

1985 Wisconsin Act 261

AN ACT to repeal 71.04 (2) (b) 5 and 71.05 (1) (k); to amend 71.01 (2), 71.01 (4) (g) 9, 71.02 (1) (c) 10, 71.02 (2) (d) 12, 71.04 (1), 71.04 (2) (b) 10, 71.05 (1) (a) 26, 71.07 (2) (c) 2m, 71.09 (6r) (a), 71.10 (10) (d) and (e), 71.10 (15), 71.11 (30), 71.12 (1) (b) and (2), 71.20 (11m), 71.54, 72.01 (17), 72.12 (4) (c) 1, 72.22 (4) (a), 74.03 (4) and (6) and 77.59 (4) (a); and to create 71.01 (4) (g) 10, 71.02 (1) (c) 11, 71.03 (1) (j), 71.05 (1) (km), 71.05 (1) (m), (n) and (o) and 77.59 (8m) of the statutes; and to affect 1985 Wisconsin Act 29, section 3203 (46) (g) 2; 1985 Wisconsin Act 29, section 3203 (46) (g) 4; and 1985 Wisconsin Act 29, section 3204 (46) (c), relating to technical and minor policy changes in respect to the property, income, sales, inheritance and franchise taxes.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.01 (2) of the statutes is amended to read:

71.01 (2) FRANCHISE TAX ON CORPORATIONS. For the privilege of exercising its franchise or doing business in this state in a corporate capacity, except as provided under sub. (2m), every domestic or foreign corporation, except corporations specified in sub. (3), shall annually pay a franchise tax according to or measured by its entire net income of the preceding income year at the rates set forth in s. 71.09 (2m). In addition, except as provided in subs. (2m) and (3), a corporation that ceases doing business in this state shall pay a special franchise tax according to or measured by its entire net income for the income year during which the corporation ceases doing business in this state at the rates under s. 71.09 (2m). Every corporation organized under the laws of this state shall be deemed to be residing within this state for the purposes of this franchise tax. All provisions of ~~chs. 71~~ this chapter and ch. 73 relating to net income taxation of corporations shall apply to franchise taxes imposed under this subsection, unless the context requires

otherwise. The tax imposed by this subsection on national banking associations shall be in lieu of all taxes imposed by this state on national banking associations to the extent it is not permissible to tax such associations under federal law. The tax imposed by this subsection on insurance companies subject to taxation under this chapter, except societies, organizations or corporations under ch. 613 operating by virtue of s. 148.03, 447.13, 449.15, 450.13 or 613.80, shall be based on net income computed under sub. (4), and no other provision of this chapter relating to computation of taxable income for other corporations shall apply to such insurance companies. All other provisions of this chapter shall apply to insurance companies subject to taxation under this chapter unless the context clearly requires otherwise. The tax imposed upon societies, organizations or corporations under ch. 613 operating by virtue of s. 148.03, 447.13, 449.15, 450.13 or 613.80, shall be upon such net income as is determined by application to such companies of those provisions of the internal revenue code applicable to mutual insurance companies, other than life insurance companies or mutual marine insurance companies, having total receipts over \$500,000 subject

to any applicable addition or subtraction as provided in sub. (4) (a).

SECTION 2g. 71.01 (4) (g) 9 of the statutes, as created by 1985 Wisconsin Act 29, is amended to read:

71.01 (4) (g) 9. For taxable year 1985 ~~and subsequent years~~, "internal revenue code" means the federal internal revenue code as amended to December 31, 1984, except that "internal revenue code" does not include section 168 (f) (8) of the code (relating to a special rule for leases) and except that in respect to computing the deduction for depreciation on property located outside this state and first placed in service by the taxpayer on or after January 1, 1983, "internal revenue code" means that code as amended to December 31, 1980. For the purposes of this subdivision, s. 71.04 (15) (b), (d), (er), (f), (fn), (fo), (fp) and (fq) apply as appropriate.

