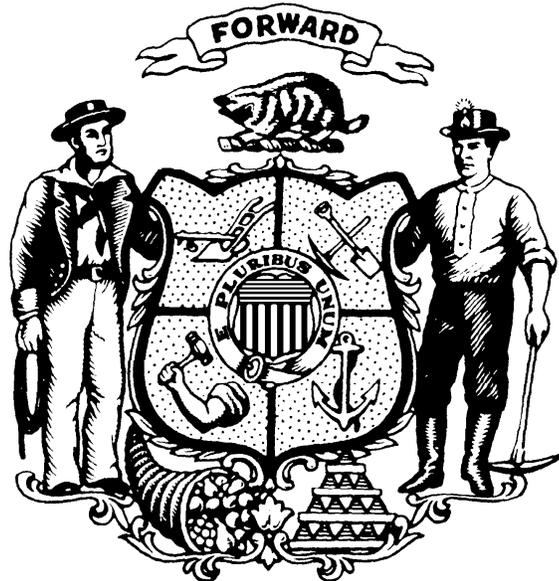


STATE OF WISCONSIN

**SUMMARY OF TAX  
EXEMPTION DEVICES**

SCOTT WALKER, GOVERNOR



FEBRUARY 2013

Division of  
Executive Budget and Finance  
DEPARTMENT OF ADMINISTRATION

Division of  
Research and Analysis  
DEPARTMENT OF REVENUE



## State of Wisconsin • DEPARTMENT OF REVENUE

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*Scott Walker*  
Governor

*Richard G. Chandler*  
Secretary of Revenue

February, 2013

To members of the 2013-15 Legislature:

Every two years, pursuant to section 16.425 of the Wisconsin Statutes, the Department of Revenue is required to prepare a report of existing tax exemption devices. This report provides a comprehensive review of tax exemption devices and their corresponding fiscal effects.

The report represents the efforts of staff in the Department of Revenue, Division of Research and Policy, with contribution from the Office of the Commissioner of Insurance. Diligent effort had been made to ensure that the report is as accurate and complete as possible.

The Department of Revenue hopes that you find the document to be a useful tool in the formulation of public policy decisions. Research staff in the department stands ready to answer any questions you may have concerning material in this document.

Sincerely,

A handwritten signature in blue ink that reads "Richard G. Chandler".

Richard G. Chandler  
Secretary of Revenue

## TABLE OF CONTENTS

	<b>Page</b>
<b>Introduction .....</b>	<b>1</b>
<b>Individual Income Tax .....</b>	<b>5</b>
<b>Corporate Income and Franchise Tax .....</b>	<b>31</b>
<b>Economic Development Surcharge .....</b>	<b>53</b>
<b>Sales and Use Tax .....</b>	<b>55</b>
<b>Insurance Premium Taxes .....</b>	<b>71</b>
<b>Property Tax .....</b>	<b>77</b>
<b>Forest Crop, Woodland Tax, and Managed Forest Laws .....</b>	<b>83</b>
<b>Real Estate Transfer Fee .....</b>	<b>87</b>
<b>Taxation of Public Utilities .....</b>	<b>93</b>
<b>Excise Taxes .....</b>	<b>97</b>

This report can also be found on the Internet. <http://www.revenue.wi.gov/>

## INTRODUCTION

Wisconsin's state and local governments rely on tax revenues to fund valuable services to our citizens. Ensuring that our system of taxation is fair, equitable, and efficient is vital to our economic success and quality of life. In setting tax policies, we must consider taxpayers' ability to pay, the impact of those policies on economic development, and the interaction of tax policies with other policy goals.

Tax exemptions are an important component of Wisconsin tax policies. A tax exemption is "...any tax provision that exempts, in whole or part, certain persons, income, goods, services or property from the impact of established taxes."<sup>1</sup> Granting a tax exemption can be a powerful tool for providing economic development incentives or for mitigating the regressive qualities of certain tax types. However, exemptions always come with a cost. Exemptions reduce revenues otherwise available for programs or for tax relief for taxpayers who do not benefit from the exemption. Therefore, it is critical that policymakers understand both the costs of exemptions and their effectiveness at achieving their intended goal.

Recognizing the need for this information, the legislature mandated that a report be presented biennially to the legislature listing all tax exemption devices and their fiscal effects. First presented in 1975, this is the 20<sup>th</sup> report compiled by the Department of Revenue.

### Highlights of the Report

The report is organized by tax type. For each, it describes the various exemptions that are currently authorized and provides estimates of the fiscal effects in fiscal year 2012 (FY12) where data is available. Detailed explanations of each tax type are available on the Department of Revenue web site at <http://www.revenue.wi.gov/report/index.html>.

On a case by case basis, the estimates provide a valuable benchmark for discussion of whether the policy justifications warrant the loss in revenue or if other tools, such as direct expenditure programs, could be considered as alternatives. As the examples below demonstrate, determining the degree to which exemptions meet their policy objectives is challenging, due to the difficulty of quantifying the outcomes and in some cases the need to make assumptions regarding the underlying goal or goals.

#### *Individual Income Tax Exemptions*

The individual income tax is the largest generator of revenues for state government. In FY12, income tax collections of \$7.0 billion represented 52.1% of state General Purpose Revenue (GPR) tax collections. Exemptions from the income tax include deductions or exclusions from taxable income and tax credits.

- *Tax exclusions* are types of income that are not taxable and do not need to be reported on the tax return, such as income from qualifying scholarships.
- *Deductions* are amounts that are subtracted from total taxable income that is reported, such as a deduction for medical care insurance premiums and the standard deduction.
- *Credits* are a direct reduction in the tax liability that is owed.
- *Non-refundable credits* are credits that cannot exceed total tax liability.
- *Refundable credits* can exceed tax liability and can result in a payment due to the taxpayer

Many income tax exemptions are based on Wisconsin's consistency with federal tax policy. For example, Wisconsin conforms to the federal exclusion of payments received for sickness or injury benefits, which had an estimated cost of \$1.26 billion for Wisconsin in FY12. While this is clearly a high cost exemption, removing the exemption would reduce the benefit of other policy programs such as worker's compensation, proceeds from insurance policies, and allowance for injuries incurred in military action.

Other income tax exclusions are unique to Wisconsin. For example, Wisconsin allows taxpayers to subtract from income 30% of the capital gains on assets held more than one year. This exclusion cost \$122.8 million in FY12.

An example of a refundable tax credit is the homestead credit that provides a credit to low income renters and homeowners to offset a portion of property taxes. The cost of the program in FY12 was \$133.0 million.

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<sup>1</sup> From Wisconsin Statutes Section 16.425 (2).

### *Sales Tax Exemptions*

Wisconsin generated \$4.3 billion in FY12 from its 5% sales and use tax, which represented 31.7% of state GPR taxes. In addition, counties and professional football and baseball stadium districts are authorized to collect additional sales tax from the same tax base. Sales tax exemptions result in lower revenues for both the state and local governments.

One of the largest exemptions from the sales tax is the exemption for food purchased for home consumption, which was estimated to reduce state revenues by \$536.9 million in FY12. Another significant exemption is for goods sold to other state and local governments and schools, which reduced revenues by an estimated \$368.8 million in FY12. Removing this exemption would result in a situation where one taxing authority imposes a tax on another.

In contrast to tangible goods that are taxed unless specifically exempt in statute, services are exempt unless they are singled out for taxation. Of those services that are exempt, the largest measurable exemptions are in the areas of professional services and business services. These exempt categories include a variety of services such as those provided by health professionals (accounting for \$590.3 million in foregone revenue in FY12), and exemptions for computer and legal services (which reduced FY12 revenues by \$176.4 million and \$119.6 million, respectively).

### *Property Tax Exemptions*

The local property tax generates more revenue than either the state sales tax or the income tax. Property taxes collected in 2012 for taxes levied in 2011 totaled \$10.4 billion, which represents the combined levy of school districts, municipalities, counties, technical colleges, and special districts. The state establishes policies regarding what real and personal property is subject to the local property tax, guided by the uniformity clause of the state constitution, which prohibits differential treatment of most property including partial exemptions.

Real property that is exempt from taxation includes property owned by religious establishments, educational and medical facilities, and low-income housing owned by non-profit benevolent associations. In total it is estimated that the value of exempt real property is \$25.1 billion. There are also a number of exemptions to personal property taxation, including the exemption for machinery and equipment used in manufacturing – the value of which is estimated at \$16.0 billion.

If the exempt property examined in this report were taxable, property tax rates would be reduced by an estimated 7.8% statewide, ranging from an 11.3% average reduction in cities to a 3.6% average reduction in towns.

Property tax exemptions have implications for economic development and the state's health, housing, and education policies. The impact of property tax exemptions should be evaluated with consideration to both the impact on the owners of remaining taxable property and policy goals.

### *Other Exemptions*

The report also discusses exemptions relating to the corporate income tax, insurance premium taxes, recycling surcharge, real estate transfer fees, public utility taxes, excise taxes, and forest crop and managed forest laws.

### **Limitations of the Report**

Readers should be aware of several limitations to the report.

The fiscal impacts of tax exemption devices are often difficult to measure, and estimates of the effect of tax exemptions are subject to limitations and the need to make assumptions. Generally, in calculating each fiscal effect, it is assumed that only the provision in question is changed and that all other aspects of the tax system remain the same.

All of the estimates in this report are presented as the impact of the exemption device in FY12. Changes in taxpayer behavior or economic activities since that time are not reflected.

Consistent with accepted revenue estimating practices, the estimates also assume that economic variables, taxpayer behavior and other factors would be unaffected by the repeal of an exemption device. For some tax exemption devices, these assumptions are open to question. For example, the removal of an income tax deduction could significantly alter spending or investment behavior.

In addition, the estimates are only as good as the data available. In some cases, the estimates are very reliable. In other cases, little data is available and estimates must rely on external sources or indirect information. Therefore, the estimates should generally be viewed as indicative only of the order of magnitude of tax exemption costs. Discussion on the data sources and methodologies used in constructing the estimates are contained in the individual chapters of this report.

Due to these data limitations and interactions between various exemptions, it is not necessarily accurate to sum across the exemptions to arrive at a total fiscal impact. Each estimate is made in isolation. If two or more items were eliminated, the combined effect may be more or less than the sum of their respective estimates.

## INDIVIDUAL INCOME TAX

### Introduction

The individual income tax is Wisconsin's largest state tax source, generating \$7,042 million, or 52% of state general purpose revenue taxes in FY12. Wisconsin first enacted its income tax in 1911 – two years before the federal income tax was imposed.

Wisconsin imposes the income tax on a base that generally conforms to the base for the federal income tax – federal adjusted gross income (FAGI) is the starting point for the Wisconsin tax calculation. FAGI is calculated on the federal return by reporting the various kinds of income – for instance, wages and salaries, interest and dividends, business earnings, retirement income – and then making adjustments for certain kinds of income or expenses. Major adjustments include:

- Contributions to individual retirement accounts and to retirement plans of self-employed persons.
- Deductions for health insurance premiums.
- One-half of the self-employment tax paid for social security and Medicare coverage.
- Up to \$2,500 in interest on student loans when income does not exceed prescribed limits.
- Alimony paid; to the extent the payments are included in the income of the recipient.

In the Wisconsin tax calculation, modifications, both additions and subtractions, are made to FAGI in the determination of Wisconsin adjusted gross income (WAGI). Additions are types of income that are exempt from federal tax but subject to state tax, or deductions allowed for federal but not Wisconsin purposes. The major addition is state and municipal bond interest, which states, but not the federal government, may tax. Another addition results from differences in the amount of capital losses that taxpayers may offset against income – \$3,000 under federal law, but \$500 under Wisconsin law. Taxpayers who deduct more than \$500 in losses for federal purposes must add back the excess in calculating WAGI.

Subtractions are types of income taxable under federal law but exempted by Wisconsin and certain expenses for which Wisconsin allows a deduction. Major subtractions include:

- 30% of capital gains on assets held for more than one year. These gains are fully included in federal taxable income, though long-term gains are taxable at lower rates than ordinary income.
- Interest on U.S. government bonds, which the federal government may, but states may not, tax.
- Pensions received by persons who were members of or retired from Milwaukee City and county retirement funds, the state teachers' retirement fund, and the civil service retirement system prior to January 1, 1964. In addition, veterans' pensions are exempt from Wisconsin income tax.
- All social security benefits that are taxable for federal purposes. Up to 85% of social security benefits are subject to federal tax, but Wisconsin does not tax social security benefits.
- A portion of unemployment compensation. Unemployment compensation is only subject to Wisconsin tax when income exceeds \$18,000 for married couples and \$12,000 for most other filers.
- Tuition payments to post-secondary institutions in Wisconsin and to schools in Minnesota covered under Minnesota-Wisconsin tuition reciprocity. For each qualified student, the subtraction is limited to two times the average amount charged to resident undergraduates by the University of Wisconsin System at four-year institutions.
- A portion of health insurance premiums not already excluded from federal income. To the extent that health insurance premium payments have not already been deducted from federal income, a subtraction is available for the full amount of premiums paid by self-employed individuals, individuals without an employer, and individuals with an employer who did not contribute toward the cost of insurance. The remaining group of individuals, those people who were employed and their employers paid for a portion of the cost of insurance, were able to claim a subtraction for 25% of their share of the premium in 2011.

WAGI is reduced by a standard deduction and personal exemptions to yield Wisconsin taxable income. Wisconsin provides a sliding scale standard deduction, equal to some maximum when income is below a specified level; this maximum deduction is phased down to \$0 as income increases. For instance, in 2011, the deduction for single persons was \$9,410 when WAGI was less than \$13,560, and it declined to \$0 as income increased from \$13,560 to \$91,977. The deduction parameters for each filing status are shown in Table 1; the maximum deduction and phase-out range are indexed annually for inflation. Unlike federal law, Wisconsin does not allow itemized deductions; instead it provides an itemized deductions credit, discussed below, equal to 5% of certain deductions in excess of the standard deduction.

**TABLE 1  
WISCONSIN STANDARD DEDUCTIONS, 2011**

Filing Status	Maximum Deduction	Phase-Out Range	Phase-out Rate
Single	\$9,410	\$13,560 - \$91,977	12%
Head of Household	\$12,150	\$13,560 - \$39,618*	22.515%
Married Filing Jointly	\$16,940	\$19,040 - \$104,691	19.778%
Married Filing Separately	\$8,050	\$9,040 - \$49,742	19.778%

\*Income at which head of household deduction equals the deduction for single filers. Above this income level, the deduction for heads of households is the same as that for single persons.

WAGI is also reduced by a personal exemption equal to \$700 for each tax filer, spouse, and dependent. There is an additional exemption of \$250 for each tax filer and spouse age 65 or older.

Wisconsin taxable income, equal to WAGI less the standard deduction and personal exemptions, is the base to which statutory tax rates are applied to yield gross tax liability. As Table 2 shows, Wisconsin imposes a series of graduated tax rates, ranging from 4.6% to 7.75%. In 2011, the top rate applies to filers with taxable income exceeding \$224,210 for single persons and \$298,940 for married couples filing jointly. Bracket ceilings are indexed for inflation.

**TABLE 2  
WISCONSIN TAX RATES AND BRACKETS, 2011**

Tax Rate	Taxable Income Brackets		
	Single	Married - Joint	Married - Separate
4.60%	\$0 - \$10,180	\$0 - \$13,580	\$0 - \$6,790
6.15%	\$10,180 - \$20,360	\$13,580 - \$27,150	\$6,790 - \$13,580
6.50%	\$20,360 - \$152,740	\$27,150 - \$203,650	\$13,580 - \$101,820
6.75%	\$152,740 - \$224,210	\$203,650 - \$298,940	\$101,820 - \$149,470
7.75%	More than \$224,210	More than \$298,940	More than \$149,470

Finally, gross tax is reduced by credits against the tax liability. Major non-refundable credits, which are limited to the amount of income tax liability otherwise due, include:

- The itemized deductions credit, equal to 5% of the amount by which certain federal itemized deductions exceed the standard deduction. Deductions allowed for the credit are those for medical expenses, mortgage interest on a primary residence located in Wisconsin, investment interest on securities the income from which is subject to Wisconsin tax, charitable contributions, and certain casualty losses that are directly related to a presidentially declared disaster.
- The school property tax credit, equal to 12% of the first \$2,500 of property taxes, or rent constituting property taxes, for a maximum credit of \$300. Rent constituting property taxes equals 20% of rent if heat is included in rent, and 25% if heat is not included.
- The married couple credit for couples when both spouses are working, equal to 3% of the earnings of the lower earning spouses, but not more than \$16,000, resulting in a maximum credit of \$480.
- The credit for military income earned outside the United States, to the extent the income is included in WAGI, equal to the amount of those earnings, but no more than \$300.

- Historic rehabilitation credits, including a supplement to the federal historic rehabilitation credit equal to 5% of qualifying expenditures under the federal Internal Revenue Code and a state historic rehabilitation credit equal to 25% of qualified expenditures to substantially rehabilitate certified historic buildings.
- A credit for income taxes paid to other states on wages or other earnings in those states. No credit is allowed for states with which Wisconsin has reciprocity, that is, agreements under which each state agrees not to tax the wages earned within its borders by residents of the other state. In tax year 2011, Wisconsin had reciprocity agreements with Illinois, Indiana, Kentucky, and Michigan. Because the number of Wisconsin residents working in Illinois is substantially higher than the number of Illinois residents working in Wisconsin, Wisconsin annually makes a payment to compensate Illinois for the net revenue loss incurred as a result of reciprocity.

In addition to nonrefundable tax credits, Wisconsin also offers refundable credits, which are paid to claimants in the form of a tax refund when the amount of the credit exceeds tax otherwise due. These credits are essentially subsidies provided to particular types of claimants through the tax system. These credits are:

- The Homestead credit, which equals up to 80% of property taxes or rent constituting property taxes when household income does not exceed \$8,000. Maximum property taxes allowable under the credit are \$1,460, so the maximum credit is \$1,168. The credit is phased out as household income rises from \$8,060 to \$24,680. Rent constituting property taxes equals 20% of rent when heat is included in rent and 25% of rent when heat is not included.
- The earned income tax credit (EITC), calculated as a percentage of the federal earned income tax credit depending on family size: 4% for persons with one child, 11% for persons with two children, and 34% for persons with three or more children. In 2011, the federal credit for persons with one child was equal to 34% of earnings up to \$9,100, for a maximum credit of \$3,094. The credit for single persons was phased out as the greater of FAGI or earnings rose from \$16,690 to \$36,052; the phase-out floor and ceiling were \$5,080 higher for married couples. For persons with two children, the federal credit was 40% of earnings up to \$12,780, for a maximum credit of \$5,112. The credit was phased out for single persons as income or earnings rose from \$16,690 to \$40,964; the phase-out floor and ceiling were \$5,080 higher for married couples. For persons with three or more children, the federal credit was 45% of earnings up to \$12,780, for a maximum credit of \$5,751. The credit was phased out for single persons as income or earnings rose from \$16,690 to \$43,998; the phase-out floor and ceiling were \$5,080 higher for married couples. Thus, the maximum Wisconsin credits were \$124 for persons with one child, \$562 for persons with two children, and \$1,955 for persons with three or more children.
- The farmland preservation credit for owners of farmland that was zoned exclusively for agriculture use or covered under a farmland preservation agreement with the state. The credit was revised and expanded beginning in tax year 2010. Under current law the credit may be claimed using either the old credit formula or the new credit formula depending on the claimants' farmland preservation agreements. The old credit is a percentage of a base amount determined using household income and the property taxes levied against the farmland. The new credit is a flat payment of \$5, \$7.50, or \$10 per acre of qualifying farmland.
- The veterans and surviving spouses' property tax credit equal to the amount of property taxes paid on the claimant's principal dwelling. This credit is available to certain resident disabled veterans and un-remarried surviving spouses of veterans who died while on active duty, during training, or had a service connected disability rating of 100% or a 100% disability rating based on individual unemployability at the time of death. In all cases the veteran must have been a Wisconsin resident at the time of entry into service or a resident for any consecutive 5-year period after entry into active duty service. In the case of surviving spouses, the veteran must also have been a resident at the time of death.

In addition to regular income tax, Wisconsin imposes an alternative minimum tax that may limit the benefit of some tax exemption devices. The alternative minimum tax is equal to 6.5% of alternative minimum taxable income above the applicable exemption amount (\$33,750 if single, \$45,000 if married filing a joint return, and \$22,500 if married filing a separate return for tax year 2011).

### Estimates of Fiscal Effects

Estimates of individual income tax exemption devices are provided in Table 3. Descriptions of each device follow the table. The table identifies the exemption devices, indicates the statutory section allowing the exemption device, and provides an estimate of its fiscal effect in FY12.

Several approaches were used to generate the estimates shown in Table 3. The estimates of exclusions from gross income, which are not reported on tax returns, were generally based on estimates of the fiscal effect of federal tax expenditures – i.e., federal tax exemption devices – contained in the annual budget document issued by the Executive Office of the President. Estimates prepared by the Congressional Budget Office and the staff of the Joint Committee on Taxation were also considered. Generally, Wisconsin's share of the federal fiscal effect was determined using the state's share of total federal adjusted gross income on all federal tax returns, and then adjustments were made to account for the differences in federal and Wisconsin tax rates.

Most of the other estimates were based on Wisconsin-specific data sources, including the 2008 Wisconsin individual income tax model, aggregate statistics from the 2011 tax processing year, and tax collection statistics for FY12. The tax model is derived from a scientifically stratified sample of approximately 18,700 tax returns, weighted to reflect the statewide population of tax filers in 2008. This model was used to simulate the effect of tax exemption devices for which data is captured in the sample. The aggregate statistics were drawn from tax returns processed from July 1, 2011 to June 30, 2012.

**TABLE 3  
INDIVIDUAL INCOME TAX EXEMPTION DEVICES SUMMARY**

Exemption Device	Statutory Reference*	FY12 Fiscal Effect
<b>Exclusions from Federal Gross Income</b>		
Gain from Sale or Exchange of Residence (Home)	IRC 121	111,000,000
Social Security Benefits	IRC 86	264,000,000
Railroad Retirement Annuities and Pensions	IRC 86	1,910,000
Public Assistance	IRC 61	5,300,000
Sickness and Injury Benefits	IRC 104 to 106	1,240,000,000
Insurance Premiums for Public Safety Officers	IRC 402 P.L. 109-280	2,270,000
Group Term Life Insurance Purchased for Employees	IRC 79	14,500,000
Death Benefits	IRC 101	62,500,000
Meals and Lodging to Employees	IRC 119	8,130,000
Scholarships and Fellowships	IRC 117	22,100,000
Awards and Prizes	IRC 74 (b) and (c)	Minimal
Rental Value of Parsonages	IRC 107	4,910,000
Reduced Armed Forces Retirement Pay	IRC 122	Not available
Combat Pay and Other Armed Forces Exclusions	IRC 112 and 134	148,000,000
Life Insurance Dividends	IRC 7702	32,200,000
Cancellation of Business Property Indebtedness	IRC 108 (a)	2,960,000
Income Realized from Debt Cancellation Through Bankruptcy	IRC 108	Not available
Interest on Certain State and Local Bonds	ss. 66.1201 (14)a, 66.1333 (5)(a)4.c and 71.05 (1)(c)	Not available
Gifts and Inheritances	IRC 102	Not available
Appreciation of Property Held at the Time of Death	IRC 1014	78,500,000
Employer Contributions to Pension Plans and Net Pension Fund Earnings	IRC 401 to 404A, 406 to 407 and 409 to 417	710,000,000
Employer Reimbursement of Employee's Educational Expenses	IRC 127	5,210,000
Employer-Provided Child Care	IRC 129	8,600,000
Employer-Provided Adoption Assistance	IRC 137	1,220,000
Roth Individual Retirement Accounts	IRC 408A	20,100,000
Education Individual Retirement Accounts	IRC530	545,000
Transportation and Other Fringe Benefits	IRC 132 (a)	24,200,000
Foster Care Payments	IRC 131	1,440,000
Cancellation of Student Loans	IRC 108 (f)	Minimal
Recovery of Tax Benefit Items	IRC 111	Minimal
Foreign Earned Income	IRC 911	38,300,000
Natural Resource-Related Cost-Sharing Payments	IRC 126	Minimal
Passive Activity Losses	IRC 469	Not Available
<b>Adjustments to Federal Gross Income</b>		
Capital Losses	IRC 1211; s 71.05 (10)(c)	5,140,000
Losses from the Sale or Exchange of Business Property	IRC 62 (a)(3)	8,910,000
Pension, Profit-Sharing, Annuity and Bond Purchase Plans of Self-Employed Individuals	IRC 62 (a)(6)	39,000,000
Individual Retirement Accounts (IRAs)	IRC 62 (a)(7), 219, 408, 408A, and 530	42,100,000
Student Loan Interest	IRC 221	14,200,000
Self-Employment Tax	IRC 164 (f)	17,200,000
Health Insurance of Self-Employed Persons	IRC 162 (l)	24,300,000
Educator Expenses	IRC 62	1,180,000
Medical Savings Accounts / Health Savings Accounts	IRC 220, 223	21,200,000
Moving Expenses	IRC 217	2,240,000
Alimony	IRC 62 (a)(10), 71 and 215	13,400,000
Penalty on Early Withdrawal of Savings	IRC 62 (a)(9)	126,000

**TABLE 3**  
**INDIVIDUAL INCOME TAX EXEMPTION DEVICES SUMMARY (continued)**

Exemption Devices	Statutory Reference*	FY12 Fiscal Effect
<b>Modifications to Federal Adjusted Gross Income</b>		
Social Security Benefits: Additional State Deduction	s. 71.05 (6)(b)21	270,000,000
Interest on U.S. Obligations	s. 71.05 (6)(b)1	8,700,000
Capital Gains Exclusion	s. 71.05 (6)(b)9	123,000,000
Capital Gains from Qualified Small Business Stock	s. 71.05 (6)(b)6	Not available
Gains on Sales of Business Assets to Related Persons	s. 71.05 (6)(b)25	910,000
Net Long-Term Capital Losses (Pre-1982)	s. 71.05 (14)	Minimal
Public Pensions	s. 71.05 (1)(a), (am) and (an)	55,600,000
State Legislators' Per Diem Expenses	s. 71.05 (1)(b)	Minimal
Health Insurance Premiums of the Self-Employed and Certain Employees: Difference in State and Federal Trmt	s. 71.05 (6)(b)19 and 20	59,900,000
Long-Term Care Insurance Expenses	s. 71.05 (6)(b)26	7,730,000
Unemployment Compensation	s. 71.05 (6)(b)8	11,100,000
Disability Income	s. 71.05 (6)(b)4	27,000
Adoption Expenses	s. 71.05 (6)(b)22	217,000
Higher Education Tuition Expenses	s. 71.05 (6)(b)28	25,000,000
Prepaid Tuition and College Savings Plans	s. 71.05 (6)(b)23 and 31 to 33	10,200,000
Human Organ Donation Expenses	s. 71.05 (10)(i)	Minimal
Active Duty Military Pay for Reserves or National Guard	s. 71.05 (6)(b)34	1,600,000
Low Income Retirement Income Exclusion	s. 71.05 (1)(ae)	797,000
Child and Dependent Care Expenses		5,970,000
Relocated Businesses		Minimal
Job Creation		1,920,000
<b>Deductions and Exemptions from Wisconsin Adjusted Gross Income</b>		
Sliding Scale Standard Deduction	s. 71.05 (22)	735,000,000
Personal Exemption and Additional Elderly Exemption	s. 71.05 (23)	190,000,000
<b>Credits</b>		
Itemized Deductions Credit	s. 71.07 (5)	303,000,000
School Property Tax Credit	s. 71.07 (9)	396,000,000
Working Families Credit	s. 71.07 (5m)	218,000
Married Couple Credit	s. 71.07 (6)	263,000,000
Armed Forces Member Credit	s. 71.07 (6m)	1,390,000
Manufacturing Sales Tax Credit	s. 71.07 (3s)	53,000
Development Zone Credits	s. 71.07 (2dm) and (2dx)	1,960,000
Technology Zone Credit	s. 71.07(3g)	438,000
Dairy and Livestock Farm Investment Credit	s. 71.07(3n)	21,900,000
Angel Investment Credit	s. 71.07(5d)	3,990,000
Early Stage Seed Investment Credit	s. 71.07(5b)	1,590,000
Veterans' and Surviving Spouses' Property Tax Credit	s. 71.07(6e)	17,700,000
Historic Preservation Credits	s. 71.07 (9m) and (9r)	1,690,000
Earned Income Credit	s. 71.07 (9e)	102,000,000
Homestead Credit	ss. 71.07 (4), 71.51 to 71.55	133,000,000
Income Tax Paid to Other States/Income Tax Reciprocity	ss. 71.07 (7), 71.10 (7), (7e)	287,000,000
Claim of Right Credit	s. 71.07 (1)	62,000
Farmland Tax Relief Credit	s. 71.07 (3m)	69,000
Old Farmland Preservation Credit	ss. 71.07 (3) , 71.57 to 71.61	3,430,000
New Farmland Preservation Credit	ss. 71.07 (3) , 71.57 to 71.613	15,500,000
Dairy Manufacturing Facility Investment Credits	s. 71.07(3p)	384,000
Dairy Cooperatives Credit	s. 71.07(3p)	Minimal
Health Insurance Risk-Sharing Plan Credit	s. 71.07(5g)	Minimal
Film Production Company Investment Credit	s. 71.07(5h)	Minimal
Manufacturing Investment Credit	s. 71.07(3t)	455,000
Ethanol and Biodiesel Fuel Pump Credit	s. 71.07(5j)	80,000
Economic Development Credit	s. 71.07(2dy)	3,320,000
Internet Equipment Credit	s. 71.07(5e)	Minimal
Meat Processing Facility Investment Credit	s. 71.07(3r)	396,000
Film Production Services Credit	s. 71.07(5f)	147,000

**TABLE 3  
INDIVIDUAL INCOME TAX EXEMPTION DEVICES SUMMARY (continued)**

Exemption Devices	Statutory Reference*	FY12 Fiscal Effect
<b>Credits (continued)</b>		
Jobs Tax Credit	s. 71.07(3q)	Minimal
Water Consumption Credit	s. 71.07(5rm)	Minimal
Community Rehabilitation Program Credit	s. 71.07(5k)	Minimal
Enterprise Zone Jobs Credit	s. 71.07(3w)	1,340,000
Woody Biomass Harvesting and Processing Credit	s. 71.07(3rm)	0
Food Processing Plant and Food Warehouse Invstmt Cr	s. 71.07(3rn)	916,000
Beginning Farmer and Farm Asset Owner Credit	s. 71.07(8r)	Minimal
* These are references to sections of the 2007 Wisconsin Statutes, except "IRC" indicates a reference to a section of the federal Internal Revenue Code authorizing the exemption device.		

**EXCLUSIONS FROM FEDERAL GROSS INCOME**

An exclusion is a type of income that is not included in federal gross income by provisions of the Internal Revenue Code or under the U.S. Constitution, or in Wisconsin income by provisions of the Wisconsin statutes. Excluded income does not have to be reported on the income tax return.

**Gain from Sale or Exchange of Residence (Home)**

A taxpayer may exclude from income up to \$250,000 (\$500,000 for married couples filing jointly) of capital gain realized on the sale or exchange of a residence. The taxpayer generally must have owned and occupied the home as a principal residence for at least two of the five years prior to the sale. An individual not meeting the ownership or residence requirements is allowed a pro rata amount of the exclusion if the sale or exchange is due to a change in employment, health, or other unforeseen circumstances. The exclusion is allowed on only one sale every two years, and it is not permitted on properties in which depreciation is allowed for rental or business use.

**Social Security Benefits**

Old-age and survivors' insurance benefit payments, state old-age assistance payments, and Medicare benefits are generally excluded from the gross income of the person receiving such benefits. Federal law subjects up to 50% of benefits to tax when income exceeds a base amount and up to 85% of benefits when income exceeds an adjusted base amount. In this determination, income equals modified adjusted gross income plus one-half of social security.

The base amounts for determining tax on up to 50% of benefits are \$25,000 for single persons, including married persons filing separately who lived apart from their spouses for the full tax year; \$32,000 for married couples filing a joint return; and \$0 for married persons filing separately who lived with their spouses for at least part of the year. The adjusted base amounts for taxing up to 85% of benefits are \$34,000 for single persons, \$44,000 for married couples, and \$0 for married persons filing separately and living with their spouses for at least part of the year.

Wisconsin does not tax any social security benefits. Table 3 provides separate fiscal estimates of the state revenue loss resulting from the federal exclusion and the loss resulting from the additional state subtraction from FAGI.

**Railroad Retirement Annuities and Pensions**

Annuities or pensions paid under the 1935 and 1937 Railroad Retirement Acts are generally excluded from gross income. Up to 50% of Tier 1 retirement benefits are taxable for federal tax purposes, but the Railroad Retirement Acts specifically prohibit state taxation of retirement benefits, so Tier 1 benefits are completely excluded from gross income for state purposes.

**Public Assistance**

Assistance provided under the Wisconsin Works program, Medicaid, general relief, and other public assistance to individuals and families is excluded from the gross income of the recipients.

**Sickness and Injury Benefits**

Compensation for sickness or personal injury excluded from gross income includes the following:

- Amounts received under the worker's compensation and social security acts,
- Damages received as a result of a court suit or other legal settlement in a personal injury case,
- Proceeds received from an accident, health or medical insurance policy paid for by the taxpayer,
- A pension, annuity or similar allowance for sickness or injury sustained while active in the armed forces, the Coast and Geodetic Survey, the Public Health Service or the Foreign Service, and disability income received by an employee of the United States for injuries incurred in a terrorist attack during the performance of duties outside the U. S.
- Employer contributions to an accident or health plan designed to benefit the employee, and
- Sick pay or employer-financed disability benefits, other than reimbursement for medical expenses deducted in the same year or a prior year, which is regarded as taxable income.

**Distributions from Retirement Plans for Premiums for Health and Long-term Care Insurance**

Pension distributions from government retirement plans to retired public safety officers used to pay health insurance are excluded from income up to a maximum of \$3,000 annually.

**Group Term Life Insurance Purchased for Employees**

The cost of group term life insurance provided to an individual under a policy carried by an employer is generally considered taxable income. However, the cost incurred in purchasing the first \$50,000 worth of coverage is excluded from the gross income of employees.

**Death Benefits**

Amounts paid under a life insurance contract are excluded whether these sums are paid at one point or over time.

**Meals and Lodging to Employees**

Employees may exclude from gross income the value of any meals or lodging provided to them for the convenience of the employer. Meals must be furnished on the employer's business premises and lodging must have been accepted by an employee as a condition of employment.

**Scholarships and Fellowships**

Scholarships and fellowships are excluded from gross income when received by a degree candidate at an educational institution and when used to pay tuition and course-related fees or to purchase books, equipment, and supplies. Amounts used for room and board, however, must be included in income. Scholarships and fellowships do not qualify for the exclusion if they are made either to compensate the recipient for services provided, or to allow the recipient to pursue studies or research that primarily benefit the person or institution paying the scholarship and fellowship.

**Awards and Prizes**

Awards or prizes received in recognition of religious, charitable, scientific, educational, literary or civic achievement may be excluded from gross income if the amount received is transferred to a government agency or a charitable organization. Further, the exclusion applies only if the recipient was selected without any action on his or her part to enter the competition for the award and only if the recipient is not required to render any substantial future services as a condition of receiving the award.

Employee awards for length of service or achievement are generally excludable from gross income to the extent of the deduction claimed by the employer. Deductions of such awards are limited.

**Rental Value of Parsonages**

The allowance paid to a minister for the purpose of renting a home, or the rental value of the home furnished as part of compensation, is excluded from gross income. In both cases, the associated utility expenses are considered part of the allowance and, as such, excluded from gross income.

### **Reduced Armed Forces Retirement Pay**

The amount deducted from retirement or retainer pay of members or former members of the United States Armed Forces under the Retired Serviceman's Family Protection Plan is excluded from gross income. The reduction in retirement pay is made by contract between the member of the service and the Armed Forces for the purchase of an annuity. This reduction is between 12.5% and 50% of retirement pay, but in no case less than \$25. If the person should die before the amount of the contract is paid, the survivor receiving the annuity may exclude from gross income any reductions in annuity payments used to conclude the contract.

### **Combat Pay and Other Armed Forces Exclusions**

The monthly compensation of members of the United States Armed Forces is excluded from gross income if the taxpayer served in a combat zone. The exclusion for commissioned officers is limited to the maximum amount that enlisted personnel may exclude. Currently designated combat zones and hazardous duty areas include:

- Afghanistan, along with Uzbekistan, Kyrgyzstan, Pakistan, Tajikistan, and Jordan;
- the Federal Republic of Yugoslavia (Serbia/Montenegro), Albania, the Adriatic Sea, and the Ionian Sea north of the 39th parallel;
- Bosnia, Herzegovina, Croatia, and Macedonia;
- the Persian Gulf, the Red Sea, the Gulf of Oman, the part of the Arabian Sea that is north of 10 degrees north latitude and west of 68 degrees east longitude, the Gulf of Aden, and the total land areas of Iraq, Kuwait, Saudi Arabia, Oman, Bahrain, Qatar, and the United Arab Emirates;
- The Philippines (only troops with orders referencing Operation Enduring Freedom);
- Yemen, Djibouti, and Somalia.

