

WISCONSIN LEGISLATIVE COUNCIL STAFF



**RULES CLEARINGHOUSE**

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 00-016**

AN ORDER to repeal Tax 14.02 (2) (c) and 14.05 (3) (b) and (13) (a) 1., 2. and 3.; to renumber Tax 14.01 (2) (b) and (c), 14.03 (4) (b) 23. a. to e., g., h. and i. and 14.05 (3) (d), (13) (b) and (14) (b); to renumber and amend Tax 14.01 (2) (a) and (d), (5) (a) and (7), 14.03 (4) (b) 23. (intro.) and f. and 14.05 (3) (c) and (13) (a) (intro.); to amend Tax 14.01 (1), (2) (intro.), (3) (a), (4), (5) (b), (6) and (8), 14.02 (5), (9), (10) and (11), 14.03 (3) (a), (b) and (c) 2. and (4) (b) (intro.), 2., 5. (intro.) and a., 7., 11., 12., 14., 15. and 20., 14.04 (2), (3) (b) and (c), (4) (a), (b) 1. and 2. and (c), (8) (a) and (b), (9) (a) and (b), (10) (a) and (11), 14.05 (4) (a), (b), (c) and (e), (7), (8) (a), (b), (c) and (d) (intro.), 1., 2. and 3., (9) (a), (12), (13) (title) and (14) (a) 1. and 2. and 14.06 (title), (1) and (3) (c) (intro.); to repeal and recreate Tax 14.03 (4) (b) 3. and (5), 14.04 (5) and 14.05 (2) and (5); and to create Tax 14.01 (5) (a) 1. and 2. and (7) (a) 1., 2., 3. and 4. and (b), 14.03 (2) (intro.) and (4) (b) 5. e., 14.04 (8) (c) and 14.05 (13) (a) and (14) (b) 2., relating to homestead credit administrative provisions; qualification for credit; household income and income; property taxes accrued; gross rent and rent constituting property taxes accrued; and marriage, separation or divorce during a claim year.

Submitted by **DEPARTMENT OF REVENUE**

01-19-00 RECEIVED BY LEGISLATIVE COUNCIL.  
02-16-00 REPORT SENT TO AGENCY.

RNS:WF:jal;rv

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached      YES       NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached      YES       NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached      YES       NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS  
[s. 227.15 (2) (e)]

Comment Attached      YES       NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached      YES       NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL  
REGULATIONS [s. 227.15 (2) (g)]

Comment Attached      YES       NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached      YES       NO

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## CLEARINGHOUSE RULE 00-016

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### **2. Form, Style and Placement in Administrative Code**

a. It is suggested that the phrase "by way of illustration but not of limitation" be deleted from ss. Tax 14.03 (4) (b) 3. and 14.03 (5). The term "including" expands the scope of the definition to encompass other reasonably related examples not specifically enumerated. Therefore, the quoted phrase is unnecessary. [See s. 1.01 (7) (c), Manual.]

b. The acronym "H.U.D." in s. Tax 14.03 (4) (b) 3. g., should be spelled out. [See s. 1.01 (8), Manual.] This comment is also applicable to ss. Tax 14.04 (5) and 14.05 (5), which use the acronyms "NLRR" and "AFDC."



# State of Wisconsin • DEPARTMENT OF REVENUE

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*Tommy G. Thompson*  
Governor

*Cate Zeuske*  
Secretary of Revenue

April 20, 2000

Honorable Fred Risser  
President, State Senate  
Rm 220 South State Capitol  
PO Box 7882  
Madison WI 53707-7882

Honorable Scott Jensen  
Speaker State Assembly  
Rm 211 W State Capitol  
PO Box 8952  
Madison WI 53708

Re: Clearinghouse Rule 00-016

Dear Senator Risser and Representative Jensen:

This is to notify you, in accordance with s. 227.19(2), Stats., that the proposed rule order relating to homestead credit is in final draft form. The proposed rule order was published in the **Wisconsin Administrative Register** in Mid-March 2000. A public hearing was not required under the exception provided in s. 227.16(2)(e), Stats.

Copies of the proposed rule order and Report required under s. 227.19(2) and (3), Stats., are enclosed. A brief summary of the proposed rule order follows:

### Summary of Proposed Rule Order

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

Statutes interpreted: ss. 71.03(6m), 71.51 to 71.55, 71.58(1)(b), 71.74(8)(a), 71.75(2) and (7), 71.77(2) and 71.82(1)(c), Stats.

SECTION 1. Tax 14.01(1) and (2)(intro.) are revised, to conform language and punctuation to Legislative Council Rules Clearinghouse ("Clearinghouse") standards.

SECTION 2. Tax 14.01(2)(a), (b), (c) and (d) are renumbered Tax 14.01(2)(b), (c), (d) and (a), to place the definitions in alphabetical order after changing "general relief" to "county relief," to conform to Clearinghouse standards. As renumbered, Tax 14.01(2)(a) is revised, to update language relating to county relief and Tax 14.01(2)(b) is revised, to conform language to Clearinghouse standards.

SECTION 3. Tax 14.01(3)(a) is revised, to conform language to Clearinghouse standards.

Tax 14.01(4) is revised, to reflect proper filing procedures and to conform style to Clearinghouse standards.

SECTIONS 4, 5 AND 6. Tax 14.01(5)(a) is renumbered Tax 14.01(5)(a)(intro.) and revised, Tax 14.01(5)(a)1. and 2. are created and Tax 14.01(5)(b) is revised, to reflect proper filing deadlines and statutory references, relating to filing an original or amended homestead credit claim.

Tax 14.01(6) is revised, to clarify a provision relating to deceased persons and to conform style and punctuation to Clearinghouse standards.

SECTIONS 7 AND 8. Tax 14.01(7) is renumbered Tax 14.01(7)(a)(intro.) and revised, and Tax 14.01(7)(a)1. to 4. and (b) are created, to reflect proper procedures for adjusting incorrect claims.

SECTION 9. Tax 14.01(8) is revised, to more accurately reflect the content of the subsection and update the provisions relating to the imposition of interest, and to conform punctuation to Clearinghouse standards.

SECTIONS 10 AND 11. Tax 14.02(2)(c) is repealed and Tax 14.02(9) is revised, and notes are created, to place a mailing address in a note rather than in the text of the rule, to conform to Clearinghouse standards.

Tax 14.02(5) is revised, to reflect proper terminology relating to property taxes.

Tax 14.02(10) is revised, to conform format to Clearinghouse standards.

Tax 14.02(11) is revised, to clarify that a person who is deceased cannot be a claimant.

SECTIONS 12 AND 13. Tax 14.03(2)(intro.) is created and Tax 14.03(3)(a), (b) and (c)2. are revised, to conform style and punctuation to Clearinghouse standards.

Tax 14.03(4)(b)(intro.) is revised, to reflect the content of the paragraph as amended.

Tax 14.03(4)(b)2. is revised, to clarify a provision relating to support payments.

SECTION 14. Tax 14.03(4)(b)3. is repealed and recreated, to update provisions relating to cash public assistance and county relief and to list additional items of income that are includable.

SECTIONS 15 AND 16. Tax 14.03(4)(b)5.(intro.) is revised and Tax 14.03(4)(b)5.e. is created, to clarify provisions relating to social security payments.

Tax 14.03(4)(b)5.a. is revised, to conform punctuation to Clearinghouse standards.

SECTION 17. Tax 14.03(4)(b)7. is revised, to clarify a provision relating to payments to survivors of deceased veterans.

Tax 14.03(4)(b)11. is revised, to clarify a provision relating to scholarship income.

Tax 14.03(4)(b)12. is revised, to update terminology relating to unemployment insurance.

Tax 14.03(4)(b)14. and 15. are revised, to update and clarify provisions relating to gain from the sale of a personal residence, pursuant to the amendment of s. 71.01(6), Stats., by 1997 Wis. Act 37.

Tax 14.03(4)(b)20. is revised, to update terminology relating to Native Americans.

SECTION 18. Tax 14.03(4)(b)23.(intro.) and a. to i. are renumbered Tax 14.03(4)(c)(intro.) and 1. to 9., to list items deducted in determining Wisconsin adjusted gross income in a separate paragraph. As renumbered, Tax 14.03(4)(c)(intro.) is revised, to add a reference to items deducted in determining limited liability company income or losses, and Tax 14.03(4)(c)6. is revised, to add a reference to contributions to SIMPLEs and to conform punctuation to Clearinghouse standards.

SECTION 19. Tax 14.03(5) is repealed and recreated, to clarify provisions relating to exclusions from income and list additional items that constitute exclusions from income. This includes previously reported scholarship income, pursuant to the amendment of s. 71.52(6), Stats., by 1997 Wis. Act 27.

SECTION 20. Tax 14.04(2) is revised, to remove obsolete language relating to general property tax relief.

Tax 14.04(3)(b) and (c) are revised, to clarify various provisions relating to property taxes accrued.

Tax 14.04(4)(a) is revised, to remove obsolete provisions relating to verification of property taxes accrued.

Tax 14.04(4)(b)1. and 2. are revised, to conform punctuation to Clearinghouse standards.

Tax 14.04(4)(c) is revised, to clarify a provision relating to ownership of a mobile home and to conform language to Clearinghouse standards.

SECTION 21. Tax 14.04(5) is repealed and recreated, to update provisions relating to the reduction of property taxes accrued when certain public assistance payments are received.

SECTIONS 22 AND 23. Tax 14.04(8)(a) and (b) are revised and Tax 14.04(8)(c) is created, to clarify various provisions relating to allowable property taxes for a co-owned homestead.

SECTION 24. Tax 14.04(9)(a) and (b), (10)(a) and (11) are revised, to clarify various provisions relating to property taxes accrued and to conform language and punctuation to Clearinghouse standards.

SECTION 25. Tax 14.05(2) is repealed and recreated, to replace quoted statutory language relating to definitions with references to the statutes, and to provide that certain separate payments to a landlord are considered gross rent.

SECTIONS 26, 27, 31, 32 AND 33. Tax 14.05(3)(b) is repealed and Tax 14.05(13)(a) is created, to place a provision regarding indirect rent payments by a governmental agency in a subsection relating to low-income housing.

As a result of the repeal of Tax 14.05(3)(b), Tax 14.05(3)(c) and (d) are renumbered Tax 14.05(3)(b) and (c). As renumbered, Tax 14.05(3)(b) is revised, to clarify a provision relating to property taxes for a homestead not owned by the claimant.

Due to the creation of new Tax 14.05(13)(a), the existing Tax 14.05(13)(a)(intro.) and (b) are renumbered Tax 14.05(13)(b) and (c). Tax 14.05(13)(a)1., 2. and 3. are repealed and Tax 14.05(13)(b) as renumbered is revised, to clarify a provision relating to computing rent paid for occupancy when subsidy payments from a governmental agency are received by the landlord.

SECTION 28. Tax 14.05(4)(a) is revised, to conform language to Clearinghouse standards.

