

(c) Farmer's Home Administration insured notes, 7 U.S.C. §§ 1928 and 1929.

(d) Federal Home Loan Bank dividends, 12 U.S.C. §§ 1426 and 1436.

(e) Federal National Mortgage Association certificates, 12 U.S.C. § 1718.

Note: In 1968, the Federal National Mortgage Association became 2 separate corporations. One corporation retained the original name and the other is known as the Government National Mortgage Association.

(f) Federal National Mortgage Association dividends, 12 U.S.C. § 1719.

(g) Government National Mortgage Association (Ginnie Mae) bonds, 12 U.S.C. §§ 1720 and 1721.

(h) Insured Merchant Marine bonds, 46 U.S.C. § 1273.

(i) Inter-American Development Bank bonds, 22 U.S.C. § 283.

(j) Interest paid on deposits in any federal bank or agency.

(k) International Bank for Reconstruction and Development bonds, 22 U.S.C. § 286.

(l) Small Business Investment Company debentures, 15 U.S.C. §§ 683 and 687.

(m) Tennessee Valley Authority bonds, 16 U.S.C. § 831n-3.

(n) Transit bonds of the Washington Metropolitan Area Transit Authority.

(2) Interest and dividends payable on the following federal securities shall be exempt from the state income tax on individuals and fiduciaries. For purposes of this subsection, the term, "federal securities" means only securities which are direct and primary obligations of the United States and securities the interest of which federal law prohibits states from taxing. Federal securities do not include securities for which the United States is merely a guarantor and, therefore, has an obligation which is secondary and contingent to that of the issuer of the security.

(a) Bank for Cooperative debentures, 12 U.S.C. § 2134.

(b) Bank repurchase agreements for U.S. Government treasury bills, notes, and bonds, if interest is paid by the federal government directly to the taxpayer.

(c) Commonwealth of Puerto Rico public improvement bonds, 48 U.S.C. § 745.

(d) Federal Farm Credit Banks Consolidated Systemwide Securities, 12 U.S.C. § 2055.

(e) Federal Home Loan Bank bonds, debentures, and notes, 12 U.S.C. § 1433.

(f) Federal Housing Authority debentures, 12 U.S.C. §§ 1710 (d) and 1747g (g).

(g) Federal Intermediate Credit Bank debentures, 12 U.S.C. § 2079.

- (h) Federal Land Bank bonds, 12 U.S.C. § 2055.
  - (i) Federal Reserve Bank dividends, 12 U.S.C. § 531.
  - (j) Production Credit Association debentures, 12 U.S.C. § 2098.
  - (k) Puerto Rico Aqueduct and Sewer Authority revenue bonds, 48 U.S.C. § 745.
  - (l) Puerto Rico Electric Power Authority electric revenue bonds, 48 U.S.C. § 745.
  - (m) Puerto Rico Electric Power Authority power revenue bonds, 48 U.S.C. § 745.
  - (n) Puerto Rico Highway Authority revenue bonds, 48 U.S.C. § 745.
  - (o) Puerto Rico Industrial Development Company bonds, 48 U.S.C. § 745.
  - (p) Puerto Rico Municipal Finance Agency 1974 Series A bonds, 48 U.S.C. § 745.
  - (q) Puerto Rico Ports Authority revenue bonds, 48 U.S.C. § 745.
  - (r) Puerto Rico Public Buildings Authority revenue bonds, 48 U.S.C. § 745.
  - (s) Puerto Rico Public Buildings Authority public education and health facility bonds, 48 U.S.C. § 745.
  - (t) Puerto Rico Telephone Authority revenue bonds, 48 U.S.C. § 745.
  - (u) Student Loan Marketing Association obligations, 20 U.S.C. § 1087-2l.
  - (v) Tennessee Valley Authority bonds, 16 U.S.C. § 831n-4(d).
  - (w) Territory of Hawaii bonds.
  - (x) Territory of Puerto Rico bonds, 48 U.S.C. § 745.
  - (y) United States Postal Service bonds, 39 U.S.C. § 2005.
  - (z) United States savings bonds, 31 U.S.C. § 3124.
  - (za) United States Treasury bills and notes, 31 U.S.C. § 3124.
  - (zb) University of Puerto Rico university system revenue bonds, 48 U.S.C. § 745.
- (3) Interest and dividends, less related expenses, payable on the following state, municipal, and other local government securities shall be subject to the state income tax on individuals and fiduciaries.
- (a) District of Columbia general obligation bonds issued after January 28, 1987, s. 47-33, District of Columbia Code.
  - (b) Municipal bonds.
  - (c) Public housing agency bonds issued after January 28, 1987, and by agencies located outside Wisconsin. Public housing agency bonds issued on or prior to January 28, 1987, by agencies located outside Wisconsin where the interest from the bonds qualifies for exemption from federal Register, August, 1989, No. 404

