

State of Wisconsin
Department of Revenue

Legal Residence/Domicile

1. Who is a legal resident of Wisconsin for income tax purposes?
2. What is a "domicile"?
3. How do I know what my domicile is?

1. **Who is a legal resident of Wisconsin for income tax purposes?**

A legal resident of Wisconsin is a person who maintains his or her domicile in Wisconsin, whether or not s/he is physically present in Wisconsin or living outside of the state.

2. **What is a "domicile"?**

A "domicile" is a person's true, fixed, and permanent home where a person intends to remain permanently and indefinitely and to which a person has the intention of returning, whenever absent. It is often referred to as "legal residence." A person may be physically present or living in one place but maintain a domicile in another. A person has only one domicile at any point in time.

3. **How do I know what my domicile is?**

Your domicile depends on many things, including where you live, where you vote, where you register your vehicles and where you own or rent property. The department may ask you to fill out a Legal Residence (Domicile) Questionnaire to determine your domicile.

FOR MORE INFORMATION PLEASE CONTACT:

MS 5-77

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Tax Information for Part-Year Residents and Nonresidents of Wisconsin for 2016

(Including Information for Aliens)

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IMPORTANT CHANGES

Income earned by a nonresident is not taxable if the only income is from disaster relief work. See page 4.

A business development credit is available for 2016. See page 22.

I. INTRODUCTION

This publication provides information about the Wisconsin income tax treatment of individuals who are part-year residents or nonresidents of Wisconsin. It is intended to supplement the instructions for Form 1NPR, which is the Wisconsin income tax return for nonresidents and part-year residents of Wisconsin.

CAUTION

The information in this publication reflects the position of the Wisconsin Department of Revenue of laws enacted by the Wisconsin Legislature effective on December 1, 2016. Laws effective after that date, administrative rules, and court decisions may change the interpretations in this publication.

II. DEFINITIONS

Full-year resident – You are a full-year resident if you are domiciled in Wisconsin for the entire taxable year.

Nonresident – You are a nonresident if you are not domiciled in Wisconsin for any part of the taxable year.

Part-year resident – You are a part-year resident if you are domiciled in Wisconsin for part of the taxable year.

Domicile – Your domicile is the permanent legal home you intend to use for an indefinite or unlimited period, and to which, when absent, you intend to return. It is not always where you presently live. You can be physically present or residing in one state but maintain a domicile in another. "Domicile" is often referred to as "legal residence." You can have only one domicile at a time.

Your domicile, once established, is never changed unless all three of the following occur or exist:

- You specifically intend to abandon your old domicile and take actions that show that intent,
- You intend to acquire a new domicile and take actions that show that intent, and

- You are physically present in the new domicile.

Your domicile does not change if:

- You leave your state of domicile for a brief rest or vacation, or
- You leave your state of domicile to complete a particular transaction, perform a particular contract, or fulfill a particular engagement, but you intend to return to your state of domicile whether or not you complete the transaction, contract, or engagement.

Example 1: You are a legal resident of Texas. In 2016, you worked in Wisconsin for three months after which you returned to Texas. You did not take any steps to abandon your Texas residence (domicile). You are a nonresident of Wisconsin for 2016.

Example 2: You graduated from high school in Minnesota where you lived with your parents. In August of 2016, you moved to Wisconsin to attend the University of Wisconsin. You do not plan to remain in Wisconsin after you complete your course of study at the university. You do not take any steps to abandon your Minnesota residence or to acquire a new residence in Wisconsin. You are a nonresident of Wisconsin for 2016.

Example 3: You are a resident of Wisconsin. In September of 2016 you enlisted in the U.S. Army and were stationed in Missouri for the remainder of 2016. You do not take any steps to abandon your Wisconsin residence or to acquire a new residence in Missouri. You are a full-year resident of Wisconsin for 2016.

Note: If you are a member of the U.S. Armed Forces who enters military service from Wisconsin, you remain a legal resident of Wisconsin through your entire military service unless you take specific steps to abandon your Wisconsin legal residence and acquire a new legal residence in another state. If you are a member of the U.S. Armed Forces who entered service from another state and are living in Wisconsin solely because of military orders, you are not considered a legal resident of Wisconsin.

Example 4: You were a legal resident of California. In July of 2016, your employer transfers you to Wisconsin. You sell your home in California and move with your spouse and children to Wisconsin. You change your voter registration, auto registration, driver license, mailing address and insurance records to Wisconsin as you intend to remain permanently in Wisconsin. Your children will attend Wisconsin schools. You are a part-year resident of Wisconsin for 2016.

