CHAPTER 71
INCOME AND FRANCHISE TAXES FOR STATE AND LOCAL REVENUES

SUBCHAPTER I
TAXATION OF INDIVIDUALS AND FIDUCIARIES

SUBCHAPTER II
SPECIAL PROVISIONS APPLICABLE TO FIDUCIARIES

SUBCHAPTER III
PARTNERSHIPS AND LIMITED LIABILITY COMPANIES

SUBCHAPTER IV
TAXATION OF CORPORATIONS

SUBCHAPTER V
TAX-OPTION CORPORATIONS

SUBCHAPTER VI
URBAN TRANSIT COMPANIES

SUBCHAPTER VII
TAXATION OF INSURANCE COMPANIES

SUBCHAPTER VIII
HOMESTEAD CREDIT

SUBCHAPTER IX
FARMLAND PRESERVATION CREDIT

SUBCHAPTER X
WITHHOLDING

SUBCHAPTER XI
INFORMATION RETURNS

SUBCHAPTER XII
ADMINISTRATIVE PROVISIONS APPLICABLE
TO ALL ENTITIES

SUBCHAPTER I
TAXATION OF INDIVIDUALS AND FIDUCIARIES

71.01 Definitions. In this chapter in regard to natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds:

(1) "Adjusted gross income", when not preceded by the word "federal", means Wisconsin adjusted gross income, unless otherwise defined or the context plainly requires otherwise.

(1am) "Aggregate effective tax rate" means the sum of the effective tax rates imposed by a state, U.S. possession, foreign country, or any combination thereof, on the person or entity.

(1as) "Broadcaster" means a television or radio station licensed by the federal communications commission, a television or radio broadcast network, a cable television network, or a television distribution company. “Broadcaster” does not include a cable service provider, a direct broadcast satellite system, or an Internet content distributor.

(1b) For purposes of s. 71.04 (7) (df), (dh), (dj), and (dk), “commercial domicile” means the location from which a trade or business is principally managed and directed, based on any factors the department determines are appropriate, including the location where the greatest number of employees of the trade or business work, have their office or base of operations, or from which the employees are directed or controlled.

(1m) “Department” means the department of revenue.

(1n) For purposes of s. 71.04 (7) (df), (dh), (dj), and (dk), “domicile” means an individual’s true, fixed, and permanent home where the individual intends to remain permanently and indefinitely and to which, whenever absent, the individual intends to return, except that no individual may have more than one domicile at any time.

(1t) “Effective tax rate” means the maximum tax rate imposed by the state, U.S. possession, or foreign country, multiplied by the apportionment percentage, if any, applicable to the person or entity under the laws of that state, U.S. possession, or foreign country.

(2) “Entertainer” means a nonresident natural person who, for consideration, furnishes amusement, entertainment or public speaking services, or performs in one or more sporting events in this state and includes both employees and independent contractors.

(3) “Federal net operating loss” of persons other than corporations means net operating loss as determined by the taxpayer under the internal revenue code, or if redetermined by the department, as determined by the department under such code or as may be determined on final appeal therefrom.

(4) “Federal taxable income” and “federal adjusted gross income” of natural persons and fiduciaries mean taxable income or adjusted gross income as determined under the internal revenue code or, if redetermined by the department, as determined by the department under the internal revenue code or as may be determined on final appeal therefrom.

(5) “Fiduciary”, “income” and “person” and all other terms not otherwise defined, have the same meaning as in the internal revenue code unless otherwise defined or the context requires otherwise.

(5g) “File” means mail or deliver a document that the department prescribes to the department or, if the department prescribes another method of submitting or another destination, use that other method or submit to that other destination.
(5m) “Head of household” has the meaning given in section 2 (b) and (c) of the internal revenue code, except that “head of household” includes surviving spouse, as defined in section 2 (a) of the internal revenue code.
(5n) For purposes of s. 71.05 (6) (a) 24. and (b) 46., “intangible expenses” include the following, to the extent that the amounts would otherwise be deductible in computing Wisconsin adjusted gross income:
(a) Expenses, losses, and costs for, related to, or directly or indirectly in connection with the acquisition, use, maintenance, management, ownership, sale, exchange, or any other disposition of intangible property.
(b) Losses related to, or incurred in connection directly or indirectly with, factoring transactions or discounting transactions.
(c) Royalty, patent, technical, and copyright fees.
(d) Licensing fees.
(e) Other similar expenses, losses, and costs.
(5p) “Intangible property” includes stocks, bonds, financial instruments, patents, patent applications, trade names, trademarks, service marks, copyrights, mask works, trade secrets, and similar types of intangible assets.
(5s) For purposes of s. 71.05 (6) (a) 24. and (b) 46., “interest expenses” means interest that would otherwise be deductible under section 163 of the Internal Revenue Code and deductible in the computation of Wisconsin adjusted gross income.
(6)
(L)
1. For taxable years beginning after December 31, 2017, and before January 1, 2021, for individuals and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, “Internal Revenue Code” means the federal Internal Revenue Code as amended to December 31, 2017, except as provided in subds. 2. and 3. and s. 71.98, and subject to subd. 4.
2. For purposes of this paragraph, “Internal Revenue Code” does not include the following provisions of federal public laws for taxable years beginning after December 31, 2017: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of