SECTION 2m. 71.01 (4) (g) 10 of the statutes is created to read:

71.01 (4) (g) 10. For taxable year 1986 and subsequent years, except for depreciable property that is residential real property or, if the taxpayer's Wisconsin gross farm receipts or sales exceed \$155,000 for taxable year 1986 or for taxable year 1987 or thereafter exceed the dollar amount as indexed under s. 71.09 (2) without regard to s. 71.09 (2e), used in farming, as defined in section 464 (e) (1) of the internal revenue code, and acquired in taxable year 1986 and thereafter, "internal revenue code" means the federal internal revenue code as amended to December 31, 1985, except that "internal revenue code" does not include section 168 (f) (8) of the code (relating to a special rule for leases) and except that in respect to computing the deduction for depreciation on property located outside this state and first placed in service by the taxpayer on or after January 1, 1983, "internal revenue code" means that code as amended to December 31, 1980. For the purposes of this subdivision, s. 71.04 (15) (b), (d), (er), (f), (fn), (fo), (fp) and (fq) apply as appropriate.

SECTION 2r. 71.02 (1) (c) 10 of the statutes, as created by 1985 Wisconsin Act 29, is amended to read:

71.02 (1) (c) 10. For taxable year 1985 ~~and subsequent years~~, for a corporation or common law trust which qualifies as a regulated investment company or real estate investment trust under the internal revenue code as amended to December 31, 1984, "net income" means the federal regulated investment company taxable income or federal real estate investment trust taxable income of the corporation or trust as determined under the internal revenue code as amended to December 31, 1984, except that "internal revenue code" does not include section 168 (f) (8) of the code (relating to a special rule for leases) and except that in respect to computing the deduction for depreciation on property located outside this state and first placed in service by the taxpayer on or after January 1, 1983, "internal revenue code" means that code as amended to December 31, 1980. For the purposes of this subdivi-

vision, s. 71.04 (15) (b), (d), (er), (f), (fn), (fo), (fp) and (fq) apply as appropriate.

SECTION 2t. 71.02 (1) (c) 11 of the statutes is created to read:

71.02 (1) (c) 11. For taxable year 1986 and subsequent years, except for depreciable property that is residential real property or, if the taxpayer's Wisconsin gross farm receipts or sales exceed \$155,000 for taxable year 1986 or for taxable year 1987 or thereafter exceed the dollar amount as indexed under s. 71.09 (2) without regard to s. 71.09 (2e), used in farming, as defined in section 464 (e) (1) of the internal revenue code, and acquired in taxable year 1986 and thereafter, for a corporation or common law trust which qualifies as a regulated investment company or real estate investment trust under the internal revenue code as amended to December 31, 1985, "net income" means the federal regulated investment company taxable income or federal real estate investment trust taxable income of the corporation or trust as determined under the internal revenue code as amended to December 31, 1985, except that "internal revenue code" does not include section 168 (f) (8) of the code (relating to a special rule for leases) and except that in respect to computing the deduction for depreciation on property located outside this state and first placed in service by the taxpayer on or after January 1, 1983, "internal revenue code" means that code as amended to December 31, 1980. For the purposes of this subdivision, s. 71.04 (15) (b), (d), (er), (f), (fn), (fo), (fp) and (fq) apply as appropriate.

SECTION 2w. 71.02 (2) (d) 12 of the statutes, as created by 1985 Wisconsin Act 29, is amended to read:

71.02 (2) (d) 12. For taxable year 1986 and subsequent years, for natural persons, fiduciaries and taxation corporations "internal revenue code" means the federal internal revenue code in effect on December 31, ~~1984~~ 1985, except that in respect to calculating the depreciation deduction and gain or loss on the sale or other disposition of depreciable property that is residential real property or used in farming, as defined in section 464 (e) (1) of the internal revenue code, if the taxpayer's nonfarm Wisconsin adjusted gross income exceeds \$55,000, or exceeds \$27,500 for a married person filing separately, or gross farm profit exceeds \$155,000, or exceeds \$77,500 for a married person filing separately, for taxable year 1986 or for taxable year 1987 or thereafter exceeds ~~either any~~ any of those 2 dollar amounts as indexed under s. 71.09 (2) without regard to s. 71.09 (2e) and except that the amounts applicable to married persons filing separately shall be set at 50% of the amounts applicable to other persons, for property placed in service by the taxpayer during taxable year 1986 and thereafter "internal revenue code" means the federal internal revenue code as amended to December 31, 1980. Amendments to the internal revenue code enacted after December 31, ~~1984~~ 1985, do not apply to this subsection with respect to taxable year 1986 and thereafter.

