

No. 716, A.]

[Published December 30, 1961

**CHAPTER 620**

AN ACT to repeal 71.14 (1), (2a), (2b), (3), (4), (6), (8) (a), (b) and (d), (9) and (12) and chapter 79 (title); to renumber 79.01, 79.02, 79.03, 79.04, 79.05, 79.06 and 79.07; to renumber and amend 79.08; to amend 70.01, 70.02; 70.91 (title) and (2) (a), 70.92 (2), 70.93 (intro. par.), 70.96 (2), 70.97 (2) (a), as renumbered; 71.01 (3) (a), 71.05 (4) and (13) (a), 71.09 (1a) (intro. par.) and (5) (b), 71.10 (1), as amended by chapter 408, laws of 1961, (9) (am), (bm) and (c), (10) (bm) and (g), 71.10 (13), 71.11 (41) and (43), 71.12 (2) and (6), 71.13 (4) (c) and (6) (a), 71.14 (7), 71.17 (2), chapter 77 (title); to repeal and recreate 71.17 (1); and to create 20.550 (10), 20.800 (5) and (6), 70.416 (8), 70.665, 71.04 (9), (13) and (14), 71.05 (13a), 71.09 (1am) and (6) (d), 71.10 (8), (8m) and (8n), (9) (an) and (cm), (10) (bn) and (c), 71.14 (1) to (4), 71.15 (10), 71.19, 71.20, 71.21, 71.23, 71.26 and 71.30, subchapters I, III and IV of chapter 77 (titles) and 77.51 to 77.64 of the statutes, providing for the distribution of income, utility, liquor and selected sales taxes; withholding of income taxes and partial forgiveness of 1961 income taxes; changes in income tax rates, surtax and deductions; relief of real and personal property taxes; and imposition of a selected sales tax; granting rule-making authority, making appropriations and providing penalties.

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

SECTION 1. 20.550 (10) of the statutes is created to read:

20.550 (10) MUNICIPAL AND COUNTY SHARED TAX ACCOUNT. \$55,000,-000 on July 1, 1963, and annually thereafter on July 1, to be distributed in accordance with s. 77.63.

SECTION 5. 20.800 (5) and (6) of the statutes are created to read:

20.800 (5) PERSONAL PROPERTY TAX OFFSET. There is appropriated from the general fund to the department of taxation on December 15, 1962, and annually thereafter, a sum sufficient to provide a 50 per cent credit

against the general property tax levy on the local assessments of property made on the next preceding May 1, on merchants' stock in trade, manufacturers' materials and finished products and livestock, as provided in s. 77.64.

(6) SELECTIVE SALES AND USE TAX ADMINISTRATION. On July 1, 1961, and annually thereafter a sum sufficient to administer the selective sales and use taxes under ss. 77.51 to 77.63; the withholding provisions under ss. 71.19, 71.20, 71.21, 71.23, 71.26 and 71.30, and the personal property tax offset under s. 77.64.

SECTION 6. 70.01 of the statutes is amended to read:

70.01 Taxes shall be levied, under this chapter, upon all general property in this state except such as is exempted therefrom. Real estate taxes are deemed to be levied when the tax roll on which they are extended has been delivered to the local treasurer with his warrant for collection. When so levied such taxes shall be a lien upon the property against which they are assessed, superior to all other liens, effective as of May 1 in the year when levied, except in the case of special assessments of benefits for local improvements where the lien of such assessments shall be in force from the time as provided in s. 66.60 (15), and except that such special assessments in cities of the first class shall be in force as provided by the charter or general laws applicable to such cities. *In this chapter, unless the context requires otherwise, references to "this chapter" shall not include ss. 70.91 to 70.98.*

SECTION 6a. 71.01 (3) (a) of the statutes is amended to read:

71.01 (3) (a) Income of \* \* \* insurance companies, steam railroad corporations, sleeping car companies, freight line companies as defined in s. 76.39, and corporations organized under ch. 185, and of all religious, scientific, educational, benevolent or other corporations or associations of individuals not organized or conducted for pecuniary profit. *This paragraph does not apply to the income of mutual savings banks, mutual loan corporations, savings and loan associations or credit unions except credit unions the membership of which is limited to groups having a common bond of occupation, or association, or to groups within a well-defined neighborhood, community, or rural district. The amendment (1961) to this paragraph shall be applicable to taxation of income of the calendar year 1962, or corresponding fiscal years and thereafter.*

SECTION 7. 70.02 of the statutes is amended to read:

70.02 General property is all the taxable real and personal property defined in ss. 70.03 and 70.04 except that which is taxed under \* \* \* ss. 70.91 to 70.98 and chs. 76 \* \* \* and 77 \* \* \*.

SECTION 7a. 70.416 (8) of the statutes is created to read:

70.416 (8) TERMINATION DATE. This section shall terminate with the tax payments to be made on December 15, 1961, and the personal property heretofore excluded from general property taxes under this section shall be assessed in the year 1962, and every year thereafter, as personal property under the general property tax laws and be subject to the property tax credit provided for in s. 77.64.

SECTION 8. 70.665 of the statutes is created to read:

70.665 TAX STATEMENT. The real and personal property tax bills prepared by the clerks of each taxation district, after July 1, 1962, shall show the amount of the tax that would be levied if there were no distribution of taxes under s. 77.63 and if there were no personal property tax offset under s. 77.64.

SECTION 8a. 71.04 (9), (13) and (14) of the statutes are created to read:

71.04 (9) (a) Savings and loan associations, mutual loan corporations, mutual savings banks, and credit unions may deduct amounts paid to, or credited to the accounts of depositors or holders of accounts as dividends or earnings on their deposits or withdrawable accounts, if such amounts paid or credited are withdrawable on demand subject only to customary notice of intention to withdraw.

(b) Savings and loan associations, mutual savings banks, and credit unions may make a deduction for a reasonable addition to reserve for bad debts of such sums as they are required to allocate to their loss reserves pursuant to statutory provisions or rules and regulations or orders of any state or federal governmental supervisory authorities.

(13) (a) The total of the deductions under subs. (1) and (2), or any deductions allowed in lieu thereof, otherwise allowable to a state or national bank receiving tax exempt interest from obligations of the United States or its instrumentalities, shall be reduced by the proportion which the excess tax exempt interest bears to the gross operating income of such state or national bank; but the reduction under this subsection shall not exceed the amount of such deductions actually allocable to the entire tax exempt interest.

(b) For purposes of this subsection:

1. Gross operating income means the entire gross income received during the taxable year including tax exempt interest but excluding gains or losses on the sale or other disposition of property.

2. Excess tax exempt interest means any amount by which the tax exempt interest received or accrued during the taxable year exceeds the product of the gross operating income and the standard percentage of tax exempt interest.

3. The standard percentage of tax exempt interest for any calendar year, or corresponding fiscal year, shall be that percentage (to the nearest one-tenth of one per cent) which is three-fifths of the ratio certified to the department by the commissioner of banks on or before the last day of August in such calendar year as being the ratio of total tax exempt interest to total gross operating income for all banks operating in this state and insured by the federal deposit insurance corporation, during the most recent calendar year for which data is available to the commissioner of banks from the federal deposit insurance corporation.

4. This subsection shall be applicable to taxation of income of the calendar year 1962 or corresponding fiscal years and thereafter.

(14) In lieu of the deduction allowed under sub. (7) for bad debt losses, state and national banks may take a deduction for an addition to a reserve for bad debts computed in the following manner:

(a) The total amount of such reserve shall not exceed the greater of 5 per cent of the taxpayer's outstanding loans and discounts as of the close of the taxable year or 3 times the product of the taxpayer's outstanding loans and discounts as of the close of the taxable year and the average annual ratio of bad debt losses to outstanding loans and discounts during any 20 consecutive calendar years after 1927 (or such lesser number of years as the taxpayer has been in existence). Outstanding loans and discounts shall be computed as of the close of each taxable year and shall exclude all loans or portions of loans, the payment of which was guaranteed by any agency of the United States.

(b) The total amount of the addition to the reserve deductible in any taxable year shall not exceed the lesser of 1. the addition required to cause the total reserve deducted hereunder in prior years to equal the amount

computed under par. (a), or 2. the amount which would otherwise be deductible for bad debt losses by the taxpayer under sub. (7) plus 10 per cent of the taxpayer's taxable income for the taxable year computed without regard to this subsection. This subsection shall be applicable to taxation of income for the calendar year 1962 or corresponding fiscal years and thereafter.

SECTION 8b. 71.05 (4) of the statutes is amended to read:

71.05 (4) Taxes other than inheritance and special improvement taxes upon the property or business from which the income hereby taxed is derived paid by such persons during the year, including therein taxes imposed by the state of Wisconsin or the United States government as income taxes; provided, that such portion of the deduction for federal income taxes as may be allowable shall be confined to cash payments made within the year covered by the income tax return; and provided \* \* \* that deductions for income taxes paid to the United States government shall be limited to taxes paid on net income which is taxable under this chapter; and provided \* \* \* that income taxes imposed by the state of Wisconsin shall accrue for the purposes of this subsection only in the year in which such taxes are assessed. *United States income, excess or war profits and defense taxes as limited by sub. (4a) shall be deductible up to, but not including, the 1962 calendar and corresponding fiscal year returns.*

SECTION 8c. 71.05 (13) (a) of the statutes is amended to read:

71.05 (13) (a) In lieu of the deductions allowed in this section for interest paid, other than interest paid on indebtedness incurred to carry on a profession or business from which taxable income is derived, Wisconsin income taxes, United States income taxes, contributions, medical expenses, dues to labor unions and professional societies and the deductions permitted in subs. (10) and (11), there shall be allowed to natural persons and guardians with adjusted gross incomes of \$5,000 or more an optional standard deduction of \$450 with respect to income of the calendar year 1953 or corresponding fiscal year and \* \* \* *up to and including 1961 calendar and corresponding fiscal years.* The meaning of the term "adjusted gross income" as used in this subsection shall be as defined in s. 71.09 (2m) (c).

SECTION 8d. 71.05 (13a) of the statutes is created to read:

71.05 (13a) (a) In lieu of the deductions allowed in this section for interest paid, other than interest paid on indebtedness incurred to carry on a profession or business from which taxable income is derived, Wisconsin income taxes, contributions, medical expenses, dues to labor unions and professional societies and the deductions permitted in subs. (10) and (11), there shall be allowed to natural persons and guardians an optional standard deduction with respect to income of the calendar year 1962 or corresponding fiscal years and subsequent years in an amount equal to 10 per cent of the adjusted gross income or \$1,000, whichever is the lesser, except in the case of married persons the sum of the optional standard deductions allowable to the husband and wife shall not exceed \$1,000.

(b) The optional standard deduction provided in par. (a) shall not be allowed to a married person whose spouse is required to file a return unless such spouse has also elected to take the optional standard deduction with respect to the same income year. The determination of whether an individual is married shall be made pursuant to s. 71.09 (6) (a).

(c) The term adjusted gross income as used in this subsection means the sum of the items enumerated in ss. 71.03 (1) and 71.08 (8) and not exempted under ss. 71.01 (3), 71.03 (2) and 71.07 (1), minus the deduc-

tions allowed by ss. 71.046, 71.05 (1), (2), (2a), (2b), (2c), (3), (4), (7) and (8) and 71.06, except the following:

1. Income taxes imposed by the state of Wisconsin.
2. Medical expenses.
3. Interest paid, other than that paid on indebtedness incurred to carry on a profession or business from which taxable income is derived.
4. Contributions.
5. Alimony.
6. Amounts expended for purposes covered by s. 71.05 (11).
7. Dues to unions or professional societies.
8. Casualty losses to nonbusiness property.

SECTION 9. 71.09 (1a) (intro. par.) of the statutes is amended to read:

71.09 (1a) (intro. par.) The tax to be assessed, levied and collected upon taxable incomes of all persons other than corporations for the calendar year 1953 and corresponding fiscal years \* \* \* and for calendar and fiscal years thereafter *through the 1961 calendar and fiscal years*, shall be computed at the following rates \* \* \* :

SECTION 10. 71.09 (1am) of the statutes is created to read:

71.09 (1am) The tax to be assessed, levied and collected upon taxable incomes of all persons other than corporations for the calendar year 1962 and corresponding fiscal years, and for calendar and fiscal years thereafter, shall be computed at the following rates:

- (a) On the first \$1,000 of taxable income or any part thereof, at the rate of 2 per cent.
- (b) On the second \$1,000 or any part thereof, 2 $\frac{1}{4}$  per cent.
- (c) On the third \$1,000 or any part thereof, 2 $\frac{1}{2}$  percent.
- (d) On the fourth \$1,000 or any part thereof, 3 $\frac{1}{2}$  per cent.
- (e) On the fifth \$1,000 or any part thereof, 4 per cent.
- (f) On the sixth \$1,000 or any part thereof, 4 $\frac{1}{2}$  per cent.
- (g) On the seventh \$1,000 or any part thereof, 5 per cent.
- (h) On the eighth \$1,000 or any part thereof, 6 per cent.
- (i) On the ninth \$1,000 or any part thereof, 6 $\frac{1}{2}$  per cent.
- (j) On the tenth \$1,000 or any part thereof, 7 per cent.
- (k) On the eleventh \$1,000 or any part thereof, 7 $\frac{1}{2}$  per cent.
- (L) On the twelfth \$1,000 or any part thereof, 8 per cent.
- (m) On the thirteenth \$1,000 or any part thereof, 8 $\frac{1}{2}$  per cent.
- (n) On the fourteenth \$1,000 or any part thereof, 9 per cent.
- (o) On the fifteenth \$1,000 or any part thereof, 9 $\frac{1}{2}$  per cent.
- (p) On all taxable incomes in excess of \$15,000, 10 per cent.

