

# Update to Instructions as a Result of 2021 Wisconsin Act 1

On February 18, 2021, Governor Tony Evers signed 2021 Wisconsin Act 1. The law provides the following changes to the 2020 tax year:

## **Federal Paycheck Protection Programs**

Wisconsin adopted sections 276(a) and (b) and 278(a) of Division N of [Public Law 116-260](#), regarding the tax treatment of income and expenses relating to the original and subsequent Paycheck Protection Programs (PPP). Taxpayers may exclude from income the forgiveness of debt on PPP loan proceeds and deduct expenses paid with PPP loan proceeds that are otherwise deductible.

## **Other Federal Grants, Loans, and Subsidies**

Wisconsin adopted section 278(b), (c), and (d) of Division N of [Public Law 116-260](#), regarding the tax treatment of income and expenses relating to certain federal grants, loans, and subsidies. Taxpayers may exclude from income the following federal grants, forgivable loans, and subsidies, and deduct expenses paid with the funds if the expenses are otherwise deductible:

- Section 278(b) - Emergency grants of economic injury disaster loans (EIDL) and targeted EIDL advances
- Section 278(c) - Subsidy for certain loan payments
- Section 278(d) - Grants for shuttered venue operators

## **Other Federal Provisions Adopted**

For an inclusive list of federal provisions adopted under 2021 Wisconsin Act 1, see the *Provisions of the Internal Revenue Code Adopted* section of these instructions.

## **State Grant Programs During the COVID-19 Pandemic**

The following income is exempt from Wisconsin income and franchise tax:

- Income received from the state of Wisconsin with money received from the coronavirus relief fund authorized under [42 USC 801](#) to be used for any of the following purposes:
  - Grants to small businesses
  - A farm support program
  - Broadband expansion
  - Privately owned movie theater grants
  - A nonprofit grant program
  - A tourism grants program
  - A cultural organization grant program
  - Music and performance venue grants
  - Lodging industry grants
  - Low-income home energy assistance
  - A rental assistance program
  - Supplemental child care grants
  - A food insecurity initiative
  - Ethanol industry assistance
  - Wisconsin Eye
- Income received in the form of a grant issued by the Wisconsin Economic Development Corporation during and related to the COVID-19 pandemic under the ethnic minority emergency grant program.

Income from these programs is included in federal income pursuant to sec. [61](#) of the Internal Revenue Code, unless an exception applies. For Wisconsin, this income should be excluded from federal adjusted gross income by making a subtraction modification on Schedule 4W, line 13 using the description "Wisconsin COVID-19 Program Funds."

**Note:** Expenses paid for with these programs and deducted in the computation of federal adjusted gross income are not required to be added back on the Wisconsin return.

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**NOTE:** It may be helpful to also have a copy of the instructions to the following forms and schedules that are frequently required to be filed with Form 4:

- For corporations apportioning their income, Schedule A-01, A-02, A-03, A-04, A-05, A-06, A-07, A-08, A-09, A-10, or A-11
- **Schedule 4V**, *Wisconsin Additions to Federal Income*
- **Schedule 4W**, *Wisconsin Subtractions From Federal Income*

## Who Must File Form 4

### Corporations Required to File

Form 4 is for corporations only. "Corporation" includes corporations, joint stock companies, associations, common law trusts, and all other entities treated as corporations under section 7701 of the Internal Revenue Code (IRC).

Corporations that must file Form 4, if not otherwise exempt, include:

- Corporations doing business both in and outside Wisconsin (multistate corporations)
- Corporations doing business only in Wisconsin
- Domestic insurance companies doing business in Wisconsin
- Unlicensed corporations doing business in Wisconsin.
- Foreign corporations engaged in buying or selling lottery prizes if the winning tickets were originally bought in Wisconsin.
- Foreign corporations issuing credit, debit, or travel and entertainment cards to customers in Wisconsin.
- Foreign corporations regularly selling products or services of any kind or nature to customers in Wisconsin that receive the product or service in Wisconsin.
- Foreign corporations regularly soliciting business from potential customers in Wisconsin.
- Foreign corporations regularly performing services out-side Wisconsin for which the benefits are received in Wisconsin.
- Foreign corporations regularly engaging in transactions with customers in Wisconsin that involve intangible property and result in receipts flowing to the taxpayer from within Wisconsin.
- Foreign corporations holding loans secured by real or tangible personal property located in Wisconsin.
- Foreign corporations owning, directly or indirectly, a general or limited partnership interest in a partnership that does business in Wisconsin, regardless of the percentage of ownership.
- Foreign corporations owning, directly or indirectly, an interest in a limited liability company treated as a partnership that does business in Wisconsin, regardless of the percentage of ownership.
- Foreign corporations that are the sole owner of an entity that is disregarded as a separate entity under IRC section 7701 and does business in Wisconsin.

In the list above, "regular" and "regularly" mean 15 or more days of activity. Fifteen days of activity means one person for 15 days or 15 persons for one day, or any combination of persons and days that results in at least 15 person-days of activity. "Days of activity" include any day, or portion thereof, upon which business activity took place. "Days of activity" do not include travel days, holidays, or weekends, unless business activities were conducted on those days.

Tax-option (S) corporations file Form 5S.

Tax exempt corporations may be required to file Form 4T.

Additionally, some corporations must file a Wisconsin corporation franchise or income tax return (Form 4, 5S, or 4T, as applicable) regardless of whether they are otherwise “doing business in Wisconsin.” These corporations include:

- Corporations organized under Wisconsin law
- Foreign corporations licensed to do business in Wisconsin
- Foreign corporations that are the sole owner of an entity that is disregarded as a separate entity under IRC section 7701 and does business in Wisconsin
- Foreign corporations engaged in buying or selling lottery prizes if the winning tickets were originally bought in Wisconsin

### Corporations and Other Entities Not Required to File

The following entities are not required to file a Wisconsin corporation franchise or income tax return:

- Single-owner entities that are disregarded under IRC section 7701 (Instead, the owner of the disregarded entity must file a Wisconsin franchise or income tax return if otherwise required.)
- “Exempt entities,” except those that have income described in a. through c.:
  - a. Unrelated business taxable income as defined in IRC section 512,
  - b. Income derived from a health maintenance organization (HMO) as defined in sec. 609.01(2), Wis. Stats., or a limited service health organization (LSHO) as defined in sec. 609.01(3), Wis. Stats., or
  - c. Income realized from the sale of and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin.
- Corporations that are completely inactive in and outside Wisconsin and have filed Form 4H
- Credit unions that don’t act as a public depository for state or local government funds and have filed Form CU.

**“Exempt Entities.”** Exempt entities are described in secs. 71.26(1) and 71.45(1), Wis. Stats. Exempt entities include the following:

- Insurers exempt from federal income taxation under IRC section 501(c)(15)
- Town mutual insurers organized under Chapter 612, Wis. Stats.
- Foreign insurers
- Domestic insurers engaged exclusively in life insurance business
- Domestic insurers transacting mortgage guaranty insurance business as defined in Wisconsin Administrative Code section Insurance 6.75(2)(i)
- Some cooperatives
- Religious, scientific, educational, benevolent, or other corporations or associations of individuals not organized or conducted for profit

### “Doing Business in Wisconsin”

“Doing business in Wisconsin” means that the corporation has “nexus” with Wisconsin. Activities that create nexus include the following:

- Maintaining any business location in Wisconsin
- Owning real estate in Wisconsin

- Ownership of tangible personal property in Wisconsin, including inventory held by a distributor, consignee, or other non-employee representative, whether or not used to fill orders for the owner's account, but not including personal property for use in an employee's or representative's home, residential office or automobile that is solely limited to conducting the activities protected by P.L. [86-272](#).
- Regular activity in Wisconsin by employees or representatives soliciting orders with authority to approve them
- Regularly soliciting business from potential customers in Wisconsin, except where protected by P.L. 86-272
- Regularly selling products or services of any kind or nature to customers in Wisconsin that receive the product or service in Wisconsin, except where protected by federal Public Law (P.L.) 86-272
- Regularly performing services outside Wisconsin for which the benefits are received in Wisconsin
- Regularly engaging in transactions with customers in Wisconsin that involve intangible property and result in receipts flowing to the corporation from within Wisconsin
- Issuing credit, debit, or travel and entertainment cards to customers in Wisconsin
- Holding loans secured by real or tangible personal property located in Wisconsin
- Owning, directly or indirectly, a general or limited partnership interest in a partnership that does business in Wisconsin, regardless of the percentage of ownership
- Owning, directly or indirectly, an interest in a limited liability company treated as a partnership that does business in Wisconsin, regardless of the percentage of ownership

In the list above, "regular" and "regularly" mean 15 or more days of activity. Fifteen days of activity means one person for 15 days or 15 persons for one day, or any combination of persons and days that results in at least 15 person-days of activity. "Days of activity" include any day, or portion thereof, upon which business activity took place. "Days of activity" do not include travel days, holidays, or weekends, unless business activities were conducted on those days.

For corporations selling tangible personal property, P.L. 86-272 may prohibit Wisconsin taxation in some cases. There are also specific statutory exemptions from nexus. See sec. Tax 2.82, Wisconsin Administrative Code, for more information about P.L. 86-272 and what creates nexus. See sec. 71.23(3), Wis. Stats., for the specific statutory exemptions that may apply.

## Franchise or Income Tax

Corporations required to file Form 4 may be subject to either franchise or income tax.

**Franchise tax** applies to:

- All domestic corporations (those organized under Wisconsin law), and
- Foreign corporations (those not organized under Wisconsin law) doing business in Wisconsin or buying or selling lottery prizes if the winning tickets were originally bought in Wisconsin, except where taxation is exempted by statute or barred by federal law.

The tax rate is 7.9%. Income from obligations of the United States government and its instrumentalities is included in income under the franchise tax law.

**Income tax** applies only to foreign corporations which are not subject to the franchise tax and which own property in Wisconsin or whose business in Wisconsin is exclusively in foreign or interstate commerce. The tax rate is 7.9%. Income from obligations of the United States government and its instrumentalities is not included in income under the income tax law.

**Certain urban transit companies** are subject to a special tax under sec. 71.39, Wis. Stats. Contact the department for further information.

## Economic Development Surcharge

Corporations required to file Form 4 may also be subject to the economic development surcharge. The economic development surcharge is 3% of the corporation's franchise or income tax, before applying credits. The minimum economic development surcharge is \$25 and the maximum is \$9,800.

A corporation is subject to the economic development surcharge if it has gross receipts from all activities of \$4 million or more during the taxable year. "Gross receipts from all activities" means gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income for Wisconsin franchise or income tax purposes.

However, the economic development surcharge doesn't apply to:

- Domestic corporations that don't have any business activities in Wisconsin,
- Foreign corporations that don't have nexus with Wisconsin, or
- Nuclear decommissioning trust funds.

For more information on the economic development surcharge, refer to Publication 400, *Wisconsin's Economic Development Surcharge*. You can find this publication on the Department of Revenue's web site at [revenue.wi.gov/html/taxpubs.html](http://revenue.wi.gov/html/taxpubs.html),

## Separate Return or Combined Return?

Use this section to determine if the corporation must be included in a combined return. If so, see the *Form 6 Instructions for Combined Returns*.

## Combined Returns and Groups in General

If a corporation is in a combined group, it should not file a separate Form 4, instead, one corporation in the group, called the "designated agent," files Form 6 for the group as a whole.

A corporation is in a combined group if it meets **all** of the following three tests:

1. The corporation is in a **commonly controlled group**,
2. The corporation is engaged in a **unitary business** with other corporations in the commonly controlled group, and
3. The corporation is not excluded from the combined group under the **water's edge** rules.

However, corporations that are tax-option (S) corporations, real estate investment trusts (REITs), regulated investment companies (RICs), real estate mortgage investment conduits (REMICs), or financial asset securitization investment trusts (FASITs) can't be included in a combined group. These corporations must file separate Wisconsin returns if they are otherwise required to file.

Each of the three tests is discussed below:

### Test 1: Commonly Controlled Group

Section 71.255(1)(c), Wis. Stats., and sec. Tax 2.61(3), Wisconsin Administrative Code, describe when a "commonly controlled group" exists. To summarize those provisions, a "commonly controlled group" means any or a combination of the following arrangements, if the "50% test" described below is met:

- A parent-subsidary chain of corporations
- Corporations with a common owner
- Corporations owned or controlled by members of the same family

- Corporations that are “stapled entities”

**50% Test.** In any commonly controlled group, there must be common ownership of stock representing more than 50% of the voting power of the corporations. A corporation owns stock representing more than 50% of voting power if it owns or controls more than 50% of all classes of stock entitled to vote. See sec. Tax 2.61(3)(d), Wisconsin Administrative Code, for other rules that apply in determining voting power.

The common ownership may be either direct or indirect. To determine if there is indirect ownership, you would generally use the stock attribution rules of IRC section 318. See sec. Tax 2.61(3)(a), Wisconsin Administrative Code, for more details.

Following is a brief description of each type of commonly controlled group:

**Parent-Subsidiary Chain.** In this type of group, a parent corporation directly or indirectly owns stock representing more than 50% of the voting power of one or more corporations or chains of corporations in the group.

**Corporations with Common Owner.** In this type of group, a common owner directly or indirectly owns stock representing more than 50% of the voting power of the corporations in the group. The common owner may or may not be a corporation.