Tax 14.05(4)(b) is revised, to clarify a provision relating to paying rent for more than one homestead during the year.

Tax 14.05(4)(c) is revised, to update procedures relating to preparing a rent certificate, and to conform language and punctuation to Clearinghouse standards.

Tax 14.05(4)(e) is revised, to update procedures relating to preparing a rent certificate when one cannot be obtained from the landlord.

SECTION 29. Tax 14.05(5) is repealed and recreated, to update provisions relating to the reduction of rent constituting property taxes accrued when certain public assistance payments are received.

SECTION 30. Tax 14.05(7) is revised, to replace quoted statutory language relating to non-arms length rental with explanatory language.

Tax 14.05(8)(a) and (d)(intro.) and 1. to 3., (12) and (13)(title) are revised, to conform language and punctuation to Clearinghouse standards.

Tax 14.05(8)(b) is revised, to reference s. 71.53(2)(e), Stats., to reflect the department's position that the paragraph also interprets that statute.

Tax 14.05(8)(c) is revised, to reflect the department's position that par. (c) applies to both par. (a) and par (b).

Tax 14.05(9)(a) is revised, to clarify a provision relating to joint occupancy of a rental unit.

SECTION 34. Tax 14.05(14)(a)1. is revised, effective with rent paid for calendar year 2000, to increase the "standard rate" for rent paid for occupancy by residents of nursing homes or long-term care facilities from \$40 per week to \$100 per week. This rate more accurately reflects the portion of payments to those types of facilities that constitutes rent paid for occupancy. It also more closely approximates the rent paid for occupancy as computed using the other department-approved method, the "percentage of building occupancy expenses" method. The standard rate has not been changed since March 1990.

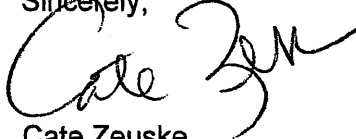
Tax 14.05(14)(a)2. is revised, to include substantive material from an example, relating to the "percentage of building occupancy expenses" method of computing rent paid for occupancy by residents of nursing homes or long-term care facilities.

April 20, 2000  
Page 5

SECTIONS 35 AND 36. Tax 14.05(14)(b) is renumbered Tax 14.05(14)(b)1. and Tax 14.05(14)(b)2. is created, to clarify that a nursing home resident who received medical assistance during the year but is no longer receiving the assistance may be eligible to claim a homestead credit.

SECTION 37. Tax 14.06(title), (1) and (3)(c)(intro.) are revised, to conform punctuation to Clearinghouse standards.

Sincerely,

A handwritten signature in black ink, appearing to read "Cate Zeuske", written in a cursive style.

Cate Zeuske  
Secretary of Revenue

CZ:MPW:cll  
e:rules\1401 Committees – President Speaker

Enclosure

cc: Deputy Revisor



**DEPARTMENT OF REVENUE**  
**CLEARINGHOUSE RULE NUMBER 00-016**  
**SECTION 227.19(2) AND (3), STATS., REPORT**

**Need for Proposed Rule**

The rule is necessary to:

- Conform style, format, language and punctuation to Legislative Council Rules Clearinghouse standards.
- Update language and terminology.
- Update procedures relating to filing claims, adjusting claims, charging interest, preparing rent certificates and verifying rent when a rent certificate cannot be obtained.
- Reflect proper filing deadlines.
- Remove obsolete procedures, language and notes.
- Move nonsubstantive material from the text of a rule to a note and move substantive material in an example to the text of a rule.
- Clarify various provisions relating to deceased persons, items includable in or excludable from income, ownership of a homestead by a spouse, allowable property taxes for a co-owned homestead, property tax payment for a homestead the claimant does not own, joint occupancy of a rental unit, medical assistance recipients, separate payments to a landlord and indirect rent payments.
- Pursuant to law changes, update provisions relating to gain from the sale of a personal residence, scholarship income, county relief, Wisconsin works payments and the one-twelfth reduction of property taxes or rent when public assistance is received.
- Add additional items of includable income and exclusions from income, to reflect current department policy.
- Replace quoted statutory language with references to the statutes or explanatory language.

- Include additional statutory references relating to rent paid for tax-exempt housing and food or services provided by a landlord.
- Provide for an increase in the "standard rate" for rent paid for occupancy by residents of nursing homes or long-term care facilities from \$40 per week to \$100 per week.

### **Public Hearing**

A public hearing was not required, pursuant to s. 227.16(2)(e), Stats.

### **Legislative Council Staff Recommendations**

All Legislative Council staff recommendations have been incorporated into the proposed rule.

### **Regulatory Flexibility Analysis**

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

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

The Wisconsin Department of Revenue proposes an order to: repeal Tax 14.02(2)(c) and Tax 14.05(3)(b) and (13)(a)1., 2. and 3.; renumber Tax 14.01(2)(b) and (c), Tax 14.03(4)(b)23.a. to e., g., h. and i. and Tax 14.05(3)(d), (13)(b) and (14)(b); renumber and amend Tax 14.01(2)(a) and (d), (5)(a) and (7), Tax 14.03(4)(b)23. (intro.) and f. and Tax 14.05(3)(c) and (13)(a)(intro.); amend Tax 14.01(1), (2)(intro.), (3)(a), (4), (5)(b), (6) and (8), Tax 14.02(5), (9), (10) and (11), Tax 14.03(3)(a), (b) and (c)2. and (4)(b)(intro.), 2., 5.(intro.) and a., 7., 11., 12., 14., 15. and 20., Tax 14.04 (2), (3)(b) and (c), (4)(a), (b)1. and 2. and (c), (8)(a) and (b), (9)(a) and (b), (10)(a) and (11), Tax 14.05(4)(a), (b), (c) and (e), (7), (8)(a), (b), (c) and (d)(intro.), 1., 2. and 3., (9)(a), (12), (13)(title) and (14)(a)1. and 2. and Tax 14.06(title), (1) and (3)(c)(intro.); repeal and recreate Tax 14.03(4)(b)3. and (5), Tax 14.04(5) and Tax 14.05(2) and (5); and create Tax 14.01(5)(a)1. and 2. and (7)(a)1., 2., 3. and 4. and (b), Tax 14.03(2)(intro.) and (4)(b)5.e., Tax 14.04(8)(c) and Tax 14.05(13)(a) and (14)(b)2., relating to homestead credit administrative provisions; qualification for credit; household income and income; property taxes accrued; gross rent and rent constituting property taxes accrued; and marriage, separation or divorce during a claim year.

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***Analysis by the Department of Revenue***

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

Statutes interpreted: ss. 71.03(6m), 71.51 to 71.55, 71.58(1)(b), 71.74(8)(a), 71.75(2) and (7), 71.77(2) and 71.82(1)(c), Stats.

SECTION 1. Tax 14.01(1) and (2)(intro.) are revised, to conform language and punctuation to Legislative Council Rules Clearinghouse ("Clearinghouse") standards.

SECTION 2. Tax 14.01(2)(a), (b), (c) and (d) are renumbered Tax 14.01(2)(b), (c), (d) and (a), to place the definitions in alphabetical order after changing "general relief" to "county relief," to conform to Clearinghouse standards. As renumbered, Tax 14.01(2)(a) is revised, to update language relating to county relief and Tax 14.01(2)(b) is revised, to conform language to Clearinghouse standards.

SECTION 3. Tax 14.01(3)(a) is revised, to conform language to Clearinghouse standards.

Tax 14.01(4) is revised, to reflect proper filing procedures and to conform style to Clearinghouse standards.

SECTIONS 4, 5 AND 6. Tax 14.01(5)(a) is renumbered Tax 14.01(5)(a)(intro.) and revised, Tax 14.01(5)(a)1. and 2. are created and Tax 14.01(5)(b) is revised, to reflect proper filing deadlines and statutory references, relating to filing an original or amended homestead credit claim.

Tax 14.01(6) is revised, to clarify a provision relating to deceased persons and to conform style and punctuation to Clearinghouse standards.

SECTIONS 7 AND 8. Tax 14.01(7) is renumbered Tax 14.01(7)(a)(intro.) and revised, and Tax 14.01(7)(a)1. to 4. and (b) are created, to reflect proper procedures for adjusting incorrect claims.

SECTION 9. Tax 14.01(8) is revised, to more accurately reflect the content of the subsection and update the provisions relating to the imposition of interest, and to conform punctuation to Clearinghouse standards.

SECTIONS 10 AND 11. Tax 14.02(2)(c) is repealed and Tax 14.02(9) is revised, and notes are created, to place a mailing address in a note rather than in the text of the rule, to conform to Clearinghouse standards.

Tax 14.02(5) is revised, to reflect proper terminology relating to property taxes.

Tax 14.02(10) is revised, to conform format to Clearinghouse standards.

Tax 14.02(11) is revised, to clarify that a person who is deceased cannot be a claimant.

SECTIONS 12 AND 13. Tax 14.03(2)(intro.) is created and Tax 14.03(3)(a), (b) and (c)2. are revised, to conform style and punctuation to Clearinghouse standards.

Tax 14.03(4)(b)(intro.) is revised, to reflect the content of the paragraph as amended.

Tax 14.03(4)(b)2. is revised, to clarify a provision relating to support payments.

SECTION 14. Tax 14.03(4)(b)3. is repealed and recreated, to update provisions relating to cash public assistance and county relief and to list additional items of income that are includable.

SECTIONS 15 AND 16. Tax 14.03(4)(b)5.(intro.) is revised and Tax 14.03(4)(b)5.e. is created, to clarify provisions relating to social security payments.

Tax 14.03(4)(b)5.a. is revised, to conform punctuation to Clearinghouse standards.

SECTION 17. Tax 14.03(4)(b)7. is revised, to clarify a provision relating to payments to survivors of deceased veterans.

Tax 14.03(4)(b)11. is revised, to clarify a provision relating to scholarship income.

Tax 14.03(4)(b)12. is revised, to update terminology relating to unemployment insurance.

Tax 14.03(4)(b)14. and 15. are revised, to update and clarify provisions relating to gain from the sale of a personal residence, pursuant to the amendment of s. 71.01(6), Stats., by 1997 Wis. Act 37.

Tax 14.03(4)(b)20. is revised, to update terminology relating to Native Americans.

SECTION 18. Tax 14.03(4)(b)23.(intro.) and a. to i. are renumbered Tax 14.03(4)(c)(intro.) and 1. to 9., to list items deducted in determining Wisconsin adjusted gross

income in a separate paragraph. As renumbered, Tax 14.03(4)(c)(intro.) is revised, to add a reference to items deducted in determining limited liability company income or losses, and Tax 14.03(4)(c)6. is revised, to add a reference to contributions to SIMPLEs and to conform punctuation to Clearinghouse standards.

SECTION 19. Tax 14.03(5) is repealed and recreated, to clarify provisions relating to exclusions from income and list additional items that constitute exclusions from income. This includes previously reported scholarship income, pursuant to the amendment of s. 71.52(6), Stats., by 1997 Wis. Act 27.