SECTION 3. 71.03 (1) (j) of the statutes is created to read:

71.03 (1) (j) Credits computed under s. 71.09 (12r) and (12rf).

SECTION 3g. 71.04 (1) of the statutes, as affected by 1985 Wisconsin Act 29, is amended to read:

71.04 (1) Payments, not including the value of incentive stock options as defined in section 422A of the internal revenue code as amended to December 31, ~~1984~~ 1985, made within the year for wages, salaries, commissions and bonuses of employes and of officers if reasonable in amount, for services actually rendered in producing such income; provided, there is reported the name, address and amount paid each such employe or officer residing within this state to whom a compensation of \$500 or more has been paid during the assessment year. The department may waive the reporting requirement herein with respect to a corporation claiming deduction from gross income of wages, salaries, commissions or bonuses in the taxable year 1969 or thereafter, if the department is satisfied that failure to report has resulted in no revenue loss to the state.

SECTION 4. 71.04 (2) (b) 5 of the statutes is repealed.

SECTION 5m. 71.04 (2) (b) 10 of the statutes, as created by 1985 Wisconsin Act 29, is amended to read:

71.04 (2) (b) 10. The value of incentive stock options, as defined in section 422A of the internal revenue code as amended to December 31, ~~1984~~ 1985.

SECTION 5r. 71.05 (1) (a) 26 of the statutes, as created by 1985 Wisconsin Act 29, is amended to read:

71.05 (1) (a) 26. Combined net losses, exclusive of net gains, for the taxable year, from businesses, from rents, from partnerships, from S corporations, from estates or from trusts, under section 165 of the internal revenue code, except losses allowable under sections 1211 and 1231 of the internal revenue code, otherwise includable in calculating Wisconsin income if those losses are incurred in the operation of a farming business, as defined in section 464 (e) 1 of the internal revenue code to the extent that those combined net losses exceed \$20,000 if nonfarm Wisconsin adjusted gross income exceeds \$55,000 but does not exceed \$75,000, exceed \$17,500 if nonfarm Wisconsin adjusted gross income exceeds \$75,000 but does not exceed \$100,000, exceed \$15,000 if nonfarm Wisconsin adjusted gross income exceeds \$100,000 but does not exceed \$150,000, exceed \$12,500 if nonfarm Wisconsin adjusted gross income exceeds \$150,000 but does not exceed \$200,000, exceed \$10,000 if nonfarm Wisconsin adjusted gross income exceeds \$200,000 but does not exceed \$250,000, exceed \$7,500 if nonfarm Wisconsin adjusted gross income exceeds \$250,000 but does not exceed \$300,000, exceed \$5,000 if nonfarm Wisconsin adjusted gross income exceeds \$300,000 but does not exceed \$400,000 and exceed \$0 if nonfarm adjusted gross income exceeds \$400,000, except that the amounts applicable to married persons filing

separately are 50% of the amounts specified in this subdivision and except that, beginning with taxable year 1987, the dollar amounts of nonfarm Wisconsin adjusted gross income, including the amounts applicable to married persons filing separately, shall be indexed under s. 71.09 (2) without regard for s. 71.09 (2e) and except that for that indexing the amounts applicable to married persons filing separately shall be set at 50% of the amounts applicable to other persons.

SECTION 6. 71.05 (1) (k) of the statutes is repealed.

SECTION 7. 71.05 (1) (km) of the statutes is created to read:

71.05 (1) (km) Every person shall include in Wisconsin adjusted gross income for a taxable year the amount of taxable unemployment compensation required to be included in federal adjusted income on his or her federal income tax return for the same year.