**Corporations Owned or Controlled by Family Members.** In this type of group, stock representing more than 50% of the voting power in each corporation is directly owned by, or for the benefit of, members of the same family, as determined by the third degree of kinship under sec. 990.001(16), Wis. Stats. Using the third degree of kinship, an individual is considered to be in the same family with his or her:

- Parents
- Grandparents
- Great-grandparents
- Children
- Grandchildren
- Great-grandchildren
- Siblings
- Nieces and nephews
- Aunts and uncles

**Stapled Entities.** In this type of group, there is an arrangement where stock representing more the 50% of the voting power of each corporation cannot be separately transferred, even if there is not actual common ownership of the stock. If a group of corporations would be considered “stapled entities” under section 269B of the IRC, without regard to whether the corporations are foreign or domestic, then the corporations are in a commonly controlled group. See sec. Tax 2.61(3)(d), Wisconsin Administrative Code, for details.

## Test 2: Unitary Business

In general, a “unitary business” is a group of commonly controlled companies, divisions, or branches that operates as a unit. The operations are integrated, and each company, division, or branch is dependent upon or contributory to the operation of the business as a whole. However, it isn’t necessary that *each* component of the business contribute to *all* the other components.

**Controlled Group Election.** A commonly controlled group may elect to forego the unitary business test by treating the entire commonly controlled group as a single unitary business. This is called the “controlled group election.”

**NOTE:** The controlled group election may simplify combined return filing because it eliminates the need to determine which corporations in the commonly controlled group are engaged in the same unitary business.

If the group makes the controlled group election, the election is generally binding on the combined group and the department for a ten-year period, unless the group no longer has a filing requirement. For information on the controlled group election, see the instructions for page one of the Form 6, *Wisconsin Combined Corporation Franchise or Income Tax Return*.

**How to Identify a “Unitary Business.”** If the commonly controlled group does not make the controlled group election, it uses the definition in sec. 71.255(1)(n), Wis. Stats., and guidance provided in sec. Tax 2.62, Wisconsin Administrative Code, to determine if corporations in the commonly controlled group are engaged in the same unitary business. The law provides the following:

- Commonly controlled entities are engaged in a unitary business if their activities generate a synergy and mutual benefit that produces a *sharing or exchange of value* among them and a significant *flow of value* to the separate parts
- Commonly controlled entities are presumed to be a unitary business if the entities have *unity of operation and use*

The Wisconsin Statutes and Administrative Code provide further explanation and examples of the “sharing, exchange, and flow of value” concept and the “unity of ownership, operation and use” concept, summarized as follows:

**Sharing, Exchange, and Flow of Value.** Commonly controlled corporations are engaged in a unitary business if **any** of the following are true:

- The corporations contribute or are expected to contribute in a nontrivial way to each other’s profitability
- The corporations are dependent on one another for achieving one or more nontrivial business objectives
- The corporations taken as a group offer one or more corporations in the group some economies of scale or economies of scope

To illustrate this concept, the following activities between commonly controlled corporations indicate that they are engaged in the same unitary business:

- Assisting in acquisition of assets
- Assisting with filling personnel needs
- Lending funds, guaranteeing loans, or pledging assets
- Common future planning or development of the enterprise
- Providing technical assistance, general operational guidance, or overall operational strategic advice
- Supervising
- Sharing use of trade names, patents, or other intellectual property

**Unity of Operation and Use.** Commonly controlled corporations are also engaged in a unitary business if they have both unity of operation and unity of use.

*Unity of operation* means there is functional integration among the corporations, and is evidenced by shared support functions such as:

- Centralized purchasing, marketing, advertising, accounting, or research and development
- Intercorporate sales or leases, including equipment and real estate
- Intercorporate services, including administrative, data management, computer support, employee benefits, human resources, insurance, tax compliance, legal, financial, and cash management services
- Intercorporate debts
- Intercorporate use of proprietary materials, including trade names, trademarks, service marks, patents, copyrights, and trade secrets

*Unity of use* is evidenced by centralized management or use of centralized policies. Factors that indicate unity of use include:



- Centralized executive force
- Interlocking directorates or corporate officers
- Intercompany employee transfers
- Common employee and executive training programs
- Common hiring and personnel policies
- Common recruiting programs
- Common employee handbooks
- Common employee benefit programs

**Passive Holding Companies in Unitary Business.** If a commonly controlled group includes a passive holding company that holds intangible assets that are used by other companies of the group in a unitary business, that holding company is deemed to be engaged in the unitary business, even if its activities are primarily passive.

If a passive parent holding company directly or indirectly controls one or more operating company subsidiaries engaged in a unitary business, that passive parent holding company is also engaged in the unitary business, even if its activities are primarily passive.

**Presumptions to Simplify Determination.** In order to simplify the determination of whether a unitary business exists, sec. Tax 2.62(6), Wisconsin Administrative Code, provides that a group of commonly controlled corporations is presumed to be engaged in a unitary business if **any** of the following are true:

- The group's activities are all in the same general line of business
- The members of the group are engaged in different steps of a vertically structured enterprise
- There is strong central management coupled with the existence of centralized departments or affiliates for such functions as financing, advertising, R&D, or purchasing

Also, if a corporation forms a new corporation, the forming corporation and new corporation are presumed to be engaged in a unitary business with one another from the date of formation.

These presumptions may be rebutted by the taxpayer or by the department based on the specific facts and circumstances.

### Test 3: Water's Edge

In general, this test only applies if the company derives 80% or more of its worldwide gross income from "active foreign business income," which means gross income derived from sources outside the United States, as determined in subchapter N of the Internal Revenue Code, including income of a subsidiary corporation, and attributable to the active conduct of a trade or business in a foreign country or in a U.S. possession. A corporation is considered a subsidiary if the parent corporation owns, directly or indirectly, stock with at least 50 percent of the total voting power of the corporation and the stock has a value equal to at least 50 percent of the total value of the stock of the corporation. The water's edge rules are described in detail in the instructions for Form 6, *Wisconsin Combined Corporation Franchise or Income Tax Return*.

**SUMMARY:** A corporation must file in a combined return if all of the following are true:

1. The corporation is in a **commonly controlled group**,
2. The corporation is engaged in a **unitary business** with one or more other corporations in that commonly controlled group **or** the group makes the controlled group election, and
3. The corporation is not excluded from the combined group under the **water's edge rules**.

## General Franchise or Income Tax Return Instructions

### When and Where to File

Generally, a corporation must file its Wisconsin franchise or income tax return by the 15th day of the 4th month following the close of its taxable year; however, corporations with a fiscal year ending June 30 are due the 15th day of the 3rd month after the close of the taxable year (September 15).

**Short Period Returns.** Corporations must file short period returns for Wisconsin if required to do so for federal purposes. A Wisconsin return for a short taxable year is due on or before the federal due date for that short taxable year.

Be sure to use the correct year's tax return when filing for a short period. If the tax returns are not yet available, wait until the returns become available and file under extension. For example, if a taxpayer has a short period from January 1, 2021 through March 31, 2021, the 2021 Form 4 will not be ready by July 15, 2021 (unextended due date for a March 31 year-end). Wisconsin law provides for an automatic 7-month extension to file the return, so filing under extension will allow the correct years return to be filed when the 2021 Form 4 is available (typically the middle of January 2022). Note that an extension does not extend the time to pay a balance due. In order to avoid interest charges, pay the amount due by the unextended due date.

**Extensions.** Any extension allowed by the IRS for filing the federal return automatically extends the Wisconsin due date to 30 days after the federal extended due date. You don't need to submit either a copy of the federal extension or an application for a Wisconsin extension to the department by the original due date of your return. However, you must submit a copy of the federal extension with the Wisconsin return that you file.

If you aren't requesting a federal extension, Wisconsin law provides an automatic extension of 7 months or until the original due date of the corporation's corresponding federal return, whichever is later.

**Disaster Relief Extension.** If you are filing under extension because of a federal or state disaster, include a statement indicating which disaster extension you are using and attach it to your return. Additional information on disaster areas can be found here: [revenue.wi.gov/Pages/FAQS/pcs-extensn.aspx#ext5](https://revenue.wi.gov/Pages/FAQS/pcs-extensn.aspx#ext5)

The fee for filing a late return after the extension date is \$150.

**CAUTION:** An extension for filing the return doesn't extend the time to pay the franchise or income tax. Interest will be charged on the tax not paid by the 15th day of the 4th month (3rd month for June 30 year-end) following the close of the taxable year. You can avoid interest charges during the extension period by paying the tax due by that date.

**Filing Methods.** Corporate returns are required to be filed electronically unless an approved [electronic waiver](#) is received from the department. Paper filed returns that do not have an electronic filing waiver attached will be returned. More information is available from the department's web page at [revenue.wi.gov/Pages/TaxPro/2011/news-2011-110727b.aspx](https://revenue.wi.gov/Pages/TaxPro/2011/news-2011-110727b.aspx) Also, see sec. Tax 2.03(3)(b)(1), Wisconsin Administrative Code, for details.

File electronically through the Federal/State E-Filing Program. For a list of software vendors participating in this program, visit the department's web page at [revenue.wi.gov/Pages/OnlineServices/corp-partnership-third-party-vendors.aspx](https://revenue.wi.gov/Pages/OnlineServices/corp-partnership-third-party-vendors.aspx).

If you have an approved electronic filing waiver and must file your return on paper, follow these mailing instructions carefully:

- **Do not fasten, staple or bind the pages of your return.** Use paper clips instead.
- If you are submitting multiple returns, separate them with **colored separator sheets**.
- Use the mailing address shown on the form.

## Period Covered by Return

A 2020 Wisconsin return must be filed by a corporation for calendar year 2020 or a fiscal year that begins in 2020. A fiscal year may end only on the last day of a month. The period covered by the return can't exceed 12 months. The return must cover the same period as the corporation's federal income tax return.

Example: Corporation A has a fiscal year beginning March 1, 2020 and ending February 28, 2021. Corporation A files a 2020 Form 4 for the period of March 1, 2020 through February 28, 2021.

Corporations reporting on a 52-53-week period for federal tax purposes must file on the same reporting period for Wisconsin. A 52-53-week taxable year is deemed to begin on the first day of the calendar month beginning nearest to the first day of the 52-53-week taxable year. The taxable year is deemed to end on the last day of the calendar month closest to the last day of the 52-53-week taxable year.

Any change in accounting period made for federal purposes must also be made for Wisconsin purposes. For the first taxable year for which the change applies, file with the Wisconsin return a copy of the IRS's notice of approval of accounting period change if such approval is required or an explanation of the change if the IRS's approval isn't required.

## Accounting Methods and Elections

In computing net income, the method of accounting must be the same method used in computing federal net income. However, if the method used for federal purposes isn't authorized under the Internal Revenue Code in effect for Wisconsin, use a method authorized under the Internal Revenue Code in effect for Wisconsin.

**Situations Where Installment Method Not Authorized for Wisconsin.** A corporation, including a tax-option (S) corporation, entitled to use the installment method of accounting must take the unreported balance of gain on installment obligations into income in the taxable year of their distribution, transfer, or acquisition by another person or for the final taxable year for which it files or is required to file a Wisconsin franchise or income tax return, whichever year occurs first.

**Change in Accounting Method.** A change in accounting method made for federal purposes must also be made for Wisconsin purposes, unless the change isn't authorized under the Internal Revenue Code in effect for Wisconsin. Adjustments required federally as a result of a change made while the corporation is subject to Wisconsin taxation must also be made for Wisconsin purposes, except in the last year that a corporation is subject to taxation by Wisconsin it must take into account all remaining adjustments required.

For the first taxable year for which the change applies, file with the Wisconsin return either a copy of the application for change in accounting method filed with the Internal Revenue Service and copy of the IRS's consent, if applicable, or an explanation of the change if the IRS's approval isn't required.

**Elections.** As explained above, a corporation can't make different elections for federal and Wisconsin purposes with respect to accounting periods and accounting methods, unless the federal method isn't permitted under the Internal Revenue Code in effect for Wisconsin. In situations where a corporation has an option under the Internal Revenue Code and the IRS doesn't consider that option to be a method of accounting, a different election may be made for Wisconsin than for federal purposes. If federal law specifies the manner or time period in which an election must be made, those requirements also apply for Wisconsin purposes.

## Payment of Estimated Tax

If the total of a corporation's franchise or income tax and economic development surcharge due is \$500 or more, it generally must make quarterly estimated tax payments. Failure to make required estimated tax payments may result in an interest charge.

**Quick Refund.** A corporation that overpaid its estimated tax may apply for a refund before filing its tax return if its overpayment is (1) at least 10% of the expected Wisconsin tax liability and (2) at least \$500. To apply, file Wisconsin

Form 4466W, *Corporation Application for Quick Refund of Overpayment of Estimated Tax*, after the end of the taxable year and before the corporation files its tax return.

A corporation that has a tax due when filing its tax return as a result of receiving a “quick refund” will be charged 12% annual interest on the amount of unpaid tax from the date the refund is issued to the earlier of the 15th day of the 4th month (3rd month for fiscal year ending June 30) after the close of the taxable year or the date the tax liability is paid. Any tax that remains unpaid after the unextended due date of the tax return continues to be subject to 18% or 12% annual interest, as appropriate.

**Electronic Funds Transfer Required.** Section Tax 1.12, Wisconsin Administrative Code, requires the payment of certain taxes by electronic funds transfer (EFT). A corporation must pay its estimated franchise or income taxes and economic development surcharge by EFT if its net tax less refundable credits on its prior year return was \$1,000 or more. The department will notify a corporation when EFT payments are required. The corporation will have 90 days after being notified to register for EFT. The first EFT payment is due on the first tax due date following the end of the 90-day registration period.