P.L. 109-222; section 104 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; section 2122 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 326, and 411 of division Q of P.L. 114-113; and sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97.

3. For purposes of this paragraph, "Internal Revenue Code" does not include amendments to the federal Internal Revenue Code, including provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, enacted after December 31, 2017, except that "Internal Revenue Code" includes sections 40307, 40413, and 41113 of P.L. 115-123; sections 101 (m), (n), (o), (p), and (q), 104 (a), 109, 401 (a) (54) and (b) (15) (A), (B), and (C) 19, 20, 23, 26, 27, and 28 of division U of P.L. 115-141; sections 102 and 104 of division M, sections 102, 103, 106, 107, 108, 109, 110, 111, 113, 114, 115, 116, 201, 204, 205, 206, 302, 401, and 601 of division O, section 1302 of division P, and sections 131, 202 (d), and 205 of division Q of P.L. 116-94; sections 1106, 2202, 2203, 2204, 2205, 2206, 2307, 3608, 3609, 3701, and 3702 of division A of P.L. 116-136; sections 202, 208, 209, 211, and 214 of division EE and sections 276 (a) and (b), 277, 278 (a), (b), (c), and (d), 280, and 285 of division N of P.L. 116-260; and sections 9701, 9702, 9703, 9704, 9705, 9706, and 9707 of P.L. 117-2.

4. For purposes of this paragraph, the provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, as defined in this paragraph, apply for Wisconsin purposes at the same time as for federal purposes, except as follows:

a. Changes made by P.L. 115-63 and sections 11026, 11027, 11028, 13207, 13306, 13307, 13308, 13311, 13312, 13501, 13705, 13821, and 13823 of P.L. 115-97 first apply for taxable years beginning after December 31, 2017.

b. Changes made by section 1201 of P.L. 108-173 and section 307 of P.L. 109-432 first apply for taxable years beginning after December 31, 2010.

c. Changes made by section 13113 of P.L. 103-66; section 1241 of division B of P.L. 111-5; section 2011 of P.L. 111-240; section 753 of P.L. 111-312; and section 324 of P.L. 112-240 first apply for taxable years beginning after December 31, 2018.

NOTE: Par. (L) is repealed eff. 1-1-27 by 2025 Wis. Act 118.

(m)

1. For taxable years beginning after December 31, 2020, and before January 1, 2023, for individuals and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2020, except as provided in subds. 2. and 3. and s. 71.98, and subject to subd. 4.

2. For purposes of this paragraph, "Internal Revenue Code" does not include the following provisions of federal public laws for taxable years beginning after December 31, 2020: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; section 104 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; section 2122 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 326, and 411 of division Q of P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302, and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), (xiii), and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and

145 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; and sections 111, 114, 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260.

3. For purposes of this paragraph, "Internal Revenue Code" does not include amendments to the federal Internal Revenue Code, including provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, enacted after December 31, 2020, except that "Internal Revenue Code" includes sections 9671, 9701, 9702, 9703, 9704, 9705, 9706, and 9707 of P.L. 117-2; and sections 80501, 80504, and 80602 of division H of P.L. 117-58.

4. For purposes of this paragraph, the provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, as defined in this paragraph, apply for Wisconsin purposes at the same time as for federal purposes, except as follows:

a. Changes made by sections 20101, 20102, 20104, 20201, 40201, 40202, 40203, 40308, 40309, 40311, 40414, 41101, 41107, 41114, 41115, and 41116 of P.L. 115-123; section 101 (a), (b), and (h) of division U of P.L. 115-141; section 1203 of P.L. 116-25; section 1122 of P.L. 116-92; section 301 of division O, section 1302 of division P, and sections 101, 102, 103, 117, 118, 132, 201, 202 (a), (b), and (c), 204 (a), (b), and (c), 301, and 302 of division Q of P.L. 116-94; section 2 of P.L. 116-98; and sections 301, 302, and 304 of division EE of P.L. 116-260 apply for taxable years beginning after December 31, 2020.

b. Changes made by section 1201 of P.L. 108-173 and section 307 of P.L. 109-432 first apply for taxable years beginning after December 31, 2010.

