

Chapter Tax 2

INCOME TAXATION, RETURNS, RECORDS AND GROSS INCOME

Tax 2.01	Residence (p. 8)	Tax 2.25	Corporation accounting generally (p. 23)
Tax 2.02	Reciprocity (p. 8)	Tax 2.26	"Last in, first out" method of inventorying for corporations (p. 23)
Tax 2.03	Corporation returns (p. 10)	Tax 2.30	Property located outside Wisconsin—depreciation and sale (p. 25)
Tax 2.04	Information returns; forms WT-9, 9b and 9x for corporations (p. 11)	Tax 2.31	Taxation of personal service income of nonresident professional athletes (p. 27)
Tax 2.045	Information returns; forms 9c for employers of nonresident entertainers, entertainment corporations or athletes (p. 12)	Tax 2.39	Apportionment method (p. 28)
Tax 2.05	Information returns; forms 8 for corporations (p. 12)	Tax 2.40	Nonapportionable income (p. 33)
Tax 2.06	Information returns required of partnerships and persons other than corporations (p. 12)	Tax 2.41	Separate accounting method (p. 34)
Tax 2.07	Income tax returns of dissolved corporations (p. 13)	Tax 2.42	Apportionment method (p. 34)
Tax 2.08	Returns of persons other than corporations (p. 13)	Tax 2.43	Nonapportionable income (p. 35)
Tax 2.081	Indexed income tax rate schedule (p. 14)	Tax 2.44	Permission to change basis of allocation (p. 36)
Tax 2.085	Claim for refund on behalf of a deceased taxpayer (p. 14)	Tax 2.45	Apportionment in special cases (p. 36)
Tax 2.09	Reproduction of income tax forms (p. 14-1)	Tax 2.46	Apportionment of business income of interstate air carriers (p. 36)
Tax 2.10	Copies of federal returns, statements, schedules, documents, etc. to be filed with Wisconsin returns (p. 15)	Tax 2.47	Apportionment of net business income of interstate motor carriers of property (p. 37)
Tax 2.105	Notice by taxpayer of federal audit adjustments and amended returns (p. 15)	Tax 2.48	Apportionment of net business incomes of interstate pipeline companies (p. 37)
Tax 2.11	Credit for sales and use tax paid on fuel and electricity (p. 16-2)	Tax 2.49	Apportionment of net business incomes of interstate finance companies (p. 38)
Tax 2.12	Amended income and franchise tax returns (p. 17)	Tax 2.50	Apportionment of net business incomes of interstate public utilities (p. 39)
Tax 2.13	Moving expenses (p. 17)	Tax 2.505	Apportionment of net business income of interstate professional sports clubs (p. 39)
Tax 2.14	Aggregate personal exemptions (p. 19)	Tax 2.51	Rent received by corporations from Wisconsin real estate (p. 39)
Tax 2.15	Methods of accounting for corporations (p. 19)	Tax 2.53	Stock dividends and stock rights received by corporations (p. 40)
Tax 2.16	Change in method of accounting for corporations (p. 19)	Tax 2.56	Insurance proceeds received by corporations (p. 40)
Tax 2.165	Change in taxable year (p. 21)	Tax 2.57	Annuity payments received by corporations (p. 40-1)
Tax 2.17	Cash method of accounting for corporations (p. 22-1)	Tax 2.60	Dividends on stock sold "short" by corporations (p. 40-1)
Tax 2.18	Accrual method of accounting for corporations (p. 22-1)	Tax 2.61	Building and loan dividends on instalment shares received by corporations (p. 41)
Tax 2.19	Instalment method of accounting for corporations (p. 22-1)	Tax 2.63	Dividends accrued on stock (p. 41)
Tax 2.20	Accounting for acceptance corporations, dealers in commercial paper, mortgage discount companies and small loan companies (p. 22-2)	Tax 2.65	Interest received by corporations (p. 41)
Tax 2.21	Accounting for incorporated contractors (p. 22-2)	Tax 2.69	Income from Wisconsin business (p. 41)
Tax 2.22	Accounting for incorporated dealers in securities (p. 23)		
Tax 2.24	Accounting for incorporated retail merchants (p. 23)		