To make EFT payments of corporation franchise or income tax, choose the appropriate tax type code from the table below. When making EFT payments, be sure to enter the last day of your taxable year for which the payment is being made, not the last day of the quarterly installment period.

Tax Type	Tax Type Code
Corporation estimated tax payment	02100
Corporation tax due with return	02200
Corporation amended return tax due	02400
Corporation bill (except audit assessments)	02540

Corporations not required to pay by EFT may elect to do so. For more information, visit the Department of Revenue’s web site at [revenue.wi.gov/Pages/FAQS/pcs-efit.aspx](http://revenue.wi.gov/Pages/FAQS/pcs-efit.aspx), e-mail, [DORBusinessTax@wisconsin.gov](mailto:DORBusinessTax@wisconsin.gov), call (608) 264-9918, or write to Electronic Funds Transfer Assistance, Wisconsin Department of Revenue, PO Box 8949, Madison, WI 53708-8949.

If you are not required to use EFT, you may make your estimated payments using Form Corp-ES, *Wisconsin Corporation Estimated Tax Voucher*. You may download vouchers from the department’s web site at [revenue.wi.gov/html/formpub.html](http://revenue.wi.gov/html/formpub.html), or you may request vouchers by calling any Department of Revenue office.

**Required Disclosures and Attachments**

In addition to filing Form 4 itself, the corporation may be required to disclose certain types of transactions included on the return or file information returns. The corporation must also provide a complete copy of the corporation’s federal income tax return and other schedules to supplement the return. Each of these requirements is described below.

**Disclosure of Related Entity Expenses.** If the corporation will be deducting more than \$100,000 (after considering the effect of apportionment), of interest, rent, management fees, or intangible expenses paid, accrued, or incurred to a related person or entity, the corporation must generally file Schedule RT, *Wisconsin Related Entity Expenses Disclosure Statement*, with its franchise or income tax return. The Schedule RT instructions explain the reporting requirements.

However, even if you are not required to file Schedule RT, if you are taking deductions for interest, rent, management fees, or intangible expenses, paid, accrued, or incurred to related entities, you must add those expenses back to federal income as a Wisconsin addition modification. To the extent the expenses meet the tests for deductibility, you may subtract them out as a subtraction modification. See the Schedule 4V instructions and Schedule 4W instructions for details.

**Corporation's Disclosure of Reportable Transactions.** If a corporation was required to include any form with its federal tax return to disclose a "reportable transaction," as defined under sec. 71.81(1)(c), Wis. Stats., it must file a copy of that form with the Department of Revenue within 60 days of the date it is required to file it for federal income tax purposes, provided that it is otherwise required to file a Wisconsin return.

This includes federal Form 8886, *Reportable Transaction Disclosure Statement*. To file this form for Wisconsin purposes, check the "yes" box for question 53 on Form 4, and submit the form with your return.

**Material Advisor's Disclosure of Reportable Transactions.** A material advisor that is required to file a form with the IRS to disclose a reportable transaction must file a copy of that form with the Department of Revenue within 60 days of the date it is required for federal income tax purposes, provided that the form relates to a taxpayer that is required to file a Wisconsin franchise or income tax return.

For federal purposes, the form required for this disclosure is Form 8918, *Material Advisor Disclosure Statement*. To file this form for Wisconsin purposes, send a paper copy, separate from the Wisconsin return, to Wisconsin Department of Revenue, Tax Shelters Program, PO Box 8958, Madison, WI 53708-8958. Include a listing of the names and identification numbers of each Wisconsin taxpayer for whom the advisor provided services to.

A "material advisor" means any person who provides any material aid, assistance, or advice with respect to organizing, managing, promoting, selling, implementing, insuring, or carrying out any reportable transaction (as defined in the U.S. Treasury Regulations) and who, directly or indirectly, derives gross income from providing such aid, assistance, or advice in an amount that exceeds the threshold amount. See sec. 71.81(1)(e), Wis. Stats., for details of the threshold amount that applies.

**NOTE:** For disclosures of related entity expenses, submit Schedule RT with your Wisconsin franchise or income tax return. However, for disclosures of reportable transactions, mail a copy of the federal form, *separate from the return*, to the Tax Shelters Program address.

**Uncertain Tax Positions.** If you were required to file federal Schedule UTP-Uncertain Tax Position Statement, check the "yes" box on line 52 and include a copy of the schedule with your Wisconsin tax return.

**Information Return for Miscellaneous Income.** If the corporation paid \$600 or more in rents, royalties, or certain nonwage compensation to one or more individuals, the corporation must file an information return to report those payments. You may use Wisconsin Form 9b, *Miscellaneous Income*, or you may use federal Forms 1099 or 1099-NEC instead of Form 9b. For more information, see the Form 9b instructions.

**Federal Income Tax Return.** All corporations filing Form 4 must include a complete copy of their federal income tax return, including all supporting schedules that were submitted to the IRS with the federal return.

**Supporting Schedules for Return.** The line-by-line instructions of the Wisconsin form you are filing often indicate that specific schedules are required to support amounts reported on the return. In some cases, the schedules must be on specific department-prescribed forms, and in other cases you must prepare your own schedule. Follow the line-by-line instructions carefully.

### Internal Revenue Service Adjustments, Amended Returns, and Claims for Refund

**Internal Revenue Service Adjustments.** If a corporation's federal tax return is adjusted by the IRS and the adjustments affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must report the adjustments to the Department of Revenue within **180** days after they become final by either filing an amended Wisconsin franchise/income tax return or mailing a copy of the final federal audit report.

 **New**

Send a copy of the final federal audit reports and any associated amended Wisconsin returns to the Wisconsin Department of Revenue, PO Box 8908, Madison, WI 53708-8908. If submitting a federal audit report without an amended return, mail it to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 3-107, PO Box 8906, Madison, WI 53708-8906. Don't include these items with the tax return for the current year.

**Amended Returns.** After you have filed a complete, original tax return, you may file an amended return to correct a tax return as you originally filed it or as it was later adjusted by an amended return, a claim for refund, or an office or field audit.



If you file an amended federal return and the changes affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must file an amended Wisconsin return with the Department of Revenue within **180** days after filing the amended federal return.

To file an amended Wisconsin return, put a check mark on the designated line in item D1 on the front of the return, complete the return, and include Schedule AR explaining any changes made. Show computations in detail, including any applicable supplemental forms or schedules. Also show how you figured your refund or additional amount owed. Where applicable, the line-by-line instructions in these instructions provide specific instructions for how to compute the amounts on an amended return. **Do not include a copy of the original return.**

#### File your amended return electronically by using one of the third-party software providers:

A list of approved software providers is available here: [revenue.wi.gov/Pages/OnlineServices/corp-partnership-third-party-vendors.aspx](https://revenue.wi.gov/Pages/OnlineServices/corp-partnership-third-party-vendors.aspx)

If you have an approved electronic filing waiver, send amended returns to the Wisconsin Department of Revenue, PO Box 8908, Madison, WI 53708-8908. **Don't include amended returns with other tax returns that you are filing.**

**Claims for Refund.** A claim for refund must be filed within 4 years of the unextended due date of the return. However, a claim for refund to recover all or part of any tax or credit paid as a result of an office or field audit must be filed within 4 years after such an assessment. That assessment must have been paid and must not have been protested by filing a petition for redetermination. See sec. Tax 2.12, Wisconsin Administrative Code, for more information on claims for refund and other amended returns.

#### Final Return

If the corporation liquidated during the taxable year, put a check mark on the designated line in item D3 on the front of the return. Enter the date of liquidation as the taxable year ending date at the top of the return. Submit a copy of your plan of liquidation and a copy of federal Form 966 with your Wisconsin return. **Note:** checking this box will not close all your accounts with the department; only the corporation account will close.

Generally, the final return is due on or before the federal due date. In most cases, this is the 15th day of the 4th month (3rd month for June 30 year-end) after the date the corporation dissolved. The tax is payable by the 15th day of the 4th month (3rd month for June 30 year-end) after the date of dissolution, regardless of the due date of the final return.

#### Penalties for Not Filing or Filing Incorrect Returns

If you don't file a franchise or income tax return that you are required to file, or if you file an incorrect return due to negligence or fraud, interest and penalties may be assessed against you. The interest rate on delinquent taxes is 18% per year. Civil penalties may be as much as 100% of the amount of tax not reported on the return. Criminal penalties for filing a false return include a fine of up to \$10,000 and imprisonment.

Further, if you fail to disclose reportable transactions, you may be subject to the penalties described in sec. 71.81, Wis. Stats., including a \$30,000 penalty for failure to disclose a listed transaction.

#### Conformity with Internal Revenue Code and Exceptions

The Wisconsin income and franchise tax law is based on the federal Internal Revenue Code (IRC). The IRC generally applies for Wisconsin purposes at the same time as for federal purposes. For taxable years beginning on or after January 1, 2020, Wisconsin's definition of the IRC is the IRC as of December 31, 2017 with exceptions. Below is a listing of the exceptions.

**NOTE:** The exceptions and provisions adopted by Wisconsin listed below are those in effect as of the publication date of these instructions. It is possible that subsequent changes in Wisconsin law may add or eliminate some exceptions applicable to taxable years beginning in 2020.

**Amendments made to the Internal Revenue Code after December 31, 2017 Adopted by Wisconsin include:**

**New**

- Sections 40307, 40413, and 41113 of P.L. 115-123:
  - Section 40307 relating to extending the election under IRC sec. 179E(g) to expense mine safety equipment to December 31, 2017.
  - Section 40413 relating to extending the energy efficient commercial building deduction to December 31, 2017.
  - Section 41113 relating to the modification to Treasury Regulation sec. 1.401(k)-1(d)(3)(iv)(E) to remove the 6-month prohibition on making elective and employee contributions to a plan after receipt of a hardship distribution.
- Sections 101(m), (n), (o), (p), and (q), 104(a), 109, 401(a) (54) and (b) (15)(A), (B), and (C), 19, 20, 23, 26, 27, and 28 of division U of P.L. 115-141:
  - Section 101(m), which clarifies that control of a partnership means ownership of at least 80 percent of the profits interests and at least 80 percent of the capital interest (ownership interest is not limited to exactly 80 percent ownership).
  - Section 101(n), which treats gain from the sale or disposition of ancillary personal property as gain from the sale or disposition of a real estate asset for purposes of the Real Estate Investment Trust (REIT) income tests. Treats gain from the sale or disposition of certain obligations secured by mortgages on both real property and personal property as gain from the sale or disposition of real property for purposes of the REIT income tests.
  - Section 101(o), which conforms the treatment of multiple distributions during a taxable year from an Achieving a Better Life Experience (ABLE) account in section 529A to the treatment of multiple distributions during a taxable year from a section 529 account.
  - Section 101(p) relating to the disposition of investment in United States real property. Provides for special rules relating to real estate investment trusts.
  - Section 101(q), which clarifies that a qualified foreign pension fund is not treated as a nonresident alien individual or as a foreign corporation. Also provides that an entity whose entire interests are held by a qualified foreign pension fund, is treated as a pension fund. Revises the second prong of the definition of the term "qualified foreign pension fund" to clarify that a government established fund to provide public retirement or pension benefits may qualify, as may a fund established by more than one employer to provide retirement or pension benefits to their employees, such as a multiple-employer or multiemployer plan.
  - Section 104(a), which modifies the definition of inconsistent estate basis so the penalty does not apply when an heir claims a basis that is higher than the final estate tax value by reason of making basis adjustments relating to post-acquisition events.
  - Section 109 relating to non-substantive technical corrections to the language in IRC secs. 1361(c)(2)(B)(vi) and 501(c)(12)(E).
  - Section 401(a)(54) relating to non-substantive technical corrections to the language in IRC sec. 179D(d)(1)(B).
  - Section 401(b)(15)(A) relating to non-substantive technical corrections to IRC sec. 179(e).
  - Section 401(b)(15)(B) relating to non-substantive technical corrections to IRC sec. 179(d)(1)(B)(ii).
  - Section 401(b)(15)(C), which provides that the amendments made in secs. 401(b)(15)(A) and (B) do not apply to property placed in service before March 23, 2018.
  - Section 401(b)(19) relating to non-substantive technical corrections to IRC sec. 411(a)(3)(F)(i).
  - Section 401(b)(20) relating to non-substantive technical corrections to IRC sec. 415(g).
  - Section 401(b)(23) which eliminated the term "as defined in section 170(e)(6)(F)(i)" in IRC sec. 530(b)(3) subparagraph (A)(iii) and added a new paragraph: "(C) COMPUTER TECHNOLOGY OR EQUIPMENT.— The term 'computer technology or equipment' means computer software (as defined by section 197(e)(3)(B)), computer or peripheral equipment (as defined by section 168(i)(2)(B)), and fiber optic cable related to section 596"