NOTE: Par. (m) is repealed eff. 1-1-29 by 2025 Wis. Act 118.

(n)

1. For taxable years beginning after December 31, 2022, for individuals and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2022, except as provided in subds. 2. and 3. and s. 71.98, and subject to subd. 4.

2. For purposes of this paragraph, "Internal Revenue Code" does not include the following provisions of federal public laws for taxable years beginning after December 31, 2022: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of

P.L. 109-222; section 104 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; section 2122 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 326, and 411 of division Q of P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302, and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), (xiii), and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114, 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; sections 5003, 9041, 9673, 9675, and 9708 of P.L. 117-2; section 307 of division P of P.L. 117-103; section 13903 (b) of P.L. 117-169; and section 4151 of division FF of P.L. 117-328.

3. For purposes of this paragraph, “Internal Revenue Code” does not include amendments to the federal Internal Revenue Code, including provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, enacted after December 31, 2022.

4. For purposes of this paragraph, the provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, as defined in this paragraph, apply for Wisconsin purposes at the same time as for federal purposes, except as follows:

a. Changes made by sections 5001, 5002, 5005, 9623, 9624, and 9672 of P.L. 117-2; section 2 of P.L. 117-6; and sections 80401, 80402, and 80601 of division H of P.L. 117-58 apply for taxable years beginning after December 31, 2022.

b. Changes made by section 1201 of P.L. 108-173 and section 307 of P.L. 109-432 apply for taxable years beginning after December 31, 2010.

(7) Notwithstanding sub. (6), for natural persons, fiduciaries, trusts and estates, at the taxpayer's option, "internal revenue code", for taxable year 1986 and subsequent taxable years, includes any revisions to the federal internal revenue code adopted after January 1, 1986, that relate to the taxation of income derived from any source as a direct consequence of participation in the milk production termination program created by section 101 of P.L. 99-198.

(7m) Notwithstanding sub. (6), for natural persons, fiduciaries, trusts and estates, at the taxpayer's option, "internal revenue code" for taxable years beginning after December 31, 1987, includes any revisions to section 67 (c) of the internal revenue code adopted after January 1, 1988, that relate to the indirect expenses of regulated investment companies.

(7n) Notwithstanding sub. (6), a qualified retirement fund for a taxable year for federal income tax purposes is a qualified retirement fund for the taxable year for purposes of this subchapter.

(7u) "Last day prescribed by law" has the meaning given in s. 71.738, except that in s. 71.03 (2) (e) 1. and 2. "last day prescribed by law" includes extensions.

(7v) For purposes of s. 71.05 (6) (a) 24. and (b) 46., "management fees" include expenses and costs, not including interest expenses, pertaining to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting and compliance matters or similar activities, to the extent that the amounts would otherwise be deductible in the computation of Wisconsin adjusted gross income.

(8) "Married person" or "spouse" means a person determined under section 7703 (a) of the internal revenue code to be married, unless the context requires otherwise. A decree of divorce, annulment or legal separation terminates the marriage and the application of ch. 766 to property of the spouses after the date of the decree, unless the decree provides otherwise.

(8g) "Member" does not include a member of a limited liability company treated as a corporation under s. 71.22 (1k).

(8j) For purposes of ss. 71.05 (6) (a) 29., 71.21 (7), 71.26 (3) (e) 4., 71.34 (1k) (o), and 71.45 (2) (a) 20., "moving expenses" means all of the following:

(a) Vehicle rentals.

(b) Storage rentals.
(c) Moving company expenses for packing, unpacking, and transportation.
(d) Consulting fees and surveys.
(e) Brokerage commissions or fees.
(f) Architecture, design, and remodeling expenses.
(g) Expenses paid or incurred to sell property in this state.
(h) Loss on the sale of property in this state.
(i) Lease cancellation fees.
(j) Expenses paid or incurred for professional services, including legal services.
(k) Utility fees.
(L) Employee wages.
(m) Reimbursement of an employee's expenses.
(n) The cost of meals, lodging, and fuel.
(o) Mileage deductions for vehicle use.