Exclusions applicable to miscellaneous Armed Forces income are:

- All payments of benefits under any law administered by the Veterans' Administration (38 U. S. Code 3101);
- A pension of \$100 per month for all persons over the age 65 who are on the Army, Navy, Air Force, or Coast Guard Medal of Honor roll (38 U. S. Code 562);
- Benefits under World War Adjusted Compensation Act;
- Benefits under World War Veteran's Act;
- Leave compensation payment under Armed Forces Leave Act;
- G.I. Bill educational benefits;
- In-kind benefits provided to armed forces personnel;

### **Life Insurance Dividends**

Dividends on matured insurance policies may be excluded from gross income for income tax purposes.

### **Cancellation of Business Property Indebtedness**

A taxpayer need not recognize income when a debt of the taxpayer is fully or partially canceled if the individual incurred the debt in connection with property used in a trade or business. The taxpayer must agree to reduce the basis (cost) of the property if an economic benefit was realized as a result of the discharge of a debt for the purpose of determining future depreciation and capital gains or losses.

### **Income Realized from Debt Cancellation Through Bankruptcy**

When a debt is forgiven in connection with a bankruptcy proceeding, the income realized is not subject to tax unless the principal purpose of the bankruptcy plan is the evasion of income taxes.

### **Interest on Certain State and Local Bonds**

In general, interest on obligations of state and local governments is subject to the Wisconsin income tax, even though such income may be exempt from federal taxation. However, interest on the following bonds is exempt:

- bonds issued by city housing authorities, city redevelopment authorities, local exposition districts and local cultural arts districts;
- certain bonds issued by the Wisconsin Housing and Economic Development Authority (WHEDA)
- Wisconsin professional baseball park and football stadium district bonds;
- Wisconsin Housing Finance Authority (WHFA) bonds (that is, bonds issued before 1983, when WHFA became known as WHEDA);
- bonds issued by the Government of Puerto Rico, Guam, the Virgin Islands or for bonds issued after October 16, 2004, the Government of American Samoa; and
- Wisconsin higher education bonds.
- Wisconsin Aerospace Authority bonds.
- Certain bonds issued on or after October 27, 2007, by the Wisconsin Health and Education Facilities Authority.

### **Gifts and Inheritances**

The value of property received by gift, inheritance, or bequest is excluded from gross income. This exclusion does not apply to the income from property received by gift or bequest nor to a gift or bequest consisting of income from property rather than the property, itself. No administrative records are available on the total value of property transferred by gift or inheritance, so a comprehensive estimate of the revenue loss has not been calculated.

### **Appreciation of Property Held at the Time of Death**

Appreciation (gain) from property held at the time of death is not subject to tax for either the deceased or his or her heirs. The basis of inherited property generally is its fair market value at the time of the decedent's death, rather than its cost when the decedent acquired it. As a result, the appreciation of the property while it was held by the decedent – the difference in fair market value at the time of death and the decedent's cost of purchasing the property – is not taxed.

The estimate of the revenue loss from this exclusion reflects the effect of Wisconsin's 30% exclusion for long-term capital gains.

### **Employer Contributions to Pension Plans and Net Pension Fund Earnings**

Amounts contributed to qualified pension, profit-sharing, stock bonus, bond purchase, and annuity plans by an employer on behalf of his or her employees are generally not treated as income taxable to the employees at the time the contributions are made. Further, employers may generally deduct these contributions from gross income, and the earnings that accrue on the contributions are excluded from the employee's income, so long as the assets are retained within a qualified plan.

Tax is imposed when distributions are made from the plan to employees in the form of pensions and annuities. At that time the taxable portion of the plan benefits must be included in the gross income of the recipient. The portion of the benefits representing the employee's contribution to the plan is not taxable upon distribution if the employee's contributions were already included in income and subject to tax at the time the contributions were made.

Taxing employer contributions and earnings on pension plan assets at the time of withdrawal, rather than at the time of contribution, results in a revenue loss if the plan beneficiary pays tax at a lower rate after retirement.

### **Employer Reimbursement of Employee's Educational Expenses**

Up to \$5,250 of non-job related employer-provided educational assistance may be excluded from gross income.

**Employer-Provided Child Care**

The value of child or dependent care services provided by an employer under a nondiscriminatory plan is excluded from gross income to the extent that the amount excluded does not exceed \$5,000 (\$2,500 for married separate filers). Further, the value of services excluded may not exceed the earned income of the employee or the earned income of an employee's lower-earning spouse.

**Employer-Provided Adoption Assistance**

Up to \$13,360 per child in adoption assistance provided by an employer is excluded from gross income in tax year 2011. The \$13,360 exclusion is allowed for special needs adoption even if that amount exceeds actual expenses incurred. The exclusion is phased out for persons with modified adjusted gross income between \$185,210 and \$225,210. The amount excludable and the phase out ranges are indexed for inflation.

**Transportation and Other Fringe Benefits**

Employer-provided transportation in a commuter vehicle, transit passes, and parking are excluded from income of the employee receiving these benefits. In 2011, the exclusion for commuter transportation or transit passes is limited to \$230 per month and the exclusion for parking is limited to \$230 per month. These amounts are indexed for inflation. Wisconsin limits this exclusion to \$120 per month in 2011.

Other fringe benefits excluded from income include services provided by employers to employees at no additional cost to the employer, employee discounts, property or services for which an employee would be allowed a deduction if the employee provided that property or service, property or service of minimal value, reimbursement of moving expenses, and retirement planning services. Only the transportation benefits have a measurable fiscal effect.

**Foster Care Payments**

Foster care payments to care providers by a state or local government or a foster care placement agency are excluded from income.

**Cancellation of Student Loans**

The amount of a student loan funded by federal, state or local government programs that has been forgiven is not included in taxable income when the cancellation is contingent upon the beneficiary working for a specified period of time in a certain area or for a particular type of employer.

**Recovery of Tax Benefit Items**

Income from the recovery of an amount for which a tax deduction or other benefit was claimed during the previous year is not included in income if the deduction did not reduce income tax liability in that previous year. However, if the deduction led to reduced tax liability in a prior year, then the recovery is taxable. An example of a recovered tax benefit item is a debt that is written off in one year but received in a later year.

**Foreign Earned Income**

Qualified individuals who work abroad and receive earned income from foreign sources may elect to exclude up to \$92,900 of such income in 2011. The exclusion amount is adjusted to take into account employer-provided housing allowances, or housing expenses where allowances are not provided, and the maximum exclusion is reduced for taxpayers who work abroad for only part of a year.

**Natural Resource-Related Cost-Sharing Payments**

Payments received by individuals primarily for the purpose of conserving soil and water resources, protecting or restoring the environment, improving forests, or providing a habitat for wildlife may be excluded from gross income.

**Passive Activity Losses**

In general, when the deductions exceed the income from a business activity, the resulting loss can be offset against other types of income. However, passive activity losses – those from business activities in whose management or operation taxpayers do not actively or materially participate – are subject to passive loss

restrictions. Under the restrictions, passive losses can only be offset against other passive income. Passive losses subject to the restrictions can be carried forward indefinitely until used against other passive income or until the taxpayer disposes of the ownership interest in the passive business activity in a fully taxable transaction.

Certain activities are explicitly treated by the tax code as either passive or active. For example, interest, dividends, annuities, royalties and other portfolio income are not treated as income from a passive activity, so net losses generated from passive activities cannot be used to offset portfolio income.

A rental activity generally is treated as a passive activity, though a limited exception exists for rental activity losses incurred by a taxpayer who actively participates in the rental real estate venture and owns at least a 10% interest in the rental property. Under the exception, up to \$25,000 of losses from rental real estate may be used to offset income from non-passive sources. The \$25,000 maximum is reduced (but not below zero) when the taxpayer's adjusted gross income exceeds \$100,000 and is completely phased out when AGI exceeds \$150,000. Special rules apply for married taxpayers who file separate returns and live apart. A taxpayer with a working interest in oil and gas activities is also exempt from the passive loss rules.

## **ADJUSTMENTS TO FEDERAL GROSS INCOME**

An adjustment is an amount subtracted from gross income to arrive at adjusted gross income.

### **Capital Losses**

Losses from the sale or exchange of capital assets may be used to offset gains from capital assets. If the amount of capital losses exceeds the amount of capital gains in the current year, the net capital loss may be used to offset up to \$500 of ordinary income for Wisconsin tax purposes (under federal law, the offset is limited to \$3,000). The amount of net capital loss not allowed as a deduction in the current year may be carried forward to future years to offset capital gains or ordinary income up to the \$500 limit, up to 15 years.

Wisconsin treatment of long-term losses incurred prior to tax year 1982 also differs from the federal treatment. The Wisconsin modification for these pre-1982 long-term losses is described in the section on "Modifications to Federal Adjusted Gross Income."

### **Losses from the Sale or Exchange of Business Property**

Losses from the sale or exchange of property used in a business are deductible.

### **Pension, Profit-Sharing, Annuity, and Bond Purchase Plans of Self-Employed Individuals**

A self-employed taxpayer may deduct from gross income contributions made on the taxpayer's behalf to a pension, profit-sharing, annuity or bond purchase plan. Contributions must be made from earned income.

### **Individual Retirement Accounts (IRAs)**

Taxpayers may receive tax benefits from three different types of individual retirement accounts under federal law: the traditional IRA, the Roth IRA, and the education IRA.

#### **1. Traditional IRA**

Persons contributing to a traditional IRA may claim a deduction for the amount contributed and are not taxed on the earnings that remain in a traditional IRA. IRA contributions and earnings on them are taxable when withdrawals are made from the account.

The full deduction for contributions is limited to persons who are not covered by an employer-provided retirement plan or who are covered by such plans but have adjusted gross income, for tax year 2011, less than \$56,000 for single persons, \$90,000 for married persons filing jointly or \$0 for married persons filing separately. The deduction is phased out over the next \$10,000 of income (\$20,000 for married persons filing jointly).

For tax year 2011, the deduction is generally limited to \$5,000 for each tax filer and spouse, but not more than the person's earnings. For married couples, the combined IRA deduction may not exceed combined earnings; in other words, a spouse with little or no earnings may still claim an IRA deduction if the other

spouse has earnings in excess of his or her own IRA deduction. These maximum contributions are coordinated among the three types of IRAs; the combined contribution to all IRAs for any one person cannot exceed \$5,000 or the person's earnings. Further, taxpayers age 50 and older are allowed additional "catch-up" contributions of \$1,000 in 2011.

With limited exceptions, amounts in a traditional IRA cannot be withdrawn without penalty prior to age 59½. Early withdrawals must be included in gross income and are also subject to an additional 10% federal penalty tax. The 10% early withdrawal penalty does not apply in cases of death and disability or when the withdrawals are used for qualified higher education expenses or first-time homeowner expenses (up to \$10,000). Wisconsin imposes a state penalty equal to 33% of the federal penalty. Amounts withdrawn from an IRA after age 59½ must be included in gross income in the year of the withdrawal. Withdrawals generally must begin after the individual reaches the age of 70½. Insufficient withdrawals after age 70½ are subject to a penalty tax.

Persons can make nondeductible contributions to their retirement accounts and the earnings on those nondeductible contributions can be excluded from income, as long as the assets are retained within the retirement account.

## 2. Roth IRA

A Roth IRA is an account for which the contributions are not deductible when made, but qualified distributions, including earnings on contributions, are not taxable. In tax year 2011, persons whose adjusted gross income does not exceed \$107,000 if single, \$169,000 if married filing jointly or \$0 if married filing separately may contribute up to \$5,000 per person per year to a Roth IRA. The amount of contribution permitted is phased out as income rises to \$122,000 for single filers, \$179,000 for married joint filers, and \$10,000 for married separate filers. Individuals who are married filing separately and did not live with their spouses at any time during the year are treated as single for the purpose of contribution limits.

The increases in contribution limits and the catch-up contributions for taxpayers age 50 and older that apply to traditional IRAs also apply to Roth IRAs.

Distributions from a Roth IRA are not subject to tax if they are made no earlier than five years after the account is established and if the taxpayer has reached age 59½. Earlier distributions are not subject to tax if they are made because of the death or disability of the taxpayer or for first-time homebuyer expenses (up to \$10,000). Nonqualified distributions must be included in gross income and are subject to a 10% federal penalty tax and a state penalty equal to 33% of the federal penalty. Unlike a traditional IRA, distributions from a Roth IRA are not required upon reaching the age of 70½.

## 3. Education IRA

An education IRA (also known as a Coverdell Education Savings Account) is similar to a Roth IRA: contributions are not deductible, but qualified distributions are not subject to tax if they are used to pay the post-secondary expenditures of the beneficiary.

For tax year 2011, contributions of up to \$2,000 per child may be made to an education IRA when income is less than \$95,000 for single persons and \$190,000 for married couples filing jointly. The amount that may be deducted is phased out as income rises to \$110,000 for single filers and \$220,000 for married joint filers.

## Student Loan Interest

Persons who have taken out loans on behalf of themselves, their spouse or their dependents to pay for the cost of attending an eligible educational institution may deduct the interest they pay on these loans. The maximum deduction allowed is \$2,500. For 2011, the maximum deduction amount is reduced for single and head of household filers when modified FAGI is more than \$60,000 and is eliminated when modified FAGI exceeds \$75,000; for married joint filers the deduction is phased out between \$120,000 and \$150,000 of modified FAGI. Married separate filers and those filers claimed as dependents on another's return may not claim the deduction.

## Self-Employment Tax

Self-employed persons are allowed to deduct the employer-equivalent portion of their self-employment taxes, which are paid for social security and Medicare coverage. This deduction equalizes treatment between self-employed and employed persons. For the employed, the social security tax is shared by the employer and the employee; the amount paid by the employer is not considered income to the employee and is deductible for the employer.

## Health Insurance of Self-Employed Persons

Under federal law, self-employed persons can deduct up to 100% of premiums paid for health insurance. The deduction may not exceed the earned income from the trade or business for which the insurance plan was established. Wisconsin has its own deduction for up to 100% of the premiums paid for health insurance by self-employed persons, which was put in place when only a partial deduction was allowed under federal law.

## Health Savings Accounts and Medical Savings Accounts

A federal deduction is allowed for contributions to Archer Medical Savings Accounts (MSA) and Health Savings Accounts (HSA). Participation in the HSA or MSA program requires concurrent enrollment in a high deductible health plan, defined as a health plan with a higher annual deductible than typical health plans and with a maximum limit on the annual amount of out-of-pocket medical expenses that the participant must pay for covered expenses.

Employer contributions to HSAs or MSAs are excluded from gross income and contributions by individuals are deductible from income. Distributions from the accounts are excluded from income if used to pay qualified medical expenses, including un-reimbursed medical costs of an eligible participant, spouse, or dependents. Distributions used for nonqualified expenses are subject to a 20% federal excise tax, unless the participant is disabled or is age 65 or older.

## Moving Expenses

A deduction from gross income is allowed for moving expenses when the move is related to starting work in a new location. Deductible moving expenses include the cost of transporting household goods and personal effects, and the cost of travel to the new residence, including lodging, but not meals.

## Alimony

Alimony, separate maintenance or similar periodic payments may be deducted from the gross income of the spouse or former spouse making the payments; however, they are deductible only to the extent that the payments are includible in the gross income of the recipient. Such payments must be made pursuant to a decree of divorce or separation. Child support and property settlements are not considered alimony.

## Penalty on Early Withdrawal of Savings

Penalties paid because of premature withdrawal of funds from time savings accounts or deposits may be deducted from gross income. The adjustment is allowed for amounts forfeited to a bank, mutual savings bank, savings and loan association, cooperative bank or homestead association as a penalty for premature withdrawal of funds from a time savings account, certificate of deposit or similar class of deposit. The deduction is not allowed when the loss is incurred in a transaction connected with a trade or business.

## MODIFICATIONS TO FEDERAL ADJUSTED GROSS INCOME

A modification is an addition to or subtraction from federal adjusted gross income authorized by the Wisconsin Statutes to compute Wisconsin adjusted gross income (also referred to as Wisconsin income). In this report, with the exception of the capital gains add modification discussed in the previous section on "Adjustments to Gross Income," only subtraction modifications are described because only they constitute tax exemption devices.

## Social Security Benefits: Difference in State and Federal Treatment

Wisconsin does not tax social security benefits, while up to 85% of those benefits are subject to federal tax. A subtract modification allows taxpayers with federally taxable social security to exclude those amounts from Wisconsin income. The \$270 million revenue loss for FY12 for this modification is in addition to the \$264 million revenue loss from the exclusion discussed in the "Exclusions from Gross Income" section; the total fiscal effect of the state's tax treatment of social security is \$534 million.

## Interest on U.S. Obligations

All interest and dividend income, less related expenses, received on obligations of the United States, its territories and the District of Columbia may be subtracted from federal adjusted gross income in determining

Wisconsin adjusted gross income. The subtraction applies to interest on obligations issued directly by the federal government and obligations issued by independent agencies, which federal law prohibits states from taxing. The fiscal effect of this exemption is difficult to estimate because a significant portion of these bonds are held indirectly by individuals through mutual funds, partnerships, and other investment vehicles. The fiscal year 2012 estimate reflects only U.S. government interest explicitly deducted from Wisconsin income tax returns and does not reflect any amounts deducted as part of the distributive share of those investment vehicles.

### **Capital Gains Exclusion**

Wisconsin allows taxpayers to exclude from income 30% of the capital gains on assets held more than one year. A 60% exclusion is available for the capital gains on farm assets held more than one year.

### **Capital Gains from Qualified Small Business Stock**

The state excludes from income 100% of the amount of net capital gains from qualified business stock issued on or after January 1, 1986. To qualify for the exclusion, taxpayers must be issued a certification notice by the business, have not acquired the stock as a gift, and hold the stock for a period of at least five years. The criteria for qualified small businesses are listed under Wisconsin Statutes, sec. 71.01 (10).

### **Gains on Sales of Business Assets to Related Persons**

Gains on sales of business assets, including assets used in farming, to persons related to the seller within the third degree of kinship are not subject to tax. These related persons include parents, children, grandparents, grandchildren, brothers and sisters, uncles and aunts, nephews and nieces, and great grandchildren.

### **Net Long-Term Capital Losses (Pre-1982)**

Net long-term capital losses from years prior to 1982 that were not allowed as an adjustment to federal gross income in the year a federal net capital loss deduction was taken may be subtracted from federal adjusted gross income. The subtraction is limited to \$3,000 (\$1,500 for married persons filing separately). The unused portion of pre-1982 net long-term capital losses may be carried forward to future years.

Taxpayers deducting pre-1982 net long-term capital losses are not subject to the \$500 state limit on the net capital loss deduction described in the earlier section on "Adjustments to Gross Income".

### **Certain Government Employee Pensions**

Payments received from the selected retirement systems by persons who were members of or retired from these systems prior to 1964 are excluded from Wisconsin income, to the extent the payments were included in federal income. The Milwaukee Public School Teachers, Milwaukee City Employees, Milwaukee County Employees, Milwaukee Sheriff, Milwaukee City Police, Milwaukee Fire Fighters, and Wisconsin Public School Teachers retirement systems, and the U.S. Civil Service and Military Employee retirement system are covered by this exemption.

All payments from the U.S. military retirement system and all U.S. government pension payments received by retirees of the U.S. Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, and the commissioned corps of the public health service are exempt.

### **Retirement Income**

Up to \$5,000 in qualified pension and IRA income can be excluded from gross income for taxpayers who are 65 or older and have federal adjusted gross income less than \$15,000 for single filers or \$30,000 for married joint filers.

### **State Legislators' Per Diem Expenses**

Amounts received by state legislators as an allowance for expenses incurred while in Madison on legislative business are excluded from Wisconsin adjusted gross income, provided a deduction for travel expenses is not claimed.

### **Health Insurance Premiums of the Self-Employed and Certain Employees: Difference in State and Federal Treatment**

To the extent that health insurance premium payments have not already been deducted from federal income, a subtraction is available for the full amount of premiums paid by self-employed individuals, individuals without an

employer, and individuals with an employer who did not contribute toward the cost of insurance. The remaining group of individuals, those people who were employed and their employers paid for a portion of the cost of insurance, were able to claim a subtraction for 25% of their share of the premium in 2011. This amount increases to 45% for 2012 and 100% for 2013 and thereafter.

The \$59.9 million revenue loss is the amount of loss that occurs because the Wisconsin health insurance premium deductions not limited to self employed individuals and are more generous for self employed individuals than the federal deduction for the self-employed premiums. The revenue loss to the state from the federal deduction for the self-employed is \$24.3 million, so the total fiscal effect of state health insurance deductions is \$84.2 million.

### **Long-Term Care Insurance Expenses**

A deduction is allowed for premiums paid for long-term care insurance. This insurance provides coverage for convalescent or custodial care, or care for a chronic condition or terminal illness that is provided in a person's home, an institution or a community-based setting. Qualified expenses include expenses for policies that cover a taxpayer and his or her spouse. Qualified expenses subtracted from gross income in the calculation of federal adjusted gross income cannot be claimed for this deduction. Also, qualified expenses claimed for this deduction cannot be used to calculate the Wisconsin itemized deduction credit.

### **Unemployment Compensation**

Wisconsin excludes from income a portion of unemployment compensation when income falls below certain amounts. Taxable unemployment compensation equals the lesser of total unemployment compensation or 50% of the amount, if any, by which unemployment benefits plus the recipient's adjusted gross income (excluding unemployment compensation and certain disability benefits) exceed specified base amounts. The base amounts are: \$12,000 for single persons and married persons who file separately and lived apart from their spouses for the full tax year; \$18,000 for married persons filing a joint return; and \$0 for married persons who file separately but lived with their spouses for at least part of the tax year.

### **Disability Income**

A subtraction is allowed for payments to disabled persons that are included in federal income but were excluded under sec. 105 (d) of the Internal Revenue Code prior to its repeal in 1983. This exclusion is limited to individuals who are retired on permanent and total disability, are less than 65 years old, and have FAGI of less than \$20,200 (\$25,400 if married and both spouses are eligible).

### **Adoption Expenses**

Adoptive parents may deduct adoption fees, court costs or legal fees relating to the legal adoption of a child. This subtraction from federal adjusted gross income is limited to \$5,000 of adoption expenses that occur during the tax year in which the adoption is finalized and the two prior tax years. Employer-paid adoption expenses that under federal law are excluded from gross income may not be used for the deduction.

### **Higher Education Tuition Expenses**

The federal tax deduction for qualified tuition and fees does not apply in Wisconsin; however, state law does allow a tuition deduction. For tax year 2011 a deduction of up to \$6,185 per student per year is allowed for tuition that is paid to any university, college, technical college or a school approved by the Educational Approval Board that is located in Wisconsin. Tuition paid to a public vocational school or public institution of higher education in Minnesota under the Minnesota-Wisconsin reciprocity agreement also qualifies for the deduction. Eligible expenses include tuition for the education of the claimant, the claimant's spouse, and his or her dependent. The maximum deduction amount is phased out in specified ranges of federal adjusted gross income: between \$50,000 and \$60,000 for single and head of household filers, \$80,000 and \$100,000 for married joint filers, and \$40,000 and \$50,000 for married separate filers.

### **Prepaid College Savings and Tuition Plans**

A deduction of up to \$3,000 per year per beneficiary is allowed for contributions to a college savings plan or to an existing prepaid tuition plan operated by EdVest. To prevent double-counting of the deduction, no deduction is allowed for any costs paid out using distributions from such a college savings or prepaid tuition plan. In

particular, taxpayers cannot claim a deduction for tuition financed by a distribution from an EdVest account when the contribution to that account was previously deducted.

The deduction is allowed when the beneficiary is the claimant, the claimant's child, the claimant's grandchild, great-grandchild, niece or nephew.

In addition, any interest earnings on contributions to an EdVest plan may be deducted, to the extent these earnings are included in federal adjusted gross income and provided that the distributions from the plan are used for qualified educational purposes. Distributions from these plans are also exempt from federal tax.

The college savings plan allows individuals to purchase tuition units that apply toward tuition or other costs at any institution of higher education in the United States. The prepaid tuition program is limited to University of Wisconsin System schools and Minnesota schools included under the Minnesota-Wisconsin tuition reciprocity agreement.

### **Human Organ Donation Expenses**

An individual who, while living, donates one or more of his or her human organs to another human being for human organ transplantation may subtract \$10,000 from federal adjusted gross income in the year in which the transplant occurs. The subtract modification may only be claimed for travel expenses, lodging expenses, and lost wages that are incurred by the claimant and related to his or her organ donation.

### **Active Duty Military Income**

Members of the reserves or National Guard components of the U.S. armed forces who are called to federal active duty, may deduct from FAGI the amount of military pay received that relates to the period of time during which they are on active duty. Military income received while on active duty and serving in a combat zone is already excluded from federal income and therefore may not be deducted from FAGI. Military pay deducted from income may not be used in claiming the armed forces member tax credit.

### **Child and Dependent Care Expenses**

Individuals who qualify for the federal credit for child and dependent care expenses generally qualify for the Wisconsin deduction as well. The deduction is available to individuals who paid someone to care for their qualifying children under age 13 or their disabled spouse or other disabled person.

The deduction is new in 2011 and is capped at \$750 of expenses for one qualifying person or \$1,500 for two or more qualifying persons.

### **Relocated Business**

A deduction is allowed for income of a business that relocated to Wisconsin from another state or country during the tax year. A business qualifies as having relocated to Wisconsin if it did not do business in Wisconsin during the previous two years and moved 51 percent of the business workforce payroll or at least \$200,000 of the workforce wages to Wisconsin during the year the credit is claimed.

The deduction is equal to the net business income earned by the relocated business for two consecutive taxable years beginning with the relocation year.

### **Job Creation**

A deduction is allowed based on the increase in the number of full-time employees hired by Wisconsin businesses. The deduction is equal to \$2,000 per eligible employee for businesses with gross receipts greater than \$5 million or \$4,000 per eligible employee for businesses with gross receipts of \$5 million or less.

## **DEDUCTIONS AND EXEMPTIONS FROM ADJUSTED GROSS INCOME**

A deduction is an amount subtracted from Wisconsin adjusted gross income (or total income) to yield Wisconsin taxable income – the amount to which the tax rates are applied. Federal taxpayers may claim either a standard deduction or an itemized deduction. Wisconsin taxpayers are allowed a standard deduction only, though taxpayers may be eligible for an itemized deductions credit, explained in the next section. Wisconsin also provides a personal exemption that is subtracted from Wisconsin adjusted gross income.

## Standard Deduction

Wisconsin provides a sliding scale standard deduction that decreases as income increases. For tax year 2011, the standard deduction for single persons was \$9,930 when Wisconsin adjusted gross income (WAGI) was less than \$14,310, and it was phased out as WAGI rose from \$14,310 to \$97,060. For heads of households, mostly single parents, the deduction was \$12,820 when WAGI was less than \$14,310, and it was phased down to the level of the standard deduction of single filers as WAGI rose from \$14,310 to \$41,795. When WAGI exceeded \$41,795, heads of households received the same deduction as single filers. For joint filers, the standard deduction was \$17,880 when WAGI was less than \$20,090 and was phased out when WAGI was between \$20,090 and \$110,493. For married persons filing separately, the standard deduction was \$8,490 when WAGI was less than \$9,540 and was phased-out when WAGI was between \$9,540 and \$52,466. These amounts are indexed for inflation.

The estimate of revenue loss for the standard deduction does not reflect the amount of the itemized deductions credit that would be claimed by persons not currently claiming it if the standard deduction was eliminated; the credit cannot be calculated because the amount of their itemized deductions are not known for all taxpayers.

## Personal Exemption and Additional Elderly Exemption

Wisconsin provides an exemption equal to \$700 for each tax filer, spouse and dependent, plus an additional exemption of \$250 for each taxpayer and spouse age 65 and older.

## CREDITS

A credit is an amount that is subtracted directly from the taxpayer's Wisconsin gross tax liability (i.e., the amount determined by applying the Wisconsin tax rates to Wisconsin taxable income) to determine the Wisconsin net tax liability. A credit can be nonrefundable or refundable. A nonrefundable credit is limited to the amount of income tax otherwise due; it cannot be used to reduce taxes to less than \$0. A refundable credit is paid to claimants in the form of a refund check when the amount of the credit exceeds the tax otherwise due.

### Itemized Deductions Credit

Federal law allows itemized deductions to be subtracted from federal adjusted gross income when these deductions exceed the federal standard deduction. Wisconsin does not allow itemized deductions, but instead has a nonrefundable credit for some of the expenses for which federal itemized deductions may be claimed. This credit is equal to 5% of the eligible itemized deductions in excess of Wisconsin's sliding scale standard deduction. The eligible expenses include medical expenses, interest, charitable contributions, and certain casualty losses related to a federally-declared disaster. No credit is allowed for the federal itemized deductions for state and local taxes and miscellaneous expenses.

The expenses used in calculating the Wisconsin itemized deductions credit are described below, and their fiscal effects are estimated. The sum of these estimates for each particular expense exceeds the total fiscal effect for the itemized deductions credit because of interaction effects.

#### 1. Medical Expenses

Health expenses can be claimed as an itemized deduction to the extent that the total amount of medical expenses not compensated for by insurance exceeds 7.5% of the taxpayer's federal adjusted gross income. Eligible expenses include: fees for doctors, dentists, health practitioners and hospital services; amounts spent for prescription medicine and drugs; premiums paid on medical or health insurance policies; costs of medical equipment (e.g. motorized wheelchairs, hearing aids, dentures, eye glasses); and the cost of transportation, meals, and lodging for needed medical care. The credit for medical expenses reduced tax revenues by \$23.5 million in FY12.

#### 2. Interest

Mortgage interest on a primary personal residence located in Wisconsin qualifies for the state's itemized deductions credit. Wisconsin also allows the credit for interest paid on indebtedness related to investments to the extent that the investment interest is offset by the taxpayer's net investment income and to the extent that income is subject to Wisconsin tax. The revenue loss from the credit for interest expense was \$191 million in FY12.

### 3. Charitable Contributions

Contributions to recognized charitable organizations or activities can be claimed as an itemized deduction. In general, a recognized charity is any governmental body or any public or private corporation, trust or foundation organized and operated principally for charitable, religious, scientific, literary or educational purposes. Certain limitations apply on contributions of property or the taxpayer's personal services. Additional limitations apply on the total amount of charitable contributions that can be deducted within a single year. The revenue loss from the credit for charitable contributions was \$98.1 million in FY12.

### 4. Casualty Losses

Only casualty losses directly related to a federally-declared disaster can be claimed for purposes of the itemized deduction credit. The revenue loss from the credit for casualty losses was \$109,000 in FY12.

#### School Property Tax Credit

The school property tax credit is equal to 12% of the first \$2,500 of property taxes or rent constituting property taxes paid on a person's primary residence and contiguous land, up to a maximum credit of \$300. For renters, "rent constituting property taxes" means 25% of rent if heat is not included or 20% of rent if heat is included in rent. No credit is allowed for property taxes or rent that is deductible as a trade or business expense. The credit is nonrefundable.

#### Working Families Credit

The working families credit equals a taxpayer's net tax liability, defined as gross tax less the itemized deductions, school property tax, and historic rehabilitation credits, when income is less than \$18,000 for married couples filing jointly and \$9,000 for other tax filers. Essentially, the credit eliminates tax liability when income is below these ceilings. The credit is phased out over the next \$1,000 of income above these ceilings. The credit is limited to full-year residents and no credit is allowed for persons who are claimed as a dependent on another filer's tax return. It is nonrefundable.

#### Married Couple Credit

Wisconsin provides a nonrefundable credit for married couples when both spouses are working to offset the marriage tax penalty facing two-earner couples. A penalty occurs when a married couple pays more tax than what they would if the two spouses were taxed as two single filers. The credit equals 3% of the first \$16,000 of earnings, resulting in a maximum credit of \$480.

#### Armed Forces Member Credit

Wisconsin allows a nonrefundable credit of up to \$300 for military pay received for service while stationed outside the United States, to the extent this pay is included in WAGI. If both spouses of a married couple filing jointly receive pay for military service outside the country, each may claim the \$300 credit. The credit is allowed for full-year residents of Wisconsin only.

#### Manufacturing Sales Tax Credit

Until 2006, a nonrefundable credit could be claimed for the amount of Wisconsin sales tax paid on fuel and electricity consumed in manufacturing tangible personal property in the state. The credit was designed to be the equivalent of a sales tax exemption. Unused amounts of credit could be carried forward and offset against tax liability over the next 20 years. Corporations were required to increase their net income by the amount of credit claimed in lieu of reducing their deduction for the sales tax portion of the expense of fuel and electricity.

Beginning in 2006, fuel and electricity used in manufacturing are exempt from the sales tax and the credit for sales tax is repealed. Manufacturers that meet certain conditions may continue to use manufacturers' sales tax credit carried forward from prior years to offset income in the future (see the description for the Manufacturing Investment Credit). Manufacturers with up to \$25,000 of unused credit could take up to 50% in tax years 2006 and 2007. Manufacturers with more than \$25,000 of unused credit were allowed to deduct from income 50% of the amount that was added back to income when the credits were claimed in tax year 2007 and 50% in tax year 2008.

### **Manufacturing Investment Credit**

Beginning in 2008, businesses whose unused credit for sales tax on fuel and electricity used in manufacturing was greater than \$25,000 on January 1, 2006 were able to claim a manufacturing investment credit, provided they met certain job retention, investment or other tests. The credit is equal to the unused manufacturers' sales tax credit, amortized over 15 years. Claimants must satisfy one of the following:

- Retention of 100% of the full-time (at least 35 hours per week) jobs employed by the company as of December 23, 2003.
- Average annual investment since January 1, 2003, equal to 2% of total book value of the company's depreciable assets in Wisconsin-based plants and facilities or \$5 million.
- Other criteria specific to individual industries as determined by the Wisconsin Economic Development Corporation, in consultation with the Department of Revenue, through administrative rule.

### **Development Zone Credits**

Development zone credits are available to taxpayers who are certified by the Wisconsin Economic Development Corporation to participate in the Wisconsin development zone program. Credits awarded to non-corporate entities are generally passed through to their owners in proportion to their ownership interest in the entity, and may be claimed on the owner's individual income tax return. These credits are nonrefundable, so they are limited to tax liability otherwise due, however unused amounts may be carried forward. This program and the credits are more fully discussed in the chapter on "Corporate Income and Franchise Taxes."

### **Angel Investment Credit and Early Stage Seed Investment Credit**

The angel investment credit is available to individuals for investments in qualified new business ventures certified by the Wisconsin Economic Development Corporation. A credit for 25% of the investment may be claimed in the taxable year the investment was made. After December 31, 2010, the total amount of the credit that may be claimed by all taxpayers annually is \$18 million, plus an additional \$250,000 for investments in nanotechnology businesses. The maximum amount of credit is \$47.5 million for all tax years. The maximum amount that can be invested in a single business is \$2 million with the requirement that the investment be held for a minimum of three years. The credit is nonrefundable.

The early stage seed investment credit is available for businesses and individuals for 25% of qualified investments. After December 31, 2010, the maximum annual amount that may be claimed by all claimants is \$20.0 million, plus an additional \$250,000 per year for investments in nanotechnology businesses. A more detailed description of the credit can be found in the "Corporate Income and Franchise Taxes" chapter.

### **Historic Preservation Credits**

Two nonrefundable credits are provided to encourage the rehabilitation of historic buildings in Wisconsin.

#### **1. Supplement to the Federal Historic Rehabilitation Credit**

The supplement to the federal historic rehabilitation credit, equal to 5% of qualified rehabilitation expenditures, may be claimed for projects eligible for the federal credit. Qualified rehabilitation expenditures, defined under sec. 48 (g) of the Internal Revenue Code, are expenditures to substantially rehabilitate certified historic buildings for use in a trade or business. The rehabilitation work must meet historic preservation standards and the expenditures must exceed the taxpayer's adjusted basis in the building. Unused amounts of the credit may be carried forward for up to 15 years. The credit applies only to property located in Wisconsin. Taxpayers must reduce their Wisconsin adjusted basis in the building by the amount of the credit claimed. The reduced basis will result in lower depreciation deductions and will have the result that taxpayers may have an increased taxable gain from the sale or exchange of the property.

For rehabilitation projects undertaken by a partnership, tax-option corporation or limited liability company (LLC), the credit is passed through to the individual partners, shareholders or members in proportion to their ownership interest in the partnership, corporation or LLC.

## 2. State Historic Rehabilitation Credit

The state historic rehabilitation credit is equal to 25% of qualified expenditures to substantially rehabilitate certified historic buildings for noncommercial use. The credit applies to owner-occupied personal residences, provided that the residence is not used in the course of a trade or business. The credit cannot be claimed for rehabilitation of a personal residence if the person has already claimed a rehabilitation credit for another personal residence within the preceding five years. The rehabilitation work must meet historic preservation standards and the expenditures must exceed \$10,000. The maximum credit amount is \$10,000 (\$5,000 for married persons filing separately). Unused amounts of credit can be carried forward for up to 15 years. The credit applies only to property located in Wisconsin.

Taxpayers must reduce their Wisconsin adjusted basis in the building (or entire property, if not a building) by the amount of the credit claimed. The reduced basis will have the result that taxpayers may have an increased taxable gain from the sale or exchange of the property.