SECTION 8. 71.05 (1) (m), (n) and (o) of the statutes are created to read:

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

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

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

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

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

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

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

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SECTION 9. 71.07 (2) (c) 2m of the statutes is amended to read:

71.07 (2) (c) 2m. Sales of tangible personal property by an office in this state to a purchaser in another state ~~which does not have jurisdiction for income tax purposes to tax the taxpayer and not shipped or delivered from this state are in this state if the property is shipped directly by a 3rd party to the purchaser and if the state from which the property is shipped does not have jurisdiction for income tax purposes to tax the taxpayer is not within the jurisdiction for income tax purposes of either the state from which the property is delivered or shipped or of the destination state.~~

SECTION 9b. 71.09 (6r) (a) of the statutes, as created by 1985 Wisconsin Act 29, is amended to read:

71.09 (6r) (a) Add the amount of interest allowed as an itemized deduction under section 163 of the internal revenue code and paid on a loan to purchase or refinance a residence in this state or paid on a land contract in respect to a residence in this state; in respect to members of the U.S. congress, the amount of interest allowed as an itemized deduction under section 163 of the internal revenue code and paid to purchase or refinance a residence in or near Washington, D.C., or paid on a land contract in respect to such a residence; for taxable years 1986 to 1988 only, the amount of interest allowed as an itemized deduction under section 163 of the internal revenue code and paid by an employe on a loan to purchase stock in an employe-owned business, as defined in s. 560.16 (1) (c), from which that employe receives at least 50% of that employe's wage and salary income; the amount of interest, up to \$1,200, or up to \$600 for a married person filing separately, allowed as an itemized deduction under section 163 of the internal revenue code and not paid on a loan to purchase or refinance a residence or paid on a land contract in respect to a residence or paid to purchase stock in the corporation from which the employe receives at least 50% of that employe's wage and salary income; the deduction for charitable contributions under section 170 of the internal revenue code; the medical expenses allowed under section 213 of the internal revenue code and any amount expended by an adoptive parent or a prospective adoptive parent in adoption fees, court costs or legal fees relating to the adoption of a child, whether or not the adoption process is completed, to the extent that this amount, when added to allowable medical deductions under section 213 of the internal revenue code, exceeds 5% of the person's federal adjusted gross income.

SECTION 9g. 71.10 (10) (d) and (e) of the statutes are amended to read:

71.10 (10) (d) ~~No~~ Except as provided in par. (e), no refund shall be made and no credit shall be allowed for any year, the income of which was assessed as a result of a field audit, and which assessment has become final under s. 71.12 (1), and (3), 73.01 or 73.015, and; ~~except as provided in par. (e),~~ no refund shall be made

and no credit shall be allowed on any item of income or deduction, assessed as a result of an office audit, the assessment of which shall have become final under s. 71.12 (1) and (3), 73.01 or 73.015.

(e) A claim for refund may be made within 2 years of after the assessment of a tax or an assessment to recover all or part of any tax credit under this chapter, assessed by office audit or field audit and paid if the assessment was not protested by the filing of a petition for redetermination and the taxable year had not been closed by field audit under par. (d) prior to the filing of the claim. No claim may be allowed under this paragraph for any tax paid with respect to any item of income, credit or deduction self-assessed or determined by the taxpayer or assessed as the result of any assessment made by the department with respect to which all the conditions specified in this paragraph are not met. If a claim is filed under this paragraph, the department of revenue may make an additional assessment in respect to any item of income or deduction that was a subject of the prior assessment. This paragraph does not extend the time to file under s. 71.09 (7) (dm) or (11) (d), and it does not extend the time period during which the department of revenue may assess, or the taxpayer may claim a refund, in respect to any item of income or deduction that was not a subject of the prior assessment.