III. FILING REQUIREMENTS

A. Who Must File a Wisconsin Income Tax Return?

If you are a nonresident or part-year resident of Wisconsin and your gross income (or the combined gross income of you and your spouse) is \$2,000 or more for 2016, you must file a 2016 Wisconsin income tax return.

Note: A Wisconsin return does not have to be filed by a nonresident of Wisconsin if all income is exempt from tax as disaster relief work performed in connection with a state of emergency declared by the Governor.

Exception – Even if gross income is less than \$2,000, you must file a Wisconsin income tax return if:

- You can be claimed as a dependent on another person's income tax return (for example, on your parent's return) and you had gross income of more than \$1,050 which included at least \$351 of unearned (nonwage) income. Unearned income includes only unearned income which is reportable to Wisconsin.
- You owe a Wisconsin penalty on an Individual Retirement Account (IRA), health savings account, annuity, retirement plan, Coverdell education savings account, ABLE account or on a medical savings account.
- You are subject to the Wisconsin alternative minimum tax.

“Gross income” means all income (before deducting expenses) reportable to Wisconsin that is received in the form of money, property, or services. It doesn't include items that are exempt from Wisconsin income tax, such as U.S. government interest.

Gross income is determined before deducting expenses. For example, gross income includes:

- Total gross receipts from a business or profession without reduction for the cost of goods sold, expenses, or any other amounts.
- Gross rent received from rental properties without reduction for expenses or any other amounts.
- Gross selling price from the sale of securities, property, or other assets without reduction for the cost of the assets, expenses of sale, or any other amounts.

- Gross amount received from an annuity, retirement plan, or profit-sharing plan without reduction for the employee's contribution to the annuity or plan.
- A partner's or shareholder's proportionate share of the gross receipts of the partnership or tax-option (S) corporation, before deducting returns and allowances or any other business expenses.

Example 1: You are a full-year resident of Illinois and own rental property in Wisconsin. During 2016 you received gross rent from the Wisconsin property of \$6,000 and incurred rental expenses of \$7,000, resulting in a net rental loss of \$1,000. You are required to file a 2016 Wisconsin income tax return because your gross income reportable to Wisconsin (\$6,000) was at least \$2,000.

Example 2: You are a part-year resident of Wisconsin for 2016. Your wages from working in Wisconsin during 2016 were \$1,200. You also sold land while you were a Wisconsin resident at a profit of \$200. Your cost of the land was \$600 and you sold it for \$800. You are required to file a 2016 Wisconsin income tax return because your gross income reportable to Wisconsin is \$2,000 (\$1,200 from wages plus the \$800 selling price of the land).

B. What Income Does Wisconsin Tax?

Nonresidents - Wisconsin taxes only your income from Wisconsin sources.

Part-year residents - During the time you are a Wisconsin resident, Wisconsin taxes your income from all sources. During the time you aren't a Wisconsin resident, Wisconsin taxes only your income from Wisconsin sources.

Income from Wisconsin sources includes:

- Wages, salaries, commissions, and other income for services performed in Wisconsin (see Exceptions in Part IV.A on page 6).
- Rents and royalties from tangible property located in Wisconsin, such as land, buildings, and machinery.
- Gains or losses from sales or other dispositions of tangible property located in Wisconsin, such as land, buildings, and machinery.
- Profits or losses from businesses, professions, and farm operations conducted in Wisconsin, includ-

ing sole proprietorships, partnerships, limited liability companies (LLCs), and tax-option (S) corporations. This includes interest and dividend income attributable to Wisconsin which is passed through from a tax-option (S) corporation.

- Income from the Wisconsin state lottery, a multi-jurisdictional lottery if the winning lottery ticket or lottery share was purchased from a Wisconsin retailer, or Wisconsin pari-mutuel wager winnings and purses. This includes all income realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally purchased in Wisconsin.
- Winnings from a casino or bingo hall located in Wisconsin and operated by a Native American tribe or band.
- Income derived from a covenant not to compete to the extent the covenant was based on a Wisconsin-based activity.

Example 1: You are a resident of Iowa and commute daily to your job in Wisconsin. Wages you earn in Wisconsin are income from Wisconsin sources. The wages are taxable by Wisconsin.