### Dairy and Livestock Farm Investment Credit

For taxable years beginning after 2005 and before 2017, a nonrefundable credit is available for 10% of certain expenditures to modernize or expand a dairy or livestock farm. The maximum amount of the credit that can be claimed is \$50,000 prior to May 27, 2010 and \$75,000 beginning afterwards. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

### Dairy Manufacturing Facilities Investment Credit and Dairy Cooperatives Credit

For tax year beginning after December 31, 2006 and before January 1, 2015, a refundable credit is available based on expenses incurred for modernization or expansion of a dairy manufacturing facility in this state. The maximum annual amount of credit that may be allocated to all claimants is \$700,000. Similarly, for tax years beginning after December 31, 2008 and before January 1, 2017, a refundable credit is available to dairy cooperatives based on expenses incurred for modernization or expansion of the cooperative's dairy manufacturing facilities in this state. The maximum amount of credit that may be allocated to all cooperatives is \$600,000 in FY 2010 and \$700,000 in FY 2011 through 2017. The dairy cooperative must apply to the Department of Agriculture, Trade, and Consumer Protection for the credit but must pass the credit through to its members. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

### Health Insurance Risk-Sharing Plan Credit

A credit is available for insurers that pay assessments for the Health Insurance Risk Sharing Plan (HIRSP); these credits may be passed through to individual owners by the insurer. A HIRSP offers health insurance to Wisconsin residents who either are unable to find adequate health insurance coverage in the private market due to their medical conditions or who have lost their employer-sponsored group health insurance. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

### Film Production Company Investment Credit and Film Production Services Credit

Beginning in tax year 2009, two refundable credits related to expenditures for film production in this state are available. The film production services credit is equal to 25% of the salary, wages, or labor-related contract payments paid by the claimant in the taxable year to individuals, including actors, who were residents of this state at the time that they were paid and who worked on an accredited production in this state, not including the salary, wages, or contract payments paid to any individual who was paid more than \$250,000. In addition, the credit is available for 25% of the production expenditures paid in the taxable year. "Production expenditures" mean any expenditure that are incurred in the state and directly used to produce an accredited production.

The film production company investment credit is equal to 15% of the purchase price of depreciable, tangible personal property, if the purchase is sourced to this state. In addition, a claimant may claim 15% of the amount expended to acquire, construct, rehabilitate, remodel, or repair real property, if the production company exclusively produces accredited productions. Total film production services and investment credits are limited to \$500,000 in a fiscal year for all claimants. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

### Ethanol and Biodiesel Fuel Pump Credit

An ethanol and biodiesel fuel pump tax credit is available for tax years beginning after December 31, 2007 and before January 1, 2018. The credit is equal to 25% of the amount paid in a tax year to install or retrofit pumps

located in Wisconsin that dispense motor fuel consisting of at least 85% ethanol or at least 20% biodiesel fuel or pumps that allow the end user to choose the percentage of gasoline replacement renewable fuel or diesel replacement renewable fuel. The maximum tax credit for a tax year cannot exceed \$5,000 for each service station that claims a credit for an installed

### **Economic Development Credit**

For tax years beginning after December 31, 2008, an economic development tax credit is available. Under the program, a business may apply to the Wisconsin Economic Development Corporation (WEDC) for certification to claim tax benefits. Commerce may certify a business that conducts or intends to conduct at least one eligible activity. The eligible activities include:

- Creating and maintaining, for a period of time established by WEDC, full-time jobs in addition to any existing full-time jobs.
- Making a significant investment in new equipment, machinery, real property, or depreciable personal property.
- Making significant investments in the training or reeducation of employees for the purpose of improving the productivity or competitiveness of the business.
- Locating or retaining a corporate headquarters in Wisconsin, or retaining employees holding full-time jobs in Wisconsin.

This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

### **Internet Equipment Credit**

A non-refundable credit is available to Internet service providers for the purchase of "Internet equipment used in the broadband market". This equipment is defined to be equipment that is capable of transmitting data packets or Internet signals at speeds of at least 200 kilobytes per second in either direction. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

### **Meat Processing Facility Investment Credit**

A meat processing facility investment tax credit is available for tax years beginning after December 31, 2008 and before January 1, 2017. The credit is equal to 10% of the amount the claimant paid in the tax year for meat processing modernization or expansion related to the claimant's meat processing operation. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

### **Earned Income Credit**

Wisconsin allows low-income workers with dependents to claim a Wisconsin earned income credit equal to a percentage of the federal earned income tax credit, depending on family size. The credit is refundable; any amount of the credit in excess of taxes otherwise due is rebated to the taxpayer.

The Wisconsin credit is 4% of the federal credit for persons with one child, 11% for persons with two children, and 34% for persons with three or more children. For persons with one child, the 2011 federal credit was 34% of the first \$9,100 of earnings; for persons with two children the credit was 40% of the first \$12,780 of earnings, and for persons with three or more children the credit was 45% of the first \$12,780 of earnings. These federal credits were phased out as the greater of earnings or federal adjusted gross income rose from \$16,690 to \$36,052 for single persons with one child, from \$16,690 to \$40,964 for single persons with two children, and from \$16,690 to \$43,998 for single persons with three or more children. The phase-out floors and ceilings are \$5,080 higher for married couples who are joint filers. The maximum credit and the range over which the credit is phased out are indexed to inflation.

Federal law also allows a credit for low-income workers without children; Wisconsin has no similar credit.

**Homestead Credit**

Low-income homeowners and renters may qualify for a refundable income tax credit based on household income and property taxes or rent constituting property taxes. To qualify, the person:

1. Must be 18 years of age or older by the last day of the calendar year;
2. Must not be claimed as a dependent on anyone else's federal income tax return (unless the claimant is 62 years of age or older);
3. Must be a legal resident of Wisconsin for the entire calendar year;
4. Must have household income (of the claimant and spouse) of less than \$24,680. Household income includes both taxable and nontaxable sources.

In addition, persons are ineligible for the credit if they:

1. Live in a nursing home and receive medical assistance (Title XIX) at the time of filing the claim;
2. Live the entire year in housing that is exempt from property taxes;
3. Claim the farmland preservation credit or the veterans and surviving spouse property tax credit for their home; or
4. Receive general relief payments of \$400 or more for each month of the year of claim, or public assistance (Aid to Families with Dependent Children or Temporary Assistance for Needy Families) for the entire year of claim.

For renters, property taxes are assumed to be 20% of rent if heat is included or 25% of rent if heat is not included in the rent. In computing household income, a claimant may deduct \$500 for each dependent living with the claimant.

The amount of credit is determined as follows:

1. If household income is \$8,060 or less, the credit is 80% of property taxes up to \$1,460; thus, the maximum credit is \$1,168.
2. If household income exceeds \$8,060 but was no more than \$24,680, the credit is 80% of the amount by which property taxes exceeds 8.785% of household income in excess of \$8,060. That is, the credit is 80% of property taxes up to a maximum credit of \$1,168. The credit is phased out at a rate of 7.028% (80% multiplied by 8.785%) when household income exceeds \$8,060.
3. If household income exceeds \$24,680, no homestead credit is allowed.

**Income Taxes Paid to Other States/Income Tax Reciprocity**

If a person lives in one state and is employed in another, income may be subject to taxation in both states. To alleviate this double taxation, the state in which the taxpayer resides may allow a credit for income taxes paid to another state. Alternatively, two states may enter into a reciprocity agreement whereby the taxpayer is only required to pay state income taxes to the home state. Currently, Wisconsin has reciprocity agreements with Illinois, Indiana, Kentucky, and Michigan. Through December 31, 2009 Wisconsin also had a reciprocity agreement with Minnesota.

**Credit for Taxes Paid to Other States**

Wisconsin residents may reduce their Wisconsin income tax by the amount of income taxes paid to other states (or the District of Columbia). The credit is not allowed for taxes paid on personal service income if that income is earned in states having reciprocity agreements with Wisconsin. The revenue loss from this credit was \$236 million in FY12. The credit is nonrefundable.

## **Income Tax Reciprocity**

Since there are more Wisconsin residents employed in Illinois than residents of Illinois working in Wisconsin, the income tax revenue foregone by Illinois exceeds the taxes foregone by Wisconsin as a result of reciprocity. Either state could capture these additional revenues by eliminating reciprocity, but that would require individuals living in one state and working in the other to file income tax returns with both states. To avoid this and to eliminate the need for credits for taxes paid to the other state, Wisconsin has agreed to pay Illinois an amount equal to the tax the state foregoes in excess of the amount of tax Wisconsin foregoes as a result of reciprocity. The FY12 payment amount was \$50.4 million.

## **Claim of Right Credit**

A taxpayer who repays income in the current year that had been subject to tax in a previous year may claim a refundable credit for the amount of tax paid on that income in the previous year.

## **Farmland Tax Relief Credit**

For tax years before January 1, 2010, a farmland tax relief credit equal to a percentage of property taxes on farmland, exclusive of improvements, is provided to owners of farmland. The farmland tax relief credit has been repealed beginning after December 31, 2009. Amounts claimed for this credit reflect returns filed during FY 2012, but for tax year 2009 or earlier. Beginning in 2010 a new, per acre farmland preservation credit was created to replace the old farmland tax relief and farmland preservation credits.

## **Farmland Preservation Credit**

Owners of farmland zoned exclusively for agriculture use or covered under a farmland preservation agreement with the state may be able to claim a farmland preservation credit. The credit was revised and expanded beginning in tax year 2010. Under current law the credit may be claimed using either the old credit formula or the new credit formula depending on the claimants' farmland preservation agreements. The old credit is a percentage of a base amount determined using household income and the property taxes levied against the farmland. The new credit is a flat payment of \$5, \$7.50, or \$10 per acre of qualifying farmland.

## **Veterans and Surviving Spouses Property Tax Credit**

Eligible veterans and surviving spouses may claim this refundable credit in the amount of the property taxes paid during the year on the claimant's principal dwelling in Wisconsin. To be eligible for the credit, veterans must be verified by the Wisconsin Department of Veterans Affairs as having served in the U.S. armed forces, having been a Wisconsin resident at the time of entry into service or for any five-year period after entry into service, currently being a Wisconsin resident for the purpose of veterans benefits, and having a service-connected disability rating of 100% or a 100% disability rating based on individual unemployability. An eligible surviving spouse must be an un-remarried surviving spouse of an individual who was a Wisconsin resident at the time of entry into service, was a Wisconsin resident at the time of death and died while on active duty or would be otherwise considered an eligible veteran at the time of death. The cost of this credit for fiscal year 2012 was \$17.7 million.

## **Jobs Tax Credit**

In order to claim the jobs tax credit, businesses must be certified by the Wisconsin Economic Development Corporation (WEDC). The WEDC may award jobs tax credits to businesses operating or intending to operate in Wisconsin and may. The credit is based on the amount of wages paid to eligible employees in the taxable year, subject to a maximum amount of 10% of such wages, and the costs incurred by the claimant to undertake training activities in the current year. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

## **Postsecondary Education Credit**

This credit is available to business owners who reimburse certain individuals for the tuition paid to attend a qualified postsecondary institution. The credit is equal to 25% of the reimbursement amount for individuals who are eligible for the Federal Pell Grant Program, or 30% of the reimbursement amount if the course of instruction relates to a projected worker shortage in Wisconsin as determined by the local workforce development boards. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

**Water Consumption Credit**

Industrial customers of a municipal water utility may be able to claim this credit if the customer is located in a federal renewal community zone and has average annual water consumption in excess of 100 million cubic feet. Individuals may be able to claim credit amounts if a qualifying business entity passes the credit through to its partners, members, shareholders, or beneficiaries. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

**Community Rehabilitation Program Credit**

The credit is available to persons who enter into a contract with a community rehabilitation program to have the program perform work for the claimant's business. The maximum tax credit that can be claimed is \$25,000 for each community rehabilitation program for which the claimant has a contract. Unused credit amounts can be carried forward up to 15 years to offset future tax liabilities.

The credit was first available for taxable years beginning on or after August 1, 2011. Most individuals file on a calendar year basis, so the first full year of claims will be FY 2013. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

**Enterprise Zone Jobs Credit**

A refundable enterprise zone jobs credit is available for certified businesses located in a designated enterprise zone. The Wisconsin Economic Development Corporation (WEDC) may certify businesses for tax benefits based on activities in the designated zones, including beginning operations, expanding operations, making capital investments, or retaining jobs. The WEDC is also authorized to designate up to 20 enterprise zones. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

**Woody Biomass Harvesting and Processing Credit**

Individuals may claim a credit equal to 10% of the amount the paid in the tax year for equipment that is used primarily to harvest or process woody biomass that is used for fuel or as a component of fuel. Woody biomass is defined as trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest or woodland or on agricultural land. Claimants must be certified by the Department of Agriculture, Trade, and Consumer Protection. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

**Food Processing Plant and Food Warehouse Investment Credit**

The food processing plant and food warehouse investment credit is available for certain investments in modernization or expansion of food processing plants and food warehouses. The credit is refundable and claimants must be certified by the Department of Agriculture, Trade, and Consumer Protection. This credit is discussed in more detail in the "Corporate Income and Franchise Taxes" chapter of this report.

**Beginning Farmer and Farm Asset Owner Credit**

The beginning farmer credit is available to a beginning farmer who leases agricultural assets from an established farmer and who takes a course in farm financial management. The maximum available beginning farmer credit is \$500 and may be claimed one time. The farm asset owner credit is available to an established farmer who leases agricultural assets to a beginning farmer. The farm asset owner credit is equal to 15% of the lease amount received by the established farmer for the first three years of any eligible lease. Both credits are refundable and claimants are subject to certification by the Department of Agriculture, Trade, and Consumer Protection.

**DEDUCTIONS WHICH FURTHER DEFINE NET INCOME**

This report estimates the cost to the state of providing exemptions from the income tax for items that would otherwise be taxable. In earning a trade or business income, certain expenses are necessarily incurred and individuals are allowed to deduct these expenses in determining the net income from the trade or business subject to tax. These deductions are described below, but their fiscal effect is not estimated because they are not truly exemption devices. Rather, they are used to define net income upon which the income tax is imposed.

**Trade and Business Expenses**

A deduction from gross income is allowed for the ordinary and necessary expenses that are directly attributable to a trade or business carried on by the taxpayer. Services by the taxpayer as an employee are not considered a trade or business. Examples of expenditures normally allowed as deductions include: employee compensation and benefits, the cost of operations, fuel and electricity, advertising expenses, interest paid, insurance, legal fees, bad debts, depreciation, amortization, and depletion.

**Employee's Trade and Business Expenses**

Employees are allowed to deduct from gross income certain trade and business expenses that are incurred in the performance of job-related services for their employers. For purposes of computing adjusted gross income, the deduction is limited to:

1. All costs (including entertainment expenses) incurred in connection with one's job for which reimbursement is received either through an expense allowance or some other means. Amounts constituting reimbursement for employee expenses must be included in gross income in most instances.
2. Travel expenses whether or not reimbursement is received for them. They include the cost of transportation, meals, lodging and the use of certain services, e.g. telephone services.
3. All business expenses of an outside salesperson, defined as an individual who solicits business as a full-time salesperson away from his or her employer's place of business. This deduction would cover items such as insurance, depreciation on an automobile or other vehicle, food, lodging, telephone charges, and entertainment.

Federal regulations provide that if an employee receives a reimbursement exactly equal to his expenses and makes a sufficient accounting to the employer, he need not report the reimbursement as gross income, in which case none of the expenses may be deducted in determining adjusted gross income.

**Expenses Related to Rent and Royalty Income**

The expenses related to rent and royalty income are deductible from gross income. These expenses include taxes, interest, depletion, depreciation, and other expenses such as repairs, employee wages, utilities, insurance, and losses.

## CORPORATE INCOME AND FRANCHISE TAX

Taxation of corporate income was enacted in Wisconsin in 1911, at the same time the individual income tax was created. Since its initial enactment, the corporate tax has undergone some noteworthy changes.

1. Flat Rate. In 1981, a series of rates and brackets were replaced with a single flat rate of 7.9%.
2. Federalization. Under the federalized state corporate tax in effect since 1987, corporate taxpayers are subject to tax on the Wisconsin apportioned share of their federal net taxable income, with a number of adjustments for the remaining federal/state law differences and the ongoing effects of previous law differences. Corporations that conduct business in more than one state must apportion their net income among the states with jurisdiction to tax the income.
3. Single-Sales Factor Apportionment. Until 2006, Wisconsin apportioned income with a formula based on three factors — property, payroll, and sales. In the formula, the sales factor was double-weighted (50%) and the property and payroll factors were single-weighted (25% each). For taxable years beginning in 2006, an apportionment formula based solely on the sales factor was phased in, with full implementation of the single sales formula beginning in 2008.
4. Combined Reporting. Effective for taxable years beginning on or after January 1, 2009, Wisconsin law requires groups of corporations with common ownership that are engaged in a unitary business to file a single return (referred to as a combined report) to compute their Wisconsin taxable income. In brief, the corporations required to use combined reporting are those which are both commonly controlled (generally speaking, this means 50% common ownership), and engaged in the same unitary business.

Corporations are actually subject to one of two state taxes. The corporate *income* tax, imposed since 1911, is a tax on the net income of corporations doing business in the state. The corporate *franchise* tax, imposed since 1965, is a tax on the privilege of doing business in the state. Corporate net income is used as the measure or base for the franchise tax. The distinction between the two taxes is a subtle one, relating primarily to the restrictions under federal law on the types of income that states can tax with an income tax (e.g., interest from U.S. obligations). The vast majority of corporations pay the franchise tax. The income tax applies to corporations whose business in Wisconsin consists entirely of foreign or interstate commerce and corporations that are filing their final return before dissolution. Because both levies employ the same rate and the same general rules for determining corporate net income (although interest income from U.S. obligations cannot be taxed under the income tax), the two taxes are usually considered as one.

Wisconsin also imposes a recycling surcharge equal to 3% of the gross tax liability of regular (C) corporations and 0.2% of the net income of tax-option (S) corporations and other business entities. The surcharge and its exemptions are treated in a separate chapter.

Wisconsin provides for differential tax treatment of business income depending on the form of organization under which a business or organization operates. The business income of proprietorships and partnerships is reported and taxed on the individual income tax returns filed by the owners of the business. Tax-option or Subchapter S corporations are corporations that have elected under Subchapter S of the Internal Revenue Code (IRC) to have their business income taxed to the individual owners of the business in essentially the same manner as a partnership.

Businesses that are organized as regular, or Subchapter C, corporations pay the corporate income/franchise tax. In addition, under certain circumstances, the business income of nonprofit organizations and certain types of trusts can be subject to the state corporate tax.

The 1993 Wisconsin Act 112 authorized the formation of a new form of business organization, the limited liability company (LLC). LLCs combine the limited liability protection afforded to owners of corporations with the flow-through tax benefits provided to owners of S corporations and partners in partnerships. Generally, business income of LLCs is reported and taxed on the individual income tax returns of the owners (called members) of the business. However, some LLCs choose to be taxed as corporations and their business income is reported on the corporate return.

### Collections

In FY12, corporate tax collections were \$906.6 million or 6.7% of total general purpose revenue (GPR) tax collections of \$12.13 billion. Corporate tax collections are the third largest source of general fund revenue for the

state. Corporate collections are as volatile as corporate profits themselves and highly dependent on economic conditions. Over the past ten years, corporate income taxes have varied to between 5.0% and 7.1% of general tax revenue.

### Data Sources

Tax exemption devices applicable to the corporate income tax are grouped into five categories: exemptions, exclusions, special treatments, deductions, and credits. The following data sources were used to estimate the fiscal effects of these exemption devices:

1. Wisconsin Corporate Income Tax Model. Fiscal estimates were based in part on data and analysis provided by a computerized corporate income and franchise tax model. The corporate income tax model depends on statistically selected samples of returns from state taxpayers. The model contains detailed information from more than 6,400 corporate returns for tax year 2009, weighted to reflect the corporate tax filing population. The data for the model is compiled from state and federal tax returns. Where possible, data is captured electronically, either from electronically filed returns or by scanning the returns as they are initially processed. Data files with federal return data are also obtained from the federal Internal Revenue Service and matched to state returns. In addition, data that is not available electronically is entered into the database manually by fulltime department staff and limited term employees. Finally, the Department has developed proprietary software to facilitate data entry and to model the fiscal effect of changes to federal and state tax laws. Work on the tax year 2009 corporate sample began in November 2010, and was substantially completed in December 2012.
2. Wisconsin Corporate Tax Collection Statistics. Department of Revenue annual aggregate statistics of corporate tax collections and data from every corporate return were also used to estimate fiscal effects. The most current data is for tax year 2009.
3. Federal Tax Expenditure Estimates. The Congressional Budget Act of 1974 requires preparation of a federal tax expenditure budget annually. These "expenditures" reflect the cost in lost federal revenues of the wide variety of exemptions and incentives contained in the Internal Revenue Code. Using Congressional Budget Office, Joint Tax Committee, and U.S. Department of Treasury figures, estimates of the fiscal effect of comparable provisions contained in state law were generated. The procedure followed was first to apportion the federal tax expenditure to Wisconsin and then to adjust for the difference in state and federal tax rates and fiscal years.
4. Statistics of Income, Corporation Income Tax Returns. Published annually by the Internal Revenue Service, this data source provides aggregate data for income and deduction amounts reported on federal returns. By apportioning the appropriate figures to, fiscal estimates for some exemptions were obtained.
5. Miscellaneous Sources. Federal and state government agencies which publish data relating to the corporate sector provided additional information.

Several methodological issues complicate the estimation of the revenue loss associated with corporate tax exemption devices. The major obstacle is the lack of useful data. When data are available, they often only approximate the exempt income or deductible expenses for which an estimate is being made. Data may be several years old, which reduces its usefulness given the potential volatility in economic conditions across the nation, within the state, or within a particular economic sector. Interest rates, price levels, industrial reorganizations, and many other factors contribute to this volatility. Further, the corporate tax is imposed on corporate profits, which can be highly variable. Finally, the estimation process requires assumptions, for example, on Wisconsin's share of some national aggregate or the profitability of corporations operating in Wisconsin relative to firms nationwide. Frequently there is limited information on which to base these assumptions, so they may introduce errors into calculations. Additional programming is required each time the model is used to estimate a fiscal effect for a specific proposed law change.

**TABLE 1  
CORPORATE INCOME AND FRANCHISE TAX EXEMPTION DEVICES SUMMARY**

Exemption Devices	Statutory Reference*	FY12 Fiscal Effect
<b>Exemptions from Taxation</b>		
Governmental Units	s. 71.26 (1)(b) and (bm)	None
Nonprofit Corporations or Associations	s. 71.26 (a)	None
Nonprofit Organizations		\$11,100,000
Private Foundations		None
Cooperatives	s. 71.26 (1)(c) , Chapter 185	None
Credit Unions	s. 71.26 (1)(a)	5,400,000
Insurance Companies	s. 71.43 (2) and 71.45 (1)	Data not available
Banks Under Liquidation	s. 71.26 (1)(d)	Minimal
Assets Distributed to the Menomonee Indian Tribe	s. 71.26 (1)(e)	Data not available
Activities of Out-of-State Publishers and Certain Foreign Corporations	s. 71.23 (3)	Data not available
Veterans Service Organizations	s. 71.26 (1)(am)	Minimal
Conduit Revenue Bond	s. 71.26 (1m)(k)	Minimal
<b>Exclusions From Income</b>		
Life Insurance Proceeds	IRC 101	Minimal
Exchanges of Corporate Property or Stock	IRC 1031 to 1033 and 1036 to 1038	
Like-Kind Exchanges		2,900,000
Other Exchanges		Data not available
Recovery of Bad Debts, Prior Taxes and Delinquency Amounts	IRC 111	Minimal
Natural Resource-Related Cost-Sharing Payments	IRC 126	Minimal
Interest on certain WHEFA bonds	ss. 71.26 (1m) (i) and 71.45 (1t) (i)	
<b>Special Treatment</b>		
Limit on Tax Liability of Insurers	s. 71.46 (3)	400,000
Urban Mass Transportation Companies	s. 71.39	None
RICs, REITs and REMICs	IRC 851 to 860 and 860A to 860G, s. 71.26 (2)(b)	Minimal
"Throwback" Sales	s. 71.25 (9)(b)2m and 3, and (9)(c)	Data not available
Tax-Option Corporations	IRC 1361 to 1368 and 1374, ss. 71.32 to 71.365	Data not available
Limited Liability Companies	ss. 71.19 to 71.21 and ch. 183	Data not available
Unincorporated Cooperative Associations	Chapter 193	None
<b>Deductions from Gross Income</b>		
Amortization and Other Special Cost Recovery Allowances:	IRC 169, 173 to 175, 178, 180, 190, 193 to 195, 263(c), 291, 611, 612, 616 and 617	
Circulation Expenditures		Minimal
R&D Expenditures		9,200,000
Conservation Expenditures		Data not available
Lease Acquisition		Minimal
Reforestation Expenditures		180,000
Start-Up Expenditures		Minimal
Mine Exploration		Minimal
Charitable Contributions	IRC 170	5,500,000
Depreciation—Accelerated and Modified Cost Recovery System and Expensing Election	IRC 167, 168 and 179	
Accelerated Recovery	s. 71.26(3)(y)	Data not available
Section 179 Expensing		Data not available
Dividends	IRC 591 and 1382; s. 71.26 (3)(j)	
Dividends Received		112,300,000
Patronage Dividends		Data not available
Depositor's Dividends		Data not available
Bad Debt Reserves of Financial Institutions	IRC 585 and 593	Minimal
Net Operating Loss Carryforward	s. 71.26 (4)	161,200,000
Job Creation Deduction	s. 71.26(1)(h) and 74.45(1)(c)	300,000
<b>Credits</b>		
Manufacturer's Sales Tax Credit Carryforward	ss. 71.28 3) and 71.47 (3)	335,000
Manufacturing Investment Credit	ss. 71.28 (3t) and 71.47 (3t)	1,100,000
Research Expenditures Credit	ss. 71.28 (4) and 71.47 (4)	17,600,000
Research Facilities Credit	ss. 71.28 (5) and 71.47 (5)	640,000

**TABLE 1 (Continued)**  
**CORPORATE INCOME AND FRANCHISE TAX EXEMPTION DEVICES SUMMARY**

Exemption Devices	Statutory Reference*	FY12 Fiscal Effect
<b>Credits (continued)</b>		
Engine Research Expense Credit	ss. 71.28 (4)(ad)2 and 71.47 (4)(ad)2	385,000
Engine Research Facilities Credit	ss. 71.28 (4)(ad)2 and 71.47 (4)(ad)2	1,800,000
Energy Efficient Products Expense Credit	ss. 71.28 (4)(ad)3 and 71.47 (4)(ad)3	75,000
Energy Efficient Products Facilities Credit	ss. 71.28 (4)(ad)3 and 71.47 (4)(ad)3	100,000
Supplement to Federal Historic Rehabilitation Credit	ss. 71.28 (6) and 71.47 (6)	1,400,000
Super Research Credit	ss. 71.28 (4m) and 71.47 (4m)	1,800,000
Development Zone, Airport Development Zone, Enterprise Development Zone and Agricultural Development Zone Credits Carryforwards	ss. 71.28 (1dm), (1di), and 71.47, (1dm) (1di)	2,000,000
Development Zone and Development Opportunity Zone Credits	ss. 71.28 (1dx), (2dx) and 71.47 (1dx), (2dx)	3,000,000
Enterprise Zones Jobs Credit	ss. 71.28 (3w) and 71.47 (3w)	24,850,000
Economic Development Credit	ss. 71.28 (1dy) and 71.47 (1dy)	3,400,000
Jobs Tax Credit	ss. 71.28 (3q) and 71.47 (3q)	1,500,000
Dairy and Livestock Farm Investment Credit	ss. 71.28 (3n) and 71.47 (3n)	360,000
Technology Zone Credit	ss. 71.28 (3g) and 71.47 (3g)	330,000
Early Stage Seed Investment Credit	ss. 71.28 (5b) and 71.47 (5b)	250,000
Farmland Preservation Credit, 2010 and Beyond	s. 71.613	600,000
Insurance Security Fund Assessments	s. 646.51 (7)	None
Film Production Credits	ss. 71.28 (5f), (5h), and 71.47 (5f), (5h)	250,000
Health Insurance Risk-sharing Pool Assessment Credit	ss. 71.28 (5g) and 71.47 (5g)	3,600,000
Biodiesel Fuel Production Credit	ss. 71.28 (3h) and 71.47 (3h)	Minimal
Dairy Manufacturing Facility Investment Credit	ss. 71.28 (3p) and 71.47 (3p)	194,000
Dairy Cooperative Manufacturing Facility Investment Credit	ss. 71.28 (3p) and 71.47 (3p)	43,000
Meat Processing Facility Investment Credit	ss. 71.28 (3r) and 71.47 (3r)	252,000
Electronic Medical Records Credit	ss. 71.28 (5i) and 71.47 (5i)	2,500,000
Ethanol and Biodiesel Fuel Pump Credit	ss. 71.28 (5j) and 71.47 (5j)	Minimal
Community Rehabilitation Program Credit	ss. 71.28 (5k) and 71.47 (5k)	825,000
Water Consumption Credit	ss. 71.28 (5m) and 71.47 (5m)	300,000
Post-secondary Education Credit	ss. 71.28 (5r) and 71.47 (5r)	Minimal
Woody Biomass Harvesting and Processing Equipment Credit	ss. 71.28 (3rm) and 71.47 (3rm)	No claims in FY12
Food Processing Plant and Food Warehouse Investment Credit	ss. 71.28 (3rn) and 71.47 (3rn)	525,000
Beginning Farmer and Farm Asset Credit	ss. 71.28 (8r) and 71.47 (8r)	Minimal
Manufacturing and Agriculture Credit	s. 71.28 (5n)	Not available in FY12
Veteran Employment Credit	ss. 71.28 (6n) and 71.47 (6n)	Minimal
Relocated Business Credit	ss. 71.28 (9s) and 71.47 (9s)	Minimal

\* Note: References to sections of the 2011 Wisconsin Statutes, except "IRC" indicates a reference to a section of the federal Internal Revenue Code authorizing the exemption device.

## EXEMPTIONS FROM TAXATION

An exemption allows certain types of organizations, or certain activities related to those organizations, to be free of Wisconsin corporate franchise or income taxes.

### Governmental Units

All political units are exempt from income taxation. This includes the federal and state governments, counties, cities, towns, villages, school districts, technical college districts, and special governmental districts like sewerage treatment districts and family care districts. Also exempt are quasi-governmental districts formed for some special public purpose, including local exposition, professional baseball park, professional football stadium, and local cultural arts districts.

Under the provisions of the United States Constitution, states cannot tax the assets or income-generating activities of the federal government. The state does not tax the assets or income-generating activities of local governments. Defining the net income of local government activities would be difficult, since such activities are generally not trades or businesses. In the case of activities that could be considered trades or businesses, such as municipal water utilities or public golf courses, the activities rarely result in net income to the local government.

### Nonprofit Corporations or Associations

All religious, scientific, educational, benevolent or other corporations or associations not organized or operated for profit are exempt from taxation on income from activities related to their tax-exempt purpose. Examples include college alumni groups, scouting organizations, religious and other not-for-profit nursing homes, community-based fund-raising drives for the needy, public interest research groups, and foundations.

Nonprofit organizations are not subject to tax on income from contributions and business activities related to their tax-exempt purpose because this income is used to provide the public services for which these organizations exist. The fiscal effect from this exemption is shown to be zero to the extent that these organizations devote their earnings and assets directly to the conduct of tax exempt purposes and hence do not generate profit.

Nonprofit organizations with income from business activities that are not related to their tax-exempt purpose are subject to a corporate-level unrelated business income tax (UBIT) similar to the federal UBIT. Certain types of income, such as royalties, are not included in UBIT.

Private foundations are treated differently since their activities tend to be more restricted than tax-exempt nonprofit organizations. Foundations generally do not conduct activities; rather, they provide grants to other organizations to conduct the activities. Thus, the investment income of foundations greatly exceeds their low amount of operating costs. The net investment income of these private foundations is exempt from the income and franchise taxes under Wisconsin law. Since 1969, the federal government has imposed an annual excise tax on the net investment income of private foundations and a series of penalty levies linked to the failure of foundations to meet certain specified operating requirements. The state does not impose a similar annual excise tax on private foundations.

### Cooperatives

Cooperatives organized under Chapter 185 of the Wisconsin Statutes are exempt from income taxation, provided they operate without profit to any shareholder or member and distribute their proceeds according to the procedures set out in sec. 185.45, Wis. Stats. Cooperatives may be organized for any lawful purpose except banking or insurance.

Agricultural cooperatives engaged in marketing farm products for producers and cooperative associations or corporations that process and market farm products exclusively for such cooperatives are exempt from income taxation. To retain their exempt status, cooperatives must: (1) have at least 25 members, (2) return to producers the net proceeds resulting from sale of their products, and (3) in the preceding five years have limited payments of members' dividends to no more than 8% of the value of the stock per year. In order to be tax exempt, corporations that process and market farm products for agricultural cooperatives are additionally required to deal solely in farm products and cannot charge more than a sufficient amount to cover the costs of: (1) marketing and processing, (2) payment of dividends not to exceed 8% of the value of the cooperative's stock per year, and (3) a maximum of 5% addition to their surplus reserve fund.

Because cooperatives, by definition, do not operate for profit, they would not have a taxable net income if subject to tax. Thus, the exemption has no fiscal effect. Distributions made by cooperatives to the cooperative members may be taxable, depending on the nature of the distribution (see the discussion of patronage dividends under the section on "Deductions from Gross Income").

### **Credit Unions**

Federally-chartered credit unions are exempt from state taxation under federal law. Wisconsin exempts state-chartered credit unions from taxation, except for the portion of their net income attributable to public deposits from the state or local governments. There are approximately 260 credit unions operating in Wisconsin; most of them are state chartered.

### **Insurance Companies**

The following insurance companies are exempt from income taxation:

- Insurance companies exempted under sec. 501 (c)(15) of the IRC. This section exempts companies other than life insurance companies whose gross receipts do not exceed \$600,000 and more than 50% of gross receipts are from premiums. In the case of a mutual insurance company, in order to be exempt gross receipts cannot exceed \$150,000 and more than 35% of the gross receipts are from premiums.
- Town mutual companies organized under Chapter 612 of the Wisconsin Statutes.
- Foreign insurance companies, i.e., any insurance company organized outside the state of Wisconsin.
- Domestic life insurance companies engaged exclusively in life insurance.
- Domestic insurance companies insuring against losses relating to mortgages.

In general, only domestic insurers pay the corporate franchise tax to the Department of Revenue, based on the portion of their net income attributable to lines of insurance other than life insurance. Approximately 150 insurance companies filed a corporate income and franchise tax return in tax year 2008. Other insurance companies pay a premium tax (\$121 million in collections in FY10) to the Office of the Commissioner of Insurance, based on the amount of premiums written in Wisconsin. According to the 2009 annual report of the Office of the Commissioner of Insurance, as of December 31, 2009, there were 2,029 insurance companies with operations in the state, of which 379 were domestic companies. Of the domestic companies, 65 were town mutual companies. The fiscal effect of this exemption is unknown since it is not clear how income subject to tax would be defined.

A more complete description of the insurance premiums tax and the related exemption devices are contained in the Insurance Premiums Tax section of this report.

### **Banks under Liquidation**

Banks placed in the hands of the Division of Banking, Wisconsin Department of Financial Institutions, for liquidation under sec. 220.08, Wis. Stats., are exempt from tax if such taxation would diminish the financial assets needed to make full payment to depositors. There have been relatively few bank liquidations in Wisconsin since the Depression in the 1930s. Because of the small number of banks undergoing liquidation in fiscal year 2010, the fiscal effect of this exemption device is not available so as to protect the confidentiality of the banks.

### **Assets Distributed to the Menominee Indian Tribe**

Assets distributed by the U.S. government to members of the Menominee Indian Tribe or any corporations or organizations created by the tribe are exempt from state taxation. In addition, stocks, bonds, and other securities issued by tribal corporations or organizations are exempt from state tax.

Under federal law, states generally do not have the authority to tax business activities of Indian tribes provided that the activities are conducted on reservation property or property held in tribal trust.

### **Activities of Out-of-State Publishers and Certain Foreign Corporations**

Under federal law, the state has jurisdiction to tax the Wisconsin-apportioned share of the net income of an out-of-state corporation only if the corporation has nexus – that is, a business presence – in Wisconsin. A corporation generally has nexus in Wisconsin if it has property or employees (i.e., payroll) in the state on a regular basis.

Certain exceptions to the nexus rules exist so that some out-of-state corporations are not be subject to the Wisconsin income and franchise tax.

Wisconsin allows the following exemptions from nexus:

- The storage of property with a firm in this state for purposes of fabricating, processing, manufacturing or printing the property for an out-of-state corporation.
- The storage of property on the premises of a Wisconsin firm when the intent is to distribute the goods outside the state.
- The printing, storage, and distribution of books, magazines, and other publications for out-of-state publishing companies that contract with Wisconsin printing firms.
- The storage of property in Wisconsin for no more than 90 days by foreign corporations, provided the property is stored at a site not owned by the foreign corporation and is transferred and used in the state for fabricating, processing, manufacturing or printing on the site where the property is stored. Further, the assessed property value of the site where the property is stored and transferred must be a least \$10 million but not more than \$11 million on January 1, 1999.

These out-of-state corporations usually have no payroll or plant and equipment in Wisconsin. Thus, the act of storing property in the state for processing, printing or other temporary purposes would have been the only factor establishing nexus, and in turn, a Wisconsin tax liability for the corporations, in the absence of these exemptions.

#### **Veteran's Service Organizations**

2007 Act 20 created an exclusion from the corporate income and franchise tax for income of a federally-chartered veteran's service organization. This provision first applies to tax year 2008. The fiscal effect of this new provision is minimal, as under prior law most income of veteran's service organizations was already exempt under federal and state law. Only unrelated business income (i.e., income from activities not substantially related to the activity for which they were granted the exemption) would have been taxed. This income will now also be exempt.