SECTION 11. 71.09 (5) (b) of the statutes is amended to read:

71.09 (5) (b) *Except as otherwise specifically provided*, in crediting overpayments of income and surtaxes against underpayments or against taxes to be subsequently collected and in certifying refunds of such taxes interest shall be added at the \* \* \* rate of 5 per cent per annum from the date on which such taxes when assessed would have become delinquent if unpaid to the date on which such overpayment was certified on the refund \* \* \* rolls *except that if any overpayment of tax is certified on a refund roll within 90 days after the last date prescribed for filing the return of such tax or 90 days after the date of actual filing of the return of such tax, whichever occurs later, no interest shall be allowed on such overpayment. For purposes of this section the return of such tax shall not be deemed actually filed by an employe unless and until he has included the written statement required to be filed by him under s. 71.10 (8).* However

when any part of a tax paid on an estimate of income, whether paid in connection with a tentative return or not, is refunded or credited to a taxpayer, such refund or credit shall not draw interest. This provision shall apply to all such payments made in the calendar year 1960 and thereafter.

SECTION 11b. 71.09 (6) (d) of the statutes is created to read:

71.09 (6) (d) Beginning with the calendar year 1962 and corresponding fiscal years and thereafter the personal exemption provided in this subsection shall in all cases be \$10 except that for each taxpayer and also for the spouse of a married taxpayer who has reached the age of 65 prior to the close of the calendar or fiscal year, it shall be \$15.

SECTION 12. 71.10 (1) of the statutes, as amended by chapter 408, laws of 1961, is amended to read:

71.10 (1) Every corporation, except corporations all of whose income is exempt from taxation, shall furnish to the department of taxation a true and accurate statement, on or before March 15 of each year (except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the fifteenth day of the third month following the close of such fiscal year) in such manner and form and setting forth such facts as said department deems necessary to enforce the provisions of this chapter. Such statement shall be subscribed by the president, or vice president or other principal officer and the treasurer, assistant treasurer or chief accounting officer of said corporation, and in the case of corporations in liquidation or in the hands of a receiver such return shall be subscribed by the person responsible for the conduct of the affairs of such corporation. All corporations doing business in this state shall also file with the department of taxation on or before March 15 of each year on forms prescribed by the department of taxation, a statement of such transfers of its capital stock as have been made by or to residents of this state during the preceding calendar year. Such schedule shall contain the name and address of the seller, date of transfer, and the number of shares of stock transferred; and such corporation shall also file with the department of taxation on or before March 15 of each year any information relative to payments made within the preceding calendar year \* \* \* of rents, royalties, interest, dividends and liquidating dividends to persons taxable thereon under this chapter in amounts and in the manner and \* \* \* form prescribed by the department of taxation \* \* \*. Nothing contained in this subsection shall preclude the department of taxation from requiring any corporation to file an income tax return when in the judgment of the department of taxation a return should be filed.

SECTION 13. 71.10 (8), (8m) and (8n) of the statutes are created to read:

71.10 (8) (a) Every person or partnership required to deduct and withhold from an employe under the general withholding provisions of this chapter during the calendar year 1962 or in any calendar year thereafter shall furnish to each such employe in respect of the remuneration paid by such person or partnership to such employe during the calendar year, on or before January 31 of the succeeding year, or if his employment is terminated before the close of any such calendar year on the day on which the last payment of remuneration is made, 2 legible copies of a written statement showing the following:

1. The name of such person or partnership, and his or its Wisconsin income tax identification number, if any.
2. The name of such employe, and his social security number, if any.
3. The total amount of wages as defined in s. 71.19 (1).
4. The total amount deducted and withheld as required by the general withholding provisions of this chapter.

(b) The employe shall furnish the department of taxation one copy of such written statement along with his return for the year.

(8m) Every person required to deduct and withhold from an employe under this chapter shall furnish to the department of taxation at its offices in Madison, in respect to remuneration paid by such person to such employe during the calendar year, on or before January 31 of the succeeding year, one legible copy of the written statement referred to in sub. (8).

(8n) Every resident of this state and every nonresident carrying on activities within this state, whether taxable or not under this chapter, who or which shall pay in any calendar year for services performed within this state by an individual remuneration which is excluded from the definition of wages in s. 71.19 (1), in the amount of \$600 or more, shall, on or before January 31 of the succeeding year furnish the department of taxation at its offices in Madison, a written statement in such form as required by the department, disclosing the name of the payor, the name and address of the recipient and the total amount paid in such year to such recipient. In any case in which an individual receives wages, as defined in s. 71.19 (1) and also remuneration for services which remuneration is excluded from such definition, both from the same payor, the wages and the excluded remuneration shall both be reported in the report required by sub. (8m) in a manner satisfactory to the department, regardless of the amount of the excluded remuneration.

SECTION 14. 71.10 (9) (am) of the statutes is amended to read:

71.10 (9) (am) With respect to the payment of taxes on income of the calendar year 1954 and corresponding fiscal years \* \* \* *to and including 1961 calendar and corresponding fiscal years*, the initial payment of taxes on incomes of persons other than corporations who file on a calendar year basis shall be paid on or before April 15 following the close of the calendar year. Such initial payment shall be in the amount equal to at least one-third the total tax, and shall not be less than \$20 if the total tax exceeds \$20, nor less than the total amount of the tax if the same does not exceed \$20. The balance of such tax shall be paid on or before August 1 following the close of the calendar year.

SECTION 15. 71.10 (9) (an) of the statutes is created to read:

71.10 (9) (an) With respect to the payment of taxes on income of the calendar year 1962 and corresponding fiscal years, and thereafter, the final payment of taxes on incomes of persons other than corporations who file on a calendar year basis shall be made on or before April 15 following the close of the calendar year. If the return of a person other than a corporation is made on the basis of a fiscal year, such final payment shall be made on or before the fifteenth day of the fourth month following the close of such fiscal year.

SECTION 16. 71.10 (9) (bm) and (c) of the statutes are amended to read:

71.10 (9) (bm) If the return of a person other than a corporation is made on the basis of a fiscal year such initial payment shall be paid on or before the fifteenth day of the fourth month following the close of such fiscal year. The balance shall be paid on or before the first day of the eighth month following the close of such fiscal year. *This subsection shall be in force up to and including the 1961 fiscal year.*

(c) Any corporation not paying its tax in full on or before the fifteenth day of the third month following the close of its income year and any person other than a corporation not paying his tax including any surtax in full on or before the fifteenth day of the fourth month following

the close of his income year *up to and including the 1961 calendar and corresponding fiscal years* is required to add to the amount not paid on or before such date, 2 per cent of such amount, which 2 per cent shall become due and payable at the time such unpaid balance becomes due and payable and shall be deemed a part of such unpaid balance.

SECTION 17. 71.10 (9) (cm) of the statutes is created to read:

71.10 (9) (cm) Any corporation not paying its tax in full on or before the fifteenth day of the third month following the close of its income year is required to add to the amount not paid on or before such date, 2 per cent of such amount, which 2 per cent shall become due and payable at the time such unpaid balance becomes due and payable and shall be deemed a part of such unpaid balance. This subsection is applicable to the 1962 calendar and corresponding fiscal years and subsequent years.

SECTION 18. 71.10 (10) (bm) of the statutes is amended to read:

71.10 (10) (bm) With respect to income taxes and surtaxes assessed on incomes received in the calendar year 1954 or corresponding fiscal year \* \* \* *and up to and including the 1961 calendar and corresponding fiscal years*, refunds may be made if the claim therefor is filed within 4 years of the date the income tax return was filed, provided that for purposes of this paragraph, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

SECTION 19. 71.10 (bn) and (c) of the statutes are created to read:

71.10 (10) (bn) With respect to income taxes and surtaxes assessed on incomes received in the calendar year 1962 or corresponding fiscal year, and subsequent years, refunds may be made if the claim therefor is filed within 4 years of the date the income tax return was filed, provided that for purposes of this paragraph a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day and that no refund may be made of any income taxes withheld and paid or declared and paid with respect to which an income tax return was not filed when due unless claim therefor is filed within 4 years of the date such return was due.

(c) No refund shall be made on the over-withholding or over-declaration of estimated income taxes with respect to any person for any income year in an amount less than \$2 unless such refund is specifically applied for on the return of such person reporting his income for such year.

SECTION 20. 71.10 (10) (g) of the statutes is amended to read:

71.10 (10) (g) \* \* \* The department of taxation \* \* \* *and assessors of incomes* \* \* \* *are directed to act on any claim for refund or credit within one year after the receipt thereof \* \* \* and their failure to act shall have the effect of allowing such claim and the department of taxation or assessor of incomes shall certify such refund or credit.*

SECTION 21. 71.10 (13) of the statutes is amended to read:

71.10 (13) For the purposes of subs. (1), (2), (3) (a), (5), (7) \* \* \* , (8m), (8n), (9) (a), (am), (an), (b), (bm), (c) and (cm) \* \* \* , and of \* \* \* ss. 71.12 (1) and 71.21 (2) and (3), the statements, reports, returns, and applications for abatement therein referred to shall be considered furnished, reported, filed or made on time, and the payments therein referred to shall be considered timely made, if mailed in a properly addressed envelope, with postage duly prepaid, which envelope is postmarked before midnight of the date prescribed for such furnishing, reporting, filing



or making, or the making of such payment, provided such statement, report, return, payment or application for abatement is actually received by the department of taxation within 5 days of such prescribed date.

SECTION 22. 71.11 (41) and (43) of the statutes are amended to read:

71.11 (41) SAME; FAILURE TO FILE RETURN, REPORT OR DECLARATION; FRAUD. If any person \* \* \* *fails or refuses to make a return at the time or times hereinbefore specified in each year, or fails or refuses to furnish a statement as required by s. 71.10 (8) or to file a statement as required by s. 71.10 (8m) or (8n) or to make deposits as required by s. 71.20 (4) or to file a withholding report as required by s. 71.20 (4), or to file a declaration of estimated income tax as required by s. 71.21, or \* \* \* renders a false or fraudulent return, statement, deposit report, withholding report or declaration of estimated income tax, such person shall be liable to a penalty of not less than \$100 and not to exceed \$5,000, at the discretion of the court.*

(43) Any officer of a corporation required by law to make, render, sign or verify any return, *statement, deposit report or withholding report* who makes any false or fraudulent return \* \* \*, *statement, deposit report or withholding report* with intent to defeat or evade \* \* \* any assessment or collection required by this \* \* \* chapter to be made, shall upon conviction be fined not to exceed \$500 or be imprisoned not to exceed one year, or both, at the discretion of the court, *together* with the cost of prosecution.

SECTION 23. 71.12 (2) and (6) of the statutes are amended to read:

71.12 (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 board of tax appeals or disposition of the appeal pursuant to stipulation and order as provided in ss. 73.01 (5) (a) and 73.03 (25). In the application for such hearing, filed pursuant to \* \* \* *sub. (1)*, the taxpayer may offer to deposit the entire amount of the additional taxes, together with interest thereon, with the state treasurer. If such offer to deposit is made, the department of taxation or assessor of incomes, as the case may be, shall issue a certificate to the state treasurer authorizing him to accept payment of such taxes together with interest thereon to the first day of the succeeding month and to give his receipt therefor. A copy of such certificate shall be mailed to the taxpayer who shall thereupon pay such taxes and interest to said treasurer within 30 days. A copy of the receipt of the state treasurer shall be filed with the department \* \* \* or assessor of incomes. The department \* \* \* or the assessor of incomes shall, upon final determination of the appeal, certify to the state treasurer the amount of the taxes as finally determined and shall direct him to \* \* \* *appropriate* the amounts of such taxes, together with the interest thereon, \* \* \* *in accordance with* s. 71.14 and shall also direct the state treasurer to refund to the appellant any portion of such payment which \* \* \* *has* been found to have been illegally assessed, including the interest thereon. \* \* \* The state treasurer shall make the \* \* \* *refunds* directed by such certificate within 30 days after receipt thereof. 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 said 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 5 per cent per annum during the time that the funds were \* \* \* *on deposit*.

(6) Any person who \* \* \* *contests* an assessment before the board of tax appeals or in court shall state in his petition or notice of appeal what

portion if any of the tax is admitted to be legally assessable and correct. Within 5 days after notice by the department, the appellant shall pay to the department \* \* \* the whole amount of the admitted tax and such tax shall be \* \* \* *appropriated in accordance with s. 71.14*. Any such payment shall be considered an admission of the legality of the tax thus paid, and such tax so paid cannot be recovered in the pending appeal or in any other action or proceeding.

SECTION 24. 71.13 (4) (c) and (6) (a) of the statutes are amended to read:

71.13 (4) (c) Delinquent income taxes, \* \* \* interest and \* \* \* *penalties*, resulting from assessments pursuant to s. 71.11 (4) or (5), or s. 71.20 (5) or (6) or from assessments by virtue of disallowance of claimed deductions for failure to file information reports relating thereto, as required by this chapter, may be compromised by the department \* \* \* when such action is fair and equitable under the circumstances.

(6) (a) *The transaction of business or the performance of personal services in this state or the derivation of income from property the income from which has a taxable situs in this state* by any nonresident person \* \* \*, except where \* \* \* *the nonresident is a foreign corporation that has been licensed pursuant to ch. 180, shall be deemed an irrevocable appointment by such person, binding upon him, his executor, administrator or personal representative, of the secretary of state to be his \* \* \* lawful attorney upon whom may be served any notice, order, pleading or process (including without limitation by enumeration any notice of assessment, denial of application for abatement or denial of claim for refund) by any administrative agency or in any proceeding by or before any administrative agency, or in any proceeding or action in any court, to enforce or effect full compliance with or involving the provisions of this chapter. \* \* \** *The transaction of business, the performance of personal services or derivation of income from such property in this state shall be a significant* of his agreement that any such notice, order, pleading or process which is so served shall be of the same legal force and validity as if served on him personally, or upon his executor, administrator or personal representative.

