and that remediation is not undertaken.

4. "Full−time job" means a regular, nonseasonal full−time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays, and for which the individual receives pay that is equal to at least 150% of the federal minimum wage and receives benefits that are not required by federal or state law. "Full−time job" does not include initial training before an employment position begins.

5. "Member of a targeted group" means a person who resides in an area designated by the federal government as an economic revitalization area, a person who is employed in an unsubsidized job but meets the eligibility requirements under s. 49.145 (2) and (3) for a Wisconsin Works employment position, a person who is employed in a trial job, as defined in s. 49.141 (1) (n), or in a real work, real pay project position under s. 49.147 (3m), a person who is eligible for child care assistance under s. 49.155, a person who is a vocational rehabilitation referral, an economically disadvantaged youth, an economically disadvantaged veteran, a supplemental security income recipient, a general assistance recipient, an economically disadvantaged ex−convict, a qualified summer youth employee, as defined in 26 USC 51 (d) (7), a dislocated worker, as defined in 29 USC 2801 (9), or a food stamp recipient, if the person has been certified in the manner under sub. (1dj) (am) 3. by a designated local agency, as defined in sub. (1dj) (am) 2.

(b) *Credit.* Except as provided in pars. (be) and (bg) and in s. 73.03 (35), and subject to s. 238.385 or s. 560.785, 2009 stats., for any taxable year for which the person is entitled under s. 238.395 (3) or s. 560.795 (3), 2009 stats., to claim tax benefits or certified under s. 238.365 (3), 238.397 (4), 238.398 (3), or 238.3995 (4) or s. 560.765 (3), 2009 stats., s. 560.797 (4), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., any person may claim as a credit against the taxes otherwise due under this chapter the following amounts:

1. Fifty percent of the amount expended for environmental remediation in a development zone.

2. The amount determined by multiplying the amount determined under s. 238.385 (1) (b) or s. 560.785 (1) (b), 2009 stats., by the number of full−time jobs created in a development zone and filled by a member of a targeted group and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

3. The amount determined by multiplying the amount determined under s. 238.385 (1) (c) or s. 560.785 (1) (c), 2009 stats., by the number of full−time jobs created in a development zone and not filled by a member of a targeted group and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

4. The amount determined by multiplying the amount determined under s. 238.385 (1) (bm) or s. 560.785 (1) (bm), 2009 stats., by the number of full−time jobs retained, as provided in the rules under s. 238.385 or s. 560.785, 2009 stats., excluding jobs for which a credit has been claimed under sub. (1dj), in an enterprise development zone under s. 238.397 or s. 560.797, 2009 stats., and for which significant capital investment was made and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

5. The amount determined by multiplying the amount determined under s. 238.385 (1) (c) or s. 560.785 (1) (c), 2009 stats., by the number of full−time jobs retained, as provided in the rules under s. 238.385 or s. 560.785, 2009 stats., excluding jobs for which a credit has been claimed under sub. (1dj), in a development zone and not filled by a member of a targeted group and by then subtracting the subsidies paid under s. 49.147 (3) (a) or the subsidies and reimbursements paid under s. 49.147 (3m) (c) for those jobs.

(be) *Offset.* A claimant in a development zone under s. 238.395 (1) (e) or s. 560.795 (1) (e), 2009 stats., may offset any credits claimed under this subsection, including any credits carried over, against the amount of the tax otherwise due under this subchapter attributable to all of the claimant's income and against the tax attributable to income from directly related business operations of the claimant.

(bg) *Other entities.* For claimants in a development zone under s. 238.395 (1) (e) or s. 560.795 (1) (e), 2009 stats., partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and amount of, that credit shall be determined on the basis of their economic activity, not that of their shareholders, partners, or mem-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

bers. The corporation, partnership, or company shall compute the amount of the credit that may be claimed by each of its shareholders, partners, or members and shall provide that information to each of its shareholders, partners, or members. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit based on the partnership's, company's, or corporation's activities in proportion to their ownership interest and may offset it against the tax attributable to their income.

(c) *Credit precluded.* If the certification of a person for tax benefits under s. 238.365 (3), 238.397 (4), 238.398 (3), or 238.3995 (4) or s. 560.765 (3), 2009 stats., s. 560.797 (4), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., is revoked, or if the person becomes ineligible for tax benefits under s. 238.395 (3) or s. 560.795 (3), 2009 stats., that person may not claim credits under this subsection for the taxable year that includes the day on which the certification is revoked; the taxable year that includes the day on which the person becomes ineligible for tax benefits; or succeeding taxable years and that person may not carry over unused credits from previous years to offset tax under this chapter for the taxable year that includes the day on which certification is revoked; the taxable year that includes the day on which the person becomes ineligible for tax benefits; or succeeding taxable years.

(d) *Carry−over precluded.* If a person who is entitled under s. 238.395 (3) or s. 560.795 (3), 2009 stats., to claim tax benefits or certified under s. 238.365 (3), 238.397 (4), 238.398 (3), or 238.3995 (4) or s. 560.765 (3), 2009 stats., s. 560.797 (4), 2009 stats., s. 560.798 (3), 2009 stats., or s. 560.7995 (4), 2009 stats., for tax benefits ceases business operations in the development zone during any of the taxable years that that zone exists, that person may not carry over to any taxable year following the year during which operations cease any unused credits from the taxable year during which operations cease or from previous taxable years.

(e) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection. Subsection (1dj) (c), as it applies to the credit under sub. (1dj), applies to the credit under this subsection. Claimants shall include with their returns a copy of their certification for tax benefits and a copy of the department of commerce's verification of their expenses.

(1dy) ECONOMIC DEVELOPMENT TAX CREDIT. (a) *Definition.* In this subsection, "claimant" means a person who files a claim under this subsection and is certified under s. 238.301 (2) or s. 560.701 (2), 2009 stats., and authorized to claim tax benefits under s. 238.303 or s. 560.703, 2009 stats.

(b) *Filing claims.* Subject to the limitations under this subsection and ss. 238.301 to 238.306 or s. 560.701 to 560.706, 2009 stats., for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax, the amount authorized for the claimant under s. 238.303 or s. 560.703, 2009 stats.

(c) *Limitations.* 1. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification under s. 238.301 (2) or s. 560.701 (2), 2009 stats., and a copy of the claimant's notice of eligibility to receive tax benefits under s. 238.303 (3) or s. 560.703 (3), 2009 stats.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their authorization to claim tax benefits under s. 238.303 or s. 560.703, 2009 stats. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Except as provided in subd. 2., sub. (4) (e) and (f), as it applies to the credit under sub. (4), applies to the credit under this subsection.

2. If a claimant's certification is revoked under s. 238.305 or s. 560.705, 2009 stats., or if a claimant becomes ineligible for tax benefits under s. 238.302 or s. 560.702, 2009 stats., the claimant may not claim credits under this subsection for the taxable year that includes the day on which the certification is revoked; the taxable year that includes the day on which the claimant becomes ineligible for tax benefits; or succeeding taxable years and the claimant may not carry over unused credits from previous years to offset the tax imposed under s. 71.43 for the taxable year that includes the day on which certification is revoked; the taxable year that includes the day on which the claimant becomes ineligible for tax benefits; or succeeding taxable years.

3. Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies to the credit under this subsection.

(2) FARMLAND PRESERVATION CREDIT. The farmland preservation credit under subch. IX may be claimed against taxes otherwise due.

(2m) FARMLAND TAX RELIEF CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means an owner, as defined in s. 91.01 (9), 2007 stats., of farmland domiciled in this state during the entire year for which a credit under this subsection is claimed, except as follows:

a. When 2 or more individuals of a household are able to qualify individually as a claimant, they may determine between them who the claimant shall be. If they are unable to agree, the matter shall be referred to the secretary of revenue, whose decision is final.

b. For partnerships, except publicly traded partnerships treated as corporations under s. 71.22 (1k), or limited liability companies, except limited liability companies treated as corporations under s. 71.22 (1k), "claimant" means each individual partner or member.

c. For purposes of filing a claim under this subsection, the personal representative of an estate and the trustee of a trust shall be deemed owners of farmland. "Claimant" does not include the estate of a person who is a nonresident of this state on the person's date of death, a trust created by a nonresident person, a trust which receives Wisconsin real property from a nonresident person or a trust in which a nonresident settlor retains a beneficial interest.

d. For purposes of filing a claim under this subsection, when land is subject to a land contract, the claimant shall be the vendee under the contract.

e. For purposes of filing a claim under this subsection, when a guardian has been appointed in this state for a ward who owns the farmland, the claimant shall be the guardian on behalf of the ward.

f. For a tax−option corporation, "claimant" means each individual shareholder.

2. "Department" means the department of revenue.

3. "Farmland" means 35 or more acres of real property, exclusive of improvements, in this state, in agricultural use, as defined in s. 91.01 (1), 2007 stats., and owned by the claimant or any member of the claimant's household during the taxable year for which a credit under this subsection is claimed if the farm of which the farmland is a part, during that year, produced not less than $6,000 in gross farm profits resulting from agricultural use, as defined in s. 91.01 (1), 2007 stats., or if the farm of which the farmland is a part, during that year and the 2 years immediately preceding that year, produced not less than $18,000 in such profits, or if at least 35 acres of the farmland, during all or part of that year, was enrolled in the conservation reserve program under 16 USC 3831 to 3836.

4. "Gross farm profits" means gross receipts, excluding rent, from agricultural use, as defined in s. 91.01 (1), 2007 stats.,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

including the fair market value at the time of disposition of payments in kind for placing land in federal programs or payments from the federal dairy termination program under 7 USC 1446 (d), less the cost or other basis of livestock or other items purchased for resale which are sold or otherwise disposed of during the taxable year.

5. "Household" means an individual and his or her spouse and all minor dependents.

6. "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on the farmland owned by the claimant or any member of the claimant's household in any calendar year under ch. 70, less the tax credit, if any, afforded in respect of the property by s. 79.10. "Property taxes accrued" shall not exceed $10,000. If farmland is owned by a tax−option corporation, limited liability company or by 2 or more persons or entities as joint tenants, tenants in common or partners or is marital property or survivorship marital property and one or more such persons, entities or owners is not a member of the claimant's household, "property taxes accrued" is that part of property taxes levied on the farmland, reduced by the tax credit under s. 79.10, that reflects the ownership percentage of the claimant and the claimant's household. For purposes of this subdivision, property taxes are "levied" when the tax roll is delivered to the local treasurer for collection. If farmland is sold during the calendar year of the levy the "property taxes accrued" for the seller is the amount of the tax levy, reduced by the tax credit under s. 79.10, prorated to each in the closing agreement pertaining to the sale of the farmland, except that if the seller does not reimburse the buyer for any part of those property taxes there are no "property taxes accrued" for the seller, and the "property taxes accrued" for the buyer is the property taxes levied on the farmland, reduced by the tax credit under s. 79.10, minus, if the seller reimburses the buyer for part of the property taxes, the amount prorated to the seller in the closing agreement. With the claim for credit under this subsection, the seller shall submit a copy of the closing agreement and the buyer shall submit a copy of the closing agreement and a copy of the property tax bill.

(b) *Filing claims.* 1. 'Eligibility and qualifications.' a. Subject to the limitations provided in this subsection and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin income taxes otherwise due, the amount derived under par. (c). If the allowable amount of claim exceeds the income taxes otherwise due on the claimant's income or if there are no Wisconsin income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft paid from the appropriations under s. 20.835 (2) (ka) and (q).

b. Every claimant under this subsection shall supply, at the request of the department, in support of the claim, a copy of the property tax bill relating to the farmland and certification by the claimant that all taxes owed by the claimant on the property for which the claim is made for the year before the year for which the claim is made have been paid.

2. 'Ineligible claims.' No credit may be allowed under this subsection:

a. Unless a claim is filed with the department in conformity with the filing requirements in s. 71.44 (1), (1m) and (3).

b. If the department determines that ownership of the farmland has been transferred to the claimant for the purpose of maximizing benefits under this subsection.

(c) *Computation.* 1. Any claimant may claim against taxes otherwise due under this chapter a percentage, as determined by the department under subd. 3., of the property taxes accrued in the taxable year to which the claim relates, up to a maximum claim of $1,500, except that the credit under this subsection plus the credit under subch. IX may not exceed 95% of the property taxes accrued on the farm.

2. Any claimant may claim against taxes otherwise due under this chapter, on an income or franchise tax return that includes the levy date, an additional one−time credit of 4.2% of the property taxes accrued, that are levied in December 1989, up to a maximum of $420.

3. The department shall annually adjust the percentage that is used to determine the amount of a claim under subd. 1. based on the estimated number of claims and the amount estimated to be expended from the appropriation under s. 20.835 (2) (q), as determined under s. 79.13. The department shall incorporate the annually adjusted percentage into the income tax forms and instructions.

(d) *General provisions.* Section 71.61 (1) to (4) as it applies to the credit under subch. IX applies to the credit under this subsection.

(e) *Sunset.* No new claim may be filed under this subsection for a taxable year that begins after December 31, 2009.

(3) MANUFACTURING SALES TAX CREDIT. (a) In this subsection:

1. "Manufacturing" has the meaning given in s. 77.54 (6m), 2007 stats.

2. "Sales and use tax under ch. 77 paid by the corporation" includes use taxes paid directly by the corporation and sales and use taxes paid by the corporation's supplier and passed on to the corporation whether separately stated on the invoice or included in the total price.

(b) The tax imposed upon or measured by corporation Wisconsin net income under s. 71.43 (1) or (2) shall 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. Shareholders of a tax−option corporation and partners may claim the credit under this subsection, based on eligible sales and use taxes paid by the tax−option corporation or partnership, in proportion to the ownership interest of each shareholder or partner. The tax−option corporation or partnership shall calculate the amount of the credit that may be claimed by each shareholder or partner and shall provide that information to the shareholder or partner.

(c) 1. Except as provided in subd. 7., if the credit computed under par. (b) is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance shall be carried forward and credited against Wisconsin income or franchise taxes otherwise due for the following 20 taxable years to the extent not offset by these taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry−forward credit is claimed.

2. For shareholders in a tax−option corporation, the credit may be offset only against the tax imposed on the shareholder's prorated share of the tax−option corporation's income.

3. For partners, the credit may be offset only against the tax imposed on the partner's distributive share of partnership income.

4. If a tax−option corporation becomes liable for tax for a taxable year that begins on or after January 1, 1998, the corporation may offset the credit against the tax due, with any remaining credit computed for a taxable year that begins on or after January 1, 1998, passing through to the shareholders.

5. If a corporation that is not a tax−option corporation has a carry−over credit from a taxable year that begins on or after January 1, 1998, and becomes a tax−option corporation before the credit carried over is used, the unused portion of the credit may be used by the tax−option corporation's shareholders on a prorated basis.

6. If the shareholders of a tax−option corporation have carry−over credits and the corporation becomes a corporation other than a tax−option corporation after October 14, 1997, and before the credits carried over are used, the unused portion of the credits may be used by the corporation that is not a tax−option corporation.

2009−10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Oct. 1, 2012. Statutory changes effective on or prior to Oct. 1, 2012 are printed as currently in effect. Changes effective after Oct. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (10−3−12)

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

7. No credit may be claimed under this subsection for taxable years that begin after December 31, 2005. For credits that are claimed but unused under this subsection for taxable years that begin before January 1, 2005, up to 50 percent may be used in each of the following 2 taxable years if the taxpayer has $25,000 or less in unused credits as of January 1, 2006. For taxable years beginning after December 31, 2005, and before January 1, 2008, a taxpayer who has more than $25,000 in unused credits as of January 1, 2006, may deduct an amount in each year that is equal to 50 percent of the amount the taxpayer added back to income under s. 71.45 (2) (a) 10. at the time that the taxpayer first claimed the credit or, with regard to credits passed through from a partnership, limited liability company, or tax−option corporation, 50 percent of the amount that the entity added back to its income and was included in the partner's, member's, or shareholder's Wisconsin net income at the time that the credit was first claimed.

(3g) TECHNOLOGY ZONES CREDIT. (a) Subject to the limitations under this subsection and ss. 73.03 (35m) and 238.23 and s. 560.96, 2009 stats., a business that is certified under s. 238.23 (3) or s. 560.96 (3), 2009 stats., may claim as a credit against the taxes imposed under s. 71.43 an amount equal to the sum of the following, as established under s. 238.23 (3) (c) or s. 560.96 (3) (c), 2009 stats.:

1. The amount of real and personal property taxes imposed under s. 70.01 that the business paid in the taxable year.

2. Ten percent of the following amounts of capital investments that are made by the business in the technology zone in the year to which the claim relates:

a. The purchase price of depreciable, tangible personal property.

b. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property in a technology zone.

3. Fifteen percent of the amount that is spent for the first 12 months of wages for each job that is created in a technology zone after certification.

(b) The department of revenue shall notify the department of commerce or the Wisconsin Economic Development Corporation of all claims under this subsection.

(c) Section 71.28 (4) (e), (f), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under par. (a).

(d) Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (a). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(e) 1. No amount described under par. (a) 2. may be used in the calculation of a credit under this subsection if that amount is used in the calculation of any other credit under this chapter.

2. The investments that relate to the amount described under par. (a) 2. for which a claimant makes a claim under this subsection must be retained for use in the technology zone for the period during which the claimant's business is certified under s. 238.23 (3) or s. 560.96 (3), 2009 stats.

(f) No credit may be allowed under this subsection unless the claimant includes with the claimant's return:

1. A copy of the verification that the claimant's business is certified under s. 238.23 (3) or s. 560.96 (3), 2009 stats., and that the business has entered into an agreement under s. 238.23 (3) (d) or s. 560.96 (3) (d), 2009 stats.

2. A statement from the department of commerce or the Wisconsin Economic Development Corporation verifying the purchase price of the investment described under par. (a) 2. and verifying that the investment fulfills the requirement under par. (e) 2.

(3h) BIODIESEL FUEL PRODUCTION CREDIT. (a) *Definitions.* In this subsection:

1. "Biodiesel fuel" has the meaning given in s. 168.14 (2m) (a).

2. "Claimant" means a person who is engaged in the business of producing biodiesel fuel in this state and who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2011, and before January 1, 2015, for a claimant who produces at least 2,500,000 gallons of biodiesel fuel in this state in the taxable year, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax, an amount that is equal to the number of gallons of biodiesel fuel produced by the claimant in this state in the taxable year multiplied by 10 cents.

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is $1,000,000.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their biodiesel fuel production, as described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h) as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(3n) DAIRY AND LIVESTOCK FARM INVESTMENT CREDIT. (a) In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

1m. "Dairy animals" includes heifers raised as replacement dairy animals.

1p. "Dairy farm" includes a facility used to raise heifers as replacement dairy animals.

2. "Dairy farm modernization or expansion" means the construction, the improvement, or the acquisition of buildings or facilities, or the acquisition of equipment, for dairy animal housing, confinement, animal feeding, milk production, or waste management, including the following, if used exclusively related to dairy animals and if acquired and placed in service in this state during taxable years that begin after December 31, 2003, and before January 1, 2017:

a. Freestall barns.

b. Fences.

c. Watering facilities.

d. Feed storage and handling equipment.

e. Milking parlors.

f. Robotic equipment.

g. Scales.

h. Milk storage and cooling facilities.

i. Bulk tanks.

j. Manure pumping and storage facilities.

k. Digesters.

L. Equipment used to produce energy.

4. "Livestock" means cattle, not including dairy animals; swine; poultry, including farm−raised pheasants, but not including other farm−raised game birds or ratites; fish that are raised in aquaculture facilities; sheep; and goats.

5. "Livestock farm modernization or expansion" means the construction, the improvement, or the acquisition of buildings or facilities, or the acquisition of equipment, for livestock housing, confinement, feeding, or waste management, including the fol-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

lowing, if used exclusively related to livestock and if acquired and placed in service in this state during taxable years that begin after December 31, 2005, and before January 1, 2017:

a. Birthing structures.

b. Rearing structures.

c. Feedlot structures.

d. Feed storage and handling equipment.

e. Fences.

f. Watering facilities.

g. Scales.

h. Manure pumping and storage facilities.

i. Digesters.

j. Equipment used to produce energy.

k. Fish hatchery buildings.

L. Fish processing buildings.

m. Fish rearing ponds.

6. a. For taxable years that begin after December 31, 2003, and before January 1, 2006, "used exclusively," related to dairy animals, means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

b. For taxable years that begin after December 31, 2005, and before January 1, 2017, "used exclusively," related to livestock, dairy animals, or both, means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) 1. Subject to the limitations provided in this subsection, for taxable years that begin after December 31, 2003, and before January 1, 2017, a claimant may claim as a credit against the tax imposed under s. 71.43 an amount equal to 10% of the amount the claimant paid in the taxable year for dairy farm modernization or expansion related to the operation of the claimant's dairy farm.

2. Subject to the limitations provided in this subsection, for taxable years that begin after December 31, 2005, and before January 1, 2017, a claimant may claim as a credit against the tax imposed under s. 71.43 an amount equal to 10 percent of the amount the claimant paid in the taxable year for livestock farm modernization or expansion related to the operation of the claimant's livestock farm.

(c) No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

(d) The aggregate amount of credits that a claimant may claim under this subsection is $75,000, except that no more than $50,000 of this amount may be based on costs incurred prior to May 27, 2010.

(e) 1. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed the limitation under par. (d). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

2. If 2 or more persons own and operate the dairy or livestock farm, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the farm shall not exceed the limitation under par. (d).

(f) Section 71.28 (4) (e), (f), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

Cross−reference: See also s. Tax 2.99, Wis. adm. code.

(3p) DAIRY MANUFACTURING FACILITY INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

1m. "Dairy cooperative" means a business organized under ch. 185 or 193 for the purpose of obtaining or processing milk.

2. "Dairy manufacturing" means processing milk into dairy products or processing dairy products for sale commercially.

3. "Dairy manufacturing modernization or expansion" means constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for dairy manufacturing, including the following, if used exclusively for dairy manufacturing and if acquired and placed in service in this state during taxable years that begin after December 31, 2006, and before January 1, 2015, or, in the case of dairy cooperatives, if acquired and placed in service in this state during taxable years that begin after December 31, 2008, and before January 1, 2017:

a. Building construction, including storage and warehouse facilities.

b. Building additions.

c. Upgrades to utilities, including water, electric, heat, and waste facilities.

d. Milk intake and storage equipment.

e. Processing and manufacturing equipment, including pipes, motors, pumps, valves, pasteurizers, homogenizers, vats, evaporators, dryers, concentrators, and churns.

f. Packaging and handling equipment, including sealing, bagging, boxing, labeling, conveying, and product movement equipment.

g. Warehouse equipment, including storage racks.

h. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products.

i. Computer software and hardware used for managing the claimant's dairy manufacturing operation, including software and hardware related to logistics, inventory management, and production plant controls.

4. "Used exclusively" means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.535 or s. 560.207, 2009 stats., except as provided in par. (c) 5., for taxable years beginning after December 31, 2006, and before January 1, 2015, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for dairy manufacturing modernization or expansion related to the claimant's dairy manufacturing operation.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000 for each of the claimant's dairy manufacturing facilities.

2m. a. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2007−08 is $600,000, as allocated under s. 560.207, 2009 stats.

b. The maximum amount of the credits that may be claimed by all claimants, other than members of dairy cooperatives, under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2008−09, and in each fiscal year thereafter, is $700,000, as allocated under s. 93.535 or s. 560.207, 2009 stats.

bm. The maximum amount of the credits that may be claimed by members of dairy cooperatives under this subsection and ss.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

71.07 (3p) and 71.28 (3p) in fiscal year 2009−10 is $600,000, as allocated under s. 560.207, 2009 stats., and the maximum amount of the credits that may be claimed by members of dairy cooperatives under this subsection and ss. 71.07 (3p) and 71.28 (3p) in fiscal year 2010−11, and in each fiscal year thereafter, is $700,000, as allocated under s. 93.535 or s. 560.207, 2009 stats.

3. Partnerships, limited liability companies, tax−option corporations, and dairy cooperatives may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000 for each of the entity's dairy manufacturing facilities. A partnership, limited liability company, tax−option corporation, or dairy cooperative shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest. Members of a dairy cooperative may claim the credit in proportion to the amount of milk that each member delivers to the dairy cooperative, as determined by the dairy cooperative.

4. If 2 or more persons own and operate a dairy manufacturing facility, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the dairy manufacturing facility shall not exceed $200,000.

5. A claimant who is a member of a dairy cooperative may claim the credit in the year after the year in which the dairy manufacturing modernization or expansion occurs, based on amounts described under par. (b) that are paid by the dairy cooperative, for taxable years beginning after December 31, 2008, and before January 1, 2018. The amount of the credits computed and not passed through by a partnership, limited liability company, or tax−option corporation that has added that amount to the partnership's, company's, or tax−option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) shall be added to a claimant's income in the year in which the cooperative member is allowed to claim the credit.

6. No credit may be allowed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's credit certification and allocation under s. 93.535 or s. 560.207, 2009 stats.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. Except as provided in subd. 3., if the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bn).

3. With regard to claims that are based on amounts described under par. (b) that are paid by a dairy cooperative, if the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bp).

Cross−reference: See also ch. ATCP 163, Wis. adm. code.

(3q) JOBS TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person certified to receive tax benefits under s. 238.16 (2) or s. 560.2055 (2), 2009 stats.

2. "Eligible employee" means, for taxable years beginning before January 1, 2011, an eligible employee under s. 560.2055 (1) (b), 2009 stats., who satisfies the wage requirements under s. 560.2055 (3) (a) or (b), 2009 stats., or, for taxable years beginning after December 31, 2010, an eligible employee under s. 238.16 (1) (b) who satisfies the wage requirements under s. 238.16 (3) (a) or (b).

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 238.16 or s. 560.2055, 2009 stats., for taxable years beginning after December 31, 2009, a claimant may claim as a credit against the taxes imposed under s. 71.43 any of the following:

1. The amount of wages that the claimant paid to an eligible employee in the taxable year, not to exceed 10 percent of such wages, as determined under s. 238.16 or s. 560.2055, 2009 stats.

2. The amount of the costs incurred by the claimant in the taxable year, as determined under s. 238.16 or s. 560.2055, 2009 stats., to undertake the training activities described under s. 238.16 (3) (c) or s. 560.2055 (3) (c), 2009 stats.

(c) *Limitations.* 1. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

2. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification for tax benefits under s. 238.16 (2) or s. 560.2055 (2), 2009 stats.

3. The maximum amount of credits that may be awarded under this subsection and ss. 71.07 (3q) and 71.28 (3q) for the period beginning on January 1, 2010, and ending on June 30, 2013, is $14,500,000, not including the amount of any credits reallocated under s. 238.15 (3) (d) or s. 560.205 (3) (d), 2009 stats.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bb), except that the amounts certified under this subdivision for taxable years beginning after December 31, 2009, and before January 1, 2012, shall be paid in taxable years beginning after December 31, 2011.

(3r) MEAT PROCESSING FACILITY INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Meat processing" means processing livestock into meat products or processing meat products for sale commercially.

3. "Meat processing modernization or expansion" means constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for meat processing, including the following, if used exclusively for meat processing and if acquired and placed in service in this state during taxable years that begin after December 31, 2008, and before January 1, 2017:

a. Building construction, including livestock handling, product intake, storage, and warehouse facilities.

b. Building additions.

c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing, and waste facilities.

d. Livestock intake and storage equipment.

e. Processing and manufacturing equipment, including cutting equipment, mixers, grinders, sausage stuffers, meat smokers,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

curing equipment, cooking equipment, pipes, motors, pumps, and valves.

f. Packaging and handling equipment, including sealing, bagging, boxing, labeling, conveying, and product movement equipment.

g. Warehouse equipment, including storage and curing racks.

h. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment that uses waste to produce energy, fuel, or industrial products.

i. Computer software and hardware used for managing the claimant's meat processing operation, including software and hardware related to logistics, inventory management, production plant controls, and temperature monitoring controls.

4. "Used exclusively" means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.545 or s. 560.208, 2009 stats., for taxable years beginning after December 31, 2008, and before January 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for meat processing modernization or expansion related to the claimant's meat processing operation.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000.

3. a. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3r) and 71.28 (3r) in fiscal year 2009−10 is $300,000, as allocated under s. 560.208, 2009 stats.

b. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3r) and 71.28 (3r) in fiscal year 2010−11, and in each fiscal year thereafter, is $700,000, as allocated under s. 93.545 or s. 560.208, 2009 stats.

4. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate the meat processing operation, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the meat processing operation shall not exceed $200,000.

6. No credit may be allowed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's credit certification and allocation under s. 93.545 or s. 560.208, 2009 stats.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bd).

Cross−reference: See also ch. ATCP 164, Wis. adm. code.

(3rm) WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Used primarily" means used to the exclusion of all other uses except for use not exceeding 25 percent of total use.

3. "Woody biomass" means trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest or woodland or on agricultural land.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.547 or s. 560.209, 2009 stats., for taxable years beginning after December 31, 2009, and before January 1, 2016, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for equipment that is used primarily to harvest or process woody biomass that is used as fuel or as a component of fuel.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $100,000.

3. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (3rm) and 71.28 (3rm) is $900,000, as allocated under s. 93.547 or s. 560.209, 2009 stats.

4. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $100,000. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate a woody biomass harvesting or processing operation, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the operation shall not exceed $100,000.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bc).

Cross−reference: See also ch. ATCP 166, Wis. adm. code.

(3rn) FOOD PROCESSING PLANT AND FOOD WAREHOUSE INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Food processing plant" has the meaning given in s. 97.29 (1) (h), except that it does not include dairy plants licensed under s. 97.20 or meat establishments licensed under s. 97.42.

3. "Food warehouse" has the meaning given in s. 97.27 (1) (b).

4. "Food processing plant or food warehouse modernization or expansion" means constructing, improving, or acquiring buildings or facilities, or acquiring equipment, for food processing or food warehousing, including the following, if used exclusively for food processing or food warehousing and if acquired and placed in service in this state during taxable years that begin after December 31, 2009, and before January 1, 2017:

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

a. Food intake, handling, storage, and warehouse facilities.

b. Building additions.

c. Upgrades to utilities, including water, electric, heat, refrigeration, freezing, and waste facilities.

d. Installing energy savings equipment or equipment that converts waste to energy.

e. Food or raw material intake and storage equipment.

f. Processing and manufacturing equipment, including vats, cookers, freezers, pipes, motors, pumps, and valves.

g. Packaging and handling equipment, including cleaning, sealing, bagging, boxing, labeling, conveying, and product movement equipment.

h. Warehouse equipment, including storage racks and loading and unloading equipment.

i. Waste treatment and waste management equipment, including tanks, blowers, separators, dryers, digesters, and equipment to produce energy, fuel, or industrial products.

j. Computer software or hardware for managing the claimant's food processing or food warehousing operation, including software and hardware related to logistics, inventory management, production plant controls, and temperature monitoring controls.

5. "Used exclusively" means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) *Filing claims.* Subject to the limitations provided in this subsection and s. 93.54 or s. 560.2056, 2009 stats., for taxable years beginning after December 31, 2009, and before January 1, 2017, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for food processing or food warehousing modernization or expansion related to the operation of the claimant's food processing plant or food warehouse.

(c) *Limitations.* 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000.

3. a. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3rn) and 71.28 (3rn) in fiscal year 2009−10 is $1,000,000, as allocated under s. 560.2056, 2009 stats.

b. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3rn) and 71.28 (3rn) in fiscal year 2010−11 is $1,200,000, as allocated under s. 560.2056, 2009 stats.

c. The maximum amount of the credits that may be allocated under this subsection and ss. 71.07 (3rn) and 71.28 (3rn) in fiscal year 2011−12, and in each year thereafter, is $700,000, as allocated under s. 93.54 or s. 560.2056, 2009 stats.

4. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000. A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate the food processing plant or food warehouse, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the food processing operation shall not exceed $200,000.

6. No credit may be allowed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's credit certification and allocation under s. 93.54 or s. 560.2056, 2009 stats.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (be).

Cross−reference: See also ch. ATCP 165, Wis. adm. code.

(3t) MANUFACTURING INVESTMENT CREDIT. (a) *Definition.* In this subsection, "claimant" means a person who files a claim under this subsection.

(b) *Credit.* Subject to the limitations provided in this subsection and in s. 560.28, 2009 stats., for taxable years beginning after December 31, 2007, a claimant may claim as a credit, amortized over 15 taxable years starting with the taxable year beginning after December 31, 2007, against the tax imposed under s. 71.43, up to the amount of the tax, an amount equal to the claimant's unused credits under s. 71.47 (3).

(c) *Limitations.* 1. No credit may be claimed under this subsection unless the claimant submits with the claimant's return a copy of the claimant's certification by the department of commerce under s. 560.28, 2009 stats., except that, with regard to credits claimed by partners of a partnership, members of a limited liability company, or shareholders of a tax−option corporation, the entity shall provide a copy of its certification under s. 560.28, 2009 stats., to the partner, member, or shareholder to submit with his or her return.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on the amount of their unused credits under s. 71.47 (3). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. The amount of any unused credit under this subsection in any taxable year may be carried forward to subsequent taxable years, up to 15 taxable years.

(3w) ENTERPRISE ZONE JOBS CREDIT. (a) *Definitions.* In this subsection:

1. "Base year" means the taxable year beginning during the calendar year prior to the calendar year in which the enterprise zone in which the claimant is located takes effect.

2. "Claimant" means a person who is certified to claim tax benefits under s. 238.399 (5) or s. 560.799 (5), 2009 stats., and who files a claim under this subsection.

3. "Full−time employee" means a full−time employee, as defined in s. 238.399 (1) (am) or s. 560.799 (1) (am), 2009 stats.

4. "Enterprise zone" means a zone designated under s. 238.399 or s. 560.799, 2009 stats.

5. "State payroll" means the amount of payroll apportioned to this state, as determined under s. 71.45 (3) (b).

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

5d. "Tier I county or municipality" means a tier I county or municipality, as determined under s. 238.399 or s. 560.799, 2009 stats.

5e. "Tier II county or municipality" means a tier II county or municipality, as determined under s. 238.399 or s. 560.799, 2009 stats.

5m. "Wages" means wages under section 3306 (b) of the Internal Revenue Code, determined without regard to any dollar limitations.

6. "Zone payroll" means the amount of state payroll that is attributable to wages paid to full−time employees for services that are performed in an enterprise zone. "Zone payroll" does not include the amount of wages paid to any full−time employees that exceeds $100,000.

(b) *Filing claims; payroll.* Subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.43 an amount calculated as follows:

1. Determine the amount that is the lesser of:

a. The number of full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the enterprise zone in the taxable year, minus the number of full−time employees whose annual wages were greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the area that comprises the enterprise zone in the base year.

b. The number of full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the state in the taxable year, minus the number of full−time employees whose annual wages were greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the state in the base year.

2. Determine the claimant's average zone payroll by dividing total wages for full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the enterprise zone in the taxable year by the number of full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality or greater than $30,000 in a tier II county or municipality and who the claimant employed in the enterprise zone in the taxable year.

3. For employees in a tier I county or municipality, subtract $20,000 from the amount determined under subd. 2. and for employees in a tier II county or municipality, subtract $30,000 from the amount determined under subd. 2.

4. Multiply the amount determined under subd. 3. by the amount determined under subd. 1.

5. Multiply the amount determined under subd. 4. by the percentage determined under s. 238.399 or s. 560.799, 2009 stats., not to exceed 7 percent.

(bm) *Filing supplemental claims.* 1. In addition to the credits under par. (b) and subds. 2., 3., and 4., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.43 an amount equal to a percentage, as determined under s. 238.399 or s. 560.799, 2009 stats., not to exceed 100 percent, of the amount the claimant paid in the taxable year to upgrade or improve the job−related skills of any of the claimant's full−time employees, to train any of the claimant's full−time employees on the use of job−related new technologies, or to provide job−related training to any full−time employee whose employment with the claimant represents the employee's first full−time job. This subdivision does not apply to employees who do not work in an enterprise zone.

2. In addition to the credits under par. (b) and subds. 1., 3., and 4., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., a claimant may claim as a credit against the tax imposed under s. 71.43 an amount equal to the percentage, as determined under s. 238.399 or s. 560.799, 2009 stats., not to exceed 7 percent, of the claimant's zone payroll paid in the taxable year to all of the claimant's full−time employees whose annual wages are greater than $20,000 in a tier I county or municipality, not including the wages paid to the employees determined under par. (b) 1., or greater than $30,000 in a tier II county or municipality, not including the wages paid to the employees determined under par. (b) 1., and who the claimant employed in the enterprise zone in the taxable year, if the total number of such employees is equal to or greater than the total number of such employees in the base year. A claimant may claim a credit under this subdivision for no more than 5 consecutive taxable years.

3. In addition to the credits under par. (b) and subds. 1., 2., and 4., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.43 up to 10 percent of the claimant's significant capital expenditures, as determined under s. 238.399 (5m) or s. 560.799 (5m), 2009 stats.

4. In addition to the credits under par. (b) and subds. 1., 2., and 3., and subject to the limitations provided in this subsection and s. 238.399 or s. 560.799, 2009 stats., for taxable years beginning after December 31, 2009, a claimant may claim as a credit against the tax imposed under s. 71.43, up to 1 percent of the amount that the claimant paid in the taxable year to purchase tangible personal property, items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services from Wisconsin vendors, as determined under s. 238.399 (5) (e) or s. 560.799 (5) (e), 2009 stats., except that the claimant may not claim the credit under this subdivision and subd. 3. for the same expenditures.

(c) *Limitations.* 1. If the allowable amount of the claim under this subsection exceeds the taxes otherwise due on the claimant's income under s. 71.43, the amount of the claim that is not used to offset those taxes shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation under s. 20.835 (2) (co).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under pars. (b) and (bm). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. No credit may be allowed under this subsection unless the claimant includes with the claimant's return a copy of the claimant's certification for tax benefits under s. 238.399 (5) or (5m) or s. 560.799 (5) or (5m), 2009 stats.

4. No claimant may claim a credit under this subsection if the basis for which the credit is claimed is also the basis for which another credit is claimed under this subchapter.