#### **Interest on Conduit Revenue Bonds**

2009 Wisconsin Act 205 authorized two or more political subdivisions to enter into an agreement to create a commission to issue conduit revenue bonds. Under the Act, a commission is designed to act as a "conduit" for a developer to obtain bonding. Bonds issued by a commission are not public debt. Unless otherwise expressly provided in the bond resolution, bonds issued by a commission are payable solely from revenues derived by the project to be financed or from a contract entered into in connection with the bonds and pledged to the payment of the bonds. The bonds issued by a commission are not debts of either the state or one of the political subdivisions creating the commission, and neither would be obligated to levy a tax or make an appropriation for the repayment of the bonds.

Under the Act, interest on bonds issued by a commission is exempt from state income taxation if any of the following apply:

- The bonds could have been issued by Wisconsin Housing and Economic Development Authority and are used to fund multi-family affordable housing or elderly housing projects.
- The bonds could have been issued by Wisconsin Health and Educational Facilities Authority and are used by a health facility to fund the acquisition of information technology hardware or software.
- The bonds could have been issued under s. 66.1201, 66.1333, or 66.1335, Stats., relating to housing authorities, blight and slum clearance, and housing and community development authorities, respectively.

The exemption only applies to the corporate income tax. Interest from conduit bonds would not be exempt from taxation under the corporate franchise tax.

#### **EXCLUSIONS FROM INCOME**

An exclusion is an item that is not included in the definition of gross income. Excluded income normally does not have to be reported on the tax return.

### **Life Insurance Proceeds**

Amounts received by a corporation from an insurance company or any other insurer as payment for a death claim are exempt from income taxation. For example, if a company took out policies on the lives of its board members and was paid the value of insurance on the life of one of the board members upon his or her death, the insurance benefit would not be included in the income of the corporation subject to tax. However, the company could not claim a business expense deduction for the premiums it paid on the policy.

Companies are believed to represent a small proportion of all beneficiaries. Further, because insurance compensation is usually paid on the deaths of individuals past retirement age, the effect of this provision is thought to be small.

### **Exchanges of Corporate Property or Stock**

In general, a gain is recognized as a result of an exchange or disposition of property to the extent that any cash proceeds plus the taxpayer's basis in new property exceed the taxpayer's basis in the old property. However, gains from the following types of transactions are excluded from gross income:

- Exchange of property held for productive use in a trade or business or held for investment for like-kind (i.e., similar) property. Examples of like-kind exchanges are an exchange of a delivery truck for a delivery van, and an exchange of one real property for another real property. The nonrecognition of gain does not apply to exchanges involving inventory and intangible investments, such as stocks and bonds, or to any exchanged property disposed of within two years by either party, with exceptions for death or involuntary conversions.
- Exchange of stock in the corporation for property. For example, a shareholder might contribute property to a corporation for additional shares of stock.
- Involuntary conversions. There is no recognition of gain from involuntary conversions of property provided that the property is converted into similar property or if it is converted into money used to acquire similar property.
- Exchange of common or preferred stock in a corporation for similar stock in the same corporation. For example, a shareholder might be allowed to convert 100 shares of old stock into 200 shares of new stock.
- Certain exchanges of United States obligations. There is generally no recognition of gain if United States obligations must be surrendered in exchange solely for other United States obligations.
- Certain reacquisitions of real property. There is generally no recognition of gain if the seller of real property reacquires a real property in exchange for satisfaction of indebtedness secured by the real property.

The fiscal effects of these exemption devices generally are small because they represent a postponement of income that will eventually be taxed. In general, the taxpayer's basis in the new property is equal to the basis in the old property or otherwise reduced to take into account the fact that the property was acquired in a tax-free transaction.

### **Recovery of Bad Debts, Prior Taxes and Delinquency Amounts**

Receipts generated by the recovery of bad debts, prior taxes or delinquency amounts are excluded from gross income to the extent that they did not reduce income tax liability when deducted in a prior year. The portion of a recovery amount that gave rise to a tax benefit in prior years is taxable.

### **Natural Resource-Related Cost-Sharing Payments**

Payments received by corporations primarily for the purpose of conserving soil and water resources, protecting or preserving the environment, improving forests, or providing a habitat for wildlife may be excluded from gross income. Under the federal Tax Relief and Health Care Act of 2006, escrow funds established after May 17, 2006 for hazardous waste sites under agreement with the U.S. Environmental Protection Agency under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 are exempt so long as the funds are controlled by a government agency.

### **Interest on Certain Bonds Issued by the Wisconsin Health and Educational Facilities Authority**

2007 Act 20 provided an exemption from corporate income taxes for interest paid on certain bonds issued by the Wisconsin Health and Educational Facilities Authority (WHEFA), starting with taxable years beginning on or after January 1, 2008. This exemption would apply if the proceeds of the bonds or notes are used by a health facility to fund the acquisition of information technology hardware or software.

### **SPECIAL TREATMENT**

Certain corporate entities are subject to tax provisions that are substantially different from those provided for most corporations. While these entities pay corporate franchise or income taxes, the method used to compute the tax liability is different from that afforded other corporate taxpayers.

#### **Limit on Tax Liability of Insurers**

The tax liability of insurance companies subject to the state income/franchise tax (see the discussion under the section on "Exemptions") is limited to 2% of the gross premiums derived from non-life lines of insurance in Wisconsin. The fiscal effect measures the difference between what the tax liability of the insurance companies subject to the 2% of gross premiums limitation would have been under the 7.9% tax rate applied to other corporations and what their tax liability was with the 2% limitation.

#### **Urban Mass Transportation Companies**

Any corporation deriving 50% or more of its gross income from urban mass transportation is assessed a special tax equal to 50% of its taxable income. For the purpose of this special tax, taxable income is net of deductions for federal taxes and an amount equal to 8% of the amount by which the cost of property exceeds accumulated depreciation plus interest paid. No revenue has been collected under this special tax levy since 1974.

There are 23 county or municipality-owned urban mass transportation companies in Wisconsin, with the vast majority of revenues coming from operations in Milwaukee, Madison, Racine, Eau Claire, and Green Bay. Because each of these companies generally register losses or no net income, this exemption has no fiscal effect.

#### **RICs, REITs and REMICs**

Certain types of corporations are substantially or fully exempt from tax at the corporate level provided that they meet certain percentage requirements for distributions to shareholders. These corporations are generally organized as investment vehicles and do not carry on a trade or business other than the investment activities.

A regulated investment company (RIC) must derive its income primarily from interest, dividends, and gains from the disposition of stock and securities. Most mutual funds are organized as RICs. At least 90% of a RIC's income must be distributed to its shareholders each year. If so, the corporation is allowed a deduction for the distributions to shareholders. This deduction reduces the corporation's net taxable income to a minimal amount and effectively eliminates any corporate tax liability. Failure to meet the distribution requirements results in the denial of the deduction and a substantial corporate tax liability.

A real estate investment trust (REIT) specializes in real estate investments and must derive its income primarily from rents from real property, other real property income, interest, dividends, and gains from the disposition of stock and securities. At least 90% of a REIT's income must be distributed to its shareholders each year. The taxation of REITs is essentially the same as the taxation of RICs in that a deduction for distributions to shareholders is allowed if the corporation meets the distribution requirement.

A real estate mortgage investment conduit (REMIC) is an entity that holds a fixed pool of mortgages and issues multiple classes of ownership interests to investors. In general, a REMIC is treated in a manner similar to a partnership. Thus, the net income of a REMIC is taxable to the holders of the interests in the REMIC.

For these entities, any income not taxed to the corporation is generally taxed to the shareholders. Thus, the fiscal effect of this exemption device is minimal.

#### **"Throwback" Sales**

A multi-state corporation subject to tax in Wisconsin is required to treat certain "throwback" sales as Wisconsin sales when calculating its sales factor using the multi-state apportionment formula. Throwback sales are sales

originating in Wisconsin made to the federal government and shipped outside of Wisconsin and sales originating in Wisconsin to customers located in states where the seller is not subject to tax because of the nexus standards defined by federal law and interpreted by the Wisconsin Administrative Code.

Under the nexus standards, a corporation must have some type of operations in a state, generally in the form of property or employees, before its income can be taxed by that state. Without nexus, a state cannot tax a corporation. The throwback rule ensures that a corporation's entire income is subject to apportionment by the states with jurisdiction to tax. Without the throwback rule, sales to destination states in which the seller does not have nexus would not be included in the numerator of the sales factor of any state and a corporation would be able to avoid paying tax on some of its income.

Prior to tax year 2009 sales of both tangible personal property and sales of intangibles such as services and the use of computer software were required to be thrown back if they met the criteria for throwback sales. Beginning in tax year 2009 only sales of tangible personal property must be thrown back if they meet the criteria. Sales of services and sales of the use of computer software are not thrown back. Therefore the numerator of the sales factor is lower than it would be if these sales were thrown back, thus reducing the tax liability of businesses that make sales of services or sales of the use of computer software to states where they would not be taxed. Because these sales are not included, there is no data available to estimate the fiscal effect of this exemption device.

### **Tax-Option Corporations**

A tax-option corporation is a corporation with not more than 100 individual shareholders (family members owning shares in the same Subchapter S corporation are together counted as a single shareholder) that elects Subchapter S treatment under sec. 1362 of the Internal Revenue Code. Under Subchapter S, the corporation is exempt from tax at the corporate level and the net income is taxed to the individual shareholders under the individual income tax on a pro rata basis. The net income is taxed to the shareholders regardless of whether the corporation makes any actual distributions to the shareholders. In general, Subchapter S corporations are treated in a manner similar to partnerships and items of income retain their character as they flow through to the shareholders.

Most federal Subchapter S corporations are automatically treated as tax-option corporations for state purposes. However, Subchapter S corporations can elect to be treated as regular corporations for state purposes under certain conditions. Regular corporations converting to Subchapter S or tax-option treatment are subject to a special tax on built-in gains for both federal and state purposes.

### **Limited Liability Companies**

Limited liability companies (LLCs) are a type of business entity that may be taxed similar to corporations or partnerships, depending on how they are structured. If taxable as a partnership, owners of an LLC (called members) are taxed on the flow-through income of the company at lower individual rates, rather than at the higher corporate rate. However, if taxable as a corporation, an LLC is taxed at the entity level using the corporate income tax rate.

### **Unincorporated Cooperative Associations (UCA)**

2005 Act 441 authorized the creation of a new type of business organization called an unincorporated cooperative association (UCA). A UCA may be organized to market or process agricultural products; to manufacture products; to provide products, supplies or services; or for any other lawful purpose. A UCA may be organized by one or more organizers or it may be organized by converting from another form of business entity. The tax treatment of a UCA is similar to that of other pass-through entities, in that profits or losses are passed through to the UCA's members. Income and losses would be included on the owner's tax return and taxed at the owner's rate.

## **DEDUCTIONS FROM GROSS INCOME**

A deduction is an amount subtracted from Wisconsin gross income (or total income) to establish Wisconsin taxable income – the amount to which the tax rate is applied.

## Deductions Which Further Define Net Income

Sec. 71.23, Wis. Stats., subjects corporations to a tax on or measured by their net income. Net income is defined as gross income less allowable deductions. Thus, the very nature of the corporate tax requires that income be reduced by certain current expenses and allocated costs. These expenses include: wages and salaries, taxes, repairs, rents, interest, and the cost of employee benefits. These expenses are generally legitimate business outlays and thus are not considered a tax exemption device.

## Amortization and Other Special Cost Recovery Allowances

The cost associated with the consumption of an asset can be recovered in several ways. When an asset has a fixed life, costs are generally recovered through depreciation which is discussed later in this section. For assets with indeterminate lives, the cost recovery methods include amortization, depletion, and special cost recovery allowances. In addition, special cost recovery provisions apply for other types of costs that otherwise would not be recovered until the asset is disposed of, income is received for the product or service for which the cost was incurred or the corporation is dissolved. The following costs are eligible for recovery techniques that allow taxpayers to recover costs sooner than would otherwise be allowed.

1. Pollution control facilities. The cost of certain pollution control facilities can be amortized over a period of five years. To qualify, the pollution control facility must be used in connection with a plant in operation prior to 1976.
2. Circulation expenditures. Costs (other than costs to acquire land, depreciable property, and part of the business of other newspapers or periodicals) to establish, maintain or increase the circulation of newspapers and periodicals can be deducted in the year paid.
3. Research and development expenditures. Costs of noncapital research and experimental activities can be deducted in the year paid or amortized over a period of five years (see also the discussion of noncapital expenditures under the Research Expenditures Credit in the section on "Credits").
4. Soil and water conservation expenditures. Taxpayers engaged in farming can deduct, in the year paid, the costs of soil and water conservation practices that are consistent with a conservation plan approved by the Soil Conservation Service of the U.S. Department of Agriculture. The deduction cannot exceed 25% of gross income from farming.
5. Lease acquisition. The cost of acquiring a lease, including renewal options, can be deducted in the year paid if certain requirements are met.
6. Reforestation expenditures. Up to \$10,000 of costs to reforest qualified timber property can be amortized over a period of seven years.
7. Start-up expenditures. Costs of incorporating the taxpayer's business and issuing stock for the business can be amortized over a period of five years.
8. Mine exploration and development. A portion of the costs of exploring for energy and mineral deposits and developing such deposits for mining or drilling can be deducted in the year paid. The remaining portion is amortized over a period of five years. The fiscal effect includes only that which comes from non-fuel mining expenses, as there are no fuel-based mines in Wisconsin.

Depletion allowances are provided to allow taxpayers to recover the costs of capital investment in natural resources. Under the cost depletion method, the acquisition costs are divided by the estimated number of units that the deposit or resource will produce. Taxpayers are allowed an annual deduction equal to the current year's production multiplied by the per unit depletion cost. Federal law also allows taxpayers the option of using percentage depletion, which provides taxpayers with an annual deduction equal to a percentage of the gross income from the current year's production.

For state purposes, only cost depletion is allowed. Since cost depletion does not allow for rapid cost recovery in the way that percentage depletion does, cost depletion is not considered an exemption device.

The special expensing provision for depreciable property under sec. 179 of the Internal Revenue Code is discussed under Depreciation in this section.

## Charitable Contributions

Contributions by corporations to the following charities are deductible from gross income:

- The state or any other political subdivision, as long as the gift is for strictly public purposes.
- A corporation, trust or community chest, fund or foundation operating for strictly religious, charitable, scientific, literary or educational purposes, or for fostering national or international sports competition, or for the prevention of cruelty to children or animals.
- Veterans' organizations and an auxiliary unit, society, trust or foundation of such organizations.
- Member-owned or nonprofit cemetery corporations chartered solely for burial purposes.

Certain limitations apply to the amount of contributions that can be claimed as a deduction and to the amount that can be deducted for contributions of property. In general, the deduction for charitable contributions cannot exceed 10% of a corporation's taxable income. Amounts of contributions not deductible in the current year can be carried forward for five years and claimed as a deduction.

## Depreciation – Modified Accelerated Cost Recovery Systems and Expensing Election

Depreciation deductions are allowed to reflect the reasonable expenses incurred by taxpayers for exhaustion, wear and tear of property used in a trade or business or held for the production of income. Effective for tax year 1987, the state adopted the Modified Accelerated Cost Recovery System (MACRS), enacted as part of the federal Tax Reform Act of 1986. However, property placed in service prior to that time must continue to be depreciated according to the state restrictions in effect at the time the property was placed into service.

Under MACRS, eligible property is generally assigned to a depreciation recovery class of 3 years, 5 years, 7 years, 10 years, 15 years or 20 years, 25 years, 27.5 years, 31.5 years or 39 years, depending upon the type of property. The cost of the property is recovered using statutory recovery methods and conventions.

With some restrictions, sec. 179 rules of the Internal Revenue Code in effect prior to December 31, 2000, allow taxpayers to expense up to \$25,000 in the current year. To qualify as sec. 179 property, the property must be acquired by purchase for use in the active conduct of a trade or business (sec. 1245 depreciable property). The total cost of the property expensed under this election cannot exceed the total amount of taxable income derived from the active conduct of any trade or business during the tax year. However, excess amounts may be carried forward an unlimited number of years, subject to the ceiling each year. Wisconsin has not adopted the increased bonus depreciation and expensing provisions enacted after December 31, 2000.

Data are not available to estimate the fiscal effect of the accelerated depreciation exemption device of allowing more generous depreciation write-offs in comparison to the allowable deductions under the straight-line depreciation method.

## Dividends

Dividends paid are generally not deductible by the payor corporation except for:

- Amounts paid as dividends or earnings to depositors' accounts by savings and loan associations, mutual loan corporations or mutual savings banks.
- Amounts distributed to patrons of businesses operating on a cooperative basis in proportion to their patronage, rather than stock or ownership. This type of dividend amounts to a delayed discount for purchases made.

Dividends received are deductible in full by the recipient corporation if the payor corporation is a controlled subsidiary in which the recipient parent corporation owns at least 70% of the voting stock, or at least 50% of the voting stock if the payor and recipient corporations are members of the same combined group. The payor corporation is not allowed to subtract the dividends paid in determining its Wisconsin taxable income. The fiscal effect relates to the revenue impact of disallowing the deduction of dividends received from corporate affiliates. Data are not available to estimate the fiscal effect for allowing the deduction of patronage or depositor's dividends.

## Bad Debt Reserves of Financial Institutions

In general, corporations can deduct bad debts only as the debts become worthless. Savings and loan associations, mutual savings banks, and other savings institutions may deduct additions to a reserve account for bad debts in lieu of deducting bad debts as they are experienced. Banks are also allowed to deduct additions to bad debt reserves, provided that the assets of the bank do not exceed \$500 million.

The deduction for additions to bad debt reserves is generally based on the average ratio of bad debts actually incurred to total loans outstanding for the five preceding taxable years. The tax benefit from this provision is that financial institutions using the reserve method can deduct bad debts before they actually become worthless.

### **Net Operating Loss Carryforward**

Wisconsin authorizes corporations to carry net operating losses incurred in the current year forward for up to 15 years to offset net income in future years but does not allow losses to be carried back to offset taxable net income in previous years. In contrast, Federal law allows losses to be carried forward 20 years or carried back two years. This treatment acts to smooth out fluctuations in corporate profits, which may change dramatically with economic conditions. Similar to federal law, prior year losses must be applied against income to the maximum extent possible and in a consecutive fashion during the carryover period. Losses from the earliest years are always used first. The fiscal effect relates to the difference in tax liability without the carryforward provision relative to actual liability under current law.

### **Job Creation Deduction**

Beginning with taxable years starting on or after January 1, 2011, a subtraction from federal income is allowed based on the increase in the number of full-time equivalent employees that are employed in Wisconsin during the taxable year. The subtraction from federal income is equal to \$2,000 per eligible employee for businesses with gross receipts greater than \$5 million or \$4,000 per eligible employee for businesses with gross receipts of \$5 million or less. The business relocation credit may not be claimed at the same time as the job creation deduction.

## **CREDITS**

A credit is an amount subtracted directly from the taxpayer's Wisconsin gross tax liability (i.e., the amount determined by applying the Wisconsin tax rate to Wisconsin taxable income) to determine the Wisconsin net tax liability. Non-refundable credits reduce a corporation's tax liability otherwise due. If the amount of credit exceeds the corporation's tax liability, the excess credit can be carried forward to offset tax liability in future years. A refundable credit also reduces a corporation's tax liability, but if the amount of credit exceeds the corporation's tax liability a refund is issued in the amount of the excess credit. The fiscal effect for non-refundable credits results from a loss of revenue that otherwise would be collected. Refundable credits require an appropriation, and the fiscal effect for these credits is expressed as an increase in appropriations even though some or all of the credit may be used to offset taxes otherwise due in the current tax year or applied to offset taxes due in a subsequent tax year.

The corporate tax forms for tax year 2012 show a total of 35 non-refundable credits available. Of those, nine credits are no longer being awarded but the credit is still listed on the form so that taxpayers may claim credits earned in prior tax years. In addition, the 2012 corporate tax forms show a total of ten refundable credits available. The total corporate income and franchise tax revenue reduction from non-refundable credits for state fiscal year 2012 is an estimated \$44.2 million. In addition, refundable credits claimed by corporations led to expenditures of \$26.1 million in state fiscal year 2012.

### **Manufacturing Investment Credit**

Beginning in tax year 2008, businesses whose unused carryforwards of the repealed income and franchise tax credit for sales tax paid on fuel and electricity used in manufacturing was greater than \$25,000 on January 1, 2006 are able to claim a manufacturing investment credit, provided they meet certain job retention, investment or other tests. The credit, which is non-refundable, is equal to the unused manufacturers' sales tax credit, and is to be amortized over 15 years. Claimants must have been certified by the Department of Commerce as eligible to claim the credit. In order to be certified, the claimant must satisfy one of the following requirements:

- Retention of 100% of the full-time (at least 35 hours per week) jobs employed by the company as of December 23, 2003.
- Average annual investment since January 1, 2003, equal to 2% of total book value of the company's depreciable assets in Wisconsin-based plants and facilities or \$5 million.

### **Manufacturer's Sales Tax Credit**

Until 2006, a nonrefundable credit could be claimed for the amount of Wisconsin sales tax paid on fuel and electricity consumed in manufacturing tangible personal property in the state. The credit was designed to be the equivalent of a sales tax exemption. Unused amounts of credit could be carried forward and offset against tax liability over the next 20 years. Corporations were required to increase their net income by the amount of credit claimed in lieu of reducing their deduction for the sales tax portion of the expense of fuel and electricity.

Beginning in 2006, fuel and electricity used in manufacturing are exempt from the sales tax and the credit for sales tax is repealed. Manufacturers that meet certain conditions may continue to use manufacturers' sales tax credit carried forward from prior years to offset income in the future (see the description for the Manufacturing Investment Credit). Manufacturers with up to \$25,000 of unused credit may take up to 50% in tax years 2006 and 2007. Manufacturers with more than \$25,000 of unused credit will be allowed to deduct from income 50% of the amount that was added back to income when the credits were claimed in tax year 2007 and 50% in tax 2008. The fiscal effect reflects the tax liability reduction from the use of credits carried forward by businesses that had \$25,000 or less in credit as of January 1, 2006.

### **Research Expenditures Credit**

A nonrefundable research expenditures credit for noncapital expenditures for research-related activities conducted in Wisconsin is available to corporations. The credit is patterned after the federal research credit and is equal to 5% of the excess of qualified research expenses for the current year over a base period amount. Qualifying expenditures are defined by reference to the rules established under sec. 41 of the Internal Revenue Code. Expenses must be incurred in connection with research conducted in Wisconsin in order to qualify for the credit. The "base period amount" is calculated in the same manner as that for the federal credit, except that the gross receipts used in computing the state credit are from sales attributable to Wisconsin, other than throwback sales, as defined in the corresponding statute. Unused amounts of the credit can be carried forward for up to 15 years.

The credit applies only to research expenditures that are undertaken to discover information that is technological in nature and intended to be useful in the development of a new or improved business component. Qualified research expenses cover in-house expenses for the taxpayer's own research (wages, supplies, and computer use charges) and 65% of amounts paid or incurred for qualified research done by a person other than an employee of the taxpayer. For corporations in a combined group, unused research credits may be shared with other members of the combined group.

### **Research Facilities Credit**

The research facilities credit applies to capital investments to construct and equip new research facilities or to expand existing facilities located in Wisconsin. The credit is equal to 5% of the amount of qualified investment in tangible depreciable property that is not replacement property.

The rules relating to the credit are similar to the rules for the research expenditures credit. The credit is nonrefundable, and unused amounts of credit may be carried forward and offset against tax liability over the next 15 years. Corporations must increase their net income by the amount of credit claimed in lieu of reducing their deduction for research expenses or reducing their basis in the property. For corporations in a combined group, unused research facilities credits may be shared with other members of the combined group.

### **Engine Research Credits**

For tax years beginning after June 30, 2007, credits equal to 10% of qualified research and 10% of qualified facility expenses related to designing internal combustion engines and related substitutes such as fuel cells and electric and hybrid drives are available. The credits are also available for research related to designing vehicles powered by such engines and for research on improving production processes for such engines and vehicles. Expenses under the engine research credits are not eligible for the regular research expenditure and research facilities credits. Unused credits may be carried forward for 15 years. For corporations in a combined group, unused engine research credits may be shared with other members of the combined group.

### **Energy Efficient Products Research Credits**

For tax years beginning after June 30, 2007, credits equal to 10% of qualified research and 10% of qualified facility expenses related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use are available. Expenses under the energy efficient products research credits are not eligible for the regular research expenditure and research facilities credits. Unused credits may be carried forward for 15 years. For corporations in a combined group, unused energy efficient products research credits may be shared with other members of the combined group.

### **Super Research and Development Credit**

A credit is available for tax years beginning on or after January 1, 2011, for corporations that increase their research expenditures. The credit is equal to the amount of qualified research expenses for research conducted in Wisconsin in a tax year that exceeds 1.25 times the average annual amount of qualified research expenses in the corporation's previous three tax years. The credit is non-refundable, and unused credit amounts may be carried forward up to five years to offset future tax liabilities. "Qualified research expenses" are as defined under Section 41 of the IRC, and the research must be done in this state. Expenses for claims under the regular research expenditure credit also qualify for the super research credit as long as they exceed 1.25 times the preceding three-year average. Unused credit amounts may be carried forward for five years.

### **Supplement to Federal Historic Rehabilitation Credit**

A nonrefundable credit is available to encourage the rehabilitation of historic buildings in Wisconsin. The state supplemental credit is equal to 5% of qualified rehabilitation expenditures, as defined under sec. 48 (g) of the Internal Revenue Code, to substantially rehabilitate certified historic buildings for use in a trade or business. This program is more fully discussed in the chapter on "Individual Income Tax."

### **Development Zone and Development Opportunity Zone Credits**

The Development Zone program provides credits to taxpayers that locate or expand a trade or business activity within a development zone. A development zone is an economically distressed area designated as a development zone by the Wisconsin Department of Commerce. The Department is authorized to designate 22 zones. All 22 zones have been designated, with authorized tax credits of \$38.155 million. These zone designations are in effect for a period of seven to ten years. The first of these zone designations will expire in September, 2009 and the last will expire in September, 2021. Certified businesses are provided with a maximum amount of tax benefits and may claim the development zone credits up to that amount.

Under the Development Opportunity Zone program, businesses conducting economic activities in a zone may claim nonrefundable development opportunity zone credits allocated to them by the Wisconsin Economic Development Corporation (WEDC). Nine zones with a total of \$44.4 million in tax credits have been authorized. The designation for six zones has expired. New zones in Janesville Kenosha were authorized in 2009 Act 28 with a total credit available of \$5 million each over the life of the zone. In addition, 2011 Act 37 authorized an additional zone for the City of Beloit, also for a total credit amount of \$5 million over the life of the zone. For all three of these new zones, if the original \$5 million is allocated within five years, the zones can be extended for an additional five years with an additional \$5 million each. The designation for the new zones will be effective for 60 months from the date of designation

Businesses locating or expanding their operations within the development opportunity zones are eligible to claim a job creation credit based on the number of new, full-time positions created; an environmental remediation credit that equals up to 50% of eligible environmental remediation costs; and an investment credit equal to 2.5% of the purchase of depreciable tangible personal property (or 1.75% of the price if the property has been expensed under section 179 of the IRC). Unused credit amounts may be carried forward for 15 years.

A *capital investment credit* is also available for certain businesses located in the new zones in Kenosha, Beloit, and Janesville equal to 3% of qualified purchases of depreciable tangible personal property and amounts expended to acquire, construct, rehabilitate or remodel qualified real property. Unused credit amounts may be carried forward for 15 years.

### **Enterprise Zone Jobs Credit**

A refundable enterprise zone jobs credit is available for certified businesses located in a designated enterprise zone. The WEDC may certify for tax benefits a business that begins operations in an enterprise zone if the

business offers compensation and benefits to its employees working in the zone for the same type of work that are at least as favorable as those offered to its employees working outside the zone. WEDC may also certify a business that expands operations in an enterprise zone, if the business will increase its personnel by at least 10% or the business makes a capital investment in property located in the enterprise zone equal to at least 10% of the business' gross revenues in the preceding tax year attributable to business activities in Wisconsin. Finally, WEDC may certify a business that retains existing jobs in an enterprise zone if the business makes a significant capital investment in property located in the zone, and at least one of the following applies: (1) the business is an original equipment manufacturer with a significant supply chain in Wisconsin, as determined by WEDC; or (2) more than 500 full-time employees are employed by the business in the enterprise zone

WEDC is authorized to designate no more than 20 enterprise zones, with three of the zones being areas comprising political subdivisions whose population totals less than 5,000 and at least two areas comprising political subdivisions whose population is greater than 5,000 but less than 30,000. A designation may be in effect for no more than 12 years. In determining whether to designate an area as an enterprise zone, WEDC must consider indicators of the area's economic need, infrastructure and energy support, the rate of business development, existing resources available to the area, and the effect of designation on other initiatives and programs to promote economic and community development in the area, such as job training and the creation of high-paying jobs.

The credit has five components:

1. A credit based on changes in the claimant's zone payroll over a base year, up to 7% of the base change. Eligible wages are those paid to new employees whose annual wages are greater than \$20,000 but not more than \$100,000 in a Tier I county or municipality, or greater than \$30,000 but not more than \$100,000 in a Tier II county or municipality. Credit claims would be limited to 12 consecutive years.
2. An additional credit based on up to 7% of wages paid to existing zone employees. Eligible wages are those paid to employees whose annual wages are greater than \$20,000 but not more than \$100,000 in a Tier I county or municipality, or greater than \$30,000 but not more than \$100,000 in a Tier II county or municipality. The total number of employees must be equal to or greater than the number of employees in the base year. Credit claims are limited to five consecutive years.
3. A credit based on the amount paid for training to upgrade the job-related skills of full-time employees who work in the enterprise zone;
4. A credit of up to 10% of significant capital expenditures in the zone.
5. For taxable years beginning after December 31, 2009, a credit equal 1% of the amount the claimant paid in the taxable year for goods or services from Wisconsin vendors, not including capital expenditures for which the credit is claimed.

### **Economic Development Credit**

For tax years beginning after December 31, 2008, an economic development tax credit is available. The nonrefundable credit may be claimed against the corporate income and franchise tax or against the insurance premiums tax. The amount of credit available is limited to \$103.2 million, which is the amount of available credit that had not been allocated by WEDC in the five zone-based programs that this credit replaces plus an additional \$25 million authorized in 2011 Act 4.

Under the program, a business may apply to the Department of WEDC for certification to claim tax benefits. WEDC may certify a business that conducts or intends to conduct at least one eligible activity. The eligible activities include:

- Creating and maintaining, for a period of time established by WEDC, full-time jobs.
- Making a significant investment in new equipment, machinery, real property, or depreciable personal property.
- Making significant investments in the training or reeducation of employees for the purpose of improving the productivity or competitiveness of the business.
- Locating or retaining a corporate headquarters in Wisconsin, or retaining employees holding full-time jobs in Wisconsin.

WEDC may authorize additional tax benefits for certified claimants if the claimant conducts at least one eligible activity in an area designated by WEDC as economically distressed, or if the claimant creates, retains, or trains members of certain targeted groups.<sup>1</sup>

Unused tax credit amounts may be carried forward up to 15 years to offset future tax income and franchise tax liabilities.

### **Jobs Tax Credit**

2009 Act 28 created a refundable jobs tax credit for tax years beginning after December 31, 2009. In order to claim the credit, a business would have to be certified by WEDC, which may certify a business, for up to ten years. The credit would equal up to 10% of the wages paid to an eligible employee and/or the amount of costs incurred to undertake training activities in a tax year. WEDC may award jobs credits of up to 10% of wages of an employee who is paid at least \$20,000 but not more than \$100,000 in a Tier I county or municipality, and of at least \$30,000 but not more than \$100,000 in a Tier II county or municipality.<sup>2</sup>

WEDC may allocate up to \$5 million in jobs tax credits in a calendar year, except that the maximum total amount that may be awarded in the period from January 1, 2010 through June 30, 2013 is \$14.5 million. The \$14.5 million limit does not apply to amounts transferred from the angel investment credit or the early stage seed investment credit (see below). Amounts claimed in taxable years beginning after December 31, 2009 and before January 1, 2012 are to be paid in taxable years beginning after December 31, 2011.

### **Dairy and Livestock Farm Investment Credit**

A nonrefundable credit is available for 10% of expenses to modernize or expand a dairy or livestock farm. Dairy animals include heifers raised as replacement dairy animals. Livestock includes cattle (not including dairy animals), swine, poultry including farm raised pheasants but not including other farm raised game birds or ratites, fish that are raised in aquaculture facilities, sheep, and goats. The aggregate amount of credit that a taxpayer may claim is \$75,000 for expenses to construct, improve, and acquire buildings or facilities and equipment, for dairy animal housing, confinement, feeding, milk production, and waste management, except that no more than \$50,000 may be based on expenses that are incurred prior to May 27, 2010. The credit may be claimed for dairy farm modernization or expansion for taxable years beginning after December 31, 2003 and before January 1, 2017, and for livestock farm modernization or expansion for taxable years beginning after December 31, 2005 and before January 1, 2017. Unused credit amounts may be carried forward for 15 years.

### **Early Stage Seed Investment Credit**

Effective for taxable years beginning after 2004, an early stage seed investment credit is available equal to 25% of investments paid to a fund manager that invests the funds in qualified new business ventures that are certified by WEDC. The credit may be claimed against the income and franchise tax as well as against the insurance premiums tax. The maximum annual amount that may be claimed by all claimants is \$6.0 million for calendar years beginning before January 1, 2010, and \$8.0 million for calendar year 2010. For calendar years beginning on or after January 1, 2011, the maximum annual amount will increase to \$20.5 million for all claimants, plus an additional \$250,000 per year for investments in nanotechnology businesses. If the investment is held for less than three years, any previously claimed credits must be repaid to the Department of Revenue unless during the three-year period the investment becomes worthless as determined by WEDC, or if a bona fide liquidity event

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<sup>1</sup> "Member of a targeted group" means a person who resides in an area designated by the federal government as an economic revitalization area, a person who is employed in an unsubsidized job but meets the eligibility requirements for a Wisconsin Works employment position, a person who is employed in a trial job, as defined in s. 49.141 (1) (n), or in a real work, real pay project position under s. 49.147 (3m), a person who is eligible for child care assistance, a person who is a vocational rehabilitation referral, an economically disadvantaged youth, an economically disadvantaged veteran, a supplemental security income recipient, a general assistance recipient, an economically disadvantaged ex-convict, a dislocated worker, as defined in 29 USC 2801 (9), or a food stamp recipient, if the person has been certified in the manner under 26 USC 51 (d) (13) (A) by a designated local agency, as defined in 26 USC 51 (d) (12).

<sup>2</sup> As of this writing, the rules defining a Tier I and Tier II county have not been promulgated. See the criteria the Department of Commerce must use in creating the definitions in footnote 7 under the Enterprise Zones Jobs Credit.

occurs after the investment has been held for 12 months. In addition, if the investor has invested in the business prior to the business being certified as a qualified new business venture, investments after certification by this investor are not eligible for credit. Unused credit amounts may be carried forward for 15 years.

For tax years beginning on or after January 1, 2009, a claimant may transfer unused credits to another entity. The transferor is required to obtain prior authorization from the fund manager, and the fund manager is required to notify the Department of Revenue and WEDC.

To be qualified to receive investments that are eligible for the credit, a qualified new business venture must at the time it is certified have its headquarters in the state, have less than 100 employees, at least 51% of whom are employed in the state, and have been in business for not more than ten consecutive years, and must not have received aggregate private equity investments of cash of more than \$10 million. A qualified new business venture must also be engaged in one of the following: manufacturing, biotechnology, nanotechnology, communications, agriculture, or clean energy creation or storage technology, processing or assembling products, including medical devices, pharmaceuticals, computer software, computer hardware, semiconductors, any other innovative technology products, or other products that are produced using manufacturing methods that are enabled by applying proprietary technology, pre-commercialization activity related to proprietary technology that includes conducting research, developing a new product or business process, or developing a service that is principally reliant on applying proprietary technology.

The business may not be primarily engaged in real estate development, insurance, banking, lending, lobbying, political consulting, professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants, wholesale or retail trade, leisure, hospitality, transportation, or construction, except construction of power production plants that derive energy from a renewable resource.

For tax years beginning on or after January 1, 2009, a claimant may transfer unused credits to another entity. The transferor will be required to obtain prior authorization from the fund manager, and the fund manager would be required to notify the Department of Revenue and the WEDC.

WEDC may transfer any unallocated Early Stage Seed credits in any calendar year to the Jobs Tax Credit.

### **Farmland Preservation Credit, 2010 and Beyond**

Beginning in tax year 2010, a refundable per-acre farmland preservation credit is available under which a claimant may claim as a credit against income and franchise taxes an amount calculated by multiplying the claimant's qualifying acres by one of the following amounts:

- \$10 if the qualifying acres are located in a farmland preservation zoning district and are also subject to a farmland preservation agreement that is entered into after July 1, 2009;
- \$7.50 if the qualifying acres are located in a farmland preservation zoning district but are not subject to a farmland preservation agreement that is entered into after July 1, 2009; or
- \$5 if the qualifying acres are subject to a farmland preservation agreement that is entered into after July 1, 2009 but are not located in a farmland preservation zoning district.