Example 2: You are a resident of Florida and own rental property in Wisconsin. Income from the rental or sale of the property is income from Wisconsin sources and is taxable by Wisconsin.

Example 3: You are a resident of Illinois and a partner (either a general or limited partner) of a partnership that does business only in Wisconsin. Your share of the partnership income is income from Wisconsin sources and is taxable by Wisconsin.

Example 4: You are a resident of Nebraska and the beneficiary of an estate or trust that receives rent from property located in Wisconsin. Your share of the estate or trust income attributable to the Wisconsin rental property is income from Wisconsin sources and is taxable by Wisconsin.

C. Which Form To File

If you are a nonresident or part-year resident of Wisconsin in 2016, you must file your income tax return on Wisconsin Form 1NPR (individual income tax return for nonresidents and part-year residents).

If you are married and one spouse is either a nonresident or part-year resident of Wisconsin in 2016 and

the other spouse is a full-year resident of Wisconsin, the form to use depends on your filing status.

- If you file a joint Wisconsin income tax return, you must file Form 1NPR.
- If you file separate income tax returns, the nonresident or part-year resident spouse must file Form 1NPR; the full-year resident spouse must file Form 1 (individual income tax return for full-year residents).

Exception – You do not have to file a Wisconsin income tax return if your only income or loss from Wisconsin sources is from:

- A partnership that has filed Form 1CNP on your behalf, or
- A tax-option (S) corporation that has filed Form 1CNS on your behalf.

Note: If you abandon your Wisconsin domicile during the year, you must complete and file a “Legal Residence (Domicile) Questionnaire” with your Form 1NPR. The questionnaire is on page 51 of the Form 1NPR instructions.

IV. INCOME, DEDUCTIONS, AND CREDITS

A. Wages, Salaries, Tips, and Other Employee Compensation

Part-Year Residents of Wisconsin - During the time you are a Wisconsin resident, all income earned as an employee (for example, wages, salaries, tips, and other employee compensation) is taxable by Wisconsin, regardless of where you earned the income.

During the time you are not a Wisconsin resident, income earned as an employee is taxable by Wisconsin only if you performed the services in Wisconsin (see Exceptions on page 6).

Example: You were a Wisconsin resident and worked at a business in Iowa. On October 1, 2016, you moved to Iowa and became a legal resident of Iowa. Income that you earned in Iowa and received during the time that you were a Wisconsin resident is taxable by Wisconsin.

Nonresident of Wisconsin - Income earned as an employee is taxable by Wisconsin only if you performed the services in Wisconsin (see Exceptions on page 6).

Example: You were a Florida resident for the entire year. You spent four months during 2016 at your cottage in northern Wisconsin. During your summer stay in Wisconsin, you worked part-time at a local gift shop. The income you earned from this part-time job is taxable by Wisconsin.

Exceptions –

»» *Reciprocity for Residents of Illinois, Indiana, Kentucky, and Michigan.*

Wisconsin has reciprocity agreements with four states: Illinois, Indiana, Kentucky, and Michigan. As a result of these agreements,

- Wisconsin generally will not tax the salaries, wages, commissions, fees, etc., earned by employees who are residents of these states and who are employed in Wisconsin, and
- Illinois, Indiana, Kentucky, and Michigan generally will not tax the salaries, wages, commissions, fees, etc., of individuals who are residents of Wisconsin and who are employed in these states.

See [Publication 121](#), *Reciprocity*, for additional information.

»» *Military Personnel Stationed in Wisconsin*

Wisconsin does not tax the military pay of a member of the U.S. Armed Forces who is a legal resident of another state but stationed in Wisconsin on military orders.

This exception applies only to military pay. It does not apply to other Wisconsin source income, such as income from:

- civilian employment in Wisconsin, including income from civilian employment with the U.S. Armed Forces,
- a business conducted in Wisconsin,
- property located in Wisconsin,
- Wisconsin lottery or pari-mutuel wager winnings or purses, and
- winnings from a casino or bingo hall located in Wisconsin and operated by a Native American tribe or band.

»» *Income of Military Spouse*

Income from services performed in Wisconsin (for example, wages or self-employment income) by a nonresident spouse of a servicemember is not taxable to Wisconsin if the spouse is in Wisconsin solely to be with the servicemember serving in Wisconsin under military orders. These wages are taxable only to the nonresident spouse's state of legal residence.