(d) *Administration.* Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection. Claimants shall include with their returns a copy of their certification for tax benefits, and a copy of the verification of their expenses, from the department of commerce or the Wisconsin Economic Development Corporation.

(4) RESEARCH CREDIT. (ab) *Definitions.* In this subsection:

1. "Frame" includes:

a. Every part of a motorcycle, except the tires.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

b. In the case of a truck, the control system and the fuel and drive train, excluding any comfort features located in the cab or the tires.

c. In the case of a generator, the control modules, fuel train, fuel scrubbing process, fuel mixers, generator, heat exchangers, exhaust train, and similar components.

2. "Internal combustion engine" includes substitute products such as fuel cell, electric, and hybrid drives.

3. "Vehicle" means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. "Vehicle" includes any truck, tractor, motorcycle, snowmobile, all−terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

(ad) *Credit.* 1. Except as provided in subds. 2. and 3., any corporation may credit against taxes otherwise due under this chapter an amount equal to 5 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

2. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

3. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid−electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

(af) *Computation.* If in any taxable year a corporation claims a credit under par. (ad) 1., 2., or 3., or any combination of those credits, the corporation may use a different computation method to calculate each of the credits and may choose to change the computation method once for each credit without the department's approval.

(am) *Development zone additional research credit.* In addition to the credit under par. (ad), any corporation may credit against taxes otherwise due under this chapter an amount equal to 5 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" include only expenses incurred by the claimant in a development zone under subch. II of ch. 238 or subch. VI of ch. 560, 2009 stats., except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation and except that "qualified research expenses" do not include compensation used in computing the credit under sub. (1dj) nor research expenses incurred before the claimant is certified for tax benefits under s. 238.365 (3) or s. 560.765 (3), 2009 stats., the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, in a development zone, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2., (df) 1. and 2., (dh) 1., 2., and 3., (dj), and (dk) and research expenses used in calculating the base amount include research expenses incurred before the claimant is certified for tax benefits under s. 238.365 (3) or s. 560.765 (3), 2009 stats., in a development zone, if the claimant submits with the claimant's return a copy of the claimant's certification for tax benefits under s. 238.365 (3) or s. 560.765 (3), 2009 stats., and a statement from the department of commerce or the Wisconsin Economic Development Corporation verifying the claimant's qualified research expenses for research conducted exclusively in a development zone. The rules under s. 73.03 (35) apply to the credit under this paragraph. The rules under sub. (1di) (f) and (g) as they apply to the credit under that subsection apply to claims under this paragraph. Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph. No credit may be claimed under this paragraph for taxable years that begin on January 1, 1998, or thereafter. Credits under this paragraph for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

(b) *Adjustments.* For taxable year 1985 and subsequent years, adjustments for acquisitions and dispositions of a major portion of a trade or business shall be made under section 41 of the internal revenue code as limited by this subsection.

(c) *Annualization.* In the case of any short taxable year, qualified research expenses shall be annualized as prescribed by the department of revenue.

(d) *Proration.* If a portion of qualified research expenses is incurred partly within and partly outside this state and the amount incurred in this state cannot be accurately determined, a portion of the qualified expenses shall be reasonably allocated to this state. Expenses incurred entirely outside this state for the benefit of research in this state are not allocable to this state under this paragraph.

(e) *Change of business or ownership.* In the case of a change in ownership or business of a corporation, section 383 of the inter-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

nal revenue code, as limited by this subsection, applies to the carry over of unused credits.

(f) *Carry−over.* If a credit computed under this subsection is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance may be carried forward and credited against Wisconsin income or franchise taxes otherwise due for the following 15 taxable years to the extent not offset by these taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry−forward credit is claimed.

(g) *Administration.* The department of revenue has full power to administer the credits provided in this subsection and may take any action, conduct any proceeding and proceed as it is authorized in respect to income and franchise taxes imposed in this chapter. The income and franchise tax provisions in this chapter relating to assessments, refunds, appeals, collection, interest and penalties apply to the credits under this subsection.

(h) *Timely claim.* No credit may be allowed under this subsection unless it is claimed within the period specified in s. 71.75 (2).

(i) *Nonclaimants.* The credits under this subsection may not be claimed by a partnership, except a publicly traded partnership treated as a corporation under s. 71.22 (1k), limited liability company, except a limited liability company treated as a corporation under s. 71.22 (1k), or tax−option corporation or by partners, including partners of a publicly traded partnership, members of a limited liability company or shareholders of a tax−option corporation.

(4m) SUPER RESEARCH AND DEVELOPMENT CREDIT. (a) *Definition.* In this subsection, "qualified research expenses" means qualified research expenses as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research conducted in this state for the taxable year and except that "qualified research expenses" do not include compensation used in computing the credits under subs. (1dj) and (1dx).

(b) *Credit.* Subject to the limitations provided under this subsection, for taxable years beginning on or after January 1, 2011, a corporation may claim as a credit against the tax imposed under s. 71.43, up to the amount of those taxes, an amount equal to the amount of qualified research expenses paid or incurred by the corporation in the taxable year that exceeds the amount calculated as follows:

1. Determine the average amount of the qualified research expenses paid or incurred by the corporation in the 3 taxable years immediately preceding the taxable year for which a credit is claimed under this subsection.

2. Multiply the amount determined under subd. 1. by 1.25.

(c) *Limitations.* Section 71.28 (4) (b) to (d) and (i), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. If a credit computed under this subsection is not entirely offset against Wisconsin income or franchise taxes otherwise due, the unused balance may be carried forward and credited against Wisconsin income or franchise taxes otherwise due for the following 5 taxable years to the extent not offset by these taxes otherwise due in all intervening years between the year in which the expense was incurred and the year in which the carry−forward credit is claimed.

(5) RESEARCH FACILITIES CREDIT. (ab) *Definitions.* In this subsection:

1. "Frame" includes:

a. Every part of a motorcycle, except the tires.

b. In the case of a truck, the control system and the fuel and drive train, excluding any comfort features located in the cab or the tires.

c. In the case of a generator, the control modules, fuel train, fuel scrubbing process, fuel mixers, generator, heat exchangers, exhaust train, and similar components.

2. "Internal combustion engine" includes substitute products such as fuel cell, electric, and hybrid drives.

3. "Vehicle" means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. "Vehicle" includes any truck, tractor, motorcycle, snowmobile, all−terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

(ad) *Credit.* 1. Except as provided in subds. 2. and 3., for taxable year 1986 and subsequent years, any corporation may credit against taxes otherwise due under this chapter an amount equal to 5 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

2. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses paid or incurred by the claimant for research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

3. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses paid or incurred by the claimant for research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid−electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

(b) *Calculation and administration.* Subsection (4) (b) to (i) as it relates to the credit under that subsection applies to the credit under this subsection.

(5b) EARLY STAGE SEED INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Fund manager" means an investment fund manager certified under s. 238.15 (2) or s. 560.205 (2), 2009 stats.

(b) *Filing claims.* 1. For taxable years beginning after December 31, 2004, subject to the limitations provided under this subsection and s. 238.15 or s. 560.205, 2009 stats., and except as provided in subd. 2., a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of those taxes, 25 percent of the claimant's investment paid to a fund manager that the fund manager invests in a business certified under s. 238.15 (1) or s. 560.205 (1), 2009 stats.

2009−10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Oct. 1, 2012. Statutory changes effective on or prior to Oct. 1, 2012 are printed as currently in effect. Changes effective after Oct. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (10−3−12)

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. In the case of a partnership, limited liability company, or tax−option corporation, the computation of the 25 percent limitation under subd. 1. shall be determined at the entity level rather than the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity's organizational documents. The entity shall provide to the department of revenue and to the department of commerce or the Wisconsin Economic Development Corporation the names and tax identification numbers of the claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

(c) *Limitations.* Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest or as specially allocated in their organizational documents.

(d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. The Wisconsin adjusted basis of any investment for which a credit is claimed under par. (b) shall be reduced by the amount of the credit that is offset against Wisconsin income taxes. The Wisconsin basis of a partner's interest in a partnership, a member's interest in a limited liability company, or stock in a tax−option corporation shall be adjusted to reflect adjustments made under this subdivision.

3. Except as provided under s. 238.15 (3) (d) (intro.), for investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

(5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Internet equipment used in the broadband market" means equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobits per second in either direction.

(b) *Filing claims.* Subject to the limitations provided in this subsection and subject to 2005 Wisconsin Act 479, section 17, beginning in the first taxable year following the taxable year in which the claimant claims a deduction under s. 77.585 (9), a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of those taxes, in each taxable year for 2 years, the amount of sales and use tax certified by the department of commerce that resulted from the claimant claiming a deduction under s. 77.585 (9).

(c) *Limitations.* 1. No credit may be allowed under this subsection unless the claimant satisfies the requirements under s. 77.585 (9).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their use of sales and use tax exemptions certified by the department of commerce as described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. The total amount of the credits and the sales and use tax resulting from the deductions claimed under s. 77.585 (9) that may be claimed by all claimants under this subsection and ss. 71.07 (5e), 71.28 (5e), and 77.585 (9) is $7,500,000, as determined by the department of commerce.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5f) FILM PRODUCTION SERVICES CREDIT. (a) *Definitions.* In this subsection:

1. "Accredited production" means a film, video, broadcast advertisement, or television production, as approved by the department of commerce or the department of tourism, for which the aggregate salary and wages included in the cost of the production for the period ending 12 months after the month in which the principal filming or taping of the production begins exceeds $50,000. "Accredited production" also means an electronic game, as approved by the department of commerce or the department of tourism, for which the aggregate salary and wages included in the cost of the production for the period ending 36 months after the month in which the principal programming, filming, or taping of the production begins exceeds $100,000. "Accredited production" does not include any of the following, regardless of the production costs:

a. News, current events, or public programming or a program that includes weather or market reports.

b. A talk show.

c. A production with respect to a questionnaire or contest.

d. A sports event or sports activity.

e. A gala presentation or awards show.

f. A finished production that solicits funds.

g. A production for which the production company is required under 18 USC 2257 to maintain records with respect to a performer portrayed in a single media or multimedia program.

h. A production produced primarily for industrial, corporate, or institutional purposes.

2. "Claimant" means a person who files a claim under this subsection.

3. "Production expenditures" means any expenditures that are incurred in this state and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make−up, clothing accessories, photography, sound recording, sound synchronization, sound mixing, lighting, editing, film processing, film transferring, special effects, visual effects, renting or leasing facilities or equipment, renting or leasing motor vehicles, food, lodging, and any other similar expenditure as determined by the department of commerce or the department of tourism. "Production expenditures" do not include salary, wages, or labor−related contract payments.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.43 any of the following amounts:

1. An amount equal to 25 percent of the salary, wages, or labor−related contract payments paid by the claimant in the taxable year to individuals, including actors, who were residents of this state at the time that they were paid and who worked on an accredited production in this state, not including the salary, wages, or contract payments paid to any individual who was paid more than $250,000.

3. An amount equal to 25 percent of the production expenditures paid by the claimant in the taxable year to produce an accredited production.

(c) *Limitations.* 1. A claimant may not claim a credit under this subsection if less than 35 percent of the total budget for the accredited production is spent in this state.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

2. The total amount of the credits that a claimant may claim under [par. (b) 2.] in a taxable year shall not exceed an amount equal to the first $20,000 of salary, wages, or labor−related contract payments paid to each individual described in [par. (b) 2.] in the taxable year.

NOTE: The cross−reference in brackets does not exist as the result of the governor's partial veto of 2009 Wis. Act 28.

3. No credit may be claimed under par. (b) 3. for the purchase of tangible personal property or items, property, or goods under s. 77.52 (1) (b), (c), or (d) the sale of which is not sourced to this state, as provided under s. 77.522.

5. The maximum amount of the credits that may be claimed under this subsection and sub. (5h) and ss. 71.07 (5f) and (5h) and 71.28 (5f) and (5h) in fiscal year is $ 500,000.

6. No credit may be allowed under this subsection unless the claimant files an application with the department of commerce or the department of tourism, at the time and in the manner prescribed by the department of commerce or the department of tourism, and the department of commerce or the department of tourism approves the application. The claimant shall submit a fee with the application in an amount equal to 2 percent of the claimant's budgeted production expenditures or $500, whichever is less. The claimant shall submit a copy of the approved application with the claimant's return.

7. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43 or no tax is due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bm).

(5g) HEALTH INSURANCE RISK−SHARING PLAN ASSESSMENTS CREDIT. (a) *Definitions.* In this subsection, "claimant" means an insurer, as defined in s. 149.10 (5), who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided under this subsection, for taxable years beginning after December 31, 2005, a claimant may claim as a credit against the taxes imposed under s. 71.43 an amount that is equal to the amount of assessment under s. 149.13 that the claimant paid in the claimant's taxable year, multiplied by the percentage determined under par. (c) 1.

(c) *Limitations.* 1. The department of revenue, in consultation with the office of the commissioner of insurance, shall determine the percentage under par. (b) for each claimant for each taxable year. The percentage shall be equal to $5,000,000 divided by the aggregate assessment under s. 149.13. The office of the commissioner of insurance shall provide to each claimant that participates in the cost of administering the plan the aggregate assessment at the time that it notifies the claimant of the claimant's assessment. The aggregate amount of the credit under this subsection and ss. 71.07 (5g), 71.28 (5g), and 76.655 for all claimants participating in the cost of administering the plan under ch. 149 shall not exceed $5,000,000 in each fiscal year.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. The amount of any credits that a claimant is awarded under this subsection for taxable years beginning after December 31, 2005, and before January 1, 2008, may first be claimed against the tax imposed under this subchapter for taxable years beginning after December 31, 2007, and in the manner determined by the department of revenue.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5h) FILM PRODUCTION COMPANY INVESTMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection and who does business in this state as a film production company.

2. "Film production company" means an entity that exclusively creates accredited productions, as defined in sub. (5f) (a) 1.

3. "Physical work" does not include preliminary activities such as planning, designing, securing financing, researching, developing specifications, or stabilizing property to prevent deterioration.

4. "Previously owned property" means real property that the claimant or a related person owned during the 2 years prior to doing business in this state as a film production company and for which the claimant may not deduct a loss from the sale of the property to, or an exchange of the property with, the related person under section 267 of the Internal Revenue Code, except that section 267 of the Internal Revenue Code is modified so that if the claimant owns any part of the property, rather than 50 percent ownership, the claimant is subject to section 267 of the Internal Revenue Code for purposes of this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2008, a claimant may claim as a credit against the tax imposed under s. 71.43 an amount that is equal to 15 percent of the following that the claimant paid in the taxable year to establish or operate a film production company in this state:

1. The purchase price of depreciable, tangible personal property and items, property, and goods under s. 77.52 (1) (b), (c), and (d), if the sale of the tangible personal property, items, property, or goods is sourced to this state under s. 77.522.

2. The amount expended to acquire, construct, rehabilitate, remodel, or repair real property.

(c) *Limitations.* 1. A claimant may claim the credit under par. (b) 1., if the tangible personal property, or item, property, or good under s. 77.52 (1) (b), (c), or (d), is purchased after December 31, 2008, and the tangible personal property, item, property, or good is used for at least 50 percent of its use in the claimant's business as a film production company.

2. A claimant may claim the credit under par. (b) 2. for an amount expended to construct, rehabilitate, remodel, or repair real property, if the claimant began the physical work of construction, rehabilitation, remodeling, or repair, or any demolition or destruction in preparation for the physical work, after December 31, 2008, and the completed project is placed in service after December 31, 2008.

3. A claimant may claim the credit under par. (b) 2. for an amount expended to acquire real property, if the property is not previously owned property and if the claimant acquires the property after December 31, 2008, and the completed project is placed in service after December 31, 2008.

4. No claim may be allowed under this subsection unless the department of commerce or the department of tourism certifies, in

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

writing, that the credits claimed under this subsection are for expenses related to establishing or operating a film production company in this state and the claimant submits a copy of the certification with the claimant's return.

4m. The maximum amount of the credits that may be claimed under this subsection and sub. (5f) and ss. 71.07 (5f) and (5h) and 71.28 (5f) and (5h) in fiscal year is $ 500,000.

5. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credits under this subsection.

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43 or no tax is due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (bL).

(5i) ELECTRONIC MEDICAL RECORDS CREDIT. (a) *Definitions.* In this subsection, "claimant" means a person who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2011, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of those taxes, an amount equal to 50 percent of the amount the claimant paid in the taxable year for information technology hardware or software that is used to maintain medical records in electronic form, if the claimant is a health care provider, as defined in s. 146.81 (1) (a) to (p).

(c) *Limitations.* 1. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (5i) and 71.28 (5i) in a taxable year is $10,000,000, as allocated under s. 73.15 or s. 560.204, 2009 stats.

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5j) ETHANOL AND BIODIESEL FUEL PUMP CREDIT. (a) *Definitions.* In this subsection:

1. "Biodiesel fuel" has the meaning given in s. 168.14 (2m) (a).

2. "Claimant" means a person who files a claim under this subsection.

2d. "Diesel replacement renewable fuel" includes biodiesel and any other fuel derived from a renewable resource that meets all of the applicable requirements of the American Society for Testing and Materials for that fuel and that the department of safety and professional services designates by rule as a diesel replacement renewable fuel.

2m. "Gasoline replacement renewable fuel" includes ethanol and any other fuel derived from a renewable resource that meets all of the applicable requirements of the American Society for Testing and Materials for that fuel and that the department of safety and professional services designates by rule as a gasoline replacement renewable fuel.

3. "Motor vehicle fuel" has the meaning given in s. 78.005 (13).

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2007, and before January 1, 2018, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the taxes, an amount that is equal to 25 percent of the amount that the claimant paid in the taxable year to install or retrofit pumps located in this state that dispense motor vehicle fuel marketed as gasoline and 85 percent ethanol or a higher percentage of ethanol or motor vehicle fuel marketed as diesel fuel and 20 percent biodiesel fuel or that mix fuels from separate storage tanks and allow the end user to choose the percentage of gasoline replacement renewable fuel or diesel replacement renewable fuel in the motor vehicle fuel dispensed.

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is an amount that is equal to $5,000 for each service station for which the claimant has installed or retrofitted pumps as described under par. (b).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

3. The department of safety and professional services shall establish standards to adequately prevent, in the distribution of conventional fuel to an end user, the inadvertent distribution of fuel containing a higher percentage of renewable fuel than the maximum percentage established by the federal environmental protection agency for use in conventionally−fueled engines.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5k) COMMUNITY REHABILITATION PROGRAM CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Community rehabilitation program" means a nonprofit entity, county, municipality, or state or federal agency that directly provides, or facilitates the provision of, vocational rehabilitation services to individuals who have disabilities to maximize the employment opportunities, including career advancement, of such individuals.

3. "Vocational rehabilitation services" include education, training, employment, counseling, therapy, placement, and case management.

4. "Work" includes production, packaging, assembly, food service, custodial service, clerical service, and other commercial activities that improve employment opportunities for individuals who have disabilities.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after July 1, 2011, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of those taxes, an amount equal to 5 percent of the amount the claimant paid in the taxable year to a community rehabilitation program to perform work for the claimant's business, pursuant to a contract.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(c) *Limitations.* 1. The maximum amount of the credit that any claimant may claim under this subsection in a taxable year is $25,000 for each community rehabilitation program for which the claimant enters into a contract to have the community rehabilitation program perform work for the claimant's business.

2. No credit may be claimed under this subsection unless the claimant submits with the claimant's return a form, as prescribed by the department of revenue, that verifies that the claimant has entered into a contract with a community rehabilitation program and that the program has received payment from the claimant for work provided by the program, consistent with par. (b).

3. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5r) POSTSECONDARY EDUCATION CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a corporation that files a claim under this subsection.

2. "Course of instruction" has the meaning given in s. 38.50 (1) (c).

3. "Family member" has the meaning given in s. 157.061 (7).

4. "Managing employee" means an individual who wholly or partially exercises operational or managerial control over, or who directly or indirectly conducts, the operation of the claimant's business.

5. "Paid or incurred" includes any amount paid by the claimant to reimburse an individual for the tuition that the individual paid or incurred.

6. "Qualified postsecondary institution" means all of the following:

a. A University of Wisconsin System institution, a technical college system institution, or a regionally accredited 4−year nonprofit college or university having its regional headquarters and principal place of business in this state.

b. A school approved under s. 38.50, if the delivery of education occurs in this state.

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.43 an amount equal to the following:

1. Twenty−five percent of the tuition that the claimant paid or incurred for an individual to participate in an education program of a qualified postsecondary institution, if the individual was enrolled in a course of instruction and eligible for a grant from the Federal Pell Grant Program.

2. Thirty percent of the tuition that the claimant paid or incurred for an individual to participate in an education program of a qualified postsecondary institution, if the individual was enrolled in a course of instruction that relates to a projected worker shortage in this state, as determined by the local workforce development boards established under 29 USC 2832, and if the individual was eligible for a grant from the Federal Pell Grant Program.

(c) *Limitations.* 1. No credit may be allowed under par. (b) unless the claimant certifies to the department of revenue that the claimant will not be reimbursed for any amount of tuition for which the claimant claims a credit under par. (b).

2. A claimant may not claim the credit under par. (b) for any tuition amounts that the individual described under par. (b) excluded under section 127 of the Internal Revenue Code.

3. A claimant may not claim the credit under par. (b) for any tuition amounts that the claimant paid or incurred for a family member of a managing employee unless all of the following apply:

a. The family member was employed an average of at least 20 hours per week as an employee of the claimant, or the claimant's business, during the one−year period prior to commencing participation in the education program in connection with which the claimant claims a credit under par. (b).

b. The family member is enrolled in a course of instruction that is substantially related to the claimant's business.

3m. A claimant may not claim the credit under par. (b) for any tuition amounts that the claimant paid or incurred for an individual who is not a resident of this state.

4. The claimant shall claim the credit for the taxable year in which the individual graduates from a course of instruction in an amount equal to the total amount the claimant paid or incurred under par. (b) for all taxable years in which the claimant paid or incurred such amounts related to that individual.

5. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of tuition under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interest.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(5rm) WATER CONSUMPTION CREDIT. (a) *Definitions.* In this subsection:

1. "Ccf" means 100 cubic feet.

2. "Claimant" means a person who files a claim under this subsection, who is an industrial customer of a municipal water utility that is located in a federal renewal community zone in this state, and whose average annual water consumption from that utility for a 24−month period exceeds 1,000,000 Ccf.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2009, and before January 1, 2020, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax, the amount determined as follows, except that the maximum amount that a claimant may claim in a taxable year under this subsection is $300,000:

1. Subtract the claimant's 2009 water usage costs from the claimant's water usage costs for the taxable year.

2. If the amount determined under subd. 1. is a positive number, multiply that amount by 0.50.

(c) *Limitations.* Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(6) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. (a) Any person may credit against taxes otherwise due under this chapter, up to the amount of those taxes, an amount equal to 5% of the costs of qualified rehabilitation expenditures, as defined in

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

section 47 (c) (2) of the internal revenue code, for certified historic structures on property located in this state if the physical work of construction or destruction in preparation for construction begins after December 31, 1988, and the rehabilitated property is placed in service after June 30, 1989.

(c) No person may claim the credit under this subsection unless the claimant includes with the claimant's return evidence that the rehabilitation was recommended by the state historic preservation officer for approval by the secretary of the interior under 36 CFR 67.6 before the physical work of construction, or destruction in preparation for construction, began and that the rehabilitation was approved by the secretary of the interior under 36 CFR 67.6.

(cm) Any credit claimed under this subsection for Wisconsin purposes shall be claimed at the same time as for federal purposes.

(d) The Wisconsin adjusted basis of the building shall be reduced by the amount of any credit awarded under this subsection. The Wisconsin adjusted basis of a partner's interest in a partnership, a member's interest in a limited liability company or of stock in a tax−option corporation shall be adjusted to take into account adjustments made under this paragraph.

(e) The provisions of sub. (4) (e), (f), (g) and (h), as they apply to the credit under that subsection, apply to the credit under this subsection.

(f) A partnership, limited liability company, or tax−option corporation may not claim the credit under this subsection. The partners of a partnership, members of a limited liability company, or shareholders in a tax−option corporation may claim the credit under this subsection based on eligible costs incurred by the partnership, limited liability company, or tax−option corporation. The partnership, limited liability company, or tax−option corporation shall calculate the amount of the credit which may be claimed by each partner, member, or shareholder and shall provide that information to the partner, member, or shareholder. For shareholders of a tax−option corporation, the credit may be allocated in proportion to the ownership interest of each shareholder. Credits computed by a partnership or limited liability company may be claimed in proportion to the ownership interests of the partners or members or allocated to partners or members as provided in a written agreement among the partners or members that is entered into no later than the last day of the taxable year of the partnership or limited liability company, for which the credit is claimed. For a partnership or limited liability company that places property in service after June 29, 2008, and before January 1, 2009, the credit attributable to such property may be allocated, at the election of the partnership or limited liability company, to partners or members for a taxable year of the partnership or limited liability company that ends after June 29, 2008, and before January 1, 2010. Any partner or member who claims the credit as provided under this paragraph shall attach a copy of the agreement, if applicable, to the tax return on which the credit is claimed. A person claiming the credit as provided under this paragraph is solely responsible for any tax liability arising from a dispute with the department of revenue related to claiming the credit.

(g) 1. If a person who claims the credit under this subsection elects to claim the credit based on claiming amounts for expenditures as the expenditures are paid, rather than when the rehabilitation work is completed, the person shall file an election form with the department, in the manner prescribed by the department.

2. Notwithstanding s. 71.77, the department may adjust or disallow the credit claimed under this subsection within 4 years after the date that the state historical society notifies the department that the expenditures for which the credit was claimed do not comply with the standards for certification promulgated under s. 44.02 (24).

(6n) VETERAN EMPLOYMENT CREDIT. (a) *Definitions.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Disabled veteran" means a veteran who is verified by the department of veteran affairs to have a service−connected disability rating of at least 50 percent under 38 USC 1114 or 1134.

3. "Full−time job" means a regular, nonseasonal full−time position in which an individual, as a condition of employment, is required to work at least 2,080 hours per year, including paid leave and holidays.

4. "Part−time job" means a regular, nonseasonal part−time position in which an individual, as a condition of employment, is required to work fewer than 2,080 hours per year, including paid leave and holidays.

5. "Veteran" means a person who is verified by the department of veteran affairs to have served on active duty under honorable conditions in the U.S. armed forces, in forces incorporated as part of the U.S. armed forces, in the national guard, or in a reserve component of the U.S. armed forces.

(b) *Filing claims.* Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2011, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax, an amount equal to any of the following:

1. For each disabled veteran the claimant hires in the taxable year to work a full−time job at the claimant's business in this state, $4,000 in the taxable year in which the disabled veteran is hired and $2,000 in each of the 3 taxable years following the taxable year in which the disabled veteran is hired.

2. Subject to par. (c) 4., for each disabled veteran the claimant hires in the taxable year to work a part−time job at the claimant's business in this state, $2,000 in the taxable year in which the disabled veteran is hired and $1,000 in each of the 3 taxable years following the taxable year in which the disabled veteran is hired.

(c) *Limitations.* 1. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their hiring of disabled veterans, as described under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

2. No credit may be claimed under this subsection in any taxable year in which the disabled veteran voluntarily or involuntarily leaves his or her employment with the claimant.

3. A claimant may claim a credit under this subsection only for hiring a disabled veteran who has received unemployment compensation benefits for at least one week prior to being hired by the claimant, who was receiving such benefits at the time that he or she was hired by the claimant, and who was eligible to receive such benefits at the time the benefits were paid.

4. With regard to a credit claimed under par. (b) 2., the amount that the claimant may claim is determined as follows:

a. Divide the number of hours that the disabled veteran worked for the claimant during the taxable year by 2,080.

b. Multiply the amount of the credit under par. (b) 2., as appropriate, by the number determined under subd. 4. a.

(d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

(8r) BEGINNING FARMER AND FARM ASSET OWNER TAX CREDIT. (a) *Definitions.* In this subsection:

1. "Agricultural assets" means machinery, equipment, facilities, or livestock that is used in farming.

2. "Beginning farmer" means a person who meets the conditions specified in s. 93.53 (2).

3. "Claimant" means an established farmer who files a claim under this subsection.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

4. "Established farmer" means a person who meets the conditions specified in s. 93.53 (3).

5. "Farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code.

6. "Lease amount" is the amount of the cash payment paid by a beginning farmer to an established farmer each year for leasing the established farmer's agricultural assets.

(b) *Filing claims.* For taxable years beginning after December 31, 2010, and subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.43 an amount equal to 15 percent of the lease amount received by the claimant in the taxable year. If the allowable amount of the claim exceeds the taxes otherwise due on the claimant's income, the amount of the claim not used as an offset against those taxes shall be certified by the department of revenue to the department of administration for payment to the claimant by check, share draft, or other draft from the appropriation under s. 20.835 (2) (en).

(c) *Limitations.* 1. A claimant may only claim the credit under this subsection for the first 3 years of any lease of the claimant's agricultural assets to a beginning farmer.

2. Along with a claimant's income tax return, a claimant shall submit to the department a certificate of eligibility provided under s. 93.53 (5) (c).

3. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on the amounts received by the entities under par. (b). A partnership, limited liability company, or tax−option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax−option corporations may claim the credit in proportion to their ownership interests.

(d) *Administration.* Subsection (4) (e), (g), and (h), as it applies to the credit under that sub. (4), applies to the credit under this subsection.

(9s) RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection:

1. "Claimant" means a person who files a claim under this subsection.

2. "Locates to this state" means moving either 51 percent or more of the workforce payroll of the business or at least $200,000 of wages, as defined in section 3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the first year to which a credit under this subsection relates.

(b) *Filing claims.* Subject to the limitations provided under this subsection, for taxable years beginning after December 31, 2010, for 2 consecutive taxable years beginning with the taxable year in which the claimant's business locates to this state from another state or another country and begins doing business in this state, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the taxes, the amount of the claimant's tax liability under this subchapter after applying all other allowable credits, deductions, and exclusions.

(c) *Limitations.* 1. No person may claim a credit under this subsection if the person has done business in this state during any of the 2 taxable years preceding the first taxable year in which the person would otherwise be eligible to claim a credit under par. (b).

2. Partnerships, limited liability companies, and tax−option corporations may not claim the credit under this subsection.

(d) *Administration.* 1. Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

2. The department shall promulgate rules to administer this subsection.

Cross−reference: See also s. Tax 2.957, Wis. adm. code.

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; 2007 a. 20, 96, 97, 100; 2009 a. 2, 11, 28, 180, 185, 265, 267, 269, 276, 294, 295, 332, 401; 2011 a. 3, 15, 32, 67, 212, 213, 232, 237; 2011 a. 260 ss. 80, 81.

71.48 Payments of estimated taxes. Sections 71.29 and 71.84 (2) shall apply to insurers subject to taxation under this chapter.

History: 1987 a. 312.

71.49 General provisions. (1) COMPUTATION ORDER. Notwithstanding any other provisions in this chapter, corporations computing liability for the tax under s. 71.43 (1) or (2) shall make computations in the following order:

(a) Tax under s. 71.43 (1) or (2).

(b) Manufacturing sales tax credit under s. 71.47 (3).

(bb) Manufacturing investment credit under s. 71.47 (3t).

(bm) Dairy investment credit under 71.47 (3n).

(bn) Community rehabilitation program credit under s. 71.47 (5k).

(c) Research credit under s. 71.47 (4).

(cd) Postsecondary education credit under s. 71.47 (5r).

(ce) Water consumption credit under s. 71.47 (5rm).

(cn) Biodiesel fuel production credit under s. 71.47 (3h).

(d) Research facilities credit under s. 71.47 (5).

(db) Super research and development credit under s. 71.47 (4m).

(dm) Health Insurance Risk−Sharing Plan assessments credit under s. 71.47 (5g).

(dp) Veteran employment credit under s. 71.47 (6n).

(ds) Ethanol and biodiesel fuel pump credit under s. 71.47 (5j).

(e) Community development finance credit under s. 71.47 (1).

(eb) Development zones jobs credit under s. 71.47 (1dj).

(ec) Development zones sales tax credit under s. 71.47 (1ds).

(eg) Development zones investment credit under s. 71.47 (1di).

(eh) Development zones location credit under s. 71.47 (1dL).

(ei) Development zone capital investment credit under s. 71.47 (1dm).

(ej) Development zones day care credit under s. 71.28 (1dd).

(ek) Development zones environmental remediation credit under s. 71.28 (1de).

(eL) Development zones credit under s. 71.47 (1dx).

(ema) Economic development tax credit under s. 71.47 (1dy).

(eon) Technology zones credit under s. 71.47 (3g).

(eop) Early stage seed investment credit under s. 71.47 (5b).

(ep) Supplement to federal historic rehabilitation credit under s. 71.47 (6).

(epa) Electronic medical records credit under s. 71.47 (5i).

(es) Internet equipment credit under s. 71.47 (5e).

(ex) Relocated business credit under s. 71.47 (9s).

(f) The total of farmland preservation credit under subch. IX, farmland tax relief credit under s. 71.47 (2m), dairy manufacturing facility investment credit under s. 71.47 (3p), jobs credit under s. 71.47 (3q), meat processing facility investment credit under s. 71.47 (3r), woody biomass harvesting and processing credit under s. 71.47 (3rm), food processing plant and food warehouse investment credit under s. 71.47 (3rn), enterprise zone jobs credit under s. 71.47 (3w), film production services credit under s. 71.47 (5f), film production company investment credit under s. 71.47 (5h), beginning farmer and farm asset owner tax credit under s. 71.47 (8r), and estimated tax payments under s. 71.48.

(2) ELECTIONS UNDER INTERNAL REVENUE CODE. Elections authorized by and made in accordance with the internal revenue code, except an election to file consolidated returns or to claim a credit against federal tax liability rather than a deduction from income, shall be deemed elections for the purpose of applying this chapter.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(3) PENALTIES. Unless specifically provided in this subchapter, the penalties under subch. XIII apply for failure to comply with this subchapter unless the context requires otherwise.

History: 1987 a. 312, 411; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255; 2005 a. 74, 361, 479, 483; 2007 a. 20; 2009 a. 2, 28, 265, 269, 295, 332; 2011 a. 3, 32, 212, 232; 2011 a. 260 ss. 27, 80.

SUBCHAPTER VIII

HOMESTEAD CREDIT

Cross−reference: See also ch. Tax 14, Wis. adm. code.

71.51 Purpose. The purpose of this subchapter is to provide credit to certain persons who own or rent their homestead, through a system of income tax credits and refunds, and appropriations from the general fund.

History: 1987 a. 312.

71.52 Definitions. In this subchapter, unless the context clearly indicates otherwise:

(1) "Claimant" means a person who has filed a claim under this subchapter and who was domiciled in this state during the entire calendar year to which the claim for credit under this subchapter relates. When 2 individuals of a household are able to meet the qualifications for a claimant, they may determine between them as to who the claimant is. If they are unable to agree, the matter shall be referred to the secretary of revenue and the secretary's decision is final.

(2) "Gross rent" means rental paid at arm's length, solely for the right of occupancy of a homestead. "Gross rent" does not include, whether expressly set out in the rental agreement or not, charges for any medical services; other personal services such as laundry, transportation, counseling, grooming, recreational and therapeutic services; shared living expenses, including but not limited to food, supplies and utilities unless utility payments are included in the gross rent paid to the landlord; and food furnished by the landlord as a part of the rental agreement. "Gross rent" includes the rental paid to a landlord for parking of a mobile home or manufactured home, exclusive of any charges for food furnished by the landlord as a part of the rental agreement, plus monthly municipal permit fees paid under s. 66.0435 (3) (c) for a rented mobile home or manufactured home. If a homestead is an integral part of a multipurpose or multidwelling building, "gross rent" is the percentage of the gross rent on that part of the multipurpose or multidwelling building occupied by the household as a principal residence plus the same percentage of the gross rent on the land surrounding it, not exceeding one acre, that is reasonably necessary for use of the multipurpose or multidwelling building as a principal residence, except as the limitations under s. 71.54 (2) (b) apply. If the homestead is part of a farm, "gross rent" is the rent on up to 120 acres of the land contiguous to the claimant's principal residence plus the rent on all improvements to real property on that land, except as the limitations under s. 71.54 (2) (b) apply. If a claimant and persons who are not members of the claimant's household reside in a homestead, the claimant's "gross rent" is the gross rent paid by the claimant to the landlord for the homestead.

(3) "Homestead" means the dwelling, whether rented or owned, including owned as a joint tenant or tenant in common, or occupied as a buyer in possession under a land contract, and the land surrounding it, not exceeding one acre, that is reasonably necessary for use of the dwelling as a home, and may consist of a part of a multidwelling or multipurpose building and a part of the land upon which it is built.

(4) "Household" means a claimant and an individual related to the claimant as husband or wife.

(5) "Household income" means all income received by all persons of a household in a calendar year while members of the household, less $500 for each of the claimant's dependents, as defined in section 152 of the internal revenue code, who have the same principal abode as the claimant for more than 6 months during the year to which the claim relates.

(6) "Income" means the sum of Wisconsin adjusted gross income and the following amounts, to the extent not included in Wisconsin adjusted gross income: maintenance payments (except foster care maintenance and supplementary payments excludable under section 131 of the internal revenue code), support money, cash public assistance (not including credit granted under this subchapter and amounts under s. 46.27), cash benefits paid by counties under s. 59.53 (21), the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act and veterans disability pensions), nontaxable interest received from the federal government or any of its instrumentalities, nontaxable interest received on state or municipal bonds, worker's compensation, unemployment insurance, the gross amount of "loss of time" insurance, compensation and other cash benefits received from the United States for past or present service in the armed forces, scholarship and fellowship gifts or income, capital gains, gain on the sale of a personal residence excluded under section 121 of the internal revenue code, dividends, income of a nonresident or part−year resident who is married to a full−year resident, housing allowances provided to members of the clergy, the amount by which a resident manager's rent is reduced, nontaxable income of an American Indian, nontaxable income from sources outside this state and nontaxable deferred compensation. Intangible drilling costs, depletion allowances and depreciation, including first−year depreciation allowances under section 179 of the internal revenue code, amortization, contributions to individual retirement accounts under section 219 of the internal revenue code, contributions to Keogh plans, net operating loss carry−forwards and capital loss carry−forwards deducted in determining Wisconsin adjusted gross income shall be added to "income". "Income" does not include gifts from natural persons, cash reimbursement payments made under title XX of the federal social security act, surplus food or other relief in kind supplied by a governmental agency, the gain on the sale of a personal residence deferred under section 1034 of the internal revenue code or nonrecognized gain from involuntary conversions under section 1033 of the internal revenue code. Amounts not included in adjusted gross income but added to "income" under this subsection in a previous year and repaid may be subtracted from income for the year during which they are repaid. Scholarship and fellowship gifts or income that are included in Wisconsin adjusted gross income and that were added to household income for purposes of determining the credit under this subchapter in a previous year may be subtracted from income for the current year in determining the credit under this subchapter. A marital property agreement or unilateral statement under ch. 766 has no effect in computing "income" for a person whose homestead is not the same as the homestead of that person's spouse.