Tax 2

Tax 2.70	Gain or loss on capital assets of corporations; basis of determining (p. 41)	Tax 2.92	Withholding tax exemptions (p. 50-3)
Tax 2.72	Exchanges of property by corporations generally (p. 42)	Tax 2.93	Withholding from wages of a deceased employe and from death benefit payments (p. 50-3)
Tax 2.721	Exchanges of property held for productive use or investment by corporations (p. 43)	Tax 2.935	Reduction of delinquent interest rate under s. 71.20 (5) (c), Stats. (p. 50-4)
Tax 2.73	Involuntary conversion by corporations (p. 43)	Tax 2.94	Tax sheltered annuities (p. 50-5)
Tax 2.74	Gain or loss on disposition of property by corporations; adjustments to basis (p. 43)	Tax 2.95	Reporting of installment sales (p. 50-6)
Tax 2.75	Recoveries by corporations (p. 45)	Tax 2.955	Credit for income taxes paid to other states (p. 50-10)
Tax 2.76	Refunds of taxes to corporations (p. 45)	Tax 2.96	Extension of time to file corporation franchise or income tax returns (p. 50-11)
Tax 2.80	Improvements on leased real estate, income to corporate lessor (p. 45)	Tax 2.97	Sale of constant basis assets acquired prior to becoming a Wisconsin resident (p. 51)
Tax 2.81	Damages received by corporations (p. 45)	Tax 2.98	Disaster area losses (p. 54)
Tax 2.82	Nexus (p. 46)	Tax 2.99	Computing 1975 Wisconsin net taxable income with reference to the internal revenue code in effect on December 31, 1974 (p. 57)
Tax 2.83	Requirements for written elections as to recognition of gain in certain corporation liquidations (p. 48)	Tax 2.991	Computing 1976 Wisconsin net taxable income with reference to the internal revenue code in effect on December 31, 1975 (p. 60)
Tax 2.86	Income to corporations from cancellation of government contracts (p. 48)	Tax 2.992	Computing 1977 Wisconsin net taxable income with reference to the internal revenue code in effect on December 31, 1976. (p. 68-1)
Tax 2.87	Reduction of delinquent interest rate under s. 71.13 (1) (b), Stats. (p. 49)		
Tax 2.88	Interest rates (p. 49)		
Tax 2.89	Penalty for underpayment of estimated tax (p. 50)		
Tax 2.90	Withholding; wages (p. 50-1)		
Tax 2.91	Withholding; fiscal year taxpayers (p. 50-2)		

Tax 2.01 Residence. (s. 71.01, Stats.) (1) The residence of a wife is that of her husband unless there is affirmative evidence to the contrary or unless the husband and wife are permanently separated. The residence of a minor child, unless emancipated, is that of its father, or of the mother, if the father is deceased.

(2) Individuals claiming a change of residence (domicile) from Wisconsin to another state shall file a "declaration of residence" with the Central Audit section of the Department of Revenue by delivery to 4638 University Avenue, Madison, Wisconsin, or by mailing to P. O. Box 8906, Madison, Wisconsin 53708, and shall furnish such other information as the department may require.

History: 1-2-56; r. (1); renum. (2) to be (1); renum. (3) to be (2) and am., Register, September, 1964, No. 105, eff. 10-1-64. am. Register, February, 1975, No. 230, eff. 3-1-75.

Tax 2.02 Reciprocity. (s. 71.03 (2) (c), Stats.) (1) **GENERAL.** (a) In this rule, "residence" and "resident" are synonymous with "domicile" and "domiciliary", respectively, except when referring to the reciprocity agreement with Illinois. A person may be a resident of Illinois while domiciled in Wisconsin or a person may be domiciled in Illinois but not be a resident of Illinois. The Illinois Income Tax Act defines a resident as "an individual (i) who is in this state for other than a temporary or transitory purpose during the taxable year; or (ii) who is domiciled in this state but is absent from the state for a temporary or transitory purpose during the taxable year".

Register, April, 1981, No. 304

(b) Income earned by a nonresident individual for performing personal services in Wisconsin shall be excluded from Wisconsin gross income to the extent the individual's state of residence imposes an income tax on such personal service income if that state allows:

1. A similar exclusion for personal service income earned by individuals domiciled in Wisconsin while working in that state; or

2. A credit against the tax imposed by that state on the personal service income equal to the Wisconsin tax on such income.