### **Insurance Security Fund Assessments**

Chapter 646, Wisconsin Statutes, provides a credit against state taxes, including the corporate income and franchise tax, for certain assessments levied on insurance companies by the Wisconsin Insurance Security Fund. The fund is designed to protect policyholders in cases where their insurance company has failed and is in the process of liquidation. Where the available assets and reserves of failed insurers are inadequate to meet claims, the fund may assess insurance companies doing business in the state, with some exceptions (e.g., fraternal benefit societies). Such assessments are eligible for a 100% tax credit if they cannot be recovered through higher premiums. This can occur if premiums are fixed for a particular line of business. Credits claimed by foreign insurance companies and domestic life companies would be offset against the premiums tax. Thus, the only offsets against the income and franchise tax would be for credits claimed by domestic property and casualty companies. The tax credit is nonrefundable and must be claimed in equal installments over a five-year period, beginning with the year following the one in which the assessment is made.

### **Film Production Credits**

For tax years beginning after December 31, 2008, two refundable credits related to expenditures for film production in this state are available.

The *film production services income and franchise tax credit* is equal to 25% of the salary, wages, or labor-related contract payments paid by the claimant in the taxable year to individuals, including actors, who were residents of this state at the time that they were paid and who worked on an accredited production in this state, not including the salary, wages, or contract payments paid to any individual who was paid more than \$250,000. In addition, a credit equal to 25% of the production expenditures paid in the taxable year is available. "Production expenditures" mean any expenditures that are incurred in this state and directly used to produce an accredited production, including expenditures for set construction and operation, wardrobes, make-up, photography, sound recording/mixing, lighting, editing, film processing, special/visual effects, renting or leasing facilities, equipment or motor vehicles, food, lodging, and any other similar expenditure as determined by the Department of Tourism. "Production expenditures" do not include salary, wages, or labor-related contract payments.

The *film production company investment credit* is equal to 15% of the purchase price of depreciable, tangible personal property, if the purchase is sourced to this state. In addition, a claimant may claim 15% of the amount expended to acquire, construct, rehabilitate, remodel, or repair real property, if the production company exclusively produces accredited productions.

To be certified for either credit, the production company must apply to the Department of Tourism and pay an application fee equal to 2% of the claimant's budgeted production expenditures or \$5,000, whichever is less.

Total film production services and investment credits are limited to \$500,000 combined in a fiscal year for all claimants.

### **Health Insurance Risk-Sharing Plan Assessments Credit**

An income and franchise tax credit and a license fee credit are available to insurers that pay assessments for the Health Insurance Risk-Sharing Plan (HIRSP). The credits apply to taxable years beginning after December 31, 2005. HIRSP offers health insurance coverage to individuals with adverse medical histories and to others who cannot obtain affordable health insurance coverage from the private sector. HIRSP is funded by premiums paid by participants, assessments paid by insurance companies, and a pro rata reduction in billed charges of health care providers. The amount of the credit for all insurers cannot exceed \$5 million per year. Unused credit amounts may be carried forward for 15 years.

### **Biodiesel Fuel Production Credit**

For tax years beginning after December 31, 2011, and before January 1, 2015, a non-refundable credit is available under the state individual income and corporate income and franchise taxes, equal to 10 cents per gallon for biodiesel fuel produced, up to a maximum of 10 million gallons per year (maximum credit of \$1 million) for biodiesel fuel producers located in Wisconsin that produce at least 2.5 million gallons of biodiesel fuel per year.

### **Dairy Manufacturing Facility Investment Credit**

2007 Act 20 created a refundable Dairy Manufacturing Facility Investment credit that is equal to 10% of the amount spent by the claimant during the taxable year for modernization or expansion of the claimant's dairy manufacturing operation. "Dairy manufacturing" means processing milk into dairy products or processing dairy products for sale commercially. The credit is limited to \$200,000 per claimant for C-corporations and \$200,000 per processing facility for S-corporations, partnerships, and limited liability companies. The credit is available for tax years beginning after December 31, 2006, and before January 1, 2015. The maximum amount of credits that may be claimed is limited to \$600,000 for all claimants in fiscal year 2008 and \$700,000 in fiscal years 2009 through 2014. The Department of Agriculture, Trade, and Consumer Protection (DATCP) allocates the credits.

### **Dairy Cooperative Manufacturing Facility Investment Credit**

For tax years beginning after December 31, 2008 and before January 1, 2018, a refundable credit is available to dairy cooperatives based on expenses incurred for modernization or expansion of the cooperative's dairy manufacturing facility in this state. A member of a dairy cooperative may claim the credit in the year after the year in which the modernization or expansion occurs. The maximum amount of credit that may be allocated to all cooperatives is \$600,000 in FY 2010 and \$700,000 in FY 2011 through 2017. The maximum aggregate amount a single cooperative may claim for all years is \$200,000 for each of its manufacturing facilities. The dairy

cooperative must apply to DATCP for the credit but could not claim the credit. Instead, the cooperative must pass the credit through to its members. The definition of "dairy manufacturing facility" and other terms are the same as for the dairy manufacturing facility credit outlined above.

### **Meat Processing Facility Investment Credit**

2009 Act 2 created a refundable meat processing facility investment tax credit equal to 10% of the amount the claimant paid in the tax year for meat processing modernization or expansion related to the claimant's meat processing operation. The tax credit can be claimed for tax years beginning after December 31, 2008 and before January 1, 2017. The maximum aggregate amount of meat processing facility investment tax credits that can be claimed by a claimant in all years is \$200,000. The total amount of tax credits that can be claimed is limited to \$300,000 in fiscal year 2010 and \$700,000 in fiscal years 2011 and thereafter.

"Meat processing modernization or expansion" is defined as constructing, improving, or acquiring buildings or facilities or acquiring equipment for meat processing if acquired and placed in service in this state during taxable years that begin after December 31, 2008, and before January 1, 2017.

DATCP must certify meat processors as eligible for the credit. In the event that the total dollar amount of applications for the credit exceeds the annual limit, Commerce will allocate the credit on a pro-rata basis to the applicants.

### **Electronic Medical Records Credit**

For tax years beginning on or after January 1, 2012, a non-refundable electronic medical records credit is available. The credit is equal to 50% of the amount paid by a health care provider in a tax year for information technology hardware or software that is used to maintain medical records in an electronic form. The maximum total amount of electronic medical records tax credits that could be claimed in a tax year would be \$10 million, and this amount will be allocated to claimants by the Department of Commerce. The Department of Revenue will certify claimants as eligible to receive the credit. Unused credit amounts may be carried forward for 15 years.

### **Ethanol and Biodiesel Fuel Pump Credit**

2007 Act 20 created a non-refundable corporate income and franchise tax credit equal to 25% of the amount that the claimant paid in the taxable year to install or retrofit pumps located in this state that dispense motor vehicle fuel consisting of at least 85% ethanol or at least 20% biodiesel fuel or that mix fuels from separate storage tanks and allow the end user to choose the percentage of gasoline replacement renewable fuel or diesel replacement renewable fuel in the motor vehicle fuel dispensed. The credit is limited to \$5,000 per retail service station that claims a credit. The credit is available for taxable years beginning after December 31, 2007 and before January 1, 2018. Unused credit amounts may be carried forward for 15 years.

### **Community Rehabilitation Program Credit**

For tax years that begin on or after July 1, 2011, a non-refundable Community Rehabilitation Credit is available. The credit is equal to 5% of the amount that the claimant pays in a taxable year to a community rehabilitation program to perform work for the claimant's business. The maximum credit would be \$25,000 for each contract that a claimant enters into with a community rehabilitation program. Unused credits can be carried forward for 15 years to offset future tax liabilities.

### **Water Consumption Credit**

A non-refundable credit is available for taxable years that begin after December 31, 2009 and before January 1, 2020 for claimants who are an industrial customer of a municipal water utility that is located in a federal renewal community zone in this state, and whose average annual water consumption from that utility for a 24-month period exceeds 100 million cubic feet. The credit is calculated by subtracting the claimant's water usage costs in taxable year 2009 from the claimant's water usage costs in the taxable year and multiplying by 0.5. The maximum amount that a claimant may claim in a taxable year is \$300,000. Unused credit amounts may be carried forward for 15 years.

### **Post-Secondary Education Credit**

For taxable years beginning on or after January 1, 2010, a non-refundable credit is available for businesses that pay tuition for their employees at a qualified post-secondary institution if the individual was eligible for a grant from the Federal Pell Grant Program and is a resident of this state. A qualified post-secondary institution is defined as

a University of Wisconsin System institution, a technical college system institution, a regionally-accredited four-year non-profit college or university having its regional headquarters and principal place of business in this state, or a school approved by the Educational Approval Board if the delivery of education occurs in this state. The credit is equal 25% of the tuition paid, or 30% if the individual is enrolled in a course of instruction that relates to a worker shortage in this state as determined by the local Workforce Development Board. The claimant shall claim the credit in the taxable year in which the individual graduates for costs incurred or paid for all taxable years. A claimant may not claim the credit for tuition amounts paid or incurred for a family member unless the family member was employed an average of 20 hours per week at the claimant's business in the one-year period commencing participation in the education program, and if the family member is enrolled in a course of instruction that substantially relates to the claimant's business. Unused credit amounts may be carried forward for 15 years.

### **Woody Biomass Harvesting and Processing Equipment Credit**

A refundable woody biomass harvesting and processing tax credit equal to 10% of the amount the claimant paid in the tax year for equipment that is used primarily to harvest or process woody biomass that is used for fuel or as a component of fuel is available for taxable years beginning after December 31, 2009, and before January 1, 2016. "Woody biomass" is defined as trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest or woodland or on agricultural land.

Claimants must be certified by DATCP as eligible to receive the credit, and DATCP allocates credits among claimants. The maximum amount of credit that may be allocated in a year is \$900,000, and the maximum aggregate amount of credits that a claimant may claim for all tax years is \$100,000.

### **Food Processing Plant and Food Warehouse Investment Credit**

For taxable years beginning after December 31, 2009 and before January 1, 2017 a refundable credit is available for investments in modernization or expansion of food processing plants and food warehouses. "Food processing plant or food warehouse modernization or expansion" is defined as constructing, improving, or acquiring buildings or facilities, or acquiring equipment if used exclusively for food processing or food warehousing and if acquired and placed in service in this state during taxable years that begin after December 31, 2009, and before January 1, 2017.

The maximum aggregate amount of credits that may be claimed by a claimant is \$200,000 for all tax years. Claimants must be certified by DATCP as eligible for the credit, and the claimant must include a copy of the certification with the tax return when the credit is claimed. DATCP allocates credits among claimants. The maximum amount that may be allocated is \$1.0 million in fiscal year 2010, \$1.2 million in fiscal year 2011, and \$700,000 in fiscal years 2012 through 2017.

### **Beginning Farmer and Farm Asset Credit**

Available for tax years beginning after December 31, 2010, the refundable *beginning farmer tax credit* would equal the amount paid by the beginning farmer to enroll in a financial management program in the year to which the claim related. An individual is a beginning farmer if they have:

- (a) a net worth of less than \$200,000;
- (b) farmed for fewer than ten years out of the preceding 15 years;
- (c) entered into a lease for a term of at least three years with an established farmer for the use of the established farmer's agricultural assets by the beginning farmer; and
- (d) used the leased agricultural assets for farming.

The beginning farmer tax credit may be claimed on one-time basis, and the maximum credit that may be claimed is \$500.

The refundable *farm asset owner tax credit* is equal to 15% of the lease amount received by an established farmer in the year to which the claim related. "Lease amount" is defined as the amount of the cash payment paid by a beginning farmer to an established farmer each year for leasing the established farmer's agricultural assets. The credit may only be claimed for the first three years of any lease of the established farmer's assets to a beginning farmer.

### **Manufacturing and Agriculture Credit**

For taxable years beginning after December 31, 2012, a non-refundable Qualified Production Activities Credit is available. The credit is equal to a specified percentage of the claimant's qualified production activities income that is derived from property assessed as manufacturing or agricultural property in Wisconsin, as defined under state property tax law.

"Qualified production activities income" is defined as the amount of the claimant's gross receipts for the taxable year that exceeds the cost of goods sold that are allocable to such receipts and the indirect cost multiplied by the gross receipts factor. "Qualified production activities income" does not include any of the following:

- (a) income from film production;
- (b) income from producing, transmitting, or distributing electricity, natural gas, or potable water;
- (c) income from constructing real property;
- (d) income from engineering or architectural services performed with respect to constructing real property;
- (e) income from the sale of food and beverages prepared by the claimant at a retail establishment; or
- (f) income from the lease, rental, license, sale, exchange, or other disposition of land.

For corporations the credit would be the lesser of a specified percentage of the claimant's:

- eligible qualified production activities income;
- income apportioned to Wisconsin for state corporate income and franchise tax purposes; or
- taxable income for corporate income and franchise tax purposes as determined under s. 71.255 (2).

The specified percentages are:

1. For taxable years beginning after December 31, 2012, and before January 1, 2014, 1.875%;
2. For taxable years beginning after December 31, 2013, and before January 1, 2015, 3.75%
3. For taxable years beginning after December 31, 2014, and before January 1, 2016, 5.526%
4. For taxable years beginning after December 31, 2015, 7.5%.

Insurance companies may not claim the credit.

### **Disabled Unemployed Veteran Hiring Credit**

2011 Act 212 created a non-refundable credit for hiring unemployed disabled veterans. The credit is equal to \$4,000 in the first taxable year and \$2,000 in each of the three subsequent taxable years for each unemployed disabled veteran that is hired full-time. For unemployed disabled veterans hired part-time, the credit is equal to \$2,000 in the taxable year in which the eligible veteran is hired and \$1,000 in each of the three subsequent taxable years multiplied by the fraction determined by dividing the number of hours worked by the veteran in the taxable year by 2,080.

A "disabled veteran" is defined as a veteran who is verified by the Department of Veteran Affairs to have a service-connected disability rating of at least 50%. The veteran must have been receiving unemployment benefits for at least a week at the time of hire. No credit may be claimed in a taxable year in which the veteran voluntarily or involuntarily leaves employment with the claimant.

### **Relocated Business Credit**

For taxable years beginning after December 31, 2010, a nonrefundable credit is available for businesses that relocate to this state from another state or country. The credit is equal to the net Wisconsin tax liability of the businesses after taking into account all other allowable credits, deductions, and exclusions, and can be claimed for two taxable years beginning with the year in which the business relocates to Wisconsin. To be eligible for the credit the claimant must not have done business in this state in the any of the two preceding taxable years. Unused credit amounts may not be carried forward.

## ECONOMIC DEVELOPMENT SURCHARGE

### Introduction

For state fiscal years before FY 2012, Wisconsin imposed a recycling surcharge on all non-farm businesses with gross receipts of at least \$4 million. Beginning in state fiscal year 2012, the recycling surcharge was renamed the economic development surcharge. All provisions of the surcharge remain the same, except that the revenues are deposited in a segregated economic development fund and are used to fund economic development programs of the Wisconsin Economic Development Corporation (WEDC). Collections for FY12 were \$27.5 million.

The surcharge is imposed at a rate of 3% on gross tax liability for corporations and 0.2% of net business income for non-corporate business entities. The maximum surcharge is \$9,800 and the minimum is \$25. Non-corporate farms are exempt from the surcharge if their gross receipts from farming are no more than \$4 million; they pay a surcharge of \$25 if not exempt. The surcharge does not apply to entities not required to file an income tax return.

**TABLE 1**  
**ECONOMIC DEVELOPMENT SURCHARGE EXEMPTION DEVICES SUMMARY**

Exemption Devices	Statutory Reference*	FY12 Fiscal Effect
<b>Exemptions from Taxation</b>		
Exempt Corporations	s 77.93 (1)	Not available
Exempt Individuals, Estates, and Trusts	s 77.93 (2)	Not available
\$4 Million Gross Receipts Exemption	s 77.93 (1) and 77.94 (1)(b)	\$17,200,000 <sup>1</sup>
Members of the Clergy and Certain Religious Groups	s 77.92 (5)	Minimal
<b>Special Treatment</b>		
\$9,800 Surcharge Limit	s 77.94 (1)	\$12,100,000 <sup>1</sup>
Exclusion of Farming Income from Surcharge Calculation	s 77.92 (4)	Minimal

\* References to sections of the 2011 Wisconsin Statutes.

1. The estimate is based on data from tax year 2009 returns, the most recent data available.

### EXEMPTIONS FROM TAXATION

#### Exempt Corporations

Corporations that are exempt from the corporate income and franchise tax under sec. 71.26 (1), Wis. Stats., and that have no unrelated business income reportable under sec. 71.24 (1m), Wis. Stats., are exempt from the surcharge. This exemption includes primarily governmental and not-for-profit entities, and cooperative associations and cooperative corporations.

#### Exempt Individuals, Estates, and Trusts

Only persons who file a form indicating a profit or loss from a trade or business for federal income tax purposes are subject to the economic development surcharge. The surcharge does not apply to natural persons, estates or trusts that are not required to file a return because their non-business income is less than the filing requirements under Subchapter I or II of Chapter 71, Wis. Stats. In addition, persons who are not employees as defined in section 3121 (d)(3) of the Internal Revenue Code are exempt from the surcharge.

#### \$4 Million Gross Receipts Exemption

Businesses with less than \$4 million of gross receipts are exempt from the surcharge. The fiscal effect relates to the amount of economic development surcharge that would be collected if businesses with less than \$4 million in gross receipts were subject to the surcharge. Of the total \$19.0 million fiscal effect of this exemption, \$1.2 million is attributable to filers with only farm receipts who would be required to pay the minimum surcharge absent the gross receipts threshold.

**Members of the Clergy and Certain Religious Groups**

Members of the clergy and members of certain recognized religious groups who perform services or duties as defined by section 1402(c)(4) and (5) of the Internal Revenue Code are exempt from the surcharge.

**SPECIAL TREATMENT****\$9,800 Surcharge Limit**

The maximum surcharge that any taxpayer is required to pay is \$9,800. This is considered an exemption device because the amount of surcharge that is collected is less than it would be had the surcharge been collected under the existing rates without the maximum. The fiscal effect relates to the additional amount of economic development surcharge that would be collected if the limit was removed.

**Exclusion of Farming Income from Surcharge Calculation**

For all non-corporate taxpayers, net profit or loss from farming is excluded from net business income in computing the economic development surcharge. However, a natural person, estate, trust, partnership, or limited liability company that is engaged exclusively in farming and has more than \$4 million in gross receipts would still be subject to the economic development surcharge. In these cases, the surcharge would be the minimum \$25. In addition, any non-corporate business engaged in farming as well as one or more other non-farming businesses with gross receipts from all sources of \$4 million or more would also pay the \$25 minimum as long as its non-farming net income is \$12,500 or less. The fiscal effect of this provision is minimal because there are few non-corporate farms with gross receipts greater than \$4 million.

## SALES AND USE TAX

### Introduction

Wisconsin imposes a 5% tax on the sale or use of most items of tangible personal property and on the sale of selected services. The state first imposed a 3% selective sales and use tax in 1962 but replaced it with a 4% general sales and use tax in 1969. The current 5% rate has been in effect since 1982.

The original 3% tax was selective in that goods subject to the tax were specifically identified in the statutes: household furnishings, motor vehicles, jewelry, tobacco, fermented malt beverages, intoxicating liquors and food sold in restaurants were taxable. The general tax imposed in 1969, in contrast to the selective tax, falls on sales of all tangible personal property, except property specifically exempted by law. The sales tax remains selective in its treatment of services, imposed only on those services the law enumerates as taxable.

Numerous changes to the sales tax base have been made over the years. Exemptions are discussed in detail in the latter half of this chapter and estimates of fiscal effects are provided. Expansions of the sales and use tax base include:

- Cigarettes (1975);
- Cable television, including installation (1975);
- Interstate telephone and telegraph services, and landscaping and lawn maintenance services (1982);
- Magazines other than those sold by subscription (1983);
- Telephone company central office equipment and coin-operated telephone services (1996);
- Telephone answering and messaging services, and telecommunications services terminating in and billed to a service address in the state (1997).
- Digital goods, including non-permanent goods regardless of whether the purchaser is required to make continued payments for usage (2009).

The 5% sales tax is imposed on retailers for the privilege of selling, leasing or renting tangible personal property that is not specifically exempt from tax. In addition, a 5% use tax is imposed on the storage, use or other consumption in this state of tangible personal property that is purchased out-of-state and is not specifically exempt. The use tax complements the sales tax in that, without a use tax, consumers would be able to avoid sales tax by purchasing goods out-of-state. Thus, the use tax ensures that the sales tax does not place Wisconsin merchants at a competitive disadvantage compared with those in other states.

### Taxable Services

The law imposes a sales tax on selected services. Unlike tangible personal property, sales of which are taxable unless specifically exempt, services are not subject to the sales tax unless enumerated in the statutes. The following services are taxable:

- Rooms or lodging for less than one-month by hotelkeepers, motel operators and other persons furnishing accommodations to the public.
- Admissions to amusement, athletic, entertainment or recreational events or places. Admissions to places or events that are educational in nature, such as museums or zoos, and admissions to county fairs are exempt from sales tax.
- Laundry, dry cleaning, pressing and dyeing services, except when performed on raw materials or goods in process destined for sales, except when performed on cloth diapers by a diaper service, and except when performed by the customer through the use of coin-operated, self-service machines.
- Cable television services, including installation charges.

- Internet access, prepaid calling, telecommunications, and ancillary services, if the service takes place in Wisconsin.
- Photographic services, including the processing, printing and enlarging of film, and the services of photographers for the taking, reproducing and sale of photographs.
- Parking or providing parking space for motor vehicles and aircraft, and docking or providing storage space for boats.
- The repair, inspection and maintenance of tangible personal property, and the installation of tangible personal property, except when such installation constitutes a capital improvement to real property.
- The production, printing or imprinting of tangible personal property for consumers who furnish directly or indirectly the materials used in such processes.
- Landscaping and lawn maintenance services.
- Towing and hauling of motor vehicles.

### Local Taxes

The law allows counties and a professional football stadium district to impose a 0.5% local sales and use tax and a professional baseball park district to impose a 0.1% sales and use tax. These local taxes are imposed on the same tax base as the state sales and use tax. As of January 1, 2013, 62 counties impose the 0.5% county sales and use tax.

The Southeast Wisconsin Professional Baseball Park District imposed a 0.1% sales tax in Milwaukee, Ozaukee, Racine, Washington and Waukesha Counties in 1996. Proceeds from this tax are used to finance Miller Park, the Milwaukee Brewers' home field. This tax will be discontinued upon retirement of the bonds issued to finance the ballpark and the funding of a maintenance and capital improvement fund for the ballpark.

The Green Bay-Brown County Professional Football Stadium District imposed a 0.5% sales tax in Brown County in 2000 to finance the renovation of Lambeau Field. This tax will be discontinued upon retirement of the bonds issued to finance the stadium and the funding of a maintenance and capital improvement fund for the stadium.

Table 1 (on the following page) lists the state's 72 counties, the local sales taxes applicable in each county, the effective date of the county sales tax, and the combined state and local sales tax rate.

### Administration and Collections

Sales tax is imposed on the gross receipts from retail sales; use tax is imposed on the amount paid for a product that is subject to sales tax but for which the seller does not collect sales tax. Each retailer is responsible for paying sales tax, regardless of whether it is identified on the bill and collected directly from the customer. Every business that makes taxable sales is required to obtain a seller's permit from the department and pay a \$20 business tax registration fee.

Retailers are permitted to retain a portion of the taxes they collect as compensation for the costs they incur in collecting the tax. Since 1997 the retailer's discount has been 0.5% of the amount of tax liability if taxes are paid timely, with a minimum discount of \$10 per filing period. Under 2009 Act 28, the retailer's discount was capped at \$1,000 per filing period.

In contrast to the sales tax which is paid by the seller, use tax is paid by the purchaser. Corporations may file a use tax return or report use tax on their corporate income and franchise tax returns. Private individuals typically report their use tax liability on their individual income tax returns.

Since its creation in 1962 at 3%, the state sales tax has been increased twice (to 4% in 1969 and to 5% in 1982) and the tax has been converted from a selective to a general sales tax. Collections increased from \$83 million in FY65 to \$4.29 billion in FY12. Sales and use taxes provided 14% of general purpose tax revenues in FY65, but that share increased to 32% in FY12.

**TABLE 1  
LOCAL SALES AND USE TAXES AND COMBINED STATE-LOCAL TAX RATE BY COUNTY  
JANUARY 1, 2013**

County	County Sales Tax (Effective Date)	Combined State-Local Tax Rate	County	County Sales Tax (Effective Date)	Combined State- Local Tax Rate
Adams	1/1/1994	5.50%	Marathon	4/1/1987	5.50%
Ashland	4/1/1988	5.50%	Marinette	10/1/2001	5.50%
Barron	4/1/1986	5.50%	Marquette	4/1/1989	5.50%
Bayfield	4/1/1991	5.50%	Menominee		5.00%
Brown (FB)		5.50%	Milwaukee (BB)	4/1/1991	5.60%
Buffalo	4/1/1987	5.50%	Monroe	4/1/1990	5.50%
Burnett	4/1/1989	5.50%	Oconto	7/1/1994	5.50%
Calumet		5.00%	Oneida	4/1/1987	5.50%
Chippewa	4/1/1991	5.50%	Outagamie		5.00%
Clark	1/1/2009	5.50%	Ozaukee (BB)	4/1/1991	5.60%
Columbia	4/1/1989	5.50%	Pepin	4/1/1991	5.50%
Crawford	4/1/1991	5.50%	Pierce	4/1/1988	5.50%
Dane	4/1/1991	5.50%	Polk	4/1/1988	5.50%
Dodge	4/1/1994	5.50%	Portage	4/1/1989	5.50%
Door	4/1/1988	5.50%	Price	1/1/1993	5.50%
Douglas	4/1/1991	5.50%	Racine (BB)		5.10%
Dunn	4/1/1986	5.50%	Richland	4/1/1989	5.50%
Eau Claire	1/1/1999	5.50%	Rock	4/1/2007	5.50%
Florence	7/1/2006	5.50%	Rusk	4/1/1987	5.50%
Fond du Lac	4/1/2010	5.50%	St. Croix	4/1/1987	5.50%
Forest	4/1/1995	5.50%	Sauk	4/1/1992	5.50%
Grant	4/1/2002	5.50%	Sawyer	4/1/1987	5.50%
Green	1/1/2003	5.50%	Shawano	4/1/1990	5.50%
Green Lake	7/1/1999	5.50%	Sheboygan		5.00%
Iowa	4/1/1987	5.50%	Taylor	7/1/1999	5.50%
Iron	4/1/1991	5.50%	Trempealeau	10/1/1995	5.50%
Jackson	4/1/1987	5.50%	Vernon	1/1/1997	5.50%
Jefferson	4/1/1991	5.50%	Vilas	4/1/1988	5.50%
Juneau	4/1/1992	5.50%	Walworth	4/1/1987	5.50%
Kenosha	4/1/1991	5.50%	Washburn	4/1/1991	5.50%
Kewaunee		5.00%	Washington (BB)	1/1/1999	5.60%
La Crosse	4/1/1990	5.50%	Waukesha (BB)		5.10%
Lafayette	4/1/2001	5.50%	Waupaca	4/1/1989	5.50%
Langlade	4/1/1988	5.50%	Waushara	4/1/1990	5.50%
Lincoln	4/1/1987	5.50%	Winnebago		5.00%
Manitowoc		5.00%	Wood	1/1/2004	5.50%

FB indicates 0.5% football stadium tax imposed 11/1/00.

BB indicates 0.1% baseball park tax imposed 1/1/96.

### Calculations of Exemptions

This report describes each sales tax exemption and, where feasible, provides an estimate of its fiscal effect in FY12. Fiscal effects are shown for the state's revenue loss only. The reduction to local sales tax collections is not included. In general, fiscal effects were estimated by obtaining or estimating the gross receipts from retail sales for the most recent year available and adjusting those receipts to FY12 levels using income and price data. When possible, estimates are based on data specific to Wisconsin obtained from state and federal agencies and trade organizations with statewide membership or information. For some exemptions, state-specific data are not available; and the fiscal effects of these exemptions were estimated from national sales data using Wisconsin's percentage of the nation's population, personal income or a similar indicator. For some exemptions, no data on which to base an estimate are available. For others, no estimate is made because the state is precluded from taxing the sale; (for example, sales to the federal government are exempt from state tax under the U.S. Constitution).

The significance of these exemptions may be viewed from the perspective of actual sales and use tax collections, which were \$4.29 billion in FY12. For example, the exemption of "food and food ingredients", which is estimated to cost \$539.9 million in foregone tax revenues, represents approximately 12.5% of sales and use tax collections.

Table 2 below summarizes the estimated revenue foregone by sales tax exemptions for certain goods, as specified by statute. A description of each exemption follows the table.

**TABLE 2  
SALES AND USE TAX EXEMPTION DEVICES SUMMARY**

Exemption	Statutory Reference*	FY12 Fiscal Effect
<b>Exemptions for Property Sold Primarily to Households</b>		
Food and Food Ingredients (not including bottled water)	s. 77.54(20n)(a)	536,900,000
Bottled Water	s. 77.54(20n)(a)	19,500,000
Meals Furnished by Institutions of Higher Education	s. 77.54(20n)(c)1.	6,100,000
Water Sold Through Mains	s. 77.54(17)	23,900,000
Fuel and Electricity for Residential Use	s. 77.54(30)(a)1. and 2	117,600,000
Biomass Used as Fuel Sold for Residential Use	s. 77.54(30)(a)1m.	Minimal
Manufactured Homes Used as Primary Housing	s. 77.54(31) and s. 77.51 (12m) (b) 7.	300,000
Motor Fuels	s. 77.54(11)	595,900,000
Vegetable Oil and Animal Fats Converted to Exempt Fuel	s. 77.54(11m)	Minimal
Newspapers, Periodicals and Shoppers Guides	s. 77.54(15)	14,500,000
Caskets and Burial Vaults	s. 77.54(21)	4,800,000
U.S. and State of Wisconsin Flags	s. 77.54(46)	Minimal
Coin-Operated Laundry and Dry Cleaning Services	s. 77.52(2)(a)6.	1,600,000
Diaper Services	s. 77.52(2)(a)6.	Minimal
Gun Club Admissions and Membership Fees	s. 77.52(2)(a)2.b.	Not Available
<b>Exemptions Related to Health Care</b>		
Prescription Drugs and Medicines (excluding Insulin)	s. 77.54 (14)	143,600,000
Insulin and Equipment Used in the Treatment and Testing of Diabetes	s. 77.54 (14m) and (28)	6,000,000
Medical Devices (inc. Wheelchairs, Home Oxygen Equipment)	s. 77.54 (22b)	15,600,000
Meals Provided by Nursing Homes, Community-Based Residential Facilities and Hospitals, and Food Sold in Retirement Homes	s. 77.54 (20n)(b)	Not Available
<b>Exemptions Related to Farming</b>		
Tractors and Farm Machinery	s. 77.54 (3) (a)	40,500,000
Personal Property and Supplies Used in Farming	s. 77.54 (3m)	215,500,000
Electricity Used in Farming	s. 77.54 (30) (a) 3.	7,300,000
Fuel Used in Farming	s. 77.54 (30) (a) 5.	22,000,000
Veterinary Services and Medicines for Farm Livestock	s. 77.52 (2) (a) 10. and 77.54 (33)	8,300,000
Semen for Livestock Breeding	s. 77.54 (27)	3,900,000
<b>Exemptions Related to General Business</b>		
Machinery and Equipment Used in Manufacturing	s. 77.54 (5) (d) and (6) (a)	175,900,000
Fuel and Electricity Used in Manufacturing	s. 77.54 (30) (a) 6.	107,100,000
Tangible Personal Property Consumed in Manufacturing	s. 77.54 (2)	Not Available
Component Parts of Shoppers Guides, Newspapers and Periodicals	s. 77.54 (2m)	Not Available
Catalogs and Catalog Envelopes	s. 77.52 (2) 11., 77.54 (25) and 77.54(25m)	4,000,000
Advertising and Promotional Direct Mail	s. 77.54(59)	Effective 7/1/2013
Fuels Converted to Electric Energy, Gas or Steam by Utilities	s. 77.54 (6) (c)	Not Available
Waste Treatment Facilities and Machinery and Equipment Used in Recycling	s. 77.54 (5) (c), (26) and (26m)	Not Available
Logging Equipment	s. 77.54 (39)	920,000
Equipment Used in the Production of Maple Syrup	s. 77.54 (29)	Minimal

**TABLE 2**  
**SALES AND USE TAX EXEMPTION DEVICES SUMMARY, continued**

Exemption	Statutory Reference*	FY12 Fiscal Effect
<b>Exemptions Related to General Business, continued</b>		
Wood Residue Used as Fuel in a Business Activity	s. 77.54 (30) (a) 4.	200,000
Building Materials, Equipment and Supplies Used in the Construction of Professional Sports Stadiums	s. 77.54 (41)	1,800,000
Live Game Birds and Clay Pigeons	s. 77.54 (47)	200,000
Trucks, Tractors, Buses and Other Vehicles Sold to Common or Contract Carriers	s. 77.54 (5) (b)	22,800,000
Rolling Stock Used in Railroad Operations	s. 77.54 (12)	2,500,000
Commercial Vessels and Barges	s. 77.54 (13)	Minimal
Fuel Used by Chartered Fishing Vessels	s. 77.54 (30) (a) 7	Minimal
Containers, Labels, Sacks, Cans, Boxes and Other Packaging and Shipping Materials	s. 77.54 (6) (b)	Not Available
Motion Picture and TV Film and Advertising Materials	s. 77.54 (23m)	14,600,000
Restaurant Employee Meals	s. 77.54 (20r)	Not Available
Tangible Personal Property Purchased for Resale but Donated to a Nonprofit Organization	s. 77.56 (3)	Not Available
Prepaid Telephone Cards and Authorization Numbers	s. 77.54 (46m)	Minimal
Biotechnology and Manufacturing Research	s. 77.54 (57)	13,000,000
Certain Products Using Alternative Energy	s. 77.54 (56)	500,000
Sales to Affiliated Companies	s. 77.54 (49)	Not Available
Machinery and Equipment Used in Snowmaking and Snow-grooming	s. 77.54 (58)	Effective 7/1/2013
<b>Exemptions for Government Agencies and Nonprofit Organizations</b>		
Sales to the Federal Government and Its Agencies	s. 77.55 (1)	Not Available
Sales to State and Local Governments and Schools	s. 77.54 (9a) (a)-(em), (g) and (h)	368,800,000
Religious, Charitable, Scientific and Educational Organizations	s. 77.54 (9a)(f)	149,500,000
Lunches and Other Tangible Personal Property Sold by Elementary and Secondary Schools	s. 77.54 (4)	9,600,000
Admissions to Elementary and Secondary School Activities	s. 77.54 (9)	900,000
Admissions to State Parks and Camping Fees	s. 77.54 (10)	910,000
Admissions to Certain Historical Museums	s. 77.54 (10)	21,000
Admissions to County Fairs	s. 77.52 (2) (a) 2.	Not Available
Volunteer Fire Department Equipment	s. 77.54 (16)	Minimal
Copies of Public Records	s. 77.54 (32)	Minimal
Sales by American Legion Baseball Teams	s. 77.54 (35)	Not Available
Snowmobile Trail Grooming Equipment	s. 77.54 (38)	Minimal
Police and Fire Protection Fees	s. 77.54 (55)	2,800,000
Sales of Animal Identification Tags and Samples by the Department of Agriculture, Trade and Consumer Protection	s. 77.54 (42)	Minimal
Public Benefits Fees	s. 77.54 (44)	5,400,000
One-time License or Right to Purchase Admissions to Professional Football Games	s. 77.54 (45)	Minimal
Motor Vehicles Loaned to Driver Education Programs	s. 77.56 (2)	Minimal
Non-profit Cemetery Associations	s. 77.54 (9a) (i)	160,000
Veterans Home Exchange Services	s. 77.54 (54)	Minimal

**TABLE 2**  
**SALES AND USE TAX EXEMPTION DEVICES SUMMARY, continued**

Exemption	Statutory Reference*	FY12 Fiscal Effect
<b>Exemptions for Nonresidents and for Use in Other States</b>		
Interstate Commerce	s. 77.54 (1)	Not available
Property Used in Wisconsin by Nonresidents	s. 77.53 (17)	Not available
Nonresidents' Boats Berthed in Boundary Waters	s. 77.53 (17m)	Not available
Nonresidents' Aircraft Hangered in Wisconsin	s. 77.53 (17r)	Not available
Goods Brought into the State by New Residents	s. 77.53 (18)	Not available
Property Purchased for Use Outside the State	s. 77.55 (3)	Not available
Aircraft, Motor Vehicles and Truck Bodies Sold for Use Outside the State	s. 77.54 (5)(a)	Not available
Modular and Manufactured Homes Used in Real Property Construction Outside of the State	s. 77.54 (5)(am)	260,000
Property Sold to Out-of-State Common or Contract Carriers	s. 77.55 (2) and (2m)	Not available
Printed Advertising Material Used Outside the State	s. 77.54 (25)	Not available
Temporary Storage of Printed Materials	s. 77.54 (43)	Not available
<b>Definitional and Miscellaneous Exemptions</b>		
Exemptions That Further Define Retail Sales	See text	Not available
Labor Input into Construction	s. 77.52 (2) (a) 10.	499,400,000
Trade-Ins and Lemon Law Refunds	s. 77.51 (15b), (b) 5. and 6.	97,100,000
Certain Occasional Sales	s. 77.54 (7) and (7m)	Not available
Auction Sales	s. 77.51 (9) (e)	Not available
Retailer's Discount	s. 77.61 (4) (c)	17,900,000

\*References to sections of the 2011 Wisconsin Statutes.