SECTION 9m. 71.10 (15) of the statutes is amended to read:

71.10 (15) Persons deducting rent, interest, dividends or royalties in determining taxable income, shall inform the department of the amounts and of the name and address of all residents of this state to whom interest, dividends or royalties of ~~\$400~~ \$600 or more were paid during the income year; and of the amounts and of the name and address of residents and nonresidents to whom rent of ~~\$400~~ \$600 or more is paid during the income year for property having a situs in this state. Such information shall be submitted on forms prescribed by the department and shall be filed at the time of filing the income tax return on which such payments are deducted, or at such other time as the department prescribes.

SECTION 10. 71.11 (30) of the statutes is amended to read:

71.11 (30) (title) REFUSAL TO FILE; COURT ORDER. (a) If any person, including an officer of a corporation, required by law to file a return fails to file the return within 60 days after the time required and refuses to file the return within 30 days after a request by the department to do so, the circuit court, upon petition by the department, shall issue a ~~writ of mandamus~~ court order requiring that person to file a return. Any person upon whom a ~~writ~~ court order has been served shall ~~make return to the writ~~ file a return within 20 days after the service of the ~~writ~~ court order. The petition shall be heard and determined on the return day or on a later date that the court fixes, having regard

for the speediest possible determination of the case consistent with the rights of the parties.

(b) The department shall file a petition for a ~~writ of mandamus~~ court order in a circuit court for the county in which the respondent in the action resides.

(c) Filing a return after the time prescribed by law shall not relieve any person, including an officer of a corporation, from any penalties whether or not the department filed a petition for a ~~writ of mandamus~~ court order under this subsection.

SECTION 11. 71.12 (1) (b) and (2) of the statutes are amended to read:

71.12 (1) (b) The department shall notify any person who files a petition for redetermination that the person may deposit the amount of an additional assessment, including any interest or penalty, with the department ~~when the petition is filed or~~ at any time before the department makes its redetermination. Amounts deposited under this paragraph shall be subject to the interest provided by s. 71.09 (5) only to the extent of the interest accrued prior to the first day of the month succeeding the date of deposit. Any deposited amount which is refunded shall bear interest at the rate of 9% per year during the time the funds were on deposit. A person may also pay any portion of an assessment which is admitted to be correct and the payment shall be considered an admission of the validity of that portion of the assessment and may not be recovered in an appeal or in any other action or proceeding.

(2) If the taxpayer requests a hearing, the additional tax or overpayment shall not be placed on the assessment roll until after hearing and determination of the tax by the tax appeals commission or disposition of the appeal pursuant to stipulation and order under ss. 73.01 (4) (a) and 73.03 (25). ~~In the application for hearing, filed under sub. (1) (c)~~ At any time while the petition is pending before the tax appeals commission or an appeal in regard to that petition is pending in a court, the taxpayer may offer to deposit the entire amount of the additional taxes, together with interest, with the state treasurer. If an offer to deposit is made, the department of revenue shall issue a certificate to the state treasurer authorizing the treasurer to accept payment of such taxes together with interest to the first day of the succeeding month and to give a receipt. A copy of the certificate shall be mailed to the taxpayer who shall pay the taxes and interest to the treasurer within 30 days. A copy of the receipt of the state treasurer shall be filed with the department. The department shall, upon final determination of the appeal, certify to the state treasurer the amount of the taxes as finally determined and direct the state treasurer to refund to the appellant any portion of such payment which has been found to have been ~~illegally~~ improperly assessed, including interest. The state treasurer shall make the refunds directed by the certificate within 30 days after receipt. Taxes paid to the state treasurer under this subsection shall be subject to

the interest provided by ss. 71.09 (5) and 71.13 (2) only to the extent of the interest accrued on the taxes prior to the first day of the month succeeding the application for hearing. Any portion of the amount deposited with the state treasurer which is refunded to the taxpayer shall bear interest at the rate of 9% per year during the time that the funds are on deposit.