(8m) "Partner" does not include a partner of a publicly traded partnership treated as a corporation under s. 71.22 (1k).

(8r) "Pay", in regard to submissions to or for the department, means mail or deliver funds to the department or, if the department prescribes another method of submitting or another destination, use that other method or submit to that other destination.

(9) "Person" includes natural persons and fiduciaries, unless the context requires otherwise.

(9ad) "Qualified real estate investment trust" has the meaning given in s. 71.22 (9ad).

(9am) "Related entity" means any person related to a taxpayer as provided under section 267 or 1563 of the Internal Revenue Code during all or a portion of the taxpayer's taxable year and any real estate investment trust under section 856 of the Internal Revenue Code, except a qualified real estate investment trust, if more than 50 percent of any class of the beneficial interests or shares of the real estate investment trust are owned directly, indirectly, or constructively by the taxpayer, or any person related to the taxpayer, during all or a portion of the taxpayer's taxable year. For purposes of this subsection, the constructive ownership rules of section 318 (a) of the Internal Revenue Code, as modified by section 856 (d) (5) of the Internal Revenue Code, shall apply in determining the ownership of stock, assets, or net profits of any person.

(9an) For purposes of s. 71.05 (6) (a) 24. and (b) 46., "rental expenses" means the gross amounts that would otherwise be deductible in the computation of Wisconsin adjusted gross income for the use of, or the right to use, real property and tangible personal property in connection with real property, including services furnished or rendered in connection with such property, regardless of how reported for financial accounting purposes and regardless of how computed.

(9c) "Sign" means write one's signature or, if the department prescribes another method of authenticating, use that other method.

(10) "Small business stock" means an equity security, sold before January 1, 2014, that the taxpayer has held for at least 5 years and that is issued by a corporation that, on the December 31 before acquisition by the taxpayer, or, for a corporation which was incorporated during the calendar year in which the stock is issued, as of the date of the acquisition of the stock, fulfills all of the following requirements and so certifies to the taxpayer upon acquisitions:

(a) Has at least 50 percent of its property and at least 50 percent of its payroll, both as computed under s. 71.25, in this state.

(b) Has no more than 500 employees covered by Wisconsin unemployment insurance, including employees of any corporation that owns more than 50 percent of the stock of the issuing corporation.

(c) Derives no more than 25 percent of its gross receipts from rents, interest, dividends and sales of intangible investment assets combined unless the corporation derives less than $3,000 of that income and has not been incorporated for more than 2 calendar years.

(d) Has not issued stock that is listed on the New York stock exchange, the American stock exchange or the National Association of Securities Dealers automated quotation system.

(e) Has not liquidated its assets in whole or in part for tax purposes only in order to fulfill the requirements under this subsection and then reorganized.

(10g) For purposes of s. 71.04 (7) (df), (dh), (dj), and (dk), "state" means a state of the United States, the District of Columbia, the commonwealth of Puerto Rico, or any territory or possession of the United States, unless the context requires that "state" means only the state of Wisconsin.

(11) "Taxable income" when not preceded by the word "federal" means Wisconsin taxable income unless otherwise defined or the context plainly requires otherwise.

(12) "Taxable year" means the taxable period upon the basis of which the taxable income of the taxpayer is computed for federal income tax purposes. The taxable year of a taxpayer who keeps his or her accounting records on the basis of a 52-53 week period ends on the last day of the month closest to the end of the 52-53 week period.

(13) "Wisconsin adjusted gross income" means federal adjusted gross income, with the modifications prescribed in s. 71.05 (6) to (12), (19), (20), (25), (25m), and (26).

(14) "Wisconsin net operating loss" of persons other than corporations means "federal net operating loss" adjusted as prescribed in s. 71.05 (6) (a) and (b), (7) to (12) and (19) to (21), except s. 71.05 (6) (b) 9., except that no deductions allowable on schedule A for federal income tax purposes are allowable.

(16) "Wisconsin taxable income" of natural persons means Wisconsin adjusted gross income less the Wisconsin standard deduction, less the personal exemption described under s. 71.05 (23), with losses, depreciation, recapture of benefits, offsets, depletion, deductions, penalties, expenses and other negative income items determined according to the manner that income is or would be allocated, except that the negative income items on individual or separate returns for net rents and other net returns which are marital property attributable to the investment, rental, licensing or other use of nonmarital property shall be allocated to the owner of the property.