- Section 401(b)(26), which eliminated subparagraph (H) from IRC sec. 613A(c)(6).
- Section 401(b)(27), which replaced "limitations under sections 415(c) and (e)" with "limitation under section 415(c)" in IRC sec. 664(g)(3)(E).
- Section 401(b)(28), which eliminated paragraph (6) from IRC sec. 856(m).
- Sections 102 and 104 of division M, sections 102, 103, 106, 107, 108, 109, 110, 111, 113, 114, 115, 116, 201, 204, 205, 206, 302, 401, and 601 of division O, section 1302 of division P, and sections 131, 202 (d), and 205 of division Q of P.L. 116-94:
  - Section 102 of division M, which provides for the 1974 United Mine Workers of America Pension Plan to be treated as if it were in critical status and provides additional funding. It also imposes enhanced annual reporting requirements and provides a penalty for failing to file the report.
  - Section 104 of division M, which provides that a trust forming part of a pension plan is not treated as failing to be treated as a qualified trust if a distribution from the plan is allowed at the age of 59 ½. In addition, a deferred compensation plan through a state, political subdivision of a state, and any agency or instrumentality of a state or political subdivision of a state, meets the distribution requirements if amounts are paid to participants or beneficiaries who attain the age of 59 ½.
  - Section 102 of division O, which increases the 10% cap for automatic enrollment safe harbor after first plan year to 15%.
  - Section 103 of division O, which eliminates the safe harbor notice requirements, but maintains the requirement to allow employees to make or change an election at least once per year. Permits amendments to nonelective status at any time before the 30th day before the close of the plan year. After that, amendments are allowed only if it provides a nonelective contribution of at least 4% of compensation for all eligible employees for that plan year, and the plan is amended no later than the last day for distributing excess contributions for the plan year.
  - Section 106 of division O, which treats stipends and non-tuition fellowship payments received by graduate and postdoctoral students as compensation and as basis for IRA contributions.
  - Section 107 of division O, which repeals the prohibition on contributions to a traditional IRA by an individual who has attained age 70 ½. The amount of qualified charitable distributions from the plan is reduced by an amount equal to the excess of the aggregate amount of deductions allowed to the taxpayer under section 219 (retirement savings) for all taxable years ending on or after the date the taxpayer attains age 70 ½, over the aggregate amount of reductions for all taxable years preceding the current taxable year.
  - Section 108 of division O, which prohibits the distribution of plan loans through credit cards or other similar arrangements.
  - Section 109 of division O, which permits qualified defined contribution plans, section 403(b) plans, or governmental section 457(b) plans to make a direct trustee-to-trustee transfer or another employer-sponsored retirement plan or IRA of lifetime income investments or distributions of a lifetime income investment in the form of a qualified plan distribution annuity, if a lifetime income investment is no longer authorized to be held as an investment option under the plan.
  - Section 110 of division O, which provides that the Treasury will issue guidance under which if an employer terminates a section 403(b) custodial account, the distribution needed to effectuate the plan termination may be the distribution of an individual custodial account in kind to a participant or beneficiary. The individual custodial account will be maintained on a tax-deferred basis as a section 403(b) custodial account until paid out, subject to the section 403(b) rules in effect at the time the individual custodial account is distributed.
  - Section 111 of division O, which clarifies that individuals may be covered by plans maintained by church-controlled organizations.
  - Section 113 of division O, which provides that no penalty applies for withdrawals from retirement plans for individuals for any qualified birth or adoption.
  - Section 114 of division O, which increases the required minimum distribution age from retirement plans from 70 ½ to 72.
  - Section 115 of division O, which provides pension funding relief for community newspaper plan sponsors by increasing the interest rate to calculate those funding obligations to 8% and increases the amortization period from 7 years to 30 years.
  - Section 116 of division O, which allows home healthcare workers to contribute to a plan or IRA by providing that tax-exempt difficulty of care payments are treated as compensation for purposes of calculating the contribution limits to defined contribution plans and IRAs.
  - Section 201 of division O, which permits businesses to treat qualified retirement plans adopted before the



- due date of the tax return for the taxable year as having been adopted as of the last day of the taxable year.
- Section 204 of division O, which provides certainty for plan sponsors in the selection of lifetime income providers, a fiduciary act under the Employee Retirement Income Security Act. Fiduciaries are afforded an optional safe harbor to satisfy the prudence requirement with respect to the selection of insurers for a guaranteed retirement income contract and are protected from liability for any losses that may result to the participant or beneficiary due to an insurer's inability in the future to satisfy its financial obligations under the terms of the contract.
  - Section 205 of division O, which modifies the nondiscrimination rules with respect to closed plans to permit existing participants to continue to accrue benefits.
  - Section 206 of division O, which establishes individualized rules for calculating Pension Benefit Guarantee Corporation premiums. For Cooperative and Small Employer Charity plans, specifies flat-rate premiums of \$19 per participant, and variable rate premiums of \$9 for each \$1,000 of unfunded vested benefits.
  - Section 302 of division O, which expands 529 education savings accounts to cover costs associated with registered apprenticeships and up to \$10,000 of qualified student loan repayments (including those for siblings). The student loan interest deduction is limited to not include any distributions treated as a qualified higher education expense with respect to student loans.
  - Section 401 of division O, which modifies the required minimum distribution rules with respect to defined contribution plan and IRA balances upon the death of the account owner. Distributions to individuals other than the surviving spouse of the employee (or IRA owner), disabled or chronically ill individuals, individuals who are not more than 10 years younger than the employee (or IRA owner), or child of the employee (or IRA owner) who has not reached the age of majority are generally required to be distributed by the end of the 10th calendar year following the year of the employee or IRA owner's death.
  - Section 601 of division O, which provides for a remedial plan amendment period until the 2022 plan year (2024 plan year for sec. 414(d) governmental plans) or a later date if the Treasury provides for any plan amendment required under the Act.
  - Section 1302 of division P, which provides that the 15% additional tax does not apply to any party to an arrangement which satisfies the requirements of IRC section 408(h) of the Employee Retirement Income Security Act (ERISA) of 1974. This relates to temporary regulatory flexibility from certain ERISA requirements in order to allow for the use of a virtual pharmacy benefit management program that will lower drug costs for workers and their families.
  - Sections 131 of division Q, which extends the energy efficient commercial buildings deduction under IRC sec. 179D to December 31, 2020.
  - Section 202(d) of division Q, which provides that as a result of the qualified disaster provisions, any amendment to a qualified retirement plan or annuity contract is treated as being operated in accordance with the terms of the plan during the period that is on or before the last day of the first plan year beginning on or after January 1, 2020, or such later date as the Secretary may prescribe. In the case of a governmental plan, the applicable date is 2 years after January 1, 2020.
  - Section 205 of division Q, which provides that any individual with a principal place of abode or any taxpayer with a principal place of business in a disaster area receives an automatic 60-day extension with regard to any tax filing.
- Sections 1106, 2202, 2203, 2204, 2205, 2206, 2307, 3608, 3609, 3701, and 3702 of division A of P.L. [116-136](#):
    - Section 1106 relating to the exclusion from income for the cancellation of small business loans.
    - Section 2202 relating to waiver of penalties for early withdrawals from qualified retirement plans.
    - Section 2203 relating to the temporary waiver of required minimum distribution rules for certain retirement plans and accounts.
    - Section 2204 relating to an above-the-line deduction for up to \$300 of charitable cash contributions.
    - Section 2205 relating to increased limitations on charitable contribution deductions.
    - Section 2206 relating to an exclusion from income for payments an employer makes for an employee's student loans.
    - Section 2307 relating to the classification of qualified improvement property for depreciation purposes. The classification of qualified improvement property applies retroactively to taxable years beginning on or after January 1, 2018. As a result, if persons amend their federal income tax return, they must amend their Wisconsin tax returns to recompute depreciation on the qualified improvement property. However, persons cannot claim bonus depreciation for Wisconsin.
    - Section 3608 relating to the extension of time to make minimum required contributions to single-employer defined benefit pension plans.

- Section 3609 relating to the eligibility of a cooperative and small employer charity pension plan.
- Section 3701 relating to the eligibility of high deductible health plans for purposes of health savings accounts.
- Section 3702 relating to qualified distributions from health savings accounts and Archer medical savings accounts.



- Sections 202, 208, 209, 211, and 214 of division EE and sections 276(a) and (b), 277, 278(a), (b), (c), and (d), 280, and 285 of division N of P.L. 116-260:
  - Section 202 of division EE, relating to the effective date for the ADS recovery period which shortened the recovery period for residential rental property from 40 years to 30 years under sec. 13204(b) of P.L. 115-97. The recovery period is revised as follows: For any residential rental property which was placed in service before January 1, 2018, held by an electing real property trade or business that elects out of the interest deduction limitation under section 163(j)(7)(B) of the IRC, and to which subparagraph (A), (B), (C), (D), or (E) of section 168(g)(1) of the IRC did not apply prior to such date, the amendments to the ADS recovery period applies to taxable years beginning after December 31, 2017.
  - Section 208 of division EE, which provides that a qualified trust includes a plan that provides that a distribution may be made from the trust to an employee who has attained age 59 1/2 and is still working at the time of distribution. In the case of a multiemployer plan for certain employees in the building and construction industry who were participants in such plan on or before April 30, 2013, if the trust was in existence before January 1, 1970, and, prior to December 31, 2011, the plan received at least one written determination from the IRS that the trust was a qualified trust, the requirement of attaining age 59 1/2 is reduced to age 55.
  - Section 209 of division EE, which provides a plan shall not be treated as having a partial termination during any plan year beginning on March 13, 2020, and ending on March 31, 2021, if the number of active participants covered by the plan on March 31, 2021, is at least 80% of the number of active participants covered by the plan on March 13, 2020.
  - Section 211 of division EE, which provides that if a taxpayer's earned income for 2020 is less than the earned income for the preceding tax year, the taxpayer may elect to use the earned income for the preceding tax year for the taxable year 2020 for purposes of the earned income credit and child tax credit.
  - Section 214 of division EE, which provides for plan years ending in 2020 and 2021, a plan that includes a health FSA or dependent care flexible spending arrangement shall not fail to be treated as a cafeteria plan under the IRC because such plan or arrangement permits participants to carry over any unused benefits or contributions remaining in the FSA from such plan year to the plan year ending in 2021 and 2022, respectively. A plan that includes a health FSA or dependent care FSA shall not fail to be treated as a cafeteria plan under the IRC because: 1. Such plan or arrangement extends the grace period for a plan year ending in 2020 or 2021 to 12 months after the end of such plan year, or 2. Allows an employee who ceases participation in the plan during calendar year 2020 or 2021 to continue to receive reimbursements from unused benefits or contributions through the end of the plan year in which the participation ceased.(d) The age of a qualifying individual for purposes of the dependent care FSA is increased from 13 to 14 for the plan year on or before January 31, 2020, or the subsequent plan year, and the employee has an unused balance in the employee's account for such plan year.(e) For plans years ending in 2021, a plan that includes a health FSA or dependent care FSA shall not fail to be treated as a cafeteria plan under the IRC because such plan or arrangement allows an employee to make an election to modify prospectively the amount of such employee's contribution to any FSA. (f) Any term used in this section which is also used in section 106, 125, or 129 of the IRC, or the regulations or guidance, shall have the same meaning as when used in such section, regulation, or guidance.(g) A plan that includes a health FSA or dependent care FSA shall not fail to be treated as a cafeteria plan under the IRC because such plan or arrangement is amended pursuant to a provision under this section and such amendment is retroactive if 1. Such amendment is adopted not later than the last day of the first calendar year beginning after the end of the plan year in which the amendment is effective, and 2. The plan or arrangement is operated consistent with the terms of such amendment during the period beginning on the effective date of the amendment and ending on the date the amendment is adopted.
  - Section 276(a) of division N, which provides that for purposes of any debt forgiven under the paycheck protection program, deductions are allowed, tax attributes are not reduced, and basis may be increased. For partnerships and S corporations, any amounts forgiven are treated as tax-exempt income for purposes of sec. 705 and 1366 of the IRC. Any increase in the adjusted basis of a partner's interest equal's the partner's distributive share of deductions resulting from costs giving rise to the forgiveness.
  - Section 276(b) of division N, which provides that for any subsequent paycheck protection program protection loans, for purposes of any debt forgiven under the paycheck protection program, no forgiveness amount shall be included in the gross income, deductions are allowed, tax attributes are not reduced, and basis may be

increased. For partnerships and S corporations, any amounts forgiven are treated as tax-exempt income for purposes of sec. 705 and 1366 of the IRC. Any increase in the adjusted basis of a partner's interest equal's the partner's distributive share of deductions resulting from costs giving rise to the forgiveness.