Note If you qualify as a nonresident spouse of a servicemember and are in Wisconsin solely to be with the servicemember serving in Wisconsin under military orders, you may elect to not have Wisconsin income tax withheld from your Wisconsin wages. To claim an exemption from withholding, complete Form W-221, *Nonresident Military Spouse Withholding Exemption*, and submit it to your employer.

»» *Members of the Reserves or National Guard*

Wisconsin does not tax military pay received from the federal government by a member of the Reserves or National Guard who served on active duty. The military pay must be received after being called into active federal service under 10 USC 12302(a) or 10 USC 12304 or into special state service authorized by the federal Department of Defense under 32 USC 502(f), and paid for a period of time during which the person was on active duty. This does not apply to pay received for weekend and two-week annual training or a person who is serving on active duty or full-time duty in the active guard reserve (AGR) program.

»» *Disaster Relief Work*

Wisconsin does not tax wages earned in Wisconsin by a nonresident of Wisconsin from disaster relief work performed in Wisconsin in connection with a state of emergency declared by the Governor.

»» *Nonresident Railroad Employees, Motor Carrier Transportation Employees, Air Carrier Employees, and Interstate Waterway Workers*

Federal law restricts the taxation of nonresident railroad, motor carrier, air carrier and interstate

waterway employees who perform duties in more than one state.

Railroad and Motor Carrier Transportation Employees - Wages earned in Wisconsin while not a resident of Wisconsin by an **employee** of (1) an interstate railroad, (2) a motor carrier providing transportation subject to the jurisdiction of the Interstate Commerce Commission, or (3) a motor private carrier are not taxable to Wisconsin if the employee performs duties in two or more states.

Airline Employees - Wages earned in Wisconsin while not a resident of Wisconsin by an employee of an air carrier are taxable to Wisconsin if the employee earns more than 50% of the compensation paid by the air carrier in Wisconsin. An employee is deemed to have earned 50% of compensation in Wisconsin if his or her scheduled flight time in Wisconsin is more than 50% of his or her total scheduled flight time in the calendar year while so employed.

Wages paid by an airline to an employee on authorized leave or other authorized absence from regular duties to perform services on behalf of the employee's airline union in Wisconsin, during the period in which the employee is not a resident of Wisconsin, may be taxable to Wisconsin. They are taxable to Wisconsin only if the employee's scheduled flight time in Wisconsin would have been more than 50% of the employee's total scheduled flight time for the calendar year had the employee been engaged full-time in the performance of regularly assigned duties on the carrier's aircraft.

Interstate Waterway Workers - Wages paid to a licensed pilot or other worker on a vessel operating on the navigable waters of more than one state are subject to the income tax laws only of the state in which the individual resides. Therefore, such wages paid to a nonresident of Wisconsin are not taxable to Wisconsin.

In the case of a part-year resident of Wisconsin, during the period in which the employee is a resident of Wisconsin, all such wages are taxable to Wisconsin. During the period in which the employee is not a resident of Wisconsin, the wages are not taxable to Wisconsin.

Nonqualified Deferred Compensation Plans - Distributions from a nonqualified deferred compensation plan are treated as follows:

- If received while the individual is a Wisconsin resident, the distribution is taxable to Wisconsin.
- If received while the individual is not a resident of Wisconsin, the distribution is taxable to Wisconsin if the payment is attributable to services performed in Wisconsin. (See Exception below.)

Example: You retired on March 1, 2016, after 30 years of service for ABC Corporation in Wisconsin. On April 1 you became a Florida resident. In May you received a lump-sum distribution of \$200,000 from ABC Corporation's nonqualified deferred compensation plan. The \$200,000 payment is taxable to Wisconsin because the entire payment is attributable to services performed in Wisconsin. (For purposes of this example, it is assumed that the Exception below does not apply.)

Exception – Federal law preempts taxation of certain distributions received from a nonqualified deferred compensation plan by an individual who is not a resident of Wisconsin. Nonqualified deferred compensation plan distributions received by an individual who is not a resident of Wisconsin are not taxable to Wisconsin if:

- The distribution is paid out in annuity form over the life expectancy of the individual or for a period of not less than 10 years; or
- The distribution is paid in either an annuity or lump sum from arrangements known commonly as "mirror" plans.