History: 1987 a. 312; 1987 a. 411 ss. 6 to 8, 26, 27, 31; 1989 a. 31, 100, 336; 1991 a. 39, 269; 1993 a. 16, 112, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 109; 2003 a. 33; 2005 a. 25, 49, 362; 2007 a. 20, 226; 2009 a. 2, 28, 161, 183; 2011 a. 32; 2013 a. 20; 2015 a. 55, 216; 2017 a. 59, 231; 2019 a. 7, 136, 185; 2021 a. 1; 2023 a. 36; 2025 a. 118, 129.

Wisconsin Tax Policy Within a Federal System. McGaffey. 88 MLR 93 (2004).

The Vulnerability of Using Tax Incentives in Wisconsin. Lindsey. 88 MLR 107 (2004).

71.02 Imposition of tax.

(1) For the purpose of raising revenue for the state and the counties, cities, villages and towns, there shall be assessed, levied, collected and paid a tax on all net incomes of individuals and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds subject to the tax under s. 71.23 (2), by every natural person residing within the state or by his or her personal representative in case of death, and trusts resident within the state; by every nonresident natural person and trust of this state, upon such income as is derived from property located or business transacted within the state including, but not limited by enumeration, income derived from a limited partner's distributive share of partnership income, income derived from a limited liability company member's distributive share of limited liability company income, income derived from a covenant not to compete to the extent that the covenant was based on a Wisconsin-based activity, the state lottery under ch. 565, any multijurisdictional lottery under ch. 565 if the winning lottery ticket or lottery share was purchased from a retailer, as defined in s. 565.01 (6), located in this state or from the department, winnings from a casino or bingo hall that is located in this state and that is operated by a Native American tribe or band and pari-mutuel wager winnings or purses under ch. 562, and also by every nonresident natural person upon such income as is derived from the performance of personal services within the state, except as exempted under s. 71.05 (1) to (3). Every natural person domiciled in the state shall be deemed to be residing within the state for the purposes of determining liability for income taxes and surtaxes. A single-owner entity that is disregarded as a separate entity under section 7701 of the Internal Revenue Code is disregarded as a separate entity under this chapter, and its owner is subject to the tax on the entity's income.

(2) In determining whether or not an individual resides within this state for purposes of this section, the following are not relevant:

(a) Contributions made to charitable organizations in this state.

(b) Directorships in corporations operating in this state.

(c) Accounts, as defined in s. 710.05 (1) (a), held in financial institutions, as defined in s. 710.05 (1) (c), located in this state.

(d) Corpuses of trusts, in which the individual is a trustee or a beneficiary, located in this state.

(e) Retention of professional services of brokers, as defined in s. 408.102 (1) (c), and of attorneys and accountants located in this state.

(3) This section shall not be construed to prevent or affect the correction of errors or omissions in the assessments of income for former years under s. 71.74 (1) and (2).

History: 1987 a. 312; 1989 a. 31; 1991 a. 39, 269; 1993 a. 112; 1995 a. 27; 1997 a. 27, 237, 297; 1999 a. 9; 2007 a. 20.

No act of Congress, treaty, state statute, or agreement with any Indian tribe impairs the state's right to impose an income tax on enrolled members of one tribe who live and work on a reservation of a different tribe. Ethnicity does not confer any more rights within a tribe on an

American Indian who is not a member of the tribe than a non-Indian has. LaRock v. DOR, 2001 WI 7, 241 Wis. 2d 87, 621 N.W.2d 907, 99-0951.

The Menominee tribe and tribal members residing and working in Menominee county are not subject to the state income tax. 66 Atty. Gen. 290.

71.03 Filing returns; certain claims.

(1) Definition. In this section, "gross income" means all income, from whatever source derived and in whatever form realized, whether in money, property or services, which is not exempt from Wisconsin income taxes. "Gross income" includes, but is not limited to, the following items: compensation for services, including salaries, wages and fees, commissions and similar items; gross income derived from business; interest; rents; royalties; dividends; alimony and separate maintenance payments; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive shares of partnership gross income except distributive shares of the income of publicly traded partnerships treated as corporations under s. 71.22 (1k); distributive shares of limited liability company gross income except distributive shares of the income of limited liability companies treated as corporations under s. 71.22 (1k); income in respect of a decedent; and income from an interest in an estate or trust. "Gross income" from a business or farm consists of the total gross receipts without reduction for cost of goods sold, expenses or any other amounts. The gross rental amounts received from rental properties are included in gross income without reduction for expenses or any other amounts. "Gross income" from the sale of securities, property or other assets consists of the gross selling price without reduction for the cost of the assets, expenses of sale or any other amounts. "Gross income" from an annuity, retirement plan or profit sharing plan consists of the gross amount received without reduction for the employee's contribution to the annuity or plan.