SECTION 26. 71.14 (1), (2a), (2b), (3), (4), (6), (8) (a), (b) and (d), (9) and (12) are repealed.

SECTION 27. 71.14 (1) to (4) of the statutes are created to read:

71.14 (1) All collections of normal income taxes of persons other than corporations, including remittances of taxes withheld or declared, commencing with July 1, 1961, shall become a part of the state general fund for use of the state, except that 31 per cent of such collections for the period July 1, 1961, to September 30, 1962, and 33 per cent of such collections thereafter, shall be apportioned as follows:

(a) On May 15, 1962, such apportionable collections for the period July 1, 1961, to March 31, 1962, shall be apportioned to each county, town, village and city on the basis of the percentage of its allocable share in the May 15, 1961, distribution of apportionable collections from persons other than corporations. On May 15, 1963, and on every May 15 thereafter, such apportionable collections for the period October 1 of the preceding year to March 31 of the current year shall be apportioned to each county, town, village and city on the basis of the percentage of its allocable share in total allocable shares as of November 15 of the preceding year, as determined under par. (c) 2.

(b) On August 15, 1962, such apportionable collections for the period April 1, 1962, to June 30, 1962, shall be apportioned to each county, town, village and city on the basis of the percentage of its allocable share in the

August 15, 1961, distribution of apportionable collections from persons other than corporations. On August 15, 1963, and on every August 15 thereafter, such apportionable collections for the period April 1 to June 30 of the current year shall be apportioned to each county, town, village and city on the basis of the percentage of its allocable share in total allocable shares as of November 15 of the preceding year, as determined under par. (c) 2.

(c) On November 15, 1962, and on every November 15 thereafter, there shall be apportioned to each county, town, village and city the amount allocable to each as determined under subd. 2, reduced by the amounts paid to each in the May 15 and August 15 apportionments of the current year.

1. On or before November 15, 1962, and every November 15 thereafter, the department of taxation shall determine the total income taxes (before credit for taxes withheld, credit for taxes paid pursuant to declaration, tax credits for income taxes paid to other states and credit provided for in s. 71.30) shown on income tax returns of persons other than corporations for the preceding income year and filed on or before June 30 of the current year. The portion of such taxes attributable to each town, village and city shall be determined on the basis of situs of the income producing such taxes, as set forth for in s. 71.07. The amount thus determined for each town, village and city shall be reduced by one-sixth and such one-sixth amount shall be attributed to the county of the situs of such income, as set forth in s. 71.07.

2. The apportionable collections for the period July 1, 1961, to September 30, 1962, and the apportionable collections for the period October 1 to September 30 thereafter, shall be allocated on or before the following November 15 to each county, town, village and city in proportion to the amounts attributed to each under subd. 1 to the total of such amounts for all counties, towns, villages and cities, and shall constitute its annual allocable share.

(2) (a) All collections of income taxes of corporations, commencing with July 1, 1961, shall become a part of the state general fund for use of the state, except that 49 per cent of such collections shall be apportioned as follows:

1. Five-sixths to the town, village or city from which the income was derived, as determined under s. 71.07.

2. One-sixth to the county from which the income was derived, as determined under s. 71.07.

(b) The department of administration shall, upon certification by the department of taxation on the basis of the apportionment provided for in par. (a), make the following distributions of such apportionable collections:

1. On May 15, 1962, such apportionable collections for the period July 1, 1961, to March 31, 1962.

2. On May 15, 1963, and on every May 15 thereafter, such apportionable collections for the period October 1 of the preceding year to March 31 of the current year.

3. On August 15, 1962, and on every August 15 thereafter, such apportionable collections for the period April 1 to June 30 of the current year.

4. On November 15, 1962, and on every November 15 thereafter, such apportionable collections for the period July 1 to September 30 of the current year.

(3) Whenever income has been attributed to an erroneous situs under sub. (1) (c) 1, such portion of the tax collections allocated erroneously under sub. (1) (c) shall be paid by the county, town, village or city

CHAPTER 620

erroneously receiving the same, to the county, town, village or city entitled thereto; but no such payment shall be made except on the written approval of the department of taxation. Such claim must be made within 3 years of the claimed November 15 erroneous allocation. If the amount of the claim is approved by the department of taxation and not paid by the county, town, village or city erroneously receiving it, such amount shall be deducted from its next apportionment, or next apportionments, and paid to the county, town, village or city entitled thereto.

(4) Whenever any county, town, village or city has received on or after May 15, 1962, a portion of an income tax of a corporation that under the income tax law should not have been received by such municipality but should have been paid to another municipality, such portion shall be paid by the municipality erroneously receiving it to the municipality entitled thereto, but no such payment shall be made except on written approval of the department of taxation. The distribution of November 15 of each year shall be considered the final distribution and errors in such distribution or in the current May 15 and August 15 distributions, shall be subject to claim filed within 3 years of the November 15 final payment for the year in question. If the amount of the claim is approved by the department of taxation and not paid by the county, town, village or city which erroneously received it, such amount shall be deducted from its next apportionment, or next apportionments, and paid to the county, town, village or city entitled thereto.

SECTION 28. 71.14 (7) of the statutes is amended to read:

71.14 (7) Whenever any county, city, town or village has received in final settlement a portion of an income tax that under the income tax law ought not to have been received by such municipality, but should have been paid to another municipality, such portion of the tax shall be paid by the county, town, city or village erroneously receiving the same to the municipality entitled thereto; but no such payment shall be made except on the written approval of the assessor of incomes who made the assessment, or of the department of taxation in the case of assessments made by it, specifying the reasons for such payment, and any claim for such tax distributable on May 15 must be made within 3 years of the following August 15 and any claim for such tax distributable on August 15 must be made within 3 years thereof. Every city, town or village filing with the department or assessor of incomes a claim to any portion of income tax erroneously distributed to a city, town or village in another county shall forthwith mail a copy thereof to the treasurer of the county wherein the filing municipality is located for similar action by the county, if desired. The return of any such overpayment received by any county, city, town or village to another county, city, town or village entitled thereto, if such overpayment has not been settled or paid voluntarily by any such county, city, town or village, shall be effected by the department of taxation by withholding the amount of overpayment from the apportionment of income taxes next following the allowance of the adjustment, to the county, city, town or village which has received the overpayment. If after the initial withholding there is still a balance due, then the department of taxation shall withhold all or a part of the balance due on each succeeding apportionment until the balance of the overpayment has been adjusted. The amounts thus withheld shall be credited in the apportionment to the county, city, town or village which did not receive its full amount of income taxes in the said previous distributions. *This subsection shall not be applicable to distributions made after August 15, 1961.*

SECTION 31. 71.15 (10) of the statutes is created to read:

71.15 (10) In the case of any overpayment, the department of taxation or the assessors of incomes, within the applicable period of limitations, may

credit the amount of such overpayment, including any interest allowed thereon, against any liability, in respect to any tax collected by the department, on the part of the person who made the overpayment, and shall refund any balance to such person.

SECTION 32. 71.17 (1) of the statutes is repealed and recreated to read:

71.17 (1) To provide additional revenue to the state to maintain its building, health, welfare and education programs there is levied and there shall be assessed, collected and paid, in addition to all other income and optional taxes imposed by this chapter, a surtax upon the net income, adjusted gross income or gross income of persons other than corporations which tax shall be equal to:

(a) 20 per cent of the normal tax on net income or 20 per cent of the optional tax on adjusted gross income of the 1955, 1956, 1957, 1958, 1960 and 1961 calendar or corresponding fiscal years.

(b) 25 per cent of the normal tax on net income or 25 per cent of the optional tax on adjusted gross income of the 1959 calendar or fiscal years.

SECTION 33. 71.17 (2) of the statutes is amended to read:

71.17 (2) Such tax shall be paid to the department of taxation as provided by s. 71.10 (9), and the whole amount collected from such tax shall, through the same channels as other income taxes are paid, be paid into the general fund and shall not be \* \* \* *subject to the distribution provided for in s. 71.14 or 71.145.*

SECTION 35. 71.19, 71.20, 71.21, 71.23, 71.26 and 71.30 of the statutes are created to read:

71.19 WITHHOLDING INCOME TAX; DEFINITIONS. As used in this section and s. 71.20, unless the context clearly indicates otherwise:

(1) "Wages" means all remuneration (other than fees paid to a public official) for services performed by an employe for his employer, including the cash value of all remuneration paid in any medium other than cash; except that the term shall not include remuneration paid:

(a) For active service as a member of the armed forces of the United States for any month during any part of which such member served in a combat zone during an induction period or was hospitalized as a result of wounds, disease or injury incurred while serving in a combat zone during an induction period, but this paragraph shall not apply for any month during any part of which there are no combatant activities in any combat zone and remuneration, for purposes of this paragraph, shall not include pensions and retirement pay.

(b) For agricultural labor, and for purposes of this paragraph the term "agricultural labor" includes all service performed:

1. On a farm, in the employ of any person, in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, bees, poultry and fur-bearing animals and wildlife;

2. In the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement or maintenance of such farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of such service is performed on a farm;

3. In connection with the production or harvesting of crude gum, gum spirits of turpentine or gum rosin, in connection with the ginning of cotton, or in connection with the operation or maintenance of ditches, canals,

reservoirs or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farm purposes;

4. In the employ of the operator of a farm in handling, planting, drying, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity, but only if such operator produced more than one-half of the commodity with respect to which such service was performed, or in the employ of a group of operators of farms (other than a co-operative organization) in the performance of such services, but only if such operators produced all of the commodity with respect to which such service is performed, but the provisions of this subdivision shall not be deemed to be applicable with respect to service performed in connection with commercial canning or commercial freezing or in connection with any agricultural or horticultural commodity after its delivery to a terminal market for distribution or consumption;

5. On a farm operated for profit if such service is not in the course of the employer's trade or business;

6. As used in this paragraph the term "farm" includes stock, dairy, poultry, fruit, fur-bearing animals and truck farms, plantations, ranches, nurseries, ranges, greenhouses, or other similar structures used primarily for the raising of agricultural or horticultural commodities, and orchards.

(c) For domestic service in a private home, local college club or local chapter of a college fraternity or sorority.

(d) For service not in the course of the employer's trade or business performed in any calendar quarter by an employe, unless the cash remuneration paid for such service is \$50 or more and such service is performed by an individual who is regularly employed by such employer to perform such service. An individual shall be deemed to be regularly employed by an employer during a calendar quarter only if on each of some 24 days during such quarter such individual performs, for such employer, for some portion of the day, service not in the course of the employer's trade or business, or such individual was regularly employed (as herein defined) by such employer in the performance of such service during the preceding calendar quarter.

(e) For services by a citizen or resident of the United States for a foreign government or an international organization.

(f) For services performed by a duly ordained, commissioned or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order.

(g) For services performed by an individual under the age of 18 in the delivery or distribution of newspapers or shopping news, not including delivery or distribution to any point for subsequent delivery or distribution.

(h) For services performed by an individual in, and at the time of, the sale of newspapers or magazines to ultimate consumers, under an arrangement under which the newspapers or magazines are to be sold by him at a fixed price, his compensation being based on the retention of the excess of such price over the amount at which newspapers or magazines are charged to him, whether or not he is guaranteed a minimum amount of compensation for such services, or is entitled to be credited with the unsold newspapers or magazines turned back.

(i) For services not in the course of the employer's trade or business to the extent paid in any medium other than cash.

(2) "Payroll period" means a period for which a payment of wages is ordinarily made to the employe by his employer, and the term "miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual or annual payroll period.

(3) "Employee" means a resident individual who performs services for an employer anywhere or a nonresident individual who performs such services within this state, and includes an officer, employe or elected official of the United States, a state, territory, or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing. The term also includes an officer of a corporation.

(4) "Employer" means a person or partnership, whether subject to or exempt from income taxation or not, for whom an individual performs or performed any service, of whatever nature, as an employe of such person or partnership, except that:

(a) If the person for whom the individual performs or performed the services does not have control of the payment of the wages for such services, the term employer (except for purposes of sub. (1)) means the person having control of the payment of such wages.

(5) "Department" means the state department of taxation.

**71.20 EMPLOYERS REQUIRED TO WITHHOLD.** (1) On and after the first day of the second calendar month which begins after the date of publication of this provision, every employer at the time of payment of wages to an employe shall deduct and withhold from such wages, without regard for federal insurance contributions act deductions therefrom an amount determined in accordance with tables to be prepared by the department, as hereinafter provided. The commissioner may grant permission to employers who do not desire to use the withholding tax tables provided by the department to determine the amount of tax to be withheld by use of a method of withholding other than the withholding tax tables, provided such method will withhold from each employe substantially the same amount as would be withheld by use of the withholding tax tables. Employers who desire to determine the amount of tax to be withheld by a method other than by use of the withholding tax tables shall obtain permission from the commissioner before the beginning of a payroll period for which the employer desires to withhold the tax by such other method. Applications for use of such other method must be accompanied by evidence establishing the need for the use of such method.

(2) Prior to January 1, 1962, the department shall prepare, promulgate, and publish in the official state paper, without regard to the requirements of ch. 227, rules establishing withholding tables prepared on a weekly, biweekly, semimonthly, monthly, and daily or miscellaneous pay period basis. Such tables shall be based upon the normal tax rates and upon any surtax applicable to the income of the calendar year 1962. Thereafter, the department shall from time to time similarly correct such tables to reflect any changes in normal income tax rates or changes in surtax. Such rules shall also provide instructions for withholding with respect to quarterly, semiannual and annual pay periods. Such tables shall be extended to cover from zero to 10 withholding exemptions, shall assume that the payment of wages in each pay period will, when multiplied by the number of such pay periods in a year reasonably reflect the annual wage of the employe from such employer and shall be based on the further assumption that such annual wage should be reduced for allowable deductions from gross income. It is within the discretion of the department to determine the length of such tables and a reasonable span of each bracket. In preparing such tables the department shall adjust all withholding amounts not an exact multiple of 10 cents to the next highest figure that is a multiple of 10 cents.