SECTION 12. 71.20 (11m) of the statutes is amended to read:

71.20 (11m) If a payee furnishes written notification to a payor of any pension or to a 3rd-party payor of any sick pay plan that the payee desires to have Wisconsin income tax withheld from the pension or sick pay plan, the payor shall withhold from each pension payment or sick pay payment an amount in accordance with the withholding tables ~~an amount from each pension payment to the payee or the amount that the payee designates to the payor.~~ The amount withheld from each pension payment may not be less than \$5. For purposes of this subsection, "pension" includes any retirement payment plan, and "sick pay" includes any amount paid to an employe as remuneration or paid instead of remuneration for any period when the employe is temporarily absent from work because of sickness or personal injuries. Payors withholding under this subsection are employers for all purposes of this section and shall withhold, remit and be subject to the other requirements of an employer in withholding Wisconsin income tax from employes.

SECTION 12g. 71.54 of the statutes, as affected by 1985 Wisconsin Acts 29 and 37, is amended to read:

71.54 One-time property tax and rent credit. For taxable year 1986, a claimant may claim as a credit against, but not to exceed the amount of, Wisconsin net income taxes due, 7.9% of the claimant's property taxes and rent constituting property taxes, as calculated under s. 71.53 (1) and (5), 1983 stats., up to \$2,000, or up to \$1,000 for a married person filing separately, of property taxes and rent constituting property taxes. For an unmarried person or a married person filing a separate return who is a part-year resident of this state, the credit under this section is limited to that fraction of the amount determined under this section that Wisconsin adjusted gross income is of federal adjusted gross income. No credit is allowed under this section for unmarried persons or married persons filing separate returns who are nonresidents of this state. If one spouse is not domiciled in this state during the entire taxable year, the credit on a joint return is determined by multiplying the Wisconsin property tax and rent credit that would be available to them if both spouses were domiciled in this state during the entire taxable year by a fraction the numerator of which is their joint Wisconsin adjusted gross income and the denominator of which is their joint federal adjusted gross income. No credit is allowed under this section on a joint return if both spouses are nonresidents of this state.

SECTION 12m. 72.01 (17) of the statutes, as affected by 1985 Wisconsin Act 29, is amended to read:

72.01 (17) "Power of appointment" means any general power to appoint, as defined by section 2041 (relating to estate taxes) or 2514 (relating to gift taxes) of the internal revenue code, as amended to December 31, 1984 1985.

SECTION 12p. 72.12 (4) (c) 1 of the statutes, as affected by 1985 Wisconsin Act 29, is amended to read:

72.12 (4) (c) 1. Benefits paid to a beneficiary under an employe benefit plan are taxable under this subchapter except to the extent that the proportionate share resulting from the employer's contribution would be excludable from the gross estate of the decedent under section 2039 of the internal revenue code as amended to December 31, 1984 1985. This subsection applies whether or not there is a requirement for filing a federal estate tax return.

SECTION 12r. 72.22 (4) (a) of the statutes, as affected by 1985 Wisconsin Act 29, is amended to read:

72.22 (4) (a) Whether or not there is a federal estate tax liability, if the estate would be authorized to pay federal estate taxes under section 6166 of the internal revenue code, as amended to December 31, 1984 1985, in lieu of full payment, payment may be made according to an equal payment schedule over a period not to exceed 15 years from the decedent's date of death. If an election is made under this subsection, the election shall apply only to the portion of the tax payable by a distributee which is determined by dividing the value of property received by a distributee which qualifies an estate for the election under the internal revenue code by the value of all property received by the distributee. A distributee electing to pay under this subsection may subsequently pay part or all of the remaining tax plus interest at the time any scheduled payment is due under this subsection. Interest on instalment payments under this subsection shall be computed under s. 72.23 at 12% per year.

SECTION 12x. 74.03 (4) and (6) of the statutes are amended to read:

74.03 (4) DELINQUENT FIRST INSTALMENT; INTEREST; PENALTY. If the first instalment of the real estate taxes or special assessments so charged is not paid on or before January 31, the whole amount of those real estate taxes or special assessments shall become due and shall be collected, together with unpaid personal property taxes, on or before the last day of February by the town, city or village treasurer. All those taxes and or assessments remaining that become due on the last day in February and that remain unpaid on March 1 are delinquent and shall be returned to the county treasurer as provided in s. 74.17. Such Those delinquent taxes and special assessments shall be collected by the county treasurer with interest and pen-

alty as provided under s. 74.80 from the preceding January 1.