## EXEMPTIONS FOR PROPERTY SOLD PRIMARILY TO HOUSEHOLDS

### Food and Food Ingredients

The sales price from the sale of and the storage, use, or other consumption of food and food ingredients; except candy, soft drinks, dietary supplements, and prepared food; are exempt from the sales tax. Food for direct consumption on the premises, such as meals sold in restaurants, cafes and cafeterias, is taxable. Sales of food and food ingredients; except candy, soft drinks, and prepared food; from vending machines are treated as exempt sales for home consumption

### Bottled Water

Bottled water is included in the definition of food and food ingredients, and consequently, is exempt from the sales tax.

### Meals Furnished by Institutions of Higher Education

Sales of meals, food and beverages furnished by public and private institutions of higher education are exempt from sales tax if they are furnished to students enrolled in that institution or under an agreement with a National Football League team.

### Water Sold Through Mains

Sales of water delivered through mains, and sales of water by public and private water utility districts are exempt from the sales tax.

### Fuel and Electricity for Residential Use

All sales for residential use of coal, fuel oil, propane, steam, peat, fuel cubes produced from solid waste and sales of wood used for fuel for residential use are exempt from sales tax. Sales of electricity and natural gas for residential use billed from November through April are also exempt from sales tax.

**Biomass Used for Residential Fuel**

Sales of biomass used for residential fuel are exempt from sales tax. Biomass includes fuel derived from wood or plant material but does not include industrial, commercial, or household waste.

**Manufactured Homes**

Thirty-five percent of the total amount for which a new manufactured home is sold, if the manufactured home is used as a dwelling and is certified by the federal Department of Housing and Urban Development, is exempt from sales tax.

**Motor Fuels**

Sales of motor fuels that are subject to the state motor fuel excise tax are exempt from the sales tax. Exempt fuels include gasoline, commercial and general aviation fuel and diesel fuel.

**Vegetable Oil and Animal Fats Converted to Exempt Fuel**

Sales of vegetable oil or animal fat that is converted into certain motor vehicle fuel is exempt from sales tax.

**Newspapers, Periodicals and Shoppers Guides**

Sales of newspapers, periodicals sold by subscription, and shoppers' guides that distribute at least 48 issues in a 12-month period are exempt from sales tax. The exemption for newspapers and periodicals is generally limited to those published four or more times per year. Periodicals issued at intervals not exceeding six months by an educational association or tax-exempt religious, charitable, scientific or educational organization are also exempt.

**Caskets and Burial Vaults**

Sales of caskets and burial vaults are exempt from sales tax.

**United States of America and State of Wisconsin Flags**

Sales of U.S. and Wisconsin flags are exempt from sales tax.

**Coin-Operated Laundry and Dry Cleaning Services**

Laundry services performed by customers using coin-operated equipment are exempt. Gross receipts from laundry, dry cleaning, pressing and dyeing services performed on raw materials in process and destined for sale are also exempt.

**Diaper Services**

Gross receipts from the sale or rental of cloth diaper services are exempt.

**Gun Club Admissions and Memberships**

Sales of admissions, including memberships, by a gun club are exempt if the gun club is a nonprofit organization and if the gun club provides safety classes approved by the Department of Natural Resources to at least 25 individuals in the calendar year. Gun clubs include trapshooting, skeet-shooting, sporting-clay, hunting, rod and gun, hunting and fishing, and conservation clubs.

## **EXEMPTIONS RELATED TO HEALTH CARE**

### **Prescription Drugs and Medicines**

Sales of medicines are exempt from sales and use tax if the medicines are: (1) prescribed for treatment by an authorized person or dispensed by a registered pharmacist; (2) furnished by a licensed physician, surgeon, podiatrist or dentist to his own patient; (3) furnished by a hospital for treatment of patients on the orders of a licensed physician, surgeon, podiatrist or dentist; (4) sold to a licensed physician, surgeon, podiatrist or dentist for treatment of patients; (5) sold to this state or a political subdivision or any municipal corporation thereof for use in treatment of human beings or furnished by a medical facility maintained by the state; (6) furnished for the treatment of a human being by a medical facility or clinic maintained by the state or a political subdivision or any municipal corporation thereof, or (7) furnished without charge to a physician, surgeon, nurse anesthetist, advanced practical nurse, osteopath, dentist, podiatrist or optometrist if the medicine may not be dispensed without a prescription.

### **Insulin and Equipment Used in the Treatment and Testing of Diabetes**

Insulin and apparatus used for the injection of insulin, other equipment used to treat diabetes, and equipment and supplies used to measure blood sugar levels are exempt from the sales tax.

### **Medical Devices**

Medical devices, including repair parts and accessories, are exempt from sales tax. Exempt devices include wheelchairs and crutches; artificial limbs, eyes and teeth; prescription eye glasses; hearing aids; equipment used to administer prescription oxygen for home use; and adaptive equipment to enable a handicapped person to enter, operate and leave a motor vehicle.

### **Meals Provided by Nursing Homes, Community-Based Residential Facilities, Licensed Childcare Facilities and Hospitals, and Food Sold in Retirement Homes**

Sales of meals and food and food ingredients, except soft drinks, by and served on the premises of hospitals, sanatoriums, nursing homes, community-based residential facilities, licensed child care facilities and retirement homes are exempt from the sales tax. Retirement homes are nonprofit residential facilities where three or more unrelated adults or their spouses have their principal residence and where support services, including meals from a common kitchen, are available to residents.

## **EXEMPTIONS RELATED TO FARMING**

### **Tractors and Farm Machinery**

Sales of tractors and farm machinery, including accessories, attachments, and parts, used directly in farming are exempt from sales tax. The exemption does not apply to motor vehicles for highway use, such as cars and trucks. In 2007, the exemption was expanded to include sales of tangible personal property that is used exclusively and directly, or is consumed or loses its identity, in the business of agriculture or silviculture.

### **Personal Property and Supplies Used in Farming**

Sales of seeds; plants; feed; fertilizer; soil conditioners; animal bedding; sprays, pesticides, and fungicides; breeding and other livestock; farm work stock; baling twine and baling wire; containers; and plastic bags, sleeves, and sheeting used to store or cover hay or silage are exempt from sales tax.

### **Electricity Used in Farming**

Electricity sold for use in farming is exempt from sales tax.

### **Fuel Used in Farming**

Fuel sold for use in farming is exempt from sales tax.

**Veterinary Services and Medicines for Farm Livestock**

Sales of services provided by veterinarians for animal health care, breeding or training of livestock, and sales of medicines used to treat farm livestock, are exempt from sales tax.

**Semen for Livestock Breeding**

The sale of semen used for the artificial insemination of livestock is exempt from sales tax.

**EXEMPTIONS RELATED TO GENERAL BUSINESS****Machinery and Equipment Used in Manufacturing**

The sale and use of machines and specific processing equipment and repair parts used exclusively and directly by a manufacturer in the manufacturing process are exempt from sales tax. Generally, manufacturing is defined as the production by machinery from existing materials of a new article of tangible personal property with a different form, use or name. Mobile mixing and processing units, including the vehicles on which they are mounted, are also exempt manufacturing machinery and equipment.

**Fuel and Electricity Used in Manufacturing**

Fuel and electricity used in manufacturing tangible personal property are exempt from sales and use tax.

**Tangible Personal Property Consumed in Manufacturing**

Tangible personal property, typically raw materials and other inputs, that is consumed, destroyed or loses its identity in manufacture of finished goods is exempt from sales tax.

**Component Parts of Shoppers Guides, Newspapers and Periodicals**

Materials and services that become component parts of shoppers' guides, newspapers and periodicals are exempt from sales tax.

**Catalogs and Catalog Envelopes**

Catalogs and the envelopes in which catalogs are mailed are exempt from the sales tax if the catalogs are designed to advertise and promote the sale of merchandise or to advertise the services of individual businesses.

**Advertising and Promotional Direct Mail**

Direct mail that has the primary purpose of attracting public attention to a product, person, business, or organization or to attempt to sell, popularize, or secure financial support for a product, person, business, or organization is exempt from sales tax.

**Fuels Converted to Electric Energy, Gas or Steam by a Utility**

Fuels converted to electric energy, gas or steam by a utility are exempt from sales tax.

**Waste Treatment Facilities and Machinery and Equipment Used in Recycling**

Sales and installation of waste treatment facilities, replacement parts, and chemicals and supplies used in operating a waste treatment facility are exempt from the sales tax. The exemption applies to expenditures by governmental units, private industry and their construction contractors for sewage treatment plants, holding ponds and similar facilities. The sale and use of machinery and equipment and repair parts used exclusively and directly for waste reduction or recycling activities are exempt. Also exempt are motor vehicles used exclusively and directly in recycling that are not required to be licensed for highway use. The activities qualifying for the exemption include those that reduce the amount of solid waste generated, recover energy from solid waste, and reuse, recycle, or compost solid waste. Some recycling machinery is also exempt as manufacturing machinery.

**Logging Equipment**

Off-highway, heavy mechanical equipment used in the harvesting or processing of raw timber products in the field by loggers is exempt from sales tax.

**Equipment Used in the Production of Maple Syrup**

Equipment used in the production of maple syrup is exempt from sales tax.

**Wood Residue Used as Fuel in a Business Activity**

The sale of residue from the harvesting of timber for use as a fuel in a business activity is exempt from sales tax.

**Building Materials, Equipment and Supplies Used in the Construction of Professional Sports Stadiums**

Sales of building materials, equipment and supplies used solely in the construction of a sports stadium built or used by a professional sports team are exempt from the sales tax. This exemption applies to the Miller Park constructed by the Southeast Wisconsin Professional Baseball Park District and to Lambeau Field constructed by the Green Bay-Brown County Professional Football Stadium District.

**Live Game Birds and Clay Pigeons**

Sales of live game birds and clay pigeons to licensed bird hunting preserves are exempt. Also exempt are sales of clay pigeons to a shooting facility if the shooting facility pays sales tax on its charges for shooting or the shooting facility is a nonprofit organization whose charges for shooting are exempt occasional sales or if the charges pertain to a nonprofit gun club providing safety classes to at least 25 individuals annually.

**Trucks, Tractors, Buses and Other Vehicles Sold to Common or Contract Carriers**

Sales of trucks, truck tractors, buses, trailers and semi-trailers and accessories, parts and supplies sold to common or contract carriers are exempt from sales tax. This exemption applies to urban mass transportation, bus and trucking companies, and other contract carriers.

**Rolling Stock Used in Railroad Operations**

Sales of locomotives, freight cars, and other rolling stock as well as accessories, attachments and fuel and lubricants used in railroad operations are exempt from sales tax.

**Commercial Vessels and Barges**

Sales, storage, use or other consumption of commercial vessels and barges in excess of 50 tons and primarily engaged in interstate or foreign commerce or commercial fishing are exempt from sales tax. Accessories, parts and fuel for these vessels are also exempt from sales tax.

**Fuel Used by Chartered Commercial fishing Vessels**

Fuel sold for use in licensed charter fishing boats is exempt from the sales tax.

**Containers, Labels, Sacks, Cans, Boxes and Other Packaging and Shipping Materials**

Sales of containers, labels, sacks, cans, boxes and other packing, packaging and shipping materials, if such materials are used to transfer merchandise to customers, are exempt from sales tax. Packing, packaging and shipping materials, including meat casings, for use in meat packing, packaging or shipping meat are exempt from sales tax regardless of whether such materials are used to transfer merchandise to customers.

**Motion Picture and TV Film and Advertising Materials**

The sale, lease or rental, or storage, use or other consumption of motion picture films and of advertising material sold, leased or rented to movie theaters or radio or television stations is exempt from sales tax.

**Restaurant Employee Meals**

Meals that are provided by a restaurant to the restaurant's employee during the employee's work hours are exempt from sales tax.

**Tangible Personal Property Purchased for Resale but Donated to a Nonprofit Organization**

Property purchased tax-free for resale or under a valid exemption certificate and later donated to a nonprofit organization is exempt from use tax.

**Prepaid Telephone Cards and Authorization Numbers**

Services obtained by the use of a prepaid telephone card or authorization number are exempt from sales tax if sales tax was paid on the card or authorization number at the time it was purchased.

**Biotechnology and Manufacturing Research**

Machinery and equipment, tangible personal property, and specific processing equipment sold to persons who are engaged primarily in manufacturing or biotechnology in Wisconsin and are used exclusively and directly in qualified research are exempt from sales tax.

**Certain Products Using Alternative Energy**

Certain products whose power source is wind energy, direct radiant energy received from the sun, or gas generated from anaerobic digestion of animal manure and other agricultural waste are exempt from the sales tax. Electricity or energy produced by these products is also exempt from the sales tax.

**Sales to Affiliated Companies**

Sales of taxable services and tangible personal property that is physically transferred to the purchaser are exempt from the sales tax if the seller and purchaser of such services and property are of the same affiliated group under the Internal Revenue Code and are eligible to file a consolidated federal income tax return.

**Machinery and Equipment Used in Snowmaking and Snow-grooming**

Snowmaking and snow-grooming machines and equipment and the fuel and electricity used to operate such machines and equipment are used exclusively and directly for snowmaking and snow grooming at ski hills, ski slopes, and ski trails are exempt from sales tax.

**EXEMPTIONS FOR GOVERNMENT AGENCIES AND NONPROFIT ORGANIZATIONS****Sales to the Federal Government and Its Agencies**

Sales of goods and services to the federal government or to any of its incorporated or unincorporated agencies or instrumentalities are exempt from sales tax. Taxing purchases by the federal government would violate the U.S. Constitution.

**Sales to State and Local Governments and Schools**

Sales of tangible personal property and taxable services to the state or any of its agencies are exempt. Also exempt are sales to the University of Wisconsin Hospitals and Clinics Authority, the Wisconsin Aerospace Authority, the Health Insurance Risk-sharing Plan Authority, and the Fox River Navigational System Authority. In addition, sales to county, city, village and town governments; school districts; local exposition districts; local cultural arts districts; joint local water authorities; sewerage commissions; and metropolitan sewerage districts are exempt from sales tax.

**Sales to Religious, Charitable, Scientific and Educational Organizations**

The gross receipts from sales to, and the storage, use or other consumption of tangible personal property and taxable services by any corporation, community chest, foundation or association organized and operated exclusively for religious, charitable, scientific or educational purposes or for the prevention of cruelty to children or animals, except specified hospital service corporations, are exempt from sales tax if no part of the net income of the organization inures to the benefit of any private person.

**Lunches and Other Tangible Personal Property Sold by Elementary and Secondary Schools**

Sales of tangible personal property by public or private elementary and secondary schools are exempt from sales tax.

**Admissions to Elementary and Secondary School Activities**

Sales of tickets or admissions to public and private elementary and secondary school activities are exempt from the sales tax, if the net proceeds are used for educational, religious or charitable purposes. The exemption includes revenue from admission fees to high school sporting events, school plays and other school activities.

**Admissions to State Parks and Camping Fees**

Admission fees and camping fees at state park and state forest recreational areas are exempt from sales tax.

**Admissions to Certain Historical Museums**

Admissions to a museum operated by a nonprofit corporation under a lease agreement with the State Historical Society are exempt from sales tax. This exemption applies only to the Circus World Museum in Baraboo.

**Admissions to County Fairs**

Admissions to county fairs are exempt from sales tax.

**Volunteer Fire Department Equipment**

Sales of fire trucks and other fire-fighting equipment to volunteer fire departments are exempt from sales tax. This exemption includes hoses, exhaust fans, generators, ladders and other firefighting equipment.

**Copies of Public Records**

Charges by a governmental authority for copies of public records, including fees for searches, are exempt from sales tax.

**Sales by American Legion Baseball Teams**

Sales of tangible personal property, tickets and admissions by American Legion baseball teams are exempt from sales tax.

**Snowmobile Trail Grooming Equipment**

Snowmobile trail groomers and attachments are exempt from sales tax when purchased by snowmobile clubs for use in maintaining the state system of snowmobile trails. To qualify for the exemption, an organization must meet at least three times a year and have at least 20 members.

**Police and Fire Protection Fees**

Police and fire protection fees imposed on communications are exempt from the sales tax.

**Sales of Animal Identification Tags and Samples by the Department of Agriculture, Trade and Consumer Protection**

Sales by the Wisconsin Department of Agriculture, Trade and Consumer Protection of animal identification tags to persons who are required or authorized to use those identification tags, and sales of standard samples representing product or commodity grades are exempt from sales tax.

**Public Benefits Fees**

Public benefits fees are exempt from sales tax. These fees are surcharges on residential and commercial electric bills used to fund low-income energy assistance and energy conservation and efficiency programs.

**One-Time License or Right to Purchase Admissions to Professional Football Games**

The sale by a municipality, a local professional football stadium district or a professional football team of a one-time license or similar right to purchase admission to at least three games at a football stadium in a season is exempt from sales tax. The exemption applies to the sale of admission rights whose proceeds are used to finance renovation of Lambeau Field in Green Bay.

**Motor Vehicles Loaned to Driver Education Programs**

The loan by an automobile dealer of a motor vehicle for a driver education program conducted by a school or school district is exempt from use tax.

**Nonprofit Cemetery Associations**

Tangible personal property and taxable services used exclusively by a nonprofit cemetery company or corporation organized under IRC section 501(c)(13) is exempt from sales and use tax.

**Veterans Home Exchange Services**

The sale of tangible personal property and taxable services by a home exchange service that is owned by the Department of Veterans Affairs (DVA) is exempt from sales and use tax. Home exchange services are the coffee shops, snack bars, gift shops, and other facilities that serve the resident veterans, families, and guests at the Wisconsin Veterans Homes at King (Waupaca County) and Union Grove (Racine County).

**EXEMPTIONS FOR NONRESIDENTS AND FOR USE IN OTHER STATES****Interstate Commerce**

Tangible personal property shipped in interstate commerce is not subject to sales tax. The fiscal effect of this exemption has not been estimated because taxing such property is prohibited by the U.S. Constitution.

**Property Used in the State by Nonresidents**

Tangible personal property brought into the state by nonresidents of Wisconsin for their own use, storage, or other consumption while temporarily in Wisconsin is exempt from use tax. However, if the property is used to conduct a trade, business or profession, or used in the performance of personal services for wages or fees, the value of the property is subject to the tax.

**Nonresidents' Boats Berthed in Boundary Waters**

Generally, a boat that is owned by a resident of another state and berthed in Wisconsin is subject to use tax, if the owner did not pay sales tax when purchasing the boat. However, the boat is exempt from use tax if: (1) the boat owner is a resident of a state contiguous to Wisconsin, (2) the boat is berthed in boundary waters adjacent to the owner's state of residence, and (3) the purchase of the boat was an exempt occasional sale.

**Nonresidents' Aircraft Hangared in Wisconsin**

Aircraft purchased in another state by a nonresident individual or business and kept in a hangar in Wisconsin is exempt from use tax.

**Goods Brought into the State by New Residents**

Household goods purchased outside of Wisconsin but brought into the state by new residents are exempt from use tax if the goods are purchased 90 or more days prior to the date the person moves to Wisconsin. This exemption applies to all household goods, including automobiles and other registered vehicles, purchased for personal use.

**Property Purchased for Use Outside the State**

Sales of tangible personal property purchased for use outside the state and sales of property delivered and prepared for export are exempt from sales tax. For example, items such as office supplies and paper products sold to persons outside the state are exempt from the sales tax.

**Aircraft, Motor Vehicles and Truck Bodies Sold for Use Outside the State**

Sales of aircraft, motor vehicles and truck bodies to nonresidents who will not use such units in Wisconsin are exempt from the sales tax. This exemption also applies to aircraft, motor vehicles and truck bodies sold to foreign governments and to certified carriers of people or property in interstate or foreign commerce.

**Modular and Manufactured Homes Used in Real Property Construction Outside of the State**

Sales of modular and manufactured homes used in real property construction outside the state are exempt from sales tax.

**Property Sold to Out-of-State Common or Contract Carriers**

Sales of tangible personal property to common or contract carriers engaged primarily in trucking and sales to railroad companies are exempt from sales tax, if the property is shipped to a destination outside this state.

**Printed Advertising Material Used Outside the State**

Sales of printed advertising materials produced in Wisconsin and sold to purchasers for use only outside the state are exempt from sales tax. For example, advertising leaflets, which are printed and purchased in the state but distributed only in a neighboring state, are not subject to sales tax.

**Temporary Storage of Printed Materials**

The temporary storage of raw materials that are incorporated into printed materials to be transported outside Wisconsin, and thereafter used solely outside Wisconsin, are exempt from sales and use tax. An example of printed materials qualifying for the exemption would be paper purchased by a company from an out-of-state vendor and delivered to a Wisconsin printer that prints catalogs for the purchaser, if the catalogs are distributed only outside Wisconsin.

**DEFINITIONAL AND MISCELLANEOUS EXEMPTIONS****Exemptions That Further Define Retail Sales**

The purpose of this exemption report is to estimate the cost to the state of providing specific exemptions to the sales tax for items that would otherwise be taxable. A retail sale is defined as one where the buyer makes a purchase with no intention of resale. By law, retail sales are subject to the sales tax, unless otherwise provided by law. However, some sections of the statutes clarify the definition of a retail sale to exclude certain transactions from tax. For these sections no fiscal estimates have been made because sales of these items are not retail sales.

The following transactions fall into this category:

- Charges for interest, financing or insurance when such charges are stated separately. [Sec. 77.54 (8)].
- Transfer of property to a corporation upon its organization solely in consideration for the issuance of its stock. [Sec. 77.51 (14g) (a)].
- Contributions of property to a newly-formed partnership solely in consideration for a partnership interest. [Sec. 77.51 (14g) (b)].
- Contributions of property to a limited liability company upon its organization solely in consideration for a membership interest. [Sec. 77.51 (14g) (bm)].
- Transfer of property to a corporation for the issuance of its stock pursuant to a merger or consolidation. [Sec. 77.51 (14g) (c)].
- Transfer of property to a limited liability company for a membership interest pursuant to a merger. [Sec. 77.51 (14g) (cm)].
- Distribution of property by a corporation to its stockholders as a dividend or in liquidation. [Sec. 77.51 (14g) (d)].
- Distribution of property by a partnership to its partners in liquidation. [Sec. 77.51 (14g) (e)].
- Distribution of property by a limited liability company to its members in liquidation. [Sec. 77.51 (14g)(em)].
- Repossession of property when the only consideration is cancellation of the purchaser's obligation to pay the balance of the purchase price. [Sec. 77.51 (14g) (f)].
- The transfer of electric transmission facilities to a transmission company. [Sec. 77.51 (14g) (fm)].
- Transfers of property in a reorganization in which no gain or loss is recognized for Wisconsin franchise or income tax purposes under sections 71.301 to 71.368. [Sec. 77.51 (14g) (g)].

### **Labor Input into Construction**

Materials used in construction are subject to sales tax; however, the value added by construction contractors is not taxed. Construction is a volatile sector of the economy and, as a result, the value of this exemption fluctuates from year to year.

### **Trade-Ins and Lemon Law Refunds**

In transactions in which a product is traded in on the purchase of a product of greater value, sales tax is applied only to the difference between the values of the two products. The estimate applies only to trade-ins of automobiles and trucks; it does not include trade-ins of boats, mobile homes, household appliances or other items. Also, a customer purchasing a replacement vehicle with a lemon law refund may apply the value of the original trade-in to the purchase of the replacement vehicle.

### **Certain Occasional Sales**

Occasional sales are sales by persons other than those offering goods for sale in the ordinary course of business. Most occasional sales are exempt. Taxable occasional sales include sales of automobiles, aircraft, trailers, semi-trailers, snowmobiles, all-terrain vehicles, and mobile homes not exceeding 45 feet in length, registered in the state, and boats registered in the state or in the U.S. However, these occasional sales are exempt if the transfer is to a spouse, parent or child, or the spouse of a parent or child, and if the item had previously been registered in Wisconsin, or in the case of boats, registered in the state or in the U.S. Also, the transfer of a motor vehicle from an individual to a corporation solely owned by that individual is exempt. Occasional sales of tangible personal property or services by a neighborhood association, church, civic group or similar nonprofit organization are generally exempt from sales tax if total payments for entertainment or other expenses do not exceed \$500 and the organization's annual receipts do not exceed \$25,000.

### Auction Sales

Gross receipts from auctions of farm personal property or household goods that are not held at regular intervals are exempt from sales tax.

### Retailer's Discount

Retailers may retain 0.5% of their tax liability or a minimum of \$10 per filing period as compensation for the costs of collecting and remitting sales taxes. The retailer's discount is capped at \$1,000 per filing period.

### SERVICES NOT SUBJECT TO TAX

Services are exempt from sales tax unless the statutes specifically impose the tax. Data are not available to estimate of the total cost of not taxing services. However, the following table shows certain services that are not subject to sales tax and provides an estimate of the potential fiscal effect. The table does not include services that are specifically exempted from tax by law and discussed in previous sections, such as coin-operated laundry services, diaper services, veterinary services for farm animals and labor services in construction. Similar to Table 2 above, Table 3 below only presents estimated state revenue foregone. The impacts on local sales tax collections are not included in the figures.

**TABLE 3  
SALES AND USE TAX EXEMPTIONS-SERVICES**

Exemption	FY12 Fiscal Effect
<b>Personal and Recreational Services</b>	
Beauty, Barber, Nail and Other Personal Care Services	23,100,000
Funeral Services, excluding Caskets and Vaults	12,600,000
Bank Account Service Charges	13,200,000
Dues and Fees Paid to Business Associations and Fraternal Organizations	13,300,000
Health Clubs	17,000,000
Admissions to Educational Events and Places	5,000,000
Veterinary Services for Pets	21,200,000
Auto and Travel Clubs	3,400,000
<b>Professional Services</b>	
Services of Physicians, Dentists and Other Health Professionals	590,300,000
Legal Services	119,600,000
Architectural, Engineering, Testing Laboratory and Surveying Services	83,800,000
Accounting Services	51,000,000
Tax Preparation Services	2,100,000
<b>Business Services</b>	
Computer Services (inc. data processing and custom programming)	176,400,000
Management, Scientific, and Technical Consulting Services	80,500,000
Scientific Research and Development Services	47,300,000
Employment Placement Services	13,200,000
Advertising - Development and Placement (excludes Public Relations)	76,900,000
Public Relations	2,800,000
Credit Rating and Collection Services	7,200,000
Investigation and Security Services	14,700,000
<b>Services Related to Real Property</b>	
Commissions to Real Estate Brokers	23,900,000
Repair of Real Property	32,200,000
Interior Design	1,900,000
Janitorial Services	21,100,000
Disinfecting and Exterminating	3,300,000
Sewerage Services	32,100,000

## INSURANCE PREMIUM TAXES

### Introduction

Chapter 76 of the Wisconsin Statutes provides for the taxation of certain insurance companies by the Commissioner of Insurance on the basis of premiums or net investment income. Insurance business subject to taxation under Chapter 76, Wis. Stats., is not subject to the corporate income and franchise tax under Chapter 71, Wis. Stats., and vice versa. Some types of insurance companies are not subject to taxation under either chapter.

The tax imposed by Chapter 76, Wis. Stats., may apply to all insurance companies, foreign (companies organized outside Wisconsin) as well as domestic (organized in Wisconsin). The corporate franchise tax applies to domestic fire and casualty insurers and the nonlife business of domestic life insurers.

Insurance companies subject to the corporate income and franchise tax are subject to the same tax rate as that imposed on all other corporations subject to the tax, except that the tax is limited to 2% of premiums. The tax rates for insurance companies subject to taxation under Chapter 76, Wis. Stats., vary depending on the type of insurance business. In addition, because of the "reciprocal and retaliatory" statutes, Wisconsin taxation of foreign insurance companies (companies organized outside the state) is dependent on the taxation of Wisconsin-organized insurance companies in the domicile of such foreign companies. For example, the Wisconsin taxation of a New York company doing business in Wisconsin is dependent on the New York taxation of a Wisconsin company doing business in New York.

The Wisconsin "retaliatory" statute (s. 76.66, Wis. Stats.) provides, in essence, that when the taxes/fees imposed by another state or country on insurers organized under Wisconsin laws doing business in that state or country are greater than the taxes or fees imposed by Wisconsin on those foreign insurers doing business in Wisconsin, then Wisconsin will tax insurers organized under the laws of the other state or country at the same higher rate.

The Wisconsin "reciprocal" statute (s. 76.67, Wis. Stats.) provides that insurers organized under the laws of other states, territories or districts of the United States (but not other countries) shall not pay taxes, fees or licenses to Wisconsin greater than the taxes, fees or licenses imposed by the other state, territory or district on similar Wisconsin insurers doing business there. The reciprocal statute does not result in pure reciprocity because it does not apply to insurance companies organized in other countries, and it does not permit payment of less than the Wisconsin statutory tax on life insurance, fire dues (2% fire department dues), and certain fees. In addition, it requires a minimum tax of 0.375% on fire and ocean marine premiums.

Because some Wisconsin companies do insurance business in all other states, territories or districts of the United States, the effect of the reciprocity and retaliation statutes is that few U. S. fire or casualty insurers are taxed at the rates provided in the Wisconsin statutes (except the 0.375% minimum tax on fire and ocean marine premiums). In general, the "retaliatory" statutes applicable to insurers organized in other countries cannot be applied because of limitations imposed by international treaties between the United States and the insurer's domiciliary country or because of practical problems of application or computation. Thus, non-U.S. insurers are taxed at the Wisconsin statutory rate and applied to premiums unless otherwise noted. The statutory premium rates are as follows: fire, 2.375%; ocean marine, 0.5%; casualty, 2%; domestic life (over \$750 million in force), 2%; domestic life (\$750 million or less in force), 3.5% of gross income;<sup>1</sup> nondomestic life, 2%; and nondomestic accident and health, 2%.

For the premium tax, the base is gross premiums received for direct insurance less return premiums and cancellations and less policyholder dividends from savings and gains on direct insurance in Wisconsin. Direct insurance includes all insurance other than reinsurance. Under reinsurance, an insurer shares the risk and premiums with other insurers.

General purpose tax collections from the insurance premiums taxes in FY 2012 were \$140 million. This excludes \$17.7 million of fire department dues which, beginning in FY 1982, were changed from general purpose to program revenue. Fire department dues are distributed to local units of government, while other insurance company taxes are part of the state general fund.

In addition to the taxes imposed in Chapter 76, Wis. Stats., insurers are also subject to license fees. License fees are charged according to the schedule in s. 601.31, Wis. Stats.

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<sup>1</sup> This tax plus a valuation fee is subject to a maximum of 2% of net taxable premiums.

<b>Insurance Premium Taxes Summary</b>		
Exemption Device	Statutory Reference <sup>1</sup>	FY12 Fiscal Effect
<b>Exemptions from Taxation</b>		
Town Mutual Insurance Companies	s. 76.61	\$1,209,000
Domestic Fire, Marine, and Casualty Companies	ss. 76.60 and 76.63 (1)	\$197,491,000
Fraternal Life Insurance Companies	s. 76.65	\$5,713,000
<b>Exemptions From Base</b>		
Return Premiums and Cancellations on Direct Insurance	ss. 76.60, 76.62 and 76.63 (1)	See Footnote 2
Exemptions from the Domestic Life Insurance Company Gross Income Tax Base	s. 76.65 (1)	\$0
Exemptions from the Foreign and Domestic Life Insurance Company Gross Premium Tax Base	s. 76.65 (2)	\$1,249,000 <sup>3</sup>
<b>Special Treatment</b>		
Limit on Gross Income Tax of Domestic Life Insurance Companies with \$750 Million or Less of Insurance in Force	s. 76.65 (1)	None
"Retaliatory" Statute	s. 76.66	Not Available
"Reciprocity" Statute	s. 76.67	\$61,839,000
<b>Credits</b>		
Credit to Domestic Life Insurers for Personal Property Taxes	s. 76.69	\$741,000
Credit to Insurers to Recoup Security Fund Assessments	s. 646.51 (7)	\$0 <sup>2</sup>
Credit to Insurers for Certified Capital Investment	s. 76.635 (2)	\$167,000
Health Insurance Risk-sharing Pool Assessment Credit	s. 76.665 (2)	\$817,000
Credit for Certain Development Zone Activities	s. 76.636 (2)	\$90,000
Early Stage Seed Investment Credit	s. 76.638	\$125,000
Economic Development Credit	s. 76.637	None

1. References to sections of the 2011 Wisconsin Statutes.

2. Included in estimates for exemption for domestic, fire, marine, and casualty companies and for "reciprocity" statute.

3. Fiscal effect for domestic insurers only. Fiscal effect for foreign corporations included in the estimate for "reciprocity" statute.

## EXEMPTIONS FROM TAXATION

Insurers exempt from taxation under both Chapters 71 and 76, Wis. Stats., include: town mutual insurance companies (except that fire dues are payable equal to 2% of the fire premiums); fraternal or mutual benefit societies; voluntary benefit plans for injury or death of students; self-insurers (except that fire dues are payable equal to 2% of the premiums that would have been charged by authorized insurers); the State Property Insurance Fund (except for fire dues on property that is not state-owned); and the Wisconsin Health Care Liability Plan and Patients Compensation Fund.

### Town Mutual Insurance Companies

Town mutual insurance companies organized under or subject to Chapter 612 of the Wisconsin Statutes are not subject to taxation or license fees under Chapter 76, Wis. Stats. They are subject, however, to a fire dues tax of 2% of direct fire premiums. A town mutual insurance corporation may be organized by at least 100 adults, each of whom has a separate insurable risk within a prescribed territory. The territory may not exceed eight contiguous counties; however, the Commissioner of Insurance may allow a broader territory not larger than sixteen contiguous counties. A town mutual may insure members against loss or damage from any cause to any property in which a member has an interest, including insurance against loss of use or loss of income from property. The insurance of crops and other property against loss due to windstorm or hail are restricted and must be reinsured. Town mutual insurers may insure policyholders from liability, errors and omissions and medical payments and other supplemental coverage when reinsured.

### **Domestic Fire, Marine and Casualty Companies**

Wisconsin-organized insurance companies insuring fire, marine, and casualty risks are not subject to Wisconsin premium taxation with the exception of mortgage guaranty insurers. Companies not subject to the premiums tax are subject to the corporation franchise tax. They are subject to a fire dues tax of 2% of direct fire premiums written. Casualty risks also include all lines of accident and health insurance written by life companies, fraternal insurers, health maintenance organizations, limited service health organizations, and health medical dental indemnity insurers.

### **Fraternal Life Insurance Companies**

All corporations transacting life insurance business in Wisconsin are subject to taxation under Chapter 76, Wis. Stats., except fraternal insurers organized and operating under Chapter 614 of the Wisconsin Statutes. A fraternal insurer must have a lodge system and a representative form of government. It must exist solely for the benefit of its members and their beneficiaries and solely for any lawful social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic or religious purposes for the benefit of its members or the public, carried on through voluntary activity of its members in their local lodges or through institutional programs of the fraternal insurer or its lodges. It may carry only life and accident and health lines of insurance.

## **EXEMPTIONS FROM BASE**

### **Return Premiums and Cancellations on Direct Insurance**

For the tax on fire, marine, and casualty insurance premiums, the tax base is defined as gross premiums as calculated under section 76.62, Wis. Stats. This section provides that all license fees and taxes levied under any provision of law upon gross premiums other than life insurance premiums shall be based on gross premiums received for direct insurance, less return premiums and cancellations, and returns from savings and gains on all insurance, other than reinsurance by the insurer during the preceding year in this state.

Reinsurance, whereby one insurer shares a portion of the premium in return for a sharing of a portion of the risk with another insurer, is not subject to taxation unless the original insurer fails to pay the premiums tax. The fiscal effect of this exemption for domestic companies is included in the exemption from taxation for domestic fire, marine, and casualty companies; for foreign companies, it is included in the estimate for the "reciprocity" statute.

### **Exemptions from the Domestic Life Insurance Company Gross Income Tax Base**

The tax base for domestic (Wisconsin organized) life insurance companies (which may affect only those companies with \$750 million or less of insurance in force) is gross income from all sources, except:

1. Interest required to provide and maintain reserves according to the laws of Wisconsin, and
2. Premiums collected on policies of insurance and contracts for annuities.

The gross income, net of the above deductions, is subject to a factor with the numerator being net investment income applicable to life insurance and annuities and the denominator being total net investment income.

### **Exemptions from the Foreign and Domestic Life Insurance Company Gross Premium Tax Base**

The tax base for foreign life insurance companies, which is also generally applicable to domestic life insurance companies having more than \$750 million of insurance in force, is gross premiums on all policies or contracts of insurance on the lives of residents of Wisconsin less all sums apportioned to premium-paying policies on the lives of residents of Wisconsin from annual distributions of profits, savings, earnings or surplus that have been either paid in cash or applied in partial payment of premiums. Because of long-standing administrative construction, considerations received for annuity contracts are not considered premiums on policies or contracts of insurance and, thus, are not taxable under section 76.65 (2), Wis. Stats. The fiscal effect shown is that for domestic insurers; the fiscal effect for foreign companies is included in the estimate for the "reciprocity" statute.

## **SPECIAL TREATMENT**

### **Limit on Gross Income Tax of Domestic Life Insurance Companies with \$750 Million or Less of Insurance in Force**

For domestic life insurance companies with \$750 million or less of insurance in force, the tax based on 3.5% of gross income (less deductions) cannot exceed the annual license fee that would have been payable had it been operating as a foreign company (in which case the tax would be 2% of gross premiums, after deducting the considerations received for annuity contracts which are exempt from taxation). This limit had no fiscal effect in FY12.