(3) On and after January 1, 1962, at the time of payment of wages to a nonresident employe which wages were derived from the performance of services both within and without Wisconsin, the employer shall deduct and withhold thereon the amount as reflected by the proper withholding

table, reduced by the percentage the wages for services performed outside the state were of the total wages included in such payment.

(4) Every employer who deducts and withholds any amount under this section shall deposit such amount within 20 days of the close of the month in which withheld, with such bank in Wisconsin as the state of Wisconsin investment board designates a public depository therefor under ch. 34 to the credit of the state general fund. With each such deposit the employer shall include a deposit report on a form to be provided by the department. The department may, in its discretion, when satisfied that the revenues will be adequately safeguarded, permit an employer whose withheld taxes do not exceed \$50 per month to deposit withheld taxes and reports for other than monthly periods. The department may revoke such permission at any time. The depository bank shall record on such deposit report the amount deposited and shall then forward such report to the department in such manner and at such time as the department by rule prescribes. On or before January 31 of each year every employer shall file with the department at its offices in Madison (or at such other place as the department by rule prescribes) a withholding report on a form to be provided by the department showing the amount withheld from the wages paid each employe in the previous calendar year, the amount deposited in respect to each employe on wages paid in the previous calendar year and a reconciliation of the aggregate of the amounts deposited in respect to each employe on wages paid in the previous calendar year with the aggregate of the amounts shown on the monthly deposit reports filed in respect to such withholding. No employe shall have any right of action against his employer in regard to money deducted from his wages and deposited with the depository bank in compliance or intended compliance with this section.

(5) The penalties provided by this section shall be paid upon notice and demand of the commissioner of taxation or the assessors of incomes or their respective delegates and shall be assessed and collected in the same manner as income taxes. Any person required to withhold, account for or pay over any tax imposed by this chapter, whether exempt under s. 71.01 (3) or not, who intentionally fails to withhold such tax, or account for or pay over such tax, shall be liable to a penalty equal to the total amount of the tax not withheld, collected, accounted for or paid over.

(6) Any person, whether exempt under s. 71.01 (3) or not, required under s. 71.10 (8) to furnish a written statement to an employe, who furnishes a false or fraudulent statement, or who intentionally fails to furnish a statement in the manner, at the time and showing the information required under s. 71.10 (8), or rules prescribed with respect thereto, shall, for each such failure, be subject to a penalty of \$20.

(7) Whenever any person is required to withhold any Wisconsin income tax from an employe, until such amount is deposited with the depository bank prescribed by sub. (4), the amount so withheld shall be held to be a special fund in trust for the state. The amount of such fund may be assessed and collected from such person by the department as income taxes are assessed and collected, and such collection shall not abate any penalty imposed under sub. (6).

(8) (a) On or before January 1, 1962 (or on or before the date on which an employe commences employment with an employer after such date), each employe shall furnish his employer with a signed withholding exemption certificate relating to the number of withholding exemptions he claims, which shall in no event exceed the number to which he is entitled. If the employe fails to furnish such certificate, such employe, for withholding purposes, shall be considered as claiming no withholding exemptions.

(b) If, on any day during the calendar year, the number of withholding exemptions to which the employe is entitled is less than the number



of withholding exemptions claimed by him on the withholding exemption certificate then in effect, the employe shall within 10 days after the change occurs furnish the employer with a new withholding exemption certificate, which shall in no event exceed the number to which he is entitled on such day.

(c) If, on any day during the calendar year, the number of withholding exemptions to which the employe is entitled is more than the number of withholding exemptions claimed by him on the withholding exemption certificate then in effect, the employe may furnish the employer with a new withholding exemption certificate on which the employe must in no event claim more than the number of withholding exemptions to which he is entitled on such day.

(d) A withholding exemption certificate furnished the employer shall take effect as of the beginning of the first payroll period ending after the date on which such certificate is furnished.

(e) Any employe who wilfully supplies his employer with false or fraudulent information regarding his withholding exemption or who wilfully fails to supply information which would increase the amount to be withheld may be fined not more than \$200.

(9) An employe receiving wages shall on any day be entitled to the following withholding exemptions:

(a) An exemption for himself;

(b) If the employe is married, an exemption to which his spouse is entitled, or would be entitled if such spouse were an employe receiving wages, but only if such spouse does not have in effect a withholding exemption certificate claiming such exemption.

(c) An exemption for each individual with respect to whom, on the basis of the facts existing at the beginning of such day, there may reasonably be expected to be allowable an exemption under s. 71.09 (6)

(a), (b) and (c) for the taxable year in which such day falls.

(d) An exemption as head of a family when on the basis of the facts existing at the beginning of such day such an exemption may reasonably be expected to be allowable under s. 71.09 (6) (c) for the taxable year in which such day falls.

(10) The commissioner of taxation is authorized to enter into an agreement with the secretary of the treasury of the United States pursuant to the provisions of P.L. 587 (66 U.S. Statutes at large 765) enacted July 17, 1952.

(11) In addition to the amount required to be deducted and withheld, an employer and employe may agree in writing that an additional amount shall be withheld from the employe's wages. The amount deducted and withheld pursuant to such an agreement shall be considered as an amount required to be deducted and withheld for all purposes of this chapter.

(12) The commissioner of taxation, acting within his discretion, may authorize special withholding arrangements in hardship cases resulting from situations in which persons, domiciled in Wisconsin, are subjected to withholding in some other state by reason of the performance of substantial personal services in such other state, pursuant to s. 71.05 (5).

#### 71.21 DECLARATION OF ESTIMATED TAX BY INDIVIDUALS.

(1) Every individual deriving income (other than or in addition to wages as defined in s. 71.19 (1)) subject to taxation under this chapter during the calendar year 1962, or any calendar or fiscal year beginning after January 1, 1962, shall make, at the time hereinafter prescribed, a declaration of estimated income tax if the total tax on income of any such year can reasonably be expected to exceed withholding on wages paid in such year (if any) by \$20 or more. Such declaration shall contain such information

as the department may by rule or forms prescribe. This section shall not apply to an estate or trust.

(2) Declarations of estimated income tax required by sub. (1) from individuals other than farmers shall be filed on or before the fifteenth day of the fourth month of the income year with the department at its offices in Madison, except that if the requirements of sub. (1) are first met:

(a) After the fifteenth day of the fourth month of the income year and on or before the fifteenth day of the sixth month of the income year, the declaration shall be filed on or before the fifteenth day of the sixth month, or

(b) After the fifteenth day of the sixth month of the income year and on or before the fifteenth day of the ninth month of the income year, the declaration shall be filed on or before the fifteenth day of the ninth month, or

(c) After the fifteenth day of the ninth month of the income year the declaration shall be filed on or before the fifteenth day of the month following the end of the income year.

(3) Declarations of estimated income tax required by sub. (1) from farmers may be filed at any time on or before the fifteenth day of the first month of the succeeding income year. For purposes of this section, farmers are individuals whose estimated gross income from farming for the income year is at least two-thirds of the total estimated gross income from all sources for the income year.

(4) The amount of the estimated income tax shall be the total estimated tax, including surtaxes, if any, reduced by the amount, if any, the individual determines will be withheld from wages pursuant to s. 71.20.

(5) The amount of the estimated income tax with respect to which a declaration is required shall be paid as follows:

(a) If the declaration is filed on or before the fifteenth day of the fourth month of the income year, the amount thereof shall be paid in 4 equal instalments. The first instalment shall be paid with the filing of the declaration, the second on or before the fifteenth day of the sixth month of the income year, the third on or before the fifteenth day of the ninth month of the income year, and the final instalment on or before the fifteenth day of the first month following the end of the income year.

(b) If the declaration is filed after the fifteenth day of the fourth month of the income year as provided in sub. (2) (a) but on or before the fifteenth day of the sixth month, the estimated tax shall be paid in 3 equal instalments. The first instalment shall be paid with the filing of the declaration, the second on or before the fifteenth day of the ninth month of the income year and the final instalment on or before the fifteenth day of the first month following the end of the income year.

(c) If the declaration is filed after the fifteenth day of the sixth month of the income year as provided in sub. (2) (b) but on or before the fifteenth day of the ninth, the estimated tax shall be paid in 2 equal instalments. The first instalment shall be paid with the filing of the declaration and the second on or before the fifteenth day of the first month following the end of the income year.

(d) If the declaration is filed after the fifteenth day of the ninth month of the income year, the entire amount shall be paid with the filing of the declaration. All payments of estimated tax shall be made to the department at its offices in Madison unless the department, by rule, prescribes another place of payment.

(6) At the election of the individual, any instalment of the estimated tax may be paid prior to the date prescribed for its payment.

(7) An individual may amend a declaration during the income year under rules prescribed by the department. If an amendment of a declaration is filed, the payments required under the original declaration shall be

increased or decreased, as the case may be, to reflect the increase or decrease of the estimated tax by reason of such amendment.

(8) If on or before the fifteenth day of the second month of the succeeding taxable year a farmer files his return for the taxable year (for which a declaration was required on or before the fifteenth day of the first month of the succeeding taxable year under sub. (3)) and pays in full the amount computed on the return as payable, then such return shall be considered as such declaration, and, as such, shall be deemed timely filed.

(9) Application of this section to taxable years of less than 12 full months shall be made pursuant to rules of the department.

(10) When the amount of an instalment payment of estimated tax exceeds the amount determined to be the correct amount of such instalment payment, the overpayment shall be credited against the unpaid instalments, if any.

(11) In the case of any underpayment of estimated tax by an individual, except as hereinafter provided, there shall be added to the aggregate tax for the taxable year an amount determined at the rate of 6 per cent per annum on the amount of the underpayment for the period of the underpayment.

(12) For purposes of sub. (11), the amount of the underpayment shall be the excess of the amount of the instalment which would be required to be paid if the total estimated tax were equal to 70 per cent of the tax shown on the return for the taxable year (or, if no return was filed, 70 per cent of the tax for such year) reduced by the aggregate of wages withheld under s. 71.20, over the amount, if any, of the instalment paid on or before the last date prescribed for payment.

(13) The period of the underpayment shall run from the date the instalment was required to be paid to whichever of the following dates is the earlier:

(a) The fifteenth day of the fourth month following the close of the taxable year.

(b) With respect to any portion of the underpayment, the date on which such portion is paid. For purposes of this paragraph, a payment of estimated tax on the due date of any payment shall be considered a payment of a previous underpayment only to the extent such payment exceeds the instalment due on such due date.

(14) Notwithstanding subs. (1) to (13), the addition to the tax with respect to any underpayment of any instalment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for such instalment equals or exceeds the amount which would have been required to be paid on or before such date if the total estimated tax were whichever of the following is the least:

(a) The tax shown on the return of the individual for the preceding taxable year, if a return showing a liability for tax was filed by the individual for the preceding taxable year and such preceding year was a taxable year of 12 months.

(b) An amount equal to the tax computed at the rates applicable to the taxable year and on the basis of the taxpayer's status with respect to personal exemptions for the taxable year but otherwise on the basis of the facts shown on the return of the individual for, and the law applicable to the preceding taxable year.

(c) An amount equal to 70 per cent of the tax for the taxable year computed by placing on an annualized basis the taxable income:

1. For the first 3 months of the taxable year in the case of the instalment required to be paid in the fourth month, and

2. For the first 5 months of the taxable year in the case of the instalment required to be paid in the sixth month, and

3. For the first 8 months of the taxable year in the case of the instalment required to be paid in the ninth month.

(15) For purposes of sub. (14), the taxable income shall be placed on an annualized basis by:

- (a) Multiplying by 12 the taxable income referred to in par. (c), and
- (b) Dividing the resulting amount by the number of months of the taxable year completed as of the due date of the instalment payment.

(16) Notwithstanding subs. (1) to (15), the addition to the tax with respect to any underpayment of any instalment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such instalment equals or exceeds an amount equal to 90 per cent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual taxable income for the months in the taxable year ending before the month in which the instalment is required to be paid.

(17) Every individual who fails to file a declaration of estimated income tax within the time and in the manner required shall be subject to a penalty of \$5 for each such failure, which penalty shall be paid upon notice and demand of the department and may be assessed and collected in the same manner as income taxes.

(18) If a taxpayer files his return for a calendar year on or before January 31 of the succeeding calendar year (or if a taxpayer on a fiscal year basis files his return on or before the last day of the first month immediately succeeding the close of such fiscal year) and pays in full at the time of such filing the amount computed on the return as payable, then, if a declaration is not required to be filed on or before the fifteenth day of the ninth month of the income year but is required to be filed on or before January 15 of the succeeding income year (or the date corresponding thereto in the case of a fiscal year), such return shall be considered as such declaration, or, if a declaration was filed during the income year, such return shall be considered as an amendment of the declaration permitted to be filed under sub. (7).

**71.23 PENALTIES NOT DEDUCTIBLE.** No penalty imposed by this chapter, including penalties imposed under ss. 71.20 and 71.21 may be deducted from gross income in arriving at net income taxable under this chapter.

**71.26 TIME EXTENSION.** For good cause shown upon application by an employer, the department or assessors of incomes may grant an extension of time not exceeding 30 days in which to furnish employes the written statements required by s. 71.10 (8) or to file the copies of such written statements as required by s. 71.10 (8m) or (8n), or in which to file a withholding report as required by s. 71.20 (4), but no such extension shall extend the time for deposit with the depository bank of amounts required to be deducted and withheld pursuant to s. 71.20, and any such amount not deposited with the depository bank when required to be deposited shall be subject to interest at one per cent per month until deposited.