(c) A Wisconsin employer of a nonresident individual residing in a state with which Wisconsin has a reciprocity agreement need not withhold Wisconsin income tax from personal service income earned in Wisconsin by such nonresidents.

(2) **PERSONAL SERVICE INCOME DEFINED.** Income from personal services includes all salaries, wages, commissions and fees earned by an employe

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Madison, Wisconsin 53701 or delivered at 4638 University Avenue, Madison.

Note: Amended to permit the filing of approved substitute forms in lieu of official forms.

History: 1-2-56; am. Register, February, 1958, No. 26, eff. 3-1-58; r. and recr. Register, September, 1964, No. 105, 10-1-64; am. Register, March, 1966, No. 123, eff. 4-1-66; am. Register, February, 1975, No. 230, eff. 3-1-76; am. Register, September, 1977, No. 261, eff. 10-1-77.

Tax 2.07 Income tax returns of liquidated or dissolved corporations. (s. 71.10 (1), Stats.) The officers of a corporation which has been liquidated or dissolved during the income year shall file a corporate franchise or income tax return for such year and for any year thereafter in which there is corporate income. The franchise tax applies only to those corporations that are actually doing business in Wisconsin after the close of the period covered by the franchise tax return. Corporations which cease to do business in the income year covered by the return must file an income tax return to account for their final operation. A corporation which has liquidated or dissolved during the income year shall include the following information in its final return:

- (1) A copy of its plan of liquidation or reorganization.
- (2) The section of ch. 71, Stats., under which it liquidated or reorganized.
- (3) The disposition of the assets. If the assets were sold, indicate the selling price, adjusted cost basis at the time of sale, gain or loss realized on the sale and the date of the sale.
- (4) A list of the shareholders, their addresses and the amount received by each shareholder from the distribution or distributions. (The list should be submitted in addition to the required Forms 9b).
- (5) The date of the final distribution.

Note: The information specified in this rule is necessary for the audit of the final return of a corporation.

History: 1-2-56; am. Register, March, 1966, No. 123, eff. 4-1-66; r. and recr. Register, September, 1977, No. 261, eff. 10-1-77.

Tax 2.08 Returns of persons other than corporations. (1) For the purpose of filing income tax returns, the secretary of revenue has designated the following forms for the use of persons other than corporations:

- (a) Form 1. For all individuals, whether married or single, and for husbands and wives electing to file a combined return.
- (b) Form 1A. (Short form).
- (c) Form 2. For trustees, personal representatives, and others acting in a fiduciary capacity, but excluding guardians. (Guardians should report on Form 1).
- (d) Form 3. For partnerships and joint ventures.

(2) Information returns required of persons other than corporations are specified in Wis. Adm. Code s. Tax 2.06. See also Tax 3.07.

(3) Returns required to be filed by persons other than corporations shall be filed by mailing them to P.O. Box 268, Madison, Wisconsin 53790 if a tax is due. If a refund is payable or if no amount is due, the

Tax 2

return shall be filed by mailing it to P.O. Box 59, Madison, Wisconsin 53785. Returns required to be filed by fiduciaries shall be filed by mailing them to P.O. Box 8904, Madison, Wisconsin 53708.

Note: Blank forms may be obtained by mail request to Wisconsin Department of Revenue, P. O. Box 8903, Madison, Wisconsin 53708.

History: 1-2-56; am. Register, February, 1958, No. 26, eff. 3-1-58; am. Register, February, 1960, No. 50, eff. 3-1-60; am. Register, September, 1964, No. 105, eff. 10-1-64; r. and recr., Register, March, 1966, No. 123, eff. 4-1-66; am. Register, February, 1975, No. 230, eff. 3-1-75; am. (1), Register, November, 1977, No. 263, eff. 12-1-77; am. (3), Register, February, 1978, No. 266, eff. 3-1-78.

Tax 2.081 Indexed income tax rate schedule. (s. 71.09 (1b) and (2), Stats.) (1) **THE LAW.** (a) Section 71.09 (1b), Stats., prescribes the tax rates to be applied to taxable income in determining the tax to be assessed, levied and collected upon the taxable incomes of all persons other than corporations for the taxable year 1979.