(6) DELINQUENT 2ND INSTALMENT; INTEREST; PENALTY. Except as provided in s. 74.025, the 2nd instalment of real estate taxes and or special assessments remaining unpaid on August 1 shall be are delinquent and shall be are subject to interest and penalty as ~~provided~~ under s. 74.80 from the preceding January 1 until paid or until the property upon which ~~such those~~ taxes or special assessments are levied is sold at the next tax sale ~~as provided by law~~.

SECTION 13g. 77.59 (4) (a) of the statutes is amended to read:

77.59 (4) (a) A claim for refund that is not to be passed along to customers under sub. (8m) may be made within 2 years of the determination of a tax assessed by office audit or field audit and paid if the tax was not protested by the filing of a petition for redetermination and the reporting period had not been closed by field audit prior to the filing of the claim. A claim is timely if it fulfills the requirements under s. 77.61 (14). No claim may be allowed under this paragraph for any tax self-assessed by the taxpayer. If a claim is filed under this paragraph, the department may make an additional assessment in respect to any item that was a subject of the prior assessment.

SECTION 13m. 77.59 (8m) of the statutes is created to read:

77.59 (8m) Within the time period under sub. (4), the department of revenue may refund excess taxes paid to it under this chapter, even if the person applying for the refund has been field audited in respect to those taxes, if the applicant's customers have filed valid claims for refunds with the applicant and if the refund is passed along to those customers.

SECTION 13p. 1985 Wisconsin Act 29, section 3203 (46) (g) 2 is amended to read:

(1985 Wisconsin Act 29), Section 3203 (46) (g) 2. The treatment of sections 71.01 (3) (e), (f) and (g), 71.02 (2) (d) (only in respect to the taxable year), (f), (g) 3, 4, 5 and 6, (km) 2m and (m), 71.03 (2) (g), ~~71.04 (1) and (2) (b) 10~~, 71.05 (1) (a) 2, 5, 6, 11, 12, 13, 16 and 23, (b) 2, 5, 6, 7, 9, 10 and 11, (j), (k) and (L) and (3) (a), (c), (e), (f), (g) and (h), 71.09 (1c), (1d), (1e), (1f), (2c), (6p) (a), (b), (c) and (d) (intro.), 1 and 2, (7m) (only in respect to the percentage), (12m) (a), (12r) (L), 71.10 (2) (a) 5. a, 71.20 (2m) and 71.65 (1) (b), (d), (e), (f), (i), (j) and (k) of the statutes, the repeal of sections 71.09 (12c), (12r) (c) and (12t) and 71.53 of the statutes, the renumbering and amendment of section 71.05 (1) (d) of the statutes, the repeal and recreation of section 71.09 (12c) (d) of the statutes and the amendment of section 71.09 (12r) (a) (by SECTION 1348) and (12rf) (a) (by SECTION 1355) of the statutes by this act first apply to taxable year 1986.

SECTION 13q. 1985 Wisconsin Act 29, section 3203 (46) (g) 4 is created to read:

(1985 Wisconsin Act 29), Section 3203 (46) (g) 4. The treatment of section 71.04 (1) and (2) (b) 10 of the statutes by this act first applies to taxable year 1985 or 1986, as appropriate, to conform the treatment with that of the person exercising the option as required under section 71.02 (2) (d) 11 or 12 of the statutes, as created by this act.