**71.30 PARTIAL FORGIVENESS OF 1961 TAXES.** (1) In determining the Wisconsin income tax payable by natural persons and guardians on income of the calendar year 1961, or corresponding fiscal year, there may be deducted 65 per cent of the normal taxes and surtaxes, after personal exemptions, on all income, except the portion of such taxes attributable to gain from the sale or exchange of capital assets. The tax on the gain from the sale or exchange of capital assets shall be computed at the rates which would apply thereto if no income were excluded from taxation under this subsection, and as if the rates, deductions and personal exemption credits applied first to income other than gain from the sale or exchange of capital assets and then to the gain from the sale or exchange of capital assets.

(2) For the purposes of this section "capital assets" means property held by the taxpayer (whether or not connected with his trade or business) but shall not include stock in trade or inventory assets.

(3) For the purposes of this section "gain from the sale or exchange of capital assets" means the excess of gains over losses from the sale or exchange of capital assets.

SECTION 46. Chapter 77 (title) of the statutes is amended to read:

CHAPTER 77.

TAXATION OF FOREST CROP \* \* \* LAND; SELECTIVE  
SALES AND USE TAX LAW.

SECTION 47. Subchapters I and III of chapter 77 (titles) of the statutes are created to read:

SUBCHAPTER I.

TAXATION OF FOREST CROP LANDS.

(To head ss. 77.01 to 77.16)

SUBCHAPTER III.

SELECTIVE SALES AND USE TAX.

(To head ss. 77.51 to 77.63)

SECTION 48. 77.51 to 77.63 of the statutes are created to read:

77.51 CONSTRUCTION. Except where the context requires otherwise, the definitions given in this section govern the construction of terms in this subchapter.

(1) "Sales tax" means the tax imposed by s. 77.52.

(2) "Use tax" means the tax imposed by s. 77.53.

(3) "Person" includes any natural person, firm, partnership, joint venture, joint stock company, association, public or private corporation, co-operative, estate, trust, receiver, executor, administrator, any other fiduciary, and any representative appointed by order of any court or otherwise acting on behalf of others.

(4) "Sale", "sale, lease or rental", "retail sale", "sale at retail", or equivalent terms include any one or all of the following: the transfer of the ownership of, title to, possession of, or enjoyment of taxable tangible personal property for use or consumption but not for resale in any form as taxable tangible personal property and includes:

(a) Any sale at an auction in respect to taxable tangible personal property which is sold to a successful bidder at the auction including a sale upon an agreement or understanding at the time of the sale that the property involved either will not be delivered to the successful bidder or that any amount which he may pay for the property pursuant to the sale will be returned to him. The tax shall be computed in such case upon the amount of the successful bid.

(b) The furnishing and distributing of taxable tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(c) A transaction whereby the possession of taxable tangible personal property is transferred but the seller retains the title as security for the payment of the price.

(d) The delivery in this state of taxable tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer, pursuant to a retail sale made by a retailer not

engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.

(5) "Taxable tangible personal property" means tangible personal property the gross receipts from the sale of which or the storage, use or consumption of which, is taxable under this subchapter.

(6) "In this state" or "in the state" means within the exterior limits of the state of Wisconsin.

(7) "Retailer" includes:

(a) Every seller who makes any retail sale of taxable tangible personal property, and every person engaged in the business of making retail sales at auction of taxable tangible personal property owned by the person or others.

(b) Every person engaged in the business of making sales of taxable tangible personal property for storage, use or consumption or in the business of making sales at auction of taxable tangible personal property owned by the person or others for storage, use or other consumption.

(c) When the department determines that it is necessary for the efficient administration of this subchapter to regard any salesmen, representatives, peddlers or canvassers as the agents of the dealers, distributors, supervisors or employers under whom they operate or from whom they obtain the taxable tangible personal property sold by them, irrespective of whether they are making the sales on their own behalf or on behalf of such dealers, distributors, supervisors or employers, the department may so regard them and may regard the dealers, distributors, supervisors or employers as retailers for purposes of this subchapter.

(d) Every wholesaler to the extent that he sells taxable tangible personal property to a person other than a seller as defined in sub. (9) provided such seller is not expressly exempt from collecting the sales or use tax.

(8) "Business" includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit or advantage, either direct or indirect.

(9) "Seller" includes every person engaged in the business of selling, leasing or renting tangible personal property of a kind the gross receipts from the sale, lease or rental of which are required to be included in the measure of the sales tax.

(10) "Occasional sale" includes:

(a) A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit, provided such sale is not one of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit.

(b) Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer. For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity, are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity.

(11) (a) "Gross receipts" means the total amount of the sale, lease or rental price, as the case may be, from sales at retail of taxable tangible personal property, or taxable services, valued in money, whether received in money or otherwise, without any deduction on account of the following:

1. The cost of the property sold;
2. The cost of the materials used, labor or service cost, interest paid, losses or any other expense;
3. The cost of transportation of the property prior to its sale to the purchaser;
4. Any other tax included in or added to the purchase price. For purposes of the sales tax, if the retailers establish to the satisfaction of the

department that the sales tax imposed by this subchapter has been added to the total amount of the sales price and has not been absorbed by them, the total amount of the sales price shall be deemed to be the amount received exclusive of the sales tax imposed.

(b) "Gross receipts" shall not include:

1. Cash or term discounts allowed and taken on sales;

2. Such part of the sales price as is refunded in cash or credit as a result of property returned or adjustments in the sales price after the sale has been completed, provided the seller has included the said refunded receipts in a prior return made by such seller and has paid the tax thereon; and provided the seller has returned to the purchaser in cash or credit any and all tax previously paid by the purchaser on the amount of such refund at the time of the purchase.

3. In all transactions in which an article of taxable tangible personal property is traded toward the purchase of an article of greater value, the gross receipts shall be only that portion of the purchase price represented by the difference between the full purchase price of the article of greater value and the amount allowed for the article traded.

4. In the case of accounts which are found to be worthless and charged off for income tax purposes, a retailer is relieved from liability for sales tax. A retailer who has previously paid the sales tax on such accounts may take as a deduction from the measure of the tax the amount found to be worthless and this deduction must be taken from the measure of the tax in the period in which said account is found to be worthless or within a reasonable time thereafter not to exceed one year, pursuant to rules of the department.

5. Transportation charges separately stated, if the transportation occurs after the sale of the property is made to the purchaser.

(c) "Gross receipts" includes:

1. All receipts, cash, credits and property except as provided in par.

(b) 3.

2. Any services that are a part of the sale of taxable tangible personal property.

3. The entire sales price of credit transactions in the reporting period in which the sale is made without reduction in the amount of tax payable by the retailer by reason of his transfer at a discount the open account, note, conditional sales contract, lease contract or other evidence of indebtedness. No reduction in the amount of tax payable by the retailer is allowable in the event property sold on credit is repossessed except where the entire consideration paid by the purchaser is refunded to him or where a credit for a worthless account is allowable under par. (b) 4.

4. The price received for labor or services used in installing or applying the taxable tangible personal property sold unless such amount is separately set forth from the amount received for the taxable tangible personal property.

(d) The department may, in cases where it is satisfied that an undue hardship would otherwise result, permit the reporting of "gross receipts" on some basis other than the accrual basis.

(12) (a) "Sales price" means the total amount for which taxable tangible personal property is sold, leased or rented, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

1. The cost of the property sold;

2. The cost of the materials used, labor or service cost, losses or any other expenses;

3. The cost of transportation of the property prior to its purchase;

4. Any other tax included in or added to the purchase price.

(b) "Sales price" shall not include any of the following:

1. Cash discounts allowed and taken on sales;

2. The amount charged for property returned by customers when that entire amount is refunded either in cash or credit;

3. Transportation charges separately stated, if the transportation occurs after the purchase of the property is made.

(c) "Sales price" includes all of the following:

1. Any services that are a part of the sale of taxable tangible personal property;

2. The amount charged for labor or services rendered in the installation or in applying the taxable tangible personal property sold unless such amount is separately set forth from the amount charged for the taxable tangible personal property.

(13) "Purchase" includes:

(a) Any transfer of title, possession, ownership, enjoyment, or use by: cash or credit transaction, exchange, barter, lease or rental, conditional or otherwise, in any manner or by any means whatever of taxable tangible personal property for a consideration;

(b) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(14) "Storage" includes any keeping or retention in this state for any purpose except sales in the regular course of business or subsequent use solely outside this state of taxable tangible personal property purchased from a retailer.

(15) "Use" includes the exercise of any right or power over taxable tangible personal property incident to the ownership, possession or enjoyment of that property, except that it does not include the sale of that property in the regular course of business.

(16) "Storage" and "use" do not include the keeping, retaining or exercising any right or power over taxable tangible personal property for the purpose of subsequently transporting it outside the state for use thereafter solely outside the state, or for the purpose of being processed, fabricated, or manufactured into, attached to or incorporated into other property to be transported outside the state and thereafter used solely outside the state.

(17) The sales tax applies to the receipts of operators of vending machines located on army, navy or air force installations in this state and dispensing tangible personal property of a kind the gross receipts from the retail sale of which are subject to tax. This subsection shall not be deemed to require payment of sales tax measured by receipts of such operators who lease the machines to exchanges of the army, air force, navy or marine corps which acquire title to and sell the merchandise through the machines to authorized purchasers from such exchanges. The term "operator" as used in this subsection, means any person who owns or possesses vending machines and who controls the operations of the machines as by placing the merchandise therein or removing the coins therefrom, and who has access thereto for any purpose connected with the sale of merchandise through the machines, and whose compensation is based, in whole or in part, upon receipts from sales made through such machines.

(18) "Contractors" and "subcontractors" are the consumers of taxable tangible personal property used by them in fulfilling construction contracts and the sales and use tax applies to the sale of taxable tangible personal property to them.

(19) "Department" means the Wisconsin department of taxation, its duly authorized employes and agents.

(20) "Taxpayer" means the person required to pay, collect, account for or who is otherwise directly interested in the taxes imposed by this subchapter.



77.52 IMPOSITION OF SELECTIVE RETAIL SALES TAX. (1) For the privilege of selling, leasing or renting the tangible personal property herein described at retail a tax is hereby imposed upon all retailers at the rate of 3 per cent of the gross receipts from the sale, lease or rental of such tangible personal property sold, leased or rented at retail in this state on or after February 1, 1962.

(a) The tax imposed herein applies to the sale, lease or rental of the following:

1. Fermented malt beverages as defined in s. 66.054 (1) (j);
2. Intoxicating liquors as defined in s. 139.25 (1);
3. Tobacco, tobacco products, smokers' supplies including by way of illustration and not of limitation: cigarettes, cigarette tobacco, cigarette paper, cigars, pipes, pipe tobacco, chewing tobacco and snuff, lighters, lighter fluid and flints, tobacco humidifiers, cigarette making machines, cigarette tubes, pipe cleaners;
4. Motor vehicles as defined in s. 340.01 (35), trailers as defined in s. 340.01 (70), semitrailers as defined in s. 340.01 (57), road machinery as defined in s. 340.01 (52), mobile cranes and trench hoes, but not including vehicles for the mass transportation of passengers as defined in s. 71.18 (2) (a).
5. Aircraft as defined in s. 114.013 (2);
6. Radios, television receiving sets and receiving equipment, phonographs, sound recorders, musical instruments or any combination of the foregoing (and parts, components, cases, stands, racks and accessories for the same), records and sheet music.
7. Meals, food, food products and beverages for human consumption sold by restaurants, hotels, cafes, bars, caterers, lunch counters, wagons, and other establishments engaged in the business of preparing food or beverages and selling for direct consumption on or off the premises, except that such sales to their employes are exempt, and except that such sales are exempt when sold by hospitals, sanatoriums and nursing homes or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes, provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.
8. Recreational (except toys and games), sporting, hobby, and athletic goods and equipment, and supplies, accessories, and parts therefor, including by way of illustration and not of limitation: photographic and projection equipment and supplies; bicycles and parts, accessories and supplies; camping equipment; pets and pet supplies (except food); clothing or equipment designed for a particular sport and normally not used or worn when not engaged in that sport, firearms and ammunition and components, equipment, accessories, cases and telescopes; baseballs, footballs, bowling balls, tennis balls and golf balls; fishing and hunting baits and decoys both artificial and live; playing cards, poker chips and dice; pleasure boats, motors, trailers, and equipment, parts, accessories and supplies therefor.
9. Household furniture, furnishings, floor coverings, major and small appliances, power tools, outdoor garden and lawn equipment and tools; office furniture, furnishings, equipment, machines, appliances and floor coverings; commercial food service machines and equipment; tavern, restaurant, fountain and store furniture, furnishings, equipment, machines, appliances and floor coverings; except that tanks, pumps, compressors and equipment for retail marketing of petroleum products are exempt from tax under this subchapter.
10. All articles commonly or commercially known as jewelry, whether real or imitation; precious stones by whatever name called, whether real or imitation; articles made of or ornamented, mounted or fitted with pre-

rious metals or imitations thereof; watches, clocks, and cases and movements for watches and clocks; opera glasses, lorgnettes, marine glasses, field glasses and binoculars; not including religious articles designed and intended for actual use in divine worship, religious observance or prayer, and which are normally not used except in conjunction with such activities.

(2) For the privilege of selling, performing or furnishing the services herein described at retail in this state to consumers or users, a tax is hereby levied and imposed upon all persons selling, performing, or furnishing such services at the rate of 3 per cent of the gross receipts from the sale, performance, or furnishing of such services on or after February 1, 1962.

(a) The tax imposed herein applies to the following types of services:

1. The furnishing of rooms or lodging to transients by hotelkeepers, motel operators and other persons furnishing accommodations that are available to the public, irrespective of whether membership is required for use of the accommodations. As used in this paragraph, "transient" means any person residing for a continuous period of less than one month in a hotel, motel or other furnished accommodations available to the public. As used in this paragraph, "hotel" or "motel" means a building or group of buildings in which the public may obtain accommodations for a consideration, including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, summer camps, apartment hotels, resort lodges and cabins and any other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of more than one month and accommodations furnished by any hospitals, sanatoriums, or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual.