- Section 277 of division N, which provides that students receiving emergency financial aid grants issued under secs. 3504 and 18004 of the Coronavirus Aid, Relief, and Economic Security (CARES) Act and other grants issued in response to a qualifying emergency, as defined in sec. 3502 of the CARES Act, do not include the grant in the individual's gross income. The amount of qualified tuition and related expenses is not reduced by these grants for purposes of the American Opportunity and Lifetime Learning credits. The portion of the grant which represents payment for teaching, research, or other services required as a condition for receiving the grant is included in income.
- Section 278(a) of division N, which provides that for purposes of any debt forgiven under the paycheck protection program, deductions are allowed, tax attributes are not reduced, and basis may be increased. For partnerships and S corporations, any amounts forgiven are treated as tax-exempt income for purposes of sec. 705 and 1366 of the IRC. Any increase in the adjusted basis of a partner's interest equal's the partner's distributive share of deductions resulting from costs giving rise to the forgiveness.
- Section 278(b) of division N, which provides that Any amount received from the federal government as a grant under sec. 1110 of the CARES Act or funding under sec. 331 of this Act (Emergency Economic Injury Disaster Loan (EIDL) grants and targeted EIDL advances) is not included in gross income. Deductions are allowed, tax attributes are not reduced, and basis may be increased. For partnerships and S corporations, any amounts forgiven are treated as tax-exempt income for purposes of sec. 705 and 1366 of the IRC.
- Section 278(c) of division N, which provides that any federal subsidy received in sec. 1112 of the CARES Act is not included in gross income. Deductions are allowed, tax attributes are not reduced, and basis may be increased. For partnerships and S corporations, any amounts forgiven are treated as tax-exempt income for purposes of sec. 705 and 1366 of the IRC. Any increase in the adjusted basis of a partner's interest equal's the partner's distributive share of deductions resulting from costs giving rise to the forgiveness.
- Section 278(d) of division N, which provides that any federal grant made under sec. 324 of this Act for Shuttered Venue Operators is not included in gross income. Deductions are allowed, tax attributes are not reduced, and basis may be increased. For partnerships and S corporations, any amounts forgiven are treated as tax-exempt income for purposes of sec. 705 and 1366 of the IRC.
- Section 280 of division N, which provides that in the case of a money purchase pension plan, a coronavirus-related distribution which is an in-service withdrawal shall be treated as meeting the distribution rules of section 401(a) of the IRC.
- Section 285 of division N, which provides that in the case of an employer maintaining a plan which has made a qualified future transfer from a pension plan to a health benefit or life insurance account, such employer may, not later than December 31, 2021, elect to terminate the transfer period with respect to such transfer effective as of any taxable year specified by the taxpayer that begins after the date of such election.

#### **Provisions of the Internal Revenue Code Not Adopted by Wisconsin:**

- Section 13113 of P.L. 103-66, which created sec. 1202 of the IRC effective for small business stock issued after August 10, 1993.
- Sections 1, 3, 4, and 5 of P.L. 106-519, which repealed foreign sales corporation provisions and replaced with extraterritorial income provisions.
- Sections 101, 102, and 422 of P.L. 108-357, which repealed the exclusion for extraterritorial income, domestic production activities deduction, and the creation of sec. 965 – incentives to reinvest foreign earnings in the U.S.
- Sections 1310 and 1351 of P.L. 109-58, which provides for the modification to special rules for nuclear decommissioning costs, repeal of the limitation on contract research expenses paid so small businesses, universities, and federal laboratories.
- Section 11146 of P.L. 109-59, the tax treatment of state ownership of railroad real estate investment trust.
- Section 403(q) of P.L. 109-135, which provides incentives to reinvest foreign earnings from controlled foreign corporations in the U.S.
- Section 513 of P.L. 109-222, which repeals foreign sales corporation/extraterritorial income exclusion binding contract relief.
- Sections 104 and 307 of P.L. 109-432, which increases the rates of the alternative incremental credit and provides a new alternative simplified credit and that gross income does not include an IRA distribution used to fund an HSA.
- Sections 8233 and 8235 of P.L. 110-28, which created a special rule for banks required to change from the reserve

method of accounting in becoming tax-option (S) corporations and the elimination of all earnings and profits attributable to pre-1983 years.

- Section 11(e) and (g) of P.L. 110-172, which provides clerical amendments to research credits for controlled corporations and common control, and clerical amendments to the FSC Repeal and Extraterritorial Income Exclusion Act of 2000.
- Section 301 of P.L. 110-245, which provides for tax responsibilities of expatriation.
- Section 15351 of P.L. 110-246, limits the amount of farm losses that may offset non-farming business income to \$300,000.
- Section 302 of division A, section 401 of division B, and sections 312, 322, 502(c), 707, and 801 of division C of P.L. 110-343, which limits executive compensation for employers participating in troubled assets relief program for the taxable year in which the troubled assets exceed \$300,000,000. Caps the domestic production activities deduction at 6% for oil-related activities. The deduction for income attributable to domestic production activities in Puerto Rico applies to the first 8 taxable years beginning before January 1, 2010. Tax incentives for investment in the District of Columbia includes exclusion for gain on sale of an asset held from more than 5 years. Defines wages for purposes of the domestic production activities deduction. Creates sec. 198A to provide for expensing of disaster expenses for control of hazardous substances. Specifies treatment of nonqualified deferred compensation plans maintained by foreign corporations.
- Sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. 111-5, which suspends the special rules for original issue discount on high yield obligations issued during the period 9/1/2008 and 12/31/2009. Allows a 75% exclusion for small business stock issued between 1/17/2009 and 12/31/2009. Provides that no built-in-gain tax is imposed on a tax-option (S) Corporation for a taxable year beginning in 2009 and 2010 if the seventh taxable year in the corporation's recognition period preceded such taxable year. Tax-exempt obligations held by financial institutions, in an amount not to exceed 2 percent of the adjusted basis of the financial institution's assets, are not taken into account for determining the portion of the financial institutions interest expense subject to the pro rata interest disallowance rule of sec. 265(b). Modification of the small insurer exception to tax-exempt interest expense allocation rules for financial institutions.
- Sections 211, 212, 213, 214, and 216 of P.L. 111-226, which adopts a matching rule to prevent the separation of foreign taxes from the associated foreign income, denies a foreign tax credit for the disqualified portion of any foreign income tax paid in connection with a covered asset acquisition, provides a separate application of foreign tax credit limitation to items resourced under treaties, limits the amount of foreign taxes deemed paid with respect to sec. 956 inclusions, treats a foreign corporation as a member of an affiliated group for interest allocation and apportionment purposes in more than 50% of gross income is effectively connected income and at least 80% of either the vote or value of all outstanding stock is owned directly or indirectly by members of the affiliated group.
- Sections 2011 and 2122 of P.L. 111-240, which provides a 100% exclusion for the gain on the sale of small business stock acquired after 9/27/2010 and before 1/1/2011, and clarifies the income sourcing rules for guarantee fees.
- Sections 753, 754, and 760 of P.L. 111-312, which excludes 60% of the gain on the sale of small business stock in an empowerment zone business to gain attributable to periods before 1/1/2016, specifies that gross income does not include gain on stock acquired before 1/1/2012 and held for more than 5 years, and excludes the gain on sale of small business stock acquired in 2011.
- Section 1106 of P.L. 112-95, which allows airline employees to contribute airline payment amounts under a bankruptcy claim to a traditional IRA as a rollover contribution.
- Sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. 112-240, which makes the alternative minimum tax exemption permanent and indexed for inflation, extends through 2013 the deduction with respect to income attributable to domestic production activities in Puerto Rico, extends the subpart F exception for active financing income, extends the look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company, provides 100% exclusion for gain on small business stock acquired in 2012 and 2013, extends through 2013 the reduction in tax-option (S) Corporation built-in gains tax and clarifies treatment of installment sales, provides a 60% exclusion for gain on small business stock acquired before 2019, and extends through 2013 the rules that allow gain certain sales of electric transmission property to be recognized ratably over 8 taxable years.
- P.L. 114-7, relating to contributions for relief of slain New York Police Detectives.
- Section 1101 of P.L. 114-74 relating to partnership rules.
- Section 305 of division P of P.L. 114-113, relating to the transportation costs of independent refiners.

- Sections 123, 125-128, 143, 144, 151-153, 165-167, 169-171, 189, 191, 307, 326, and 411 of division Q of P.L. 114-113:
  - Section 123, relating to extension of 15-year straight-line cost recovery for qualified leasehold improvements, qualified restaurant buildings and improvements, and qualified retail improvements.
  - Section 125, relating to the extension of treatment of certain dividends of regulated investment companies.
  - Section 126, relating to the extension of exclusion of 100 percent of gain on certain small business stock.
  - Section 127, relating to the extension of reduction in S-corporation recognition period for built-in gains tax.
  - Section 128, relating to the extension of subpart F exception for active financing income.
  - Section 143, relating to the extension and modification of bonus depreciation.
  - Section 144, relating to the extension of look-thru treatment of payments between related controlled foreign corporations under foreign personal holding company rules.
  - Section 151, relating to the extension and modification of exclusion from gross income of discharge of qualified principal residence indebtedness.
  - Section 152, relating to the extension of mortgage insurance premiums treated as qualified residence interest.
  - Section 153, relating to the extension of above-the-line deduction for qualified tuition and related expenses.
  - Section 165, relating to the extension of classification of certain race horses as 3-year property.
  - Section 166, relating to the extension of 7-year recovery period for motorsports entertainment complexes.
  - Section 167, relating to the extension and modification of accelerated depreciation for business property on an Indian reservation.
  - Section 169, relating to the extension of special expensing rules for certain film and television productions; special expensing for live theatrical productions.
  - Section 170, relating to the extension of deduction allowable with respect to income attributable to domestic production activities in Puerto Rico.
  - Section 171, relating to the extension and modification of empowerment zone tax incentives.
  - Section 189, relating to the extension of special allowance for second generation biofuel plant property.
  - Section 191, relating to the extension of special rule for sales or dispositions to implement FERC or State electric restructuring policy for qualified electric utilities.
  - Section 307, relating to the technical amendment relating to rollover of certain airline payment amounts.
  - Section 326, relating to the dividends derived from RICs and REITs ineligible for deduction for United States source portion of dividends from certain foreign corporations.
  - Section 411, relating to the partnership audit rules.
  
- Sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97:
  - Section 11011, relating to the 20% deduction for domestic qualified business income.
  - Section 11012, relating to the limitation on losses for taxpayers other than corporations.
  - Section 13201 (a) to (e) and (g), relating to the temporary 100% expensing for certain business assets (bonus depreciation).
  - Section 13206, relating to the amortization of research and experimental expenditures beginning in 2022.
  - Section 13221, relating to special rules for the taxable year of inclusion.
  - Section 13301, relating to the 30% taxable income limitation for the deduction of interest.
  - Section 13304(a), (b), and (d) relating to the limit on the deduction by employers of fringe benefits (meals, entertainment, and transportation).
  - Section 13531, relating to the limitation on deductions for FDIC premiums.
  - Section 13601, relating to the modification of the limitation on excessive employee remuneration.
  - Section 13801, relating to the production period for beer, wine, and distilled spirits.
  - Section 14101, relating to the deduction for the foreign-source portion of dividends received by domestic corporations from specified 10% owned foreign corporations.

- Section 14102, relating to the special rules for sale or transfers involving specified 10% owned foreign corporations.
- Section 14103, relating to the treatment of deferred foreign income upon transition to a participation exemption system of taxation.
- Section 14201, relating to the current year global intangible low-taxed income by U.S. shareholders.
- Section 14202, relating to the deduction for foreign derived intangible income and global intangible low-taxed income.
- Section 14211, relating to the elimination of the inclusion of foreign base company oil related income.
- Section 14212, relating to the repeal of the inclusion based on withdrawal of previously excluded subpart F income from qualified investment.
- Section 14213, relating to the modification of stock attribution rules for determining the status as a controlled foreign corporation.
- Section 14214, relating to the modification of the definition of a U.S. shareholder.
- Section 14215, relating to the elimination of the requirement that a corporation must be controlled for 30 days before the subpart F inclusions apply.
- Section 14221, relating to the limitations on income shifting through intangible property transfers.
- Section 14222, relating to certain related party amounts paid or accrued in hybrid transactions or with hybrid entities.
- Section 14301, relating to the repeal of section 902 – indirect foreign tax credits, and determination of the deemed paid credit for subpart F inclusions under sec. 960 on a current year basis.
- Section 14302, relating to the separate foreign tax credit limitation basket for foreign branch income.
- Section 14304, relating to the election to increase the percentage of domestic taxable income offset by the overall domestic loss treated as foreign source.
- Section 14401, relating to the base erosion anti-abuse tax.

### Other Exceptions to Internal Revenue Code

The following federal provisions in effect as of December 31, 2017, are specifically excluded for Wisconsin franchise and income tax purposes:

#### Depreciation and Bonus Depreciation

For taxable years beginning on or after January 1, 2014, for purposes of computing depreciation, depletion, and amortization, the Internal Revenue Code means the federal Internal Revenue Code in effect on January 1, 2014.

The provision that property required to be depreciated for taxable year 1986 under the Internal Revenue Code as amended to December 31, 1980, to continue to be depreciated under the Internal Revenue Code as amended to December 31, 1980, is limited to taxable years beginning before January 1, 2014.

#### Section 179 Expense

For taxable years beginning on or after January 1, 2014, sections 179, 179A, 179B, 179C, 179D, and 179E of the Internal Revenue Code, related to expensing of depreciable business assets, apply for Wisconsin tax purposes. "Internal Revenue Code" means the federal Internal Revenue Code in effect for the year in which the property is placed in service.

#### Bonus Depreciation

Wisconsin has not adopted federal bonus depreciation provisions. For Wisconsin purposes, depreciation, depletion, and amortization is computed based on the Internal Revenue Code in effect on January 1, 2014. Bonus depreciation was not in effect on January 1, 2014.

## Capital Losses

Wisconsin generally follows the capital loss limitations and carryovers provided under the IRC for corporations. If a corporation has a net capital loss, the loss must be carried to other taxable years and deducted from capital gains in those years, as provided in IRC section 1212. However, for Wisconsin purposes, a corporation can't carry back a loss to taxable years before 1987. Losses that can't be carried back may be carried forward 5 years.

## Limitations on Certain Federal Deductions

You may have to recompute federal deduction limitations for Wisconsin purposes if the amount of your federal taxable income for federal purposes differs from your federal taxable income as determined under the Internal Revenue Code in effect for Wisconsin. Differences in your federal taxable income for federal and Wisconsin purposes may arise for the following reasons:

- A provision of the federal Internal Revenue Code is excluded from the definition of "Internal Revenue Code" in effect for Wisconsin under sec. 71.22(4), Wis. Stats.
- Different elections under the Internal Revenue Code are made for federal and Wisconsin purposes

The deduction limitations are applied in computing federal taxable income *before* the Wisconsin modifications prescribed in secs. 71.26(2) and (3) and 71.30, Wis. Stats. Therefore, you may not recompute deduction limitations as a result of making Wisconsin modifications.