(7) "Property taxes accrued" means real or personal property taxes or monthly municipal permit fees under s. 66.0435 (3) (c), exclusive of special assessments, delinquent interest and charges for service, levied on a homestead owned by the claimant or a member of the claimant's household. "Real or personal property taxes" means those levied under ch. 70, less the tax credit, if any, afforded in respect of such property by s. 79.10. If a homestead is owned by 2 or more persons or entities as joint tenants or tenants in common or is owned as marital property or survivorship marital property and one or more such persons, entities or owners is not a member of the claimant's household, property taxes accrued is that part of property taxes accrued levied on such homestead, reduced by the tax credit under s. 79.10, that reflects the ownership percentage of the claimant and the claimant's household, except that if a homestead is owned by 2 or more natural persons or if 2 or more natural persons have an interest in a homestead, one or more of whom is not a member of the claimant's household, and the claimant has a present interest, as that term is used in s. 700.03 (1), in the homestead and is required by the terms of a will that

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

transferred the homestead or interest in the homestead to the claimant to pay the entire amount of property taxes levied on the homestead, property taxes accrued is property taxes accrued levied on such homestead, reduced by the tax credit under s. 79.10. A marital property agreement or unilateral statement under ch. 766 has no effect in computing property taxes accrued for a person whose homestead is not the same as the homestead of that person's spouse. For purposes of this subsection, property taxes are "levied" when the tax roll is delivered to the local treasurer for collection. If a homestead is sold or purchased during the calendar year of the levy, the property taxes accrued for the seller and the buyer are the amount of the tax levy prorated to each in proportion to the periods of time each both owned and occupied the homestead during the year to which the claim relates. The seller may use the closing agreement pertaining to the sale of the homestead, the property tax bill for the year before the year to which the claim relates or the property tax bill for the year to which the claim relates as the basis for computing property taxes accrued, but those taxes are allowable only for the portion of the year during which the seller owned and occupied the sold homestead. If a household owns and occupies 2 or more homesteads in the same calendar year, property taxes accrued is the sum of the prorated property taxes accrued attributable to the household for each of such homesteads. If the household owns and occupies the homestead for part of the calendar year and rents a homestead for part of the calendar year, it may include both the proration of taxes on the homestead owned and rent constituting property taxes accrued with respect to the months the homestead is rented in computing the amount of the claim under s. 71.54 (1). If a homestead is an integral part of a multipurpose or multidwelling building, property taxes accrued are the percentage of the property taxes accrued on that part of the multipurpose or multidwelling building occupied by the household as a principal residence plus that same percentage of the property taxes accrued on the land surrounding it, not exceeding one acre, that is reasonably necessary for use of the multipurpose or multidwelling building as a principal residence, except as the limitations of s. 71.54 (2) (b) apply. If the homestead is part of a farm, property taxes accrued are the property taxes accrued on up to 120 acres of the land contiguous to the claimant's principal residence and include the property taxes accrued on all improvements to real property located on such land, except as the limitations of s. 71.54 (2) (b) apply.

(8) "Rent constituting property taxes accrued", except as provided in ss. 71.54 (2) and 71.55 (8), means 25%, or 20% if heat is included, of the gross rent actually paid in cash or its equivalent by a claimant and his or her household solely for the right of occupancy of their Wisconsin homestead during the calendar year to which the claim relates if that rent constitutes the basis, in the succeeding calendar year, of a claim for relief under this subchapter by such claimant. A marital property agreement or unilateral statement under ch. 766 has no effect in computing rent constituting property taxes accrued for a person whose homestead is not the same as the homestead of that person's spouse.

History: 1987 a. 312, 411; 1989 a. 31, 100; 1991 a. 39, 195; 1995 a. 27, 201; 1997 a. 27, 39; 1999 a. 150 s. 672; 2007 a. 11; 2009 a. 28.

Cross−reference: See also ch. Tax 14, Wis. adm. code.

71.53 Filing claims. (1) ELIGIBILITY FOR CREDIT. (a) Subject to the limitations provided in this subchapter and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin income taxes otherwise due, Wisconsin property taxes accrued, or rent constituting property taxes accrued, or both. If the allowable amount of claim exceeds the income taxes otherwise due on the claimant's income or if there are no Wisconsin income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft drawn on the general fund.

(b) The right to file a claim under this subchapter is personal to the claimant and does not survive the claimant's death. When a claimant dies after having filed a timely claim the amount thereof shall be disbursed under s. 71.75 (10). The right to file a claim under this subchapter may be exercised on behalf of a living claimant by the claimant's legal guardian or attorney−in−fact.

(c) Only one claimant per household per year shall be entitled to credit under this subchapter.

(2) INELIGIBLE CLAIMS. No claim under this subchapter may be allowed if any of the following conditions applies:

(a) Such claim is not filed with the department of revenue in conformity with the filing requirements in s. 71.03 (6) and (7).

(b) The department finds that the claimant received title to his or her homestead primarily for the purpose of receiving benefits under this subchapter.

(c) The claimant was under 18 years of age at the close of the year to which the claim relates.

(d) The claimant was claimed as a dependent for federal income tax purposes by another person during the year to which the claim relates but this limitation shall not apply if the claimant was 62 years of age or older at the close of the year to which the claim relates.

(e) The claimant resided for the entire calendar year to which the claim relates in housing which was exempt from taxation under ch. 70 other than housing for which payments in lieu of taxes are made under s. 66.1201 (22) except as provided under s. 71.54 (2) (c) 2.

(f) The claimant resides in a nursing home and receives assistance under s. 49.45 at the time of filing.

History: 1987 a. 312; 1989 a. 31, 198; 1991 a. 39; 1999 a. 150 s. 672.

Cross−reference: See also ss. Tax 14.02, 14.05, and 14.06, Wis. adm. code.

71.54 Computation of credit. (1) HOUSEHOLD INCOME. (a) *1985 and 1986.* The amount of any claim filed in 1985 or 1986 and based on property taxes accrued or rent constituting property taxes accrued during the previous year is limited as follows:

1. If the household income was $7,400 or less in the year to which the claim relates, the claim is limited to 80% of the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead.

2. If the household income was more than $7,400 in the year to which the claim relates, the claim is limited to 80% of the amount by which the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead exceeds 13.187% of the household income exceeding $7,400.

3. No credit may be allowed if the household income of a claimant exceeds $16,500.

(b) *1987 to 1989.* The amount of any claim filed in 1987 to 1989 and based on property taxes accrued or rent constituting property taxes accrued during the previous year is limited as follows:

1. If the household income was $7,600 or less in the year to which the claim relates, the claim is limited to 80% of the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead.

2. If the household income was more than $7,600 in the year to which the claim relates, the claim is limited to 80% of the amount by which the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead exceeds 13.483% of the household income exceeding $7,600.

3. No credit may be allowed if the household income of a claimant exceeds $16,500.

(c) *1990.* The amount of any claim filed in 1990 and based on property taxes accrued or rent constituting property taxes accrued during the previous year is limited as follows:

1. If the household income was $8,000 or less in the year to which the claim relates, the claim is limited to 80% of the property

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead.

2. If the household income was more than $8,000 in the year to which the claim relates, the claim is limited to 80% of the amount by which the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead exceeds 13.5% of the household income exceeding $8,000.

3. No credit may be allowed if the household income of a claimant exceeds $18,000.

(d) *1991 to 1999.* The amount of any claim filed in 1991 to 1999 and based on property taxes accrued or rent constituting property taxes accrued during the previous year is limited as follows:

1. If the household income was $8,000 or less in the year to which the claim relates, the claim is limited to 80% of the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead.

2. If the household income was more than $8,000 in the year to which the claim relates, the claim is limited to 80% of the amount by which the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead exceeds 13% of the household income exceeding $8,000.

(e) *2000*. The amount of any claim filed in 2000 and based on property taxes accrued or rent constituting property taxes accrued during the previous year is limited as follows:

1. If the household income was $8,000 or less in the year to which the claim relates, the claim is limited to 80% of the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead.

2. If the household income was more than $8,000 in the year to which the claim relates, the claim is limited to 80% of the amount by which the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead exceeds 11.8% of the household income exceeding $8,000.

3. No credit may be allowed if the household income of a claimant exceeds $20,290.

(f) *2001 to 2011*. Subject to sub. (2m), the amount of any claim filed in 2001 to 2011 and based on property taxes accrued or rent constituting property taxes accrued during the previous year is limited as follows:

1. If the household income was $8,000 or less in the year to which the claim relates, the claim is limited to 80% of the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead.

2. If the household income was more than $8,000 in the year to which the claim relates, the claim is limited to 80% of the amount by which the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead exceeds 8.788% of the household income exceeding $8,000.

3. No credit may be allowed if the household income of a claimant exceeds $24,500.

(g) *2012 and thereafter.* The amount of any claim filed in 2012 and thereafter and based on property taxes accrued or rent constituting property taxes accrued during the previous year is limited as follows:

1. If the household income was $8,060 or less in the year to which the claim relates, the claim is limited to 80 percent of the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead.

2. If the household income was more than $8,060 in the year to which the claim relates, the claim is limited to 80 percent of the amount by which the property taxes accrued or rent constituting property taxes accrued or both in that year on the claimant's homestead exceeds 8.785 percent of the household income exceeding $8,060.

3. No credit may be allowed if the household income of a claimant exceeds $24,680.

(2) PROPERTY TAXES ACCRUED LIMITATIONS. (a) Property taxes accrued or rent constituting property taxes accrued shall be reduced by one−twelfth for each month or portion of a month for which the claimant received relief from any county under s. 59.53 (21) equal to or in excess of $400, participated in Wisconsin works under s. 49.147 (4) or (5) or 49.148 (1m) or received assistance under s. 49.19, except assistance received:

1. Under s. 49.19 (10) (a).

2. As a relative, other than a parent, with whom any dependent child is living, if the assistance does not include aid to meet the needs of the claimant or the claimant's spouse or children.

(b) In any case in which property taxes accrued, or rent constituting property taxes accrued, or both, in respect of any one household exceeds the following, the amount thereof shall, for purposes of this subchapter, be deemed to have been the following:

1. In calendar years 1984 to 1988, $1,200.

2. In calendar year 1989, $1,350.

3. Subject to sub. (2m), in calendar years 1990 to 2010, $1,450.

4. In calendar years 2011 or any subsequent calendar year, $1,460.

(c) 1. If the claimant lived in a homestead that was subject to taxation under ch. 70 for any part of the year to which the claim relates, the property taxes accrued or rent constituting property taxes accrued or both on that homestead shall be allowed for that part of the year.

2. In addition to property taxes accrued or rent constituting property taxes accrued under subd. 1., if the claimant moves from a homestead owned by the claimant to housing that is exempt from taxation under ch. 70, other than housing for which payments in lieu of taxes are made under s. 66.1201 (22) and other than a correctional or detention facility, a claim may be allowed based on property taxes accrued on that former homestead for the length of time, up to the first 12 months, that the claimant resides in the tax−exempt housing and owns the former homestead, if the claimant has attempted to sell the former homestead but has not rented it out or leased it out.

(2m) INDEXING FOR INFLATION; 2010. (a) For calendar years beginning after December 31, 2009, and before January 1, 2011, the dollar amounts of the threshold income under sub. (1) (f) 1. and 2., the maximum household income under sub. (1) (f) 3. and the maximum property taxes under sub. (2) (b) 3. shall be increased each year by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the 12−month average of the U.S. consumer price index for the month of August of the year before the previous year through the month of July of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the 12−month average of the U.S. consumer price index for August 2007 through July 2008, as determined by the federal department of labor, except that the adjustment may occur only if the percentage is a positive number. Each amount that is revised under this paragraph shall be rounded to the nearest multiple of $10 if the revised amount is not a multiple of $10 or, if the revised amount is a multiple of $5, such an amount shall be increased to the next higher multiple of $10. The department of revenue shall annually adjust the changes in dollar amounts required under this paragraph and incorporate the changes into the income tax forms and instructions.

(b) The department of revenue shall adjust the slope under sub. (1) (f) 2. such that, as a claimant's income increases from the threshold income as calculated under par. (a), to an amount that exceeds the maximum household income as calculated under par. (a), the credit that may be claimed is reduced to $0 and the department of revenue shall incorporate the changes into the income tax forms and instructions.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(3) QUALIFIED CREDIT MINIMUM. If the amount of a qualified claimant's claim is more than zero but less than $10 the amount of credit paid or credited shall be $10.

(4) DEPARTMENT WILL COMPUTE CREDIT. The claimant is not required to record on the claim the amount claimed. The claim allowable to persons who do not record the amount shall be computed by the department, which shall notify the claimant by mail of the amount of the allowable claim.

History: 1987 a. 312; 1989 a. 31, 198, 336; 1995 a. 27, 201, 289; 1997 a. 35; 1999 a. 9; 1999 a. 150 s. 672; 2009 a. 28; 2011 a. 32.

Cross−reference: See also ss. Tax 14.04 and 14.05, Wis. adm. code.

71.55 General provisions. (1) APPLICATION OF CREDIT AGAINST ANY LIABILITY. The amount of any claim otherwise payable under this subchapter may be applied by the department of revenue against any amount certified to the department under s. 71.93 or 71.935 or may be credited under s. 71.80 (3) or (3m).

(2) FEE CHARGE BY LESSOR NOT PERMITTED. No lessor may charge a fee for supplying a claimant with the information necessary for the claimant to comply with sub. (7).

(3) FORMS TO BE PROVIDED BY DEPARTMENT. In administering this subchapter, the department of revenue shall make available suitable forms with instructions for claimants, including a form that may be included with, or as a part of, the individual income tax form. In preparing homestead credit forms, the department of revenue shall provide a space for identification of the county and city, village or town in which the claimant resides.

Cross−reference: See also s. Tax 2.08, Wis. adm. code.

(4) INTEREST NOT ALLOWED. No interest may be allowed on any payment made to a claimant under this subchapter.

(5) LEGISLATION MAY BE PROPOSED BY DEPARTMENT. At the end of each fiscal year, the department of revenue shall review the homestead tax credit program and may propose legislation to adjust the amounts of claims allowable under the program, taking into account findings that social security benefits and the cost of living, as reflected in the index computed by the U.S. bureau of labor statistics, have increased or decreased.

(6) PENALTIES. Unless specifically provided in this subchapter, the penalties under subch. XIII apply for failure to comply with this subchapter unless the context requires otherwise.

(6m) ADMINISTRATION. The income tax provisions in this chapter relating to assessments, refunds, appeals and collection apply to the credit under this subchapter.

(7) RECORDS MAY BE REQUIRED BY DEPARTMENT TO DETERMINE CORRECT CREDIT. To ascertain the correctness of any claim under this subchapter or to determine the amount of the credit under this subchapter of any person, the department may examine, or cause to be examined by any agent or representative designated by the department, any books, papers, records or memoranda bearing on the homestead credit of the person, may require the production of the books, papers, records or memoranda, and require the attendance, of any person having relevant knowledge, and may take testimony and require proof material for its information. Based on the information it discovers, the department shall determine the true amount of homestead credit during the year or years under investigation.

(8) RENTAL NOT AT ARM'S LENGTH. In any case in which a homestead is rented by a person from another person under circumstances deemed by the department of revenue to be not at arm's length, it may, with the aid of its property tax bureau, determine rent constituting property taxes accrued as at arm's length, and, for purposes of this subchapter, such determination shall be final.

(9) TABLE SHALL BE PUBLISHED. The secretary of revenue shall prepare a table under which claims under this subchapter shall be determined. The table shall be published in the department's instructional booklets.

History: 1987 a. 312; 1989 a. 31, 294; 1991 a. 39, 232; 1993 a. 205; 1995 a. 27; 2001 a. 107; 2003 a. 33.

Cross−reference: See also s. Tax 14.05, Wis. adm. code.

SUBCHAPTER IX

FARMLAND PRESERVATION CREDIT

71.57 Purpose. The purpose of ss. 71.58 to 71.61 is to provide credit to owners of farmland which is subject to agricultural use restrictions, through a system of income or franchise tax credits and refunds and appropriations from the general fund.

History: 1987 a. 312; 1991 a. 39; 2009 a. 28.

71.58 Definitions. In ss. 71.57 to 71.61:

(1) "Claimant" means an owner, as defined in s. 91.01 (9), 2007 stats., of farmland, domiciled in this state during the entire year for which a credit under ss. 71.57 to 71.61 is claimed, except as follows:

(a) When 2 or more individuals of a household are able to qualify individually as a claimant, they may determine between them who the claimant shall be. If they are unable to agree, the matter shall be referred to the secretary of revenue, whose decision is final.

(b) If any person in a household has claimed or will claim credit under subch. VIII, all persons from that household are ineligible to claim any credit under ss. 71.57 to 71.61 for the year to which the credit under subch. VIII pertained.

(c) For partnerships except publicly traded partnerships treated as corporations under s. 71.22 (1k), "claimant" means each individual partner.

(cm) For limited liability companies, except limited liability companies treated as corporations under s. 71.22 (1k), "claimant" means each individual member.

(d) For purposes of filing a claim under ss. 71.57 to 71.61, the personal representative of an estate and the trustee of a trust shall be deemed owners of farmland. "Claimant" does not include the estate of a person who is a nonresident of this state on the person's date of death, a trust created by a nonresident person, a trust which receives Wisconsin real property from a nonresident person or a trust in which a nonresident settlor retains a beneficial interest.

(e) For purposes of filing a claim under ss. 71.57 to 71.61, when land is subject to a land contract, the claimant shall be the vendee under the contract.

(f) For purposes of filing a claim under ss. 71.57 to 71.61, when a guardian has been appointed in this state for a ward who owns the farmland, the claimant shall be the guardian on behalf of the ward.

(g) For a tax−option corporation, "claimant" means each individual shareholder.

(2) "Department" means the department of revenue.

(3) "Farmland" means 35 or more acres of real property in this state owned by the claimant or any member of the claimant's household during the taxable year for which a credit under ss. 71.57 to 71.61 is claimed if the farmland, during that year, produced not less than $6,000 in gross farm profits resulting from the farmland's agricultural use, as defined in s. 91.01 (1), 2007 stats., or if the farmland, during that year and the 2 years immediately preceding that year, produced not less than $18,000 in such profits, or if at least 35 acres of the farmland, during all or part of that year, was enrolled in the conservation reserve program under 16 USC 3831 to 3836.

(4) "Gross farm profits" means gross receipts, excluding rent, from agricultural use, as defined in s. 91.01 (1), 2007 stats., including the fair market value at the time of disposition of payments in kind for placing land in federal programs or payments from the federal dairy termination program under 7 USC 1446 (d), less the cost or other basis of livestock or other items purchased for resale which are sold or otherwise disposed of during the taxable year.

(5) "Household" means an individual and his or her spouse and all minor dependents.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(6) "Household income" means all of the income of the claimant and the claimant's spouse and the farm income, including wages, earned on the farm to which the credit applies of all minor dependents attributable to the taxable year while members of the household.

(7) "Income":

(a) For an individual, means income as defined under s. 71.52 (6), plus nonfarm business losses, plus amounts under s. 46.27, less net operating loss carry−forwards, less first−year depreciation allowances under section 179 of the internal revenue code and less the first $25,000 of depreciation expenses in respect to the farm claimed by all of the individuals in a household.

(b) For a corporate claimant, except a tax−option corporation, means the same as for an individual claimant except that net income plus any farm business loss carry−forward allowed under s. 71.26 (4) shall be included instead of income under s. 71.52 (6) and "income" of a corporate claimant shall include all household income of each of its corporate shareholders of record at the end of its taxable year, plus nonfarm business losses and depreciation expenses of the corporate claimant, except the first $25,000 of depreciation expenses in respect to the farm.

(c) For an estate or trust, means the same as "income" for an individual except that the net income of the estate or trust before subtracting any deductions claimed for income distributable to the estate's or trust's beneficiaries shall be included instead of Wisconsin adjusted gross income.

(8) "Property taxes accrued" means property taxes, exclusive of special assessments, delinquent interest and charges for service, levied on the farmland and improvements owned by the claimant or any member of the claimant's household in any calendar year under ch. 70, less the tax credit, if any, afforded in respect of the property by s. 79.10. "Property taxes accrued" shall not exceed $6,000. If farmland is owned by a tax−option corporation, a limited liability company or by 2 or more persons or entities as joint tenants, tenants in common or partners or is marital property or survivorship marital property and one or more such persons, entities or owners is not a member of the claimant's household, "property taxes accrued" is that part of property taxes levied on the farmland, reduced by the tax credit under s. 79.10, that reflects the ownership percentage of the claimant and the claimant's household. For purposes of this subsection, property taxes are "levied" when the tax roll is delivered to the local treasurer for collection. If farmland is sold during the calendar year of the levy the "property taxes accrued" for the seller is the amount of the tax levy, reduced by the tax credit under s. 79.10, prorated to each in the closing agreement pertaining to the sale of the farmland, except that if the seller does not reimburse the buyer for any part of those property taxes there are no "property taxes accrued" for the seller, and the "property taxes accrued" for the buyer is the property taxes levied on the farmland, reduced by the tax credit under s. 79.10, minus, if the seller reimburses the buyer for part of the property taxes, the amount prorated to the seller in the closing agreement. With the claim for credit under ss. 71.57 to 71.61, the seller shall submit a copy of the closing agreement and the buyer shall submit a copy of the closing agreement and a copy of the property tax bill.

(9) "Taxable year" has the meaning under s. 71.01 (12).

History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 2005 a. 25, 387; 2009 a. 28.

71.59 Filing claims. (1) ELIGIBILITY AND QUALIFICATIONS. (a) Subject to the limitations provided in ss. 71.57 to 71.61 and s. 71.80 (3) and (3m), a claimant may claim as a credit against Wisconsin income or franchise taxes otherwise due, the amount derived under s. 71.60. If the allowable amount of claim exceeds the income or franchise taxes otherwise due on or measured by the claimant's income or if there are no Wisconsin income or franchise taxes due on or measured by the claimant's income, the amount of the claim not used as an offset against income or franchise taxes shall be certified to the department of administration for payment to the claimant by check, share draft or other draft drawn on the general fund.

(b) Every claimant under ss. 71.57 to 71.61 shall supply, at the request of the department, in support of the claim, all of the following:

1. A copy of the property tax bill relating to the farmland.

2. Certification by the claimant that all taxes owed by the claimant on the property for which the claim is made for the year before the year for which the claim is made have been paid.

3. A copy of the farmland preservation agreement or a certificate of the appropriate zoning authority, except that, if the claimant has obtained a certificate of the appropriate zoning authority to file a claim for a previous year and the claimant determines that the conditions described under par. (d) that caused the authority to issue the previous certificate have not changed and are still applicable, the claimant may certify that such conditions have not changed and still apply and such a claimant is not required to submit a certificate of the zoning authority unless the department, in writing, requires the claimant to submit a certificate because the department determines that it needs a certificate to process the claim.

4. Certification by the claimant that each county land conservation committee with jurisdiction over the farmland has been notified that the claimant intends to submit a claim under ss. 71.57 to 71.61.

(c) A farmland preservation agreement submitted under par. (b) 3. shall contain provisions specified under s. 91.13 (8), 2007 stats., including either a provision requiring farming operations to be conducted in substantial accordance with a soil and water conservation plan prepared under s. 92.104, 2007 stats., or a provision requiring farming operations to be conducted in compliance with reasonable soil and water conservation standards established under s. 92.105, 2007 stats.

(d) The certificate of the zoning authority submitted under par. (b) 3. shall certify:

1. That the lands are within the boundaries of an agricultural zoning district which is part of an adopted ordinance meeting the standards of subch. V of ch. 91, 2007 stats., and certified under s. 91.06, 2007 stats.

2. That the ordinance has been approved, where necessary, by the board of the town within which the lands are situated, as required by s. 59.69, and shall indicate the date of approval.

3. That each structure or improvement on the lands conforms to the requirements of the exclusive agricultural use ordinance.

4. The portion of the claimant's farmland which is within the area zoned for exclusive agricultural use.

5. That soil and water conservation standards applicable to the land are established and approved as required under s. 92.105 (1) to (3), 2007 stats., and that no notice of noncompliance is in effect under s. 92.105 (5), 2007 stats., with respect to the claimant at the time the certificate is issued.

(1m) PERMITTED USES. The designation by the department of natural resources of any farmland in this state, for which a claim under this section may be filed, as part of the ice age trail, under s. 23.17, is a permitted use under a farmland preservation agreement, or a certificate of a zoning authority, under sub. (1) (b).

(2) INELIGIBLE CLAIMS. No credit shall be allowed under ss. 71.57 to 71.61:

(a) Unless a claim is filed with the department in conformity with the filing requirements in s. 71.03 (6) and (7) for a claimant filing under subch. I, in conformity with the filing requirements in s. 71.24 (1), (1m) and (7) for a claimant filing under subch. IV and in conformity with the filing requirements in s. 71.44 (1), (1m) and (3) for a claimant filing under subch. VII.

(b) If a notice of noncompliance with an applicable soil and water conservation plan under s. 92.104, 2007 stats., is in effect with respect to the claimant at the time the claim is filed.

(c) If a notice of noncompliance with applicable soil and water conservation standards under s. 92.105, 2007 stats., is in effect with respect to the claimant at the time the claim is filed.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(d) For property taxes accrued on farmland zoned for exclusive agricultural use under an ordinance certified under subch. V of ch. 91, 2007 stats., which is granted a special exception or conditional use permit for a use which is not an agricultural use, as defined in s. 91.01 (1), 2007 stats.

(e) If the department determines that ownership of the farmland has been transferred to the claimant primarily for the purpose of maximizing benefits under ss. 71.57 to 71.61.

History: 1987 a. 312, 411; 1989 a. 31, 359; 1991 a. 39, 309; 1995 a. 201; 1997 a. 137; 2009 a. 28.

71.60 Computation. (1) Except as provided in sub. (2), the amount of any claim filed in calendar years based upon property taxes accrued in the preceding calendar year shall be determined as follows:

(a) The amount of excessive property taxes shall be computed by subtracting from property taxes accrued the amount of 7% of the 2nd $5,000 of household income plus 9% of the 3rd $5,000 of household income plus 11% of the 4th $5,000 of household income plus 17% of the 5th $5,000 of household income plus 27% of the 6th $5,000 of household income plus 37% of household income in excess of $30,000. The maximum excessive property tax which can be utilized is $6,000.

(b) The credit allowed under ss. 71.57 to 71.61 shall be limited to 90% of the first $2,000 of excessive property taxes plus 70% of the 2nd $2,000 of excessive property taxes plus 50% of the 3rd $2,000 of excessive property taxes. The maximum credit shall not exceed $4,200 for any claimant. The credit for any claimant shall be the greater of either the credit as calculated under ss. 71.57 to 71.61 as it exists at the end of the year for which the claim is filed or as it existed on the date on which the farmland became subject to a current agreement under subch. II or III of ch. 91, 2007 stats., using for such calculations household income and property taxes accrued of the year for which the claim is filed.

(c) 1. If the farmland is located in a county which has a certified agricultural preservation plan under subch. IV of ch. 91, 2007 stats., at the close of the year for which credit is claimed and is in an area zoned by a county, city or village for exclusive agricultural use under ch. 91, 2007 stats., at the close of such year, the amount of the claim shall be that as specified in par. (b).

2. If the farmland is subject to a transition area agreement under subch. II of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the claimant had applied for such an agreement before July 1 of such year and the agreement has subsequently been executed, and the farmland is located in a city or village which has a certified exclusive agricultural use zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is claimed, or in a town which is subject to a certified county exclusive agricultural use zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is claimed, the amount of the claim shall be that as specified in par. (b).

3. If the claimant or any member of the claimant's household owns farmland which is ineligible for credit under subd. 1. or 2. but was subject to a farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the owner had applied for such an agreement before July 1 of such year and the agreement has subsequently been executed, and if the owner has applied by the end of the year in which conversion under s. 91.41, 2007 stats., is first possible for conversion of the agreement to a transition area agreement under subch. II of ch. 91, 2007 stats., and the transition area agreement has subsequently been executed, and the farmland is located in a city or village which has a certified exclusive agricultural use zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is claimed, or in a town which is subject to a certified county exclusive agricultural use zoning ordinance under subch. V of ch. 91, 2007 stats., in effect at the close of the year for which credit is claimed, the amount of the claim shall be that specified in par. (b).

4. If the claimant or any member of the claimant's household owns farmland which is ineligible for credit under subd. 1. or 2. but which is subject to a farmland preservation agreement or a transition area agreement under subch. II of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the owner had applied for such an agreement before July 1 of such year and the agreement has subsequently been executed, the amount of the claim shall be limited to 80% of that specified in par. (b).

5. If the claimant or any member of the claimant's household owns farmland which is ineligible for credit under subds. 1. to 4. but was subject to a farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed, or the owner had applied for such an agreement before July 1 of such year and the agreement has subsequently been executed, and if the owner has applied by the end of the year in which conversion under s. 91.41, 2007 stats., is first possible for conversion of the agreement to an agreement under subch. II of ch. 91, 2007 stats., and the agreement under subch. II of ch. 91, 2007 stats., has subsequently been executed, the amount of the claim shall be limited to 80% of that specified in par. (b).

6. If the farmland is located in an agricultural district under a certified county agricultural preservation plan under subch. IV of ch. 91, 2007 stats., at the close of the year for which credit is claimed, and is located in an area zoned for exclusive agricultural use under a certified town ordinance under subch. V of ch. 91, 2007 stats., at the close of such year, the amount of the claim shall be the amount specified in par. (b).

6m. If the farmland is located in an agricultural district under a certified county agricultural preservation plan under subch. IV of ch. 91, 2007 stats., at the close of the year for which credit is claimed, and is located in an area zoned for exclusive agricultural use under a certified county or town ordinance under subch. V of ch. 91, 2007 stats., for part of a year but not at the close of that year because the farmland became subject to a city or village extraterritorial zoning ordinance under s. 62.23 (7a), the amount of the claim shall be equal to the amount that the claim would have been under this section if the farmland were subject to a certified county or town exclusive agricultural use ordinance at the close of the year.

7. If the farmland is located in an area zoned for exclusive agricultural use under a certified county, city or village ordinance under subch. V of ch. 91, 2007 stats., at the close of the year for which credit is claimed, but the county in which the farmland is located has not adopted an agricultural preservation plan under subch. IV of ch. 91, 2007 stats., by the close of such year, the amount of the claim shall be limited to 70% of that specified in par. (b).

8. If the farmland is subject to a farmland preservation agreement under subch. III of ch. 91, 2007 stats., on July 1 of the year for which credit is claimed or the claimant had applied for such an agreement before July 1 of such year and the agreement has subsequently been executed, the amount of the claim shall be limited to 50% of that specified in par. (b).

(2) If the farmland is subject to a certified ordinance under subch. V of ch. 91, 2007 stats., or an agreement under subch. II of ch. 91, 2007 stats., in effect at the close of the year for which the credit is claimed, the amount of the claim is 10% of the property taxes accrued or the amount determined under sub. (1), whichever is greater.

History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1993 a. 246, 420; 2009 a. 28.

71.61 General provisions. (1) DEPARTMENT MAY APPLY CREDIT AGAINST ANY TAX LIABILITY. The amount of any claim otherwise payable under ss. 71.57 to 71.61 may be applied by the department against any amount certified to the department under s. 71.93 or 71.935 or may be credited under s. 71.80 (3) or (3m).

(2) CREDITS ARE INCOME. All amounts allowed as credits under ss. 71.57 to 71.61 constitute income for income and franchise tax purposes and are reportable as such in the year of receipt.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(3) INTEREST NOT ALLOWED. No interest may be allowed on any payment made to a claimant under ss. 71.57 to 71.61.

(3m) ADMINISTRATION. The income tax provisions in this chapter relating to assessments, refunds, appeals and collection apply to the credit under ss. 71.57 to 71.61.

(4) PENALTIES. Unless specifically provided in ss. 71.57 to 71.61, the penalties under subch. XIII apply for failure to comply with ss. 71.57 to 71.61 unless the context requires otherwise.

(5) TABLE PREPARED BY DEPARTMENT. The department shall prepare a table under which claims under ss. 71.57 to 71.61 shall be determined.

(6) PROHIBITION OF NEW CLAIMS. For taxable years beginning after December 31, 2009, no new claims for a credit may be filed under ss. 71.57 to 71.61, but if an otherwise eligible claimant is subject to a farmland preservation agreement, as defined in s. 91.01 (7), 2007 stats., that is in effect on July 1, 2010, the claimant may continue to file a claim for the credit under ss. 71.57 to 71.61 until the farmland preservation agreement expires, except that no claimant who files a claim under ss. 71.57 to 71.61 may file a claim under s. 71.613.

History: 1987 a. 312; 1989 a. 31; 1991 a. 39; 1995 a. 27; 2009 a. 28.

71.613 Farmland preservation credit, 2010 and beyond. (1) DEFINITIONS. In this section:

(a) "Agricultural use" has the meaning given in s. 91.01 (2).

(b) "Claimant" means an owner, as defined in s. 91.01 (9), 2007 stats., of farmland, domiciled in this state during the entire taxable year to which the claim under this section relates, who files a claim under this section, except as follows:

1. When 2 or more individuals of a household are able to qualify individually as a claimant, they may determine between them who the claimant shall be. If they are unable to agree, the matter shall be referred to the secretary of revenue, whose decision is final.

2. If any person in a household has claimed or will claim credit under subch. VIII, all persons from that household are ineligible to claim any credit under this section for the year to which the credit under subch. VIII pertains.

3. For partnerships except publicly traded partnerships treated as corporations under s. 71.22 (1k), "claimant" means each individual partner.

4. For limited liability companies, except limited liability companies treated as corporations under s. 71.22 (1k), "claimant" means each individual member.

5. For purposes of filing a claim under this section, the personal representative of an estate and the trustee of a trust shall be considered owners of farmland. "Claimant" does not include the estate of a person who is a nonresident of this state on the person's date of death, a trust created by a nonresident person, a trust which receives Wisconsin real property from a nonresident person or a trust in which a nonresident settlor retains a beneficial interest.

6. For purposes of filing a claim under this section, when land is subject to a land contract, the claimant shall be the vendee under the contract.

7. For purposes of filing a claim under this section, when a guardian has been appointed in this state for a ward who owns the farmland, the claimant shall be the guardian on behalf of the ward.

8. For a tax−option corporation, "claimant" means each individual shareholder.

(c) "Department" means the department of revenue.

(d) "Farm" means a farm, as defined in s. 91.01 (13), that has produced at least $6,000 in gross farm revenues during the taxable year to which the claim relates or, in the taxable year to which the claim relates and the 2 immediately preceding taxable years, at least $18,000 in gross farm revenues.

(e) "Farmland preservation agreement" has the meaning given in s. 91.01 (15).

(f) "Farmland preservation zoning district" has the meaning given in s. 91.01 (18).

(g) "Gross farm revenues" means gross receipts from agricultural use of a farm, excluding rent receipts, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year.

(ge) "Household" means an individual and his or her spouse and all minor dependents.

(h) "Qualifying acres" means the number of acres of a farm that correlate to a claimant's percentage of ownership interest in a farm to which one of the following applies:

1. The farm is wholly or partially covered by a farmland preservation agreement, except that if the farm is only partially covered, the qualifying acres calculation includes only those acres which are covered by a farmland preservation agreement.

2. The farm is located in a farmland preservation zoning district at the end of the taxable year to which the claim relates.

3. If the claimant transferred the claimant's ownership interest in the farm during the taxable year to which the claim relates, the farm was wholly or partially covered by a farmland preservation agreement, or the farm was located in a farmland preservation zoning district, on the date on which the claimant transferred the ownership interest. For the purposes of this subdivision, a land contract is a transfer of ownership interest.

(2) FILING CLAIMS. Subject to the limitations and conditions provided in sub. (3), a claimant may claim as a credit against the tax imposed under s. 71.02, 71.08, 71.23, or 71.43, an amount calculated by multiplying the claimant's qualifying acres by one of the following amounts, and if the allowable amount of the claim exceeds the income taxes otherwise due on the claimant's income or if there are no Wisconsin income taxes due on the claimant's income, the amount of the claim not used as an offset against income taxes shall be certified by the department of revenue to the department of administration for payment to the claimant by check, share draft, or other draft from the appropriation under s. 20.835 (2) (do):

(a) Ten dollars, if the qualifying acres are located in a farmland preservation zoning district and are also subject to a farmland preservation agreement that is entered into after July 1, 2009.

(b) Seven dollars and 50 cents, if the qualifying acres are located in a farmland preservation zoning district but are not subject to a farmland preservation agreement that is entered into after July 1, 2009.

(c) Five dollars, if the qualifying acres are subject to a farmland preservation agreement that is entered into after July 1, 2009, but are not located in a farmland preservation zoning district.

(3) LIMITATIONS AND CONDITIONS. (a) No credit may be allowed under this section unless all of the following apply:

1. The claimant certifies to the department that the claimant has paid, or is legally responsible for paying, the property taxes levied against the qualifying acres to which the claim relates.

2. The claimant certifies to the department that at the end of the taxable year to which the claim relates or, on the date on which the person transferred the person's ownership interest in the farm if the transfer occurs during the taxable year to which the claim relates, there was no outstanding notice of noncompliance issued against the farm under s. 91.82 (2).