SECTION 20. Tax 14.04(2) is revised, to remove obsolete language relating to general property tax relief.

Tax 14.04(3)(b) and (c) are revised, to clarify various provisions relating to property taxes accrued.

Tax 14.04(4)(a) is revised, to remove obsolete provisions relating to verification of property taxes accrued.

Tax 14.04(4)(b)1. and 2. are revised, to conform punctuation to Clearinghouse standards.

Tax 14.04(4)(c) is revised, to clarify a provision relating to ownership of a mobile home and to conform language to Clearinghouse standards.

SECTION 21. Tax 14.04(5) is repealed and recreated, to update provisions relating to the reduction of property taxes accrued when certain public assistance payments are received.

SECTIONS 22 AND 23. Tax 14.04(8)(a) and (b) are revised and Tax 14.04(8)(c) is created, to clarify various provisions relating to allowable property taxes for a co-owned homestead.

SECTION 24. Tax 14.04(9)(a) and (b), (10)(a) and (11) are revised, to clarify various provisions relating to property taxes accrued and to conform language and punctuation to Clearinghouse standards.

SECTION 25. Tax 14.05(2) is repealed and recreated, to replace quoted statutory language relating to definitions with references to the statutes, and to provide that certain separate payments to a landlord are considered gross rent.

SECTIONS 26, 27, 31, 32 AND 33. Tax 14.05(3)(b) is repealed and Tax 14.05(13)(a) is created, to place a provision regarding indirect rent payments by a governmental agency in a subsection relating to low-income housing.

As a result of the repeal of Tax 14.05(3)(b), Tax 14.05(3)(c) and (d) are renumbered Tax 14.05(3)(b) and (c). As renumbered, Tax 14.05(3)(b) is revised, to clarify a provision relating to property taxes for a homestead not owned by the claimant.

Due to the creation of new Tax 14.05(13)(a), the existing Tax 14.05(13)(a)(intro.) and (b) are renumbered Tax 14.05(13)(b) and (c). Tax 14.05(13)(a)1., 2. and 3. are repealed and Tax

14.05(13)(b) as renumbered is revised, to clarify a provision relating to computing rent paid for occupancy when subsidy payments from a governmental agency are received by the landlord.

SECTION 28. Tax 14.05(4)(a) is revised, to conform language to Clearinghouse standards.

Tax 14.05(4)(b) is revised, to clarify a provision relating to paying rent for more than one homestead during the year.

Tax 14.05(4)(c) is revised, to update procedures relating to preparing a rent certificate, and to conform language and punctuation to Clearinghouse standards.

Tax 14.05(4)(e) is revised, to update procedures relating to preparing a rent certificate when one cannot be obtained from the landlord.

SECTION 29. Tax 14.05(5) is repealed and recreated, to update provisions relating to the reduction of rent constituting property taxes accrued when certain public assistance payments are received.

SECTION 30. Tax 14.05(7) is revised, to replace quoted statutory language relating to non-arms length rental with explanatory language.

Tax 14.05(8)(a) and (d)(intro.) and 1. to 3., (12) and (13)(title) are revised, to conform language and punctuation to Clearinghouse standards.

Tax 14.05(8)(b) is revised, to reference s. 71.53(2)(e), Stats., to reflect the department's position that the paragraph also interprets that statute.

Tax 14.05(8)(c) is revised, to reflect the department's position that par. (c) applies to both par. (a) and par (b).

Tax 14.05(9)(a) is revised, to clarify a provision relating to joint occupancy of a rental unit.

SECTION 34. Tax 14.05(14)(a)1. is revised, effective with rent paid for calendar year 2000, to increase the "standard rate" for rent paid for occupancy by residents of nursing homes or long-term care facilities from \$40 per week to \$100 per week. This rate more accurately reflects the portion of payments to those types of facilities that constitutes rent paid for occupancy. It also more closely approximates the rent paid for occupancy as computed using the other department-approved method, the "percentage of building occupancy expenses" method. The standard rate has not been changed since March 1990.

Tax 14.05(14)(a)2. is revised, to include substantive material from an example, relating to the "percentage of building occupancy expenses" method of computing rent paid for occupancy by residents of nursing homes or long-term care facilities.

SECTIONS 35 AND 36. Tax 14.05(14)(b) is renumbered Tax 14.05(14)(b)1. and Tax 14.05(14)(b)2. is created, to clarify that a nursing home resident who received medical assistance during the year but is no longer receiving the assistance may be eligible to claim a homestead credit.

SECTION 37. Tax 14.06(title), (1) and (3)(c)(intro.) are revised, to conform punctuation to Clearinghouse standards.

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SECTION 1. Tax 14.01(1) and (2)(intro.) are amended to read:

Tax 14.01(1) PURPOSE. This section describes the Wisconsin homestead credit, defines terms, and sets forth administrative provisions applicable to all sections of ~~ch. Tax 14~~ this chapter.

(2)(intro.) DEFINITIONS. In ~~ch. Tax 14~~ this chapter and in ss. 71.51 ~~through to~~ 71.55, Stats.:

**Note to Revisor:** Remove the statutory references following the titles to each section, Tax 14.01 to 14.06.

SECTION 2. Tax 14.01(2)(a), (b), (c) and (d) are renumbered Tax 14.01(2)(b), (c), (d) and (a) and as renumbered Tax 14.01(2)(a) and (b) are amended to read:

Tax 14.01(2)(a) "General County relief" means ~~a basic assistance program~~ provided by a county under ~~ch. 49 s. 59.53(21)~~, Stats., to an eligible dependent person. General County relief is a separate program in itself and, funded by a block grant program under subch. II of ch. 49, Stats. It does not include other assistance programs, such as social security, supplemental security income, state supplemental payments, federal food stamps, Title XX benefits, community options program payments, aid to families with dependent children, Wisconsin works payments or foster care.

(b) "Domicile" has the same meaning for Wisconsin homestead credit purposes as for Wisconsin individual income tax purposes. A claimant's domicile is the true, fixed, and permanent home where the claimant intends to remain permanently and indefinitely and to which, whenever absent, the claimant intends to return. It is often referred to as a "legal residence." A claimant may be physically present or residing in one locality and maintain a domicile in another but may have only one domicile at any time.

SECTION 3. Tax 14.01(3)(a) and (4) are amended to read:

Tax 14.01(3)(a) Sections 71.51 through to 71.55, Stats., provide credit in the form of an income tax credit or a refund to qualifying persons who own or rent their Wisconsin homestead. A claimant may claim Wisconsin property taxes accrued or rent constituting property taxes accrued or both on the claimant's homestead or, in certain cases as described in s. Tax 14.04(3)(e), Wisconsin property taxes accrued on the claimant's former homestead, as a basis for calculating a credit against Wisconsin income tax otherwise due. If the credit exceeds the claimant's Wisconsin income tax otherwise due or if no income tax is due, the amount not offset against Wisconsin income tax and not applied against any liability under s. 71.55(1), Stats., is paid to the claimant.

(4) HOW TO FILE. (a) A homestead credit claim shall be filed on Schedule schedule H, titled "Wisconsin Homestead Credit Claim," and filed with the Wisconsin department of revenue at the location described in the instructions to Schedule schedule H.

(b) If a person or the person's spouse files a Wisconsin income tax return and claims a homestead credit on the return, the claimant shall attach Schedule schedule H to the income tax return. If the claimant has previously filed the income tax return, ~~the preferable~~ or is filing an income tax return separately from the schedule H, the preferred procedure for filing a homestead credit claim is to file a duplicate copy of the income tax return with Schedule H, schedule H and to write the words "Duplicate" on the top of the first page of the tax return copy and "Income Tax Return Previously Separately Filed" on the top of Schedule H, and to fill in the date the income tax return was filed in the space provided on Schedule schedule H.

(c) If neither the claimant nor the claimant's spouse is required to file a Wisconsin income tax return for the year to which the claim relates, the claimant may file Schedule schedule H without attaching it to a return.

SECTION 4. Tax 14.01(5)(a) is renumbered Tax 14.01(5)(a)(intro.) and amended to read:



Tax 14.01(5)(a)(intro.) Under ~~s. 71.53(2)~~ s. 71.53(2)(a), Stats., an original homestead credit claim shall be filed with the department ~~on or before December 31 of the year following the year to which the claim relates~~ in conformity with the filing requirements of s. 71.03(6), (6m) and (7), Stats. or the department shall disallow the claim. The deadline for filing a claim is as follows:

SECTION 5. Tax 14.01(5)(a)1. and 2. are created to read:

Tax 14.01(5)(a)1. A claim filed for a taxable year for which an income tax return is also filed shall be filed on a calendar year basis as provided in sub. (3)(c), within 4 years, 3 ½ months of the end of the calendar year to which the claim relates.

2. Under s. 71.03(6m), Stats., a claim filed by a person who is not required to file an income tax return shall be filed on a calendar year basis. The claim shall be filed within 4 years, 3 ½ months of the end of the calendar year to which the claim relates.

**Example:** A 1998 homestead credit claim filed for the calendar year ending December 31, 1998, must be filed by April 15, 2003.

SECTION 6. Tax 14.01(5)(b) and (6) are amended to read:

Tax 14.01(5)(b) ~~Under s. 71.53(3), Stats., a~~ A claimant who files a timely original claim may subsequently file an amended claim with the department. ~~An~~ Under s. 71.75(2), Stats., an amended claim shall be filed within 4 years of ~~December 31 of the year following the year to which the claim relates~~ the deadline for filing the original claim or the department shall disallow the claim.

**Note to Revisor:** Insert the following example at the end of sub. (5)(b):

**Example:** Claimant A, who filed a 1994 homestead credit claim on May 1, 1996, wishes to file an amended 1994 claim. The amended claim may be filed any time on or before April 15, 2003, since the deadline for filing the original 1994 claim was April 15, 1999.

(6) PROOF OF CLAIM: Under s. 71.55(7), Stats., for the purpose of determining the correct amount of homestead credit of a claimant, the claimant shall supply to the department all of the following information that is applicable:

- (a) All information requested on the form;
- (b) Proper verification of property taxes accrued as provided in s. Tax 14.04(4), if the claimant claims property taxes accrued;
- (c) Proper verification of rent constituting property taxes accrued as provided in s. Tax 14.05(4), if the claimant claims rent constituting property taxes accrued;
- (d) The signature of the claimant. If a claimant is unable to sign a claim, the claimant may make an "X" or other mark with the assistance of another person who signs the claim as a witness to the validity of the signature. A legally authorized representative such as a guardian or attorney-in-fact may sign a homestead credit claim in lieu of the a living claimant, but a homestead credit claim filed on behalf of a claimant person who is deceased at the time of filing shall be denied as provided in s. Tax 14.02(11).