2. The sale of admissions to places of amusement, athletic entertainment or recreational events or places and the furnishing, for dues, fees or other considerations, the privilege of access to clubs or the privilege of having access to or the use of amusement, entertainment, athletic or recreational facilities. The sale of admissions to motion picture theaters costing 75 cents or less shall not be taxed.

3. The sale of intrastate telegraph services to business, industrial, professional and commercial users.

4. The sale of local flat rate and local basis measured rate telephone services billed on a monthly, recurring basis to business, industrial, professional and commercial users except messages from coin operated telephones.

(3) The taxes imposed by this section may be collected from the consumer or user.

(4) It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it, or any part thereof, will be refunded. Any person who violates this subsection is guilty of a misdemeanor.

(5) The department may by rule provide that the amount collected by the retailer from the consumer or user in reimbursement of the tax be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check or other proof of sale.

(6) A retailer is relieved from liability for sales tax insofar as the measure of the tax is represented by accounts which have been found to be worthless and charged off for income tax purposes. If the retailer has

previously paid the tax, he may, under rules prescribed by the department, take as a deduction from the measure of the tax the amount found worthless and charged off for income tax purposes.

(7) Every person desiring to engage in or conduct business as a seller within this state shall file with the department an application for a permit for each place of business. Every application for a permit shall be made upon a form prescribed by the department and shall set forth the name under which the applicant transacts or intends to transact business, the location of his place of business, and such other information as the department requires. The application shall be signed by the owner if a sole proprietor; in the case of sellers other than sole proprietors, the application shall be signed by the person authorized to act on behalf of such sellers.

(8) At the time of making an application the applicant shall pay to the department a permit fee of \$2 for each permit.

(9) After compliance with subs. (7) and (8) and s. 77.61 (2) by the applicant, the department shall grant and issue to each applicant a separate permit for each place of business within the state. A permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

(10) A seller whose permit has been previously suspended or revoked shall pay the department a fee of \$2 for the renewal or issuance of a permit.

(11) Whenever any person fails to comply with any provision of this section relating to the sales tax or any rule of the department relating to the sales tax adopted under this section, the department upon hearing, after giving the person 10 days' notice in writing specifying the time and place of hearing and requiring him to show cause why his permit should not be revoked, may revoke or suspend any one or more of the permits held by the person. The department shall give to the person written notice of the suspension or revocation of any of his permits. The notices herein required may be served personally or by mail in the manner prescribed for service of notice of a deficiency determination. The department shall not issue a new permit after the revocation of a permit unless it is satisfied that the former holder of the permit will comply with the provisions of this section and the rules of the department relating to the sales tax. The department shall not issue a new permit after a permit has been revoked for the third time within any 2-year period except upon payment by the former holder of the permit of a fee of \$25. When giving notice of the second revocation the department shall also notify the person that if his permit is again revoked within 2 years from the date of the first revocation he shall pay a fee of \$25 for a new permit after such third revocation. In the event of additional revocation the 2-year period shall commence to run from the date of the first revocation of the permit for the issuance of which the fee of \$25 was paid.

(12) A person who engages in business as a seller in this state without a permit or after a permit has been suspended, and each officer of any corporation, partnership member or other person authorized to act on behalf of a seller which so engages in business, is guilty of a misdemeanor.

(13) For the purpose of the proper administration of this section and to prevent evasion of the sales tax it shall be presumed that all gross receipts are subject to the tax until the contrary is established. The burden of proving that a sale of taxable tangible personal property or services is not a sale at retail is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property or service is purchased for resale or is otherwise exempt.

(14) The certificate referred to in sub. (13) relieves the seller from the burden of proof only if taken in good faith from a person who is en-

gaged in the business of selling taxable tangible personal property or services and who holds the permit provided for in sub. (9) and who, at the time of purchasing the taxable tangible personal property or services, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property or service will be sold or will be used for some other purpose. The certificate shall be signed by and bear the name and address of the purchaser, and shall indicate the general character of the taxable tangible personal property or service sold by the purchaser in the regular course of business. The certificate shall be in such form as the department prescribes.

(15) If a purchaser who gives a certificate makes any use of the property other than retention, demonstration or display while holding it for sale in the regular course of business, the use shall be taxable to the purchaser under s. 77.53 as of the time the property is first used by him, and the sales price of the property to him shall be the measure of the tax. Only when there is an unsatisfied use tax liability on this basis shall the seller be liable for sales tax with respect to the sale of the property to the purchaser. If the sole use of the property, other than retention, demonstration or display in the regular course of business, is the rental of the property while holding it for sale, the purchaser may elect to include in his gross receipts the amount of the rental charge rather than the sales price of the property to him.

(16) Any person who gives a resale certificate for taxable property or services which he knows at the time of purchase is not to be resold by him in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor.

(17) If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined, sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

(18) If any retailer liable for any amount of tax under this subchapter sells out his business or stock of goods or quits the business, his successors or assigns shall withhold sufficient of the purchase price to cover such amount until the former owner produces a receipt from the department that it has been paid or a certificate stating that no amount is due.

(a) If the purchaser of a stock of goods fails to withhold from the purchase price as required, he becomes personally liable for the payment of the amount required to be withheld by him to the extent of the purchase price valued in money. Within 60 days after receiving a written request from the purchaser for a certificate, or within 60 days from the date the former owner's records are made available for audit, whichever period expires later, but in any event not later than 90 days after receiving the request, the department shall either issue the certificate or mail notice to the purchaser at his address as it appears on the records of the department of the amount that must be paid as a condition of issuing the certificate. Failure of the department to mail the notice will release the purchaser from any further obligation to withhold the purchase price as above provided. The obligation of the successor may be enforced within 4 years of the time the retailer sells out his business or stock of goods or at the time that the determination against the retailer becomes final, whichever event occurs later.

(19) The department shall by rule provide for the efficient collection of the taxes imposed by this subchapter on sales of property or services by persons not regularly engaged in selling at retail in this state or not having a permanent place of business, but who are temporarily engaged

in selling from trucks, portable roadside stands, concessions at fairs and carnivals, and the like. The department may authorize such persons to sell property or sell, perform or furnish services on a permit or nonpermit basis as the department by rule prescribes and failure of any person to comply with such rules constitutes a misdemeanor.

**77.553 IMPOSITION OF USE TAX.** (1) An excise tax is hereby levied and imposed on the storage, use or other consumption in this state of the taxable tangible personal property and services described in s. 77.52 purchased from any retailer on or after February 1, 1962, for storage, use or other consumption in this state at the rate of 3 per cent of the sales price of the property.

(2) Every person storing, using or otherwise consuming in this state taxable tangible personal property purchased from a retailer is liable for the tax imposed by this section. His liability is not extinguished until the tax has been paid to this state except that a receipt from a retailer engaged in business in this state or from a retailer who is authorized by the department, under such rules as it prescribes, to collect the tax and who is regarded as a retailer engaged in business in this state for purposes of the tax imposed by this section given to the purchaser pursuant to sub. (3) is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(3) Every retailer engaged in business in this state and making sales of taxable tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the department. "Retailer engaged in business in this state" as used in this subsection and in sub. (2) means any of the following:

(a) Any retailer maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business in this state.

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering or the taking of orders for any taxable tangible personal property.

(4) A retailer is relieved from liability to collect use tax insofar as the measure of the tax is represented by accounts which have been found to be worthless and charged off for income tax purposes. If the retailer has previously paid the amount of the tax, he may, under rules prescribed by the department, take as a deduction from the measure of the tax the amount found worthless and charged off for income tax purposes. If any such accounts are thereafter in whole or in part collected by the retailer, the amount so collected shall be included in the first return filed after such collection and the amount of the tax thereon paid with the return.

(5) The tax required to be collected by the retailer constitutes a debt owed by the retailer to the state.

(6) It is unlawful for any retailer to advertise or hold out or state to the public or to any customer, directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the retailer or that it will not be added to the selling price of the property sold or that if added it or any part thereof will be refunded.

(7) The tax required to be collected by the retailer from the purchaser shall be displayed separately from the list price, the price advertised in the premises, the marked price, or other price on the sales check, invoice or other proof of sale.

(8) Any person violating sub. (3), (6) or (7) is guilty of a misdemeanor.

(9) Every retailer selling taxable tangible personal property for storage, use or other consumption in this state shall register with the department and give the name and address of all agents operating in this state, the location of all distribution or sales houses or offices or other places of business in this state, and such other information as the department requires.

(10) For the purpose of the proper administration of this section and to prevent evasion of the use tax and the duty to collect the use tax, it is presumed that taxable tangible personal property sold by any person for delivery in this state is sold for storage, use or other consumption in this state until the contrary is established. The burden of proving the contrary is upon the person who makes the sale unless he takes from the purchaser a certificate to the effect that the property is purchased for resale, or otherwise exempt from the tax.

(11) The certificate referred to in sub. (10) relieves the person selling the property from the burden of proof only if taken in good faith from a person who is engaged in the business of selling taxable tangible personal property and who holds the permit provided for by s. 77.52 (9) and who, at the time of purchasing the taxable tangible personal property, intends to sell it in the regular course of business or is unable to ascertain at the time of purchase whether the property will be sold or will be used for some other purpose. The certificate shall be signed by and bear the name and address of the purchaser, shall indicate the number of the permit issued to the purchaser and the general character of taxable tangible personal property sold by the purchaser in the regular course of business. The certificate shall be substantially in such form as the department prescribes.

(12) If a purchaser who gives a certificate makes any storage or use of the taxable property other than retention, demonstration or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used. If the sole use of the property, other than retention, demonstration or display in the regular course of business, is the rental of the property while holding it for sale, the purchaser may elect to pay the tax on the use measured by the amount of the rental charged rather than the sale price of taxable property to him.

(13) If a purchaser gives a certificate with respect to the purchase of fungible goods and thereafter commingles these goods with other fungible goods not so purchased but of such similarity that the identity of the constituent goods in the commingled mass cannot be determined sales from the mass of commingled goods shall be deemed to be sales of the goods so purchased until a quantity of commingled goods equal to the quantity of purchased goods so commingled has been sold.

(14) It is presumed that taxable tangible personal property shipped or brought to this state by the purchaser after February 1, 1962, was purchased from a retailer on or after February 1, 1962, for storage, use or other consumption in this state.

(15) On and after the effective date of this section (1962), it shall be further presumed that taxable tangible personal property delivered outside this state to a purchaser known by the retailer to be a resident of this state was purchased from a retailer for storage, use or other consumption in this state and stored, used or otherwise consumed in this state. This presumption may be controverted by a statement in writing, signed by the purchaser or his authorized representative, and retained by the seller that the property was purchased for use at a designated point outside this state. This presumption may also be controverted by other evidence satis-

factory to the department that the property was not purchased for storage, use or other consumption in this state.

(16) If the purchase, rental or lease of taxable tangible personal property subject to the tax imposed by this section was subject to a sales tax by another state in which said purchase was made, the amount of such sales tax so paid such other state shall be applied as a credit against and deducted from the tax, to the extent thereof, imposed by this section.

(17) This section shall not apply to tangible personal property purchased outside this state by a visitor to this state and imported for his use while in this state.

**77.54 GENERAL EXEMPTIONS.** There are exempted from the taxes imposed by this subchapter :

(1) The gross receipts from the sale of and the storage, use or other consumption in this state of tangible personal property and services the gross receipts from the sale of which, or the storage, use or other consumption of which, this state is prohibited from taxing under the constitution or laws of the United States or under the constitution of this state.

(2) The gross receipts from sales of and the storage, use or other consumption of tangible personal property becoming an ingredient or component part of an article of taxable tangible personal property in any form destined for sale.

(3) The gross receipts from the sales of and the storage, use or other consumption of taxable tangible personal property, except motor trucks, used exclusively in farming, dairying, agriculture, horticulture or floriculture when engaged in as a business enterprise except that the purchaser of taxable tangible personal property exempt hereunder shall be liable for the tax on the sales price of such property at the time any other use is made of such property.

(4) Gross receipts from the sale of tangible personal property, and the storage, use or other consumption in this state of tangible personal property which is the subject of any such sale, by any elementary school, secondary school, college or university exempted as such from payment of income tax under ch. 71, whether public or private, or by any school district, student organization, or parent-teacher association directly affiliated with any such institution where the entire net proceeds therefrom are expended for educational purposes.

(5) The gross receipts from the sale of and the storage, use or other consumption of:

(a) Aircraft sold to persons using such aircraft as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government, or sold to any foreign government for use by such government outside this state, or sold to persons who are not residents of this state and who will not use such aircraft in this state otherwise than in the removal of such aircraft from this state.

(b) Motor trucks, road tractors, busses, trailers and semitrailers sold to common or contract carriers who use such motor trucks, road tractors, busses, trailers and semitrailers.

(6) Sales of taxable tangible personal property made pursuant to bona fide written contracts entered into before the date of approval of this section (1962), provided delivery is made within 90 days.

(7) The occasional sales of taxable tangible personal property and services and the storage, use or other consumption in this state of taxable tangible personal property, the transfer of which to the purchaser is an occasional sale, except that the exemption herein provided shall, in the case of motor vehicles, be limited to motor vehicles transferred to the spouse, mother, father or child of the transferor and then only if such motor ve-

hicle has been previously registered in this state in the name of the transferor.

(8) Charges for interest, financing or insurance where such charges are separately set forth upon the invoice given by the seller to the purchaser.

(9) The gross receipts from sales of tickets or admissions to public and private elementary and secondary school activities and religious or charitable activities, where the entire net proceeds therefrom are expended for educational, religious or charitable purposes.

(9a) The gross receipts from sales to, and the storage, use or other consumption of taxable tangible personal property and services by: this state or any agency thereof, or any county, municipality, school district or other political subdivision; any corporation, community chest fund, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes, or for the prevention of cruelty to children or animals, no part of the net income of which inures to the benefit of any private stockholder, shareholder, member or corporation.