3. The claimant submits to the department a certification of compliance with soil and water conservation standards, as required by s. 91.80, issued by the county land conservation committee unless, in the last preceding year, the claimant received a tax credit under ss. 71.57 to 71.61 or this section for the same farm.

(b) If a farm is jointly owned by 2 or more persons who file separate income or franchise tax returns, each person may claim a credit under this section based on the person's ownership interest in the farm.

(c) If a person acquires or transfers ownership of a farm during a taxable year for which a claim may be filed under this section,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

the person may file a claim under this section based on the person's liability for the property taxes levied on the person's qualifying acres for the taxable year to which the claim relates.

(d) A claimant shall claim the credit under this section on a form prepared by the department and shall submit any documentation required by the department. On the claim form, the claimant shall certify all of the following:

1. The number of qualifying acres for which the credit is claimed.

2. The location and tax parcel number for each parcel on which the qualifying acres are located.

4. That the qualifying acres are covered by a farmland preservation agreement or located in a farmland preservation zoning district, or both.

5. That the qualifying acres are part of a farm that complies with applicable state soil and water conservation standards, as required by s. 91.80.

(e) No credit may be allowed under this section unless it is claimed within the time period under s. 71.75 (2).

(f) The maximum amount of the credits that may be claimed under this section in any fiscal year is $27,007,200. If the total amount of eligible claims exceed this amount, the excess claims shall be paid in the next succeeding fiscal year to ensure that the limit specified in this paragraph is not exceeded.

(g) For the 2011−2012 fiscal year, and for every succeeding fiscal year, the department shall prorate the per acre amounts specified in sub. (2) based on the department's estimated amount of eligible claims that will be filed for that fiscal year, and to account for any excess claims from the preceding fiscal year that are required to be paid under par. (f).

(h) If the payment to which an eligible claimant is entitled under sub. (2) is delayed because the claim was an excess claim, as described in par. (f), the claimant is not entitled to any interest payment under s. 71.82 with regard to the delayed claim or with regard to any other refund to which the claimant is entitled if that other refund claim is claimed on the same income tax return as the credit under this section.

(4) ADMINISTRATION. The department may enforce the credit under this section and may take any action, conduct any proceeding, and proceed as it is authorized in respect to taxes under this chapter. The income and franchise tax provisions in this chapter relating to assessments, refunds, appeals, collection, interest, and penalties apply to the credit under this section.

History: 2009 a. 28.

SUBCHAPTER X

WITHHOLDING

71.63 Definitions. In this subchapter, unless the context clearly indicates otherwise:

(1) "Department" means the department of revenue.

(1m) "Deposit" means mail or deliver funds to the department or, if the department prescribes another method of submitting or if the department of administration designates under s. 34.05 another destination, use that other method or submit to that other destination.

(2) "Employee" means a resident individual who performs or performed services for an employer anywhere or a nonresident individual who performs or performed such services within this state, and includes an officer, employee or elected official of the United States, a state, territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of these entities. The term includes an officer of a corporation, an entertainer and an entertainment corporation, but does not include a qualified real estate agent or a direct seller who is not treated as an employee under section 3508 of the Internal Revenue Code.

(3) "Employer" means a person, partnership or limited liability company, whether subject to or exempt from taxation under this chapter, for whom an individual performs or performed any service as an employee of that person, partnership or company and includes a person, partnership or company that engages the services of an entertainer or an entertainment corporation, except that:

(a) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for those services, "employer", except for purposes of sub. (6), means the person having receipt, custody or control of the payment of those wages.

(b) If a resident person, including but not limited to a ticket agency or box office manager, has receipt, custody or control of the proceeds of an event taking place and the proceeds are paid to an entertainer or entertainment corporation or to any nonresident person who has engaged the services of an entertainer or entertainment corporation, "employer" means the resident person, firm or nonresident person having the receipt, custody or control of the proceeds.

(c) In regard to a single−owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code, the owner, not the entity, is an "employer," except that, if the entity elects to be an employer for federal withholding tax purposes, the entity is the employer for purposes of this subchapter.

(d) With regard to s. 71.65 (6), "employer" means a person described in s. 108.18 (2) (c) or a person engaged in the painting or drywall finishing of buildings or other structures.

(3m) "File" means mail or deliver a document that the department prescribes to the department or, if the department prescribes another method of submitting or the department of administration designates under s. 34.05 another destination, use that other method or submit to that other destination.

(3r) "Furnish" means mail or deliver a document that the department prescribes to the department or, if the department prescribes another method of submitting or another destination, use that other method or submit to that other destination.

(4) "Income", "person" and all other terms not otherwise defined, have the same meaning as in the internal revenue code.

(5) "Payroll period" means a period for which a payment of wages is ordinarily made to the employee by his or her employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual or annual payroll period.

(5m) "Remit" means mail or deliver funds to the department or, if the department prescribes another method of submitting or if the department of administration designates under s. 34.05 another destination, use that other method or submit to that other destination.

(6) "Wages" means all remuneration, other than fees paid to a public official, for services performed by an employee for an employer, including cash value of all remuneration paid in any medium other than cash and remuneration paid to an entertainer or entertainment corporation, minus the amount of remuneration not subject to tax under this chapter, but does not include remuneration paid:

(a) For active service as a member of the armed forces of the United States for any month during any part of which such member served in a combat zone during an induction period or was hospitalized as a result of wounds, disease or injury incurred while serving in a combat zone during an induction period, but this paragraph shall not apply for any month during any part of which there are no combatant activities in any combat zone and remuneration, for purposes of this paragraph, shall not include pensions and retirement pay.

(b) For agricultural labor, including all service performed:

1. On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

shearing, feeding, caring for, training and management of livestock, bees, poultry and fur−bearing animals and wildlife;

2. In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

3. In connection with the production or harvesting of crude gum, gum spirits of turpentine or gum rosin, in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals, reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farm purposes;

4. In the employ of the operator of a farm in handling, planting, drying, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one−half of the commodity with respect to which such service was performed, or in the employ of a group of operators of farms, other than a cooperative organization or an unincorporated cooperative association, in the performance of such services, but only if such operators produced all of the commodity with respect to which such service is performed, but the provisions of this subdivision shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption;

5. On a farm operated for profit if such service is not in the course of the employer's trade or business;

6. In this paragraph, "farm" includes stock, dairy, poultry, fruit, fur−bearing animals and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(c) For domestic service in a private home, local college club or local chapter of a college fraternity or sorority.

(d) For service not in the course of the employer's trade or business performed in any calendar quarter by an employee, unless the cash remuneration paid for such service is $50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. An individual shall be deemed to be regularly employed by an employer during a calendar quarter only if on each of some 24 days during such quarter such individual performs, for such employer, for some portion of the day, service not in the course of the employer's trade or business, or such individual was regularly employed (as defined in this paragraph) by such employer in the performance of such service during the preceding calendar quarter.

(e) For services by a citizen or resident of the United States for a foreign government or an international organization.

(f) For services performed by a duly ordained, commissioned or licensed minister of a church in the exercise of his or her ministry or by a member of a religious order in the exercise of duties required by such order.

(g) For services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(h) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him or her at a fixed price, his or her compensation being based on the retention of the excess of such price over the amount at which newspapers or magazines are charged to him or her, whether or not he or she is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back.

(i) For services not in the course of the employer's trade or business to the extent paid in any medium other than cash.

(j) To, or on behalf of, an employee or his or her beneficiary from a trust created or organized in the United States and forming part of a stock bonus, pension or profit sharing plan of an employer for the exclusive benefit of his or her employees or their beneficiaries and which trust is exempt from taxation, unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as a beneficiary of the trust.

(k) For personal services performed in Wisconsin in the form of retirement, pension and profit−sharing benefits, received by nonresidents after retirement from the employ of the employer for whom such personal services were performed.

(L) To, or on behalf of, an employee or beneficiary from a plan or contract described in s. 815.18 (3) (j) under which the benefits are fully funded by life insurance or annuities.

(m) If the remuneration paid by an employer to an employee for services performed during one−half or more of any payroll period of not more than 31 consecutive days constitutes wages, all the remuneration paid by such employer to such employee for such period shall be deemed to be wages; but if the remuneration paid by an employer to an employee for services performed during more than one−half of any such payroll period does not constitute wages, then none of the remuneration paid by such employer to such employee for such period shall be deemed to be wages.

(n) In the form of tips paid to employees if:

1. The tips are paid in a medium other than cash; or

2. The cash tips received by an employee in any calendar month in the course of employment by an employer are less than $20. However, if such cash tips received in a calendar month amount to $20 or more none of such cash tips are excepted from wages under this section.

History: 1987 a. 312; 1989 a. 278; 1993 a. 112; 1997 a. 27; 2005 a. 49, 441; 2009 a. 28, 288; 2011 a. 259.

Cross−reference: See also s. Tax 2.90, Wis. adm. code.

71.64 Employers required to withhold. (1) WITHHOLDING FROM WAGES. (a) Every employer at the time of payment of wages to an employee shall deduct and withhold from such wages, without regard for federal insurance contributions act deductions therefrom, an amount determined in accordance with tables to be prepared by the department under sub. (9). The secretary may grant permission to employers who do not desire to use the withholding tax tables provided by the department to determine the amount of tax to be withheld by use of a method of withholding other than the withholding tax tables, provided such method will withhold from each employee substantially the same amount as would be withheld by use of the withholding tax tables. Employers who desire to determine the amount of tax to be withheld by a method other than by use of the withholding tax tables shall obtain permission from the secretary before the beginning of a payroll period for which the employer desires to withhold the tax by such other method. Applications for use of such other method must be accompanied by evidence establishing the need for the use of such method.

(b) An employer may, at his or her discretion, deduct and withhold from any one payment of wages in a month, in the case of an employee paid more often than once during any month, the total amount which the employer reasonably estimates he or she will be required to withhold under this section from such employee during that month. Permission from the secretary under par. (a) is not needed by any employer acting under this paragraph.

(c) Withholding from marital income shall be allocated between taxpayers in the same manner that income is allocated or would be allocated.

(2) CHANGING AMOUNT OF WITHHOLDING BY WRITTEN AGREEMENT BETWEEN EMPLOYER AND EMPLOYEE. (a) *Additional amount.*

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

In addition to the amount required to be deducted and withheld, an employer and employee may agree in writing that an additional amount shall be withheld from the employee's wages. The amount deducted and withheld pursuant to such an agreement shall be considered as an amount required to be deducted and withheld for all purposes of this subchapter.

(b) *Lesser amount.* In lieu of the amount required to be deducted and withheld under this section, an employer and employee may agree in writing on a form prescribed and provided by the department that a lesser amount be withheld from the employee's wages if:

1. The employee determines that the lesser amount approximates the employee's anticipated income tax liability for the year.

2. The employee sends a copy of the completed agreement form to the department within 10 days after it is filed with the employer.

3. The agreement expires on April 30 of the following year, for calendar year taxpayers, or 4 months following the close of their fiscal year, for fiscal year taxpayers.

(c) *Department may void agreement.* If the department determines that an agreement under par. (b) would result in an insufficient amount of tax being withheld, the department may void the agreement by notification to the employer and employee.

(3) WITHHOLDING FROM PENSION OR SICK PAY PLAN. If a payee furnishes written notification to a payor of any pension or to a 3rd−party payor of any sick pay plan that the payee desires to have Wisconsin income tax withheld from the pension or sick pay plan, the payor shall withhold from each pension payment or sick pay payment an amount in accordance with the withholding tables or the amount that the payee designates to the payor. The amount withheld from each payment may not be less than $5. For purposes of this subsection, "pension" includes any retirement payment plan, and "sick pay" includes any amount paid to an employee as remuneration or paid instead of remuneration for any period when the employee is temporarily absent from work because of sickness or personal injuries. Payors withholding under this subsection are employers for all purposes of this section and shall withhold, remit and be subject to the other requirements of an employer in withholding Wisconsin income tax from employees.

(4) WITHHOLDING FROM PAYMENTS MADE TO ENTERTAINERS. For purposes of this section, all payments made to entertainers and entertainment corporations are presumed subject to withholding unless the recipient provides to the person making the payment a written statement, on a form prescribed by the department, certifying that the payment is exempt under sub. (6) (b) or s. 71.05 (2).

(5) WITHHOLDING FROM ENTERTAINER IN ABSENCE OF BOND OR CASH DEPOSIT. If no bond or cash deposit is made under s. 71.80 (15) (b) by an entertainer or entertainment corporation at the time of payment of wages to an entertainer, the employer shall either withhold the amount for which a bond should have been provided under s. 71.80 (15) (b) or deduct and withhold the tax reflected by the proper withholding table. If the entertainer establishes to the department's satisfaction that a lower rate is more appropriate, the department shall notify the employer to withhold at the lower rate. The department may notify the employer that it waives the withholding requirement on the amount specified. Payments to an entertainment corporation shall be withheld at the rate of 6% unless the payee establishes to the satisfaction of the department that a lower rate is appropriate, in which case the department may notify the employer to withhold at a lower rate.

(6) WITHHOLDING FROM PAYMENTS MADE TO NONRESIDENTS. (a) At the time of payment of wages to a nonresident employee which wages were derived from the performance of services both within and without the state, the employer shall deduct and withhold from the wages derived from the performance of services within the state the amount as reflected by the proper withholding table.

(b) No amount shall be withheld from the wages paid to a nonresident employee for services performed in this state if the employer reasonably estimates that during that calendar year the employee will earn less than $1,500; but whenever it appears that the employee will earn more than $1,500 in this state during the calendar year, the employer shall withhold, from wages paid thereafter, such additional amounts as the employer reasonably estimates will be required to offset the amounts not withheld from previous payments.

(7) SPECIAL WITHHOLDING ARRANGEMENTS. The secretary of revenue, acting within his or her discretion, may authorize special withholding arrangements in hardship cases resulting from situations in which persons, domiciled in Wisconsin, are subjected to withholding in some other state by reason of the performance of substantial personal services in such other state, pursuant to s. 71.07 (7).

(8) EXCEPTIONS. (a) The employer of any employee domiciled in a state with which Wisconsin has reciprocity under s. 71.05 (2) is not required to withhold under this subchapter from the wages earned by such employee in this state.

Cross−reference: See also s. Tax 2.02, Wis. adm. code.

(b) This subchapter shall not apply to any county fair association in regard to any employee receiving less than $500 annually in wages or salary from the association.

(c) The department of corrections is not required to withhold under sub. (1) from wages paid to an inmate working in a prison listed in s. 302.01, and if the inmate's wages do not exceed $2,000 per year the department of corrections is not required under s. 71.65 (3) to file reports relating to those wages.

(9) WITHHOLDING TABLES. (a) The department shall prepare, promulgate and publish in the official state paper, without regard to the requirements of ch. 227, rules establishing withholding tables prepared on a weekly, biweekly, semimonthly, monthly, and daily or miscellaneous pay period basis. Those rules shall also provide instructions for withholding with respect to quarterly, semiannual and annual pay periods.

(b) The department shall from time to time adjust the withholding tables to reflect any changes in income tax rates, any applicable surtax or any changes in dollar amounts in s. 71.06 (1), (1m), (1n), (1p) and (2) resulting from statutory changes, except as follows:

1. The department may not adjust the withholding tables to reflect the changes in rates in s. 71.06 (1m) and (2) (c) and (d) and any changes in dollar amounts with respect to bracket indexing under s. 71.06 (2e), with respect to changes in rates under s. 71.06 (1m) and (2) (c) and (d), and with respect to standard deduction indexing under s. 71.05 (22) (ds) for any taxable year that begins before January 1, 2000.

2. The department shall adjust the withholding tables to reflect the changes in rates in s. 71.06 (1n), (1p) and (2) (e), (f), (g) and (h) and any changes in dollar amounts with respect to bracket indexing, with respect to changes in rates under s. 71.06 (1p) and (2) (g) and (h) on July 1, 2000.

(c) The tables shall account for the working families tax credit under s. 71.07 (5m). The tables shall be extended to cover from zero to 10 withholding exemptions, shall assume that the payment of wages in each pay period will, when multiplied by the number of pay periods in a year, reasonably reflect the annual wage of the employee from the employer and shall be based on the further assumption that the annual wage will be reduced for allowable deductions from gross income. The department may determine the length of the tables and a reasonable span for each bracket. In preparing the tables the department shall adjust all withholding amounts not an exact multiple of 10 cents to the next highest figure that is a multiple of 10 cents. The department shall also provide instructions with the tables for withholding with respect to quarterly, semiannual and annual pay periods.

History: 1987 a. 312; 1989 a. 31; 1997 a. 27, 41; 1999 a. 9; 2011 a. 131.

Cross−reference: See also ss. Tax 2.90 and 2.91, Wis. adm. code.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

71.65 Filing returns or reports. (1) EMPLOYER MUST FURNISH STATEMENT TO EMPLOYEE. (a) Every person, partnership or limited liability company required to deduct and withhold from an employee under the general withholding provisions of this subchapter shall furnish to each such employee in respect of the remuneration paid by such person, partnership or company to such employee during the calendar year, on or before January 31 of the succeeding year, or if his or her employment is terminated before the close of any such calendar year on the day on which the last payment of remuneration is made, 2 legible copies of a written statement showing the following:

1. The name of such person, partnership or limited liability company, and that person's, partnership's or company's Wisconsin income tax identification number, if any.

2. The name of such employee, and his or her social security number, if any.

3. The total amount of wages.

4. The total amount deducted and withheld as required by the general withholding provisions of this subchapter.

(b) The employee shall furnish the department of revenue one copy of such written statement along with his or her return for the year.

(2) EMPLOYERS' STATEMENTS. (a) Every person required to deduct and withhold from an employee under this subchapter shall furnish, in respect to remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, one copy of the statement under sub. (1).

(b) Every resident of this state and every nonresident carrying on activities within this state, whether taxable or not under this chapter, who pays in any calendar year for services performed within this state by an individual remuneration which is excluded from the definition of wages, in the amount of $600 or more, shall, on or before February 28 of the year following the year in which the payments are made, furnish a statement in such form as required by the department, disclosing the name of the payor, the name and address of the recipient and the total amount paid in such year to such recipient. The person who pays for the services shall, on or before January 31 of the year in which the statement is required to be furnished to the department, furnish the recipient of the payment with a copy of that statement. In any case in which an individual receives wages and also remuneration for services which remuneration is excluded from such definition, both from the same payor, the wages and the excluded remuneration shall both be reported in the report required under this subsection in a manner satisfactory to the department, regardless of the amount of the excluded remuneration.

(3) FILING REPORTS AND MAKING DEPOSITS OF WITHHELD TAXES. (a) Every employer who deducts and withholds any amount under this subchapter shall deposit such amount on a quarterly basis, except that if the amount deducted and withheld in any quarter exceeds $300, the department may require by written notice to the employer, that amounts deducted and withheld on and after the date indicated on such notice be deposited on a monthly basis. Employers who are required to file reports and deposit withheld taxes on a monthly, quarterly or annual basis, as the case may be, shall file such reports and deposit such taxes on or before the last day of the month next succeeding the withholding period. If the amount deducted and withheld in any quarter exceeds $5,000, the department may require by written notice to the employer, that for amounts deducted and withheld from the first day of the month through the 15th day of the month, the employer shall file reports and deposit such taxes on or before the last day of such month and that for amounts deducted and withheld from the 16th day of the month through the last day of the month the employer shall file reports and deposit such taxes on or before the 15th day of the next succeeding month. Employers shall file reports and deposit taxes with such public depository in Wisconsin as the department of administration designates a public depository therefor under s. 34.05 to the credit of the general fund. With each deposit the employer shall include a deposit report on a form to be provided by the department. The department may, when satisfied that the revenues will be adequately safeguarded, permit an employer whose withheld taxes do not exceed $50 per month to deposit withheld taxes and reports for other than quarterly periods. The department may revoke such permission at any time. The department, if it deems it necessary in order to ensure payment to or facilitate the collection by the state of the amount of taxes, may require reports or payments of the amount of withheld taxes for other than quarterly periods. The public depository shall record on such deposit report the amount deposited and shall then forward such report to the department in such manner and at such time as the department by rule prescribes. On or before January 31 of each year every employer shall file a withholding report on a form to be provided by the department showing the amount withheld from the wages paid each employee in the previous calendar year, the amount deposited in respect to each employee on wages paid in the previous calendar year and a reconciliation of the aggregate of the amounts deposited in respect to each employee on wages paid in the previous calendar year with the aggregate of the amounts shown on the semimonthly, monthly and quarterly deposit reports filed in respect to such withholding. Every employer who discontinues business prior to the end of a calendar year shall, within 30 days of such discontinuance, deposit withheld taxes not previously deposited and submit a deposit report concerning such deposit with the public depository and file a withholding report with the department covering the period from the beginning of the calendar year to the date of discontinuance. No employee shall have any right of action against an employer in regard to money deducted from wages and deposited with the public depository in compliance or intended compliance with this subchapter.

Cross−reference: See also s. Tax 1.10, Wis. adm. code.

(b) Upon not less than 6 months' notice to the public depository designated under par. (a), the secretary of revenue may direct that withheld taxes required to be reported and remitted by employers on and after a date specified be reported and remitted directly to the department of revenue. Every employer who deducts and withholds any amount under this subchapter required to be reported and remitted on or after such date shall report and remit directly to the department. Amounts withheld shall be paid over a quarterly basis but if the amount deducted and withheld in any quarter exceeded $300, the department may require, by written notice to the employer, that amounts deducted and withheld after the date indicated on such notice be paid over a monthly basis. Employers who are required to file reports and pay over withheld taxes on a monthly, quarterly or annual basis shall file such reports and pay over such taxes on or before the last day of the month next succeeding the withholding period. If the amount deducted and withheld in any quarter exceeded $5,000, the department may require by written notice to the employer, that for amounts deducted and withheld from the first day of the month through the 15th day of the month, the employer shall file such reports and pay over such taxes on or before the last day of such month; for amounts deducted and withheld from the 16th day of the month through the last day of the month, the employer shall file such reports and pay over such taxes on or before the 15th day of the next succeeding month.

(c) With each payment the employer shall include a withholding report on forms provided by the department. The department may, when satisfied that the revenues will be adequately safeguarded, permit an employer whose withheld taxes do not exceed $50 per month to pay over withheld taxes and file withholding reports for longer than quarterly periods. Such permission may be revoked at any time. The department, if it deems it necessary in order to ensure payment or to facilitate the collection by the state of the amount of taxes, may require reports or payments of the amount of withheld taxes for shorter than quarterly periods.

(d) On or before January 31 of each year every employer shall file an annual withholding report on forms provided by the depart-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

ment showing the amount withheld from the wages paid each employee in the previous calendar year, the amount deposited or paid over in respect to each employee on wages paid in the previous calendar year and a reconciliation of the aggregate deposited or paid over in respect to each employee on wages paid in the previous calendar year with the aggregate of the amounts shown on deposit and withholding reports filed in respect of such withholding.

(e) Every employer who discontinues his or her business prior to the end of a calendar year shall, within 30 days of such discontinuance, pay over withheld taxes not previously deposited or paid over, and shall file a withholding report covering the period from the beginning of the calendar year to the date of discontinuance.

(f) No employee shall have any right of action against his or her employer in regard to money deducted from his or her wages and paid over to the department in compliance or intended compliance with this subchapter.

(g) If the secretary of revenue elects to discontinue use of the public depository, reasonable notice of the change shall be communicated to employers subject to withholding.

(h) If a single−owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code is an employer subject to withholding under this subchapter and if the entity does not deduct, withhold, report, and deposit the tax as required under this subchapter, the owner of the single−owner entity is liable for any tax, interest, and penalties due under this subchapter.

(4) SELF−INSURERS. A person who is required to file an annual withholding report under sub. (3) (a) and who is a self−insurer for the purposes of ch. 149 shall indicate on the return that the person is such a self−insurer.

(5) EXTENSIONS. (a) If an employer applies for an extension and shows good cause why an extension should be granted, the department may grant the following extensions for the following statements:

1. Thirty days for filing a wage statement under sub. (1) or an annual reconciliation report under sub. (3) (a) or (d).

2. Sixty days for filing a statement of nonwage payments under sub. (2) (b).

(b) No extension under par. (a) extends the time to deposit with the public depository or pay to the department amounts that are required to be deducted and withheld under this subchapter. The department for good cause may extend for a period, not to exceed one month, the time for making any return or paying any amount required to be paid under this subchapter. The extension may be granted at any time if the extension request is filed with the department within or before the period for which the extension is requested.

(6) CONSTRUCTION CONTRACTORS. Any employer who willfully provides false information to the department, or who willfully and with intent to evade any requirement of this subchapter, misclassifies or attempts to misclassify an individual who is an employee of the employer as a nonemployee shall be fined $25,000 for each violation.

History: 1987 a. 312; 1991 a. 39; 1993 a. 112; 1997 a. 27, 291; 2005 a. 49; 2009 a. 28.

Cross−reference: See also s. Tax 2.04, Wis. adm. code.

71.66 Employee exemption certificates. (1) (a) On or before the date on which an employee commences employment with an employer each employee shall provide his or her employer with a signed withholding exemption certificate relating to the number of withholding exemptions he or she claims, which shall not exceed the number to which he or she is entitled. If the employee fails to provide such certificate, such employee, for withholding purposes, shall be considered as claiming no withholding exemptions.

(b) If the number of withholding exemptions to which the employee is entitled is less than the number of withholding exemptions claimed by him or her on the withholding exemption certificate then in effect, the employee shall within 10 days after the change occurs provide the employer with a new withholding exemption certificate, which shall not exceed the number to which he or she is entitled.

(c) If the number of withholding exemptions to which the employee is entitled is more than the number of withholding exemptions claimed by him or her on the withholding exemption certificate then in effect, the employee may provide the employer with a new withholding exemption certificate on which the employee must not claim more than the number of withholding exemptions to which he or she is entitled on such day.

(d) A withholding exemption certificate provided to the employer shall take effect as of the beginning of the first payroll period ending after the date on which such certificate is provided.

(e) Any employee who willfully supplies his or her employer with false or fraudulent information regarding his or her withholding exemption or who willfully fails to supply information which would increase the amount to be withheld may be fined not more than $200.

(f) Whenever the internal revenue code or regulations or rulings of the internal revenue service require an employer to submit copies of, or information taken from, an employee's withholding allowance certificate to the internal revenue service, the employer shall also provide copies of, or information taken from, the certificate to the department within 15 days after the employer is required to file the certificate or information with the internal revenue service.

(2) An employee receiving wages shall be entitled to either the number of withholding exemptions allowable for federal withholding tax purposes or the following withholding exemptions that apply:

(a) An exemption for himself or herself.

(b) If the employee is married, an exemption to which his or her spouse is entitled, or would be entitled if such spouse were an employee receiving wages, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption.

(c) An exemption for each individual with respect to whom, on the basis of the facts existing, there may reasonably be expected to be allowable an exemption under s. 71.07 (8) for the taxable year.

(d) An exemption as head of a family when on the basis of the facts existing such an exemption may reasonably be expected to be allowable under s. 71.07 (8) for the taxable year.

(3) An employer is not required to deduct and withhold any tax whenever an employee certifies to the employer, on a form prescribed by the secretary, that the employee incurred no liability for income tax imposed by this chapter for the employee's preceding taxable year and anticipates that the employee will incur no liability for the employee's current taxable year.

Cross−reference: See also s. Tax 2.90, Wis. adm. code.

(4) (a) The department may verify any withholding exemption certificate, form or agreement filed by an employee with an employer directly from the books and records of any person or from any other sources of information. To ascertain the correctness of any withholding exemption certificate, form or agreement, the department may examine or cause to be examined by any agent or representative designated by it any books, papers, records or memoranda bearing on the certificate, form or agreement and may require the production of books, records and memoranda, and may require testimony and proof relevant to its investigation.

(b) If it appears that a person has filed an incorrect certificate, form or agreement with an employer, the department may void the certificate, form or agreement by notifying the employer and employee. The employer shall then withhold based on the number of exemptions prescribed by the department in its notice. If an employee fails to furnish information requested by the department to verify the correctness of the certificate, form or agreement, the employee shall be considered as claiming no withholding exemp-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

tions and the employer shall withhold on that basis upon notification by the department to the employer and the employee.

History: 1987 a. 312; 1991 a. 39; 1997 a. 27.
Cross−reference: See also s. Tax 2.92, Wis. adm. code.

71.67 General provisions. (1) AGREEMENT WITH U.S. SECRETARY OF TREASURY. The secretary of revenue is authorized to enter into an agreement with the secretary of the treasury of the United States pursuant to P.L. 82−587 enacted July 17, 1952.

(2) PROVISIONS OF THIS CHAPTER APPLY. All provisions of this chapter on the following subjects relating to income taxes that are not in conflict with this subchapter apply to the administration of this subchapter: assessment, hearing and appeal procedures, preparation of assessments, certification of taxes due and correction of them, interest, penalties, collection, including s. 71.80 (3) and subch. XV, and refund procedures.

(3) WITHHELD AMOUNTS ARE FUNDS HELD IN TRUST FOR THE STATE. Whenever any person is required to withhold any Wisconsin income tax from an employee, until such amount is deposited with the public depository prescribed by s. 71.65 (3) (a) or paid over to the department as prescribed by s. 71.65 (3) (b), the amount so withheld shall be held to be a special fund in trust for the state. The amount of such fund may be assessed and collected from such person by the department as income taxes are assessed and collected, and such collection shall not abate any penalty imposed.

(4) WITHHOLDING FROM LOTTERY WINNINGS. (a) The administrator of the lottery division in the department under ch. 565 shall withhold from any lottery prize of $2,000 or more an amount determined by multiplying the amount of the prize by the highest rate applicable to the person who claims the prize. The administrator shall deposit the amounts withheld, on a monthly basis, as would an employer depositing under s. 71.65 (3) (a).

(b) The administrator shall furnish to each payee whose winnings are subject to withholding under par. (a) during the year, on or before January 31 of the succeeding year, 2 legible copies of a written statement showing the following:

1. The name of the payer and that payer's Wisconsin income tax identification number, if any.

2. The name of the payee and that payee's social security number, if any.

3. The gross amount of lottery prize winnings that are subject to withholding under par. (a).

4. The total amount deducted and withheld as required under par. (a).

(c) 1. The payee shall furnish the department of revenue with one copy of the written statement he or she receives under par. (b) along with his or her income or franchise tax return for the year.

2. The administrator shall furnish the department of revenue with a copy of the statement that he or she furnishes to the payee under par. (b).

(5) WITHHOLDING FROM PARI−MUTUEL WAGER WINNINGS. (a) *Wager winnings.* A person holding a license to sponsor and manage races under s. 562.05 (1) (b) or (c) shall withhold from the amount of any payment of pari−mutuel winnings under s. 562.065 (3) (a) or (3m) (a) an amount determined by multiplying the amount of the payment by the highest rate applicable to individuals under s. 71.06 (1) (a) to (c), (1m), (1n) or (1p) if the amount of the payment is more than $1,000.

(b) *Deposits.* The licensee under s. 562.05 (1) (b) or (c) shall deposit the amounts withheld under this subsection as would an employer depositing under s. 71.65 (3).

(c) *Statement of winnings to payee.* The licensee shall furnish to each payee whose winnings are subject to withholding under par. (a) during the year, on or before January 31 of the succeeding year, 2 legible copies of a written statement showing the following:

1. The name of the payer and that payer's Wisconsin income tax identification number, if any.

2. The name of the payee and that payee's social security number, if any.

3. The gross amount of pari−mutuel wager winnings that are subject to withholding under par. (a).

4. The total amount deducted and withheld as required under par. (a).

(d) *Statement furnished to the department.* 1. The payee shall furnish the department of revenue with one copy of the written statement he or she receives under par. (c) along with his or her income or franchise return for the year.

2. The licensee shall furnish the department of revenue with a copy of the statement that he or she furnishes to the payee under par. (c).

(5m) WITHHOLDING FROM PAYMENTS TO PURCHASE ASSIGNMENT OF LOTTERY PRIZE. A person that purchases an assignment of a lottery prize shall withhold from the amount of any payment made to purchase the assignment the amount that is determined by multiplying the amount of the payment by the highest rate applicable to individuals under s. 71.06 (1) (a) to (c), (1m), (1n) or (1p). Subsection (5) (b), (c) and (d), as it applies to the amounts withheld under sub. (5) (a), applies to the amount withheld under this subsection.

(6) WITHHOLDING REGISTRATION; FEE. Each employer who is required to withhold under this chapter shall obtain a valid certificate under s. 73.03 (50).

(7) WITHHOLDING FROM UNEMPLOYMENT COMPENSATION INSURANCE. (a) The department of workforce development may, in accordance with s. 108.135, deduct and withhold from any unemployment insurance payment, on a form prepared by the department of workforce development, a portion of the payment as Wisconsin income tax. The department of workforce development shall deposit the amounts withheld, on a monthly basis, as provided in s. 108.135 (6).

(b) The department of workforce development shall furnish to each claimant who receives benefits during any year, on or before January 31 of the succeeding year, at least one legible copy of a written statement showing all of the following:

1. The name of the claimant and that claimant's social security number.

2. The gross amount of unemployment insurance that is subject to withholding under par. (a).

3. The total amount deducted and withheld under par. (a).

(c) 1. If the department of revenue so requires, the claimant shall furnish the department of revenue with one copy of the written statement that he or she receives under par. (b), along with his or her income tax return for the year.

2. The department of workforce development shall furnish the department of revenue with a copy of any statement that is furnished to the claimant under par. (b).

History: 1987 a. 312; 1987 a. 411 s. 104; 1991 a. 39, 269, 315; 1993 a. 16; 1995 a. 27 ss. 3417m, 3419, 9130 (4); 1995 a. 118; 1997 a. 3, 27, 39; 1999 a. 9, 194; 2001 a. 103.
Cross−reference: See also s. Tax 2.04, Wis. adm. code.

SUBCHAPTER XI

INFORMATION RETURNS

71.68 Definitions. In this subchapter:

(1) "Department" means the department of revenue.

(2) "File" means mail or deliver a document that the department prescribes to the department or, if the department prescribes another method of submitting or another destination, use that other method or submit to that other destination.

History: 1997 a. 27.

71.69 Capital stock transfers. All corporations doing business in this state shall file, on or before March 15, a statement of such transfers of its capital stock as have been made by or to resi-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

dents of this state during the preceding calendar year. Such statement shall contain the name and address of the seller, date of transfer, and the number of shares of stock transferred.

History: 1987 a. 312; 1997 a. 27.
Cross−reference: See also s. Tax 2.05, Wis. adm. code.

71.70 Rents or royalties. (1) PERSONS OTHER THAN CORPORATIONS. Persons other than corporations deducting rent or royalties in determining taxable income shall file a report that shows the amounts and the name and address of all natural persons who are residents of this state and to whom royalties of $600 or more were paid during the taxable year; and the amounts and the name and address of all natural persons to whom rent of $600 or more is paid during the taxable year for property having a situs in this state. Such information shall be filed on or before February 28 of the year following the year in which the payments were made. The person who deducts rent or royalties shall, on or before January 31 of the year in which the report is required to be furnished, furnish the recipient with a copy of that report.

(2) CORPORATIONS. All corporations doing business in this state shall file, on or before March 15, any information relative to payments made within the preceding calendar year of rents and royalties to all natural persons taxable thereon under this chapter. A corporation shall, on or before January 31 of the year in which the statement is required to be furnished to the department, furnish the recipient of the payment with a copy of that statement.

History: 1987 a. 312; 1989 a. 31; 1991 a. 39; 1997 a. 27, 291.
Cross−reference: See also s. Tax 2.04, Wis. adm. code.

71.71 Wages. (1) STATEMENT EMPLOYER MUST FURNISH TO EMPLOYEE. (a) Every person, partnership or limited liability company required to deduct and withhold from an employee under the general withholding provisions of subch. X shall furnish to each such employee in respect of the remuneration paid by such person, partnership or company to such employee during the calendar year, on or before January 31 of the succeeding year, or if his or her employment is terminated before the close of any such calendar year on the day on which the last payment of remuneration is made, 2 legible copies of a written statement showing the following:

1. The name of such person, partnership or limited liability company, and that person's, partnership's or company's Wisconsin income tax identification number, if any.

2. The name of such employee, and his or her social security number, if any.

3. The total amount of wages as defined in s. 71.63 (6).

4. The total amount deducted and withheld as required by the general withholding provisions of subch. X.

(b) The employee shall furnish the department of revenue one copy of such written statement along with his or her return for the year.

(2) STATEMENT EMPLOYER MUST FILE. Every person required to deduct and withhold from an employee under subch. X shall file, in respect to remuneration paid by such person to such employee during the calendar year, on or before January 31 of the succeeding year, one copy of the statement referred to in sub. (1).

History: 1987 a. 312; 1991 a. 39; 1993 a. 112; 1997 a. 27.
Cross−reference: See also s. Tax 2.04, Wis. adm. code.

71.72 Statement of nonwage payments. Every resident of this state and every nonresident carrying on activities within this state, whether taxable or not under this chapter, who pays in any calendar year for services performed within this state by an individual remuneration which is excluded from the definition of wages in s. 71.63 (6), in the amount of $600 or more, shall, on or before February 28 of the year following the year in which the payments were made, file a statement disclosing the name of the payor, the name and address of the recipient and the total amount paid in such year to such recipient. The person who pays for the services shall, on or before January 31 of the year in which the statement is required to be furnished to the department, furnish the recipient of the payment with a copy of that statement. In any case in which an individual receives wages, as defined in s. 71.63 (6), and also remuneration for services which remuneration is excluded from such definition, both from the same payor, the wages and the excluded remuneration shall both be reported in the statement required by s. 71.71 (2) in a manner satisfactory to the department, regardless of the amount of the excluded remuneration.

History: 1987 a. 312; 1991 a. 39; 1997 a. 27, 291.
Cross−reference: See also s. Tax 2.04, Wis. adm. code.

71.73 General provisions. (1) PENALTIES. Unless specifically provided in this subchapter, the penalties under subch. XIII apply for failure to comply with this subchapter, unless the context requires otherwise.

(2) EXTENSIONS. If an employer applies for an extension and shows good cause why an extension should be granted, the department of revenue may grant the following extensions for the following statements:

(a) Sixty days for filing a rent and royalty statement under s. 71.70.