SECTION 7. Tax 14.01(7) is renumbered Tax 14.01(7)(a)(intro.) and amended to read:

Tax 14.01(7)(a)(intro.) ~~Under s. 71.74(8)(a), Stats., the~~ The department may give notice of an incorrect homestead credit amount ~~within 4 years from December 31 of the year following the year to which a homestead credit claim relates.~~ The department may correct incorrect claims by adjusting the credit claimed, by assessment as income taxes are assessed, or by refund, as appropriate. Under ss. 71.74(8)(a) and 71.77(2), Stats., unless the adjustment period is extended by a specific statutory provision, the notice shall be given by the later of 4 years from the unextended due date of the corresponding original income tax return or 4 years from the date a late-filed income tax return is filed. The statutory provisions under which the adjustment period may be extended include the following:

SECTION 8. Tax 14.01(7)(a)1. to 4. and (b) are created to read:

Tax 14.01(7)(a)1. The "intent to defeat or evade" provision under s. 71.77(3), Stats.

2. The "extension agreement" provision under s. 71.77(5), Stats.

3. The "six-year" provision under s. 71.77(7)(a), Stats.

4. The "federal change" provisions under s. 71.77(7)(b), Stats.

(b) Under s. 71.75(7), Stats., the department shall act on a claim for homestead credit within one year after it receives the claim, or the credit shall be allowed even if incorrect, unless the claimant has agreed in writing to an extension of the one-year time period. Within the one-year period, prior to allowing the credit, the claimed credit may be reduced. However, under s. 71.74(8)(a), Stats., if the date of acting on an amended claim is later than the last date for adjusting an original claim as provided in par. (a), the credit may not be reduced to an amount less than the credit allowed on the original claim, and after allowing the credit on the amended claim no further reduction of the credit may be made.

**Example:** Claimant A timely files a 1995 claim for homestead credit and receives a homestead credit of \$500. On November 1, 2001, Claimant A files an amended 1995 claim for homestead credit claiming a revised 1995 credit of \$700. Upon review of the file, the department determines that Claimant A's correct homestead credit for 1995 is \$300 rather than the \$500 allowed on the original claim or the \$700 claimed on the amended claim.

Since the amended 1995 homestead credit claim will be acted on after April 15, 2000, the last date for adjusting an original 1995 claim, the department must act on the amended claim by November 1, 2002. Prior to that date the department may notify Claimant A that no additional credit is allowable for 1995. However, the \$200 of excessive credit allowed on the original claim, the difference between the \$500 allowed and the correct credit of \$300, may not be recovered by the department.

SECTION 9. Tax 14.01(8) is amended to read:

Tax 14.01(8)(title) INTEREST AND PENALTIES ON INCORRECT CLAIMS. (a)

*Excessive claims.* ~~Excessive~~ Under s. 71.82(1)(c), Stats., excessive homestead credit amounts, not the result of negligence or fraudulent intent, that have been paid or credited shall be subject to interest ~~as provided by s. 71.82(1)(c), Stats.~~ The interest shall be imposed from the date on which the excessive amount was paid or credited, but not earlier than from December 31 of the year following the year to which the claim relates, to the date on which the amount when subsequently assessed will become delinquent if unpaid. If unpaid by the due date shown on the notice of adjustments to the homestead credit claim, the amount due, including interest, shall be subject to delinquent interest at the rate provided by s. 71.82(2)(a), Stats. at 12% per year from the deadline for filing the claim. Assessments to collect excessive

homestead credit amounts payable before the deadline for filing the claim may not include interest charges.

(b) *Understated claims.* Under s. 71.55(4), Stats., the department may not pay interest on any homestead credit, including any additional credit, refund, or payment allowed as the result of the review of a homestead credit claim or an amended claim.

**Note to Revisor:** Replace the 2 notes at the end of Tax 14.01 with the following:

**Note:** Blank forms for filing a homestead credit claim, rent certificates and instructions for claiming the credit may be obtained at any department office throughout the state or by writing to Wisconsin Department of Revenue, P.O. Box 8903, Madison, WI 53708-8903.

**Note:** Section Tax 14.01 interprets ss. 71.03(6m), 71.51 to 71.55, 71.74(8)(a), 71.75(2) and (7), 71.77(2) and 71.82(1)(c), Stats.

SECTION 10. Tax 14.02(2)(c) is repealed.

**Note to Revisor:** 1) Insert the following note at the end of sub. (2)(b):

**Note:** Requests for a determination under par. (b) should be addressed to Wisconsin Department of Revenue, P.O. Box 8906, Madison, WI 53708-8906.

2) Replace the example at the end of sub. (4) with the following:

**Example:** A household owns and occupies a homestead in Wisconsin from January 1 to April 30, and then establishes a homestead in a rented dwelling in Wisconsin with no heat furnished for the remainder of the calendar year. The annual property taxes accrued on the owned homestead equaled \$1,800 and gross rent paid for the last 8 months of the year totaled \$2,800.

The property taxes and rent allowable for homestead credit purposes equals \$1,300, consisting of four-twelfths of the \$1,800 of property taxes accrued, or \$600, plus 25% of the gross rent of \$2,800, or \$700 of rent constituting property taxes accrued.

SECTION 11. Tax 14.02(5), (9), (10) and (11) are amended to read:

Tax 14.02(5) **HOUSEHOLD OCCUPYING MORE THAN ONE DWELLING AT THE SAME TIME.** Under s. 71.52(2), Stats., "gross rent" is rental paid for the right of occupancy of a homestead, and under s. 71.52(7), Stats., "property taxes accrued" are property taxes levied on the homestead of a household. Since a homestead is the principal dwelling of a household, if a household pays gross rent or property taxes accrued on 2 dwellings occupied concurrently by a

~~the household are not allowable. The~~ a claimant may claim only the rent or property taxes pertaining to the principal dwelling.

**Note to Revisor:** Replace example 2 at the end of sub. (5) with the following:

2) A claimant moves from one apartment to another and pays rent for both apartments for a two-month period.

(9) PERSON CLAIMING A FARMLAND PRESERVATION CREDIT. Under s.

71.58(1)(b), Stats., a person is not eligible for a homestead credit if the person qualifies for and claims a farmland preservation credit for the same year to which a homestead credit claim relates. However, if a person who has claimed a farmland preservation credit withdraws the claim, the person is no longer ineligible to receive a homestead credit because of the filing of a farmland preservation credit claim. Withdrawal of the farmland preservation credit claim shall be in writing and should be mailed to the Wisconsin Department of Revenue, Post Office Box 8906, Madison, WI 53708. A homestead credit claim filed after the withdrawal of a farmland preservation credit claim shall be filed by the normal ~~due date~~ deadline for filing a homestead credit claim or the department shall disallow the claim.

**Note to Revisor:** Replace the example at the end of sub. (9) with the following example and add the following note:

**Example:** A 1997 homestead credit claim filed after the withdrawal of a 1997 farmland preservation credit claim must be filed on or before April 15, 2002.

**Note:** A written withdrawal of a farmland preservation credit claim should be mailed to Wisconsin Department of Revenue, P.O. Box 8906, Madison, WI 53708-8906.

(10) PERSON CLAIMED AS A DEPENDENT. Under s. 71.53(2)(d), Stats., a person does not qualify for a homestead credit if the person is claimed as a dependent for federal income tax purposes during the year to which the claim relates, unless the person claiming a homestead credit is 62 years of age or older as of December 31 of the claim year. However, a person is not disqualified if ~~the person~~ any of the following apply:

(a) ~~is~~ The person is improperly claimed as a dependent on a federal income tax return;

(b) Qualifies The person qualifies to be claimed as a dependent on a federal income tax

return but is not claimed; or,

(c) ~~is~~ The person is properly claimed as a dependent on a federal income tax return but on a later amended federal income tax return is not ~~se~~ claimed.

(11) DECEASED CLAIMANT. Under s. 71.53(1)(b), Stats., a claimant person must be alive at the time a homestead credit claim is filed. A claim completed and signed but not filed until after a claimant's person's death shall be denied.

**Note to Revisor:** Remove the "1" from the first note at the end of Tax 14.02, and replace the second note with the following:

**Note:** Section Tax 14.02 interprets ss. 71.52(1), (2) and (7), 71.53(1)(b) and (c) and (2)(d) and 71.58(1)(b), Stats.

SECTION 12. Tax 14.03(2)(intro.) is created to read:

Tax 14.03(2)(intro.) DEFINITIONS. In this section:

SECTION 13. Tax 14.03(3)(a), (b) and (c)2. and (4)(b)(intro.) and 2. are amended to read:

Tax 14.03(3)(a) Under s. 71.52(5), Stats., a deduction of \$250 is allowed for each of the claimant's dependents, as defined in s. 152 of the internal revenue code, who have the same principal abode as the claimant for more than 6 months during the calendar year to which a claim for homestead credit relates. A claimant may multiply the number of dependents with the same principal abode for more than 6 months by \$250, and subtract the result from the total of the income items, to arrive at household income.

**Note to Revisor:** Replace the example at the end of sub. (3)(a) with the following:

**Example:** A claimant and the claimant's spouse claim 3 dependents on their 1997 federal income tax return, and all 3 dependents have the same principal abode as the claimant for the entire year. Household income items include Wisconsin adjusted gross income of \$10,500, depreciation of \$1,500 and unemployment insurance of \$500.

Total household income is \$11,750, consisting of the total of the income items listed, \$12,500, minus the dependent deduction of \$750, which is \$250 times 3 dependents.

(b) A dependent is considered to have the same principal abode as the claimant during temporary absences from the claimant's homestead for reasons such as school attendance, illness, vacations, business commitments, or military service.

(c)2. The dependent is adopted by the claimant, is placed with the claimant for adoption, or becomes the stepchild of the claimant, and the dependent has the same principal abode as the claimant from that time to the end of that calendar year.

(4)(b)(intro.) The following amounts to the extent not included in Wisconsin adjusted gross income, or deducted in determining Wisconsin adjusted gross income:

2. ~~Support money~~ Court-ordered support payments, including support for dependents under ch. 49, Stats.

SECTION 14. Tax 14.03(4)(b)3. is repealed and recreated to read:

Tax 14.03(4)(b)3. Cash public assistance and county relief, including the following:

- a. Aid to families with dependent children, or "AFDC."
- b. Wisconsin works, or "W-2" payments.
- c. Non-legally responsible relative, or "NLRR" AFDC payments or kinship care payments under s. 48.57, Stats. These are payments received as a relative other than a parent, for caring for a dependent child in the claimant's homestead.
- d. Cash benefits paid by counties under s. 59.53(21), Stats.
- e. Reimbursement from a governmental agency for amounts originally paid for by the recipient, not including cash reimbursements for home energy assistance or for services under Title XX of the federal social security act and community options program, or "COP" payments under s. 46.27, Stats.
- f. Adoption assistance payments under Title IV-E of the federal social security act or from another state, or payments by the Wisconsin department of health and family services under s. 48.975, Stats., to adoptive parents of children having special needs as described in s. HSS 50.03(1)(b).

g. Veterans administration payments for reimbursement of services purchased by the recipient.

h. Federal housing and urban development, or "H.U.D." payments for housing.

i. Disaster relief grants under the federal disaster relief act of 1974.