### **"Retaliatory" Statute**

The Wisconsin "retaliatory" statute may result in an increase in Wisconsin fees, thus it might not be considered a tax exemption device. However, to the extent that the statutes of other states provide tax exemption devices for insurance companies organized in Wisconsin doing business in such states, the Wisconsin "retaliatory" statute could also allow such tax exemption devices to insurance companies doing business in Wisconsin. The fiscal effect of these other states' statutes are included in the estimate for the "reciprocity" statute.

### **"Reciprocity" Statute**

To the extent that insurance companies organized in Wisconsin operating in the United States outside Wisconsin are subject to taxation to a lesser extent than otherwise provided by Wisconsin law, the Wisconsin "reciprocity" statute may provide reduced taxation for non-Wisconsin companies organized in the United States for business transacted in Wisconsin. The limitations of the "reciprocity" statute are described in the introduction.

## **CREDITS**

### **Credit to Domestic Life Insurers for Personal Property Taxes**

Domestic life insurance companies are allowed a premiums tax credit of 50% of general property taxes paid on personal property in Wisconsin used in the operation of business and not held primarily for investment purposes. The credit is limited to 25% of the license fee for domestic life insurers.

### **Credit to Insurers to Recoup Security Fund Assessments**

The Insurance Security Fund Board administers the security fund established by Chapter 646, Wis. Stats., to provide a mechanism for protecting insureds in the event of liquidation of insurers and to assess the costs of such protection among insurers. Section 646.51 (7), Wis. Stats., provides for tax credits of 20% of security fund assessments in each of the five calendar years following the year the assessment was paid when premium rates are fixed so that it is not possible for the insurer to increase its premium rates to recoup the assessment. Domestic insurers may take tax credits only for the proportion of their business assessed which is fixed, such that it is impossible to raise premiums. Such policies are referred to as "noncancellable" in the insurance business and represent a small portion of the total insurance written. Nondomestic insurers may take tax credits subject to the provision of the retaliatory and reciprocal statutes (sections 76.66 and 76.67, Wis. Stats.)

### **Credit to Insurers for Certified Capital Investment**

Since FY99 certain insurers operating in Wisconsin are allowed to take a premium tax credit for investment in certified capital companies as defined in s. 560.30 Wis. Stats. The purpose of the credit is to encourage insurers to make venture capital for companies operating in Wisconsin. Section 76.635 (2) Wis. Stats. provides for tax credits of up to 10% of the amount of the certified investment each year, until the entire available credit is used.

### **Health Insurance Risk-Sharing Plan Assessments Credit**

A license fee credit is available for insurers that pay assessments for the Health Insurance Risk-Sharing Plan (HIRSP). HIRSP offers health insurance coverage to individuals with adverse medical histories and to others who cannot obtain affordable health insurance coverage from the private sector. HIRSP is funded by premiums paid by participants, assessments paid by insurance companies, and a pro rata reduction in billed charges of health care providers. The amount of the credit for all insurers cannot exceed \$5 million per year.

**Credit for Certain Development Zone Activities**

Certain insurers operating in Wisconsin are allowed to take a premium tax credit for investment in certain development zone activities as defined in s. 560.70, 560.795, 560.797, and 560.798 Wis. Stats. The purpose of the credit is to encourage insurers to make investments in economically disadvantaged areas. This program is more fully discussed in the chapter on "Corporate Income and Franchise Tax."

**Early Stage Seed Investment Credit**

For taxable years beginning after December 31, 2008, insurers may claim a credit against the premium tax for investments made with a fund manager that invests in qualified new business ventures. This program is more fully discussed in the chapter on "Corporate Income and Franchise Tax."

**Economic Development Credit**

For tax years beginning after December 31, 2008, an economic development tax credit is available. The nonrefundable credit may be claimed against the corporate income and franchise tax or against the insurance premiums tax. This program is more fully discussed in the chapter on "Corporate Income and Franchise Tax."

There is no FY2012 fiscal effect, as no insurance companies were certified for the credit.

## PROPERTY TAX

The property tax is the largest source of state and local tax revenues in Wisconsin. Data in this report is generally for the 2011/12 property tax year, which refers to taxes levied in December 2011 that were due for payment in 2012. Property taxes for the 2011/12 property tax year totaled to about \$10.384 billion. As noted in Table 1, school districts accounted for the largest share of property taxes levied (\$4.646 billion, or 44.75% of the total). Municipalities (at \$2.462 billion, or 23.70%) and counties (at \$1.972 billion or 18.99%) levied the next largest shares. Technical college districts, tax incremental financing districts, special districts, and the state forestation tax accounted for the remaining \$1.304 billion, or 12.57%.

**TABLE 1  
PROPERTY TAX LEVIES FOR 2011/12 BY TYPE OF UNIT**

Type of Unit	Number of Units	Number of Units with a Tax Levy	Amount Levied	% of Total Levy
School districts	424	424	\$ 4,646,695,395	44.75%
Technical college districts	16	16	771,464,190	7.43%
Counties	72	72	1,972,231,785	18.99%
Municipalities – regular	1,850	1,825	2,461,688,769	23.70%
Municipalities – TIF increments	384	384	350,607,230	3.38%
Special districts	542	238	99,508,142	0.96%
State (forestation tax)	1	1	82,623,849	0.80%
Total	3,289	2,960	10,384,819,360	100.00%

Property tax rates are expressed in terms of dollars per \$1,000 of equalized value, which is referred to as the mill rate. For the 2011/2 property tax year, the statewide average gross tax rate was 21.33 mills. Another commonly referred to average rate is the "net" rate. This rate reflects property taxes after subtracting the \$747.7 million of property taxes paid by the state through the school levies tax credit. For the 2011/12 property tax year, the average net state tax rate was 19.79 mills. The total taxable value of property upon which the 2011/12 levy was imposed was \$486 billion.

### Exempt Real Property – Reporting Requirements

State law requires that the owners of certain real property exempt from property taxes report the value of the property to municipalities, which then summarize and transmit the owner-reported information to the Department of Revenue (DOR).

By March 31 of each even-numbered year, an owner of real property exempt from property taxation is required to file with the clerk of the municipality where the property is located a report which contains, among other things, an estimate of the market value of the property as of January 1 of that year. Owners of certain types of real property (such as cemeteries and archeological sites), the federal government, the State of Wisconsin, local governments, and owners of properties on which an in lieu of tax or an equivalent payment is made are exempt from the reporting requirement.

By July 1 of each even-numbered year, every municipal clerk is required to file with the Department of Revenue a report that summarizes the data reported to him or her by owners of tax exempt real property. This report segments exempt real property into thirteen categories and ten value brackets. If a village or city has territory in two or more counties, a separate report is due for each county-specific piece of the municipality.

A compilation of the totals for those municipalities that filed a report for 2012 is shown at the end of this chapter in the same format as completed by municipal clerks.

### Real Property – Exempt Value Estimates

An estimate of the total value of real property exempt from taxation was determined based upon the real property exemption summary reports submitted by municipalities. Information on properties for which no reporting requirement exists is unavailable and is excluded from the estimate. The estimate was calculated in two major steps.

First, values for the various types of exempt property were estimated for towns, villages, and cities, by multiplying the number of parcels in each value bracket by the midpoint value for that value bracket. For example, the value for the \$1 to \$10,000 bracket was assumed to be \$5,000. For the \$10,000 to \$100,000 bracket, a value of \$55,000 was assumed. For the over \$25 million category, a value of \$35 million was used. The results were then summed over each value bracket for each exemption type.

Second, an adjustment was made to the above figures to reflect the amount of exempt property in municipalities that did not file a taxation district exemption summary report with DOR. Below, Table 2 shows the number of towns, villages, and cities that should have filed a summary report, the number of municipalities that actually filed the report (as of November 23, 2012), and the percentage of the state total equalized value represented by the places that filed a report. The "adjustment factor", equal to 1 divided by the percentage of equalized value in those municipalities that filed a report, was used to multiply the reported values to arrive at an estimate of total values for all localities in that type of municipality.

**TABLE 2  
NUMBER OF FILERS, PERCENTAGE OF EQUALIZED VALUE, AND ADJUSTMENT  
FACTOR APPLIED FOR 2012 TAXATION DISTRICT EXEMPTION SUMMARY REPORTS**

Municipal Type	Number of Municipalities	Number of Filers	Filers' Percent of Equalized Value	Adjustment Factor
Towns	1,255	663	61.95%	1.61427
Villages	435	286	73.51%	1.36037
Cities	219	166	87.38%	1.14443
Total	1,909	1,115	75.39%	*****

Estimates of the total value of exempt property for the reported classes are shown in the Table 3. Since compliance with the reporting requirements – both by owners of exempt property to their municipal clerk and by the municipal clerk to DOR – is patchy, the estimated values in the table should not be deemed definitive.

**TABLE 3  
ESTIMATED VALUE OF EXEMPT PRIVATE REAL PROPERTY, 2012**

Purpose of Property	Exempt Value (\$ millions)	Percent of Total
Religious:		
Place of worship	\$ 8,462	33.67%
Church – Other	1,145	4.56%
Total Religious	\$ 9,607	38.22%
Educational:		
K-12 Education	\$ 1,790	7.12%
Colleges and universities	1,460	5.81%
Other education	806	3.21%
Total Educational	\$ 4,056	16.14%
Medical Facilities:		
Non-profit hospitals	\$ 3,316	13.19%
Medical research foundations	85	0.34%
Other medical	463	1.84%
Total Medical	\$ 3,864	13.37%
Housing:		
Nursing homes	\$ 787	3.13%
Retirement home	964	3.84%
Other housing	1,574	6.26%
Total Housing	\$ 3,325	13.23%
Other exemptions:		
Public benefits	\$ 2,728	10.85%
Miscellaneous	1,554	6.18%
Total Other	\$ 4,282	17.03%
Total – All exemptions	\$ 25,134	100.00%

### Exempt Personal Property – Reporting Requirements

Most personal property, including household furniture and furnishings, machinery and equipment used in manufacturing, computer equipment, pollution abatement equipment, and inventories are exempt from the property tax.

Personal property that is subject to taxation falls into the following four categories: (1) Boats and other watercraft owned by businesses; (2) machinery, tools, and patterns; (3) furniture, fixtures, and equipment, and (4) other personal property, including items such as buildings on leased land, law libraries, leasehold improvements on leased land, and logs and other forest products.

Owners of exempt personal property are generally not required to reports on the value of their exempt property. However, when the exemption for computers, cash registers, and fax machines that are not also copiers was enacted, a state payment to local governments equal to the property taxes that would have been levied on this property (the "exempt computer payment") was also enacted. As a result, the owner of such property must report its value to the appropriate assessor (DOR for manufacturers, otherwise the local assessor) on the Statement of Personal Property due annually by March 1. For property subject to local assessment, a report summarizing the value of exempt computers must be filed with DOR by May 1.

### Personal Property – Exempt Value Estimates

This section focuses only on the value of certain exempt personal property owned by businesses. The value of other exempt property, including household furnishings and business inventories, is not addressed.

*Machinery and equipment used in manufacturing.* The exemption of machinery and equipment used exclusively and directly in the manufacturing process reduces the property tax burden on manufacturers. For the 2011/12 tax year, \$1.46 billion of manufacturing machinery and equipment was taxable. This taxable equipment consisted of property that was not exclusively and directly used in the manufacturing process (such as office equipment and furniture). Based on historic experience, it is estimated that between 7% to 15% of all manufacturing machinery and equipment is taxable. Using a mid-range figure of 10%, it is estimated that about \$13.16 billion of manufacturing machinery and equipment is currently exempt from taxation.

*Waste Treatment Facilities.* All land, land improvements, buildings, and machinery used exclusively and directly to remove, store, or cause a physical or chemical change in industrial waste or air contaminants for the purpose of reducing or eliminating pollution of the air or waters of the state are exempt from property taxation. The exemption is available to utilities, commercial businesses, and manufacturers. Information on the amount of such property owned by utilities and commercial businesses is not available. The last year for which data are available for manufacturers is 2001 (the last year DOR approval was required in order for the property to be exempt). In that year, about \$2.40 billion was exempt. If this figure is adjusted by the percentage change in the state total equalized value of manufacturing property (both real and personal) for the period from 2001 to 2011 (an increase of 18.4%), the estimated value of exempt manufacturing waste treatment property is about \$2.85 billion.

*Computer Equipment.* Wisconsin provides property tax exemptions for computer equipment except for copiers, custom software, equipment with embedded computerized components, and telephone systems. Payments are made to local governments to compensate for the lost tax base. The payments are based upon value of this exempt property. For the payments related to the 2011/12 property tax year, about \$3.35 billion in computer equipment was exempt, and \$76.0 million was paid to local governments.

For these three personal property exemptions for which the Department has information to formulate an estimate, the total exempt value is \$19.36 billion.

### Effect of Exempt Property on Tax Rates

Table 4 examines how property tax rates could have been reduced if the exempt property whose value is estimated in this report had been subject to taxation for the 2011/12 property tax year. Exempt computer property is excluded from this calculation, however, since aid to compensate for the loss of this taxable value is paid by the state. The table shows the actual average 2011/12 net property tax rates for towns, villages, cities, and the state in aggregate, as well as tax rates calculated under the assumption that the estimated

\$25.13 billion of exempt private real property and \$16.02 billion of exempt personal property (excluding exempt computer property) had been added to the tax rolls, assuming no change in any state or federal aids and no change in total property tax levies.

Table 4 indicates that, if the estimated exempt private real and personal property had been placed on the tax roll in 2011/12, the statewide average net property tax rate would have declined by 7.79% from \$19.79 to \$18.25 per \$1,000 of value. Under this scenario, total net tax rates in towns, villages, and cities would have been lower by 3.64%, 6.81% and 11.34%, respectively. The larger impact in cities and villages reflects that exempt property is more likely to be located in urban than in rural areas.

**TABLE 4**  
**AVERAGE NET TAX RATES FOR 2011/12 (PER \$1,000 EQUALIZED VALUE)**

For Property In:	Actual Effective Rate	Rate if Exempt Real and Personal Property Were Taxable	Percentage Change (%)
Towns	16.07	15.48	-3.64%
Villages	19.78	18.43	-6.81%
Cities	22.92	20.32	-11.34%
State Average	19.79	18.25	-7.79%

### Evaluation

A number of limitations require that the estimates presented in this chapter be applied carefully:

- Non-compliance with the reporting requirements by both property owners and local governments mean that the estimates were prepared using incomplete data.
- Using the mid-point value in the value classes may overstate or understate the true value of the exempt properties.
- The value of certain exempt personal property was based on historic relationships.
- The value of government owned property is excluded.
- The value of land enrolled under the special forest tax laws (see separate chapter in this report) is excluded.
- The value of some exempt property is difficult to estimate due to a limited market.
- Owners of exempt property may understate the value of their property.
- Owners of exempt property often have incomplete information to accurately value their property.

**TAXATION DISTRICT EXEMPTION SUMMARY REPORT FOR 2012 (S. 70.337(2), Wis. Stats.)\***

See instructions on bottom of form.

\_\_\_\_ CO      \_\_\_\_\_ MUN      FOR \_\_\_\_\_ T-V-C      OF \_\_\_\_\_ NAME OF TAXATION DISTRICT      ,      \_\_\_\_\_ NAME OF COUNTY

INDICATE NUMBER OF PROPERTIES BY PURPOSE OF PROPERTY WITHIN EACH VALUE CATEGORY											
	1	2	3	4	5	6	7	8	9	10	Total No. of Properties
PURPOSE OF PROPERTY	\$1- \$10,000	\$10,001- \$100,000	\$100,001- \$200,000	\$200,001- \$500,000	\$500,001- \$1,000,000	\$1,000,001- \$3,000,000	\$3,000,001- \$6,000,000	\$6,000,001- \$12,000,000	\$12,000,001- \$25,000,000	Over \$25,000,000	
WORSHIP	144	727	657	1,101	899	1,012	327	94	18	26	5,005
CHURCH-OTH	380	821	436	289	120	118	32	8	2	3	2,209
EDU, K-12	28	99	70	78	79	131	62	27	20	5	599
COLLEGE	17	88	66	49	28	43	33	26	6	18	374
EDU-OTH	25	127	81	114	49	70	16	3	4	6	495
HOSPITAL	25	147	27	19	18	24	15	20	30	55	380
MED RSCH	0	0	0	2	0	0	2	3	2	0	9
MED-OTH	10	87	23	25	22	32	16	6	2	3	227
NURSING	4	13	4	2	8	23	19	16	10	5	104
RETIRE	5	31	68	55	23	40	48	16	11	3	300
HOUSE-OTH	130	731	828	474	165	161	49	13	6	2	2,559
BENEFIT	504	996	583	359	200	190	63	32	14	16	2,957
OTHER	653	807	377	277	146	109	41	11	7	7	2,435
<b>TOTAL NO. OF PROPERTIES</b>	1,925	4,674	3,220	2,844	1,757	1,953	723	275	133	149	17,653

NAME OF CLERK (please print)	TELEPHONE NUMBER (      )
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**INSTRUCTIONS**

Enter the number of exempt properties in your municipality in each value range by purpose or use of property. You can gather this information from the PC-220 forms which are filed by the property owner. A parcel with more than 1 building and more than 1 use should be recorded for each use. Example: For a parcel with a church valued at \$500,000 and a parsonage valued at \$150,000 enter 1 property in the 4th value category under WORSHIP and enter 1 property in the 3rd value category under HOUSE-OTH.

Enter the total number of properties by organization category in the right hand column.

Enter the total number of properties within each value range in the total line at the bottom.

Enter the name and telephone number of the person completing this form.

PC-226 (R. 6-9)

**\*Figures on this page are for reporting municipalities only.**

Note: You should send form PC-227 to organizations reporting to be subject to taxation under sections 511 to 515 of the IRC (see s. 70.339, Wis. Stats.).

Complete and mail this form by July 1 in even-numbered years to:

Wisconsin Department of Revenue  
Bureau of Property Tax 6-97  
Local Government Services Section  
P. O. Box 8971  
Madison, WI 53708-8971

## FOREST CROP AND MANAGED FOREST LAWS

The Forest Crop and Managed Forest Laws extend special property tax treatment to owners of qualifying forest land for the purpose of encouraging landowners to use their land to produce harvestable timber crops.

### Historical Background

In the early 1900s, Wisconsin was a major timber producer. However, by the 1920s, much of the state's forest land had been cut-over and/or damaged by fire. Since these lands generated little or no income, owners became unable to pay their property taxes. Since these lands were also unsuitable for other uses, counties could not sell the land at tax sales and ended up owning these lands. As county ownership increased, taxes were increasingly shifted onto other property owners, resulting in a fiscal crisis for local governments. It was thought that reducing the annual tax burden on forest land owners could prevent further land abandonment and, perhaps, encourage reforestation. Local governments, however, were unwilling to forgo the taxes they collected on forest land.

The solution was to amend the uniformity in taxation clause of the state constitution to create an exception for forest land. As a result of the amendment (approved in 1927), the Forest Crop Law (FCL) was enacted, under which land owners paid a flat, annual fee per acre and a severance tax when timber was harvested. A program for owners of small forest plots, the Woodland Tax Law (WTL), was enacted in 1954. The Managed Forest Law (MFL) program was enacted in 1985 to replace the FCL and WTL.

### Provisions of the Forest Crop Law (FCL)

Under the FCL, an owner of an entire quarter-quarter section (typically 40 acres) in a town or village could petition the Department of Natural Resources (DNR) to enroll that land in the program. If the DNR determined that forestry was the best use for the land and that a stand of merchantable timber could be produced within a reasonable period of time, the land was entered under the program under a contract for either 25 or 50 years (as chosen by the landowner). The landowner was required to practice forestry, to notify the DNR of timber harvests, and to permit public access to the land for hunting and recreation.

FCL land is exempt from property taxes. To help offset the effect of this exemption on local property taxes, the DNR makes an annual payment of \$0.20 per FCL enrolled acre to the municipality where the land is located. The municipality retains 80% of this payment and remits 20% to the county. To further offset the effect of the exemption, landowners are required to pay an annual "acreage share", to pay a severance tax on timber harvests, and to pay penalties for non-compliance with the contract or on withdrawal from the program. These landowner payments are described below:

1. **Acreage Share.** This payment is made by the owner to the municipality where the land is located. The municipality retains 80% and remits 20% to the county. On land entered prior to 1972 the payment is \$0.10 per acre. On "special provision" land (entered from 1949 to 1963 in areas outside DNR fire control boundaries) the payment is \$0.20 per acre. On land entered since 1972 the payment for 2004 to 2013 is \$1.66 per acre, and the payment for 2014 to 2023 will be \$2.52. (The \$2.52 rate equals \$0.20 times the ratio of the total value of taxable land in the state in 2012 to the total value of taxable land in the state in 1972.)
2. **Severance Tax.** Every year, the DNR establishes values for the various types of timber harvested across the state. These values are used to calculate the value of timber harvested from FCL land. The severance tax is 10% of the value of the timber harvested, except that no severance taxes are assessed on "special provision" lands. From the proceeds, the DNR keeps an amount equal to the total payments it has made to the municipality on that parcel. Any excess is paid to the municipality, which keeps 80% of the payment and shares 20% with the county.
3. **Withdrawal Tax.** Land can be withdrawn from the FCL program at the owner's option or, if the owner violates the contract, by DNR order. Either way, a withdrawal tax must be paid. This tax equals the sum, for the years the contract was in effect, of the differences between the amount of real estate taxes that would have been levied on the land and the acreage shares and severance taxes actually paid. Each year's difference is also subject to simple (not compound) interest at 12% per year (5% for pre-1977 contracts) for each year the real estate tax has been deferred. From the proceeds, the DNR keeps an amount equal to the total payments it has made to the municipality on that parcel. Any excess is paid to the municipality, which keeps 80% and shares 20% with the county.
4. **Termination Tax.** When a contract expires and the land is not enrolled under the MFL program, a termination

tax of 10% of the value of the standing timber is assessed. From the proceeds, the DNR keeps an amount equal to the total payments it has made to the municipality on that parcel. Any excess is paid to the municipality, which keeps 80% of the payment and shares 20% with the county.

### Provisions of the Managed Forest Law (MFL)

An owner of ten or more contiguous forest acres may apply for entry into the MFL program. If the DNR finds that at least 80% of the parcel is producing or capable of producing at least 20 cubic feet of merchantable timber per acre per year, and that the land is not developed in a manner incompatible with the practice of forestry, the DNR issues an order entering the land under the program. The agreement is for 25 or 50 years (at the landowner's option), and can be renewed if the landowner so desires. The landowner agrees to follow a forest management plan and to permit (with limited exceptions) public access for hunting and recreation.

MFL land is exempt from property taxes. To help offset the effect of this exemption on local property taxes, the DNR makes an annual payment of \$0.20 per MFL enrolled acre to the municipality where the land is located. The municipality retains 80% of this payment and remits 20% to the county. To further offset the effect of the exemption, landowners are required to pay an annual "acreage share", to pay closure fees on land closed to public access, to pay a yield tax on timber harvests, and to pay penalties for non-compliance or early withdrawal from the program. These landowner payments are described below:

1. **Acreage Share.** For MFL orders that took effect before April 28, 2004, the payment is as follows: for 2009 to 2013, \$0.67 per acre, and 2014 to 2018, \$0.79 per acre. The per acre rate for 2014 to 2018 equals the original payment (\$0.74 per acre) multiplied by the ratio of the average statewide tax per acre on agricultural, undeveloped, and taxable forest land for 2012 divided by the corresponding average for 1986. For MFL orders that took effect on or after April 28, 2004, the payment is as follows: for 2009 to 2013 is \$1.67 per acre, and for 2014 to 2018, \$2.14 per acre. The per acre rate for 2014 to 2018 equals the average equalized value per acre of taxable forest land in 2011 (\$2,157) times the net statewide tax rate for 2011/12 (19.7954 mills) times 5%. Acreage share payments are paid to the municipality, which keeps 80% and shares 20% with the county.
2. **Closure Fee.** For MFL orders that took effect before April 28, 2004, the payment is as follows: for 2009 to 2013, \$0.90 per acre, and for 2014 to 2018, \$1.08 per acre. The per acre rate for 2014 to 2013 equals the original payment (\$1.00 per acre) multiplied by the same ratio used to adjust the acreage share payment. For MFL orders that took effect on or after April 28, 2004, the payment is as follows: for 2009 to 2013, \$6.67 per acre, and for 2014 to 2018, \$8.54 per acre. The per acre rate for 2014 to 2018 equals the average equalized value per acre of taxable forest land in 2011 (\$2,157) times the net statewide tax rate for 2011/12 (19.7954 mills) times 20%. The closure fee is in addition to the acreage share payment. The fee is collected by municipalities and remitted to the DNR for deposit in the state Conservation Fund.
3. **Yield Tax.** The yield (severance) tax equals 5% of the value of the merchantable timber cut. This tax is assessed and collected by the DNR. Except for FCL conversions, for MFL orders that took effect on or after April 28, 2004, the yield tax is waived on harvests in the first 5 years. The DNR remits 100% of any yield taxes to the municipality where the timber was harvested. The municipality keeps 80% of the payment and shares 20% with the county.
4. **Non-compliance Fee.** This fee is set at \$250. If the DNR determines that an MFL landowner has not complied with the management plan, the municipality is notified. The fee is collected by the municipality where the land is located. The municipality keeps 80% of the fee and shares 20% with the county.
5. **Withdrawal Fee.** The DNR assesses a fee of \$300 on all withdrawals from the MFL program that occur before the expiration of the MFL agreement period. DNR retains the entire fee.
6. **Withdrawal Tax.** On withdrawal from the MFL program during an initial order, the land owner must pay the greater of (a) the product of the net assessed value tax rate in the year prior to withdrawal times the assessed value of the land in the year prior to withdrawal times the number of years the land was under an MFL order minus the acreage share and yield taxes paid; or (b) 5% of the stumpage value of the merchantable timber on the land. On withdrawals from the MFL program on renewed MFL orders, the calculation under (a) above is made from the year of the renewal. DNR remits 100% of any withdrawal taxes to the municipality where the land is located. The municipality keeps 80% of the payment and shares 20% with the county.
7. **Agreement Expiration.** When an agreement expires and is not renewed, the land becomes subject to the

property tax.

Once a landowner petitions the DNR to withdraw his or her land from the program, the decision is not reversible. Because of the potential that the withdrawal tax could be large in relation to the value of the property, an MFL landowner can file a request with the Department of Revenue (DOR) for an estimate of the withdrawal tax on his or her MFL land. The request must be accompanied by a non-refundable fee equal to the greater of \$100 or the number of acres affected times \$5.

**Measuring the Tax Reduction under Forest Tax Programs**

An estimate of landowner tax savings under the FCL and MFL programs is shown in Table 1. The landowner payments are amounts paid in calendar 2011. Property tax effects are calculated using data for the 2011/12 property tax year. Data on the number of acres enrolled under the FCL and MFL laws (by acreage share class) were obtained from the Statements of Assessment for 2011 filed by municipalities with the DOR. Data on MFL withdrawal fees and MFL non-compliance fees are not available, and are excluded from this analysis.

To determine the impact of the tax-exempt FCL and MFL programs, property taxes billed to owners of taxable forest land were first estimated for each municipality by multiplying the total net property taxes levied (total tax levy minus the school levies tax credit) by the percentage of the municipality's total assessed value attributable to forest land. The resultant number was divided by the number of assessed forest acres to determine the property tax per acre of taxable forest land.

The "initial tax" in Table 1 is an estimate of what the net property taxes on land enrolled under the FCL and MFL programs would have been had they not been enrolled. This number was calculated by multiplying the average net tax per acre on taxable forest land in each municipality, as determined above, by the number of acres enrolled under the forest tax laws in that municipality, and then summing these figures across the state for each forest tax law. The amount per acre is the state total under each forest tax law divided by state total acreage enrolled under that program.

The acreage share payments were calculated by multiplying the number of enrolled acres by the appropriate acreage share rate. For purposes of the estimate, it was assumed that all of these payments are actually made.

Data on severance/yield taxes, termination taxes, and withdrawal taxes are from a report from the DNR regarding payments made to municipalities in 2011 for land enrolled under the FCL and MFL programs. Since the DNR can retain certain amounts from some landowner payments, these landowner payments could be understated.

**TABLE 1  
FINANCIAL ANALYSIS OF FOREST TAX LAWS, 2011/12**

Item	Forest Crop Law		Managed Forest Law	
	Amount (\$)	Per Acre	Amount	Per Acre
Initial Taxes	\$ 5,158,617	\$ 27.019	\$ 106,129,983	\$ 33.869
Landowner Payments:				
Acreage shares	106,939	0.560	2,740,782	0.875
Closure fees	0	0.000	4,827,916	1.541
Severance/yield taxes	208,372	1.091	1,235,596	0.394
Termination taxes	215,330	1.128	0	0.000
Withdrawal taxes	324,682	1.701	2,587,189	0.826
Total Landowner Payments	\$ 855,324	\$ 4.480	\$ 11,391,482	\$ 3.635
Net Tax Reduction	\$ 4,303,293	\$ 22.539	\$ 94,738,501	\$ 30.234
Acres enrolled	190,926		3,133,534	

The "Initial Taxes" for 2011/12 were \$27.019 per acre under the FCL and \$33.869 per acre under the MFL. After subtracting the landowner payments, the "Net Tax Reductions" for 2011/12 were approximately \$4.3 million, or \$22.539 per acre under the FCL, and approximately \$94.7 million, or \$30.234 per acre under the MFL. The total net tax reduction under the two programs for 2011/12 is estimated to be about \$99.0 million, or about 89% of the total "Initial Taxes" of about \$111.3 million.

Since their equalized value is zero (due to being tax-exempt), forest tax laws indirectly affect property taxes

across the state. This occurs because of the redistribution in school equalizations aids compared to what the distribution would be if there were no forest tax laws. These effects are not reflected in Table 1 and are not analyzed in this report.

### Evaluation

The number of privately owned acres enrolled under the various forest tax law programs and the average property tax on taxable forest land for selected years are shown on Table 2.

**TABLE 2**  
**ACRES ENROLLED AND AVERAGE PROPERTY TAX ON FOREST LAND, 1960 - 2011**

Year	Acres Enrolled				Average Net Property Tax per Acre of Taxable Forest Land
	Woodland Tax Law	Forest Crop Law	Managed Forest Law	Total Acres Enrolled	
1960	60,431	361,211	0	421,642	\$0.52
1965	107,431	490,154	0	597,585	0.56
1970	154,185	643,514	0	797,699	0.87
1975	158,302	951,808	0	1,110,110	1.42
1980	256,349	1,287,833	0	1,544,182	3.31
1985	447,851	1,468,912	0	1,916,763	5.90
1990	472,236	1,452,194	372,102	2,296,532	6.87
1995	302,338	1,406,718	804,269	2,513,325	7.76
2000	55,507	471,727	1,971,474	2,498,708	12.90
2001	0	447,673	2,079,062	2,526,735	15.73
2002	0	428,790	2,231,154	2,659,944	17.96
2003	0	400,716	2,417,023	2,817,739	20.65
2004	0	356,226	2,629,513	2,985,739	23.26
2005	0	334,362	2,784,889	3,119,251	23.53
2006	0	295,417	2,843,447	3,138,864	24.82
2007	0	271,093	2,930,647	3,201,740	27.33
2008	0	243,278	2,983,305	3,226,583	29.04
2009	0	224,956	3,031,870	3,256,826	31.19
2010	0	208,167	3,079,985	3,288,152	32.61
2011	0	190,926	3,133,534	3,324,460	32.55

Sources:

Acreage: 1960-1985: Wisconsin Department of Natural Resources, Forestry Tax Unit. 1990-2011: State totals from Statements of Assessment filed with the Wisconsin Department of Revenue.

Tax per Acre: Calculated by the Wisconsin Department of Revenue for land in the "forest" class.

Although these forest land tax programs have probably increased the amount of timber harvested in the state, the extent to which such harvests can be attributed to the special tax laws is not known. Regardless, property taxes remain a major concern for forest land owners. Increasing demand for forest land for recreational and vacation home uses has led to significant increases in market values for such land. For a forest land owner interested in pursuing forestry, enrolling the land under the MFL is an increasingly attractive way to ease the tax burden. Recent MFL law changes which require enrollees to follow management plans and impose penalties for failure to follow those plans reduces the chances that enrollees will use MFL as a means of reducing taxes while waiting to sell the land for non-forestry purposes.

## REAL ESTATE TRANSFER FEE

### Introduction

The real estate transfer fee was enacted in 1969 after the federal documentary transfer tax (or stamp tax) was repealed. The state fee applies to transfers of real estate ownership interests located in Wisconsin.

All real estate conveyances (transfers of ownership interest) not excluded or exempted by statute are subject to the fee. The fee is imposed at a rate of \$0.30 for each \$100 of value or fraction thereof. Payment of the fee is the responsibility of the seller (grantor) of the property interest. On conveyances that are gifts or for nominal consideration, value is the estimated price of the property had it been sold on the open market. On other conveyances, value is the full consideration paid for the property, including any assumed liens on the property.

Transfer values reported on real estate transfer fee returns are the Department of Revenue's main source of information for determining changes in the fair market value of real property in the state. This information is used in the annual process of determining assessment/sales ratios and equalized values for each municipality in Wisconsin.

### Collections

The fee is paid to the county register of deeds when the transfer is recorded, except that the fee on land contracts is paid when the contract is recorded. Completion of a real estate transfer return and payment of the appropriate fee is normally required before the county register of deeds records the transaction. Every month, each register of deeds transfers 80% of the fee collections to the Department of Revenue. The state's share of the fees during FY12 was \$39.8 million. The remaining 20% (\$9.9 million) was retained by the counties.

### Analysis of Exemptions

Beginning on July 1, 2009, the Department of Revenue (DOR) has required that real estate transfer returns be filed with the Department electronically. Most of the information from every return (except taxpayer identification numbers) is kept in a data base that can be accessed on the DOR web site. The effect on state revenues of the various exemptions from the fee was estimated using data for transfers that were registered from July 1, 2011 to June 30, 2012 (state fiscal 2012) on which an exemption was claimed. Of the 162,200 transfer fee returns filed in this period, about 70,300, or 43.3%, claimed an exemption from the fee.

When an exemption is claimed on a real estate transfer fee return, the number of the sub-section of sec. 77.25 corresponding to the specific exemption is indicated on the return. The exemption claimed on the return was used as the basis for the analysis in this report. Returns on which the value of the transferred real estate was reported to be \$100 million or more were reviewed for accuracy and excluded when the value was deemed excessive. Returns which claimed the exemption for real estate valued at \$100 or less were reviewed so that all reported values in excess of \$100 were reduced to \$100.

An estimate of the revenue loss for some exemptions may be understated. This occurs because some property conveyances can be made without filing a transfer fee return, and some can be made without declaring a property value. The discussion of the exemptions will note when this understatement could occur.

The fiscal effects shown in the table below are for the portion of the real estate transfer fee paid to the state. The effect on county revenues is one-fourth of the state fiscal effect.

**TABLE 1  
REAL ESTATE TRANSFER FEE EXEMPTION DEVICES SUMMARY**

Exemption Device	Statutory Reference*	FY12 Fiscal Effect
Easements	s. 77.21 (1)	Not available
Leases for less than 99 Years	s. 77.21 (1)	Not available
Conveyances Prior to October 1, 1969	s. 77.25 (1)	\$ 1,000
Conveyances by Government Bodies	s. 77.25 (2)	384,000
Conveyances by Gift to Governments	s. 77.25 (2g)	40,000
Conveyances to Government for Land Dedications or Highways	s. 77.25 (2r)	3,000
Conveyances to Confirm, Correct, or Reform a Prior Conveyance	s. 77.25 (3)	1,565,000
Conveyances on Sales for Delinquent Taxes	s. 77.25 (4)	0
Conveyances on Partition	s. 77.25 (5)	136,000
Conveyances Pursuant to Mergers of Corporations	s. 77.25 (6)	167,000
Conveyances Pursuant to Partnerships Registering as Limited Liability Partnerships	s. 77.25 (6d)	35,000
Conveyances Pursuant to Conversion of Ownership Form with No Change in Ownership Interest	s. 77.25 (6m)	119,000
Conveyances by Subsidiary Corporation to Parent for No or Nominal Consideration	s. 77.25 (7)	67,000
Conveyances between Parents and their Children	s. 77.25 (8)	2,410,000
Conveyances between Husband and Wife	s. 77.25 (8m)	5,409,000
Conveyances between Registered Domestic Partners	s. 77.25 (8n)	25,000
Conveyances between Agent and Principal	s. 77.25 (9)	2,101,000
Conveyances to Provide or Release Security for a Debt or Obligation	s. 77.25 (10)	303,000
Conveyances to Designate TOD Beneficiary	s. 77.25 (10m)	39,000
Conveyances by Will, Descent, or Survivorship	s. 77.25 (11)	414,000
Conveyances by Non-probate Transfer on Death	s. 77.25 (11m)	212,000
Conveyances Pursuant to Condemnation	s. 77.25 (12)	15,000
Conveyances of Real Estate Valued at \$100 or Less	s. 77.25 (13)	0
Conveyances by or in Lieu of Foreclosure	s. 77.25 (14)	6,525,000
Conveyances between a Family-Owned Corporation and its Shareholders	s. 77.25 (15)	217,000
Conveyances between a Family-Owned Partnership and its Partners	s. 77.25 (15m)	223,000
Conveyances between a Family-Owned Limited Liability Partnership and its Members	s. 77.25 (15s)	2,838,000
Conveyances to Certain Trusts	s. 77.25 (16)	7,269,000
Conveyances in Fulfillment of Land Contract	s. 77.25 (17)	0
Conveyances to a Local Exposition District	s. 77.25 (18)	0
Conveyances from a Fiduciary to an Unincorporated Nonprofit Association	s. 77.25 (20)	7,000
Conveyances of Electric Transmission Facilities and Land Rights	s. 77.25 (21)	0
<b>Total</b>		<b>\$ 30,524,000</b>

\*References to sections of the 2011 Wisconsin Statutes.