(b) Thirty days for filing a wage statement under s. 71.71.

(c) Sixty days for filing a statement of nonwage payments under s. 71.72.

History: 1987 a. 312; 1991 a. 39; 1997 a. 291.

SUBCHAPTER XII

ADMINISTRATIVE PROVISIONS APPLICABLE TO ALL ENTITIES

71.738 Definitions. In this subchapter:

(1m) "Department" means the department of revenue.

(2m) "File" means mail or deliver a document that the department prescribes to the department or, if the department prescribes another method of submitting or another destination, use that other method or submit to that other destination.

(3) "Last day prescribed by law" means the unextended due date of the return or of the claim made under subch. VIII.

(4) "Sign" means write one's signature or, if the department prescribes another method of authenticating, use that other method.

History: 1995 a. 428; 1997 a. 27; 2005 a. 362; 2007 a. 20.

71.74 Department audits, additional assessments and refunds. (1) OFFICE AUDIT. The department shall, as soon as practicable, office audit such returns as it deems advisable and if it is found from such office audit that a person has been over or under assessed, or found that no assessment has been made when one should have been made, the department shall correct or assess the income of such person. Any assessment, correction or adjustment made as a result of such office audit shall be presumed to be the result of an audit of the return only, and such office audit shall not be deemed a verification of any item in said return unless the amount of such item and the propriety thereof shall have been determined after hearing and review as provided in s. 71.88 (1) (a) and (2) (a). Such office audit shall not preclude the department from making field audits of the books and records of the taxpayer and from making further adjustment, correction and assessment of income.

(2) FIELD AUDIT. (a) Whenever the department deems it advisable to verify any return directly from the books and records of any person, or from any other sources of information, the department may direct any return to be so verified.

(b) For the purpose of ascertaining the correctness of any return or for the purpose of making a determination of the taxable income of any person, the department may examine or cause to be examined by any agent or representative designated by it, any

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

books, papers, records or memoranda bearing on the income of the person, and may require the production of the books, papers, records or memoranda, and require the attendance of any person having knowledge in the premises, and may take testimony and require proof material for its information. Upon such information as it may be able to discover, the department shall determine the true amount of income received during the year or years under investigation.

(c) If it appears upon such investigation that a person has been over or under assessed, or that no assessment has been made when one should have been made, the department shall make a correct assessment in the manner provided in this chapter.

(3) DEFAULT ASSESSMENT. Any person required to file an income or franchise tax return, who fails, neglects or refuses to do so within the time prescribed by this chapter or files a return that does not disclose the person's entire net income, shall be assessed by the department according to its best judgment.

(4) ASSESSMENT FOR FAILURE OF NATURAL PERSONS AND FIDUCIARIES TO FILE INFORMATION RETURNS. The department may assess as an addition to taxable income the amount of deductions taken in arriving at federal adjusted gross income or federal taxable income by natural persons and fiduciaries for wages, rent or royalties, upon failure to file information returns concerning such payments where required under s. 71.65 (1) and (2) (a) or (b) and 71.70 (1). Such assessments shall be made and reviewed in the same manner as other income tax assessments.

Cross−reference: See also s. Tax 2.04, Wis. adm. code.

(5) ASSESSMENT WHEN PRICES AFFECT TAXABLE INCOME. When any corporation liable to taxation under this chapter conducts its business in such a manner as either directly or indirectly to benefit the members or stockholders thereof or any person interested in such business, by selling its products or the goods or commodities in which it deals at less than the fair price which might be obtained therefor, or where a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a substantial portion of its stock in such a manner as to create a loss or improper net income, the department may determine the amount of taxable income to such corporation for the calendar or fiscal year, having due regard to the reasonable profits which but for such arrangement or understanding might or could have been obtained from dealing in such products, goods or commodities.

(6) CONSOLIDATED STATEMENTS. For the purpose of this chapter, whenever a corporation which is required to file an income or franchise tax return is affiliated with or related to any other corporation through stock ownership by the same interests or as parent or subsidiary corporations, or whose income is regulated through contract or other arrangement, the department may require such consolidated statements as in its opinion are necessary in order to determine the taxable income received by any one of the affiliated or related corporations or to determine whether the corporations are a unitary business.

(7) ADDITIONAL ASSESSMENTS AGAINST DISSOLVED CORPORATION. If all or substantially all of the business or property of a corporation is transferred to one or more persons and the corporation is liquidated, dissolved, merged, consolidated or otherwise terminated, any tax imposed by this chapter on such corporation may be assessed and collected as prescribed in this section against the transferee or transferees of such business or property. Notice shall be given to such transferee or transferees under sub. (11) within the time specified in s. 71.77 irrespective of any other limitations imposed by law. If such corporation has dissolved, such notice may be served on any one of the last officers or members of the board of directors of such corporation.

(8) ADJUSTMENT OF CREDITS. (a) If an audit of a claim for a credit under s. 71.07, 71.28 or 71.47 or subch. VIII or IX indicates that an incorrect claim was filed, the department shall make a determination of the correct amount and notify the claimant of the determination and the reasons therefor under sub. (11) within 4 years of the last day prescribed by law for filing the claim. If the claim has been paid, or credited against income or franchise taxes otherwise payable, the credit shall be reduced or canceled, and the proper portion of any amount paid shall be similarly recovered by assessment as income or franchise taxes are assessed.

(b) If a claim for a credit under s. 71.07, 71.28 or 71.47 or subch. VIII or IX is false or excessive and was filed with fraudulent intent, the claim shall be disallowed in full and, if the claim has been paid or a credit has been allowed against income or franchise taxes otherwise payable, the credit shall be canceled and the amount paid may be recovered by assessment as income or franchise taxes are assessed.

(c) If a claim for a credit under s. 71.07, 71.28 or 71.47 or subch. VIII or IX is excessive and was negligently prepared, 10% of the corrected claim shall be disallowed and, if the claim has been paid or credited against income or franchise taxes otherwise payable, the credit shall be reduced or canceled and the proper portion of any amount paid shall be similarly recovered by assessment as income or franchise taxes are assessed.

(d) If a claim for a state historic rehabilitation credit under s. 71.07 (9r) is false or excessive, the department shall disallow the claim in full. If a credit has been allowed against income taxes otherwise payable, the credit shall be canceled and the amount may be recovered by assessment as income taxes are assessed. Notwithstanding par. (a) and s. 71.77, the department shall notify the claimant of the determination and shall give reasons for the disallowance under sub. (11) within 4 years after the date that the state historical society notifies the department that the preservation or rehabilitation is not in compliance with s. 71.07 (9r) (b) 3. b. or 4., but that notification must be made within 6 years after the date that the physical work of construction, or destruction in preparation for construction, begins.

(9) LIABILITY MAY BE ASSESSED TO MORE THAN ONE PERSON. If the department determines that a liability exists under this chapter and that the liability may be owed by more than one person, the department may assess the entire amount to each person, specifying that it is assessing in the alternative.

(10) NOTICE TO TAXPAYER OF ADJUSTMENT. The department shall notify the taxpayer, as provided in sub. (11), of any adjustment, correction and assessment made under sub. (1).

(11) NOTICE OF ADDITIONAL ASSESSMENT. The department shall notify the taxpayer in writing of any additional assessment by office audit or field investigation. That notice shall be served as are circuit court summonses, or by registered mail, or by regular mail if the person assessed admits receipt or there is satisfactory evidence of receipt. In the case of joint returns, notice of additional assessment may be a joint notice and service on one spouse is proper notice to both spouses. If the spouses have different addresses at the time the notice of additional assessment is served and if either spouse notifies the department of revenue in writing of those addresses, the department shall serve a duplicate of the original notice on the spouse who has the address other than the address to which the original notice was sent, if no request for a redetermination or a petition for review has been commenced or finalized. For the spouse who did not receive the original notice, redetermination and appeal rights begin upon the service of a duplicate notice. If the taxpayer is a corporation and the department is unable to serve that taxpayer personally or by mail, the department may serve the notice by publishing a class 3 notice, under ch. 985, in the official state newspaper.

(12) TAXES DELINQUENT AFTER DUE DATE. Additional income or franchise taxes assessed under subs. (1) to (5), (7) and (8) shall become delinquent if not paid on or before the due date stated in the notice to the taxpayer.

(13) COLLECTION OF ADDITIONAL TAX AND ISSUANCE OF REFUNDS. (a) If the tax is increased the department shall proceed to collect the additional tax in the same manner as other income or franchise taxes are collected. If the income or franchise taxes are decreased upon direction of the department the secretary of

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

administration shall refund to the taxpayer such part of the overpayment as was actually paid in cash, and the certification of the overpayment by the department shall be sufficient authorization to the secretary of administration for the refunding of the overpayment. No refund of income or franchise tax shall be made by the secretary of administration unless the refund is so certified. The part of the overpayment paid to the county and the local taxation district shall be deducted by the secretary of administration in the secretary's next settlement with the county and local treasurer.

(b) No action or proceeding whatsoever shall be brought against the state or the secretary of administration for the recovery, refund, or credit of any income or surtaxes; except in case the secretary of administration shall neglect or refuse for a period of 60 days to refund any overpayment of any income or surtaxes certified, the taxpayer may maintain an action to collect the overpayment against the secretary of administration so neglecting or refusing to refund such overpayment, without filing a claim for refund with the secretary of administration, provided that such action shall be commenced within one year after the certification of such overpayment.

(14) ADDITIONAL REMEDY TO COLLECT TAX. The department may also proceed under s. 71.91 (5) for the collection of any additional assessment of income or franchise taxes or surtaxes, after notice thereof has been given under sub. (11) and before the same shall have become delinquent, when it has reasonable grounds to believe that the collection of such additional assessment will be jeopardized by delay. In such cases notice of the intention to so proceed shall be given by registered mail to the taxpayer, and the warrant of the department shall not issue if the taxpayer within 10 days after such notice furnishes a bond in such amount, not exceeding double the amount of the tax, and with such sureties as the department shall approve, conditioned upon the payment of so much of the additional taxes as shall finally be determined to be due, together with interest thereon as provided by s. 71.82 (1) (a). Nothing in this subsection shall affect the review of additional assessments provided by ss. 71.88 (1) (a) and (2) (a), 71.89 (2), 73.01, and 73.015, and any amounts collected under this subsection shall be deposited with the department and disbursed after final determination of the taxes as are amounts deposited under s. 71.90 (2).

(15) PAYMENTS. All nondelinquent payments of additional amounts owed shall be applied in the following order: penalties, interest, tax principal.

History: 1987 a. 312; 1989 a. 31; 1991 a. 39; 1993 a. 205; 1997 a. 27; 2003 a. 33; 2007 a. 20; 2009 a. 28.

The investigative power of the department under s. 71.11 (20) (b) [now 71.74 (2)] is similar to the power of the IRS under 26 USC 7602. A taxpayer subpoenaed by the department has limited discovery rights under *United States v. Genser*, 595 F.2d 146 (1979). State v. Beno, 99 Wis. 2d 77, 298 N.W.2d 405 (Ct. App. 1980).

71.75 Claims for refund. (1) Except as provided in ss. 49.855, 71.77 (5) and (7) (b) and 71.935, the provisions for refunds and credits provided in this section shall be the only method for the filing and review of claims for refund of income and surtaxes, and no person may bring any action or proceeding for the recovery of such taxes other than as provided in this section.

(2) With respect to income taxes and franchise taxes, except as otherwise provided in subs. (5) and (9) and ss. 71.30 (4) and 71.77 (5) and (7) (b), refunds may be made if the claim therefor is filed within 4 years of the unextended date under this section on which the tax return was due.

(3) No refund shall be made on the over−withholding or overpayment of estimated income taxes or franchise taxes with respect to any person for any taxable year in an amount less than $1.

(4) Except as provided in subs. (5) and (5m), no refund shall be made and no credit shall be allowed for any year that has been the subject of a field audit if the audit resulted in a refund or no change to the tax owed or in an assessment that is final under s. 71.88 (1) (a) or (2) (a), 71.89 (2), 73.01 or 73.015 and if the department of revenue notifies the taxpayer that unless the taxpayer appeals the result of the field audit under subch. XIV, the field audit is final. No refund shall be made and no credit shall be allowed on any item of income or deduction, assessed as a result of an office audit, the assessment of which is final under s. 71.88 (1) (a) or (2) (a), 71.89 (2), 73.01 or 73.015.

(5) A claim for refund may be made within 4 years after the assessment of a tax or an assessment to recover all or part of any tax credit, including penalties and interest, under this chapter, assessed by office audit or field audit and paid if the assessment was not protested by the filing of a petition for redetermination. No claim may be allowed under this subsection for any tax, interest or penalty paid with respect to any item of income, credit or deduction self−assessed or determined by the taxpayer or assessed as the result of any assessment made by the department with respect to which all the conditions specified in this subsection are not met. If a claim is filed under this subsection, the department of revenue may make an additional assessment in respect to any item of income or deduction that was a subject of the prior assessment. No claim for refund may be made in respect to items that were not adjusted in the notice of assessment or of refund. A person whose returns for more than one year have been adjusted may make a claim under this subsection whether or not the net result of the adjustments for those years is an assessment. This subsection does not extend the time to file under s. 71.53 (2) or 71.59 (2), and it does not extend the time period during which the department of revenue may assess, or the taxpayer may claim a refund, in respect to any item of income or deduction that was not a subject of the prior assessment.

(5m) In respect to overpayments attributable to a capital loss carry−back, a corporation may claim a refund within 4 years after the due date, including extensions, for filing the return for the taxable year of the capital loss that is carried back.

(6) Every claim for refund or credit of income taxes, franchise taxes or surtaxes, if any, shall be filed with the department and signed by the person or, in the case of joint returns, by both persons who filed the return on which the claim is based and shall set forth specifically and explain in detail the reasons for and the basis of the claim. After the claim has been filed it shall be considered and acted upon in the same manner as are additional assessments made under s. 71.74 (1) and (2). No marital property agreement or unilateral statement under ch. 766 affects claims for refund or credit under this section.

(7) The department shall act on any claim for refund or credit within one year after receipt and failure to act shall have the effect of allowing the claim and the department shall certify the refund or credit unless the taxpayer has consented in writing to an extension of the one−year time period prior to its expiration.

(8) A refund payable on the basis of a separate return shall be issued to the person who filed the return. A refund payable on the basis of a joint return shall be issued jointly to the persons who filed the return, except that, if a judgment of divorce under ch. 767 apportions any refund that may be due the formerly married persons to one of the former spouses, or between the spouses, and if they include with their income tax return a copy of that portion of the judgment of divorce that relates to the apportionment of their tax refund, the department shall issue the refund to the person to whom the refund is awarded under the terms of the judgment of divorce or the department shall issue one check to each of the former spouses according to the apportionment terms of the judgment.

(9) All refunds under this chapter are subject to attachment under ss. 49.855, 71.93 and 71.935.

(10) If an income tax refund or tax credit check is payable to a person who dies, the department shall pay the refund or credit check to the decedent's personal representative. If there is no personal representative, the department shall pay the refund or credit check either to a surviving relative, giving preference to relatives in the following order: surviving spouse, child, parent, brother or

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

sister, or to a creditor of the decedent, as determined by the department.

Cross−reference: See also s. Tax 2.085, Wis. adm. code.

History: 1987 a. 312; 1987 a. 411 ss. 96, 187; 1989 a. 31; 1991 a. 39; 1993 a. 205; 1995 a. 27, 404; 1997 a. 27; 1999 a. 9.

Cross−reference: See also s. Tax 2.12, Wis. adm. code.

A party challenging the administration of taxing statutes must exhaust state administrative remedies before commencing an action in state courts under 42 USC 1983. Hogan v. Musolf, 163 Wis. 2d 1, 471 N.W.2d 216 (1991).

Administrative remedies must be timely pursued in connection with all claims, including claims that a state taxing statute is unconstitutional. Gilbert v. DOR, 2001 WI App 153, 246 Wis. 2d 734, 633 N.W.2d 218, 00−2154.

71.76 Internal revenue service and other state adjustments. If for any year the amount of federal net income tax payable, of a credit claimed or carried forward, of a net operating loss carried forward or of a capital loss carried forward of any taxpayer as reported to the internal revenue service is changed or corrected by the internal revenue service or other officer of the United States, such taxpayer shall report such changes or corrections to the department within 90 days after its final determination and shall concede the accuracy of such determination or state how the determination is erroneous. Such changes or corrections need not be reported unless they affect the amount of net tax payable under this chapter, of a credit calculated under this chapter, of a Wisconsin net operating loss carried forward, of a Wisconsin net business loss carried forward or of a capital loss carried forward under this chapter. Any taxpayer submitting an amended return to the internal revenue service, or to another state if there has been allowed a credit against Wisconsin taxes for taxes paid to that state, shall also file, within 90 days of such filing date, an amended return if any information contained on the amended return affects the amount of net tax payable under this chapter of a credit calculated under this chapter, of a Wisconsin net operating loss carried forward, of a Wisconsin net business loss carried forward or of a capital loss carried forward under this chapter.

History: 1987 a. 312; 1991 a. 39; 1997 a. 27.

Cross−reference: See also s. Tax 2.105, Wis. adm. code.

71.77 Statutes of limitations, assessments and refunds; when permitted. (1) Additional assessments and corrections of assessments by office audit or field investigation may be made of income of any taxpayer if notice under s. 71.74 (11) is given within the time specified in this section.

(2) With respect to assessments of a tax or an assessment to recover all or part of any tax credit under this chapter in any calendar year or corresponding fiscal year, notice shall be given within 4 years of the date the income tax or franchise tax return was filed.

(2m) Notwithstanding sub. (2), the department of revenue may assess a deficiency related to a contribution to the capital of the taxpayer, as defined in section 118 (c) of the Internal Revenue Code, within 4 years after the department receives notice by the taxpayer, in the manner that the department prescribes, of any of the following:

(a) The amount of the expenditure under section 118 (c) (2) (A) of the Internal Revenue Code.

(b) The intent of the person against whom the deficiency is to be assessed not to make the expenditure under section 118 (c) (2) (A) of the Internal Revenue Code.

(c) Expiration of the time period under section 118 (c) (2) (B) of the Internal Revenue Code and failure of the person against whom the deficiency is to be assessed to make the expenditure under section 118 (c) (2) (B) of the Internal Revenue Code.

(3) Irrespective of sub. (2), if any person has filed an incorrect income tax or franchise tax return for any year with intent to defeat or evade the income tax or franchise tax assessment provided by law, or has failed to file any income tax or franchise tax return for any of such years, income of any such year may be assessed when discovered. The department of revenue shall assess the taxes owed for taxable years beginning before January 1, 1990, by using the definition of "Internal Revenue Code" that applied to the year for which the assessment was made, as modified by P.L. 104−188 and P.L. 105−34 if P.L. 104−188 or P.L. 105−34 applied for federal purposes for that year.

(4) Irrespective of sub. (3), if additional assessments are made for any period more than 6 years before the year in which the assessment is made, the burden of proof shall rest with the state to prove its case by a preponderance of the evidence.

(5) The limitation periods provided in this section may be extended by written agreement between the taxpayer and the department prior to the expiration of such limitation periods or any extension of such limitation periods. During any such extension period, the department may issue an assessment or a refund, and the taxpayer may file a claim for a refund, relating to the year which the extension covers. Subsection (4) shall not apply to any assessment made in any such extended period. The department of revenue shall assess the taxes owed or compute the refund due for taxable years beginning before January 1, 1990, by using the definition of "Internal Revenue Code" that applied to the year for which the assessment was made, as modified by P.L. 104−188 and P.L. 105−34 if P.L. 104−188 or P.L. 105−34 applied for federal purposes for that year.

(6) Section 990.06 shall have no application to the provisions of this section.

(7) Notwithstanding any other limitations expressed in this chapter, an assessment or refund may be made:

(a) If notice of assessment is given within 6 years after a return was filed and if on that return the taxpayer reported for taxation, or the taxpayers jointly reported for taxation, less than 75% of the net income properly assessable, except that no assessment of additional income may be made under this subsection for any year beyond the period specified in sub. (2) unless the aggregate of the taxes on the additional income of such year is in excess of $100 in the case of a return other than a joint return or $200 in the case of a joint return.

(b) If notice of assessment or refund is given to the taxpayer within 90 days of the date on which the department receives a report from the taxpayer under s. 71.76 or within such other period specified in a written agreement entered into prior to the expiration of such 90 days by the taxpayer and the department. If the taxpayer does not report to the department as required under s. 71.76, the department may make an assessment against the taxpayer or refund to the taxpayer within 4 years after discovery by the department.

(8) For purposes of this section, a return filed on or before the last day prescribed by law for the filing of the return shall be considered as filed on such last day, and a return filed after the last day prescribed by law shall be considered as filed on the date that the return is received by the department of revenue.

History: 1987 a. 312; 1989 a. 31; 1991 a. 39; 1995 a. 428; 1997 a. 27, 37, 291.

Cross−reference: See also s. Tax 2.12, Wis. adm. code.

71.775 Withholding from nonresident members of pass−through entities. (1) DEFINITIONS. In this section:

(a) "Nonresident" includes an individual who is not domiciled in this state; a partnership, limited liability company, or corporation whose commercial domicile is outside the state; and an estate or a trust that is a nonresident under s. 71.14 (1) to (3m).

(b) "Pass−through entity" means a partnership, a limited liability company, a tax−option corporation, an estate, or a trust that is treated as a pass−through entity for federal income tax purposes.

(2) WITHHOLDING TAX IMPOSED. (a) For the privilege of doing business in this state or deriving income from property located in this state, a pass−through entity that has Wisconsin income for the taxable year that is allocable to a nonresident partner, member, shareholder, or beneficiary shall pay a withholding tax. The amount of the tax imposed under this subsection to be withheld from the income distributable to each nonresident partner, member, shareholder, or beneficiary is equal to the nonresident partner's, member's, shareholder's, or beneficiary's share of income attributable to this state, multiplied by the following:

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

1. For an individual, an estate, or a trust, the highest tax rate for a single individual for the taxable year under s. 71.06.

2. For a partnership, a limited liability company, or a corporation, the highest tax rate for the taxable year under s. 71.27.

(b) A pass−through entity that is also a member of another pass−through entity is subject to withholding under this subsection and shall pay the tax based on the share of income that is distributable to each of the entity's nonresident partners, members, shareholders, or beneficiaries.

(3) EXEMPTIONS. (a) A nonresident partner's, member's, shareholder's, or beneficiary's share of income from the pass−through entity that is attributable to this state shall not be included in determining the withholding under sub. (2) if any of the following applies:

1. The partner, member, shareholder, or beneficiary is exempt from taxation under this chapter. For purposes of this subdivision, the pass−through entity may rely on a written statement from the partner, member, shareholder, or beneficiary claiming to be exempt from taxation under this chapter, if the pass−through entity attaches a copy of the statement to its return for the taxable year and if the statement specifies the name, address, federal employer identification number, and reason for claiming an exemption for each partner, member, shareholder, or beneficiary claiming to be exempt from taxation under this chapter.

2. The partner's, member's, shareholder's, or beneficiary's share of income from the pass−through entity that is attributable to this state is less than $1,000.

3. The nonresident partner, member, shareholder, or beneficiary files an affidavit with the department, in the form and manner prescribed by the department, whereby the nonresident partner, member, shareholder, or beneficiary agrees to file a Wisconsin income or franchise tax return and be subject to the personal jurisdiction of the department, the tax appeals commission, and the courts of this state for the purpose of determining and collecting Wisconsin income and franchise taxes, including estimated tax payments, together with any related interest and penalties.

(b) A pass−through entity that is a joint venture is not subject to the withholding under sub. (2), if the pass−through entity has elected not to be treated as a partnership under section 761 of the Internal Revenue Code.

(cm) A pass−through entity that is a publicly traded partnership, as defined under section 7704 (b) of the Internal Revenue Code, that is treated as a partnership under the Internal Revenue Code is not subject to the withholding under sub. (2), if the entity files with the department an information return that reports the name, address, taxpayer identification number, and any other information requested by the department for each unit holder with an income in this state from the entity in excess of $500.

(4) ADMINISTRATION. (a) Each pass−through entity that is subject to the withholding under sub. (2) shall file an annual return that indicates the withholding amount paid to the state during the pass−through entity's taxable year. The entity shall file the return with the department no later than:

1. For tax−option corporations, the 15th day of the 3rd month following the close of the taxable year.

2. For partnerships, limited liability companies, estates, and trusts, the 15th day of the 4th month following the close of the taxable year.

(bm) 1. For the return under par. (a), the department shall allow an automatic extension of 7 months or until the corresponding due date of the pass−through entity's federal income tax return or return of partnership income, whichever is later. Except for payments of estimated taxes, and except as provided in subd. 2., withholding taxes payable upon filing the return are not delinquent during the extension period but shall be subject to interest at the rate of 12 percent per year during that period.

2. For taxable years beginning after December 31, 2008, for persons who qualify for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action, withholding taxes that are otherwise due from a pass−through entity under sub. (2) are not subject to 12 percent interest as otherwise provided under subd. 1. during the extension period and for 30 days after the end of the federal extension period.

(bn) If a pass−through entity subject to withholding tax under sub. (2) does not file the return under par. (a) on or before the extension date provided in par. (bm), the pass−through entity is liable for the penalty provided in s. 71.83 (1), in addition to any unpaid tax, interest, and penalty otherwise assessable to a nonresident partner, member, shareholder, or beneficiary on income from the pass−through entity.

(cm) Except as provided in par. (L), pass−through entities shall make estimated payments of the withholding tax under sub. (2) in 4 installments, on or before the 15th day of each of the following months:

1. The 3rd month of the taxable year.

2. The 6th month of the taxable year.

3. The 9th month of the taxable year.

4. The 12th month of the taxable year.

(dm) Section 71.29 (3), (3m), (4), (5), (6), and (11), as it applies to estimated payments of income and franchise taxes for corporations, also applies to estimated payments of the withholding tax imposed under sub. (2) for pass−through entities.

(em) Except as provided in par. (fm), in the case of any underpayment of estimated withholding taxes under par. (cm), interest shall be added to the aggregate withholding tax for the taxable year at the rate of 12 percent per year on the amount of the underpayment for the period of the underpayment. In this paragraph, "period of the underpayment" means the time period beginning with the due date of the installment and ending on either the unextended due date of the return under par. (a) or the date of payment, whichever is earlier. If 90 percent of the tax due under sub. (2) for the taxable year is not paid by the unextended due date of the return under par. (a), the difference between that amount and the estimated taxes paid, along with any interest due, shall accrue delinquent interest in the same manner as income and franchise taxes under s. 71.82 (2) (a).

(fm) No interest is required under par. (em) for a pass−through entity if any of the following conditions apply:

1. The amount of withholding tax due under sub. (2) is less than $500.

2. The amount of withholding tax due under sub. (2) is less than $5,000, the pass−through entity had no withholding tax liability under sub. (2) for the preceding taxable year, and the preceding taxable year was 12 months.

(g) Except as provided under par. (h), the amount of each installment required under par. (cm) is 25 percent of the lesser of the following amounts:

1. Ninety percent of the withholding tax under sub. (2) that is due for the taxable year.

2. The withholding tax due under sub. (2) for the preceding taxable year, except that this subdivision does not apply if the preceding taxable year was less than 12 months or if the pass−through entity did not file a return under par. (a) for the preceding taxable year.

(h) If 22.5 percent for the first installment, 45 percent for the 2nd installment, 67.5 percent for the 3rd installment, and 90 percent for the 4th installment of the tax due under sub. (2) for the taxable year; computed by annualizing, under methods prescribed by the department, the pass−through entity's income for the months in the taxable year ending before the installment's due date; is less than the installment required under par. (g), the pass−through entity may pay the amount under this paragraph, rather than the amount under par. (g). For purposes of computing annualized income under this paragraph, the apportionment percentage computed under s. 71.25 (6), (10), and (12) from the return under par.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(a) filed for the previous taxable year may be used if that return was filed with the department on or before the due date of the installment for which the income is being annualized and if the apportionment percentage on that previous year's return was greater than zero. Any pass−through entity that pays an amount calculated under this paragraph shall increase the next installment computed under par. (g) by an amount equal to the difference between the amount paid under this paragraph and the amount that would have been paid under par. (g).

(i) On or before the due date, including extensions, of the entity's return, a pass−through entity that withholds tax under sub. (2) shall annually notify each of its nonresident partners, members, shareholders, or beneficiaries of the amount of the tax withheld under sub. (2) that the pass−through entity paid on the nonresident partner's, member's, shareholder's, or beneficiary's behalf. The pass−through entity shall provide a copy of the notice to the department with the return that it files for the taxable year.

(j) A nonresident partner, member, shareholder, or beneficiary of a pass−through entity may claim a credit, as prescribed by the department, on his or her Wisconsin income or franchise tax return for the amount withheld under sub. (2) on his or her behalf for the tax period for which the income of the pass−through entity is reported.

(k) Any tax withheld under this section shall be held in trust for this state, and a pass−through entity subject to withholding under this section shall be liable to the department for the payment of the tax withheld. No partner, member, shareholder, or beneficiary of a pass−through entity shall have any right of action against the pass−through entity with respect to any amount withheld and paid in compliance with this section.

(L) The department shall deem timely paid the estimated payments of the withholding tax imposed under sub. (2) that become due during the period beginning on January 1, 2009, and ending on July 1, 2009, provided that such estimated tax payments are paid by the next installment due date that follows in sequence following July 1, 2009. However, if the next installment due date following July 1, 2009, is less than 45 days after July 1, 2009, such estimated payments, in addition to the payment due less than 45 days after July 1, 2009, shall be deemed timely paid if paid by the next subsequent installment due date.

History: 2005 a. 25, 254; 2007 a. 20; 2009 a. 28.

71.78 Confidentiality provisions. (1) DIVULGING INFORMATION. Except as provided in subs. (4), (4m) and (10), no person may divulge or circulate or offer to obtain, divulge or circulate any information derived from an income, franchise, withholding, fiduciary, partnership, limited liability company or gift tax return or tax credit claim, including information which may be furnished by the department as provided in this section. This subsection does not prohibit publication by any newspaper of information lawfully derived from such returns or claims for purposes of argument or prohibit any public speaker from referring to such information in any address. This subsection does not prohibit the department from publishing statistics classified so as not to disclose the identity of particular returns, or claims or reports and the items thereof. This subsection does not prohibit employees or agents of the department of revenue from offering or submitting any return, including joint returns of a spouse or former spouse, separate returns of a spouse, individual returns of a spouse or former spouse and combined individual income tax returns, or from offering or submitting any claim, schedule, exhibit, writing or audit report or a copy of, and any information derived from, any of those documents as evidence into the record of any contested matter involving the department in proceedings or litigation on state tax matters if, in the department's judgment, that evidence has reasonable probative value.

(1m) BROWSING PROHIBITED. (a) No person, except the person who filed the return or claim, may inspect a return or claim, or any information derived from a return or claim, that is filed under this chapter unless that person does so in performing the duties of his or her position. Violation of this paragraph by a state employee is grounds for dismissal.

(b) If any person is charged with a violation of par. (a), the secretary of revenue shall notify each taxpayer whose return or claim was improperly inspected by that person.

(c) Any person who is notified under par. (b) may bring an action for damages in regard to the inspection.

(2) DISCLOSURE OF NET TAX. The department shall make available upon suitable forms prepared by the department information setting forth the net Wisconsin income tax, Wisconsin franchise tax, or Wisconsin gift tax reported as paid or payable in the returns filed by any individual or corporation, and any amount of delinquent taxes owed by any such individual or corporation, for any individual year upon request. When making available information setting forth the delinquent taxes owed by an individual or corporation, the information shall include interest, penalties, fees, and costs, which are unpaid for more than 90 days after all appeal rights have expired, except that such information may not be provided for any person who has reached an agreement or compromise with the department, or the department of justice, under s. 71.92 and is in compliance with that agreement, regarding the payment of delinquent taxes, or the name of any person who is protected by a stay that is in effect under the Federal Bankruptcy Code. Before the request is granted, the person desiring to obtain the information shall prove his or her identity and shall be required to sign a statement setting forth the person's address and reason for making the request and indicating that the person understands the provisions of this section with respect to the divulgement, publication or dissemination of information obtained from returns as provided in sub. (1). The use of a fictitious name is a violation of this section. Within 24 hours after any information from any such tax return has been so obtained, the department shall mail to the person from whose return the information has been obtained a notification which shall give the name and address of the person obtaining the information and the reason assigned for requesting the information. The department shall collect from the person requesting the information a fee of $4 for each return.

(3) DISCLOSURE LIMITATION. The information described in sub. (2) shall not be made available to any nonresident or to any resident who is making the request for such information for the use or benefit, directly or indirectly, of a nonresident person or firm or a foreign corporation except to the extent that similar information in the state of residence of such person or firm or the state of incorporation of such foreign corporation is made available to residents of Wisconsin or Wisconsin corporations. As part of the statement required by sub. (2), the department shall require any person desiring to obtain such information to declare whether the person is a nonresident of the state and whether the information is desired for the use or benefit of a nonresident person or firm or a foreign corporation. No copy of any return shall be supplied to any person except as permitted by sub. (4).

(4) PERSONS QUALIFIED TO EXAMINE RETURNS FOR SPECIFIED PURPOSES. Subject to subs. (5) and (6) and to rules of the department, any returns or claims specified under sub. (1) or any schedules, exhibits, writings or audit reports pertaining to the returns or claims on file with the department shall be open to examination by only the following persons and the contents thereof may be divulged or used only as follows:

(a) The secretary of revenue or any officer, agent or employee of the department.

(b) The attorney general and department of justice employees.

(c) Members of any legislative committee on organization or its authorized agents provided the examination is approved by a majority vote of a quorum of its members and the tax return or claim information is disclosed only in a meeting closed to the public. The committee may disclose tax return or claim information to the senate or assembly or to other legislative committees if the information does not disclose the identity of particular returns, claims or reports and the items thereof. The department of reve-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

nue shall provide assistance to the committees or their authorized agents in order to identify returns and claims deemed necessary by them to accomplish the review and analysis of tax policy.

(d) Public officers of the federal government or other state governments or the authorized agents of such officers, where necessary in the administration of the tax laws of such governments, to the extent that such government accords similar rights of examination or information to officials of this state.

(e) The person who filed or submitted the return or claim, or to whom the return or claim relates or by the person's authorized agent or attorney.

(f) Any person examining a return or claim pursuant to a court order duly obtained upon a showing to the court that the information contained in the return or claim is relevant to a pending court action or pursuant to a subpoena signed by a judge of a court of record ordering the department's custodian of returns or claims to produce a return or claim in open court in a court action pending before the judge.

(g) Employees of this state, to the extent that the department of revenue deems the examination necessary for the employees to perform their duties under contracts or agreements between the department and any other department, division, bureau, board or commission of this state relating to the administration of tax laws or child and spousal support enforcement under s. 49.22.

(h) 1. A member of the board of arbitration established under s. 71.10 (7) or a consultant under joint contract with the states of Minnesota and Wisconsin for the purpose of determining the reciprocity loss to which either state is entitled.

2. A member of the board of arbitration established under s. 71.10 (7e) or a consultant under joint contract with the states of Illinois and Wisconsin for the purpose of determining the reciprocity loss to which either state is entitled.

(i) The office of the commissioner of insurance with respect to information compiled under s. 71.80 (13).

(j) Employees of the legislative fiscal bureau to the extent that the department of revenue deems the examination necessary for those employees to perform their duties under contracts or agreements between the department and the bureau relating to the review and analysis of tax policy and the analysis of state revenue collections.

(k) The spouse or former spouse of the person who filed the return or claim if the spouse or former spouse may be liable, or the property of the spouse or former spouse is subject to collection, for the delinquency, or the department has issued an assessment or denial of a claim to the spouse or former spouse regarding the return or claim.

(L) The administrator of the lottery division in the department for the purpose of withholding lottery winnings under s. 565.30 (5).

(m) The chief executive officer of the Wisconsin Economic Development Corporation and employees of the corporation to the extent necessary to administer the development zone program under subch. II of ch. 238.

(n) The state public defender and the department of administration for the purpose of collecting payment ordered under s. 48.275 (2), 757.66, 973.06 (1) (e) or 977.076 (1).

(o) A licensing department or the supreme court, if the supreme court agrees, for the purpose of denial, nonrenewal, discontinuation and revocation of a license based on tax delinquency under s. 73.0301.

(p) The secretary of revenue and employees of that department for the purpose of calculating the penalty under s. 71.83 (1) (d).

(q) Employees of the department of corrections involved in the administration of the sex offender registry under s. 301.45, for the purpose of verifying information provided by a person required to register as a sex offender.

(r) The secretary of revenue and employees of that department for the purpose of preparing and maintaining the list of persons with unpaid tax obligations as described in s. 73.03 (62) so that the list of such persons is available for public inspection.

(4m) DISCLOSURE OF CERTAIN DATES TO SPOUSES AND FORMER SPOUSES. The department may disclose to the spouse or former spouse of the person who filed a return or claim specified under sub. (1) whether an extension for filing the return or claim was obtained, the extended due date for filing the return or claim and the date on which the return or claim was filed with the department.

(5) AGREEMENT WITH DEPARTMENT. Copies of returns and claims specified in sub. (1) and related schedules, exhibits, writings or audit reports shall not be furnished to the persons listed under sub. (4), except persons under sub. (4) (e), (k), (n), (o) and (q) or under an agreement between the department of revenue and another agency of government.

(6) RESTRICTION ON USE OF INFORMATION. The use of information obtained under sub. (4) or (5) is restricted to the discharge of duties imposed upon the persons by law or by the duties of their office or by order of a court as provided under sub. (4) (f).

(7) CHARGE FOR COSTS. The department of revenue may charge for the reasonable cost of divulging information under this section.

(8) DISTRICT ATTORNEYS. District attorneys may examine tax and claim information of persons on file with the department of revenue as follows:

(a) Such information may be examined for use in preparation for any judicial proceeding or any investigation which may result in a judicial proceeding involving any of the taxes or tax credits specified in sub. (1) if:

1. The taxpayer is or may be a party to such proceeding;

2. The treatment of an item reflected in such information is or may be related to the resolution of an issue in the proceeding or investigation; or

3. The information relates or may relate to a transactional relationship between the taxpayer or credit claimant and a person who is or may be a party to the proceeding which affects or may affect the resolution of an issue in such proceeding or investigation.