A mirror plan is a nonqualified retirement plan maintained by an employer solely for the purpose of providing benefits in excess of certain limits on contributions and benefits contained in the Internal Revenue Code (IRC) which apply to qualified retirement plans. The benefits provided under a mirror plan are those benefits that would have been provided under the terms of a qualified retirement plan, but for the application of the following limits on contributions and benefits:

- Code section 401(a)(17): limits the amount of annual compensation that may be taken into account under a qualified retirement plan for purposes of computing benefits and contributions.

- Code section 401(k): limits the amount of elective deferrals that may be made by a highly compensated employee to a qualified cash or deferred arrangement.
- Code section 401(m): limits the amounts of employer matching contributions and after-tax employee contributions that may be made to a 401(k) plan on behalf of highly compensated employees.
- Code section 402(g): limits the annual amount of elective deferrals that may be made to a 401(k) plan (or a similar arrangement).
- Code section 403(b): limits the amount of annual contributions that may be made to a tax-sheltered annuity maintained by certain tax-exempt entities and organizations.
- Code section 408(k): limits the amount of elective deferrals that may be made by a highly compensated employee to a simplified employee pension (maintained by smaller employers).
- Code section 415: limits the amount of annual benefits that may be paid from a defined benefit plan and limits the amount of annual contributions that can be made to a defined contribution plan.

Note: Contact your employer if you have a question as to whether a distribution is from a nonqualified deferred compensation plan.

Allocating Income Earned as an Employee to Wisconsin - The Form W-2 which you receive from your employer may show the amount of Wisconsin wages (generally Box 16 of the 2016 Form W-2).

If your Form W-2 doesn't show your Wisconsin wages and you are unable to determine the specific amount, an allocation may be made on the basis of time. The following formula may generally be used to allocate wages for any portion of the year during which you were not a resident of Wisconsin:

$$\frac{\text{Days on which services were performed in Wisconsin}}{\text{Total days of service for which compensation is received during the year}} \times \text{Total wages from this employer} = \text{Amount allocated to Wisconsin}$$

For the portion of the year during which you were a Wisconsin resident, all wages (earned both in and outside Wisconsin) must be allocated to Wisconsin.

Example: You were employed in Colorado and were a resident of that state. Your employer required you to spend 15 days during 2016 at the company's main office in Wisconsin. Your annual salary was \$40,000 which was compensation for 260 days. The amount of wages allocable to Wisconsin is \$2,307.69, computed as follows:

$$\frac{15}{260} \times \$40,000 = \$2,307.69$$

Stock Options -

Resident of Wisconsin When Income is Recognized:

If you are a Wisconsin resident (that is, domiciled in Wisconsin) at the time income from an employer-provided stock option is required to be recognized for federal tax purposes, the same amount that is taxable for federal tax purposes is also taxable by Wisconsin. This is true whether the stock option was attributable to services performed in Wisconsin or outside Wisconsin.

Not a Resident of Wisconsin When Income is Recognized:

If you are not a resident of Wisconsin (that is, not domiciled in Wisconsin) at the time income from an employer-provided stock option is required to be recognized for federal tax purposes, the income is taxable by Wisconsin only to the extent attributable to services performed in Wisconsin.

The amount of income related to the stock option that is taxable for federal purposes must be allocated to reflect only the portion of the income attributable to services performed in Wisconsin. Depending on the facts and circumstances, one method of allocation that may produce a fair and equitable result is an allocation on the basis of time worked in and outside Wisconsin.

Under this method, if services are performed both in and outside Wisconsin, the portion taxable by Wisconsin to a nonresident is the income recognized for federal tax purposes multiplied by the ratio of days worked in Wisconsin during the employment contract

period granting the option over total days worked under the contract.

If recognition of the income on an employer-provided stock option occurs when the stock purchased under the option is sold and the individual is not a resident of Wisconsin, the amount to be included in Wisconsin gross income will be the lesser of the gain recognized on the sale of the stock or the amount which would have been recognized at the exercise of the option, multiplied by the ratio of days worked in Wisconsin under the employment contract granting the option over the total days worked under the contract.

Example 1: You are granted a nonqualified stock option to purchase 1,000 shares of the company's stock for \$10 per share as part of a five-year contract, with the ability to exercise the option anytime after five years have passed. For the first two years of the five-year contract, you worked in Wisconsin. You were then transferred to Ohio where you became a resident and worked the remaining three years of the contract. In 2016, while an Ohio resident, you exercised the option and purchased the stock for \$10,000. At the time of exercise, the stock had a fair market value of \$20 a share or \$20,000.