SECTION 15. Tax 14.03(4)(b)5.(intro.) and a. are amended to read:

Tax 14.03(4)(b)5.(intro.) All Except as provided in subd. 3.e., all payments received for the benefit of a claimant or a member of the claimant's household under the federal social security act, including:

a. All federal social security retirement, disability, or survivorship benefits.

**Note to Revisor:** Replace the example at the end of sub. (4)(b)4. with the following:

**Example:** *Gross amount of a pension.* A claimant was entitled to a pension of \$8,000 during the year but received only \$5,600 after \$2,400 was withheld by the payor for payment of health insurance premiums for the claimant. Of the \$8,000 pension, \$2,000 was a return of the claimant's contribution.

The gross pension of \$8,000 must be included in income.

SECTION 16. Tax 14.03(4)(b)5.e. is created to read:

Tax 14.03(4)(b)5.e. Supplemental security income - exceptional needs, or "SSI-E" payments under s. 49.77(3s), Stats.

SECTION 17. Tax 14.03(4)(b)7., 11., 12., 14., 15. and 20. are amended to read:

Tax 14.03(4)(b)7. Payments made to surviving widows, widowers or parents of war veterans by the United States, but not including insurance proceeds received by beneficiaries of National Service Life Insurance.

11. Scholarship and fellowship gifts, ~~grants~~, or income and other educational grants, not including student loans.

12. Unemployment ~~compensation~~ insurance, including railroad unemployment compensation.



14. Capital gains not included in Wisconsin adjusted gross income, but not including a gain on the sale of a personal residence deferred under s. 1034 of the internal revenue code or a nonrecognized gain from an involuntary conversion under s. 1033 of the internal revenue code.

15. A gain on the sale of a personal residence excluded under s. 121 of the internal revenue code, ~~which is the once-in-a-lifetime exclusion for a qualifying sale by a person age 55 or older.~~ A gain on the sale of a personal residence which would be reportable under the installment sale method if taxable may be reported either in full in the year of sale or each year as payments are received.

20. Income of an a Native American Indian which is nontaxable under ch. 71, Stats.

SECTION 18. Tax 14.03(4)(b)23.(intro.) and a. to i. are renumbered Tax 14.03(4)(c)(intro.) and 1. to 9. and as renumbered Tax 14.03(4)(c)(intro.) and 6. are amended to read:

Tax 14.03(4)(c)(intro.) The following items deducted in determining Wisconsin adjusted gross income, including items deducted in arriving at partnership, limited liability company and tax-option "S" corporation income or losses reported as a part of Wisconsin adjusted gross income:

6. Contributions to individual retirement accounts under s. 219 of the internal revenue code, including contributions to individual retirement arrangements, or "IRA's," "IRAs," savings incentive match plans for employees, or "SIMPLEs" and simplified employe pension plans, or "SEP's," "SEPs."

SECTION 19. Tax 14.03(5) is repealed and recreated to read:

Tax 14.03(5) EXCLUSIONS FROM INCOME. (a) Under s. 71.52(6), Stats., income does not include the following:

1. Amounts described in sub. (4)(b)1., 3.e., 7., 11. and 14. as not being includable.
2. Gifts from natural persons, including voluntary support payments.

3. Relief in kind by a governmental agency, including surplus food, food stamps and payments directly to a supplier of goods or services, such as medical care, food, clothing and residential energy.

4. The nontaxable portions of lump sum insurance proceeds received:

- a. For a recipient's disability or loss of limb.
- b. By a beneficiary of a decedent's life insurance policy.
- c. From the surrender of any portion of an insurance policy that does not constitute a personal endowment insurance policy or an annuity contract purchased by the recipient.

5. Wisconsin homestead credit amounts received.

6. Social security or SSI payments received on behalf of a claimant's children or the children of the claimant's household.

7. Pension, annuity or other retirement plan payments rolled over from one retirement plan to another.

8. Tax-free exchanges of insurance contracts under s. 1035 of the internal revenue code.

9. Crime victim compensation payments under ch. 949, Stats.

10. Payments under the Wisconsin petroleum cleanup fund act.

11. "Foster grandparents program" payments under the federal domestic volunteer service act of 1973.

12. Community spouse income allowance payments under the Wisconsin spousal impoverishment program, except the portion of the payments includable under Wisconsin marital property law.

**Note:** The determination of household income under Wisconsin marital property law is described in s. Tax 14.06(3)(c)2.

(b) Amounts added to Wisconsin adjusted gross income under s. 71.52(6), Stats., on a previous year's homestead credit claim and subsequently repaid may be subtracted from income for the year during which they are repaid.

(c) Scholarship and fellowship gifts or income included in Wisconsin adjusted gross income, which were included in income under s. 71.52(6), Stats., on a previous year's homestead credit claim may be subtracted from income for the current year.

**Note to Revisor:** 1) Remove the "1)" from the first note at the end of Tax 14.03.

2) Remove notes 2 to 5 at the end of Tax 14.03.

3) Insert the following 3 notes at the end of Tax 14.03:

**Note:** Section Tax 14.03 interprets s. 71.52(5) and (6), Stats.

**Note:** Section 71.01(6), Stats., was revised by 1997 Wis. Act 37, to include provisions of P.L. 105-34, relating to the exclusion of a gain from the sale of a personal residence, effective for sales after May 6, 1997, the same time as for federal purposes. Under the statutes in effect immediately prior to the enactment of 1997 Wis. Act 37, certain gains from the sale of a personal residence could be deferred under s. 1034 of the internal revenue code, and those gains were excludable from income under s. 71.52(6), Stats. In addition, a gain on the sale of a personal residence excluded under s. 121 of the internal revenue code, which was the once-in-a-lifetime exclusion for a qualifying sale by a person age 55 or older, was includable in income under s. 71.52(6), Stats.

**Note:** Section 71.52(6), Stats., was amended by 1997 Wis. Act 27, effective for 1998 homestead credit claims filed in calendar year 1999 and thereafter. Under the statutes in effect immediately prior to the enactment of 1997 Wis. Act 27, scholarship and fellowship amounts described in sub. (5)(c) could not be excluded from income.

SECTION 20. Tax 14.04(2), (3)(b) and (c) and (4)(a), (b)1. and 2. and (c) are amended to read:

Tax 14.04(2) DEFINITION. Under s. 71.52(7), Stats., "property taxes accrued" means real or personal property taxes or monthly parking permit fees under s. 66.058(3)(c), Stats., exclusive of special assessments, delinquent interest and charges for service, levied under ch. 70, Stats., on a homestead owned by a claimant or a member of the claimant's household, less the tax credit for general property tax relief, if any, afforded in respect of the property by s.

79.10, Stats. With respect to sub. (3)(e), "property taxes accrued" means the property taxes accrued levied on the former homestead owned by the claimant.

(3)(b) The property taxes levied accrued on a homestead or former homestead for the year to which a claim relates need not be paid prior to filing a homestead credit claim. The fact that the property taxes ~~on a claimant's~~ accrued on the homestead or former homestead are delinquent for years prior to the year to which a claim relates does not disqualify the claimant.

(c) "Property taxes accrued" includes personal property taxes assessed on a homestead or former homestead that is constructed on leased land or assessed on a mobile home owned by the claimant or a member of the claimant's household. "Property taxes accrued" also includes mobile home parking permit fees assessed under s. 66.058(3)(c), Stats., for a mobile home owned by the claimant or a member of the claimant's household.

**Note to Revisor:** 1) In sub. (3), add periods after the subdivision numbers, 5 times.

2) Replace the example at the end of sub. (3)(e), incorrectly labeled 1) and 2), with the following:

**Example:** A claimant moves on July 1, 1997, from the homestead she owns to an apartment that is exempt from property taxes. She has listed her former homestead for sale with a realtor. While continuing to reside in the apartment, she sells the former homestead; the date on the closing agreement is May 31, 1998. The property taxes accrued on the former homestead are \$2,400 for 1997 and the prorated property taxes on the closing agreement are \$1,000.

The claimant may file a 1997 homestead credit claim, based on the 1997 property taxes accrued of \$2,400 for the entire year. She may also file a 1998 claim, based on the property taxes accrued of \$1,000, prorated from January 1, 1998, to the date of the sale.

(4)(a) Except as provided in pars. (b) and (c), a claimant who claims property taxes accrued shall submit with the homestead credit claim a copy of the property tax bill, or if not available, a substitute for the property tax bill containing equivalent information to that appearing on the original property tax bill. ~~If the claimant presents the claim in person to an authorized representative of the department and wishes to retain the original tax bill but is unable to provide a copy, and if the department's representative is unable to produce a copy of the tax bill, an indication that the representative has inspected the tax bill shall satisfy this requirement. In this~~

event, ~~the department's representative shall enter information on the face of Schedule H indicating that the representative has examined the tax bill and verified the tax, followed by the representative's signature.~~

- (b)1. The closing agreement from the sale of the homestead;
2. The property tax bill for the year prior to the year to which the claim relates;

(c) If a claimant's homestead is a mobile home owned by the claimant or a member of the claimant's household, on which parking permit fees are assessed under s. 66.058(3)(c), Stats., proper verification of property taxes accrued shall be a copy of the parking permit fee statement issued by an authorized representative of the municipality in which the mobile home was located, or if the claimant paid rent for the land on which the mobile home was located and also paid parking permit fees to a landlord, a statement of the parking permit fees paid to the landlord, signed by the landlord, such as a ~~Wisconsin department of revenue~~ form I-017, "Rent Certificate."

SECTION 21. Tax 14.04(5) is repealed and recreated to read:

Tax 14.04(5) EFFECT OF RELIEF AND OTHER PUBLIC ASSISTANCE. (a) Under s. 71.54(2)(a), Stats., property taxes accrued shall be reduced by one-twelfth for each month or portion of a month for which the claimant received either \$400 or more of county relief under s. 59.53(21), Stats., or any amount of aid to families with dependent children, or "AFDC" under s. 49.19, Stats., Wisconsin works payments for community service jobs or transitional placements under s. 49.147(4) or (5), Stats., or Wisconsin works payments as a caretaker of a newborn child under s. 49.148(1m), Stats. However, property taxes accrued need not be reduced if the assistance consists solely of foster care payments under s. 49.19(10)(a), Stats., non-legally responsible relative, or "NLRR" AFDC payments or kinship care payments.

(b) County relief and other cash public assistance payments that are repaid by the claimant in the same calendar year in which they are received are not considered payments for

purposes of computing the one-twelfth reduction of property taxes accrued as required by par. (a).