(b) When the department of revenue allows examination of information under par. (a):

1. If the department has referred the case to a district attorney, the department may make disclosure on its own motion.

2. If a district attorney requests examination of tax or tax credit information relating to a person, the request must be in writing, clearly identify the requester and the person to whom the information relates and explain the need for the information. The department may then allow the examination of information so requested and the information may be examined and used solely for the proceeding or investigation for which it was requested.

(c) Such information may be examined for use in preparation for any administrative or judicial proceeding or an investigation which may result in such proceeding pertaining to the enforcement of a specifically designated state criminal statute not involving tax administration to which this state or a governmental subdivision thereof is a party. Such information may be used solely for the proceeding or investigation for which it is requested.

(d) The department may allow an examination of information under par. (c) only if a district attorney petitions a court of record in this state for an order allowing the examination and the court issues an order after finding:

1. There is reasonable cause to believe, based on information believed to be reliable, that a specific criminal act has been committed;

2. There is reason to believe that such information is probative evidence of a matter in issue related to the commission of the criminal act; and

3. The information sought to be examined cannot reasonably be obtained from any other source, unless it is determined that,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

notwithstanding the reasonable availability of the information from another source, the information constitutes the most probative evidence of a matter in issue relating to the commission of such criminal act.

(e) If the department determines that examination of information ordered under par. (d) would identify a confidential informant or seriously impair a civil or criminal tax investigation, the department may deny access and shall certify the reason therefor to the court.

(9) DISCLOSURE OF DEBTOR ADDRESS. The department may supply the address of a debtor to an agency certifying a debt of that debtor under s. 71.93 or to a municipality or county certifying a debt of a debtor under s. 71.935.

(10) DIVULGING INFORMATION TO REQUESTER. The department shall inform each requester of the total amount of taxes withheld under subch. X during any reporting period and reported on a return filed by any city, village, town, county, school district, special purpose district or technical college district; whether that amount was paid by the statutory due date; the amount of any tax, fees, penalties or interest assessed by the department; and the total amount due or assessed under subch. X but unpaid by the filer, except that the department may not divulge tax return information that in the department's opinion violates the confidentiality of that information with respect to any person other than the units of government and districts specified in this subsection. The department shall provide to the requester a written explanation if it fails to divulge information on grounds of confidentiality. The department shall collect from the person requesting the information a fee of $4 for each return.

History: 1987 a. 312; 1987 a. 411 ss. 99, 100, 188; 1991 a. 269, 301; 1993 a. 112, 399; 1995 a. 27 ss. 3420x to 3423g, 9116 (5); 1995 a. 233, 404; 1997 a. 27, 63, 237, 323; 1999 a. 32, 89; 2005 a. 25; 2007 a. 20; 2011 a. 32, 68.

NOTE: 1991 Wis. Act 301, which affected this section, contains extensive legislative council notes.

Cross−reference: See also ss. Tax 1.11 and 1.13, Wis. adm. code.

71.80 General administrative provisions. (1) DEPARTMENT DUTIES AND POWERS. (a) The department shall assess incomes as provided in this chapter and in performance of such duty the department shall possess all powers now or hereafter granted by law to the department in the assessment of personal property and also the power to estimate incomes.

(b) In any case of 2 or more organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States, whether or not affiliated, and whether or not unitary) owned or controlled directly or indirectly by the same interests, the secretary or the secretary's delegate may distribute, apportion or allocate gross income, deductions, credits or allowances between or among such organizations, trades or businesses, if the secretary determines that such distribution, apportionment or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades or businesses. The authority granted under this subsection is in addition to, and not a limitation of or dependent on, the provisions of sub. (23) and ss. 71.05 (6) (a) 24. and (b) 45., 71.26 (2) (a) 7. and 8., 71.34 (1k) (j) and (k), and 71.45 (2) (a) 16. and 17.

(c) The department may make such regulations as it shall deem necessary in order to carry out this chapter.

(d) The department may employ such clerks and specialists as are necessary to carry into effective operation this chapter. Salaries and compensations of such clerks and specialists shall be charged to the proper appropriation for the department.

(e) Representatives of the department directed by it to accept payment of income or franchise taxes shall file bonds with the secretary of administration in such amount and with such sureties as the state treasurer shall direct and approve.

(1m) TRANSACTIONS WITHOUT ECONOMIC SUBSTANCE. (a) If any person, directly or indirectly, engages in a transaction or series of transactions without economic substance to create a loss or to reduce taxable income or to increase credits allowed in determining Wisconsin tax, the department shall determine the amount of a taxpayer's taxable income or tax so as to reflect what would have been the taxpayer's taxable income or tax if not for the transaction or transactions without economic substance causing the reduction in taxable income or tax.

(b) A transaction has economic substance only if the taxpayer shows both of the following:

1. The transaction changes the taxpayer's economic position in a meaningful way, apart from federal, state, local, and foreign tax effects.

2. The taxpayer has a substantial nontax purpose for entering into the transaction and the transaction is a reasonable means of accomplishing the substantial nontax purpose. A transaction has a substantial nontax purpose if it has substantial potential for profit, disregarding any tax effects.

(c) With respect to transactions between members of a controlled group as defined in section 267 (f) (1) of the Internal Revenue Code, such transactions shall be presumed to lack economic substance and the taxpayer shall bear the burden of establishing by clear and convincing evidence that a transaction or a series of transactions between the taxpayer and one or more members of the controlled group has economic substance.

(2) NOTICE TO TAXPAYER BY DEPARTMENT. The department shall notify each taxpayer by mail of the amount of income or franchise taxes assessed against the taxpayer and of the date when the taxes become delinquent.

(3) CREDITING OF OVERPAYMENTS ON INDIVIDUAL OR SEPARATE RETURNS. In the case of any overpayment, refundable credit or refund on an individual or separate return, the department, within the applicable period of limitations, may credit the amount of overpayment, refundable credit or refund including any interest allowed, against any liability in respect to any tax collected by the department, a debt under s. 71.93 or 71.935 or a certification under s. 49.855 on the part of the person who made the overpayment or received the refundable credit or the refund and shall refund any balance to the person. The department shall presume that the overpayment, refundable credit or refund is nonmarital property of the filer. Within 2 years after the crediting, the spouse or former spouse of the person filing the return may file a claim for a refund of amounts credited by the department if the spouse or former spouse shows by clear and convincing evidence that all or part of the state tax overpayment, refundable credit or refund was nonmarital property of the nonobligated spouse.

(3m) CREDITING OF OVERPAYMENTS ON JOINT RETURNS. For married persons, unless within 20 days after the date of the notice under par. (c) the nonobligated spouse shows by clear and convincing evidence that the overpayment, refundable credit or refund is the nonmarital property of the nonobligated spouse, notwithstanding s. 766.55 (2) (d), the department may credit overpayments, refundable credits and refunds, including any interest allowed, resulting from joint returns under this chapter as follows:

(a) Against any liability of either spouse or both spouses in respect to an amount owed the department, a certification under s. 49.855 that is subject to s. 766.55 (2) (b) or a debt under s. 71.93 or 71.935 that is subject to s. 766.55 (2) (b) and that was incurred during marriage by a spouse after December 31, 1985, or after both spouses are domiciled in this state, whichever is later, except as provided in s. 71.10 (6) (a) and (b) and (6m).

(b) Against the liability of a spouse in the proportion that the Wisconsin adjusted gross income which would have been the property of the spouse but for the marriage has to the adjusted gross income of both spouses as follows:

1. In respect to an amount owed the department that was incurred before January 1, 1986, or before marriage, whichever is later.

2. In respect to a debt under s. 71.93 or 71.935 or a certification under s. 49.855 if that debt or certification is not subject to s. 766.55 (2) (b).

3. In respect to an amount subject to s. 71.10 (6) (a) and (b) and (6m) (a).

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(c) If the department determines that a spouse is otherwise entitled to a state tax refund or homestead or farmland credit, it shall notify the spouses under s. 71.74 (11) that the state intends to reduce any state tax refund or a refundable credit due the spouses by the amount credited against any liability under par. (a) or (b) or both.

(d) If a spouse does not receive notice under par. (c) and if the department incorrectly credits the state tax overpayment, refund or a refundable credit of a spouse or spouses against a liability under par. (a) or (b) or both, a claim for refund of the incorrectly credited amount may be filed under s. 71.75 (5) within 2 years after the date of the offset that was the subject of the notice under par. (c).

(4) PENALTIES. Unless specifically provided in this subchapter, the penalties under subch. XIII apply for failure to comply with this subchapter unless the context requires otherwise.

(5) PENALTIES NOT DEDUCTIBLE. No penalty imposed by this chapter, or by subch. III of ch. 77 may be deducted from gross income in arriving at net income taxable under this chapter.

(6) PROSECUTIONS BY ATTORNEY GENERAL. The attorney general is authorized, upon the request of the secretary of revenue, to represent the state or to assist the district attorney in the prosecution of any case arising under s. 71.83 (2) (a) 1. and (b) 1. and 2.

(6m) VENUE. A proceeding for a criminal violation under this chapter may be brought in the circuit court for Dane County or for the county in which the defendant resides or is located when charged with the violation.

(7) PUBLICATION OF NOTICES IN ADMINISTRATIVE REGISTER. The department shall annually publish notice of the standard deduction amounts and the brackets for the individual income tax in the administrative register.

(8) RECEIPT FOR PAYMENT OF TAXES. The department shall accept payments of income or franchise taxes in accordance with this chapter, and upon request shall give a printed or written receipt therefor.

(9) RECORDS MAY BE REQUIRED OF TAXPAYER. Whenever the department deems it necessary that a person subject to an income or franchise tax should keep records to show whether or not the person is liable to tax, the department may serve notice upon the person and require such records to be kept as will include the entire net income of the person and will enable the department to compute the taxable income. The department may require any person who keeps records in machine−readable form for federal income tax purposes to keep those records in the same form for purposes of the taxes under this chapter.

(9m) FAILURE TO PRODUCE RECORDS. A person who fails to produce records or documents, as provided under ss. 71.74 (2) and 73.03 (9), that support amounts or other information required to be shown on any return required under this chapter may be subject to any of the following penalties, as determined by the department, except that the department may not impose a penalty under this subsection if the person shows that under all facts and circumstances the person's response, or failure to respond, to the department's request was reasonable or justified by factors beyond the person's control:

(a) The disallowance of deductions, credits, exemptions, or income inclusions to which the requested records relate.

(b) In addition to any penalty imposed under sub. (4), a penalty for each violation of this subsection that is equal to the greater of $500 or 25 percent of the amount of the additional tax on any adjustment made by the department that results from the person's failure to produce the records.

(c) The department shall promulgate rules to administer this subsection and the rules shall include a standard response time, a standard for noncompliance, and penalty waiver provisions.

Cross−reference: See also s. Tax 2.85, Wis. adm. code.

(10) REFUSAL TO FILE; COURT ORDER. (a) If any person, including an officer of a corporation, required by law to file a return fails to file the return within 60 days after the time required and refuses to file the return within 30 days after a request by the department to do so, the circuit court, upon petition by the department, shall issue a court order requiring that person to file a return. Any person upon whom a court order has been served shall file a return within 20 days after the service of the court order. The petition shall be heard and determined on the return day or on a later date that the court fixes, having regard for the speediest possible determination of the case consistent with the rights of the parties.

(b) The department shall file a petition for a court order in a circuit court for the county in which the respondent in the action resides.

(c) Filing a return after the time prescribed by law shall not relieve any person, including an officer of a corporation, from any penalties whether or not the department filed a petition for a court order under this subsection.

(11) RETURN PRESUMED CORRECT. The department shall presume the incomes reported on the current return to be correct for the purpose of preparing initial assessments.

(12) DEPARTMENT CONSIDERED LAWFUL ATTORNEY FOR NONRESIDENT. (a) The transaction of business or the performance of personal services in this state or the derivation of income from property the income from which has a taxable situs in this state by any nonresident person, except where the nonresident is a foreign corporation that has been licensed under ch. 180, shall be all of the following:

1. Considered an irrevocable appointment by the nonresident, binding upon the nonresident or the nonresident's personal representative, of the department of financial institutions to be the nonresident's lawful attorney upon whom may be served any notice, order, pleading, or process, including any notice of assessment, denial of application for abatement, or denial of claim for refund, by any administrative agency or in any proceeding by or before any administrative agency, or in any proceeding or action in any court, to enforce or effect full compliance with or involving the provisions of this chapter.

2. A signification of the nonresident's agreement that any notice, order, pleading, or process described in subd. 1. that is so served shall be of the same legal force and validity as if served on the nonresident personally, or on the nonresident's personal representative.

(b) The transaction of business in this state or the derivation of income that has a situs in this state under the provisions of this chapter by any person while a resident of this state shall be all of the following:

1. Considered an irrevocable appointment by that person, binding upon that person or that person's personal representative, effective upon that person becoming a nonresident of this state, of the department of financial institutions to be that person's true and lawful attorney upon whom may be served any notice, order, pleading, or process, including any notice of assessment, denial of application for abatement, or denial of claim for refund, by any administrative agency or in any proceeding by or before an administrative agency, or in any proceeding or action in any court, to enforce or effect full compliance with or involving the provisions of this chapter.

2. A signification of that person's agreement that any notice, order, pleading, or process described in subd. 1. that is so served shall be of the same legal force and validity as if served on that person personally, or upon that person's personal representative.

(c) 1. Service under par. (a) 1. or (b) 1. shall be made by serving a copy of the notice, order, pleading, or process upon the department of financial institutions or by filing a copy of the notice, order, pleading, or process with the department of financial institutions.

2. Service under subd. 1. upon a person, or that person's personal representative, shall be sufficient if all of the following conditions are met:

a. Within 10 days of completion of service, notice of the service and a copy of the served notice, order, pleading, or process

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

are sent by mail by the state department, officer, or agency making the service to the person, or that person's personal representative, at that person's last−known address.

b. An affidavit of compliance with this paragraph is filed with the department of financial institutions.

3. The department of financial institutions shall keep a record of all notices, orders, pleadings, processes, and affidavits served upon or filed with it under this section, noting in the record the day and hour of service or filing.

(13) SELF−INSURERS. The department shall compile and maintain a current list of names and addresses of persons who indicate they are self−insurers as required by s. 71.65 (4). The list shall be furnished to the office of the commissioner of insurance on request.

(14) SIGNATURES REQUIRED. (a) Except as otherwise provided by par. (b), sub. (20) and ss. 71.03 (2) (b) and (c), 71.13 (1), 71.20 (1), 71.21 (1) and 71.24 (4), any return, statement or other document required to be made under this chapter shall be signed in accordance with rules promulgated by the department.

(b) The fact that an individual's name is signed to a return, statement or other document shall be prima facie evidence for all purposes that the return, statement or other document was actually signed by that person.

(15) SURETY BOND; ENTERTAINER. (a) In this subsection, "employer" means the resident person or firm which engages the services of an entertainer, as defined in s. 71.01 (2), or an entertainment corporation or, in the absence of that person or firm, the resident person last having receipt, custody or control of the proceeds of the entertainment event.

(b) All entertainers, except entertainers who work for an entertainment corporation, and entertainment corporations not otherwise employed or regularly engaged in business in this state shall file a surety bond with the department of revenue at least 7 days before a performance. That bond shall be payable to the department to guarantee payment of income, franchise, sales and use taxes, income taxes withheld under subch. X, penalties and interest. The amount of the bond shall be 6% of either the total contract price on all contracts that exceed $3,200 or, if the total contract price is not readily determinable and the department's estimate of the total remuneration to be received by the entertainer or entertainment corporation exceeds $3,200, 6% of the department's estimate. Amounts previously earned in this state by an entertainer or entertainment corporation during the same calendar year for which no bond or cash deposit has been filed under this paragraph or for which no amounts have been withheld under s. 71.64 (5) shall be added together to determine the total contract price. The department shall approve the form and content of the bond. The bond shall remain in force until the liability under the bond is released by the department.

(c) In place of the bond under par. (b) and with the department's approval, an entertainer or entertainment corporation may deposit with the department money equal to the face value of the bond required under par. (b). The department shall retain the money until it determines the depositor's liability for state income, franchise, sales and use taxes and income tax withheld under subch. X. If the deposit exceeds the liability, the department shall refund the difference to the depositor without interest.

(d) If the department concludes that a bond or money deposit is not necessary to protect the revenues of the state, it may waive the requirements of pars. (b) and (c).

(e) Each person who is an employer of an entertainer or entertainment corporation, as defined in s. 71.63 (3), shall, before paying for those services, require proof that the bond required by par. (b) or the money deposit required by par. (c) has been provided or that the department has waived those requirements. If proof is not provided, the person shall withhold and immediately transmit to the department from that person's payment the amount for which a bond should have been provided under par. (b). Failure to withhold or transmit the amount required under this paragraph or under s. 71.64 (5) shall make the person required to withhold it personally liable for the amount required under this paragraph.

(f) An employer of an entertainer or entertainment corporation under s. 71.63 (3) (b) who is required to withhold moneys under par. (e) or s. 71.64 (5) and who has no direct knowledge of the total contract price to be paid an entertainer or entertainment corporation is not liable under par. (e) if the employer withholds moneys based upon a signed statement provided by the entertainer, the entertainment corporation or the promoter attesting to the amount of the total contract price. The employer shall deliver the signed statement to the department within 30 days after the date of the performance. Statements under this paragraph are subject to s. 71.83 (2) (b) 1. and 2.

(16) SURETY BOND; NONRESIDENT CONTRACTOR. (a) All nonresident persons, whether incorporated or not, engaging in construction contracting in this state as contractor or subcontractor and not otherwise regularly engaged in business in this state, shall file a surety bond with the department, payable to the department of revenue, to guarantee the payment of income or franchise taxes, required unemployment insurance contributions, sales and use taxes and income taxes withheld from wages of employees, together with any penalties and interest thereon. The department shall approve the form and contents of such bond. The amount of the bond shall be 3% of the contract or subcontract price on all contracts of $50,000 or more or 3% of contractor's or subcontractor's estimated cost−and−profit under a cost−plus contract of $50,000 or more. When the aggregate of 2 or more contracts in one calendar year is $50,000 or more the amount of the bond or bonds shall be 3% of the aggregate amount of such contracts. Such surety bond must be filed within 60 days after construction is begun in this state by any such contractor or subcontractor on any contract the price of which is $50,000 or more (or the estimated cost−and−profit of which is $50,000 or more), or within 60 days after construction is begun in this state on any contract for less than $50,000, when the amount of such contract, when aggregated with any other contracts, construction on which was begun in this state in the same calendar year, equals or exceeds $50,000. If the department concludes that no bond is necessary to protect the tax revenues of the state, including contributions under ch. 108, the requirements under this subsection may be waived by the secretary of revenue or the secretary's designated departmental representative. The bond shall remain in force until the liability thereunder is released by the secretary or the secretary's designated departmental representative.

(b) A construction contractor required to file a surety bond under par. (a) may, in lieu of such requirement, but subject to approval by the department, deposit with the secretary of administration an amount of cash equal to the face of the bond that would otherwise be required. If an offer to deposit is made, the department shall issue a certificate to the secretary of administration authorizing said secretary to accept payment of such moneys and to give his or her receipt therefor. A copy of such certificate shall be mailed to the contractor who shall, within the time fixed by the department, pay such amount to the secretary of administration. A copy of the receipt of the secretary of administration shall be filed with the department. Upon final determination by the department of such contractor's liability for state income or franchise taxes, required unemployment insurance contributions, sales and use taxes, and income taxes withheld from wages of employees, interest and penalties, by reason of such contract or contracts, the department shall certify to the secretary of administration the amount of taxes, penalties, and interest as finally determined, shall instruct the secretary of administration as to the proper distribution of such amount, and shall state the amount, if any, to be refunded to such contractor. The secretary of administration shall make the payments directed by such certificate within 30 days after receipt thereof. Amounts refunded to the contractor shall be without interest.

2009−10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Oct. 1, 2012. Statutory changes effective on or prior to Oct. 1, 2012 are printed as currently in effect. Changes effective after Oct. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (10−3−12)

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(c) All persons subject to this subsection shall notify the department of revenue of the completion of a construction project in this state within 30 days after such completion.

(17) TAX RECEIPTS TRANSMITTED TO THE SECRETARY OF ADMINISTRATION. Within 15 days after receipt of any income or franchise tax payments, the department shall transmit the same to the secretary of administration.

(18) TIMELY FILING DEFINED. Documents and payments required or permitted by this chapter that are mailed shall be considered furnished, reported, filed or made on time, if mailed in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked, or marked or recorded electronically as provided under section 7502 (f) (2) (c) of the Internal Revenue Code, before midnight of the date prescribed for such furnishing, reporting, filing or making, provided such document or payment is actually received by the department or at the destination that the department or the department of administration prescribes within 5 days of such prescribed date. Documents and payments that are not mailed are timely if they are received on or before the due date by the department or at the destination that the department or the department of administration prescribes. For purposes of this subsection, "mailed" includes delivery by a delivery service designated under section 7502 (f) of the Internal Revenue Code.

Cross−reference: See also s. Tax 2.08, Wis. adm. code.

(19) WHOLE DOLLAR AMOUNTS. (a) *Rounding amounts.* With respect to any amount required to be shown on a form prescribed for any return, statement or other document required by this chapter, if the amount of such item is other than a whole dollar amount the fractional part of a dollar shall be disregarded unless it amounts to 50 cents or more, in which case the amount (determined without regard to the fractional part of a dollar) shall be increased to the next whole dollar.

(b) *Election not to use whole dollar amounts.* Any person making a return, statement or other document required by this chapter shall be allowed to make such return, statement or other document without regard to par. (a).

(c) *Inapplicability to computation of amount.* Paragraph (a) does not apply to items which must be taken into account in making the computations necessary to determine the total amount required to be shown on a form, statement or other document but applies only to such final amount.

(20) ELECTRONIC FILING. If a person is required to file 50 or more wage statements or 50 or more of any one type of information return with the department, the person shall file the statements or the returns electronically, by means prescribed by the department.

Cross−reference: See also s. Tax 2.04, Wis. adm. code.

(21) BUSINESS ENTITY CONVERSION. Notwithstanding any provision of ss. 179.76, 180.1161, 181.1161, and 183.1207, the conversion of a business entity to another form of business entity under s. 179.76, 180.1161, 181.1161, or 183.1207 shall be treated for state tax purposes in the same manner as the conversion is treated for federal tax purposes.

(22) BUSINESS ENTITY MERGER. Notwithstanding any provision of ss. 179.77, 180.1101, 180.1104, 181.1101, 181.1104, and 183.1201, the merger of a business entity with one or more business entities under s. 179.77, 180.1101, 180.1104, 181.1101, 181.1104, or 183.1201 shall be treated for state tax purposes in the same manner as the merger is treated for federal tax purposes.

(23) RELATED ENTITY ADDBACKS. (a) The deductions provided under ss. 71.05 (6) (b) 45., 71.26 (2) (a) 8., 71.34 (1k) (k), and 71.45 (2) (a) 17. shall be allowed for any interest expenses, rental expenses, intangible expenses, or management fees described in ss. 71.05 (6) (a) 24., 71.26 (2) (a) 7., 71.34 (1k) (j), or 71.45 (2) (a) 16. if any of the following applies to the interest expenses, rental expenses, intangible expenses, or management fees:

1. The related entity to which the taxpayer paid, accrued, or incurred the interest expenses, rental expenses, intangible expenses, or management fees during the taxable year directly or indirectly paid, accrued, or incurred such amounts in the same taxable year to a person who is not a related entity or the related entity to which the taxpayer paid, accrued, or incurred such expenses or fees is a holding company or a direct or indirect subsidiary of a holding company, as defined in 12 USC 1841 (a) or (l) or 12 USC 1467a (a) (1) (D), not including any entity that is organized under the laws of another jurisdiction and that primarily holds and manages investments of a bank, subsidiary, or affiliate. For purposes of this subdivision, "interest" does not include interest that is paid in connection with any debt that is incurred to acquire the taxpayer's assets or stock under section 368 of the Internal Revenue Code. If a portion of such an interest expense, rental expense, intangible expense, or management fee is paid, accrued, or incurred in the same taxable year to a person who is not a related entity, that portion shall be allowed as a deduction to the taxpayer.

2. The related entity was subject to tax on, or measured by, its net income or receipts in this state or any state, U.S. possession, or foreign country; the related entity's tax base in such state, U.S. possession, or foreign country included the income received from the taxpayer for the interest expenses, rental expenses, intangible expenses, or management fees; the related entity's aggregate effective tax rate applied to such income or receipts was at least 80 percent of the taxpayer's aggregate effective tax rate; and the related entity is not a real estate investment trust under section 856 of the Internal Revenue Code, other than a qualified real estate investment trust. For purposes of this subdivision, "any state, U.S. possession, or foreign country" does not include any state, U.S. possession, or foreign country under the laws of which the taxpayer files with the related entity, or the related entity files with another entity, a combined income tax report or return, a consolidated income tax report or return, or any other report or return that is due because of the imposition of a tax that is measured on or by income or receipts, if the report or return results in eliminating the tax effects of transactions, directly or indirectly, between either the taxpayer and the related entity or between the related entity and another entity.

3. The taxpayer establishes that the transaction satisfies any other conditions that the department considers relevant, based on the facts and circumstances, to determine that the primary motivation for the transaction was one or more business purposes other than the avoidance or reduction of state income or franchise taxes; that the transaction changed the economic position of the taxpayer in a meaningful way apart from tax effects; and that the interest expenses, rental expenses, intangible expenses, or management fees were paid, accrued, or incurred using terms that reflect an arm's−length relationship.

(b) Notwithstanding par. (a), the deductions provided under ss. 71.05 (6) (b) 45., 71.26 (2) (a) 8., 71.34 (1k) (k), and 71.45 (2) (a) 17. shall not be allowed for any interest expenses, rental expenses, intangible expenses, or management fees that are directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities, if the aggregate amount paid, accrued, or incurred for those related entity transactions is not disclosed on a separate form prescribed by the department in the manner prescribed by the department.

(24) THROWBACK TRANSITION. For persons subject to tax under this chapter whose sales factor includes sales under s. 71.04 (7) (a) or 71.25 (9) (a), the department shall deem timely paid the estimated tax payments attributable to the difference between the person's tax liability for the taxable year and the person's tax liability for the taxable year computed under ch. 71, 2007 stats., for installments that become due during the period beginning on January 1, 2009, and ending on July 1, 2009, provided that such estimated tax payments are paid by the next installment due date that follows in sequence following July 1, 2009. However, if the next installment due date that follows in sequence following July 1, 2009, is less than 45 days after July 1, 2009, such estimated tax payments, in addition to the payment due less than 45 days after

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

July 1, 2009, shall be deemed timely paid if paid by the next subsequent installment due date.

History: 1987 a. 312; 1987 a. 411 ss. 70, 189 to 192; 1989 a. 31; 1991 a. 39, 301; 1993 a. 205; 1995 a. 27, 404, 418; 1997 a. 27, 39, 291; 2001 a. 44, 102; 2003 a. 33; 2005 a. 49; 2007 a. 20, 226; 2009 a. 2, 28, 276.

71.805 Tax avoidance transactions voluntary compliance program. (1) DEFINITIONS. In this section:

(a) "Tax avoidance transaction" means a transaction, plan, or arrangement devised for the principal purpose of avoiding federal or Wisconsin income or franchise tax. "Tax avoidance transaction" includes a listed transaction as provided under U.S. department of the treasury regulations as of October 27, 2007, and may include a transaction, as determined by the department, that provides a tax benefit for Wisconsin income or franchise tax purposes without providing a similar benefit for federal income tax purposes.

(b) "Taxpayer" means a person who is subject to the taxes imposed under this chapter and who has a tax liability attributable to using a tax avoidance transaction for any taxable year beginning before January 1, 2007.

(2) PENALTY WAIVER OR ABATEMENT. All of the following apply with regard to a taxpayer who satisfies the conditions under sub. (3):

(a) Except as provided under sub. (4) (b), the department shall waive or abate all penalties that are applicable to the underreporting or underpayment of Wisconsin income or franchise taxes attributable to using a tax avoidance transaction for any taxable year for which the taxpayer satisfies the conditions under sub. (3).

(b) The department shall not seek a criminal prosecution against the taxpayer with respect to using a tax avoidance transaction for any taxable year for which the taxpayer satisfies the conditions under sub. (3).

(3) TAXPAYER ELIGIBILITY. A taxpayer is eligible for the benefits described under sub. (2) (a) and (b), if, during the period beginning on January 1, 2008, and ending on May 31, 2008, the taxpayer does the following:

(a) Files an amended Wisconsin tax return for each taxable year for which the taxpayer has previously filed a Wisconsin tax return that uses a tax avoidance transaction to underreport the taxpayer's Wisconsin income or franchise tax liability and the amended return reports the total Wisconsin net income and tax for the taxable year, computed without regard to any tax avoidance transaction and without regard to any other adjustment that is unrelated to any tax avoidance transaction.

(b) Pays, in full, for each taxable year for which an amended return is filed under par. (a), the entire amount of Wisconsin income or franchise tax and interest due that is attributable to using a tax avoidance transaction, except that the secretary of revenue may enter into an agreement with the taxpayer to make payments in installments. A taxpayer who does not comply with an installment agreement provided under this paragraph is ineligible to receive the benefits described under sub. (2) (a) and (b) and the total amount of tax, interest, and penalties shall be immediately due and payable.

(4) LIMITATIONS AND ADMINISTRATION. (a) A taxpayer who receives the benefits described under sub. (2) may not file an appeal or a claim for credit or refund with respect to the tax avoidance transactions for the taxable years for which the taxpayer satisfied the conditions under sub. (3), except to the extent that a timely filed appeal or claim for a refund results from an adjustment to the taxpayer's federal income tax liability regarding such transactions.

(b) The department may not waive or abate a penalty as provided under sub. (2) (a) if the penalty relates to an amount of Wisconsin income and franchise tax that is attributable to a tax avoidance transaction and assessed and paid prior to January 1, 2008, or after May 31, 2008.

History: 2007 a. 20.

71.81 Disclosing reportable transactions. (1) DEFINITIONS. In this section:

(a) "Listed transaction" means any reportable transaction that is the same as, or substantially similar to, a transaction, plan, or arrangement specifically identified by the U.S. secretary of the treasury as a listed transaction, for purposes of section 6011 of the Internal Revenue Code and that is specifically identified by the U.S. secretary of the treasury as a listed transaction on or after the date the transaction occurred.

(b) "Material advisor" means any person who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction and who, directly or indirectly, derives gross income from providing such aid, assistance, or advice in an amount that exceeds the threshold amount.

(c) "Reportable transaction" means any transaction, plan, or arrangement, including a listed transaction, for which a taxpayer is required to submit information to the department because the taxpayer is required to disclose the transaction, plan, or arrangement for federal income tax purposes for the taxable year in which the transaction occurred, as provided under U.S. department of treasury regulations.

(d) "Tax shelter" means any entity, plan, or arrangement, if avoiding or evading federal income tax or Wisconsin income or franchise tax is a significant purpose of the entity, plan, or arrangement.

(e) "Threshold amount" means the following:

1. In the case of a reportable transaction, not including a listed transaction, from which the tax benefits are provided primarily to an individual, $50,000.

2. In the case of a listed transaction from which the tax benefits are provided primarily to an individual, $10,000.

3. In the case of a reportable transaction, not including a listed transaction, from which the tax benefits are provided primarily to an entity and not an individual, $250,000.

4. In the case of a listed transaction, from which the tax benefits are provided primarily to an entity and not an individual, $25,000.

(2) DISCLOSURE. For each taxable year in which a taxpayer has participated in a reportable transaction, the taxpayer shall file with the department a copy of any form required by the internal revenue service for disclosing the reportable transaction for federal income tax purposes no later than 60 days after the date for which the taxpayer is required to file the form for federal income tax purposes, except that, if the taxpayer has filed a form with the internal revenue service on or before October 27, 2007, the taxpayer shall file a copy of the form with the department no later than May 31, 2008. The department may require that forms filed with the department under this subsection be filed separately from this state's income or franchise tax return. This subsection applies to any reportable transaction entered into on or after January 1, 2001, or any reportable transaction entered into prior to January 1, 2001, that reduced the taxpayer's tax liability for taxable years beginning on or after January 1, 2001, for any taxable year for which the transaction remains undisclosed and for which the statute of limitations on assessment, including any extension provided under sub. (6), has not expired as of the date that is 60 days after October 27, 2007.

(3) PENALTY FOR FAILING TO DISCLOSE. (a) Any taxpayer who does not file the form under sub. (2) and who is required to file the form is subject to the following penalty:

1. If the taxpayer participated in a reportable transaction that is not a listed transaction, the lesser of $15,000 or 10 percent of the tax benefit obtained from the reportable transaction.

2. If the taxpayer participated in a listed transaction, $30,000.

(b) The secretary of revenue may waive or abate any penalty imposed under this subsection, or any portion of such penalty, related to a reportable transaction that is not a listed transaction,

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

if the waiver or abatement promotes compliance with this section and effective tax administration. Notwithstanding any other law or rule, a determination by the secretary of revenue under this paragraph may not be reviewed in any judicial proceeding.

(c) The penalties imposed under this subsection apply to any failure to disclose a listed transaction entered into on or after January 1, 2001, or entered into prior to January 1, 2001, that reduced the taxpayer's tax liability for taxable years beginning on or after January 1, 2001, including transactions that were not listed transactions when entered into, but became listed transactions before October 27, 2007, or any other reportable transaction entered into after October 27, 2007, for any taxable year for which the statute of limitations on assessment, including any extension under sub. (6), has not expired as of October 27, 2007.

(4) UNDERSTATEMENT PENALTY. (a) If a taxpayer has a reportable transaction understatement, as determined in par. (b), the taxpayer shall pay, in addition to any tax owed with regard to the reportable transaction, an amount equal to either 20 percent of the reportable transaction understatement or, in the case of a reportable transaction that is not disclosed as provided in sub. (2), 30 percent of the reportable transaction understatement.

(b) A taxpayer has a reportable transaction understatement if the following calculation results in a positive number:

1. Multiply the taxpayer's highest applicable tax rate under s. 71.06, 71.27, or 71.46, by the amount of any increase in Wisconsin taxable income that results from the difference between the proper tax treatment of a reportable transaction and the taxpayer's treatment of the transaction as shown on the taxpayer's tax return, including any amended return the taxpayer files before the date on which the department first contacts the taxpayer regarding an examination of the taxable year for which the amended return is filed. For purposes of this subdivision, the amount of any increase in Wisconsin taxable income for a taxable year includes any reduction in the amount of loss available for carry−forward to the subsequent year.

2. Add the amount determined under subd. 1. to the amount of any decrease in the aggregate amount of Wisconsin income or franchise tax credits that results from the difference between the proper tax treatment of a reportable transaction and the taxpayer's treatment of the transaction as shown on the taxpayer's tax return.

(c) The secretary of revenue may waive or abate any penalty imposed under this subsection, or any portion of such penalty, if the taxpayer demonstrates to the department that the taxpayer had reasonable cause to act the way the taxpayer did, and in good faith, with regard to the tax treatment for which the taxpayer is subject to a penalty under this subsection and all facts relevant to the tax treatment are adequately disclosed in the filing under sub. (2), except that, if the taxpayer does not fully disclose such facts under sub. (2), the taxpayer's penalty may be waived or abated under this paragraph if the taxpayer demonstrates to the department that the taxpayer reasonably believed that the tax treatment for which the taxpayer is subject to a penalty under this subsection was more likely than not the proper treatment and substantial authority exists or existed for the tax treatment for which the taxpayer is subject to a penalty under this subsection. Notwithstanding any other law or rule, a determination by the secretary of revenue under this paragraph may not be reviewed in any judicial proceeding.

(d) The penalties under par. (a) apply to any reportable transaction understatement from a reportable transaction, including a listed transaction, entered into on or after January 1, 2001, or entered into prior to January 1, 2001, that reduced the taxpayer's tax liability for taxable years beginning on or after January 1, 2001, for any taxable year for which the statute of limitations on assessment, including any extension provided under sub. (6), has not expired as of October 27, 2007.

(5) ADDITIONAL UNDERSTATEMENT PENALTY. (a) 1. In addition to the penalty under sub. (4) (a), a taxpayer who files an amended return after May 31, 2008, and before the taxpayer is contacted by the internal revenue service or the department regarding a reportable transaction is subject to a penalty in an amount equal to 50 percent of the interest assessed under s. 71.82 on any reportable transaction understatement, as determined under sub. (4) (b), for the tax period for which the taxpayer files an amended return.

2. If the internal revenue service or the department contacts a taxpayer after May 31, 2008, regarding a reportable transaction and the taxpayer is contacted before the taxpayer files an amended return with respect to that transaction, the taxpayer is subject to a penalty in an amount equal to the interest assessed under s. 71.82 on any reportable transaction understatement, as determined under sub. (4) (b), for the tax period for which the internal revenue service or the department contacts the taxpayer.

(b) The penalties under par. (a) apply to any reportable transaction understatement resulting from a reportable transaction, including a listed transaction, entered into on or after January 1, 2001, or entered into prior to January 1, 2001, that reduced the taxpayer's tax liability for taxable years beginning on or after January 1, 2001, for any taxable year for which the statute of limitations on assessment, including any extension provided under sub. (6), has not expired as of October 27, 2007.

(c) The secretary of revenue may waive or abate any penalty imposed under this subsection, or any portion of such penalty, if the taxpayer demonstrates to the department that the taxpayer had reasonable cause to act the way the taxpayer did, and in good faith, with regard to the tax treatment for which the taxpayer is subject to a penalty under this subsection and all facts relevant to the tax treatment are adequately disclosed in the filing under sub. (2), except that, if the taxpayer does not fully disclose such facts under sub. (2), the taxpayer's penalty may be waived or abated under this paragraph if the taxpayer demonstrates to the department that the taxpayer reasonably believed that the tax treatment for which the taxpayer is subject to a penalty under this subsection was more likely than not the proper treatment and substantial authority exists or existed for the tax treatment for which the taxpayer is subject to a penalty under this subsection. Notwithstanding any other law or rule, a determination by the secretary of revenue under this paragraph may not be reviewed in any judicial proceeding.