SECTION 13r. 1985 Wisconsin Act 29, section 3204 (46) (c) is amended to read:

(1985 Wisconsin Act 29) Section 3204 (46) (c) *Income tax reduction and reform.* The treatment of sections 71.01 (3) (e), (f) and (g), 71.02 (2) (d), (f), (gq) 3, 4, 5 and 6, (km) 2m and (m), 71.03 (2) (g), ~~71.04 (1) and (2) (b) 10~~, 71.05 (1) (a) 2, 5, 6, 7, 11, 12, 13, 16 and 23, (b) 2, 5, 6, 9, 10 and 11, (j), (k) and (L) and (3) (a), (c), (e), (f), (g) and (h), 71.09 (1c), (1d), (1e), (1f), (2c), (6p) (a), (b), (c) and (d) (intro.), 1 and 2, (7m) (only in respect to the percentage), (12m) (a), (12r) (L), 71.10 (2) (a) 5. a, 71.20 (2m) and 71.65 (1) (b), (d), (e), (f), (i),

(j) and (k) of the statutes, the repeal of sections 71.09 (12c), (12r) (c) and (12t) and 71.53 of the statutes, the repeal and recreation of section 71.09 (12c) (d) of the statutes, the renumbering and amendment of section 71.05 (1) (d) of the statutes, the amendment of section 71.09 (12r) (a) (by SECTION 1348) and (12rf) (a) (by SECTION 1355) of the statutes, the creation of section 71.05 (1) (d) 2 (except the 15-year loss carry-forward provision) of the statutes and SECTION 3202 (46) (b) of this act take effect on January 1, 1986.

SECTION 13s. **Nonstatutory provisions; revenue.** (1) **ADJUSTMENT OF EXPENSING LIMIT.** Notwithstanding section 71.02 (2) (d) 8 to 11 of the statutes, for taxable years 1982 to 1985 married persons electing the provisions of section 179 of the internal revenue code may compute the amount of deduction allowable on the same basis as married persons filing a joint federal return. The total amount of that deduction may be divided between spouses in any manner they choose.

SECTION 13t. **Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
77.59 (2)	sub. (8)	subs. (4)(a), (8) or (8m)

SECTION 14. **Initial applicability.** (1) **REVENUE.** (a) *Basis of assets.* The treatment of section 71.05 (1) (m) to (o) of the statutes by this act first applies to the earliest taxable year in respect to which additional assessments or refunds may be made on the effective date of this paragraph.

(b) *Drop shipments.* The treatment of section 71.07 (2) (c) 2m of the statutes by this act first applies to taxable year 1986.

(c) *Denying double benefits for research.* The treatment of sections 71.03 (1) (j) and 71.04 (2) (b) 5 of the statutes by this act first applies to taxable year 1986.

(e) *Special franchise tax.* The treatment of section 71.01 (2) of the statutes by this act first applies to taxable year 1986.

(h) *Taxation of unemployment compensation.* The treatment of section 71.05 (1) (km) of the statutes by this act first applies to taxable year 1986.

(i) *Information returns.* The treatment of section 71.10 (15) of the statutes by this act first applies to taxable year 1986.

(j) *Refunds.* The treatment of sections 71.10 (10) (d) and (e) and 77.59 (4) (a) of the statutes and SECTION

13t of this act by this act first applies to field assessments issued on the effective date of this paragraph.

(k) *Internal revenue code.* 1. The treatment of sections 71.02 (2) (d) 12 (in regard to the year) and 71.04 (1) and (2) (b) 10 of the statutes by this act first applies to taxable year 1986.

2. The treatment of sections 72.01 (17), 72.12 (4) (c) 1 and 72.22 (4) (a) of the statutes by this act first applies to transfers because of deaths occurring on the effective date of this subdivision.

(L) *Separate returns.* The treatment of sections 71.02 (2) (d) 12 (in regard to separate returns), 71.05 (1) (a) 26, 71.09 (6r) (a) and 71.54 of the statutes by this act first applies to taxable year 1986.

(m) *Property tax.* The treatment of sections 74.03 (4) and (6) of the statutes by this act first applies to taxes and special assessments that become due on the effective date of this paragraph.

SECTION 15. **Effective dates.** (1) Except as provided in subsection (2), this act takes effect on the day following publication.

(2) The treatment of section 71.05 (1) (k) of the statutes takes effect on January 1, 1986.