The following examples further illustrate how the limitations on federal deductions apply in the case of section 179 expense:

**Example 1:** Corporation B reports federal taxable income of zero for the current taxable year and Wisconsin taxable income of \$20,000. The difference results from adding to federal income the \$20,000 of state income taxes paid that the taxpayer had deducted on its federal return. For federal purposes, the taxpayer has \$25,000 of section 179 expense, but is limited by its business income to claiming a deduction of \$5,000 and carrying forward the \$20,000 balance.

For Wisconsin purposes, the section 179 deduction is limited to \$5,000, the federal amount. The Wisconsin section 179 deduction cannot be recomputed since the addback for state income taxes is a modification prescribed in sec. 71.26(3)(g), Wis. Stats.

**Example 2:** Corporation F claims no section 179 expense deduction but \$16,000 of bonus depreciation on its federal return for the current taxable year. The taxpayer could have elected to claim a section 179 expense deduction on its federal return in addition to or instead of the bonus depreciation. The taxpayer may elect to claim the \$16,000 as a section 179 expense deduction on its Wisconsin return so that the computation of its regular MACRS allowance is the same for federal and Wisconsin purposes.

## Differences Between Federal and Wisconsin Basis of Assets

**Assets of Previously Nontaxable Corporations.** For the first year a corporation is taxable in Wisconsin, the basis of its assets is its federal basis.

## General Instructions for Apportionment

### Who Must Use Apportionment

A corporation engaged in a unitary business in and outside Wisconsin must report a portion of its total net income to Wisconsin using the apportionment method, unless the department gives permission to use separate accounting.

To use the apportionment method, a corporation must have business activity sufficient to create nexus in Wisconsin and at least one other state or foreign country. "Nexus" means that a corporation's business activity is of such a degree that the state or foreign country has jurisdiction to impose an income tax or franchise tax measured by net income.

Wisconsin's Administrative Code provides more detailed information about when apportionment is required. The following sections may be helpful:

- Section Tax 2.39, Apportionment Method
- Section Tax 2.62, Unitary Business
- Section Tax 2.82, Nexus

### Apportionment Method

Under the apportionment method, a corporation shows all of its income and deductions attributable to the unitary business and assigns a part to Wisconsin according to an apportionment percentage.

For most corporations required to use apportionment, the apportionment factor numerator is Wisconsin sales and the denominator is total company sales. This is known as the "single sales factor" method. Corporations that use the single sales factor method use Part I of Schedule A-01, *Wisconsin Single Sales Factor Apportionment Data for Non-specialized Industries*, to compute their apportionment percentage.

However, certain specialized industries do not use the single sales factor method. Instead, they apportion their incomes under provisions of the Wisconsin Administrative Code, or in the case of insurance companies, under a separate subchapter of the Wisconsin Statutes. Companies that don't use the single sales factor include:

- Direct air carriers
- Interstate air freight forwarders affiliated with a direct air carrier
- Motor carriers
- Railroads
- Pipeline companies
- Financial organizations, including financial institutions, brokers-dealers, investment advisers, investment companies, and underwriters
- Telecommunications companies
- Insurance companies

Among these specialized industries, financial organizations and insurance companies have single-factor formulas that are similar to the single sales factor. Financial organizations use a receipts factor, and insurance companies use a premiums factor.

The apportionment schedules consist of the following:

- Schedule A-02, *Wisconsin Apportionment Percentage for Interstate Financial Institutions*,
- Schedule A-03, *Wisconsin Apportionment Percentage for Interstate Motor Carriers*,
- Schedule A-04, *Wisconsin Apportionment Percentage for Interstate Telecommunications Companies*,
- Schedule A-05, *Wisconsin Premiums Factor for Insurance Companies*,
- Schedule A-06, *Wisconsin Receipts Factor for Interstate Brokers-Dealers, Investment Advisers, Investment Companies, and Underwriters*,
- Schedule A-07, *Wisconsin Apportionment Percentage for Interstate Air Carriers*,
- Schedule A-08, *Wisconsin Apportionment Percentage for Broadcasters*,
- Schedule A-09, *Wisconsin Apportionment Percentage for Interstate Railroads*,
- Schedule A-10, *Wisconsin Apportionment Percentage for Interstate Pipeline Companies*, or
- Schedule A-11, *Wisconsin Apportionment Percentage for Interstate Air Freight Forwarders Affiliated with a Direct Air Carrier*



## Nonapportionable Income

A corporation that is required to use apportionment may have nonapportionable income. Nonapportionable income is income which is allocable directly to a particular state. It includes income or loss derived from the sale of nonbusiness real or tangible personal property or from rentals and royalties from nonbusiness real or tangible personal property. This income is assigned to the state where the property is located.

Nonapportionable income also includes income that is realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in Wisconsin.

**CAUTION:** Intangible income of a personal holding company is apportionable unless it qualifies as nonapportionable income under the same standard that applies to other corporations.

Total nonapportionable income (or loss) is removed from net income before the apportionment percentage is applied. The amount allocable to Wisconsin is then combined with the Wisconsin share of apportionable income to arrive at Wisconsin net income. If a corporation has nonapportionable income, it must report that income on Form N, *Wisconsin Nonapportionable and Separately Apportioned Income*.

## Separately Apportioned Income

If the corporation has separately apportioned income, the corporation would complete Form N to report the separately apportioned income. See the Form N instructions for details.

## Corporate Partners or LLC Members

A corporation that is a general or limited partner of a partnership must include its share of the numerator and denominator of the partnership's apportionment factors in its own apportionment factors. A corporation that is a member of a limited liability company (LLC) treated as a partnership for federal tax purposes must include its share of the numerator and denominator of the LLC's apportionment factors in its own apportionment factors.

**NOTE:** A corporation that is a general or limited partner in a partnership or a member of an LLC treated as a partnership should obtain a detailed breakdown of the partnership's or LLC's apportionment factors so the corporation can include its share of those factors in the computation of its own apportionment factors.

However, income from a partnership or LLC may be nontaxable under the principles of the U.S. Supreme Court decision in *Allied-Signal v. Director, Div. of Taxation*, 504 U.S. 768 (1992), if the investment is passive and does not serve an operational function. In this case, the corporation would not include its share of the partnership's or LLC's apportionment factors in the numerator and denominator of its apportionment factors. Remove this item of income by completing Form C.

## Separate Accounting

A corporation that has income or loss from a business outside Wisconsin that is not part of a unitary business cannot use apportionment. Instead, it must determine the income attributable to Wisconsin by separate accounting. Under separate accounting, the corporation must keep separate records of the sales, cost of sales, and expenses for the Wisconsin business. The corporation uses Form C, *Separate Accounting Data*, to compute the amount attributable to Wisconsin by separate accounting and uses Form N, *Wisconsin Nonapportionable, Separately Accounted, and Separately Apportioned Income*, to report the separate accounting amount. This is because the income determined under separate accounting from Form C, line 16 is entered on Form N, line 6.

A unitary business may use separate accounting only with the approval of the department. In the application for approval, the corporation must explain, in detail, why separate accounting more clearly reflects the corporation's Wisconsin income. See the instructions for Form C for how to obtain approval to use separate accounting.

## Treatment of Specialized Industries and Entities

### Foreign Sales Corporations (FSCs)

FSCs no longer receive special treatment for Wisconsin. The income and tax of FSCs are computed in the same manner as for other corporations.

### Interest Charge Domestic International Sales Corporations (IC-DISCs)

IC-DISCs have no special status for Wisconsin tax purposes. An IC-DISC that is a viable corporation with substance and has nexus in Wisconsin is taxed like any other corporation. However, if an IC-DISC doesn't carry on any substantial business activities and does nothing to earn the income that it reports, its net income is allocated to the corporation that earned the income.

### Insurance Companies

An insurance company may be required to make certain adjustments that are unique to insurance companies. These adjustments include:

- Adding back loss carryforward deducted in the calculation of federal taxable income and dividend income excluded from federal taxable income
- Adding back the IRC section 847 deduction, relating to an additional deduction for insurers required to discount unpaid losses (this deduction isn't allowed for Wisconsin purposes)
- Subtracting nontaxable income attributable to life insurance operations
- Reducing current year net business loss by the amount of dividends received deduction
- Adjusting net tax liability so that it doesn't exceed 2% of gross premiums plus 7.9% of income realized from lottery prizes

All of these adjustments are computed on Wisconsin Schedule 4I, *Wisconsin Adjustments for Insurance Companies*. The amounts on Schedule 4I flow through to Schedule 4V, Schedule 4W, or Form 4, as appropriate. See the Schedule 4I instructions for details.

If an insurance company is a small company as defined in IRC section 831(b)(2), the company may elect to be taxed on taxable investment income as provided in IRC section 831(b), rather than on net income.

### Personal Holding Companies

Personal holding companies no longer receive special treatment for Wisconsin. The intangible income of a personal holding company is apportionable income unless it qualifies as nonapportionable income under the same standard that applies to corporations that aren't personal holding companies.

### RICs, REMICs, REITs, and FASITs

**Depreciation Differences.** For RICs, REMICs, or REITs, the following depreciation differences apply:

- Depreciation and amortization on property located outside Wisconsin and placed in service on or after January 1, 1983, and before January 1, 1987, were to be determined under the December 31, 1980, IRC. However, the Wisconsin Tax Appeals Commission declared this provision unconstitutional in *Beatrice Cheese, Inc. vs. Wisconsin Department of Revenue* (February 24, 1993). Corporations have the option of either claiming the same depreciation deduction as for federal purposes, or continuing their present method of depreciation.
- IRC section 168(f)(8), relating to a special rule for leases (safe harbor), didn't apply for Wisconsin purposes.

- Depreciation for residential real property and property used in farming (if the corporation's Wisconsin gross farm receipts or sales exceeded \$155,000 for the 1986 taxable year), acquired in the 1986 taxable year, but before January 1, 1987, must be determined under the December 31, 1980, IRC.

**Other Federal-Wisconsin Adjustments.** The only adjustments that RICs, REMICs, qualified REITs, and FASITs must make to federal taxable income to arrive at Wisconsin net income are:

- Those necessary to account for the depreciation and amortization differences described above,
- Any difference in the Wisconsin and federal basis of any asset disposed of in a taxable transaction, and
- Any other adjustment needed for changes made to the Internal Revenue Code that don't apply for Wisconsin.

None of the other adjustments listed on Schedules 4V or 4W apply to RICs, REMICs, qualified REITs, and FASITs.

**Wholly-Owned REIT Subsidiaries.** If a wholly-owned REIT subsidiary isn't treated as a separate entity under IRC section 856(i) and all of its assets, liabilities, and items of income and loss are treated as attributes of the REIT, that same treatment applies for Wisconsin purposes.

**FASITs.** The special rules for financial asset securitization investment trusts (FASITs) generally do not apply after 2004.

### Tax Exempt Organizations

If a tax-exempt organization is a corporation and has unrelated business income of at least \$1,000 as defined in IRC section 512, it must file Form 4T, *Wisconsin Tax Exempt Organization Business Franchise or Income Tax Return*.

### Urban Transit Companies

Certain urban transit companies are subject to a special tax under sec. 71.39, Wis. Stats. Contact the department for further information.

### Line-by-Line Instructions for Form 4

You must complete pages 1, 2, and 3 of Form 4 and the appropriate schedules referenced on Form 4. Do not enter "See attached" instead of completing the entry spaces. If more space is needed, submit separate sheets using the same size and format as the printed forms.

Round cents to the nearest whole dollar by eliminating amounts less than 50 cents and increasing amounts from 50 cents through 99 cents to the next higher dollar.

**NOTE:** These instructions are for separate returns only. Corporations that are in combined groups should see the *Form 6 Instructions for Combined Returns*.

**CAUTION:** Federal line numbers referred to on Form 4 and in these instructions may change due to IRS form changes occurring after finalization of the Form 4 and instructions.

■ **Header Information** – Before completing items A through I, fill in the corporation's 2020 taxable year at the top of the form if filing a fiscal-year or short period return, and enter the corporation's name and address. The name and address information should be written on single lines. Do not stack the information on the lines. If more room is needed, abbreviate where possible.

Do not write "None" on the amount lines if there is not an entry for the lines. Instead, leave the lines blank.

If the corporation dissolved, enter the date of dissolution as the ending date of the 2020 taxable year.

■ **Item A. Federal Employer Identification Number** – Enter the corporation’s federal employer identification number (FEIN). If you haven’t yet applied for a FEIN, you may do so by filing federal Form SS-4 with the IRS, calling the IRS’s toll-free number (800) 829-4933, or applying online at [irs.gov](https://www.irs.gov).

■ **Item B. Business Activity (NAICS) Code** – Enter the corporation’s principal business activity code, based on the North American Industry Classification System (NAICS), from your federal return. If your federal return is a consolidated return, go to [census.gov/epcd/www/naics.html%20](https://census.gov/epcd/www/naics.html%20) to find the NAICS code for your principal business activity.

■ **Item C. State and Year of Incorporation** – Enter the 2-letter postal abbreviation for the state (or name of the foreign country) under whose laws the corporation is organized and the year of incorporation.