(2) Persons required to file; other requirements. The following shall report in accordance with this section:

(a) *Natural persons*. Except as provided in sub. (6) (b):

1. Every individual domiciled in this state during the entire taxable year who has a gross income at or above a threshold amount which shall be determined annually by the department of revenue. The threshold amounts shall be determined for categories of individuals based on filing status and age, and shall include categories for single individuals; individuals who file as a head of household; married couples who file jointly; and married persons who file separately. The department of revenue shall establish a threshold amount for each category of individual at an amount at which no individual in that category whose gross income is below that amount has a state income tax liability.

2. Every nonresident person and every person who changes domicile into or out of this state during the taxable year shall file a return if the person is unmarried and has gross income of $2,000 or more, or if the person is married and the combined gross income of the person and his or her spouse is $2,000 or more, except that a return is not required to be filed if all the income is exempt from income tax under s. 71.05 (1) (g).

5. For taxable years beginning on or after January 1, 1994, every natural person for whom the taxpayer is entitled to an exemption for the taxable year under section 151 (c) of the Internal Revenue Code shall file a return if that natural person has any amount of unearned income and that person has gross income of at least $500 adjusted for inflation in the manner prescribed by sections 1 (f) (3) to (6) and 63 (c) (4) of the Internal Revenue Code. The department of revenue shall incorporate the changes in the income tax forms and instructions.

(b) *Deceased person*. The personal representative or other person charged with the property of a decedent shall file the return of the decedent required under this section.

(c) *Person to make return for individual unable to file*. The guardian, custodian or other person charged with the care of the person or property of an individual who is unable to make a return required under this section shall file a return for such individual.

(d) *Husband and wife joint filing*.

1. Except as provided in subds. 2. and 3. and par. (e), a husband and a wife may file a joint return for income tax purposes even though one of the spouses has no gross income or no deductions.

2. No joint return may be filed if either the husband or wife at any time during the taxable year is a nonresident alien, unless an election is in effect for the taxable year under section 6013 (g) or (h) of the internal revenue code.

3. No joint return may be filed if the husband and wife have different taxable years, except that if their taxable years begin on the same day and end on different days because of the death of either or both the joint return may be filed with respect to the taxable year of each unless the surviving spouse remarries before the close of his or her taxable year or unless the taxable year of either spouse is a fractional part of a year under section 443 (a) (1) of the internal revenue code.

(e) *Death of a spouse; joint returns*. For the taxable year in which the death of one spouse or both spouses occurs:

1. A joint return may be filed and shall be signed by both the decedent's personal representative and the surviving spouse, if any, if a personal representative is appointed before the last day prescribed by law, including extensions, for filing the return of the surviving spouse.

2. A joint return may be filed by the surviving spouse with respect to both that spouse and the decedent if no return for the taxable year has been filed by the decedent and no personal representative is appointed at the time the joint return is filed or before the last day prescribed by law, including extensions, for filing the return of the surviving spouse.

3. If a personal representative of the decedent is appointed after the filing of the joint return by the surviving spouse, the personal representative may disaffirm the joint return by filing, within one year after the last day prescribed by law for filing the return of the surviving spouse, a separate return for the taxable year of the decedent with respect to which the joint return was filed. If the joint return is disaffirmed, the return filed by the survivor is the survivor's separate return and the tax on the return shall be determined by excluding all items properly includable in the return of the decedent spouse.

(f) *Election by a spouse*. The election under par. (d) may be made by a spouse if the requirements of section 6013 (f) of the internal revenue code are met.

(g) *Joint return following separate return*. Except as provided in par. (i), if an individual has filed a separate return for a taxable year for which a joint return could have been filed by the individual and the individual's spouse under par. (d) or (e) and the time prescribed by law for timely filing the return for that taxable year has expired, the individual and the individual's spouse may file a joint return for that taxable year. A joint return filed by the husband and wife under this paragraph is their return for that taxable year, and all payments, credits, refunds or other repayments made or allowed with respect to the separate return of each spouse for that taxable year shall be taken into account in determining the extent to which the tax based upon the joint return has been paid. If a joint return is filed under this paragraph, any election, other than the election to file a separate return, made by either spouse in that spouse's separate return for that taxable year with respect to the treatment of any income, deduction or credit of that spouse may not be changed in the filing of the joint return if that election would have been irrevocable if the joint return had not been filed.