(6) STATUTE OF LIMITATIONS EXTENSION. (a) Except as provided in par. (b), if a taxpayer fails to provide any information regarding a reportable transaction, other than a listed transaction, under sub. (2), the time for assessing any tax imposed under this chapter with respect to that transaction shall expire no later than the date that is 6 years after the date on which the return for the taxable year in which the reportable transaction occurred was filed. If a taxpayer fails to provide any information regarding a listed transaction, under sub. (2), the time for assessing any tax imposed under this chapter with respect to that transaction shall expire on the latest of the following dates:

1. The date that is 6 years after the date on which the return for the taxable year in which the listed transaction occurred was filed.

2. The date that is 12 months after the date on which the taxpayer provides information regarding the listed transaction under sub. (2).

3. The date that is 12 months after the date on which the taxpayer's material advisor provides, at the department's request, the list described in sub. (7) (b).

4. The date that is 4 years after the date on which the department discovers a listed transaction that was a listed transaction on the date the transaction occurred for which the taxpayer did not provide the information described under sub. (2) or for which the taxpayer's material advisor did not provide the information described under sub. (7) (b).

(b) Any limitation determined under par. (a) may be extended by a written agreement between the taxpayer and the department as provided under s. 71.77 (5).

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(c) This subsection applies to any reportable transaction, including a listed transaction entered into on or after January 1, 2001, or entered into prior to January 1, 2001, that reduced the taxpayer's tax liability for taxable years beginning on or after January 1, 2001.

(7) MATERIAL ADVISOR. (a) Each material advisor who is required to disclose a reportable transaction under section 6111 of the Internal Revenue Code shall file a copy of the disclosure with the department no later than 60 days after the date for which the material advisor is required to file the disclosure with the internal revenue service, except that, if a material advisor files the disclosure with the internal revenue service on or before October 27, 2007, the material advisor shall file a copy of the disclosure with the department no later than May 31, 2008.

(b) Each material advisor shall maintain a list that identifies each Wisconsin taxpayer for whom the person provided services as a material advisor with respect to a reportable transaction, regardless of whether the taxpayer is required to file the form under sub. (2). Any material advisor who is required to maintain a list under this paragraph shall provide the list to the department after receiving the department's written request to provide the list and shall retain the information contained in the list for 7 years or for the period determined by the department by rule. If 2 or more material advisors are required under this paragraph to maintain identical lists, the department may provide that only one of the material advisors maintain the list.

(c) This subsection applies to reportable transactions, not including listed transactions, for which a material advisor provides services after October 27, 2007, and listed transactions for which a material advisor provides services, and were entered into, on or after January 1, 2001, or were entered into prior to January 1, 2001, and that reduced the taxpayer's tax liability for taxable years beginning on or after January 1, 2001, regardless of when the transactions became listed transactions.

(8) MATERIAL ADVISOR PENALTIES. (a) If a person who is required to file a disclosure with the department as provided under sub. (7) (a) fails to file the disclosure or files a disclosure containing false or incomplete information, the person is subject to a penalty equal to the following amounts:

1. If the disclosure relates to a reportable transaction that is not a listed transaction, $15,000.

2. If the disclosure relates to a listed transaction, $100,000.

(b) Any person who is required to maintain a list under sub. (7) (b) and who fails to provide the list to the department no later than 20 business days after the date on which the person receives the department's request to provide the list, as provided under sub. (7) (b), shall pay a penalty to the department in an amount that is equal to $10,000 for each day that the person does not provide the list, beginning with the day that is 21 business days after the date on which the person receives the department's request.

(c) The secretary of revenue may waive or abate any penalty imposed under this subsection, or any portion of such penalty, related to a reportable transaction that is not a listed transaction, if the waiver or abatement promotes compliance with this section and effective tax administration or, with regard to the penalty imposed under par. (b), if, on each day after the time for providing the list without incurring a penalty has expired, the person demonstrates to the department that the person's failure to provide the list on that day is because of reasonable cause. Notwithstanding any other law or rule, a determination by the secretary of revenue under this paragraph may not be reviewed in any judicial proceeding.

(9) TAX SHELTER PROMOTION. (a) Beginning on October 27, 2007, any person who organizes or assists in organizing a tax shelter, or directly or indirectly participates in the sale of any interest in a tax shelter, and who makes or provides or causes another person to make or provide, in connection with such organization or sale, a statement that the person knows or has reason to know is false or fraudulent as to any material matter regarding the allowability of any tax deduction or credit, the excludability of any income, the manipulation of any allocation or apportionment rule, or the securing of any other tax benefit resulting from holding an interest in the entity or participating in the plan or arrangement, shall pay a penalty to the department, with respect to each sale or act of organization described under this paragraph, in an amount equal to 50 percent of the person's gross income derived from the sale or act.

(b) For purposes of administering this chapter, beginning on October 27, 2007, a written communication to any person, director, officer, employee, agent, or representative of the person, or any other person holding a capital or profits interest in the person, regarding the promotion of, or advice with respect to, the person's direct or indirect participation in any tax shelter is not considered a confidential or privileged communication.

(11) INJUNCTION. The department may commence an action in the circuit court of Dane County to enjoin a person from taking any action, or failing to take any action, that is subject to a penalty under this section or in violation of this section or any rules that the department promulgates pursuant to this section.

History: 2007 a. 20.

SUBCHAPTER XIII

INTEREST AND PENALTIES

71.82 Interest. (1) NORMAL. (a) In assessing taxes interest shall be added to such taxes at 12% per year from the date on which such taxes if originally assessed would have become delinquent if unpaid, to the date on which such taxes when subsequently assessed will become delinquent if unpaid.

(b) Except as otherwise specifically provided, in crediting overpayments of income and surtaxes against underpayments or against taxes to be subsequently collected and in certifying refunds of such taxes interest shall be added at the rate of 9% per year from the date on which such taxes when assessed would have become delinquent if unpaid to the date on which such overpayment was certified for refund except that if any overpayment of tax is certified for refund within 90 days after the last date prescribed for filing the return of such tax or 90 days after the date of actual filing of the return of such tax, whichever occurs later, no interest shall be allowed on such overpayment. For purposes of this section the return of such tax shall not be deemed actually filed by an employee unless and until the employee has included the written statement required to be filed under s. 71.65 (1). However when any part of a tax paid on an estimate of income, whether paid in connection with a tentative return or not, is refunded or credited to a taxpayer, such refund or credit shall not draw interest.

(c) Any assessment made as a result of the adjustment or disallowance of a claim for credit under s. 71.07, 71.28 or 71.47 or subch. VIII or IX, except as provided in sub. (2) (c), shall bear interest at 12% per year from the due date of the claim.

(2) DELINQUENT. (a) *Income and franchise taxes.* Income and franchise taxes shall become delinquent if not paid when due under ss. 71.03 (8), 71.24 (9) and 71.44 (4), and when delinquent shall be subject to interest at the rate of 1.5% per month until paid.

(b) *Department may reduce delinquent interest.* The department shall provide by rule for reduction of interest under par. (a) to 12% per year in stated instances wherein the secretary of revenue determines that reduction is fair and equitable.

Cross−reference: See also s. Tax 2.87, Wis. adm. code.

(c) *Adjustment to credits.* Any assessment made as a result of the disallowance of a claim for credit made under s. 71.07, 71.28 or 71.47 or subch. VIII or IX with fraudulent intent, or of a portion of a claim made under said subchapters or sections that was excessive and was negligently prepared, shall bear interest from the due date of the claim, until refunded or paid, at the rate of 1.5% per month.

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

(d) *Withholding tax.* Of the amounts required to be withheld any amount not deposited or paid over to the department within the time required shall be deemed delinquent and deposit reports or withholding reports filed after the due date shall be deemed late. Delinquent deposits or payments shall bear interest at the rate of 1.5% per month from the date deposits or payments are required under this section until deposited or paid over to the department. The department shall provide by rule for reduction of interest on delinquent deposits to 12% per year in stated instances wherein the secretary of revenue determines reduction fair and equitable. In the case of a timely filed deposit or withholding report, withheld taxes shall become delinquent if not deposited or paid over on or before the due date of the report. In the case of no report filed or a report filed late, withheld taxes shall become delinquent if not deposited or paid over by the due date of the report. In the case of an assessment under s. 71.83 (1) (b) 2., the amount assessed shall become delinquent if not paid on or before the first day of the calendar month following the calendar month in which the assessment becomes final, but if the assessment is contested before the tax appeals commission or in the courts, it shall become delinquent on the 30th day following the date on which the order or judgment representing final determination becomes final.

Cross−reference: See also s. Tax 2.935, Wis. adm. code.
History: 1987 a. 312; 1989 a. 31; 1991 a. 39.
Cross−reference: See also s. Tax 2.88, Wis. adm. code.

71.83 Penalties. (1) CIVIL. (a) *Negligence.* 1. 'Failure to file.' In case of failure to file any return required under s. 71.03, 71.24, 71.44, or 71.775 on the due date prescribed therefor, including any applicable extension of time for filing, and upon a showing by the department under s. 73.16 (4), there shall be added to the amount required to be shown as tax on the return 5% of the amount of the tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which the failure continues, not exceeding 25% in the aggregate. For purposes of this subdivision, the amount of tax required to be shown on the return shall be reduced by the amount of any part of the tax which is paid on or before the due date prescribed for payment and by the amount of any credit against the tax which may be claimed upon the return.

1m. 'Failure to file information return.' If a person fails to file a return required under subch. XI by the prescribed due date, including any extension, or files an incorrect or incomplete return, that person may be subject to a penalty of $10 for each violation. A penalty shall be waived except upon a showing by the department under s. 73.16 (4).

2. 'Incomplete or incorrect return.' If any person required under this chapter to file an income or franchise tax return files an incomplete or incorrect return, and upon a showing by the department under s. 73.16 (4), there shall be added to such person's tax for the taxable year 25% of the amount otherwise payable on any income subsequently discovered or reported. The amount so added shall be assessed, levied and collected in the same manner as additional normal income or franchise taxes, and shall be in addition to any other penalties imposed by this chapter. In this subdivision, "return" includes a separate return filed by a spouse with respect to a taxable year for which a joint return is filed under s. 71.03 (2) (g) to (L) after the filing of that separate return, and a joint return filed by the spouses with respect to a taxable year for which a separate return is filed under s. 71.03 (2) (m) after the filing of that joint return.

3. 'Incomplete or incorrect deposit or withholding report.' If any person required under subch. X to file a deposit report or withholding report files an incomplete or incorrect report, or fails to properly withhold or fails to properly deposit or pay over withheld funds, and upon a showing by the department under s. 73.16 (4), there shall be added to the tax 25% of the amount not reported or not withheld, deposited or paid over. The amount so added shall be assessed, levied and collected in the same manner as additional income or franchise taxes, and shall be in addition to any other penalties imposed in this subchapter. "Person", in this subdivision, includes an officer or employee of a corporation or other responsible person or a member or employee of a partnership or limited liability company or other responsible person who, as such officer, employee, member or other responsible person, is under a duty to perform the act in respect to which the violation occurs.

4. 'Late filing of withholding report.' In case of failure to file any withholding deposit or payment report required under s. 71.65 (3) on the due date prescribed therefor, upon a showing by the department under s. 73.16 (4), there shall be added to the amount required to be shown as withheld taxes on the report 5% of the amount if the failure is not for more than one month, with an additional 5% for each additional month or fraction thereof during which the failure continues, not exceeding 25% in the aggregate.

5. 'Failure to notify.' Any employee who fails to notify the department as required by s. 71.64 (2) (b) 2. shall be subject to a penalty of $10.

6. 'Retirement plans.' Any natural person who is liable for a penalty for federal income tax purposes under section 72 (m) (5), (q), (t), and (v), 4973, 4974, 4975, or 4980A of the Internal Revenue Code is liable for 33% of the federal penalty unless the income received is exempt from taxation under s. 71.05 (1) (a) or (ae). The penalties provided under this subdivision shall be assessed, levied, and collected in the same manner as income or franchise taxes.

7. 'Failure to keep records required by the department.' Any taxes assessed upon information not contained in records required by the department under s. 71.80 (9) to be kept by any person subject to an income or franchise tax shall carry a penalty of 25% of the amount of the tax. The penalty shall be in addition to all other penalties provided in this chapter.

8. 'Joint return replacing separate returns.' If the amount shown as the tax by the husband and wife on a joint return filed under s. 71.03 (2) (g) to (L) exceeds the sum of the amounts shown as the tax upon the separate return of each spouse and if any part of that excess is attributable to negligence or intentional disregard of this chapter, but without intent to defraud, at the time of the filing of that separate return, then 25% of the total amount of that excess shall be added to the tax.

10. 'Failure to provide schedules.' If a person who is required to provide a schedule under s. 71.13 (1m), 71.20 (1m), or 71.36 (4) fails to provide the schedule by the due date, including any extension, or provides an incorrect or incomplete schedule, the person is subject to a $50 penalty for each violation, except that the department shall waive the penalty if the person shows the department that a violation resulted from a reasonable cause and not from willful neglect.

(b) *Intent to defeat or evade.* 1. 'Income and franchise; all persons.' With respect to calendar year 1985 or corresponding fiscal year and subsequent calendar or fiscal years, any person making an incorrect, or failing to make a, report, including a separate return filed by a spouse with respect to a taxable year for which a joint return is filed under s. 71.03 (2) (g) to (L) after the filing of that separate return, and including a joint return filed by the spouses with respect to a taxable year for which a separate return is filed under s. 71.03 (2) (m) after the filing of that joint return, with intent, in either case, to defeat or evade the income or franchise tax assessment required by law, shall have added to the tax an amount equal to 100% of the tax on the entire underpayment. No amount paid under this subdivision may be deducted from gross income and assessments hereunder may be made with respect to decedents. Amounts added to the tax under this subdivision shall be treated as additional taxes for all purposes of assessment and collection. Repeated late filing of an income or franchise tax return evinces an intent to defeat or evade the income or franchise tax assessment required by law.

2. 'Personal liability.' The penalties provided by this subdivision shall be paid upon notice and demand of the secretary of revenue or the secretary's designee and shall be assessed and collected in the same manner as income or franchise taxes, except that the

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

time limits under s. 71.77 do not apply to the assessment of personal liability under this subdivision if the corporation, other form of business association, partnership, limited liability company or sole proprietorship with which the person is associated is assessed within the time period under s. 71.77. Any person required to withhold, account for or pay over any tax imposed by this chapter, whether exempt under s. 71.05 (1) to (3), 71.26 (1) or 71.45 or not, who intentionally fails to withhold such tax, or account for or pay over such tax, shall be liable to a penalty equal to the total amount of the tax, plus interest and penalties on that tax, that is not withheld, collected, accounted for or paid over. The personal liability of such person as provided in this subdivision shall survive the dissolution of the corporation or other form of business association. "Person", in this subdivision, includes an officer, employee or other responsible person of a corporation or other form of business association or a member, employee or other responsible person of a partnership, limited liability company or sole proprietorship who, as such officer, employee, member or other responsible person, is under a duty to perform the act in respect to which the violation occurs.

3. 'Employees' statements.' Any person, whether exempt under s. 71.05 (1) to (3), 71.26 (1) or 71.45 or not, required under s. 71.65 (1) to furnish a written statement to an employee, who furnishes a false or fraudulent statement, or who intentionally fails to furnish a statement in the manner, at the time and showing the information required under s. 71.65 (1), or rules prescribed with respect thereto, shall, for each such failure, be subject to a penalty of $20. "Person", in this subdivision, includes an officer or employee of a corporation or other responsible person or a member or employee of a partnership or limited liability company or other responsible person who, as such officer, employee, member or other responsible person, is under a duty to perform the act in respect to which the violation occurs.

4. 'Exemption documents.' Any employee who files a withholding exemption certificate, form or agreement under s. 71.64 (2) (b) or 71.66 (1) (a), (2) or (3) with the intent to defeat or evade the proper withholding of tax under subch. X shall be subject to a penalty equal to the difference between the amount required to be withheld and the amount actually withheld for the period that the incorrect certificate, form or agreement was in effect.

5. 'Joint return after separate returns.' If the amount shown as the tax by the husband and wife on a joint return filed under s. 71.03 (2) (g) to (L) exceeds the sum of the amounts shown as the tax on the separate return of each spouse and if any part of that excess is attributable to fraud with intent to evade tax at the time of the filing of that separate return, then 50% of the total amount of that excess shall be added to the tax.

6. 'Corporations.' If a corporation or limited liability company files a false declaration of complete inactivity, or, after filing a declaration, becomes activated or reactivated and fails to file timely statements and information under this chapter covering such year or years of activity or reactivity its officers or managers at the time of such filing or failure shall be jointly and severally liable for a civil penalty of $25 for such filing or each such failure, which penalty may be assessed and collected as income or franchise taxes are assessed and collected.

(c) *Medical savings account withdrawals.* Any person who is liable for a penalty for federal income tax purposes under section 220 (f) (4) of the Internal Revenue Code is liable for a penalty equal to 33% of that penalty. The department of revenue shall assess, levy and collect the penalty under this paragraph as it assesses, levies and collects taxes under this chapter.

(ce) *Health savings accounts.* Any person who is liable for a penalty for federal income tax purposes under section 223 (f) (4) of the Internal Revenue Code is liable for a penalty equal to 33 percent of that penalty. The department of revenue shall assess, levy, and collect the penalty under this paragraph as it assesses, levies, and collects taxes under this chapter.

(d) *Sale of certain business assets or assets used in farming.* 1. If a person who purchases or otherwise receives business assets or assets used in farming, of which the gains realized by the transferor on the sale or disposition of such assets are exempt from taxation under s. 71.05 (6) (b) 25., sells or otherwise disposes of the assets within 2 years after the person purchases or receives the assets, the person shall pay a penalty that is calculated under subd. 2.

2. The penalty described under subd. 1. shall be the amount of income tax that would have been imposed under s. 71.02 on the capital gains received by the transferor in the transaction described in subd. 1. if the exemption under s. 71.05 (6) (b) 25. did not apply to the transaction multiplied by a fraction, the denominator of which is 24 and the numerator of which is the difference between 24 and the number of months between the date on which the person who is liable for the penalty purchased or otherwise received the assets described in subd. 1. and the month in which the person sells or otherwise disposes of the assets.

3. The department of revenue shall assess, levy and collect the penalty under this paragraph as it assesses, levies and collects taxes under this chapter.

(2) CRIMINAL. (a) *Misdemeanor.* 1. 'All persons.' If any person, including an officer of a corporation or a manager of a limited liability company required by law to make, render, sign or verify any return, willfully fails or refuses to make a return at the time required in s. 71.03, 71.24 or 71.44 or willfully fails or refuses to make deposits or payments as required by s. 71.65 (3) or willfully renders a false or fraudulent statement required by s. 71.65 (1) and (2) or deposit report or withholding report required by s. 71.65 (3), such person shall be guilty of a misdemeanor and may be fined not more than $10,000 or imprisoned for not to exceed 9 months or both, together with the cost of prosecution.

2. 'Penalties for certain false documents.' Any person who willfully makes and subscribes any return, claim, statement or other document required by this chapter that that person does not believe to be true and correct as to every material matter or who willfully aids in, procures, counsels or advises the preparation of any return, claim, statement or other document that is false or fraudulent as to any material matter related to, or required by, this chapter may be fined not more than $10,000 or imprisoned for not more than 9 months or both, together with the cost of prosecution.

3. 'Divulging information.' Any person who violates s. 71.78 shall upon conviction be fined not less than $100 nor more than $500 or imprisoned for not less than one month nor more than 6 months or both.

3m. 'Browsing in records.' Any person who violates s. 71.78 (1m) (a) shall upon conviction be fined not less than $100 nor more than $500 or imprisoned for not less than one month nor more than 6 months or both.

4. 'Coercing employee to prepay taxes.' Any employer found guilty of violating s. 71.09 (15) (d) may be fined not less than $25 nor more than $200 for each violation.

5. 'False withholding agreement.' Any employee who willfully supplies an employer with false or fraudulent information regarding an agreement with the intent to defeat or evade the proper withholding of tax under subch. X may be imprisoned for not more than 6 months or fined not more than $500, plus the costs of prosecution, or both.

6. 'Construction contractor surety bond.' Any person who fails or refuses to comply with s. 71.80 (16) shall be fined not less than $300 nor more than $5,000.

(b) *Felony.* 1. 'False income tax return; fraud.' Any person, other than a corporation or limited liability company, who renders a false or fraudulent income tax return with intent to defeat or evade any assessment required by this chapter is guilty of a Class H felony and may be assessed the cost of prosecution. In this subdivision, "return" includes a separate return filed by a spouse with

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

respect to a taxable year for which a joint return is filed under s. 71.03 (2) (g) to (L) after the filing of that separate return, and a joint return filed by the spouses with respect to a taxable year for which a separate return is filed under s. 71.03 (2) (m) after the filing of that joint return.

2. 'Officer of a corporation; false franchise or income tax return.' Any officer of a corporation or manager of a limited liability company required by law to make, render, sign or verify any franchise or income tax return, who makes any false or fraudulent franchise or income tax return, with intent to defeat or evade any assessment required by this chapter is guilty of a Class H felony and may be assessed the cost of prosecution.

3. 'Evasion.' Any person who removes, deposits or conceals or aids in removing, depositing or concealing any property upon which a levy is authorized with intent to evade or defeat the assessment or collection of any tax administered by the department is guilty of a Class I felony and may be assessed the cost of prosecution.

4. 'Fraudulent claim for credit.' A claimant who files a claim for credit under s. 71.07, 71.28 or 71.47 or subch. VIII or IX that is false or excessive and filed with fraudulent intent and any person who, with fraudulent intent, assists in the preparation or filing of the false or excessive claim or supplied information upon which the false or excessive claim was prepared is guilty of a Class H felony and may be assessed the cost of prosecution.

(3) LATE FILING FEES. (a) If any person required under this chapter to file an income or franchise tax return fails to file a return within the time prescribed by law, or as extended under s. 71.03 (7), 71.24 (7) or 71.44 (3), unless the return is filed under such an extension but the person fails to file a copy of the extension that is granted by or requested of the internal revenue service, the department shall add $50 to the person's tax if the return is filed under subch. I of this chapter or $150 to the person's tax if the return is filed under subch. IV or VII of this chapter. If no tax is assessed against any such person the amount of this fee shall be collected as income or franchise taxes are collected. If any person who is required under s. 71.65 (3) to file a withholding report and deposit withheld taxes fails timely to do so and upon a showing by the department under s. 73.16 (4); unless the person so required dies; the department of revenue shall add $50 to the amount due except that if the person is subject to taxation under subch. IV or VII of this chapter the department shall add $150 to the amount due.

(b) A partnership that fails to file a statement under s. 71.20 (1) by the due date, including any extension, is subject to a $50 fee.

(4) SALES AND USE TAX REPORTING. This section does not apply to the failure to report, or the incomplete or incorrect reporting of, sales and use taxes due under subch. III of ch. 77 on any return filed under this chapter.

History: 1987 a. 312; 1989 a. 31, 90; 1991 a. 39, 190, 269, 315; 1993 a. 16, 112, 213; 1995 a. 428, 453; 1997 a. 27, 237, 283, 323; 1999 a. 32; 2001 a. 109; 2007 a. 20; 2009 a. 28; 2011 a. 1, 68.

71.84 Addition to the tax. (1) INDIVIDUALS AND FIDUCIARIES. Except as provided in s. 71.09 (11), in the case of any underpayment of estimated tax by an individual, estate or trust, except as provided under s. 71.09, there shall be added to the aggregate tax for the taxable year interest at the rate of 12% per year on the amount of the underpayment for the period of the underpayment. In this subsection, "the period of the underpayment" means the time period from the due date of the installment until either the 15th day of the 4th month beginning after the end of the taxable year or the date of payment, whichever is earlier.

(2) CORPORATIONS. (a) Except as provided in s. 71.29 (7), in the case of any underpayment of estimated tax under s. 71.29 or 71.48 there shall be added to the aggregate tax for the taxable year interest at the rate of 12% per year on the amount of the underpayment for the period of the underpayment. For corporations, except as provided in par. (b), "period of the underpayment" means the time period from the due date of the installment until either the 15th day of the 3rd month beginning after the end of the taxable year or the date of payment, whichever is earlier. If 90% of the tax shown on the return is not paid by the 15th day of the 3rd month following the close of the taxable year, the difference between that amount and the estimated taxes paid, along with any interest due, shall accrue delinquent interest under s. 71.91 (1) (a).

(b) For corporations that are subject to a tax under this chapter on unrelated business taxable income, as defined under section 512 of the internal revenue code, and virtually exempt entities, "period of the underpayment" means the time period from the due date of the installment until either the 15th day of the 5th month beginning after the end of the taxable year or the date of payment, whichever is earlier. If 90% of the tax shown on the return is not paid by the 15th day of the 5th month following the close of the taxable year, the difference between that amount and the estimated taxes paid along with any interest due, shall accrue delinquent interest under s. 71.91 (1) (a).

(c) If a refund under s. 71.29 (3m) results in an income or franchise tax liability that is greater than the amount of estimated taxes paid in reduced by the amount of the refund, the taxpayer shall add to the aggregate tax for the taxable year interest at an annual rate of 12% on the amount of the unpaid tax liability for the period beginning on the date the refund is issued and ending on the 15th day of the 3rd month beginning after the end of the taxable year, or the date the tax liability is paid, whichever is earlier.

History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39.

The definition of "return" in s. 71.29 applies to both the first and last sentences in sub. (2) (a). Thus, "return" means a return showing the proper amount due, regardless of whether the audited amount due is higher than the amount shown on the filed return. General Casualty Company v. DOR, 2002 WI App 248, 258 Wis. 2d 196, 653 N.W.2d 513, 01−2810.

71.85 General provisions. (1) PENALTIES NOT DEDUCTIBLE. No penalty imposed by this chapter, including penalties imposed under s. 71.83 (1) (a) 3., 4. and 5. and (b) 2., 3. and 4. and (2) (a) 1., 4. and 5., or by subch. III of ch. 77 may be deducted from gross income in arriving at net income taxable under this chapter.

(2) PROSECUTIONS BY ATTORNEY GENERAL. The attorney general is authorized, upon request of the secretary of revenue, to represent the state or to assist the district attorney in the prosecution of any case arising under s. 71.83 (2) (a) 1. or (2) (b) 1. or 2.

(3) ABATEMENT OF INTEREST AND PENALTIES. No penalty or interest that has been imposed under this subchapter on a taxpayer who is eligible for the exemption under s. 71.05 (6) (b) 13. or 14. may continue to accrue while the taxpayer is in the Operation Desert Shield or Operation Desert Storm theater of operations and for 180 days after the taxpayer leaves the Operation Desert Shield or Operation Desert Storm theater of operations.

History: 1987 a. 312, 411; 1991 a. 2; 1995 a. 255; 1997 a. 36; 2001 a. 103.

SUBCHAPTER XIV

APPEALS

71.87 Definition. In this subchapter, "person feeling aggrieved" and "person aggrieved" include the spouse of a person against whom an additional assessment was made or who was denied a claim for refund for a taxable year for which a separate return was filed and include either spouse for a taxable year for which a joint return was filed or, if no return was filed, a joint return could have been filed.

History: 1987 a. 312.

71.88 Time for filing an appeal. (1) APPEAL TO THE DEPARTMENT OF REVENUE. (a) *Contested assessments and claims for refund.* Except for refunds set off under s. 71.93 in respect to which appeal is to the agency to which the debt is owed, except for refunds set off under s. 71.935 in respect to which an appeal is held under procedures that the department of revenue establishes and except for refunds set off under s. 49.855 in respect to which a hearing is held before the circuit court, any person feeling aggrieved by a notice of additional assessment, refund, or notice

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

of denial of refund may, within 60 days after receipt of the notice, petition the department of revenue for redetermination. A petition or an appeal by one spouse is a petition or an appeal by both spouses. The department shall make a redetermination on the petition within 6 months after it is filed.

(b) *Contested adjustments to credits.* Any person feeling aggrieved by the determination made by the department to adjust a credit claimed under s. 71.07, 71.28 or 71.47 or subch. VIII or IX may, within 60 days after receipt, petition the department for redetermination. The department shall make a redetermination on the petition within 6 months after it is filed and notify the claimant under s. 71.74 (11). If no timely petition for redetermination is filed with the department, its determination shall be final and conclusive.

Cross−reference: See also s. Tax 1.14, Wis. adm. code.

(2) APPEAL TO THE WISCONSIN TAX APPEALS COMMISSION. (a) *Appeal of the department's redetermination of assessments and claims for refund.* A person feeling aggrieved by the department's redetermination may appeal to the tax appeals commission by filing a petition with the clerk of the commission as provided by law and the rules of practice promulgated by the commission. If a petition is not filed with the commission within the time provided in s. 73.01 or, except as provided in s. 71.75 (5), if no petition for redetermination is made within the time provided the assessment, refund, or denial of refund shall be final and conclusive.

(b) *Appeal of department's redetermination of credits.* Any person aggrieved by the department of revenue's redetermination of a credit under s. 71.07 (3m), (6), or (9e), 71.28 (1) or (2m) or 71.47 (1) or (2m) or subch. VIII or IX, except when the denial is based upon late filing of claim for credit or is based upon a redetermination under s. 71.55 (8) of rent constituting property taxes accrued as at arm's length, may appeal the redetermination to the tax appeals commission by filing a petition with the commission within 60 days after the redetermination, as provided under s. 73.01 (5) with respect to income or franchise tax cases, and review of the commission's decision may be had under s. 73.015. For appeals brought under this paragraph, the filing fee required under s. 73.01 (5) (a) does not apply.

History: 1987 a. 312; 1989 a. 31; 1991 a. 39; 1995 a. 27, 404; 2005 a. 49.
Cross−reference: See also ch. TA 1, Wis. adm. code.

71.89 Appeal procedures. (1) If the taxpayer requests a hearing, the additional tax or overpayment shall not become due and payable until after hearing and determination of the tax by the tax appeals commission or disposition of the appeal pursuant to stipulation and order under ss. 73.01 (4) (a) and 73.03 (25).

(2) No person against whom an assessment of income or franchise tax has been made shall be allowed in any action either as plaintiff or defendant or in any other proceeding to question such assessment unless the requirements of ss. 71.88 and 71.90 (1) shall first have been complied with, and unless such person shall have made full disclosure under oath at the hearing before the tax appeals commission of any and all income that the person received. The requirement of full disclosure under this subsection may be waived by the department of revenue.

(3) As soon as the appellant shall have filed a petition with the tax appeals commission, all collection proceedings, except proceedings under s. 71.74 (14), shall be stayed until final determination of the appeal and any review thereof.

(4) Any person who contests an assessment before the tax appeals commission or in court shall state in his or her petition or notice of appeal what portion if any of the tax is admitted to be legally assessable and correct. Within 5 days after notice by the department, the appellant shall pay to the department the whole amount of the admitted tax and such tax shall be appropriated in accordance with s. 25.20. Any such payment shall be considered an admission of the legality of the tax thus paid, and such tax so paid cannot be recovered in the pending appeal or in any other action or proceeding.

(5) After final decision or other disposition, the record shall be returned to the department of revenue, and the department shall proceed to collect the taxes in the same manner as other income or franchise taxes are collected.

History: 1987 a. 312; 1991 a. 39.

71.90 Depositing contested amounts. (1) DEPOSIT. The department shall notify any person who files a petition for redetermination that the person may deposit the amount of an additional assessment, including any interest or penalty, with the department, or with a person that the department prescribes, at any time before the department makes its redetermination. The department shall notify spouses jointly except that, if the spouses have different addresses and if either spouse notifies the department in writing of those addresses, the department shall serve a duplicate of the original notice on the spouse who has the address other than the address to which the original notice was sent. Amounts deposited under this subsection shall be subject to the interest provided by s. 71.82 only to the extent of the interest accrued prior to the first day of the month succeeding the date of deposit. Any deposited amount which is refunded shall bear interest at the rate of 9% per year during the time the funds were on deposit. A person may also pay any portion of an assessment which is admitted to be correct and the payment shall be considered an admission of the validity of that portion of the assessment and may not be recovered in an appeal or in any other action or proceeding.

Cross−reference: See also s. Tax 2.88, Wis. adm. code.

(2) DEPOSIT WITH THE DEPARTMENT. At any time while the petition is pending before the tax appeals commission or an appeal in regard to that petition is pending in a court, the taxpayer may offer to deposit the entire amount of the additional taxes, penalties, and fines, together with interest, with the department. The department shall, upon final determination of the appeal, refund to the appellant any portion of such payment which has been found to have been improperly assessed, including interest.

History: 1987 a. 312; 1997 a. 27; 2003 a. 33; 2007 a. 20.

SUBCHAPTER XV

COLLECTION OF DELINQUENT TAXES AND STATE AGENCY DEBTS

71.91 Collection provisions. (1) TIME TAXES BECOME DELINQUENT. (a) *Income and franchise taxes.* Income and franchise taxes shall become delinquent if not paid when due under s. 71.03 (8) (b) and (c), 71.24 (9) or 71.44 (4) (b), and the department shall immediately proceed to collect the same. For the purpose of such collection the department or its duly authorized agent shall have the same powers as conferred by law upon the county treasurer, county clerk, sheriff and district attorney.

(b) *Withholding.* Any amount not deposited or paid over to the department, or to the person that the department prescribes, within the time required shall be deemed delinquent and deposit reports or withholding reports filed after the due date shall be deemed late. In the case of a timely filed deposit or withholding report, withheld taxes shall become delinquent if not deposited or paid over on or before the due date of the report. In the case of no report filed or a report filed late, withheld taxes shall become delinquent if not deposited or paid over by the due date of the report. In the case of an assessment under s. 71.83 (1) (b) 2., the amount assessed shall become delinquent if not paid on or before the due date specified in the notice of deficiency, but if the assessment is contested before the tax appeals commission or in the courts, it shall become delinquent on the 30th day following the date on which the order or judgment representing final determination becomes final.

(c) *Contested income and franchise tax assessments.* Any additional income or franchise tax assessment contested before the tax appeals commission or in the courts, which is finally determined to be correct, shall become delinquent if not paid on or

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

before the 30th day following the date on which the order or judgment representing such final determination becomes final and conclusive. Any additional income or franchise tax assessment so contested shall be subject to s. 71.74 (14).

(2) TIME TAX OBLIGATION INCURRED. Any tax obligation, including interest, penalties and costs thereon, to the department of revenue is incurred on the date of the department's initial assessment or notice of the amount due of that tax.

(3) MARITAL OBLIGATIONS. All tax obligations to this state, including interest, penalties and costs thereon, incurred during marriage by a spouse after December 31, 1985, or after both spouses are domiciled in this state, whichever is later, are incurred in the interest of the marriage or family and may be satisfied only under ss. 766.55 (2) (b) and 859.18. However, if one spouse is relieved of liability under s. 71.10 (6) (a) or (b) or (6m), the tax obligation to this state of the other spouse may be satisfied only under s. 766.55 (2) (d) or by set−off under s. 71.55 (1), 71.61 (1) or 71.80 (3) or (3m).

(4) UNPAID TAX IS PERFECTED LIEN ON PROPERTY. If any person liable to pay any income or franchise tax neglects, fails, or refuses to pay the tax, the amount, including any interest, addition to tax, penalty, or costs, shall be a perfected lien in favor of the department of revenue upon all property and rights to property. The lien is effective at the time taxes are due or at the time an assessment is made and shall continue until the liability for the amount to be paid or for the amount so assessed is satisfied, except that liens related to warrants entered under sub. (5) (b) 1. after May 5, 2004, shall continue for 20 years beginning on the date on which the warrant is entered under sub. (5) (b) 1., subject to renewal under sub. (5) (dm), or until the liability for the amount to be paid or for the amount so assessed is satisfied, whichever comes first. The perfected lien does not give the department of revenue priority over lienholders, mortgagees, purchasers for value, judgment creditors, and pledges whose interests have been recorded before the department's lien is recorded.

(5) WARRANT SHALL BE ISSUED. (ag) In this subsection, "file" means mail, deliver, or submit electronically.

(ar) If any income or franchise tax is not paid when due, the department of revenue shall file a warrant with the clerk of circuit court and may issue a copy of the warrant to the sheriff of any county of the state commanding the sheriff to levy upon and sell enough of the taxpayer's real and personal property found within the county to pay the tax with the penalties, interest and costs, and to proceed upon the property in the same manner as upon an execution against property issued out of a court of record, and to return the warrant to the department and pay to it the money collected, or the part of it that is necessary to pay the tax, penalties, interest and costs within 60 days after the receipt of the warrant, and deliver the balance, if any, after deduction of lawful charges, to the taxpayer.

(b) 1. The clerk of circuit court shall enter the warrant under par. (ar) as required by s. 806.11, and upon entering the amount of the warrant, together with interest required by s. 71.82 (2), the warrant shall be considered in all respects as a final judgment. The clerk of circuit court shall accept, file and enter the warrant without prepayment of any fee, but the clerk of circuit court shall submit a statement of the proper fee semiannually to the department covering the periods from January 1 to June 30 and July 1 to December 31. The fees shall then be paid by the state as provided by par. (h), but the fees provided by s. 814.61 (5) for filing and entering the warrants shall be added to the amount of the warrant and collected from the taxpayer when satisfaction or release is presented for entry.

2. The sheriff shall be entitled to the same fees for executing upon such warrant as upon an execution against property issued out of a court of record, to be collected in the same manner.

3. Upon the sale of any real estate the sheriff shall execute a deed of the same, and the taxpayer shall have the right to redeem the real estate as from a sale under an execution against property upon a judgment of a court of record.

(c) A like warrant may be issued to any agent of the department authorized to collect income or franchise taxes, and in the execution thereof and collection of said taxes such agent shall have the powers of a sheriff, but shall not be entitled to collect from the taxpayer any fee or charge for the execution of such warrant in excess of actual expenses paid in the performance of his or her duty. When a warrant is issued to such agent he or she may proceed upon the same in any county of the state designated in the warrant, in the same manner as provided in this subchapter with respect to sheriffs of such counties.