For federal tax purposes, you must recognize ordinary income of \$10,000 (\$20,000 fair market value of stock less \$10,000 paid for the stock) for 2016. The portion of the income from the nonqualified stock option which is attributable to services performed in Wisconsin and taxable by Wisconsin for 2016 is \$4,000, determined as follows:

$$\frac{2 \text{ (years worked in Wisconsin)}}{5 \text{ (total years under employment contract)}} \times \$10,000 = \$4,000$$

Example 2: In 2009 you were granted an incentive stock option to purchase 1,000 shares of the company's stock for \$6 per share as part of a five-year contract, with the ability to exercise the option anytime after five years. You worked in Wisconsin for the five-year contract period and exercised the option in 2014. The fair market value of the stock at the time the option was exercised was \$12 per share. Because this option qualified as an incentive stock option, you were not required to report income from the exercise of the option on your 2014 federal or Wisconsin income tax return.

You subsequently retired and moved to Florida in 2016. While a Florida resident, you sold the 1,000 shares of stock for \$15,000. You report the \$9,000 gain (\$15,000 selling price less \$6,000 cost) on the sale of the stock as a long-term capital gain on Schedule D of federal Form 1040.

Because you performed the services in Wisconsin during the five-year employment contract period, the amount taxable by Wisconsin is \$6,000 (the lesser of the gain recognized on the sale of the stock or the amount that would have been recognized at the exercise of the option).

Under federal law the taxable amount is treated as a long-term capital gain. The \$6,000 taxable by Wisconsin is also treated as a long-term capital gain. The \$6,000 long-term capital gain will be netted with other capital gains and losses and be subject to the Wisconsin exclusion for 30% of net long-term capital gain.

Alternative Minimum Tax: You are required to adjust your federal alternative minimum taxable income for incentive stock options. This same adjustment (less 20%) is required for Wisconsin alternative minimum tax. If you are a nonresident of Wisconsin, the adjustment applies only to the extent the adjustment amount is attributable to services you performed in Wisconsin.

Nonresident Members of Professional Athletic Teams - A nonresident professional athlete is taxed on income from the performance of personal services in Wisconsin. When compensation is received for services performed both in and outside Wisconsin, the amount reportable to Wisconsin is determined by using the following formula:

$$\frac{\text{Wisconsin duty days}}{\text{Total duty days}} \times \text{Total compensation} = \text{Amount reportable to Wisconsin}$$

Total compensation includes salaries, wages, bonuses, and any other compensation received during the year.

For additional information on duty days and what is included in total compensation, you may:

- See Wisconsin Administrative Code sec. Tax 2.31
- Write to: Wisconsin Department of Revenue
Audit Bureau
PO Box 8906
Madison, WI 53708-8906

- Phone (608) 266-2486
- Email your questions to:
DORIncome@wisconsin.gov

B. Scholarships and Fellowships

For federal tax purposes, a candidate for a degree may exclude from income the portion of a scholarship or fellowship grant spent for:

- tuition or fees required to enroll in, or to attend, an educational institution and
- fees, books, supplies, and equipment required for the courses at the educational institution.

Any remaining portion must be included in federal income. In addition, any part of a scholarship or fellowship, including any tuition reduction, that represents payment for services is taxable. This includes amounts received for teaching and research.

For Wisconsin, during a period when you are not a resident of Wisconsin, only the portion of a scholarship or fellowship that represents payment for services performed in Wisconsin is taxable. During a period in which you are a Wisconsin resident, scholarships and fellowships are taxable in the same manner as for federal tax purposes.

C. Business Income

If you are not a resident of Wisconsin and operate a sole proprietorship business partly within and partly outside Wisconsin, you must assign a portion of your business income (from federal Schedule C, C-EZ, or F) to Wisconsin using either the apportionment method or separate accounting.

Exception - Income from an out-of-state business from disaster relief work performed in Wisconsin in connection with a state of emergency declared by the Governor is not taxable to Wisconsin. An out-of-state business means a sole proprietorship that, except for disaster relief work during a disaster period, was not doing business in Wisconsin during the three taxable years immediately preceding the disaster period or the current taxable year in which the declared state of emergency occurs.

Under separate accounting, you must keep separate records of the income and expenses for the Wisconsin business. Individuals engaged in a nonunitary business must use separate accounting. A nonunitary business

is one in which the operations in Wisconsin aren't dependent upon or contributory to the operations outside Wisconsin. A unitary business may use separate accounting only with the approval of the department. To obtain approval, send a written request to the Wisconsin Department of Revenue, P.O. Box 8906, Madison, WI 53708-8906.