(b) Section 71.09 (2), Stats., provides that "Commencing with calendar year 1980 and corresponding fiscal years and thereafter, the dollar amounts in sub. (1b) shall be changed to reflect the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of June of the current year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of June of the previous year, as determined by the U.S. department of labor, but in no case shall the amounts be increased by more than 10%. The revised amounts shall be rounded to the nearest whole number divisible by 100, and in no case shall be reduced below the amount appearing in sub. (1b) on February 28, 1979. The department of revenue shall annually adopt by rule any changes in dollar amounts required under this subsection, and incorporate them in the income tax forms and instructions."

(2) **INDEXED INCOME TAX RATE SCHEDULE FOR THE 1980 TAXABLE YEAR.** (a) The consumer price index, all urban consumers, U.S. city average increased from 216.6 for June 1979 to 247.6 for June 1980, a 14.3% increase. Therefore, the dollar amounts set forth in s. 71.09 (1b), Stats., shall be increased by 10%, the maximum increase allowable under s. 71.09 (2), Stats., for the 1980 taxable year.

(b) The tax to be assessed, levied and collected upon taxable incomes of all persons other than corporations for the 1980 taxable year shall be computed at the following rates:

WISCONSIN NET TAXABLE INCOME

Exceeding	Not Exceeding	Tax Rate
\$ 0	\$ 3,300	3.4%
\$ 3,300	\$ 6,600	5.2%
\$ 6,600	\$ 9,900	7.0%
\$ 9,900	\$13,200	8.2%
\$13,200	\$16,500	8.7%
\$16,500	\$22,000	9.1%
\$22,000	\$44,000	9.5%
Over \$44,000		10.0%

History: Emerg. cr. eff. 10-16-80; cr. Register, April, 1981, No. 304, eff. 5-1-81.

Tax 2.085 Claim for refund on behalf of a deceased taxpayer. (s. 71.10 (10), Stats.) (1) If a refund of Wisconsin income taxes is due a Register, April, 1981, No. 304

deceased taxpayer and if the refund exceeds \$100, the claimant shall file, with the income tax return, a completed form I-804, entitled "Claim for Decedent's Wisconsin Income Tax Refund".

(2) Forms required to be filed under sub. (1) shall be mailed to the Department of Revenue, P.O. Box 80, Madison, Wisconsin 53701.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; am. (1), Register, November, 1978, No. 276, eff. 12-1-78.

Tax 2.09 Reproduction of income tax forms. Subject to this rule, the official Wisconsin income tax return forms may be reproduced and the reproductions may be filed with the department in lieu of the corresponding official forms. The department may reject any form which is in whole or in part illegible.

(1) The reproductions must be made by photo-offset, photo-engraving or by some similar photographic process. They may be reproduced on one side or both sides of the paper.

(2) The reproductions must be on paper of substantially the same weight and texture, and of quality at least as good as that used in the official forms. Forms printed on colored paper may be reproduced on white paper.

(3) Since all of the official forms are printed in black ink, such printing must be reproduced in black.

(4) The size of the reproductions, both as to dimensions of the paper and image reproduced thereon, must be the same as that of the official form.

(5) Except for returns executed by fiduciaries as provided in (6) below, all signatures required on returns which are filed with the department must be original, affixed subsequent to the reproduction process.

(6) A fiduciary or the fiduciary's agent may use a facsimile signature in filing a tax return on form 2, subject to the following conditions:

(a) Each group of returns forwarded to the department shall be accompanied by a letter signed by the person authorized to sign such returns declaring, under penalties of perjury, that the facsimile signature appearing on the returns is the signature adopted by the person to sign the returns filed and that such signature was affixed to the returns by the person or at the person's direction. The letter shall also list each return by name and identifying number.

(b) A signed copy of the letter must be retained by the person filing the returns and must be available for inspection by the department.

(c) Where the returns are reproduced by photocopying or similar reproductive methods, the facsimile signature must be affixed subsequent to the reproduction process.

History: 1-2-66; am. Register, February, 1968, No. 26, eff. 3-1-68; am. Register, February, 1960, No. 60, eff. 3-1-60; am. (2), Register, March, 1966, No. 123, eff. 4-1-66; am. (5) and cr. (6), Register, August, 1974, No. 224, eff. 9-1-74; am. (intro.), (2), (6) (intro.) and (a), Register, November, 1977, No. 263, eff. 12-1-77.