■ **Item D1. Amended Return** – Check here if this is an amended return. Include Schedule AR detailing the changes made and include any supporting form or schedule. For example, if you are amending the research credit, submit a corrected Schedule R and Schedule AR along with your amended return.

■ **Item D2. First Return** – Check here if this is the first year that you are filing a Wisconsin return because the corporation wasn’t in existence or didn’t do business in Wisconsin in prior years.

■ **Item D3. Final Return** – Check here if the corporation ceased to exist or withdrew from Wisconsin during the year and will no longer be filing Form 4. If the corporation liquidated, provide a copy of your plan of liquidation and federal Form 966. **Note:** checking this box will not close all your accounts with the department; only the corporation account will close.

■ **Items D4 and D5. Short Period** – Check the applicable line if a short period return is being filed due to a change in the corporation’s accounting period or a stock purchase or sale.

Be sure to use the correct year’s tax return when filing for a short period. If the tax returns are not yet available, wait until the returns become available and file under extension. For example, if a taxpayer has a short period from January 1, 2021 through March 31, 2021, the 2021 Form 4 will not be ready by July 15, 2021 (unextended due date for a March 31 year-end). Wisconsin law provides for an automatic 7-month extension to file the return, so filing under extension will allow the correct year’s return to be filed when the 2021 Form 4 is available (typically the middle of January 2022). Note that an extension does not extend the time to pay a balance due. In order to avoid interest charges, pay the amount due by the unextended due date.

■ **Item E. Federal Extended Due Date** – Check here if the corporation has an extension of time to file its Wisconsin return, and enter the **federal** extended due date.

**Disaster Relief Extension.** If you are filing under extension because of a federal or state disaster, include a statement indicating which disaster extension you are using and attach it to your return. Additional information on disaster areas can be found here: [revenue.wi.gov/Pages/FAQS/pcs-extensn.aspx](https://revenue.wi.gov/Pages/FAQS/pcs-extensn.aspx)

■ **Item F. No Business Transacted in Wisconsin** – If the corporation was incorporated under Wisconsin law or licensed to do business in Wisconsin but had no property or activity in Wisconsin for the taxable year, check here and provide a complete copy of the corporation’s federal return.

■ **Item G. Schedule RT Required** – Check here if the corporation is filing Schedule RT with its return. Schedule RT is generally required if the corporation is claiming a deduction for more than \$100,000 of certain expenses paid, accrued, or incurred to a related person or entity in the taxable year. The \$100,000 threshold amount is determined after accounting for the apportionment percentage.

The types of expenses to which Schedule RT applies, if paid, accrued, or incurred to a related person or entity, are:

- Interest expenses,
- Rent expenses,
- Management fees, and
- Intangible expenses.

See the Schedule RT instructions for details.

**CAUTION:** Regardless of whether you are required to file Schedule RT, you should be making an addition modification on Schedule 4V for interest, rent, management fees, or intangible expenses paid, accrued, or incurred to a related entity. Then, if the expenses meet the statutory tests required to be deductible, you may make a subtraction modification on Schedule 4W. See the instructions to Schedules 4V and 4W for details.

■ **Item H. Insurance Company Indicator** – Check here if the corporation is an insurance company.

■ **Item I. Internal Revenue Service Adjustments** – If a corporation's federal tax return is adjusted by the IRS and the adjustments affect the Wisconsin net tax payable, the amount of a Wisconsin credit, a Wisconsin net business loss carryforward, or a Wisconsin capital loss carryforward, you must report the adjustments to the Department of Revenue within 180 days after they become final.

**New**

File your amended return electronically by using one of the third-party software providers:

[revenue.wi.gov/Pages/OnlineServices/corp-partnership-third-party-vendors.aspx](https://revenue.wi.gov/Pages/OnlineServices/corp-partnership-third-party-vendors.aspx)

If you have an approved [electronic filing waiver](#), send a copy of the final federal audit reports and any associated amended Wisconsin returns to the Wisconsin Department of Revenue, PO Box 8908, Madison, WI 53708-8908.

If submitting a federal audit report without an amended return, mail it to the Audit Bureau, Wisconsin Department of Revenue, Mail Stop 3-107, PO Box 8906, Madison, WI 53708-8906. Don't include these items with the tax return for the current year.

■ **Line 1. Federal Taxable Income** – Enter the federal taxable income before the net operating loss deduction and special deductions. Generally, this is the amount from federal Form 1120, line 28. However, for certain types of corporations the applicable line of the federal return may be different. These certain types of corporations and applicable lines include the following:

- Insurance companies generally use total federal taxable income from lines 1 and 2 of Form 1120-PC
- Regulated investment companies (RICs) use Form 1120-RIC, line 26
- Real estate mortgage investment conduits (REMICs) use Form 1066, Schedule J, line 4 plus line 9
- Real estate investment trusts (REITs) use Form 1120-REIT, line 22
- For corporations that are treated as S corporations federally but are not treated as Wisconsin tax-option corporations, use Form 1120-S, line 21
- Cooperative associations use Form 1120-C, line 25c

■ **Line 2. Wisconsin Additions** – This is where you make addition adjustments to the amount you entered on line 1 in order to account for differences between taxable income under Wisconsin law and under federal law. Compute your addition modifications on Schedule 4V. See the Schedule 4V instructions for details.

■ **Line 4. Wisconsin Subtractions** – This is where you make subtraction adjustments to the amount you entered on line 1 in order to account for differences between taxable income under Wisconsin law and under federal law. Compute your subtraction modifications on Schedule 4W. See the Schedule 4W instructions for details.

**NOTE:** If you have any dividends that qualify for the Wisconsin dividends received deduction, use Schedule 4Y to compute your subtraction modification for dividends, and enter the total on Schedule 4W, line 1.

■ **Line 6. Total Nonapportionable and Separately Apportioned Income** – Complete this line only if you have nonapportionable income or are using the separate accounting method. This is the total amount of taxable income under Wisconsin law that is not eligible for apportionment. This amount comes from line 8 of Form N. **If you are using separate accounting, you will include the amounts you computed on Form C onto Form N.** See the Form N instructions for details.

If any of the amount on line 6 is allocable to Wisconsin, you will enter the Wisconsin amount later on line 10.

■ **Line 8. Wisconsin Apportionment Percentage** – If you are using the apportionment method, complete Wisconsin Schedule A-01, A-02, A-03, A-04, A-05, A-06, A-07, A-08, A-09, A-10, or A-11, as applicable, and enter the apportionment percentage. **Fill all spaces to the right of the decimal point.** Round to the nearest ten-thousandths of a percent (for example, 12.3456%).

If this return is for an insurance company that does business only in Wisconsin, enter “100.0000%” on line 8.

■ **Line 10. Wisconsin Nonapportionable and Separately Apportioned Income** – Complete this line only if you have nonapportionable income or are using the separate accounting method. If any of the amount you entered on line 6 is allocable to Wisconsin, enter the Wisconsin amount on line 10. This amount is computed on Form N, line 14.

■ **Line 12. Loss Adjustment for Insurance Companies** – Complete this line only if the corporation is an insurance company and the amount on line 11 is a loss. This is where insurance companies adjust their current year net business loss so that the carryforward to next year is computed without regard to the dividends received deduction, as required under sec. 71.45(4), Wis. Stats. Compute this amount in Part III of Schedule 4I. See the Schedule 4I instructions for details.

■ **Line 14. Wisconsin Net Business Loss Carryforward** – Enter the total Wisconsin net business loss carryforward from Form 4BL, line 30, column f, but do not enter more than line 13. However, if you choose to use less than the total allowable amount of net business loss carryforward, enter the amount that you will use. See the Tax Releases in *Wisconsin Tax Bulletin* issues 138 (April 2004) and 139 (July 2004) for more details on using carryforwards of net business losses and credits. You may access the *Wisconsin Tax Bulletin* on the department’s web site at [revenue.wi.gov/Pages/ISE/wtb-Home.aspx](http://revenue.wi.gov/Pages/ISE/wtb-Home.aspx).

**CAUTION:** If line 13 is zero or a loss, do not fill in line 14. If the net business loss carryforward from Form 4BL exceeds the income reported on line 13, do not enter more than the amount on line 13.

Regulated investment companies, real estate mortgage investment conduits, real estate investment trusts, and financial asset securitization investment trusts enter zero on line 14.

■ **Line 15. Wisconsin Net Income (Loss)** –

If you did not check the box for excess inclusion income from a real estate mortgage investment conduit, subtract line 14 from line 13. If line 13 shows a loss, enter the loss from line 13 on line 15.

If you checked the box for excess inclusion income from a real estate mortgage investment conduit, compute the amount to enter on line 15 using the worksheet below:

**Real Estate Mortgage Investment Conduit Excess Inclusion Income Computation:**

1. Enter the total excess inclusion from federal Schedules Q (Form 1066), line 2c for the taxable year.....1. \_\_\_\_\_
2. Enter the apportionment percentage from Form 4, line 8.....2. \_\_\_\_\_ %
3. Multiply line 1 by line 2.....3. \_\_\_\_\_
4. Enter the amount from Form 4, line 15; however, if Form 4, line 15 is a loss, enter 0....4. \_\_\_\_\_
  - If line 4 is greater than line 3, there is no excess inclusion income adjustment required.
  - If line 4 is less than line 3, enter the amount from line 3 on Form 4, line 15 and check the box to the left of the line.

■ **Line 16. Tentative Gross Tax** – Enter 7.9% of the Wisconsin net income reported on line 15.

■ **Line 17. Tax Adjustment for Insurance Companies** – If the corporation is an insurance company, this is where you adjust the tax liability so that it does not exceed 2% of gross premiums plus 7.9% of income realized from lottery prizes. Compute the adjustment in Part IV of Schedule 4I. See the Schedule 4I instructions for details.

■ **Line 18. Gross Tax** – Subtract the amount on line 17 from the amount on line 16.

■ **Line 19. Nonrefundable Credits** – Enter the total available nonrefundable credits from Schedule CR. However, if you choose to use less than the total available nonrefundable credits, enter the amount that you will use. See the Tax Releases in *Wisconsin Tax Bulletin* issues 138 (April 2004), 139 (July 2004), and 196 (January 2017) for more details on using carryforwards of net business losses and credits. You may access the *Wisconsin Tax Bulletin* on the department’s web site at [revenue.wi.gov/Pages/ISE/wtb-Home.aspx](http://revenue.wi.gov/Pages/ISE/wtb-Home.aspx).

If you are using credits carried forward from prior years or have current year unused credits that are being carried forward, complete a Schedule CF for each credit.

To determine if the corporation qualifies for any credits, see Publication 123, *Business Tax Incentives* (available on the Department of Revenue’s web site at [revenue.wi.gov/html/taxpubs.html](http://revenue.wi.gov/html/taxpubs.html)). To claim a credit, complete the appropriate credit schedule, enter the credit amount on the appropriate line of Schedule CR, and submit the credit schedule and Schedule CR with your return.

**NOTE:** You must submit both Schedules CR, CF, and the applicable credit schedule(s) with your return.

If you are claiming more than one credit, you must claim the credits in a specific order. See the Schedule CR instructions for details.

■ **Line 20. Net Tax** – Subtract line 19 from line 18. If line 19 is more than line 18, enter zero (0).

■ **Line 21. Economic Development Surcharge** – If the corporation is subject to the economic development surcharge, enter the greater of \$25 or 3% of the gross tax on line 18, but not more than \$9,800. See the section for *Economic Development Surcharge*, under *Who Must File Form 4*, for more information on who is subject to the economic development surcharge.

■ **Line 22. Endangered Resources Donation** – Your donation supports the preservation and management of more than 200 endangered and threatened Wisconsin plants and animals. It also helps protect Wisconsin’s finest remaining examples of prairies, forests, and wetlands.

Support endangered resources in Wisconsin. Fill in line 22 with the amount you wish to donate. Your gift will either reduce your refund or be added to tax due.

You can make an online donation at the following web site:

[dnr.wi.gov/topic/EndangeredResources/DonateOnline.asp](http://dnr.wi.gov/topic/EndangeredResources/DonateOnline.asp)

You can also send a check directly to the Endangered Resources Fund, Department of Natural Resources, PO Box 7921, Madison, WI 53707-7921.

■ **Line 23. Veterans Trust Fund Donation** – You may designate an amount as a veterans trust fund donation. Your donation will be used by the Wisconsin Department of Veterans Affairs for the benefit of veterans or their dependents. Fill in line 23 with the amount you wish to donate. Your donation will either reduce your refund or be added to tax due.

■ **Line 25. Estimated Tax Payments** – Enter estimated tax payments made by the corporation, including EFT payments, or overpayments applied from prior years’ returns, minus any “quick refund” applied for on Form 4466W.

**CAUTION:** You cannot claim estimated tax payments that were made by a related corporation or other related taxpayer.

■ **Line 26. Wisconsin Tax Withheld** – Enter your share of Wisconsin tax withheld from pass-through entities of which you are a member, as reported on Wisconsin Schedules 3K-1 or 2K-1. Include a copy of the Schedule 3K-1 or 2K-1 with the tax return that you file. Also enter the amount of Wisconsin tax withheld from lottery prizes.

If this is an amended return, enter the Wisconsin tax withheld reported on your original return, unless the amount you originally reported was incorrect.

■ **Line 27. Refundable Credits** – Enter the total available refundable credits from Schedule CR. To determine if the corporation qualifies for any credits, see Publication 123, *Business Tax Incentives* (available on the Department of Revenue’s web site at [revenue.wi.gov/html/taxpubs.html](http://revenue.wi.gov/html/taxpubs.html), under the “Publications” link).