### Easements

Easements are excluded from the definition of conveyances subject to the real estate transfer fee. No real estate transfer fee return is therefore required for transfers of easements.

**Leases for Less than 99 Years**

Leases for less than 99 years are excluded from the definition of conveyances subject to the real estate transfer fee. No real estate transfer fee return is therefore required for leases of less than 99 years.

**Conveyances Prior to October 1, 1969**

Conveyances made prior to October 1, 1969 (the date the fee went into effect) are exempt from the fee and from filing a transfer fee return. The fiscal effect may therefore be understated.

**Conveyances by Government Bodies**

Conveyances from the United States, the state of Wisconsin, or from an instrumentality, agency, or subdivision of either, are exempt from the fee. These conveyances are also exempt from filing a transfer fee return unless the seller is also a lender for the transaction. The fiscal effect may therefore be understated.

**Conveyances by Gift to Governments**

Conveyances by gift to the United States, the state of Wisconsin, or to an instrumentality, agency, or subdivision of either, are exempt from the fee.

**Conveyances to Governments for Land Dedications or Highways**

Conveyances of land by sale or dedication under s. 236.29 (1) or (2) [recording of a plat] or s. 236.34 (1) (e) [recording of a certified survey], or for the purpose of a road, street or highway, to the United States, the State of Wisconsin, or any instrumentality, agency or subdivision of either, is exempt from the fee. These conveyances are also exempt from filing a transfer fee return. The fiscal effect may therefore be understated.

**Conveyances to Confirm, Correct, or Reform a Prior Conveyance**

Conveyances that confirm, correct, or reform a previously recorded conveyance are exempt from the fee if the new conveyance is made for no, nominal, or inadequate consideration.

**Conveyances on Sales for Delinquent Taxes**

Conveyances on sales for delinquent taxes or assessments are exempt from the fee. These conveyances are also exempt from filing a transfer fee return. The fiscal effect may therefore be understated.

**Conveyances on Partition**

Conveyances on partition of real estate that belongs to several persons as co-owners to those persons are exempt from the fee.

**Conveyances Pursuant to Mergers of Corporations**

Conveyances pursuant to mergers of corporations are exempt from the fee.

**Conveyances Pursuant to Partnerships Registering as Limited Liability Partnerships**

Conveyances pursuant to partnerships reorganizing as limited liability partnerships are exempt from the fee.

**Conveyances Pursuant to Conversion of Ownership Form with No Change in Ownership Interest**

Conveyances pursuant to the conversion of a business entity to another form of business entity under s. 179.76 [domestic limited partnership], s. 180.1161 [domestic business corporation], s. 181.1161 [domestic non-stock corporation], or s. 183.1207 [domestic limited liability company] are exempt from the fee if, after the conversion, the ownership interests in the new entity are identical with the ownership interests in the original entity immediately preceding the conversion.

**Conveyances by Subsidiary Corporation to Parent**

Conveyances by a subsidiary corporation to its parent corporation for no consideration, nominal consideration, or in sole consideration of cancellation, surrender or transfer of capital stock are exempt from the fee.

**Conveyances between Parents and their Children**

Conveyances between parent and child, step-parent and step-child, and parent and son-in-law or daughter-in-law for nominal or no consideration are exempt from the fee.

**Conveyances between Husband and Wife**

Conveyances between a husband and wife are exempt from the fee.

**Conveyances between Registered Domestic Partners**

Conveyances between an individual and his or her domestic partner under Chapter 770 (the "Domestic Partnership" Law) are exempt from the fee.

**Conveyances between Agent and Principal**

Conveyances between agent and principal or from a trustee to a beneficiary without actual consideration are exempt from the fee.

**Conveyances to Provide or Release Security for a Debt or Obligation**

Conveyances to provide security or release security for a debt or obligation are exempt from the fee. However, for original land contracts filed before August 1, 1992, a transfer fee will be assessed when the documents relating to fulfillment of the land contract are filed.

**Conveyances to Designate TOD Beneficiaries**

Conveyances for sole purpose of designating a time of death (TOD) beneficiary under s. 705.15 [statute that permits non-probate transfers of property at time of death] are exempt from the fee.

**Conveyances by Will, Descent, or Survivorship**

Conveyances by will, descent, or survivorship are exempt from the fee. These conveyances are also exempt from filing a real estate transfer fee return. The fiscal effect may therefore be understated.

**Conveyances by Non-probate Transfer on Death**

Conveyances by non-probate transfer on death under s. 705.15 [statute that permits non-probate transfers of property at death] are exempt from the fee.

**Conveyances on Condemnation**

Conveyances pursuant to or in lieu of condemnation are exempt from the fee.

**Conveyances of Real Estate Valued at \$100 or Less**

Conveyances of real estate having a value of \$100 or less are exempt from the fee.

**Conveyances by or in Lieu of Foreclosure**

Conveyances under a foreclosure or a deed in lieu of a foreclosure to a person holding a mortgage or to a seller under a land contract are exempt from the fee.

**Conveyances between a Family-Owned Corporation and Its Shareholders**

Conveyances between a corporation and its shareholders are exempt from the fee if (a) all of the stock in the corporation is owned by persons who are related to each other as spouses, lineal ascendants or descendants, siblings (by blood or by adoption), or spouses of siblings; (b) if the transfer is for no consideration except the assumption of debt or stock of the corporation; and (c) if the corporation owned the property for at least 3 years.

**Conveyances between a Family-Owned Partnership and its Partners**

Conveyances between a partnership and one or more of its partners are exempt from the fee if (a) all of the partners are related to each other as spouses, lineal ascendants or descendants, siblings (by blood or adoption), or spouses of siblings; and (b) if the transfer is for no consideration other than the assumption of debt or an interest in the partnership.

**Conveyances between a Family-Owned Limited Liability Partnership and Its Partners**

Conveyances between a limited liability company and one or more of its members are exempt from the fee if (a) all of the members are related to each other as spouses, lineal ascendants or descendants, siblings (by blood or adoption), or spouses of siblings; and (b) if transfer is for no consideration other than the assumption of debt or an interest in the limited liability company.

**Conveyances to Certain Trusts**

Conveyances to a trust are exempt if a transfer from the grantor to the beneficiary of the trust would be exempt under other provisions of the real estate transfer fee law (sec. 77.25, Wis. Stats.).

**Conveyances in Fulfillment of Land Contract**

The recording of deeds in fulfillment of a land contract is exempt from the real estate transfer fee if the proper fee was paid when the land contract was recorded. (The fee on land contracts filed before August 1, 1992, is deferred until the contract is fulfilled. The fee on land contracts filed after July 31, 1992, is due when the contract is filed.) The intent of this provision is to prevent two fees from being imposed on the same land contract transaction. Therefore, this exemption does not reduce state revenues.

**Conveyances to a Local Exposition District**

Transfers of property to a local exposition district organized under Subchapter II of Chapter 229, Wis. Stats., are exempt from the fee.

**Conveyances from a Fiduciary to an Unincorporated Nonprofit Association**

Conveyances from a fiduciary which held property for the benefit of an unincorporated nonprofit association to the unincorporated nonprofit association in the association's own name are exempt from the fee.

**Conveyances of Electric Transmission Facilities and Land Rights**

Conveyances of transmission facilities or land rights for transmission facilities by a utility company to a transmission company in exchange for securities in the transmission company are exempt from the real estate transfer fee.

## TAXATION OF PUBLIC UTILITIES

### Background

When utility companies began operating in Wisconsin, they were generally subject to local assessment and local property taxation. Over time, as these companies grew to serve many municipalities, accurate assessment of the property in a given municipality proved difficult and misleading. As a result, laws were enacted under which the state (via the Department of Revenue or its predecessors) assessed and taxed these utility companies on a unitary basis, with part of the tax proceeds shared with the counties and municipalities where the utility property was located. Because the property of some utility companies was difficult to assess, a state tax based on gross revenues was used instead of a tax based on property value.

Current law provides for three types of state utility taxation.

- 1) Gross Revenues. Electric cooperative associations; private light, heat, and power companies; and municipal utility companies (for electric and gas service outside the municipality that owns the utility) are subject to gross revenues taxes of 0.97% on gas revenue, 1.59% on wholesale electric revenue; and 3.19% on all other revenue. Carline company gross revenue is taxed at a rate equal to the state average net property tax rate.
- 2) Ad Valorem -- Unit Value Airlines, conservation and regulation companies, municipal electric association projects, pipelines, and railroads are taxed at the state average net property tax rate (total property tax levy minus general property tax credits divided by the state total equalized value) on the portion of their unit value allocated to Wisconsin.
- 3) Ad Valorem – Tangible Property Value. Telephone companies are taxed at the net property tax rate in the municipality where the property is located.

A utility company subject to state utility taxes is exempt from local property taxes (except for certain special assessments). A private utility providing retail service whose property and customers are all in one municipality is subject to local taxation, not state taxation. A private utility whose primary business is the wholesale sale of electricity is subject to local taxation if its generating capacity is less than 50 megawatts but taxed under the state gross revenues tax if its generating capacity is 50 megawatts or more.

Total state utility tax collections in FY12 were \$400.0 million. Taxes on railroads and airlines, totaling to \$34.1 million, were deposited in the transportation fund. The remaining \$365.9 million was deposited in the state general fund, and accounted for 2.7% of general fund tax revenues. Table 1 shows utility tax collections in FY12 for gross revenues and ad valorem taxpayers.

**TABLE 1  
FY12 UTILITY TAX COLLECTIONS**

Utility by Type of Tax	Collections
<b>Gross Revenues</b>	
Carlins	\$ 179,379
Electric Cooperative Associations	11,164,359
Municipal Light, Heat, and Power	3,028,528
Private Light, Heat, and Power	231,579,943
<b>Ad Valorem -- Unit Value</b>	
Airlines	5,985,799
Conservation and Regulation Companies	132,779
Municipal Electric Association Projects	5,170,611
Pipelines	33,673,847
Railroads	28,088,035
<b>Ad Valorem – Tangible Property Value</b>	
Telephone Companies	80,976,003
<b>TOTAL</b>	<b>\$ 399,979,283</b>

The utility tax laws allow certain deductions and exclusions when their tax liabilities are calculated. The estimates of the effect of these deductions and exclusions on state revenues for FY12 are shown in Table 2. These estimates are based on data as reported to the Department of Revenue on tax returns for 2012 filed by gross revenues taxpayers or annual reports for 2011 filed by ad valorem taxpayers.

**TABLE 2  
PUBLIC UTILITIES TAX EXEMPTION DEVICES SUMMARY**

Exemption Device	Statutory Reference *	FY12 Fiscal Effect
<b>Gross Revenues Exemptions</b>		
Power Purchased by Private Light, Heat, and Power Companies	s. 76.28 (1) (d)	\$ 2,301,000
Power Purchased by Electric Cooperatives	s. 76.48 (1g) (d)	8,835,000
Public Benefits Charges	ss. 76.28 (1) (d) and 76.48 (1g) (d)	19,000
Transmission Company Revenues from Utilities Subject to State Utility Taxation \	s. 76.28 (1) (d)	13,765,000
<b>Total – Gross Revenues Exemptions</b>		<b>\$ 24,920,000</b>
<b>Ad Valorem Exemptions</b>		
Hub Airlines	s. 70.11 (42)	Not available
Motor Vehicles – Generally	s. 76.025 (1)	300,000
Motor Vehicles – Telephone Companies	s. 76.81	Not available
Treatment Plant and Pollution Abatement Equipment – Generally	s. 76.025 (1)	2,100,000
Treatment Plant and Pollution Abatement Equipment – Telephone Companies	s. 76.81	Not available
Computers, Fax Machines, and Cash Registers – Generally	s. 76.025 (1)	700,000
Computers, Fax Machines, and Cash Registers – Telephone Companies	s. 76.81	Not available
Telephone Company Property Used Less Than 50% for Telephone Purposes	ss. 70.112 (4) (b) and 76.81	Not available
<b>Total – Ad Valorem Exemptions</b>		<b>\$ 3,100,000</b>

\* References are to the 2011 Wisconsin Statutes.

## GROSS REVENUES EXEMPTIONS

### Power Purchased by Private Light, Heat, and Power Companies

A private light, heat, and power company may deduct from its gross revenues an amount equal to a portion of its purchased power costs if the power is purchased under federal or state approved wholesale rates. The deduction is as follows:

- 100% of the purchased power costs if:
  - the company purchases more than 50% of the power it sells, and
  - the power is not purchased from an "affiliated interest" (i.e., the buyer and seller have no ownership interests in each other), and
  - the revenue from the purchased power is included in the seller's gross revenue (in effect, the seller is subject to the Wisconsin's gross revenues tax).
- 50% of the purchased power costs if:
  - the company purchases more than 90% of its power, and
  - the company has less than \$50 million of gross revenues.

### Power Purchased by Electric Cooperatives

An electric cooperative that purchases more than 50% of the power it sells may deduct from its gross revenues an amount equal to 100% of its purchased power costs if one of the following conditions is met:

- The seller includes the revenue in its gross revenues (in effect, the seller is subject to Wisconsin's gross revenues tax), or
- More than 50% of the power sold in 1987 was purchased from a seller located outside Wisconsin.

### **Public Benefits Charges**

Most electric and gas utilities are required to raise funds through a state-mandated fee on customer's utility bills for certain "public benefits" such as low-income energy assistance, energy conservation programs, and renewable energy programs. These fees are forwarded to the state, which in turn allocates the money to private entities to provide the benefits. These fees are excluded from the definition of gross revenues subject to the gross revenues tax. Since the fee is, in effect, a state revenue, the exclusion does not reduce state revenues.

Electric cooperatives and municipal light, heat, and power companies are allowed to provide their own public benefits programs funded through fees on customers' bills. These public benefits charges are excluded from the revenues subject to the gross revenues tax. The revenue loss shown here is only for those companies that operate their own public benefits program.

### **Transmission Company Revenues from Utilities Subject to State Utility Taxation**

When determining its gross revenues, an electric transmission company may exclude revenues for services provided to: (1) electric cooperatives organized under Wisconsin law that provide wholesale service to their members; (2) municipal light, heat, and power companies based in Wisconsin, and (3) private light, heat, and power companies which are subject to the state's gross revenues tax.

## **AD VALOREM EXEMPTIONS**

### **Hub Airlines**

An airline is deemed a "hub airline" if, in the prior year, it (1) operated at least 45 common carrier flights each weekday to at least 15 non-stop destinations from a single airport in Wisconsin; or (2) it was headquartered in Wisconsin and operated, from one or more Wisconsin airports, at least 20 common carrier flights each weekday. Such an airline is exempt from the state ad valorem tax on airlines and from local property taxation. An exempt airline is not required to file annual reports or an airline ad valorem tax return with the Department of Revenue. As a result, the data needed to estimate the current effect of this exemption are not available.

### **Motor Vehicles – Generally**

Motor vehicles such as automobiles, trucks, and trailers owned by airline, pipeline, railroad, or conservation and regulation companies are exempt from the ad valorem utility tax but subject to vehicle registration fees in the same manner as other motor vehicles. The schedules on which this property is reported are unaudited. Therefore, the actual effect could be higher or lower than the amount shown.

### **Motor Vehicles – Telephone Companies**

Motor vehicles owned by telephone companies are exempt from the telephone property tax but subject to registration fees in the same manner as other motor vehicles. Since telephone companies do not report the value, number, or type of motor vehicles, an estimate of the revenue loss under this exemption is not available.

### **Treatment Plant and Pollution Abatement Equipment – Generally**

Property owned by airline, pipeline, railroad, or conservation and regulation companies used as a waste treatment facility to abate or eliminate the pollution of the water or air of the state is exempt from the ad valorem utility tax. The schedules on which this property is reported are unaudited. Therefore, the actual effect could be higher or lower than the amount shown.

### **Treatment Plant and Pollution Abatement Equipment – Telephone Companies**

Property owned by telephone companies used as a waste treatment facility to abate or eliminate the pollution of the water or air of the state is exempt from the telephone property tax. Telephone companies reported no such property was owned or leased in the most current year.

**Computers, Fax Machines, and Cash Registers – Generally**

Computers, fax machines (excluding machines that are also copiers), and cash registers that are owned by airline, pipeline, railroad, or conservation and regulation companies are exempt from the ad valorem tax. The schedules on which this property is reported are unaudited. Therefore, the actual effect could be higher or lower than the amount shown.

**Computers, Fax Machines, and Cash Registers --Telephone Companies**

Computers, fax machines (excluding machines that are also copiers), and cash registers that are owned by telephone companies are exempt from the ad valorem tax. Although the annual report filed by telephone companies with the Department of Revenue contains a line for "exempt computers, software, and faxes", the data are not entered into any data retrieval system. Thus, it is not possible to accurately estimate the amount of such property, and an estimate of the effect of this exemption is not available.

**Telephone Company Property Used Less Than 50% for Telephone Purposes**

Property that is used less than 50% in the operation of a telephone company is exempt from the telephone property tax and subject, instead, to local property taxes. Since telephone company reports filed with the Department of Revenue do not include information on this type of property, an estimate of the effect of the exemption is not available. However, based on discussions with assessment staff, the amount of such property is probably minimal, implying that the exemption has an insignificant effect on state revenues.

## EXCISE TAXES

### Introduction

Wisconsin imposes taxes on cigarettes, tobacco products, liquor, wine, and beer. The taxes on cigarettes and tobacco products are excise taxes imposed on distributors. Taxes on liquor, wine, and beer are occupational taxes imposed on the seller for the privilege of engaging in a particular business. Under either approach, these taxes are commonly referred to as excise taxes.

The state collects additional excise taxes that are deposited in segregated funds, notably the motor vehicle fuel and alternate fuel taxes that are deposited in the transportation fund. Only general fund excise taxes will be discussed in this chapter.

Excise taxes contributed \$709.5 million to state general fund tax collections in FY12 (equal to 5.25% of all general fund tax collections). The current tax rate and FY12 revenue collections from each general fund excise tax is summarized in the table below. The cigarette tax dominates excise tax collections – providing \$587.8 million, or 83% of total general fund excise tax collections during FY12.

**TABLE 1  
WISCONSIN GENERAL FUND EXCISE TAXES**

Tax Type	Tax Rates as of December 1, 2012	FY12 Excise Tax Revenues	
		(\$ millions)	%
Cigarettes	\$2.52 Per 20-Pack	\$587.8	82.84%
Tobacco Products (1)	71% of manufacturer's established list price to distributors	9.6	1.35%
Moist Snuff (1)	100% of manufacturer's established list price to distributors	38.8	5.47%
Cigars (1)	Lesser of 71% of manufacturer's established list price to distributors or \$0.50 per cigar	17.1	2.41%
Beer	\$2.00 per 31-gallon barrel (\$0.65/gallon)	9.2	1.30%
Distilled Spirits	\$0.8586 per liter (\$3.25/gallon)	43.5	6.13%
Wine and Apple Cider		3.5	0.50%
- up to 14% alcohol	\$0.06605 per liter (\$0.25/gallon)		
- 14% to 21% alcohol	\$0.1189 per liter (\$0.45/gallon)		
- over 21% alcohol	\$0.8586 per liter (\$3.25/gallon)		
<b>Total Excise Tax Revenues</b>		<b>\$709.5</b>	<b>100.00%</b>

Note (1) Tobacco products, moist snuff and cigars tax collections distribution from an internal DOR report.

Over the years the state has enacted certain discounts, exemptions, and refunds of taxes paid on cigarettes, tobacco products, liquor, wine, and beer. The estimated state revenue foregone or state expenditures in FY12 as a result of these discounts, exemptions, and refunds are presented in this chapter for those provisions where information is available to construct a fiscal estimate. For certain provisions, no estimate is provided since the state is precluded by federal law from imposing a tax; (including interstate commerce, purchases by the federal government, and purchases by U.S. Armed Forces members on military installations).

## Cigarette Tax

Wisconsin law [sec. 139.30(1), Wis. Stats.] defines cigarettes as any roll of tobacco which is wrapped in paper or any substance other than tobacco.

The cigarette tax was first imposed in 1939, as an emergency tax, at a rate of \$0.02 per pack. The tax was increased to \$0.03 per pack in 1949 and was made permanent that year. Over the years the tax rate was increased periodically. More recently, the cigarette tax was increased by \$1.00 per pack, from \$0.77 to \$1.77, effective January 1, 2008. On September 1, 2009, the tax was further increased an additional 75 cents per pack to \$2.52 per pack. The cigarette tax rate in recent years is presented in the table below.

Period	Tax Per Single Cigarette	Tax Per 20-Pack
October 1, 2001 to December 31, 2007	3.85¢	77¢
January 1, 2008 to August 31, 2009	8.85¢	\$1.77
September 1, 2009 and thereafter	12.6¢	\$2.52

In addition, following each tax rate increase, an inventory tax is imposed and must be paid by all permittees and retailers who possess stamped cigarettes held for resale on which the cigarette tax was already paid before the increase.

Cigarette tax collections contributed \$587.8 million to the state's general fund during FY12.

Any person in Wisconsin who wants to handle cigarettes at the wholesale level, such as a distributor or subjobber, must obtain a permit from the Department of Revenue. A retailer selling cigarettes to consumers in Wisconsin must hold a valid retail license issued by the local municipality where the retail premise is located. Licensed retailers are required to purchase cigarettes from permitted wholesalers on which the Wisconsin cigarette excise taxes have been paid.

The cigarette tax is paid by Wisconsin distributors (both in-state and out-of-state) who are required to purchase tax stamps from the Wisconsin Department of Revenue and affix them to the cigarette packs. Distributors may affix Wisconsin tax stamps only to cigarettes purchased directly from the department-approved manufacturer which appear in good standing in on the Attorney General's Directory of Certified Manufacturers and Brands. In addition, the cigarette use tax (equal to the cigarette tax rate) must also be paid by persons, other than cigarette distributors, who bring untaxed cigarettes into Wisconsin.

### Cigarettes Tax Discounts, Exemptions and Refunds

Distributors, bonded direct marketers, and manufacturers who are authorized to purchase stamps receive a 0.7% tax discount when purchasing stamps in recognition of the administrative costs they incur when applying the stamps to packs of cigarettes [sec. 139.32(5), Wis. Stats.].

The Wisconsin cigarette tax is not imposed upon the following:

- Cigarettes shipped via interstate commerce to customers in other states for sale outside Wisconsin.
- Cigarettes sold to the Armed Forces (e.g., Fort McCoy) or state or federally operated veterans' hospitals.
- Cigarettes sold to interstate carriers of passengers for hire to be resold to bona fide passengers being transported.

<b>Cigarettes Tax Exemptions and Refunds</b>	<b>Statutory Reference</b>	<b>FY12 Fiscal Effect</b>
<b>Distributors Discount</b> Discount for Distributor Costs	s. 139.32 (5)	\$4,100,000
<b>Exemptions</b> Shipped to Customers in Other States Via Interstate Commerce	s. 139.31(3)	Not available
Sold to the Armed Forces (e.g., Fort McCoy) or State or Federally Operated Veterans' Hospitals	s. 139.31(3)	Not available
Sold to Interstate Carriers of Passengers for Hire to be Resold to Bona fide Passengers Being Transported	s. 139.31(3)	Not available
<b>Refunds or Credits</b> Cigarettes Unfit for Sale and Distributors Going Out of Business	s. 139.36	\$811,000
<b>Tribal Refunds</b>  Quarterly 30% Refund	s. 139.325 and Tax 9.08, Wis. Admin. Code	\$601,000
Monthly 70% Refund	s. 139.323, and Tax 9.08, Wis. Adm. Code	\$35,445,000

Moreover, licensed cigarette distributors may obtain the following refunds [sec. 139.36, Wis. Stats.]

- A cigarette distributor can receive a refund of the tax paid for Wisconsin stamps affixed to packs of unsalable cigarettes they return to the manufacturer.
- Distributors going out of business or selling their business may receive a refund of the tax paid for Wisconsin stamps not affixed to packs of cigarettes.

Native American tribal councils who have entered into agreements with the State of Wisconsin are eligible for two refunds. Jointly, these two refunds essentially return 100% of the cigarette tax paid by tribal members residing on tribal lands and 70% of the cigarette tax collected on all other sales on tribal lands. Specifically, the refunds are as follows:

- A quarterly 30% refund of the cigarette tax paid on cigarettes sold on reservations to enrolled members of the tribe residing on the reservation.
- A monthly 70% refund of the cigarette tax paid on cigarettes sold by authorized Native American retailers on reservation trust land over which a tribe has jurisdiction. The land must have been designated a reservation or trust land on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council.

### **Tobacco Products Tax**

Wisconsin law [sec. 139.75(12), Wis. Stats.] defines tobacco products as cigars, cheroots, granulated, plug cuts, snuff, chewing tobacco, clippings, and other forms of tobacco prepared in such a manner as to be suitable for chewing or smoking in a pipe or otherwise. The definition includes tobacco that can be used for "roll your own" cigarettes, but it does not include cigarettes. Moist snuff is defined as any finely cut, ground, or powdered smokeless tobacco that is intended to be placed or dipped in the mouth.

The excise tax on tobacco products was first imposed on October 1, 1981, at the rate of 20%. On December 1, 1999, the tobacco products tax was changed from an occupational tax to an excise tax (1999 Wis. Act 9) and on October 1, 2001, the tax rate was raised to 25%.

Effective January 1, 2008, the tobacco products tax on all tobacco, other than moist snuff, was increased from 25% of the manufacturer's list price to 50% of the list price, and then further increased to 71% of manufacturer's

established list price beginning on September 1, 2009 (see table below). Beginning January 1, 2008, a cap of 50 cents was also established as the maximum tax per cigar.

The taxation of moist snuff was converted to a weight based tax effective January 1, 2008 but returned to a price based tax (at 100% of the manufacturer's established list price) effective September 1, 2009.

<b>Tax Type</b>	<b>Prior to January 1, 2008</b>	<b>January 1, 2008 to August 31, 2009</b>	<b>September 1, 2009 and thereafter</b>
Tobacco Products		50% of manufacturer's established list price to distributors	71% of manufacturer's established list price to distributors
Moist Snuff		\$1.31 per ounce	100% of manufacturer's established list price to distributors
Cigars	25% of manufacturer's established list price to distributors	Lesser of 50% of manufacturer's established list price to distributors or \$0.50 per cigar	Lesser of 71% of manufacturer's established list price to distributors or \$0.50 per cigar

Total tobacco product taxes (including moist snuff and cigars) raised \$65.5 million during FY12. As displayed earlier in Table 1 of this chapter, this total was comprised of \$38.8 million from tax on moist snuff, \$17.1 million from tax on cigars, and \$9.6 million from tax on all other tobacco products.

Any person in Wisconsin who wants to handle tobacco at the wholesale level must obtain a permit from the Department of Revenue. Any person outside Wisconsin who wants to sell tobacco to retailers in Wisconsin must obtain a permit from the Department of Revenue. Any person who purchases tobacco products for their own personal use and upon which the Wisconsin tobacco products tax is due and has not been paid also must file a use tax return with the department and pay the tax.

### **Tobacco Products Tax Exemptions and Refunds**

Tobacco products tax is not imposed when tobacco products are:

- Shipped to customers in other states via interstate commerce.
- Sold to the Armed Forces (e.g., Fort McCoy) or state or federally operated veterans' hospitals.
- Sold to interstate carriers of passengers for hire to be resold to bona fide passengers being transported.

A licensed tobacco products distributor can receive a refund or credit when tobacco products are:

- Shipped to customers outside Wisconsin.
- Returned to the manufacturer and/or short shipments.
- Destroyed due to damage or becoming unfit for sale.

In addition, American Indian tribal councils which have entered into agreements with the State of Wisconsin are eligible for two refunds. Jointly, these two refunds essentially return 100% of the tobacco products tax paid by tribal members residing on tribal lands and 50% of the tax collected on all other sales on tribal lands. Specifically, the refunds are as follows:

- A quarterly 50% refund of the tobacco products tax paid on tobacco products sold on reservations to enrolled members of the tribe residing on the reservation.
- A monthly 50% refund of the tobacco products tax paid on tobacco products sold by authorized Native American retailers on reservation trust land over which a tribe has jurisdiction. The land must have been designated a reservation or trust land on or before January 1, 1983, or on a later date as determined by an agreement between the department and the tribal council.

<b>Tobacco Products Tax Exemptions and Refunds</b>	<b>Statutory Reference</b>	<b>FY12 Fiscal Effect</b>
<b>Exemptions</b>		
Shipped to Customers in Other States Via Interstate Commerce	s. 139.76 (2)	Not available
Sold to the Armed Forces (e.g., Fort McCoy) or State or Federally Operated Veterans' Hospitals.	s. 139.76 (2)	Not available
Sold to Interstate Carriers of Passengers for Hire to be Resold to Bona fide Passengers Being Transported	s. 139.76 (2)	Not available
<b>Refunds or Credits</b>		
Shipped to Customers Outside Wisconsin.	s. 139.80	Not available
Returned to the Manufacturer and/or Short Shipments	s. 139.80	Not available
Destroyed Due to Damage or Becoming Unfit for Sale	s. 139.80	Not available
<b>Tribal Refunds</b>		
Quarterly 50% Refund	ss. 139.803 and 139.805	\$78,000
Monthly 50% Refund	ss. 139.803 and 139.805	\$1,681,000

**Distilled Spirits, Cider, and Wine**

Wisconsin defines distilled spirits as any beverage (except beer) made by a distillation process from agricultural grains, fruits and sugars, containing 0.5% or more of alcohol by volume. Wine is defined [sec. 125.02(22), Wis. Stats.] as any beverage (except beer) made by a fermentation process from agricultural products, fruits and sugars, containing 0.5% or more of alcohol by volume. It includes cider containing more than 7% alcohol by volume.

Any beverage obtained from the fermentation of the juice of apples, containing not less than 0.5% alcohol by volume and not more than 7% alcohol by volume is defined as cider [sec. 139.01(2m), Wis. Stats.]. Cider can be flavored, sparkling or carbonated. Cider containing more than 7% alcohol by volume is taxed as wine.

Wisconsin imposes an occupational tax on the sale of both distilled spirits and wine. The tax was imposed at the end of Prohibition and modified several times. The current tax rates have been in place since 1981 (except for the tax cider that was established in 1998). Current tax rates are: \$0.06605 per liter (\$0.25 per gallon) for wine containing up to 14% alcohol, \$0.1189 per liter (\$0.45 per gallon) for wine containing 14% to 21% alcohol; and \$0.8586 per liter (\$3.25 per gallon) for distilled spirits and wine containing over 21% alcohol. The rates were converted from per gallon to per liter amounts in 1985. The tax on cider is \$0.0171 per liter (\$0.07 per gallon).

<b>Tax Type</b>	<b>Per Liter</b>	<b>Per Gallon</b>
Distilled Spirits	\$0.86	\$3.25
Wine - Up to 14%	\$0.07	\$0.25
Wine - 14% to 21%	\$0.12	\$0.45
Wine - Over 21 %	\$0.86	\$3.25
Cider (1)	\$0.02	\$0.07

(1) For cider containing 7% or less alcohol by volume. Cider that contains more than 7% of alcohol by volume is taxed at wine rates

When a liquor tax rate increases, an inventory tax is imposed on all liquor permittees and retailers who are in possession of any liquor held for resale on which tax has been paid.

Liquor, wine, and cider taxes contributed \$47.0 million to the state's general fund during FY12.

Wisconsin relies on a three-tier system for the distribution and sale of alcoholic beverages. The three-tier system involves the sale of alcoholic beverages from manufacturers, to licensed wholesale distributors, and to retailers.

In order to manufacture, sell or engage in any other activity relating to alcohol beverages a person needs the appropriate license, permit or authorization. Any person in Wisconsin who wants to handle liquor at the wholesale level must obtain a permit from the Wisconsin Department of Revenue. Retail licenses to sell alcohol beverages are issued by Wisconsin municipalities (towns, villages and cities), subject to state law. In addition, the Department of Revenue issues retail liquor permits to sports club, vessels, and public facilities and airports.

The distilled spirits tax (plus fee); cider and wine taxes are remitted to the department with a monthly return. In addition to the liquor tax, distributors pay the Department of Revenue an administrative fee of \$0.11 per gallon on liquor containing 0.5% or more alcohol by volume.

### Distilled Spirits, Cider, and Wine Exemptions and Refunds

The Wisconsin liquor tax is not imposed upon the following:

- Wine or cider made at home for consumption at home without compensation.
- Liquor or wine shipped to other states or foreign countries.
- Sale and use of wine for sacramental purposes.
- Liquor sold to industrial permittees for use in food items.
- Liquor sold to hospitals for medicinal purposes.

Liquor Products Tax Exemptions and Refunds	Statutory Reference	FY12 Fiscal Effect
<b>Exemptions</b>		
Wine or Cider Made at Home for Consumption at Home Without Compensation	s. 139.04	Minimal
Wine Shipped to Other States or Foreign Countries	s. 139.04	Not Available
Liquor Shipped to Other States or Foreign Countries	s. 139.04	Not Available
Sale and Use of Wine for Sacramental Purposes	s. 139.04	Not available
Liquor Sold to Industrial Permittees for Use in Food Items	s. 139.04	Not available
Liquor Sold to Hospitals for Medicinal Purposes	s. 139.04	Not available
<b>Refunds or Credits</b>		
Liquor Spoiled or Unfit for Consumption	s. 139.10	Not available
Liquor Supplied to Hospitals for Medicinal Purposes or to Institutions of Learning or Museums for Nonbeverage Purposes	s. 139.10	Minimal
Liquor Shipped to Wholesalers Outside Wisconsin	s. 139.04 (5)	Not available
Wine Sold for Sacramental Purposes	s. 139.04 (6)	Minimal

Liquor permittees can receive refunds from the Department of Revenue of liquor tax paid on the following:

- Liquor which is spoiled or unfit for consumption.
- Liquor supplied to hospitals for medicinal purposes or to institutions of learning or museums for nonbeverage purposes.
- Liquor shipped to wholesalers outside Wisconsin; send a letter including invoices.
- Wine sold for sacramental purposes.

### Beer

In the following discussion, the term "beer" is used in place of "fermented malt beverages," which is the term defined under Wisconsin law. "Fermented malt beverages" is defined as any beverage made by the alcohol fermentation in water of barley malt and hops, with or without grains and sugar, containing 0.5% or more of alcohol by volume [sec. 125.02(6), Wis. Stats.].

Wisconsin imposes an occupational tax on the sale of beer at the rate of \$2.00 per 31-gallon barrel [sec. 139.02(1), Wis. Stats.]. The tax was first imposed in 1933 at the rate of \$1.00 per barrel. The only increase in the tax occurred when it was raised to its current rate of \$2.00 per barrel beginning on November 1, 1969 (by Chapter 185, Laws of 1969). There is no inventory tax on beer if the tax rate were to change. Beer tax collections were \$9.2 million in FY12.

In accordance with Wisconsin law, no one may sell, manufacture, rectify, brew, or engage in any other activity relating to alcohol beverages without holding the appropriate license, permit, or authorization. Retail licenses to sell alcohol beverages are issued for the most part by Wisconsin municipalities (towns, villages and cities) subject to state law. Any person who wants to deal in beer at the wholesale level in Wisconsin must obtain a permit from the Wisconsin Department of Revenue. In addition, the Department of Revenue issues retail liquor permits to sports club and vessels.

**Beer Credits, Exemptions and Refunds**

A brewer who produces less than 300,000 barrels of beer per year is eligible for a tax credit of \$1.00 per barrel on the first 50,000 barrels subject to Wisconsin beer tax. In determining a brewer's total production, all brands and labels of all production facilities regardless where located are combined.

<b>Beer Tax Credits, Exemptions, and Refunds</b>	<b>Statutory Reference</b>	<b>FY12 Fiscal Effect</b>
<b>Credits</b>		
Eligible Producer Tax Credit	s.139.02 (2)	\$309,700
<b>Exemptions</b>		
Beer Made at Home for Consumption at Home Without Compensation	s. 139.04	Minimal
Beer Furnished by a Brewer to Employees Without Charge on Brewery Premises	s. 139.04	Not available
Beer Containing Less Than 0.5% Alcohol by Volume	s. 139.04	Not available
Beer Shipped to Other States or Foreign Countries	s. 139.04	Not available
Beer Sold to Industrial Permittees for Use in Food Items	s. 139.04	Not available
<b>Refunds or Credits</b>		
Beer Sold to the Armed Forces	s. 139.10 (1)	Not available
Beer Spoiled or Unfit for Consumption	s. 139.10 (1)	Not available
Beer Shipped to Wholesalers Outside Wisconsin	s. 139.04 (5)	Not available

No Wisconsin beer tax is due on the following:

- Beer made at home for consumption at home without compensation.
- Beer furnished by a brewer to employees without charge on brewery premises.
- Beer which contains less than 0.5% alcohol by volume.
- Beer shipped to other states or foreign countries.
- Beer sold to industrial permittees for use in food items.

Beer permittees can receive refunds from the Department of Revenue of the beer tax paid on the following:

- Beer sold to the Armed Forces (e.g., Fort McCoy)
- Beer which is spoiled or unfit for consumption
- Beer shipped to wholesalers outside Wisconsin.