income taxation solely because of section 103 of the internal revenue code. "Public housing agency" as used in this paragraph and in sub. (4) (c) means any state, county, municipality, or other governmental entity or public body, or agency or instrumentality thereof, which is authorized to engage in or assist in the development or operation of lower income housing, under 42 U.S.C. § 1437a (b) (6).

(d) Virgin Islands Housing Authority bonds issued after January 28, 1987, 48 U.S.C. § 1408(a).

(e) Wisconsin Health Education Assistance Loan revenue obligation bonds, s. 39.374, Stats.

(f) Wisconsin Housing and Economic Development Authority (WHEDA) bonds issued after January 28, 1987, and all business development revenue bonds, economic development revenue bonds, and Community Housing Alternatives Program (CHAP) housing revenue bonds issued by WHEDA, regardless of when issued, ch. 234, Stats.

(4) Interest and dividends payable on the following state, municipal, and other local government securities shall be exempt from the state income tax on individuals and fiduciaries:

(a) Public housing authority bonds issued by municipalities located in Wisconsin, s. 66.40 (14) (a), Stats.

(b) Wisconsin Housing Finance Authority bonds, 42 U.S.C. § 1437i(b).

(c) Public housing agency bonds issued on or prior to January 28, 1987, by agencies, as defined in sub. (3) (c), located outside Wisconsin where the interest from the bonds qualifies for exemption from federal income taxation for a reason other than or in addition to section 103 of the internal revenue code.

(d) Wisconsin Housing and Economic Development Authority (WHEDA) bonds issued on or prior to January 28, 1987, except business development revenue bonds, economic development revenue bonds and CHAP housing revenue bonds issued by WHEDA.

(e) District of Columbia general obligation bonds issued on or prior to January 28, 1987, where the interest from the bonds qualifies for exemption from federal income taxation for a reason other than or in addition to section 103 of the internal revenue code.

(f) Virgin Island Housing Authority bonds issued on or prior to January 28, 1987, where the interest from the bonds qualifies for exemption from federal income taxation for a reason other than or in addition to section 103 of the internal revenue code.

Note: This rule sets out examples of interest and dividends payable on state, municipal and federal obligations which are taxable and tax exempt.

Section 71.05 (1) (a) 1, Stats. (1985-86), provides for the inclusion in Wisconsin income of natural persons and fiduciaries of any interest, less related expenses, received on state and municipal obligations.

Section 71.05 (1) (b) 1, Stats. (1985-86), provides for the exclusion from Wisconsin income of natural persons and fiduciaries of any interest or dividend income which is by federal law exempt from taxation by Wisconsin.

For periods prior to August 1, 1987, interest accrued from District of Columbia Development Land Agency bonds, Export-Import Bank of the United States debentures, Farmer's Home Administration insured notes, Government National Mortgage Association bonds, Small Business Investment Company debentures and transit bonds of the Washington Met-

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ropolitan Area Transit Authority was not subject to the Wisconsin income tax if payment of principal and interest on such obligations was guaranteed by the United States. As a result of the U.S. Supreme Court decision in the case of *Rockford Life Insurance Company v. Illinois Department of Revenue et al.*, 96 L. Ed 2nd 152, the Department of Revenue does not consider these financial instruments to be direct and primary obligations of the United States so as to qualify for exemption from state income taxation. Therefore, by emergency rule effective August 1, 1987, the Department of Revenue amended this rule to reverse its prior interpretation and to provide that interest which accrues on these financial instruments on or after August 1, 1987, is subject to Wisconsin income tax.