(10) The gross receipts from the lease or rental of property and the storage, use or other consumption of leased or rented property in this state by the lessee shall be exempt from the taxes imposed by this subchapter if the sale of such property to the lessor was subject to the taxes imposed by this subchapter. The taxes imposed by this subchapter on the gross receipts from the lease or rental of property or the storage, use or consumption of leased or rented property, shall not exceed the tax that would have been imposed had the property been sold or purchased at the time of the first such leasing or renting of such property after the effective date of this section (1961), except that if the sale or purchase price of the property at the time of such leasing or renting is not reasonably determinable, the tax shall be measured by the gross lease or rental price received or paid.

**77.55 EXEMPTIONS FROM SALES TAX.** (1) There are exempted from the computation of the amount of the sales tax the gross receipts from the sale of any taxable tangible personal property or services to:

(a) The United States, its unincorporated agencies and instrumentalities;

(b) Any incorporated agency or instrumentality of the United States wholly owned by the United States or by a corporation wholly owned by the United States;

(2) There are exempted from the computation of the amount of the sales tax the gross receipts from sales of taxable tangible personal property to a common or contract carrier, shipped by the seller via the purchasing carrier under a bill of lading whether the freight is paid in advance, or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a carrier.

(3) There are exempted from the computation of the amount of the sales tax the gross receipts from sales of taxable tangible personal property purchased for use solely outside this state and delivered to a forwarding agent, export packer, or other person engaged in the business of preparing goods for export or arranging for their exportation, and actually delivered to a port outside the continental limits of the United States prior to making any use thereof.

**77.56 EXEMPTIONS FROM USE TAX.** (1) The storage, use or other consumption in this state of property, the gross receipts from the sale of which are required to be included in the measure of the sales tax, is exempted from the use tax.

(2) The loan by an automobile dealer of a motor vehicle to any school or school district for a driver training educational program conducted by



the school or school district is exempt from the use tax. If the dealer makes any other use of the vehicle except retention, demonstration or display while holding it for sale in the regular course of business, the use is taxable to the dealer under s. 77.53 as of the time the property is first so used, and the sales price of the vehicle to the dealer is the measure of the tax.

**77.57 LIABILITY OF PURCHASER.** If a purchaser certifies in writing to a seller that the property purchased will be used in a manner or for a purpose entitling the seller to regard the gross receipts from the sale as exempted by this subchapter from the computation of the amount of the sales tax, and uses the property in some other manner or for some other purpose, the purchaser shall be liable for payment of sales tax as if he were a retailer making a retail sale of the property at the time of such use, and the cost of the property to him shall be deemed the gross receipts from such retail sale.

**77.58 RETURNS AND PAYMENTS.** (1) The taxes imposed by this subchapter from February 1, 1962 to March 31, 1962 are due and payable to the department on April 20, 1962. The taxes imposed for the month of April, 1962, and for each month thereafter are due and payable on the twentieth of the month next succeeding the month for which imposed.

(2) On or before April 20, 1962, a return for the period from February 1, 1962, to March 31, 1962, shall be filed with the department. On or before May 20, 1962 a return shall be filed for the month of April, 1962 and a return shall be filed thereafter by the twentieth day of each month for taxes imposed for the preceding month.

(a) Every person required to file a return hereunder, shall, with his first return, also elect to file a calendar year or fiscal year return. Such calendar or fiscal year return is due and shall be filed on or before 90 days after the close of such calendar or fiscal year. This return shall be referred to as the "annual return" and shall summarize the monthly returns, reconcile and adjust for errors in the monthly returns, and contain such other information as the department requires. If the annual return shows an overpayment of taxes for the preceding calendar or fiscal year, such return shall be treated as a claim for refund and the provisions of s. 77.59 (4) shall apply thereto. Any underpayment of tax disclosed by the annual return is due and payable by the due date of the return. Underpayments of tax are subject to interest from the due date of the monthly return (if determinable) to which the underpayment relates. Overpayments of tax are subject to interest from the due date of the annual return, subject to the limitations of s. 77.60 (1) (a). All of the provisions of s. 77.60 shall apply to annual as well as monthly returns except as provided herein. Returns shall be filed on forms prescribed by the department.

(3) For purposes of the sales tax a return shall be filed by every seller. For purposes of the use tax a return shall be filed by every retailer maintaining a place of business in the state and by every person purchasing taxable tangible personal property, the storage use or other consumption of which is subject to the use tax, who has not paid the use tax due to a retailer required to collect the tax. Returns shall be signed by the person required to file the return or by his duly authorized agent but need not be verified by oath.

(a) For purposes of the sales tax the return shall show the gross receipts of the seller during the preceding reporting period. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him the storage, use or consumption of which property became subject to the use tax during the preceding reporting period, in case of a return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the storage, use or consumption of which became subject to the use tax

during the preceding reporting period. The return shall also show the amount of the taxes for the period covered by the return and such other information as the department deems necessary for the proper administration of the subchapter.

(4) The person required to file the return shall deliver the return together with a remittance of the amount of the tax due to the office of the department or such other place as the department by rule designates.

(5) The department, if it deems it necessary in order to insure payment to or facilitate the collection by the state of the amount of taxes, may require returns or payments of the amount of taxes for other than monthly periods.

(6) For the purposes of the sales tax gross receipts from rentals or leases of taxable tangible personal property shall be reported and the tax paid in accordance with such rules as the department prescribes.

(7) The department for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid by this subchapter. The extension may be granted at any time provided a request therefor is filed with the department within or prior to the period for which the extension is requested.

**77.59 DEFICIENCY AND REFUND DETERMINATIONS.** (1) The department may, by office audit, determine the tax required to be paid to the state or the refund due to any person pursuant to this subchapter. The determination may be made upon the basis of the facts contained in the return being audited or upon the basis of any other information within the department's possession. The determination shall be presumed to be correct and the burden of proving it to be incorrect shall be upon the person challenging the correctness thereof. One or more such office audit determinations may be made of the amount due for any one or for more than one period.

(2) The department may, by field audit, determine the tax required to be paid to the state or the refund due to any person pursuant to this subchapter. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the department's possession. The department is authorized to examine and inspect the books, records, memoranda, and property of any person in order to verify the tax liability of that person or of another person. The department is authorized to subpoena any person to give testimony under oath before it and to require such person to produce whatever books, records or memoranda are necessary in order to enable the department to verify the tax liability of such person or of another person. The determination shall be presumed to be correct and the burden of proving it to be incorrect shall be upon the person challenging the correctness thereof. A determination by the department pursuant to a field audit becomes final at the expiration of the appeal periods hereinafter provided and the tax liability of the taxpayer for the period audited may not be subsequently adjusted.

(3) No determination of the tax liability of a person may be made unless written notice of such determination is given to the taxpayer within 4 years of the due date of the return or within 4 years of the date the return was filed with the department, whichever is later. The notice required herein shall specify whether the determination is an office audit determination or a field audit determination and it shall be served personally or by registered mail. If the department is unable to obtain personal service or service by registered mail, service of notice by daily publication thereof for at least one day in each of 3 successive weeks in the official state paper shall constitute service of notice in any case where notice is required under this subchapter.

(a) If before the expiration of the time for giving notice of a determination the taxpayer has consented in writing to the giving of notice after such time, the notice may be given at any time prior to the expiration of the period agreed upon. The period so agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

(4) At any time within 4 years after the due date of a return, a person may, unless a determination by the department by office or field audit has been made, file with the department a claim for refund of taxes paid by such person. Such claim for refund shall be regarded as a request for determination. The determination thus requested shall be made by the department within one year after the claim for refund is received by it and unless such determination is made within the one-year period, the claim for refund shall be allowed in full.

(5) In making a determination, the department may offset refunds for a period, together with interest on the refunds, against deficiencies for another period, and against penalties and interest on the deficiencies.

(6) A determination by the department is final unless, within 30 days after receipt of the notice of such determination, the taxpayer, or other person directly interested, petitions the department for a redetermination. In the case of notice served by publication, the 30-day period commences with the last day of such publication of notice.

(a) If a petition for redetermination is filed within the 30-day period, the department shall reconsider the determination and if the person has so requested in his petition, shall grant the person an oral hearing and shall give him 10 days' notice of the time and place of such hearing. The department may continue the hearing from time to time as necessary. The petition shall be in such form as the department by rule prescribes and shall contain a complete statement of the facts and the propositions of law upon which the petitioner relies in support of his petition.

(b) Within 6 months of the conclusion of the oral hearing, or within 6 months of the receipt by the department of the petition for redetermination if no hearing is requested, the department shall notify the petitioner of its decision. Such decision shall include findings of fact, conclusions of law and schedules or data to support or explain the department's decision. The decision of the department upon a petition for redetermination shall become final 30 days after the service upon the petitioner of notice thereof unless, within that 30-day period, the petitioner appeals the department's decision, as provided in par. (c).

(c) Appeals from the department's decisions shall be governed by the rules and law applicable to income tax appeals except that where the appeal before the Wisconsin board of tax appeals raises no question of fact, the board of tax appeals may transfer the appeal to the circuit court for Dane county. In such cases the department's decision shall be reviewed by the circuit court in the same manner as appeals from decisions of the board of tax appeals. All appeals from decisions of the board of tax appeals with respect to the taxes imposed by this subchapter shall, if appealed, be appealed to the circuit court for Dane county.

(7) If the department believes that the collection of any tax imposed by this subchapter or any amount of tax required to be collected and paid to the state or of any determination will be jeopardized by delay, it shall thereupon make a determination of the tax or amount of tax required to be collected, noting that fact upon the determination. The amount determined is immediately due and payable.

(a) If the amount specified in the determination is not paid within 10 days after service of notice thereof upon the person against whom the determination is made, the amount becomes final at the expiration of the 10 days, unless a petition for redetermination is filed within 10 days. Such

petition for redetermination shall not prevent the determination from becoming final unless, within the 10-day period, there is deposited with the department such security as it deems necessary to insure compliance with this subchapter.

(8) Notwithstanding any other provision of this subchapter, if a person fails to file a report or return required by this subchapter or files a false or fraudulent report or return with the intent in either case to defeat or evade tax required to be paid, the department may determine the proper tax due at any time and without regard to when such failure or filing occurred and without regard to whether a field audit determination was previously made. The department may, at any time, examine and inspect any of the books, records, memoranda, or property of any person and make whatever inquiry, including the subpoena of persons, necessary to the determination of whether a failure to file or a filing was with the intent to defeat or evade the tax.

(9) If any person fails to file a return, the department shall make an estimate of the amount of the gross receipts of the person, or, as the case may be, of the amount of the total sales price of taxable tangible personal property sold or purchased by the person, the storage, use or other consumption of which in this state is subject to the use tax. The estimate shall be made for the period in respect to which the person failed to make a return and shall be based upon any information which is in the department's possession or may come in its possession. Upon the basis of this estimate the department shall compute and determine the amount required to be paid to the state, adding to the sum thus arrived at a penalty equal to 10 per cent thereof. One or more such determinations may be made for one or for more than one period. When a business is discontinued a determination may be made at any time thereafter, within the periods specified in sub. (3), as to liability arising out of that business.

**77.60 INTEREST AND PENALTIES.** (1) All unpaid taxes shall bear interest at the rate of 5 percent per annum from the due date of the return until the first day of the month following the month in which the tax is paid or deposited with the department and all refunded taxes shall bear interest at 5 per cent per annum from the due date of the return until the first day of the month following the month in which said taxes are refunded. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation.

(a) If the department determines that any overpayment of tax has been made intentionally or by reason of carelessness or neglect, or if the tax which was overpaid was not accompanied by a complete return it shall not allow any interest thereon.

(2) Delinquent sales and use taxes shall be subject to a 10 per cent penalty. The taxes imposed by this subchapter shall become delinquent if not paid:

(a) In the case of a timely filed return, within 30 days after the due date of the return, or within 30 days after the expiration of an extension period if one has been granted.

(b) In the case of no return filed or a return filed late, by the due date of the return.

(c) In the case of deficiency determination, within 30 days after the determination becomes final.

(3) If due to negligence no return is filed, or a return is filed late, or an incorrect return is filed, the entire tax finally determined shall be subject to a penalty of 25 per cent of the tax exclusive of interest or other penalties.

(4) If a person fails to file a return when due or files a false or fraudulent return with the intent in either case to defeat or evade the tax imposed by this subchapter, a penalty of 50 percent shall be added to the tax required to be paid, exclusive of interest and other penalties.

(5) Any retailer or other person who fails or refuses to furnish any return required to be made, or who fails or refuses to furnish a supplemental return or data required by the department, is guilty of a misdemeanor.

(6) Any person required to make, render, sign, or verify any report or return who makes any false or fraudulent report or return or who fails to furnish a report or return, with the intent in either case to defeat or evade the tax imposed by this subchapter is guilty of a misdemeanor.

77.61 ADMINISTRATIVE PROVISIONS. (1) (a) No motor vehicle or aircraft shall be registered in this state unless the registrant presents proof that the sales or use taxes imposed by this subchapter have been paid.

(b) In the case of a motor vehicle purchased from a licensed Wisconsin motor vehicle dealer, the registrant shall present proof that the tax has been paid to such dealer.

(c) In the case of motor vehicles purchased from persons who are not licensed Wisconsin motor vehicle dealers, the purchaser shall pay the tax to the department of taxation prior to registering such motor vehicle in this state.

(2) In order to protect the revenue of the state, the department may require any person liable to it for the tax imposed by this subchapter to place with it, before or after a permit is issued, such security, not in excess of \$5,000, as the department determines. If any taxpayer fails or refuses to place such security, the department may refuse or revoke such permit. If any taxpayer is delinquent in the payment of the taxes imposed by this subchapter, the department may, upon 10 days' notice, recover the taxes, interest and penalties from the security placed with the department by such taxpayer. No interest shall be paid or allowed by the state to any person for the deposit of security.