(d) Upon entry of a warrant in the judgment and lien docket, the department of revenue shall have the same remedies to enforce the claim for taxes, penalties, interest and costs as upon a judgment against the taxpayer.

(dm) The department of revenue may renew a lien that expires after 20 years, as specified under sub. (4), by filing a warrant as provided under par. (ar) no earlier than 180 days prior to the date that the lien expires and no later than the date that the lien expires. The clerk of circuit court shall enter the warrant as provided under par. (b) 1., except that no fee shall be assessed for any warrant filed under this paragraph. A lien that is the subject of a warrant filed under this paragraph retains its priority for payment under the original warrant and remains in effect for a period of 20 years beginning on the expiration date of the immediately preceding lien, subject to renewal under this paragraph, or until the liability for the amount to be paid or for the amount so assessed is satisfied, whichever comes first. The department of revenue may subsequently renew, in the manner described in this paragraph, any lien renewed under this paragraph until the liability for the amount to be paid or for the amount so assessed is satisfied.

(e) The department, if it finds that the interests of the state will not thereby be jeopardized, and upon such conditions as it may exact, may issue a release, of any warrant with respect to any real property upon which said warrant is a lien or cloud upon title, and such release shall be entered of record by the clerk upon presentation to him or her and payment of the fee for filing said release and the same shall be held conclusive that the lien or cloud upon the title of the property covered by the release is extinguished. Any person desiring that such release be issued shall present to the department a written application in affidavit form requesting that the release be issued. Such application shall give the reasons for the request and shall clearly describe the property with respect to which the release is desired. In support of the request, the applicant shall furnish the department with proof sufficient to establish satisfactorily the fair market value of the property, the amounts, character and dates, both of execution and of record, of all encumbrances of record prior to the warrant lien, as well as the amount and character of any unrecorded encumbrances believed to be prior to the warrant lien, including information as to how and when all such encumbrances arose. Appropriate references shall be made to the pages and volumes of the recording books in which any such encumbrances have been recorded. The department may require a certified copy of any record referred to in such application to be furnished by the applicant, at his or her expense, from the officer in whose office such record is kept.

(f) When the taxes set forth in a warrant together with penalties and interest to date of payment and all costs due the department have been paid to it or when such warrant has not been paid or discharged, but the taxes for which such warrant was issued have been canceled or credited, the department shall issue a satisfaction of the warrant and file it with the clerk and said warrant shall be immediately satisfied of record by such clerk. The department shall send a copy of such satisfaction to the taxpayer at the taxpayer's request. If the taxpayer so requests, the department shall indicate the amount that was paid to satisfy the warrant. When such warrant has not been paid or discharged but the enforcement of

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

same would, in the opinion of the department, result in depriving the taxpayer of a substantial right, the department may issue a release of said warrant and file same with the clerk who shall immediately make an entry of same of record, and it shall be held conclusive of the extinguishment of the warrant and all liens and rights created thereby, but shall not constitute a release or satisfaction of the taxes for which such warrant was issued.

(g) If the department of revenue has issued an erroneous warrant, the department shall issue to the clerk of circuit court for the county in which the warrant is filed a notice of withdrawal of the warrant. The clerk shall void the warrant and any liens attached by it.

(h) All fees and compensation of officials or other persons performing any act or functions required in carrying out this subchapter, except such as are by this subchapter to be paid to such officials or persons by the taxpayer, shall, upon presentation to the department of revenue of an itemized and verified statement of the amount due, be paid, upon audit by the department of administration on the certificate of the secretary of revenue, by the secretary of administration and charged to the proper appropriation for the department of revenue. No public official shall be entitled to demand prepayment of any fee for the performance of any official act required in carrying out this subchapter.

(i) The state may be made a party defendant in any action to foreclose a mortgage, land contract, or other lien upon any real property affected by such warrant lien, and the summons may be served by delivering a copy to the attorney general or leaving it at the attorney general's office in the capitol with an assistant or clerk. But no judgment for the recovery of money or personal property or costs shall be rendered against the state in any such action.

(j) The provisions of this subchapter shall be in addition to all other methods for the collection of income or franchise taxes, and the department of revenue may exercise the powers vested in it by virtue of ss. 73.03 (20) and 73.04 or any of the powers vested in it by virtue of any other statute for the purpose of enforcing collection of income or franchise taxes.

(k) All payments made on delinquencies shall be applied first in discharging costs, penalties and interest and the balance applied on the principal of the tax. In this paragraph, "principal of the tax" means the tax and interest added to it under ss. 71.03 (7), 71.24 (7), 71.44 (3) and 71.82.

(5m) APPLICABILITY OF PERSONAL PROPERTY TAX LAWS. (a) All laws not in conflict with this chapter relating to the assessment, collection and payment of taxes on personal property, the correction of errors in assessment and tax rolls, and the collection of delinquent personal property taxes except the provisions for the compromise or cancellation of illegal taxes and the refunds of moneys paid thereon, as shown by the 1985 statutes, shall be applicable to the income or franchise tax provided in this chapter.

(b) The provisions for the compromise or cancellation of illegal personal property taxes and for refunds of personal property taxes apply to the taxes under this chapter to the extent that those provisions do not conflict with par. (a) or s. 71.92.

(6) LEVY UPON PROPERTY FOR TAXES. (a) *Definitions.* In this subsection:

1. "Department" means the department of revenue.

2. "Levy" means all powers of distraint and seizure.

3. "Property" includes real and personal property and tangible and intangible property and rights to property but is limited to property and rights to property existing at the time of levy.

4. "Taxes" means the principal of the tax as defined in sub. (5) (k), interest, penalties and costs.

(b) *Powers of levy and distraint.* If any person who is liable for any tax administered by the department neglects or refuses to pay that tax within 10 days after that tax becomes delinquent, the department may collect that tax and the expenses of the levy by levy upon, and sale of, any property belonging to that person or any property on which there is a lien as provided by sub. (4) in respect to that delinquent tax. Whenever any property that has been levied upon under this section is not sufficient to satisfy the claim of the department, the department may levy upon any other property liable to levy of the person against whom that claim exists until the taxes and expenses of the levy are fully paid. A levy on commissions, wages or salaries is continuous until the liability out of which it arose is satisfied.

(c) *Duty to surrender.* 1. Except as provided in subd. 2., any person in possession of, or obligated with respect to, property subject to levy upon which a levy has been made shall, upon demand of the department, surrender that property unless it is subject to attachment or execution under judicial process, or discharge that obligation, to the department.

2. Levying upon a life insurance or endowment contract issued by a 3rd person, without necessity for the surrender of the contract document, is a demand by the department for payment of the amount under subd. 3. and for the exercise of the right of the person against whom the tax is assessed to an advance of that amount. The person who issued the contract shall pay over that amount within 90 days after the service of the notice of the levy. That notice shall include a certification by the department that a copy of that notice has been mailed to the person against whom the tax is assessed at that person's last−known address.

3. The levy under subd. 2. is satisfied if the person who issued the contract pays to the department, or to the person that the department prescribes, the amount that the person against whom the tax is assessed could have had advanced by the person who issued the contract on the date under subd. 2. for the satisfaction of the levy, increased by the amount of any advance, including contractual interest, made to the person against whom the tax is assessed on or after the date the person who issued the contract had actual notice or knowledge of the existence of the lien with respect to which that levy is made, other than an advance, including contractual interest on it, made automatically to maintain the contract in force under an agreement entered into before the person who issued the contract had notice or knowledge of that lien. Any person who issued a contract and who satisfies a levy under this paragraph is discharged from all liability to any beneficiary because of that satisfaction.

(d) *Failure to surrender; discharge.* 1. Any person, including an officer or employee, who fails to surrender property that is subject to levy upon demand of the department is liable to the department for a sum equal to the value of the property not surrendered, but not exceeding the amount of taxes for the collection of which that levy was made, together with costs and interest at the rate of 18% per year from the date of that levy. Any amount, other than costs, recovered under this paragraph shall be credited against the tax liability for the collection of which that levy was made. The liability under this paragraph may be assessed, levied and collected as are additional income or franchise taxes or may be recovered by the department in a civil action.

2. In addition to the liability imposed under subd. 1., if any person required to surrender property fails or refuses to surrender that property without reasonable cause, that person is liable for a penalty equal to 50% of the amount recoverable under subd. 1. No part of the penalty under this subdivision may be credited against the tax liability for the collection of which that levy was made. The penalty under this subdivision may be assessed, levied and collected as are additional income or franchise taxes or may be recovered by the department in a civil action.

3. Any person in possession of, or obligated with respect to, property upon which a levy has been made who, upon demand by the department, surrenders that property, or discharges that obligation, to the department or who pays a liability under subd. 1. is discharged from any liability to the delinquent taxpayer or, in the case of payments under par. (c) 2., to a beneficiary, with respect to that property arising from that surrender or payment.

(e) *Actions against this state.* 1. If the department has levied upon or sold property, any person, other than the person who is assessed the tax out of which the levy arose, who claims an interest

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

in or lien on that property and claims that that property was wrongfully levied upon may bring a civil action against the state in the circuit court for Dane County. That action may be brought whether or not that property has been surrendered to or sold by the department. The court may grant only the relief under subd. 2. No other action to question the validity of or restrain or enjoin a levy by the department may be maintained.

2. In actions under subd. 1., if a levy or sale would irreparably injure rights to property, the court may enjoin the enforcement of that levy or prohibit that sale. If the court determines that the property has been wrongfully levied upon, it may order the return of specific property that the department possesses or grant a judgment for the amount of money obtained by levy. If the property was sold, the court may grant a judgment for an amount not exceeding the amount received by the department from the sale. If the property was purchased by the state at a sale under par. (f), the state shall be treated as having received an amount equal to the minimum price determined under that paragraph or the amount received by the state from the resale of that property, whichever is larger.

3. For purposes of an adjudication under this paragraph, the assessment of the tax upon which the interest or lien of the department is based is conclusively presumed to be valid. Interest shall be allowed for judgments under this paragraph at the rate of 12% per year from the date the department receives the money wrongfully levied upon to the date of payment of the judgment or from the date of sale to the date of payment.

(f) *Notice and sale.* 1. As soon as practicable after obtaining property, the department shall notify, in writing, the owner of any real property, and the possessor of any personal property, obtained by the department under this subsection. That notice may be left at the person's usual place of residence or business. If the owner cannot be located or has no dwelling or place of business in this state, or if the property is obtained as a result of a continuous levy on commissions, wages or salaries, the department may mail a notice to the owner's last−known address. That notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property obtained and, in the case of real property, a description with reasonable certainty of the property seized.

2. As soon as practicable after obtaining property, the department shall notify the owner in the manner prescribed under subd. 1. and shall cause a notice of the sale to be published in a newspaper published or generally circulated within the county where the property was obtained. If there is no newspaper published or generally circulated in that county, the department shall post that notice at the city, town or village hall nearest the place where the property was obtained and in at least 2 other public places. That notice shall specify the property to be sold and the time, place, manner and conditions of the sale.

3. If any property liable to levy is not divisible so as to enable the department, by sale of a part, to raise the whole amount of the tax and expenses, the whole of the property shall be sold.

4. The sale shall occur not less than 10 days and not more than 40 days after the notice under subd. 2. The department may interrupt the sale, but not for a period longer than 90 days. The sale shall be in the county in which the property is levied upon or in Dane County.

5. Before the sale, the department shall determine a minimum price for which the property shall be sold. If no person offers for that property at the sale at least the amount of the minimum price, the state shall purchase the property for the minimum price; otherwise, the property shall be sold to the highest bidder. In determining the minimum price, the department shall take into account the expense of making the levy and sale in addition to the value of the property. If payment in full is required at the time of acceptance of a bid and is not paid then, the department shall sell the property in the manner provided under this paragraph. If the conditions of the sale permit part of the payment to be deferred and if that part is not paid within the prescribed period, the department may sue the purchaser in the circuit court for Dane County for the unpaid part of the purchase price and interest at the rate of 12% per year from the date of the sale or the department may declare the sale void and may sell the property again under this paragraph. If the property is sold again, the 2nd purchaser shall receive it free of any claim of the defaulting purchaser and the amount paid upon the bid price by the defaulting purchaser is forfeited.

6. No property of any person is exempt from levy and sale under this subsection.

(g) *Redemption.* 1. Any person whose property has been levied upon may pay the amount due and the expenses of the proceeding to the department, or to the person that the department prescribes, at any time before the sale. Upon that payment, the department shall restore the property to the person whose property has been levied upon and stop all proceedings related to the levy.

2. The owners of any real property sold under par. (f), their heirs or personal representatives, or any person having an interest in or a lien on that property, or any person on behalf of a person specified in this subdivision may redeem the property sold, or any part of that property, within 120 days after the sale by payment to the purchaser or, if the purchaser cannot be found in the county in which the property to be redeemed is situated, then to the department, for the use of the purchaser or the purchaser's heirs or assigns, the amount paid by the purchaser and interest at the rate of 18% per year.

(h) *Certificate of sale.* 1. The department shall give the purchaser under par. (f) a certificate of sale upon payment in full of the purchase price. In the case of real property, that certificate shall specify the property purchased, the name of the purchaser and the price.

2. In the case of any real property sold under par. (f) and not redeemed under par. (g), the department shall execute to the purchaser, upon surrender of the certificate of sale, a deed reciting the facts set forth in the certificate.

3. If real property is purchased by the state under par. (f), the department shall execute and record a deed.

4. The certificate of sale for personal property sold under par. (f) is prima facie evidence of the right of the department to make the sale and conclusive evidence of the regularity of the proceedings of the sale. That certificate transfers to the purchaser all right, title and interest of the delinquent party to the property sold. If that property is stocks, that certificate is notice, when received, to any person of that transfer and authority to record the transfer on books and records as if the stocks were transferred or assigned by the party holding them, and all prior certificates are void. If the subject of sale is securities or other evidence of debt, the certificate is valid against any person possessing or claiming to possess the securities or other evidence of debt. If the property is a motor vehicle, the certificate is notice, when received, to the department of transportation as if the certificate of title were transferred or assigned by the party holding that certificate of title, and any prior certificate is void.

5. The deed of sale of real property is prima facie evidence of the facts stated in it and conveys all of the right, title and interest the delinquent party had to the property.

6. A certificate of sale of personal property given or a deed to real property executed under this paragraph discharges that property from all liens, encumbrances and titles subordinate to the department's lien.

(i) *Determination of expenses.* The department shall determine the expenses to be allowed in all cases of levy and sale.

(j) *Departmental records.* The department shall keep a record of all sales of real property under par. (f) and of all redemptions of that property. The record shall set forth the tax for which any sale was made, the dates of levy and sale, the name of the party assessed and all proceedings related to the sale, the amount of expenses, the names of the purchasers and the date of the deed.

(k) *Use of proceeds.* 1. The department shall apply all money realized under this subsection first against the expenses of the pro-

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

ceedings and then against the liability in respect to which the levy was made or the sale was conducted and any other liability owed to the department by the delinquent person.

2. The department may refund or credit any amount left after the applications under subd. 1., upon claim for and satisfactory proof of, to the person entitled to that amount.

(L) *Release of levy.* The department may release the levy upon all or part of property levied upon to facilitate the collection of the liability, but that release does not prevent any later levy.

(m) *Wrongful levy.* 1. If the department determines that property has been wrongfully levied upon, the department may return the property, an amount of money equal to the amount of money levied upon or an amount of money equal to the amount of money received by the state from the sale of that property.

2. The department may return property at any time. The department may return an amount of money equal to the amount of money levied upon or received from sale within 9 months after the levy.

3. For purposes of this paragraph, if property is purchased by the state under par. (f) the state shall be treated as having received an amount of money equal to the minimum price determined under that paragraph or, if less, the amount of money received by the state from the resale of that property.

(n) *Preservation of remedies.* The availability of the remedy under this subsection does not abridge the right of the department to pursue other remedies.

(7) WITHHOLDING BY EMPLOYER OF DELINQUENT TAX OF EMPLOYEE. (a) In this subsection, "employee" includes any subcontractor.

(b) The department may give notice to any employer deriving income having a taxable situs in this state (regardless of whether any such income is exempt from taxation) to the effect that an employee of such employer is delinquent in a certain amount with respect to state taxes, including penalties, interest and costs. Such notice may be served by mail or by delivery by an employee of the department of revenue. Upon receipt of such notice of delinquency, the employer shall withhold from compensation due, or to become due to the employee, the total amount shown by the notice. The department may direct the employer to withhold part of the amount due the employee each pay period, until the total amount as shown by the notice, plus interest, has been withheld. The employer may not withhold more than 25% of the compensation due any employee for any one pay period, except that, if the employee leaves the employ of the employer or gives notice of his or her intention to do so, or is discharged for any reason, the employer shall withhold the entire amount otherwise payable to such employee, or so much thereof as may be necessary to equal the unwithheld balance of the amount shown in the notice of delinquency, plus delinquent interest. In crediting amounts withheld against delinquent taxes of an employee, the department shall apply amounts withheld in the following order: costs, penalties, delinquent interest, delinquent tax. The "compensation due" any employee for purposes of determining the 25% maximum withholding for any one pay period shall include all wages, salaries and fees constituting income, including wages, salaries, income advances or other consideration paid for future services, when paid to an employee, less amounts payable pursuant to a garnishment action with respect to which the employer was served prior to being served with the notice of delinquency and any amounts covered by any irrevocable and previously effective assignment of wages, of which amounts and the facts relating to such assignment the employer shall give notice to the department within 10 days after service of the notice of delinquency.

(c) In any case in which the employee ceases to be employed by the employer before the full amount set forth in a notice of delinquency, plus delinquent interest, has been withheld by the employer, the employer shall immediately notify the department in writing of the termination date of the employee and the total amount withheld.

(d) The employer shall, on or before the last day of the month after the month during which an amount was withheld, remit to the department or to the person that the department prescribes that amount. Any amount withheld from an employee by an employer shall immediately be a trust fund for this state. Should any employer, after notice, willfully fail to withhold in accordance with the notice and this subsection, or willfully fail to remit any amount withheld, as required by this subsection, such employer shall be liable for the total amount set forth in the notice together with delinquent interest as though the amount shown by the notice was due by such employer as a direct obligation to the state for delinquent taxes, and may be collected by any means provided by law including the means provided for the collection of delinquent income or franchise taxes. However, no amount required to be paid by an employer by reason of his or her failure to remit under this paragraph may be deducted from the gross income of such employer. Any amount collected from the employer for failure to withhold or for failure to remit under this subsection shall be credited as tax, costs, penalties and interest paid by the employee.

(e) Paragraphs (b) to (d) shall apply in any case in which the employer is the United States or any instrumentality thereof or this state or any municipality or other subordinate unit thereof except those provisions imposing a liability on the employer for failure to withhold or remit. But an amount equal to any amount withheld by any municipality or other subordinate unit of this state under this subsection and not remitted to the department as required by this subsection shall be retained by the secretary of administration from funds otherwise payable to any such municipality or subordinate unit, and transmitted instead to the department, upon certification by the secretary of revenue.

(f) The department shall refund to the employee excess amounts withheld from the employee under this subsection.

(g) Employers required to withhold delinquent taxes, penalties, interest and costs under this subsection shall not be required to withhold amounts other than the total amounts certified to such employers by the department and shall not be required to compute interest, costs or other charges to be withheld.

(h) The department may, by written notice served personally or by mail, require any employer, as defined in s. 71.63 (3), to withhold from the compensation due or to become due to any entertainer or entertainment corporation the amount of any delinquent state taxes, including costs, penalties and interest, shown by the notice. The employer shall send the money withheld to the department on or before the last day of the month after the month during which an amount was withheld.

(8) FINANCIAL RECORD MATCHING PROGRAM. (a) *Definitions.* In this subsection:

1. "Account" means a demand deposit account, checking account, negotiable withdrawal order account, savings account, time deposit account, or money market mutual fund account.

2. "Department" means the department of revenue.

3. "Financial institution" has the meaning given in s. 49.853 (1) (c).

5. "Person" includes any individual, firm, partnership, limited liability company, joint venture, joint stock company, association, public or private corporation, estate, trust, receiver, personal representative, and other fiduciary, and the owner of a single−owner entity that is disregarded as a separate entity under this chapter.

(b) *Matching program agreements.* The department shall promulgate rules specifying procedures under which the department shall enter into agreements with financial institutions doing business in this state to operate the financial record matching program under this subsection. The information shall be provided by electronic data exchange in the manner specified by the department by rule or by agreement between the department and the financial institution. If the financial institution requests reimbursement, the department shall reimburse a financial institution for costs associated with participating in the financial record matching program

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

under this subsection in an amount not to exceed $125 for each calendar quarter that the institution participates in the program.

(e) *Confidentiality.* A financial institution participating in the financial institution matching program under this subsection and the employees, agents, officers, and directors of the financial institution, may use any information provided by the department only for the purpose of administering this subsection and shall be subject to the confidentiality provisions of ss. 71.78 (1) and 77.61 (5) (a). Any person violating this paragraph may be fined not less than $25 nor more than $500, or imprisoned in the county jail for not less than 10 days nor more than one year or both.

(f) *Financial institution liability.* A financial institution is not liable to any person for disclosing information to the department under this subsection or for any other action that the financial institution takes in good faith to comply with this subsection.

(g) *Penalty.* A financial institution that fails to provide any information required within 120 days from either the date that the information is due or from the date that the department requests the information may be subject to a $100 penalty for each occurrence of the financial institution's failure to provide account information about an account holder. The department may commence civil proceedings to enforce this subsection if a financial institution fails to provide any information required after 120 days from either the date that the information is due or from the date that the department requests the information.

Cross−reference: See also s. Tax 1.16, Wis. adm. code.

History: 1987 a. 312, 411; 1989 a. 31 ss. 2102b, 2102f; 1991 a. 39, 315; 1993 a. 205; 1995 a. 27, 224, 233, 428; 1997 a. 27, 237; 2001 a. 102, 103; 2003 a. 33, 288; 2009 a. 28.

A lien docketed under sub. (5) (b) continues until the tax liability is satisfied, not for 10 years. 81 Atty. Gen. 41.

71.92 Compromises. (2) Any taxpayer who is unable to pay the full amount of his or her delinquent income or franchise taxes, costs, penalties and interest may apply to the department of revenue to pay such taxes, costs, penalties and interest in installments. Such application shall contain a statement of the reasons such taxes, costs, penalties and interest cannot be paid in full and shall set forth the plan of installment payments proposed by the taxpayer. Upon approval of such plan by the department and the payment of installments in accordance therewith collection proceedings with respect to such taxes, costs, penalties and interest shall be withheld; but on failure of the taxpayer to make any installment payment, the department shall proceed to collect the unpaid portion of such taxes, costs, penalties and interest in the manner provided by law. The department of revenue may require taxpayers who make installment payments under this subsection to do so by electronic funds transfer.

(3) Any taxpayer may petition the department of revenue to compromise his or her delinquent income or franchise taxes including the costs, penalties and interest. The petition shall set forth a sworn statement of the taxpayer and shall be in a form that the department prescribes and the department may examine the petitioner under oath concerning the matter. If the department finds that the taxpayer is unable to pay the taxes, costs, penalties and interest in full it shall determine the amount the taxpayer is able to pay and shall enter an order reducing such taxes, costs, penalties and interest in accordance with the determination. The order shall provide that the compromise, if paid in a lump sum, is effective only if paid within 10 days or the order shall provide that the compromise is effective if paid according to a payment schedule that is set up by the department. The department or its collection agents upon receipt of the order shall accept payment in accordance with the order. Upon payment of the total amount due under the order, the department shall credit the unpaid portion of the principal amount of such taxes and make appropriate record of the unpaid amount of penalties, costs, and interest accrued to the date of the order. If within 3 years of the date of the compromise order or the date of a final payment under a payment schedule, whichever is later, the department ascertains that the taxpayer has an income or property sufficient to enable the taxpayer to pay the remainder of the tax including costs, penalty and interest the department shall reopen the matter and order the payment in full of such taxes, costs, penalties and interest. Before the entry of the order a notice shall be given to the taxpayer in writing advising of the intention of the department of revenue to reopen the matter and fixing a time and place for the appearance of the taxpayer if the taxpayer desires a hearing. Upon entry of the order the department of revenue shall make an appropriate record of the principal amount of the taxes, penalties, costs and interest ordered to be paid and such taxes shall be immediately due and payable and shall thereafter be subject to the interest provided by s. 71.82 (2), and the department shall immediately proceed to collect the same together with the unpaid portion of penalty, costs, and interest accrued to the date of the compromise order.

(4) Delinquent income or franchise taxes, interest and penalties, resulting from assessments pursuant to s. 71.74 (3), 71.82 (2) (d) or 71.83 (1) (a) 3. or 4. or (b) 2. or 3. or from assessments by virtue of disallowance of claimed deductions for failure to file information reports relating thereto, as required by this chapter, may be compromised by the department when such action is fair and equitable under the circumstances.

(6) If any delinquent income or franchise tax has been referred by the department to the attorney general for collection and after having fully investigated the matter the attorney general determines that it would be in the best interest of the state to compromise the tax, a written recommendation shall be made to the department stating the terms upon which the tax should be compromised and the reasons therefor. The department shall approve or disapprove the recommendation and notify the department of justice. If approved the department of justice may enter into a stipulation with the taxpayer providing for the compromise of the tax on the terms set forth in the recommendation and upon compliance by the taxpayer the tax shall be fully discharged. The department of justice shall furnish the department with a copy of such stipulation, and the department or its agents charged with the collection of income or franchise taxes may accept payment of such tax in accordance with the terms of such stipulation and upon payment being made shall credit the unpaid portion of the tax. This subsection shall be in addition to all other powers of the department of justice and the department of revenue with respect to compromise or settlement of income or franchise taxes.

History: 1987 a. 312; 1989 a. 31; 1991 a. 39; 1997 a. 237; 1999 a. 189.

71.93 Setoffs for other state agencies. (1) DEFINITIONS. In this section:

(a) "Debt" means all of the following:

1. An amount owed to a state agency, if the amount has been reduced to a judgment or if the state agency has provided the debtor reasonable notice and an opportunity to be heard with regard to the amount owed.

2. A delinquent child support or spousal support obligation that has been reduced to a judgment and has been submitted by an agency of another state to the department of children and families for certification under this section.

3. An amount that the department of health services may recover under s. 49.45 (2) (a) 10., 49.497, 49.793, or 49.847, if the department of health services has certified the amount under s. 49.85.

4. An amount that the department of children and families may recover under s. 49.161 or 49.195 (3) or collect under s. 49.147 (6) (cm), if the department of children and families has certified the amount under s. 49.85.

5. An amount owed to the department of corrections under s. 304.074 (2).

6. An amount owed to the department of military affairs under s. 321.40 (5).

8. Any amount owed to a state agency and collected pursuant to a written agreement between the department of revenue and the state agency as provided under sub. (8) (b), if the debt has been

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

reduced to a judgment or if the state agency or the department has provided the debtor reasonable notice and an opportunity to be heard with regard to the amount owed.

(b) "Debtor" means any person owing a debt to a state agency and any person who owes a delinquent child support or spousal support obligation to an agency of another state.

(c) "Department" means the department of revenue.

(cm) "Disbursement" means any payment to a person who provides goods and services to the state under subch. IV or V of ch. 16 or under ch. 84.

(d) "Refund" means the excess amount by which any payments, refundable credits or both exceed a debtor's Wisconsin tax liability or any other liability owed to the department.

(e) "State agency" has the meaning set forth under s. 20.001 (1).

(2) CERTIFICATION. A state agency may certify to the department any properly identified debt exceeding $20 so that the department may set off the amount of the debt against a refund to the debtor or so that the department of administration may reduce a disbursement to the debtor by the amount of the debt. At least 30 days prior to certification each debtor shall be sent a notice by the state agency of its intent to certify the debt to the department for setoff or reduction and of the debtor's right of appeal. At the time of certification, the certifying state agency shall furnish the social security number of individual debtors and the federal employer identification number of other debtors.

(3) ADMINISTRATION. (a) The department of revenue shall setoff any debt or other amount owed to the department, regardless of the origin of the debt or of the amount, its nature or its date. If after the setoff there remains a refund in excess of $10, the department shall set off the remaining refund against certified debts of other state agencies. If more than one certified debt exists for any debtor, the refund shall be first set off against the earliest debt certified, except that no child support or spousal support obligation submitted by an agency of another state may be set off until all debts owed to and certified by state agencies of this state have been set off. When all debts have been satisfied, any remaining refund shall be refunded to the debtor by the department. Any legal action contesting a setoff under this paragraph shall be brought against the state agency that certified the debt under sub. (2).

(b) The department shall provide the information obtained under sub. (2) to the department of administration. Before reducing any disbursement as provided under this paragraph, the department of administration shall contact the department to verify whether a certified debt that is the basis of the reduction has been collected by other means. If the certified debt remains uncollected, the department of administration shall reduce the disbursement by the amount of the debtor's certified debt under sub. (2), notify the department of such reduction and disbursement, and remit the amount of the reduction to the department in the manner prescribed by the department. If more than one certified debt exists for any debtor, the disbursement shall be reduced first by any debts certified under s. 73.12 then by the earliest debt certified. Any legal action contesting a reduction under this paragraph shall be brought against the state agency that certified the debt under sub. (2).

(4) SETTLEMENT. Within 30 days after the close of each calendar quarter, the department shall settle with each state agency that has certified a debt. Each settlement shall note the opening balance of debts certified, any additions or deletions, reductions or amounts set off, and the ending balance at the close of the settlement period.

(5) DEBTOR CHARGED FOR COSTS. Each debtor shall be charged for administration expenses, and the amounts charged shall be credited to the department's appropriation under s. 20.566 (1) (h). The department may set off amounts charged to the debtor under this subsection against any refund owed to the debtor, in the manner provided in sub. (3). Annually on or before November 1, the department shall review its costs incurred during the previous fiscal year in administering state agency setoffs and reductions and shall adjust its subsequent charges to each debtor to reflect that experience.

(6) WRITTEN AGREEMENT AND AUTHORITY OF DEPARTMENT. Any state agency wishing to certify debts to the department shall enter into a written agreement with the department prior to any certification of debt. Any certification of debts by a state agency or changes to certified debts shall be in a manner and form prescribed by the department. The secretary of revenue shall be the final authority in the resolution of any interagency disputes in regard to certification of debts. If a refund or disbursement is adjusted after a setoff or reduction, the department may readjust any erroneous settlement with a certifying state agency.

(7) EXCHANGE OF INFORMATION. Information relative to changes to any debt certified shall be exchanged promptly by each agency. Setoff of refunds and reduction of disbursements against debts certified by agencies, and any report of the setoff or reduction to state agencies, is not a violation of ss. 71.78, 72.06, 77.61 (5), 78.80 (3), and 139.38 (6).

(8) STATE AGENCY DEBT AGREEMENTS. (a) Upon request by a state agency, the department of revenue may enter into an agreement with individuals who owe debts to the state agency. With the consent of the debtor, the department of revenue may arrange with the debtor's employer for the withholding from the debtor's pay of a specified amount to be applied against the debt.

(b) 1. Except as provided in subd. 2., a state agency and the department of revenue shall enter into a written agreement to have the department collect any amount owed to the state agency that is more than 90 days past due, unless negotiations between the agency and debtor are actively ongoing, the debt is the subject of legal action or administrative proceedings, or the agency determines that the debtor is adhering to an acceptable payment arrangement. At least 30 days before the department pursues the collection of any debt referred by a state agency, either the department or the agency shall provide the debtor with a written notice that the debt will be referred to the department for collection. The department may collect amounts owed, pursuant to the written agreement, from the debtor in addition to offsetting the amounts as provided under sub. (3). The department shall charge each debtor whose debt is subject to collection under this paragraph an amount for administrative expenses and that amount shall be credited to the appropriation under s. 20.566 (1) (h).

2. The department may enter into agreements described under subd. 1. with the courts, the legislature, authorities, as defined in s. 16.41 (4), and local units of government.

3. Agreements required under subd. 1. shall be completed no later than July 1, 2010, except that an agreement may allow a delay or phase−in of referrals.

4. The secretary of revenue may waive the referral of certain types of debt. The department's determination that a debt is not collectable does not prevent the referring agency from taking additional collection actions.

5. The department may collect debts and assess interest on delinquent amounts under this paragraph in the same manner that it collects taxes and assesses interest under ss. 71.82 (2), 71.91, 71.92, and 73.03 (20). The department's use of tax returns and related information to collect debts under this paragraph is not a violation of s. 71.78, 72.06, 77.61 (5), 78.80 (3), or 139.38 (6).

6. If the debtor owes debt to the department and to other entities, payments shall first apply to debts owed to the department, then to the state agencies, the courts, the legislature, and authorities, as defined in s. 16.41 (4), in the order in which the debts were referred to the department, and then to local units of government in the order in which the debts were referred to the department.

History: 1987 a. 312; 1989 a. 31; 1993 a. 437; 1995 a. 27 ss. 3427 to 3429, 9126 (19), 9130 (4); 1995 a. 404; 1997 a. 3, 27; 2001 a. 16; 2003 a. 33; 2005 a. 25, 59, 254; 2007 a. 20 ss. 2141 to 2142, 9121 (6) (a); 2007 a. 97, 200; 2009 a. 28.

2009−10 Wis. Stats. database current through 2011 Wis. Act 286. Includes all Legislative Acts and all Supreme Court Orders enacted before Oct. 1, 2012. Statutory changes effective on or prior to Oct. 1, 2012 are printed as currently in effect. Changes effective after Oct. 1, 2012 are designated by NOTES. See Are the Statutes on this Website Official? (10−3−12)

Electronic reproduction of 2009−10 Wis. Stats. database, current through 2011 Wis. Act 286.

71.935 Setoffs for municipalities and counties. (1) In this section:

(a) "Debt" means a parking citation of at least $20 that is unpaid and for which there has been no court appearance by the date specified in the citation or, if no date is specified, that is unpaid for at least 28 days; an unpaid fine, fee, restitution or forfeiture of at least $20; and any other debt that is at least $20, including debt related to property taxes, if the debt has been reduced to a judgment or the municipality or county to which the debt is owed has provided the debtor reasonable notice and an opportunity to be heard with regard to the debt.

(am) "Debt related to property taxes" means delinquent general property taxes, as defined in s. 74.01 (1), special assessments, as defined in s. 74.01 (3), special charges, as defined in s. 74.01 (4), and special taxes, as defined in s. 74.01 (5). The term "debt related to property taxes" includes any interest and penalty charged as a result of the delinquency.

(b) "Debtor" means a person who owes a debt to a municipality or county.

(c) "Department" means the department of revenue.

(cm) "Disbursement" means any payment to a person who provides goods and services to the state under subch. IV or V of ch. 16 or under ch. 84.

(cr) "Municipality" means any city, village, or town, and includes any entity formed pursuant to an intergovernmental cooperation contract or agreement under s. 66.0301 to provide consolidated services directly to cities, villages, and towns.

(d) "Refund" has the meaning given under s. 71.93 (1) (d).

(2) A municipality or county may certify to the department any debt owed to it. Not later than 5 days after certification, the municipality or county shall notify the debtor in writing of its certification of the debt to the department, of the basis of the certification and of the debtor's right to appeal and, in the case of parking citations, of the debtor's right to contest the citation. At the time of certification, the municipality or county shall furnish to the department the name and social security number or operator's license number of each individual debtor and the name and federal employer identification number of each other debtor.

(3) (a) If the debt remains uncollected and, in the case of a parking citation, if the debtor has not contested the citation within 20 days after the notice under sub. (2), the department shall set off the debt against any refund that is owed to the debtor after the setoff under s. 71.93. Any legal action contesting a setoff shall be brought against the municipality or county that certified the debt under sub. (2).

(b) The department shall provide the information obtained under sub. (2) to the department of administration. Before reducing any disbursement as provided under this paragraph, the department of administration shall contact the department to verify whether a certified debt that is the basis of the reduction has been collected by other means and, in the case of a parking citation, whether the debtor has contested the citation within 20 days after the notice under sub. (2). If the certified debt remains uncollected and, in the case of a parking citation, the citation has not been contested within 20 days after the notice under sub. (2), the department of administration shall, after any reduction under s. 71.93, reduce the disbursement by the amount of the debtor's certified debt under sub. (2), notify the department of such reduction and disbursement, and remit the amount of the reduction to the department in the manner prescribed by the department. If more than one debt certified under sub. (2) exists for any debtor, the disbursement shall be reduced first by the earliest debt certified. Any legal action contesting a reduction under this paragraph shall be brought against the municipality or county that certified the debt under sub. (2).

(4) Within 30 days after the end of each calendar quarter, the department shall settle with each municipality and county for the amounts set off or reduced against certified debts for the municipality or county during that calendar quarter.

(5) Each debtor shall be charged for administration expenses, and the amounts charged shall be credited to the appropriation account under s. 20.566 (1) (h). The department may set off amounts charged to the debtor under this subsection against any refund owed to the debtor, in the manner provided in sub. (3). Annually on or before November 1, the department shall review its costs incurred during the previous fiscal year in administering setoffs and reductions under this section and shall adjust its subsequent charges to each debtor to reflect that experience.

History: 1995 a. 27; 1997 a. 27; 2003 a. 177; 2005 a. 25, 59, 254, 454; 2007 a. 96, 97; 2011 a. 32, 142.

71.94 Penalties. Unless specifically provided in this subchapter, the penalties under subch. XIII apply for failure to comply with this subchapter unless the context requires otherwise.

History: 1987 a. 312.

SUBCHAPTER XVI

INTERNAL REVENUE CODE UPDATE

71.98 Internal Revenue Code update. The following federal laws, to the extent that they apply to the Internal Revenue Code, apply to this chapter:

(1) HEALTH SAVINGS ACCOUNTS. Sections 106 (d), 220 (f) (5) (A), 223, and 408 (d) (9) of the Internal Revenue Code, all as amended to December 31, 2010, and relating to health savings accounts.

(2) IMPUTED INCOME; EMPLOYER PAYMENTS TO EMPLOYEES FOR MEDICAL CARE. Section 1004 (d) of Public Law 111−152, and section 105 (b) of the Internal Revenue Code, as amended to December 31, 2010, and related to amounts paid by an employer to an employee to reimburse the employee for costs paid by him or her for medical care for the employee's adult child.

History: 2011 a. 1, 49.