Subsection (4) provides that interest accrued on certain state, municipal and other local government securities issued on or before January 28, 1987, is not subject to Wisconsin income tax. This is due to the fact that no modification is provided for in Wisconsin law that would add to federal adjusted gross income interest from these securities if the interest has been excluded from federal adjusted gross income by any reason other than or in addition to section 103 of the Internal Revenue Code.

1987 Wisconsin Act 27 amended s. 71.05 (1) (a) 1, Stats. (1985-86), to provide for the addition to federal adjusted gross income, of any interest not included in federal adjusted gross income which is not specifically exempted from state taxation. This change applies only to securities issued after January 28, 1987. Prior to this act, this addition only applied to interest excluded from federal adjusted gross income solely by section 103 of the Internal Revenue Code.

History: Cr. Register, August, 1976, No. 248, eff. 9-1-76; emerg. cr. (1) (g) to (i), am. (2) (intro.), r. (2) (b), (h) and (j), eff. 7-31-87; r. and recr. Register, April, 1988, No. 388, eff. 5-1-88; emerg. am. (3) (intro.) and (c), cr. (3) (g), r. and recr. (4) (b), eff. 1-1-89; am. (2) (intro.), (3) (intro.), (c), (f), (4) (intro.) and (b), cr. (4) (c) to (f), Register, August, 1989, No. 404, eff. 9-28-89.

**Tax 3.096 Interest paid on money borrowed to purchase exempt government securities (s. 71.05 (1) (b) 1, Stats.).** (1) Any amount of interest or dividend income which is by federal law exempt from the Wisconsin income tax shall be reduced by any related expense before it is claimed as a subtraction modification on a Wisconsin income tax return.

(2) Interest expense is a "related expense" if it is incurred to purchase securities producing exempt interest or dividend income and if it is deducted in computing Wisconsin taxable income.

(3) Interest expense is not a "related expense" if it is incurred to purchase securities producing exempt interest or dividend income but is not deducted in computing Wisconsin taxable income (for example, because the taxpayer elects the standard rather than to itemize deductions).

Note: The following examples illustrate the proper treatment of the interest expense described in this rule:

<i>Example A:</i>	U.S. bond interest exempt from Wisconsin income tax.	\$ 600
	Interest which was paid on funds used to acquire exempt securities and which was claimed as an itemized deduction.	<u>400</u>
	Subtraction modification.	<u>\$ 200</u>
<i>Example B:</i>	U.S. bond interest exempt from Wisconsin income tax.	\$ 400
	Interest paid to acquire the exempt securities which was claimed as an itemized deduction.	<u>600</u>
	Subtraction modification.	<u>\$ 0</u>
<i>Example C:</i>	U.S. bond interest exempt from Wisconsin income tax.	\$ 400
	Interest paid to acquire the exempt securities but not claimed as an itemized deduction.	<u>600</u>
	Subtraction modification.	<u>\$ 400</u>

History: Cr. Register, January, 1977, No. 253, eff. 2-1-77.

**Tax 3.098 Railroad retirement supplemental annuities.** (s. 71.05 (6) (b) 3, Stats.). Railroad retirement supplemental annuities paid under 45 U.S.C.S. s. 231m are exempt from the Wisconsin taxable income of their recipients.

Note: The Railroad Retirement Act of 1974 as amended by P.L. 98-76 (45 U.S.C.S. s. 231m), effective August 12, 1983, provides that:

"(a) Except as provided in subsection (b) of this section and the Internal Revenue Code of 1954 [26 USCS §§ 1 et seq.], notwithstanding any other law of the United States, or of any State . . . no annuity or supplemental annuity shall be . . . subject to any tax. . . .

(b) (1) This section shall not operate to exclude the amount of any supplemental annuity paid to an individual under section (2) (b) of this Act [45 USCS § 231a (b)] from income taxable pursuant to Federal income tax provisions of the Internal Revenue Code of 1954 [26 USCS §§ 1 et seq.]"

45 U.S.C.S. s. 231m prohibits states from taxing railroad retirement supplemental annuity payments. Taxpayers may make a modification to federal adjusted gross income to remove this income in computing Wisconsin adjusted gross income.

History: Cr. Register, January, 1977, No. 253, eff. 2-1-77; am. Register, July, 1989, No. 403, eff. 8-1-89.