(3) The department shall by rule provide a bracket system to be used by retailers in collecting the amount of tax from their customers.

(4) Every seller and retailer as defined in s. 77.51 (7) and (8) and every person storing, using or otherwise consuming in this state taxable tangible personal property purchased from a retailer shall keep such records, receipts, invoices and other pertinent papers in such form as the department requires. For collecting the sales tax and the accounting connected therewith, retailers shall deduct 2 per cent of the total sales tax collected each month as partial compensation for their sales tax administration expenses. The failure or refusal of any person to comply with this subsection shall constitute a misdemeanor.

(5) (a) It is unlawful for the department or any person having an administrative duty under this subchapter to make known in any manner whatever the business affairs, operations or information obtained by an investigation of records and equipment of any retailer or any other person visited or examined in the discharge of official duty, or the amount or source of income, profits, losses, expenditures, or any particular thereof, set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person.

(b) Subject to rules of the department, any sales tax returns, or any schedules, exhibits, writings, or audit reports pertaining to the same, on file with the department of taxation shall be open to examination by any of the following persons or the contents thereof divulged or used as provided in the following cases and only to the extent therein authorized; provided that the use of information so obtained is restricted to the discharge of duties imposed upon said persons by law or by the duties of their office,

and any of said persons who use or permit the use of any information directly or indirectly so obtained beyond the duties imposed upon them by law or by the duties of their office or by order of a court as set forth in subd. 6 is deemed in violation of this subsection:

1. The commissioner of taxation, or any officer, agent or employe of the department of taxation;

2. Public officers of this state or its political subdivisions or the authorized agents of such officers when deemed by them necessary in the performance of the duties of their office;

3. Members of any legislative committee or its authorized agents where deemed by them necessary to accomplish the purpose for which the committee was organized;

4. Public officers of the federal government or other state governments or the authorized agents of such officers, where necessary in the administration of the laws of such governments, to the extent that such government accords similar rights of examination or information to officials of this state;

5. a. The person who filed or submitted such return, or to whom the same relates or by his authorized agent or attorney;

b. The person required to file reports on collection or taxes withheld from another.

6. Any person examining such return pursuant to a court order duly obtained upon a showing to the court that the information contained in such return is relevant to a pending court action.

(c) Any person violating this subsection may be fined not less than \$100 nor more than \$500, or imprisoned not less than one month nor more than 6 months, or both.

(6) Any person may request from the department a sales or use tax ruling or opinion. Such request shall contain such factual information as the department requires to enable it to render a ruling or opinion. The department need not honor a frivolous request or a request by a person not directly interested in a contemplated or consummated transaction the taxability under this subchapter of which is in doubt.

(7) The department shall publish annually its decisions in connection with petitions for redeterminations. The department shall also publish its rules, sales and use tax rulings and opinions of counsel. No decision, ruling or opinion need be published if such decision, ruling or opinion involves the same or similar fact and law questions as a decision, ruling or opinion which has been previously published unless the department's decision, ruling or opinion is contrary to or is an extension of such previous decision, ruling or opinion. The department shall, however, maintain permanent files of all of its decisions, rules, rulings and opinions and such permanent files shall be properly indexed and maintained on a current basis. At least one copy of such permanent files shall be available to inspection by any person upon payment by such person of a fee of \$2. The published decisions, rules, rulings and opinions of the department shall be made available for sale to the public at the cost of the preparation and publishing thereof.

(8) In any case in which a refund is authorized or prescribed in this subchapter, or in the rules of the department related to the administration hereof, no such refund shall be made if the total amount thereof is less than \$2.

(9) The department may by rule require the filing, submission, preparation or retention of such information returns, exemption and resale certificates and other forms, reports and data as it requires for the proper administration of this subchapter. Any person who fails or refuses to file, submit, prepare or retain such returns, certificates, forms, reports

or data, at the time and place and in the manner required, is guilty of a misdemeanor for each such failure or refusal.

**77.63 DISTRIBUTION OF SALES TAX. (1) DISTRIBUTION.** The sales and use taxes collected pursuant to this subchapter shall be deposited in the state general fund, except that on March 1, 1963, and every March 1 thereafter, \$55,000,000 of such collections shall be distributed by the department of administration to towns, villages and cities in allocable shares certified by the department of taxation as determined pursuant to sub. (2).

(1a) (a) The department of taxation shall determine the amount of the property tax credit allowable to each taxpayer which is subject to levy of taxes and license fees under ss. 76.13, 76.38 and 76.48. The aggregate of such credit shall be that proportion of the total property tax credit which the total of the taxes and license fees levied pursuant to ss. 76.13, 76.38 and 76.48 less taxes on property entitled to the credit under s. 77.64 for the prior year bears to the total of the levy on all general property reduced by the levy on all property entitled to the credit under s. 77.64 of all tax districts, plus the levy of the taxes and license fees levied pursuant to ss. 76.13, 76.38 and 76.48 reduced by taxes on property entitled to the credit under s. 77.64. Said credit shall be allocated to each such taxpayer in proportion to the amount of the taxes and license fees of each taxpayer reduced by taxes on property entitled to the credit under s. 77.64 as computed and levied pursuant to ss. 76.13, 76.38 and 76.48 for the prior year.

(b) That portion of the appropriation provided by s. 20.550 (10) to be applied to the reduction of taxes and license fees levied pursuant to ss. 76.13, 76.38 and 76.48 shall be held in the state treasury to be distributed to state and local governments in the same manner and at the same time as taxes levied under ss. 76.13, 76.38 and 76.48 are distributed.

(2) **ALLOCATION.** Participation in the allocation under sub. (1) shall be limited to municipalities having an average computed full value rate in excess of 14 mills. The excess of the average computed full value rate over 14 mills of each participating municipality shall be multiplied by the municipality's full value of all taxable property except personal property entitled to tax credit under s. 77.64 for the preceding year, as equalized for state tax purposes. The allocable share of each participating municipality in the distribution under sub. (1) shall be in the same proportion as the amount determined hereunder for each municipality bears to the total amount, thus determined, of all participating municipalities.

(3) **TAX CREDIT.** On or before December 1 of the year preceding each March 1 distribution under sub. (1), the department of taxation shall notify the clerk of each town, village and city of the amount to be distributed to it under sub. (1) on the following March 1. The anticipated receipt of such distribution shall not be taken into consideration in determining the tax rate of the municipality but shall be applied as tax credits, as follows:

(a) The amount of the local assessed value of all assessed property of the municipality shall be reduced by the portion thereof which constitutes assessed value of personal property entitled to tax credit under s. 77.64.

(b) Every property taxpayer of the municipality having assessed property, other than personal property entitled to tax credit under s. 77.64, shall receive a tax credit in an amount determined by applying the percentage of the amount of the value of property, other than personal property entitled to tax credit under s. 77.64, assessed to him in the amount determined under par. (a) to the amount of the distribution to be made to the municipality under sub. (1), as stated in the December 1 notification from the department of taxation.

(c) The amount of the tax credit of particular property taxpayers, as determined under par. (b), shall be set forth on the tax bills of such taxpayers issued immediately following the December 1 notification referred to in this subsection and shall serve to reduce the property taxes otherwise payable.

(4) DEFINITIONS. (a) "Computed full value rate" means the sum total of all general property taxes (including state, county, local and school taxes), special assessments, occupational taxes, forest crop taxes and woodland taxes levied and extended by a town, village or city, as reported to the department of taxation in its abstract of assessments and taxes, divided by the full value of all taxable property in such municipality as equalized for state purposes pursuant to s. 70.57, and the quotient expressed in mills per dollar of valuation.

(b) "Average computed full value rate of a municipality" means the average of the computed full value rate of the 3 years preceding the assessment year to which the tax credit is to apply.

(c) "Municipality" means any town, village or city in this state. Where a municipality is located in more than one county the portion thereof in each county shall be considered a separate municipality.

SECTION 49. Subchapter IV of chapter 77 of the statutes (title) is created to read:

#### SUBCHAPTER IV.

#### TAX DISTRIBUTION.

SECTION 50. 77.64 of the statutes is created to read:

77.64 DISTRIBUTION OF REVENUE. (1) On or before January 1, 1963, and annually thereafter, the department of administration shall remit to the treasurers of each taxation district from the appropriation made under s. 20.800 (5) an amount as certified to the department of administration by the department of taxation pursuant to par. (c).

(a) On or before April 1, 1962, and annually thereafter, the clerk of each taxation district shall furnish the department of taxation with a statement of the amount of the total tax levy in the district on assessments of merchants' stock in trade, manufacturers' materials and finished products, and livestock on the preceding May 1.

(b) If the local level of assessment on personal property is greater than the local level of assessment on real property in a tax district as determined by the department of taxation under ss. 70.57 and 73.06 (5), the amount referred to in par. (c) shall be 50 percent of the tax that would have been levied had the personal property been assessed at a level no higher than the real property. If the local level of assessment on personal property is no greater than the local level of assessment on real property the amount referred to in par. (c) shall be 50 per cent of the tax levied on merchants' stock in trade, manufacturers' materials and finished products, and livestock.

(c) On or before December 15, 1962, and annually thereafter, the department of taxation shall certify to the department of administration the amount to be remitted to the treasurers of each taxation district. The amount certified shall be the amount referred to in par. (b).

(2) The treasurer of each taxation district shall apportion to each taxpayer against whom a levy was made in the next preceding year on merchants' stock in trade, manufacturers' materials and finished products, and livestock 50 per cent of such levy as determined under sub. (1) (b). The department of taxation shall furnish the apportionment factor to the treasurers of the tax districts on or before January 1. The first report on allocation factors to the local treasurers shall be on or before January 1, 1963.



(3) In the case of personal property which, prior to the year 1962 had been exempt from general property taxation under s. 70.416, any reference herein to the levy of the preceding year (where such preceding year is 1961) shall include an amount determined by multiplying the book value of such property as of May 1, 1961, reduced to the level of assessments of other personal property of the taxation district as of May 1, 1961, by the tax rate of the taxation district applied to such other personal property in arriving at the 1961 levy.

(4) Any taxpayer who intentionally renders a false or fraudulent report to the local assessor on the number or grade of livestock in his possession on May 1, or who intentionally overstates the value of the merchants' stock in trade, or manufacturers' materials and finished products in his possession on May 1, may be fined not to exceed \$5,000 or imprisoned not to exceed one year, or both, with the cost of prosecution. Any local assessor or other officer of the tax district aiding or abetting a taxpayer in the filing of a false or fraudulent report may be fined not to exceed \$500 or imprisoned not to exceed 6 months, or both, with the cost of prosecution.

SECTION 51. Chapter 79 (title) of the statutes is repealed.

SECTION 52. 79.01 of the statutes is renumbered 70.93 and 70.93 (intro. par.), as renumbered, is amended to read:

70.93 (intro. par.) In \* \* \* ss. 70.91 to 70.98, unless the context otherwise requires:

SECTION 53. 79.02 of the statutes is renumbered 70.91 and 70.91 (title) and (2) (a), as renumbered, are amended to read:

#### 70.91 TAXATION OF LOW-GRADE IRON ORE PROPERTIES.

(2) (a) The amount of tax shall be calculated by multiplying the average number of tons of merchantable concentrate produced annually from such unit of property during the preceding 5-year period by an amount equal to 2 per cent of the value per gross ton f.o.b. the mining property of old range non-Bessemer iron ore containing 51½ per cent natural iron in effect on May 1 in the then current year. In calculating the average annual production of merchantable concentrate from such low-grade iron ore property during the preceding 5-year period, any year in which there \* \* \* *has* been no production shall be omitted. The first year to be used in the first such 5-year period shall be the last year in which the low-grade iron ore property was subject to \* \* \* s. 70.91 (1). The figure arrived at shall be the amount in dollars of the tax payable under this subsection to the state and shall be in lieu of all real and personal property taxes on such unit of property.

SECTION 54. 79.03 of the statutes is renumbered 70.92 and 70.92 (2), as renumbered, is amended to read:

70.92 (2) The state geologist shall certify to the department of taxation the mineral and nonmineral lands that shall be included in the low-grade iron ore property, either initially or on account of increases in capacity, as set forth in \* \* \* *this section* and the commissioner of taxation shall thereupon notify the local assessor of the taxation district wherein such lands are located that the lands are to be removed from the local assessment roll as of May 1 following such notification.

SECTION 55. 79.04 and 79.05 of the statutes are renumbered 70.94 and 70.95, respectively.

SECTION 56. 79.06 of the statutes is renumbered 70.96 and 70.96 (2), as renumbered, is amended to read:

70.96 (2) Any part of an assessment which is contested before the board of tax appeals or the courts, which after hearing shall be ordered to be paid, shall be considered as a delinquent tax if unpaid on the tenth day following the date of such final order and shall be subject to the penalty and interest provisions under \* \* \* *sub. (1)*.

SECTION 57. 79.07 of the statutes is renumbered 70.97 and 70.97 (2) (a), as renumbered, is amended to read:

70.97 (2) (a) The mineral lands within the unit shall be given a valuation by the state geologist on the basis of his estimate of the low-grade iron ore within each 40-acre tract that it is anticipated can be quarried. This determination to be made at the time the required reserve is determined as provided under s. \* \* \* 70.92. The values as placed on these lands shall remain the same during the 30-year life of the unit of low-grade iron ore property.

SECTION 58. 79.08 of the statutes is renumbered 70.98 and amended to read:

70.98 NONAPPLICATION OF SS. 70.91 TO 70.97. \* \* \* *Sections 70.91 to 70.97 shall not be construed to exempt from taxation or change the present method of taxation of the properties of mining units now in operation or of any unit that may be developed after May 13, 1953, and mining high-grade ore.*

Approved December 28, 1961.

---