(h) *Death of a spouse after separate return*. In the taxable year in which the death of one or both spouses occurs, a joint return may be filed by the decedent's personal representative and the surviving spouse, if any, under this paragraph if one or both spouses filed a separate return for a taxable year for which a joint return could have been filed. If any condition under par. (i) occurs before a personal representative is appointed, a joint return may not be filed under this paragraph.

(i) *Election precluded*. The election under par. (g) or (h) may not be made if any of the following conditions applies:

1. The amount shown as tax upon that joint return is not paid in full at or before the time the joint return is filed.

2. Four or more years from the last day prescribed by law for filing the return for that taxable year have elapsed, determined without regard to any extension of time granted to either spouse.

3. There has been sent to either spouse, with respect to that taxable year, a notice of adjustment under ss. 71.74 to 71.77 and the spouse, as to that notice, files a petition for redetermination under subch. XIV, except that, if both spouses request and the department consents, the election under par. (g) may be made.

4. Either spouse has commenced a suit in any court for the recovery of any part of the tax for that taxable year.

5. Either spouse has entered into a closing agreement with respect to that taxable year or if any civil or criminal case arising against either spouse with respect to that taxable year has been compromised.

(j) *Joint return assumed*. For purposes of subchs. XII and XIII, a joint return is deemed to have been filed under this section if any of the following conditions applies:

1. Both spouses filed separate returns before filing the joint return, on the day when the last separate return was filed, but not earlier than the last day prescribed by law for filing the return of either spouse.

2. Only one spouse filed a separate return before filing the joint return and the other spouse had less than $3,420 of gross income for that taxable year, on the

day of the filing of that separate return, but not earlier than the last day prescribed by law for the filing of that separate return.
3. Only one spouse filed a separate return before filing the joint return and the other spouse had $3,420 or more of gross income for that taxable year, on the date the joint return was filed.
(k) *Filing date assumed*. For purposes of s. 71.75, a joint return filed under this section is deemed to be filed on the last day prescribed by law for filing the return for that taxable year, determined without regard to any extension of time granted to either spouse.
(L) *Limits extended*. If a joint return is filed under this section, the periods of limitations under ss. 71.74 to 71.77 and subch. XV on the making of assessments and the beginning of levy or of a proceeding in court for collection shall, with respect to the return, be extended to the extent necessary to include one year immediately after the date of the filing of the joint return, computed without regard to par. (j).
(m) *Separate return following joint return*.
1. Except as provided in subds. 3. and 5., for a taxable year for which a joint return has been filed, separate returns may be filed by the spouses on or before the last day prescribed by law for timely filing the return of either has elapsed.
2. If a husband and wife change from a joint return to separate returns within the time prescribed in subd. 1., the tax paid on the joint return shall be allocated between them in proportion to the tax liability shown on each separate return.
3. In the taxable year in which the death of one or both spouses occurs, a separate return may be filed under this paragraph within the time prescribed in subd. 1., or as provided for a personal representative under par. (e) if a joint return has been filed under par. (e) by the surviving spouse or by the decedent's personal representative and the surviving spouse. If a separate return is filed by the surviving spouse or by the decedent's personal representative under this paragraph, the joint return previously filed shall be the separate return of the surviving spouse or the decedent for whom the separate return was not filed, unless both the surviving spouse and the decedent's personal representative file a separate return under this paragraph. The tax on the separate return of the surviving spouse shall be determined by excluding all items properly includable in the separate return of the decedent, and the tax on the separate return of the decedent shall be determined by excluding all items properly includable in the return of the surviving spouse.

4. The time allowed the personal representative to disaffirm the joint return by the filing of a separate return does not establish a new due date for the return of the deceased spouse, and sub. (8) and ss. 71.91 and 71.92 apply to that return.
5. A separate return may not be filed unless the amount shown upon that separate return is paid in full on or before the date when the separate return is filed.
Cross-reference: See also s. Tax 2.08, Wis. adm. code.
(3) Fractional part of year. If a natural person or fiduciary files a federal income tax return for a fractional part of the year, the person shall file a Wisconsin income tax return for that fractional year. That person shall compute and report income on the basis of the period for which that return is filed, and that fractional year shall constitute a taxable year.
(4) Election to have department compute tax.
(a) Natural persons whose total income is not in excess of $10,000 and consists entirely of wages subject to withholding for Wisconsin tax purposes and not more than $200 total of dividends, interest and other wages not subject to Wisconsin withholding, and who have elected the Wisconsin standard deduction and have not claimed either the credit for homestead property tax relief or deductions for expenses incurred in earning such income, shall, at their election, not be required to record on their income tax returns the amount of the tax imposed on their Wisconsin taxable income. Married persons shall be permitted this election only if the joint income of the husband and wife does not exceed $10,000, if both report their incomes on the same joint income tax return form, and if both make this election.
(b) The department shall compute the tax on income reported by persons making the election under par. (a). After applying all known applicable credits, the department shall notify the taxpayer of the amount of taxes due or the amount of taxes to be refunded.
(5) Copy of federal return. To the extent necessary for the administration of the tax imposed by this chapter, when required under rules prescribed or orders issued by the department or upon the written request of the department, natural persons and fiduciaries subject to this chapter shall file with the department a true and complete copy of their federal income tax return and any other return or statement filed with, or made to, or any document received from, the internal revenue service.
Cross-reference: See also s. Tax 2.10, Wis. adm. code.