Under the apportionment method, you must assign a portion of the net business income, as shown on federal Schedule C, C-EZ, or F, to Wisconsin according to a formula. You are required to report a portion of your net business income to Wisconsin using the apportionment method if your Wisconsin operations are part of a unitary business. A unitary business is one that operates as a unit and cannot be segregated into independently operating divisions or branches. For more details on how to identify a unitary business, see Wisconsin Administrative Code sec. Tax 2.62.

If you use the apportionment method, you must complete Form A-1 or A-2. See the instructions for those forms for details.

For further information, see the common questions on the department's website at revenue.wi.gov.

D. Capital Gains and Losses and Sales of Business Assets

Nonresidents of Wisconsin - Capital gains and losses from Wisconsin sources are includable in Wisconsin income.

Part-Year Residents of Wisconsin - A part-year resident of Wisconsin must include in Wisconsin income:

- all capital gain and loss received while a Wisconsin resident, and
- capital gain and loss received from Wisconsin sources during the period in which the individual is not a resident of Wisconsin.

Capital gain or loss from Wisconsin sources includes:

- gain or loss from the sale of land, buildings, and machinery located in Wisconsin,
- your share of capital gain and loss from an estate or trust, partnership, or tax-option (S) corporation that has been reported on Wisconsin Schedule 2K-1, 3K-1, or 5K-1, and
- gain from the sale of stock acquired under an incentive stock option or employee stock purchase

plan to the extent attributable to services performed in Wisconsin (see Stock Options on page 8).

It doesn't include losses from business bad debts and worthless securities, and gains or losses from sales of stocks (except gain on stock acquired under an incentive stock option or employee stock purchase plan as explained on page 8) while you are not a resident of Wisconsin.

Example 1: While a nonresident of Wisconsin, you sell 100 shares of ABC Corporation stock and land located in Wisconsin. Your gain on the sale of stock is \$5,000, and your gain on the sale of land is \$2,500. Only the \$2,500 gain on the sale of land located in Wisconsin is includable in Wisconsin income.

Example 2: You became a Wisconsin resident in August of 2016. In September of 2016, you sell 100 shares of DEF Corporation stock and real estate located in Arkansas. Your gain from the sale of stock is \$1,500 and your gain from the sale of Arkansas real estate is \$3,000. Both the \$1,500 gain from the sale of stock and the \$3,000 gain from the sale of real estate are includable in Wisconsin income.

Example 3: During 2015, while a nonresident of Wisconsin, you sold stock of GHI Corporation at a loss of \$15,000. Because of the capital loss limitations, you could deduct only \$3,000 of the loss on your 2015 federal income tax return. The remaining \$12,000 loss is carried forward to 2016. You become a Wisconsin resident in 2016. You may not deduct any portion of the capital loss carryforward on your Wisconsin income tax return for 2016 or any future year.

Sale of Your Main Home – For federal tax purposes, you may be able to exclude from income up to \$250,000 (\$500,000 if married filing a joint return) of gain on the sale of your main home. Any gain on the sale of your main home that is excluded from income for federal tax purposes is also excluded for Wisconsin.

Note: For a definition of “main home” and additional information on the exclusion of gain on the sale of your home, obtain federal Publication 523, *Selling Your Home*. This publication is available from the federal Internal Revenue Service (IRS).

Gain on the sale of a home located in Wisconsin that does not qualify for the exclusion is included in Wis-

consin income, regardless of whether you are a resident or nonresident of Wisconsin at the time of sale. Gain on the sale of a home located outside Wisconsin that does not qualify for the exclusion is included in Wisconsin income only if you were a Wisconsin resident at the time of the sale.

Exception – You may reduce your taxable gain if any portion of the gain is a deferred gain from the sale of a former home located outside Wisconsin, and (1) the sale or exchange of the former home occurred before 1975, or (2) the sale or exchange of the former home occurred in 1975 or thereafter and you were not a Wisconsin resident at the time of the sale or exchange. Reduce any taxable gain by the amount of deferred gain on the home located outside Wisconsin.

You cannot deduct a loss on the sale of your home. If your employer reimburses you for a loss on the sale of your Wisconsin home and you receive the reimbursement while you are not a resident of Wisconsin, the reimbursement is not included in Wisconsin income.