To claim a credit, complete the appropriate credit schedule, enter the credit amount on the appropriate line of Schedule CR, and submit the credit schedule and Schedule CR with your return.

**NOTE:** You must submit both Schedule CR and the applicable credit schedule(s) with your return.

■ **Line 28. Amended Return - Amount Previously Paid** - Complete this line only if this is an amended 2020 Form 4. Fill in the amount of tax you paid with your original Form 4 plus any additional amounts paid after it was filed.

If you did not pay the full amount shown on your original Form 4, fill in only the portion that you actually paid. Also, include any additional tax that may have resulted if your original return was changed or audited. This includes additional tax paid with a previously filed 2020 amended return and additional tax paid as a result of a department adjustment to your return. Do not include payments of interest or penalties.

■ **Line 30. Amended Return - Amount Previously Refunded** - Complete this line only if this is an amended 2020 Form 4. Fill in the refund from your original 2020 return (not including the amount applied to your 2021 estimated tax).

If your refund was reduced because you owed underpayment interest or any penalties, fill in the amount of your refund before the reduction for underpayment interest or penalty. If your 2020 return was adjusted by the department, fill in the refund shown on the adjustment notice you received. If the adjustment notice shows a tax due rather than a refund, complete line 28 instead of line 30.

■ **Line 32. Interest, Penalty, and Late Fee Due** – Enter any interest, penalty, and late fee due, as computed on Form U, line 17 or 26. Check the box if you figured underpayment interest using the annualized income installment method on Form U, page 2.

If you are filing an amended return and you were previously assessed interest for underpayment of estimated taxes, complete an amended Form U, Part I, based on the total of the amounts shown on Form 4, lines 20 and 21. Enter the difference between the underpayment interest from the amended Form U, line 17, and the amount you previously paid on Form 4, line 32. Show an overpayment as a negative number. File Form U with your amended return. Otherwise, leave Form 4, line 32 blank. The department will compute interest on the amount of refund approved or tax owed.

■ **Line 33. Amount Due** – If the total of lines 24 and 32 is larger than line 31, subtract line 31 from the total of lines 24 and 32. Pay by electronic funds transfer through [My Tax Account](#), the department’s free online business tax system, or mail your check with a 2020 Form Corp-ES, *Corporation Estimated Tax Voucher*, to the address shown on the voucher. Otherwise, paper clip your check to the front of Form 4 if filing by paper and you have an approved [electronic filing waiver](#) attached to the return.

■ **Line 34. Overpayment** – If line 31 is larger than the total of lines 24 and 32, subtract the total of lines 24 and 32 from line 31.

**CAUTION:** If you must recapture a development zones investment credit because the property is disposed of or ceases to be qualified property before the end of the recapture period, add the amount from line 11 of the schedule located on page 5 of the Schedule DC instructions to the tax due on line 33 or reduce the overpayment on line 34.



■ **Line 35. 2021 Estimated Tax** – Enter the amount of any overpayment from line 34 that is to be credited to the corporation's 2021 estimated tax. The balance of any overpayment will be refunded. An overpayment shown on a corporation's final return will be refunded to the corporation that made the payments. You cannot claim these payments on the surviving corporation's return in a merger situation.

#### Changing an Election to Apply a Refund to Estimated Tax

Section 71.29(3), Wis. Stats., provides an election to apply all or a portion of a claimed refund to the following year's estimated tax payments, provided the refund has not been paid or applied elsewhere (for example, against a delinquent tax liability).

An election to apply a refund to estimated tax may be changed to:

- request payment of the refund,
- credit the refund against an amended return tax liability for any year, or
- credit the refund against a notice of amount due for any year.

Notification of a change in election must occur on or before the unextended due date of the following year's tax return or before the following year's tax return is filed, whichever is earlier.

The change in election must be in writing. You can file an amended return or send an email, fax, or letter to:

- [DORFranchise@revenue.wi.gov](mailto:DORFranchise@revenue.wi.gov)
- Fax: (608) 267-0834
- Wisconsin Department of Revenue  
Mail Stop 5-144  
PO Box 8906  
Madison WI 53708-8906

If a timely election to move the estimated payments is not made, any tax due on the return is subject to interest from the unextended due date of the return until the date paid. Interest is due regardless of whether the original amount of estimated payments exceeded the tax due on the return because the estimated payments were moved to the next taxable year.

#### Amended Returns

If this is an amended return and you have already filed your 2021 return, include on line 35 the overpayment that you claimed as a credit on your 2021 return or on your previously filed original or amended 2020 return. Otherwise, you may allocate the overpayment from line 34 between line 35 and line 36 as you choose.

■ **Line 37. Gross Receipts From All Activities** – Enter total company gross receipts, gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales price from the disposition of capital assets and business assets, gross receipts passed through from other entities, and all other receipts that are included in gross income before apportionment for Wisconsin franchise or income tax purposes.

■ **Line 38. Total Assets** – Enter the total company assets from the federal return.

■ **Lines 39 and 40. Wisconsin and Total Company Property** – Enter the total amount of the company's real and tangible property located in Wisconsin (line 39) and the company's total amount of real and tangible property everywhere (line 40). Use the cost basis of the property as of the end of the year. Include the following types of property:

- Land
- Buildings
- Furniture and Fixtures
- Transportation equipment
- Machinery and other equipment
- Inventories

Include only property that is owned by the corporation; you do not need to include property you are renting.

■ **Lines 41 and 42. Wisconsin and Total Company Payroll** – Enter the total amount of the company’s payroll located in Wisconsin (line 41) and the company’s total amount of payroll everywhere (line 42). Include only amounts attributable to employees of the corporation. In the computation of payroll located in Wisconsin, include individuals that satisfy one or more of the following:

- The individual’s service is performed entirely in Wisconsin.
- The individual’s service is performed in and outside Wisconsin, but the service performed outside Wisconsin is incidental to the individual’s service in Wisconsin.
- A portion of the individual’s service is performed in Wisconsin and the base of operations of the individual is in Wisconsin.
- A portion of the individual’s service is performed in Wisconsin and, if there is no base of operations, the place from which the individual’s service is directed or controlled is in Wisconsin.
- A portion of the individual’s service is performed in Wisconsin and neither the base of operations of the individual nor the place from which the service is directed or controlled is in any state in which some part of the service is performed, but the individual’s residence is in Wisconsin.

■ **Line 43. Wisconsin Sales** – Complete this line only if you are using Schedule A-01, A-02, A-05, or A-06 to determine your Wisconsin apportionment percentage. Enter the amount of Wisconsin sales, receipts, or premiums from the applicable line:

- Schedule A-01: Total Wisconsin sales from Wisconsin column, line 10
- Schedule A-02: Total Wisconsin receipts from Wisconsin column, line 31
- Schedule A-05: Total Wisconsin premiums from Wisconsin column, line 3
- Schedule A-06: Total Wisconsin receipts from Wisconsin column, line 9
- Schedule A-08: Total Wisconsin receipts from Wisconsin column, line 18a

■ **Line 44. Total Company Sales** – Complete this line only if you are using Schedule A-01, A-02, A-05, or A-06 to determine your Wisconsin apportionment percentage. Enter the amount of total sales, receipts, or premiums from the applicable line:

- Schedule A-01: Total Wisconsin sales from Total Company column, line 10
- Schedule A-02: Total Wisconsin receipts from Total Company column, line 31
- Schedule A-05: Total Wisconsin premiums from Total Company column, line 3
- Schedule A-06: Total Wisconsin receipts from Total Company column, line 9
- Schedule A-08: Total Wisconsin receipts from Wisconsin column, line 18b

■ **Lines 45 and 46. Limited Liability Companies** – A single-member LLC that is disregarded for federal income tax purposes is also disregarded for Wisconsin franchise or income tax purposes. You must include the income of any disregarded entities owned by the corporation in the corporation’s amounts on the Wisconsin return. Check the "Yes" box if you were the sole owner of any disregarded entities and prepare and submit Schedule DE with this return.

■ **Line 47. Use Tax** – A corporation may be liable for use tax. Use tax is the counterpart of sales tax. All tangible personal property, certain coins and stamps, certain leased properties affixed to real estate, certain digital goods, and selected services, taxable under Wisconsin’s sales tax law, which are stored, used, or consumed in Wisconsin, are subject to use tax if the proper sales tax is not paid. Examples of purchases that frequently result in a use tax liability include the following:

- Mail order and Internet purchases. You owe Wisconsin use tax if you buy such items as computers, furniture, or office supplies from a vendor who is not registered to collect Wisconsin tax.
- Inventory. If you purchase inventory items without tax for resale, and then use these items instead of selling them, you owe use tax.
- Give-aways. Generally, if you purchase items without tax and then give them away in Wisconsin, you owe use tax.

If you hold a seller's permit, use tax certificate, or consumer's use tax certificate, report your use tax on your sales and use tax return, Form ST-12. Otherwise, complete and file Form UT-5 to report use tax.

For more information on use tax, visit the department's web site at [revenue.wi.gov/html/sales.html](http://revenue.wi.gov/html/sales.html), call (608) 266-2776, e-mail [DORSalesandUse@wisconsin.gov](mailto:DORSalesandUse@wisconsin.gov).

■ **Lines 48 through 51. Contact Information and Miscellaneous** – Provide the information as instructed on the form.

■ **Line 52. Uncertain Tax Positions.** If you were required to file federal Schedule UTP-Uncertain Tax Position Statement, include a copy of the schedule with your Wisconsin tax return.

■ **Line 53. Reportable Transaction Disclosure Statement** – If you were required to file federal Form 8886-Reportable Transaction Disclosure Statement, include a copy of the form with your Wisconsin tax return.

If a corporation was required to include any form with its federal tax return to disclose a "reportable transaction," as defined under sec. 71.81(1)(c), Wis. Stats., it must file a copy of that form with the Department of Revenue within 60 days of the date it is required to file it for federal income tax purposes, provided that it is otherwise required to file a Wisconsin return.

This includes federal Form 8886, *Reportable Transaction Disclosure Statement*. To file this form for Wisconsin purposes, check the "yes" box on line 53 and submit the form with the return.

■ **Third Party Designee** – If you want to allow a tax preparer or tax preparation firm, or any other person you choose to discuss your 2020 tax return with the Department of Revenue, check "Yes" in the "Third Party Designee" area of your return. Also, fill in the designee's name, phone number, and any five digits the designee chooses as his or her personal identification number (PIN). If you check "Yes," you are authorizing the department to discuss with the designee any questions that may arise during the processing of your return. You are also authorizing the designee to:

- Give the department any information missing from your return,
- Call the department for information about the processing of your return or the status of your refund or payment(s), and
- Respond to certain department notices about math errors, offsets, and return preparation.

You are not authorizing the designee to receive any refund check, bind you to anything (including any additional tax liability), or otherwise represent you before the department. If you want to expand the designee's authorization, you must submit Form A-222 (*Power of Attorney*). The authorization will automatically end no later than the due date (without regard to extensions) for filing your 2021 tax return.

■ **Signatures** – An officer of the corporation must sign at the bottom of page 3. If the return is prepared by someone other than an employee of the corporation, the individual who prepared the return must sign the form in the space provided for the preparer's signature and furnish the preparing firm's federal employer identification number. A self-employed individual must enter "PTIN" and the preparer tax identification number in the space for the preparer's federal employer identification number.

■ **Supplemental Schedules** – Include the following items as supplemental schedules to your Form 4:

- Your federal return with all supporting forms/schedules
- A list of your solely owned LLCs (Schedule DE)
- Any extension of time to file your return
- Supporting schedules for Form 4
- Any attachments required for the supporting schedules you are filing, per the instructions to those schedules

**NOTE:** If you are filing electronically, you may submit supplemental schedules that are not pre-programmed into your software in one of two ways:

1. Submitting them electronically in .pdf format along with your electronic return, or
2. Mailing them to the department with a Form W-RA, *Required Attachments for Electronic Filing*.

## Additional Information, Assistance, and Forms

### Web Resources

The Department of Revenue's web page, available at [revenue.wi.gov](http://revenue.wi.gov), has a number of resources to provide additional information and assistance, including:

- Related [forms](#) and their instructions
- [Common questions](#)
- [Publications](#) on specific tax topics
- The [Wisconsin Tax Bulletin](#)
- A home page specifically for [combined reporting topics](#)
- Links to the [Wisconsin Statutes and Administrative Code](#)

### Contact Information

If you cannot find the answer to your question on the department's web page, contact the department using any of the following methods:

- E-mail your question to: [DORFranchise@wisconsin.gov](mailto:DORFranchise@wisconsin.gov)
- Call (608) 266-2772  
(Telephone help is also available using TTY equipment. Call the Wisconsin Telecommunications Relay System at 711 or, if no answer, (800) 947-3529).
- Send a fax to (608) 267-0834
- Write to the Customer Service and Education Bureau, Wisconsin Department of Revenue, Mail Stop 5-77, PO Box 8949, Madison, WI 53708-8949
- Call or visit any Department of Revenue office

### Obtaining Forms

If you need forms or publications, you may:

- Download them from the department's web site at [revenue.wi.gov](http://revenue.wi.gov)
- Call (608) 266-1961
- Call or visit any Department of Revenue office

## Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of February 19, 2021: Chapter 71 Wis. Stats., and Chapter Tax 2, Wis. Adm. Code