(6) Time return required.

(a) Reports required under this section shall be made to the department of revenue on or before the date required to file the corresponding federal income tax return, not including any extension, to the internal revenue service, in the manner and form prescribed by the department of revenue, whether notified to do so or not. Such persons shall be subject to the same penalties for failure to report as those who receive notice. If the taxpayer is unable to make his or her own return, the return shall be made by a duly authorized agent or by the guardian or other person charged with the care of the person or property of such taxpayer.

(b) Nothing in this section precludes the department of revenue from requiring any person other than a corporation to file an income tax return when in the judgment of the department a return should be filed.

(6m) Time to file claims; no return required. A claim for a credit under subch. VIII or IX that is filed by a natural person who is not required to file a report under sub. (2) (a) shall be filed on a calendar year basis in conformity with the filing requirements in subs. (6) and (7).

(7) Extension of time to file. Returns of natural persons and fiduciaries that require a statement of amounts or information contained or entered on a corresponding return under the internal revenue code shall be filed within the time fixed under that code for filing of the corresponding federal return. Any extension of time granted by law or by the internal revenue service for the filing of that corresponding federal return extends the time for filing under this chapter if a copy of the taxpayer's application to the internal revenue service requesting the extension is filed with the return under this chapter or if a copy of any request for an extension required by the internal revenue service is filed with the return under this chapter or at an earlier date that the department prescribes by rule and if the taxpayer pays the Wisconsin tax in the manner applicable to federal income taxes under the internal revenue code. Taxes payable upon the filing of the return do not become delinquent during the period of an extension but are subject to interest at the rate of 12 percent per year during such period except as follows:

(e) For taxable years beginning after December 31, 2005, for persons who qualify for a federal extension of time to file under 26 USC 7508.

(f) For taxable years beginning after December 31, 2008, for persons who qualify for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action.

Cross-reference: See also s. Tax 2.88, Wis. adm. code.

(8) Payment of tax.

(a) All income and franchise taxes shall be paid to the department of revenue, at its office at Madison or at such other place the department designates.

(b) The final payment of taxes on incomes of persons other than corporations who file on a calendar year basis shall be made on or before the deadline for filing returns under sub. (6) (a), except for persons electing to have the department compute their tax under sub. (4).

(c) If the taxpayer elects under sub. (4) (a) to have the department compute the tax on his or her income and the taxpayer files his or her return on or before the date on which such return is required to be filed under sub. (6) (a), the amount of taxes due thereon, as stated in the notice from the department under sub. (4) (b), shall become delinquent if not paid on or before the due date stated in the notice to the taxpayer. Such amounts of taxes due shall not be subject to any interest, other than extension interest, prior to the date of delinquency. Taxes due on returns filed after the date on which returns are required to be filed shall be deemed delinquent as of the due date of the return.

(d) The department of revenue shall accept in advance income taxes and surtaxes from taxpayers desirous of making such payments before the same shall become due and payable. Advance payment of taxes under this provision shall not relieve the taxpayer from additional taxes which may result from subsequent legislation or from additional taxable income disclosed or discovered subsequent to such payment.

(e) No person is required to pay a balance due of less than $1.

History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 3, 39, 269, 301, 305, 315; 1993 a. 16, 112, 204, 213, 491; 1995 a. 255, 428; 1999 a. 9; 2001 a. 23, 102; 2003 a. 83; 2005 a. 25, 49; 2009 a. 28; 2015 a. 84; 2017 a. 324; 2021 a. 40, 127; 2025 a. 118, 127.

NOTE: 1991 Wis. Act 301, which affected this section, contains extensive legislative council notes.