SECTION 22. Tax 14.04(8)(a) and (b) are amended to read:

Tax 14.04(8)(a) ~~Under~~ Except as provided in par. (c), under s. 71.52(7), Stats., 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 of the co-owners is not a member of the claimant's household, property taxes accrued is that part of the property taxes accrued levied on the homestead, reduced by the tax credit under s. 79.10, Stats., that reflects the ownership percentage of the claimant and the claimant's household.

(b) ~~If~~ Except as provided in par. (c), if a qualified claimant residing in a co-owned homestead pays the homestead property taxes accrued for a co-owner not residing in the homestead and not claiming property taxes accrued under s. 71.54(2)(c)2., Stats., and sub. (3)(e), the claimant ~~shall be entitled to~~ may claim a homestead credit based upon both the claimant's ~~appropriate~~ proportionate share of "property taxes accrued" as described in par. (a) and "gross rent" for the homestead property taxes accrued paid on behalf of each absent owner, as provided in s. Tax 14.05(3)(c). On the other hand, if a qualified claimant residing in a co-owned homestead pays the homestead property taxes accrued for a co-owner who also resides in the homestead but ~~who~~ is not a member of the payor's household, or who is claiming property taxes accrued under s. 71.54(2)(c)2., Stats., and sub. (3)(e), each co-owner may file a claim based upon that ~~part~~ portion of the property taxes accrued that reflects the ownership percentage of each claimant and his or her household.

**Note to Revisor:** Replace the 3 examples at the end of sub. (8)(b) with the following:

**Examples:** 1) A, B and C each own a one-third interest in a dwelling. A and B are married to each other and live in the dwelling; C lives elsewhere. A and B both qualify for homestead credit and pay all of the property taxes accrued, which are \$1,800.

Either A or B may claim a homestead credit based upon "property taxes accrued" of \$1,200, their two-thirds share, plus "gross rent" of \$600, since they pay C's one-third share of the property taxes.

If C had also occupied the homestead, A and B could have claimed only \$1,200 of "property taxes accrued" and no "gross rent," even though they paid the entire \$1,800. In addition, C could have filed a claim if otherwise qualified, based upon "property taxes accrued" of \$600.

2) A mother and son each own a one-half interest in a dwelling occupied solely by the mother, who qualifies for homestead credit. The son pays all of the property taxes accrued on the dwelling.

The mother may claim a homestead credit based upon one-half of the property taxes accrued.

3) A brother and sister both qualify for homestead credit and own 75% and 25% interests, respectively, in a homestead they both occupy. The brother pays all of the property taxes accrued on the homestead.

Each may claim a homestead credit based upon the portion of property taxes accrued reflecting their ownership percentage.

SECTION 23. Tax 14.04(8)(c) is created to read:

Tax 14.04(8)(c) Under s. 71.52(7), Stats., if a claimant has inherited a partial ownership interest in a homestead, is entitled to possession of the property and is required by the terms of the will that transferred the ownership to pay all of the property taxes on the homestead, the claimant may claim a homestead credit based upon the entire amount of property taxes accrued on the homestead.

SECTION 24. Tax 14.04(9)(a) and (b), (10)(a) and (11) are amended to read:

Tax 14.04(9)(a) Under s. 71.52(7), Stats., if a claimant sells or purchases a homestead during the year to which a claim for homestead credit relates, the property taxes accrued shall be prorated for the time the seller or the buyer both owned and occupied the homestead during the year. The seller may use the closing agreement, the property tax bill for the year prior to 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 allowable ~~taxes~~ property taxes accrued. The purchaser may use only

the property tax bill for the year to which the claim relates as the basis for computing allowable ~~taxes~~ property taxes accrued.

(b) Except as provided under s. 71.54(2)(c)2., Stats., and sub. (3)(e), if a seller moved from the homestead or established a homestead elsewhere before the closing date shown on a closing agreement and the property taxes are prorated on the agreement to the closing date, the property taxes shall be further prorated for homestead credit purposes to consider in the year of sale only the property taxes ~~accrued during~~ for the period the seller maintained a homestead on the property.

**Note to Revisor:** Replace the example at the end of sub. (9) with the following:

**Example:** Ownership of a homestead is transferred on June 30. The prorated property taxes for 6 months on the closing agreement are \$1,200. The seller moves from that homestead to a new homestead on May 31.

The portion of prorated property taxes allowable to the seller is \$1,000, which is the property taxes from January 1 to May 31 rather than the \$1,200 shown on the closing agreement.

(10)(a) *Not part of a farm.* Under s. 71.52(3) and (7), Stats., if a homestead is not part of a farm, property taxes accrued for land are limited to the property taxes on up to one acre of land which surrounds the homestead dwelling and is reasonably necessary to the use of the dwelling as a home. A parcel of land separated from the homestead parcel by such things as a street, river, or utility right-of-way shall be considered to be a part of the homestead parcel.

(11) MULTIPURPOSE AND MULTIDWELLING BUILDINGS. Under s. 71.52(7), Stats., property taxes accrued on a homestead that is part of a multipurpose or multidwelling building are the ~~taxes~~ property taxes accrued on the ~~part~~ portion occupied as a principal residence, based ~~on~~ upon a percentage of the total ~~taxes~~ property taxes accrued on the multipurpose or multidwelling building, and ~~the amount computed using~~ the same percentage of the ~~taxes~~ property taxes accrued on the land surrounding it which otherwise qualifies as described in sub. (10). Property used partly as a homestead and partly for any business purpose, other than farming, for which a deduction is allowed or allowable for income tax purposes is multipurpose



property. Property used partly as a homestead and partly as living quarters rented to others is multidwelling property. A building divided into ~~two~~ 2 units, one of which is the homestead of a claimant and the other of which is the living quarters of a person who does not pay rent is multidwelling property, even though there is no business or rental use.

**Note to Revisor:** 1) Replace the 4 examples at the end of sub. (11) with the following:

**Examples:** 1) A claimant was a homeowner who as a salesperson used one room of the 8-room house exclusively for business activities. Property taxes accrued for the year were \$1,600.

The claimant may claim only seven-eighths of the property taxes accrued, or \$1,400, in the computation of allowable homestead credit, since the other one-eighth, or \$200, constitutes business taxes.

2) Assume the same facts as in example 1, except that the room was not used exclusively for business. No deductions would be allowable for income tax purposes and the full \$1,600 of property taxes accrued could therefore be claimed in the computation of allowable homestead credit.

3) A claimant owned a duplex, lived in one of the 2 equal-sized units and rented out the other unit. Property taxes accrued for the year were \$2,400.

Only \$1,200, representing the property taxes accrued on the claimant's principal dwelling, may be claimed in the computation of allowable homestead credit.

4) Assume the same facts as in example 3, except that the claimant lived in one unit and the claimant's son or daughter lived in the other unit but was not required to pay rent. The claimant nevertheless may claim only \$1,200 of the property taxes accrued.

2) Replace the example at the end of sub. (12) with the following:

**Example:** A widow and her son reside in the same homestead. Prior to the year of the claim, the widow transferred the property to her son by quit-claim deed but retained a life estate in the property. She pays the property taxes, but the property tax bill comes in her son's name.

If otherwise qualified, the widow may file a claim for homestead credit based upon the entire amount of property taxes accrued. The son may not claim homestead credit based upon any portion of the property taxes accrued on the homestead even though he resides in the property and is otherwise qualified.

3) Remove the "1)" from the first note at the end of Tax 14.04.

4) Remove notes 2 to 4 at the end of Tax 14.04.

5) Insert the following 3 notes at the end of Tax 14.04:

**Note:** Section Tax 14.04 interprets ss. 71.52(3) and (7) and 71.54(2)(a) and (c)2., Stats.

**Note:** Section 71.54(2)(a)(intro.), Stats., was amended by 1995 Wis. Act 27, effective July 28, 1995, to reference "relief from any county under s. 59.07(154)," Stats. (s. 59.07(154), Stats., was renumbered s. 59.53(21), Stats., by 1995 Wis. Act 201, effective September 1, 1996). Section 71.54(2)(a)(intro.), Stats., was again amended, by 1995 Wis. Act 289, effective July 1, 1996, to provide for a one-twelfth reduction of property taxes accrued for months a claimant received Wisconsin works under s. 49.147(4) or (5), Stats. Prior to the enactment of 1995 Wis. Acts 27 and 289, the county relief reference was to "general relief from any municipality or county," and there was no reference to Wisconsin works because that program did not exist.

**Note:** Section 71.54(2)(a)(intro.), Stats., was amended by 1999 Wis. Act 9, effective for 2000 homestead credit claims filed in calendar year 2001 and thereafter, to require a one-twelfth reduction of property taxes accrued for months a claimant received Wisconsin works payments as a caretaker of a newborn child under s. 49.148(1m), Stats. Under the statutes in effect immediately prior to the enactment of 1999 Wis. Act 9, the reduction was not required for receipt of those payments.

SECTION 25. Tax 14.05(2) is repealed and recreated to read:

Tax 14.05(2) DEFINITIONS. (a) "Gross rent" has the meaning specified in s. 71.52(2), Stats. Gross rent includes payments by a claimant to the landlord for items normally associated with the occupancy of a homestead, such as a garage or parking space, appliances, furniture or utilities. However, payments for food, medical services or other personal services are expressly excluded under s. 71.52(2), Stats. In situations where charges for food and services are subtracted from amounts paid to a landlord, gross rent is commonly referred to as "rent paid for occupancy."

(b) "Rent constituting property taxes accrued" has the meaning specified in s. 71.52(8), Stats.

SECTION 26. Tax 14.05(3)(b) is repealed.

SECTION 27. Tax 14.05(3)(c) and (d) are renumbered Tax 14.05(3)(b) and (c) and as renumbered Tax 14.05(3)(b) is amended to read:

Tax 14.05(3)(b) Property taxes accrued on a claimant's homestead not owned by the claimant or a member of the claimant's household, which are paid by the claimant on behalf of an owner who does not reside in the homestead and who does not claim property taxes accrued under s. 71.54(2)(c)2., Stats., shall be considered gross rent.

SECTION 28. Tax 14.05(4)(a), (b), (c) and (e) are amended to read:

Tax 14.05(4)(a) Except as provided in pars. (e) and (f), if a claimant claims rent constituting property taxes accrued the claimant and the landlord shall complete Wisconsin department of revenue form I-017, "Rent Certificate," and the claimant shall submit it with Schedule ~~schedule~~ H. The department is not precluded from requesting additional documentation to verify rent paid in cases it deems appropriate.

(b) If a claimant ~~rents~~ pays rent for more than one homestead during a year, a separate rent certificate shall be completed for each homestead for which the claimant wishes to claim a homestead credit, and the claimant shall submit all rent certificates together with a single Schedule ~~schedule~~ H.

(c) ~~Landlords~~ A landlord shall determine the reasonable value of food, medical services, and other personal services such as laundry, transportation, counseling, grooming, recreational, and therapeutic services provided to the a claimant in addition to occupancy rights and shall subtract those amounts from total rent indicated on the rent certificate, to determine rent paid for occupancy. ~~If heat is included in the cost of the rent, landlords shall fill in the rent paid for occupancy on the line of the rent certificate so designated, or if heat is not included, they shall fill in the rent paid for occupancy on that designated line~~ The landlord shall also indicate whether heat was included or not included in the rent by checking the appropriate box on the rent certificate.

(e) If a claimant is unable to obtain a rent certificate from a landlord, proper rent receipts, money order receipts, cancelled checks, or cancelled share drafts substantiating amounts paid shall be acceptable evidence of gross rent paid. The claimant shall ~~attach a statement to the homestead credit claim giving the name and address of the landlord, the address of the homestead for which credit is claimed, an explanation of the inability of the claimant to obtain a rent certificate, a list of food, medical services, and other personal services as described in par. (c) provided by the landlord, and a statement as to whether heat was~~

~~included in the rent paid to the landlord, as evidence of rent constituting property taxes accrued.~~  
also include a rent certificate on which all lines except the signature line have been filled in, or a statement providing the same information as that requested on the rent certificate. The statement or rent certificate shall indicate whether heat was included in the rent, and whether food or services as described in par. (c) were provided and if so the estimated value of the food and services provided. The statement or top portion of the rent certificate should be marked with a comment such as "Landlord Refuses to Sign."

SECTION 29. Tax 14.05(5) is repealed and recreated to read:

Tax 14.05(5) EFFECT OF RELIEF AND OTHER PUBLIC ASSISTANCE. (a) Under s. 71.54(2)(a), Stats., rent constituting property taxes accrued shall be reduced by one-twelfth for each month or portion of a month for which the claimant received either \$400 or more of county relief under s. 59.53(21), Stats., or any amount of aid to families with dependent children, or "AFDC" under s. 49.19, Stats., Wisconsin works payments for community service jobs or transitional placements under s. 49.147(4) or (5), Stats., or Wisconsin works payments as a caretaker of a newborn child under s. 49.148(1m), Stats. However, rent constituting property taxes accrued need not be reduced if the assistance consists solely of foster care payments under s. 49.19(10)(a), Stats., non-legally responsible relative, or "NLRR" AFDC payments or kinship care payments.

(b) County relief and other cash public assistance payments that are repaid by the claimant in the same calendar year in which they are received are not considered payments for purposes of computing the one-twelfth reduction of rent constituting property taxes accrued as required by par. (a).

SECTION 30. Tax 14.05(7), (8)(a), (b), (c) and (d)(intro.), 1., 2. and 3., (9)(a), (12) and (13)(title) are amended to read:

Tax 14.05(7) NON-ARM'S LENGTH RENTAL. Section Under s. 71.55(8), Stats.,  
~~provides "In any case in which if 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.<sup>2</sup> The department may ~~determine rent constituting property taxes accrued as at arm's length~~ make this determination when the amount claimed is in excess of fair rental value. However, since under s. 71.52(2), Stats., "gross rent" is limited to rental actually paid, the department may not increase the rent constituting property taxes accrued to arm's length rental if the rent paid was at less than fair rental value.

**Note to Revisor:** Replace the example at the end of sub. (7) with the following:

**Example:** A claimant files a claim with a rent certificate showing rent paid for occupancy of \$7,200, or \$600 per month. Investigation by the Department of Revenue discloses the rent is too high for the locality and dwelling involved, and the landlord is financially dependent on others for support and is related to the claimant. The department determines that the fair rental value of the claimant's homestead for the year of the claim was \$300 per month, or \$3,600 for the year. No utilities, food or services were furnished by the landlord.

Allowable rent constituting property taxes accrued is \$900, which is 25% of \$3,600.

(8)(a) Under s. 71.53(2)(e), Stats., no claim for homestead credit may be allowed if a claimant resided for the entire calendar year to which the claim relates in housing which was exempt from taxation under ch. 70, Stats., other than housing for which payments in lieu of taxes are made under s. 66.40(22), Stats., except as provided under s. 71.54(2)(c)2., Stats. Under s. 71.54(2)(c)2., Stats., if a claimant moves to tax-exempt housing, a claim for homestead credit may be allowed based ~~on~~ upon property taxes accrued on the claimant's former homestead under certain conditions. Those conditions are explained in s. Tax 14.04(3)(e).

(b) Under ~~s.~~ ss. 71.53(2)(e) and 71.54(2)(c)1., Stats., if a claimant resided for part of the calendar year to which a claim for homestead credit relates, in a homestead which was either subject to taxation under ch. 70, Stats., or exempt from taxation under ch. 70, Stats., but for which payment payments in lieu of taxes ~~was~~ were made under s. 66.40(22), Stats., the

property taxes accrued or rent constituting property taxes accrued or both ~~on~~ for that homestead are allowed for that ~~part~~ portion of the year.

(c) ~~Payments required to be made~~ in lieu of taxes made under s. 66.40(22), Stats., as provided in ~~par. pars.~~ (a) and (b), are made by most facilities ~~that are~~ licensed with the state of Wisconsin as "housing authorities." Rent paid to those housing authorities may be used to determine gross rent and rent constituting property taxes accrued. However, other types of exempted housing which make payments in lieu of taxes do not make the payments under s. 66.40(22), Stats., and therefore rent paid to those types of exempted housing may not be used to determine gross rent and rent constituting property taxes accrued.

(d)(intro.) ~~Examples of other types of exempted~~ Types of tax-exempt housing other than housing authorities include:

1. Federal ~~low-income~~ low-income housing under the ~~H.U.D.~~ housing and urban development, or "H.U.D." program;
2. Student dormitories owned by nonprofit educational institutions;
3. Housing units of religious organizations; and

(9)(a) ~~Claimants~~ Persons sharing living expenses for a rented homestead ~~with one or more joint occupants age 18 or older and~~ who are otherwise eligible for the homestead credit and who are not members of the claimant's same household, shall each be entitled to claim a portion of the rent paid for occupancy of the homestead. However, the total claims of the joint occupants for rent paid for occupancy may not exceed 100% of the rent paid to the landlord for occupancy, as shown on the rent certificate. The amount of rent paid for occupancy shall be the ratio which the contribution of the claimant or claimant's household to the cost of shared living expenses, such as rent, food, utilities, and supplies, bears to the total cost of the shared living expenses.

**Note to Revisor:** Replace the example at the end of sub. (9)(a) with the following:

**Example:** X, Y and Z are 3 unrelated joint occupants of a rental unit who share expenses as follows:

<u>Living Expenses</u>	<u>X</u>	<u>Y</u>	<u>Z</u>	<u>Total</u>
Rent for occupancy	\$5,400	\$ ----	\$ ----	\$5,400
Food	----	1,350	1,350	2,700
Utilities	----	<u>900</u>	----	<u>900</u>
Total living expenses	<u>\$5,400</u>	<u>\$2,250</u>	<u>\$1,350</u>	<u>\$9,000</u>
% of total	<u>60%</u>	<u>25%</u>	<u>15%</u>	<u>100%</u>

Since X paid 60% of the shared living expenses, X's share of rent paid for occupancy is 60% of \$5,400, or \$3,240. Likewise, rent paid for occupancy for Y is 25% of \$5,400, or \$1,350, and for Z it is 15% of \$5,400, or \$810. Total rent paid for occupancy for all 3 claimants is \$5,400, as shown on the rent for occupancy line.

(12) SHARECROPPERS. "Rent constituting property taxes accrued" of a person sharing the costs or proceeds or both from the operations of a farm with the owner of the farm property in consideration for use of the homestead, land, machinery, or equipment equals 25% of the owner's share of the net proceeds applicable to occupancy of the homestead, or 20% if heat is included in the cost of the rent.

**Note to Revisor:** Replace the example at the end of sub. (12) with the following:

**Example:** A sharecropper resides on and operates a 120 acre dairy farm. The landlord and the sharecropper share equally the gross receipts from crop sales, \$10,000, the gross milk receipts, \$40,000, and the cost of seed and feed, \$20,000. The landlord furnishes the land, buildings and machinery, for which annual allowable depreciation is \$6,000. The landlord pays for the heat. In this situation, rent constituting property taxes accrued for the sharecropper equals 20% of the owner's share of the proceeds less the value of the nonoccupancy items furnished by the landlord, as follows:

Landlord's share of crop receipts	\$ 5,000	
Landlord's share of milk receipts	<u>20,000</u>	\$25,000
Less nonoccupancy items furnished by landlord:		
Landlord's share of seed and feed	\$10,000	
Depreciation of buildings, not including the dwelling, and machinery	<u>6,000</u>	<u>16,000</u>
Gross rent		\$9,000
		x 20%
Rent constituting property taxes accrued		<u>\$1,800</u>

(13)(title) ~~LOW-INCOME~~ LOW-INCOME HOUSING.

SECTION 31. Tax 14.05(13)(a)(intro.) and (b) are renumbered Tax 14.05(13)(b) and (c) and as renumbered Tax 14.05(13)(b) is amended to read:

Tax 14.05(13)(b) ~~If a A landlord receives~~ may receive both payments from a claimant and subsidy payments from a governmental agency and applies them toward rental of a homestead, and if the application of the for rental of the claimant's homestead. If the allocation of the subsidy payments to food, medical services, and or other personal services as described in sub. (2)(a) s. 71.52(2), Stats., furnished by the landlord is not specified under the terms of an agreement with the paying governmental agency, the portion of the rent paid for occupancy eligible for the homestead credit ~~may be computed as follows:~~ shall be the total rent paid for occupancy multiplied by a fraction, the numerator of which is the amount paid by the claimant and the denominator of which is the total amount paid including governmental subsidies.

**Note to Revisor:** Replace the example at the end of sub. (13)(a) before renumbering with the following example at the end of sub. (13)(b) as renumbered:

**Example:** A total of \$5,400 is paid to a claimant's landlord for the year on behalf of the claimant, \$1,800 by the claimant and \$3,600 by a governmental agency. The value of food provided is \$600 and no services are provided.

Qualifying rent paid for occupancy is \$1,600, computed as follows:  $\$4,800 \times [\$1,800 \div \$5,400]$ . The \$4,800 is the total amount paid, \$5,400, less the \$600 for food. The \$1,800 is the amount the claimant paid and the \$5,400 is the total amount paid.

SECTION 32. Tax 14.05(13)(a)1., 2. and 3. are repealed.

SECTION 33. Tax 14.05(13)(a) is created to read:

Tax 14.05(13)(a) Indirect payments of rent, such as a subsidy payment from a governmental agency for low-income housing, are not includable in determining gross rent.

SECTION 34. Tax 14.05(14)(a)1. and 2. are amended to read:

Tax 14.05(14)(a)1. A standard rate of \$40 \$100 per week but not more than the actual rent paid.



2. The percentage of building occupancy expenses method as computed in the example at the end of this subsection. Under this method, the ratio that a nursing home's or a long-term care facility's building occupancy expenses for a year bears to gross income received in that year, both directly from residents and indirectly from governmental aid, is determined. This ratio is applied to a resident's total direct payments for a year for which a homestead credit claim is filed, yielding the portion of the payments constituting rent paid for occupancy. This ratio shall be determined from the most recent income and expense data available at the time a rent certificate is prepared, preferably using data from the same year for which the homestead credit is claimed. The building occupancy expenses claimed shall be limited to the expenses attributable to real estate and furnishings only, such as property taxes, interest, lease or rent expenses, depreciation, upkeep and repairs and utilities.

**Note to Revisor:** Insert the following example at the end of sub. (14)(a)2.:

**Example:** The following format may be used to compute a resident's rent paid for occupancy; the worksheet is filled in as an example of how to compute the percentage:

1. Building occupancy expenses - real estate and furnishings only	
a. Property taxes	\$ 30,000
b. Interest	70,000
c. Lease or rent expenses	10,000
d. Depreciation	60,000
e. Upkeep and repairs	10,000
f. Utilities	20,000
g. Total building occupancy expenses	<u>\$ 200,000</u>
2. Gross income, including indirect payments	\$1,600,000
3. Line 1.g divided by line 2 equals the percentage rate	<u>12.5%</u>

The percentage rate determined above is to be multiplied by the total rent collected as entered on the rent certificate prepared for a resident filing a homestead credit claim, and the amount so determined is to be entered on the rent certificate as rent paid for occupancy. Assuming a resident's total direct payments for the year were \$36,000, rent paid for occupancy would be \$4,500, which is 12.5% of \$36,000.

SECTION 35. Tax 14.05(14)(b) is renumbered Tax 14.05(14)(b)1.

SECTION 36. Tax 14.05(14)(b)2. is created to read:

Tax 14.05(14)(b)2. A person living in a nursing home who received medical assistance under s. 49.45, Stats., during the year to which the claim relates but is not receiving the medical

assistance at the time of filing a homestead credit claim may claim the homestead credit if otherwise eligible. In this situation, amounts paid by medical assistance are not includable in determining rent paid for occupancy.

**Note to Revisor:** 1) Remove the example at the end of sub. (14)(c).

2) Remove the "1)" from the first note at the end of Tax 14.05.

3) Remove notes 2 and 3 at the end of Tax 14.05.

4) Insert the following 4 notes at the end of Tax 14.05:

**Note:** Section Tax 14.05 interprets ss. 71.52(2) and (8), 71.53(2)(e) and (f), 71.54(2)(a) and (c) and 71.55(2) and (8), Stats.

**Note:** Section 71.54(2)(a)(intro.), Stats., was amended by 1995 Wis. Act 27, effective July 28, 1995, to reference "relief from any county under s. 59.07(154)," Stats. (s. 59.07(154), Stats., was renumbered s. 59.53(21), Stats., by 1995 Wis. Act 201, effective September 1, 1996). Section 71.54(2)(a)(intro.), Stats., was again amended, by 1995 Wis. Act 289, effective July 1, 1996, to provide for a one-twelfth reduction of rent constituting property taxes accrued for months a claimant received Wisconsin works under s. 49.147(4) or (5), Stats. Prior to the enactment of 1995 Wis. Acts 27 and 289, the county relief reference was to "general relief from any municipality or county," and there was no reference to Wisconsin works because that program did not exist.

**Note:** Section 71.54(2)(a)(intro.), Stats., was amended by 1999 Wis. Act 9, effective for 2000 homestead credit claims filed in calendar year 2001 and thereafter, to require a one-twelfth reduction of rent constituting property taxes accrued for months a claimant received Wisconsin works payments as a caretaker of a newborn child under s. 49.148(1m), Stats. Under the statutes in effect immediately prior to the enactment of 1999 Wis. Act 9, the reduction was not required for receipt of those payments.

**Note:** The standard rate of \$100 per week for rent paid for occupancy by residents of nursing homes or long-term care facilities became effective with rent paid for calendar year 2000. For rent paid for calendar years 1999 and prior, the standard rate was \$40 per week.

SECTION 37. Tax 14.06(title), (1) and (3)(c)(intro.) are amended to read:

Tax 14.06(title) **Marriage, separation, or divorce during a claim year.**

(1) PURPOSE. This section describes the qualifications for a homestead credit and the computation of household income, property taxes accrued, and rent constituting property taxes accrued of a claimant who becomes married or divorced during the year to which a homestead credit claim relates or whose spouse occupies a separate dwelling for any part of a claim year.

**Note to Revisor:** Replace the example at the end of sub. (2)(c) with the following:

**Example:** X marries Y on September 1, and they decide that X is to be the claimant. Prior to the marriage, X pays gross rent of \$250 per month and Y pays gross rent of \$350 per month. They pay gross rent of \$500 per month for their jointly occupied apartment after the marriage. Heat is not included at any of the dwellings. X's income is \$4,000 prior to the marriage, and X's services and property generate marital property income of \$2,000 after the marriage. Y's income is \$10,000 prior to the marriage, and Y's services and property generate marital property income of \$5,000 after the marriage. There are no dependents.

In this situation, household income reportable by X is \$11,000, consisting of X's \$4,000 of income prior to the marriage plus the \$7,000 income of both X and Y after the marriage. Rent constituting property taxes accrued which may be claimed by X is \$1,000, which is 25% of the sum of X's rent of \$250 per month for 8 months, or \$2,000, and 4 months rent at \$500 per month after the marriage, or \$2,000, totaling \$4,000 for the year. Since Y is not the claimant, Y's rent, of \$350 per month and income of \$10,000 for the 8 months prior to the marriage are not considered in computing the homestead credit.

(3)(c)(intro.) In the event a husband and wife occupy separate dwellings or become divorced during a claim year, household income is determined under s. 71.52(5), Stats., under Wisconsin income tax law; and under marital property law as provided in ch. 766, Stats., except that marital property law does not apply if one of the spouses is not domiciled in Wisconsin during the period of time they occupy separate dwellings. Household income shall be determined as follows:

**Note to Revisor:** 1) Remove the "1)" from the first note at the end of Tax 14.06.

2) Replace note 2 at the end of Tax 14.06 with the following:

**Note:** Throughout s. Tax 14.06, it has been assumed that a dissolved marriage was dissolved by a decree of divorce. Under s. 766.01(7), Stats., the dissolution of a marriage may also be by annulment or decree of invalidity, or by entry of a decree of legal separation or separate maintenance. The computation of household income, property taxes accrued and rent constituting property taxes accrued is the same under any of these types of dissolutions.

3) Remove note 3 at the end of Tax 14.06.

4) Insert the following note at the end of Tax 14.06:

**Note:** Section Tax 14.06 interprets ss. 71.52(5), (7) and (8) and 71.53(1)(c), Stats.

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The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s. 227.22(2)(intro.), Stats., except the amendment of s. Tax 14.05(14)(a)1. The increase to \$100 per week for the standard rate for rent paid for occupancy by residents of nursing homes or long-term care facilities shall take effect with rent paid for calendar year 2000.

### Initial Regulatory Flexibility Analysis

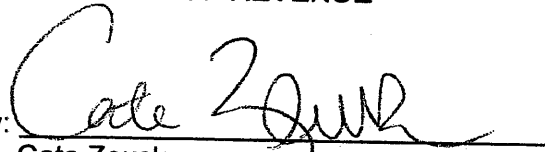
This proposed rule order does not have a significant economic impact on a substantial number of small businesses.

DEPARTMENT OF REVENUE

Dated: \_\_\_\_\_

2/23/00

By: \_\_\_\_\_

  
Cate Zeuske  
Secretary of Revenue

e:rules/1401 Proposed Order

**FISCAL ESTIMATE FORM**

1999 Session

- ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

<b>LRB #</b>
<b>INTRODUCTION #</b>
<b>Admin. Rule # Tax 14.01 to 14.06</b>

**Subject**  
Homestead Credit

**Fiscal Effect**

State:  No State Fiscal Effect  
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

<input checked="" type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be Possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation		

Local:  No Local Government Costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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**Fund Sources Affected**

- GPR     FED     PRO     PRS     SEG     SEG-S

**Affected Ch. 20 Appropriations**

20.835 (2)(c)

**Assumptions Used in Arriving at Fiscal Estimate:**

The proposed rule order would increase the "standard rate" used to determine rent paid by nursing home residents for purposes of the Homestead credit from \$40 per week to \$100 per week. The effect of this change would be to increase, for any nursing home resident using the standard rate in the Homestead calculation, the credit received by \$499. It is not known how many nursing home residents claim the Homestead credit, nor how many of them use the standard rate, instead of some other means of determining rent, in the Homestead calculation. Therefore, the fiscal effect of this rule change is not known. However, Homestead is limited to low-income persons and the credit is not allowed to nursing home residents who receive Medicaid; these restrictions make it unlikely that the number of persons affected by this rule change is more than 1,000. Thus, it is believed this rule will increase Homestead expenditures by less than \$500,000.

Other changes in this proposed rule would update language and provisions relating to public assistance, gains from the sale of homes and the imposition of interest; would reflect proper filing and adjustment procedures, and deadlines; and would conform style and language to Legislative Council Rules Clearinghouse standards. These other changes have no fiscal effect.

**Long-Range Fiscal Implications:**

<b>Agency/Prepared by: (Name &amp; Phone No.)</b>	<b>Authorized Signature/Telephone No.</b>	<b>Date</b>
Wisconsin Department of Revenue Dennis Collier, (608) 266-5773	Yeang-Eng Braun (608) 266-2700 <i>Yeang-Eng Braun</i>	9/9/99

**FISCAL ESTIMATE WORKSHEET**

Detailed Estimate of Annual Fiscal Effect

**1999 Session**

- ORIGINAL     UPDATED  
 CORRECTED     SUPPLEMENTAL

LRB #

INTRODUCTION #

Admin. Rule #  
Tax 14.01 to  
14.06

Subject  
Homestead Credit

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

II. Annualized Costs:	Annualized Fiscal impact on State funds from:	
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringe (FTE Position Changes)	\$	\$ -
State Operations-Other Costs	( FTE)	( - FTE)
Local Assistance		-
Aids to Individuals or Organizations		- See Text
<b>TOTAL State Costs by Category</b>	\$	\$ - See Text
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ - See Text
FED		-
PRO/PRS		-
SEG/SEG-S		-
III. State Revenues - Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
<b>TOTAL State Revenues</b>	\$.	\$ -

**NET ANNUALIZED FISCAL IMPACT**

	<u>STATE</u>	<u>LOCAL</u>
NET CHANGE IN COSTS	\$ See Text	\$
NET CHANGE IN REVENUES	\$	\$

Agency/Prepared by: (Name & Phone No.) Wisconsin Department of Revenue Dennis Collier, (608) 266-5773	Authorized Signature/Telephone No. Yeang-Eng Braun (608) 266-2700 <i>Yeang Eng Braun</i>	Date 9/9/99
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