Installment Sales

Reporting Taxable Gain From an Installment Sale of Property by Individuals Who Move Into Wisconsin - The gain portion of each installment payment received after an individual establishes Wisconsin residency is includable in Wisconsin income as follows:

- The gain is *included* in Wisconsin income for sales of -
 - a. Tangible property (for example, land, buildings, machinery) located in Wisconsin.
 - b. Tangible property located outside Wisconsin if the seller was a Wisconsin resident on the date of sale.
 - c. Intangible property (for example, stocks, bonds) if the seller was a Wisconsin resident on the date of sale.
- The gain is *not included* in Wisconsin income for sales of -
 - a. Tangible property located outside Wisconsin if the seller was a nonresident on the date of sale of the tangible property.
 - b. Intangible property if the seller was a nonresident on the date of sale.

The interest portions of installment payments received by Wisconsin residents are taxable by Wisconsin, regardless of when the sale took place and whether the individual was a resident or nonresident at the time of sale.

Reporting Taxable Gain From an Installment Sale of Property by Individuals Who Abandon Their Wisconsin Domicile - The gain portion of each installment payment received after you terminated your Wisconsin residency (that is, while not a resident of Wisconsin) is included in Wisconsin income as follows:

- The gain is *included* in Wisconsin income for sales of tangible property (for example, land, buildings, machinery) located in Wisconsin.
- The gain is *not included* in Wisconsin income for sales of -
 - a. Tangible property located outside Wisconsin.
 - b. Intangible property, regardless of where the property is located.

The interest income portion of an installment payment received after terminating your Wisconsin residency is not taxable by Wisconsin.

Sale of an Installment Obligation - Gain or loss on the sale of an installment obligation by a nonresident is included in Wisconsin income if the installment obligation resulted from the sale of tangible property located in Wisconsin.

Gain or loss on the sale of an installment obligation by a nonresident is not included in Wisconsin income if the installment obligation resulted from the sale of intangible property or from the sale of tangible property located outside Wisconsin.

Example: In 2014, you were a nonresident of Wisconsin. You sold real estate located in Wisconsin for \$140,000. The adjusted basis of the property was \$70,000 which resulted in a gross profit percentage of 50%. You received \$40,000 as a down payment and an installment note for \$100,000. You included the gross profit of \$20,000 ($\$40,000 \times 50\%$) in 2014 Wisconsin income. An additional \$50,000 was paid off in 2015 of which you included \$25,000 ($\$50,000 \times 50\%$) in 2015 Wisconsin income. You sold the installment obligation for \$55,000 in May of 2016. The gain on the sale of the installment obligation that you must in-

clude in Wisconsin income for 2016 is computed as follows:

Selling price of installment obligation	\$55,000
Basis:	
Unpaid balance	\$50,000
Less profit due (50% x \$50,000)	<u>25,000</u>
Basis	<u>25,000</u>
Gain on sale of installment obligation to be included in Wisconsin income	<u>\$ 30,000</u>

Involuntarily Converted Property and Like-Kind Exchanges - Federal law allows postponement of recognition of gain on an involuntary conversion or like-kind exchange of property when replacement property is purchased or received within a specified period of time.

Wisconsin follows these federal provisions. The recognition of gain realized from the involuntary conversion or like-kind exchange of property located in Wisconsin may be postponed when the recognition of gain may be postponed for federal tax purposes. This applies whether the replacement or exchanged property is located within or outside Wisconsin.

Example: On June 30, 2015, you received \$10,000 for involuntarily converted property located in Wisconsin. Your basis in the property was \$7,500. You became a resident of Illinois on September 15, 2015, and purchased qualified replacement property in Illinois on April 1, 2016, for \$11,000. You may postpone recognition of the \$2,500 gain ($\$10,000$ less $\$7,500$ cost basis) for Wisconsin income tax purposes.

Gain from an involuntary conversion or like-kind exchange of property located outside Wisconsin and converted or exchanged while you were not a resident of Wisconsin is not included in Wisconsin income if the gain was postponed for federal income tax purposes.

Example: You were a resident of Ohio and owned property in Ohio which was condemned for public use. Your adjusted basis in the property was \$25,000 and you received a condemnation award of \$45,000. You realized a gain of \$20,000 from the condemnation.

You elected to postpone paying tax on the gain and timely purchased replacement property (also in Ohio) for \$47,000. Your basis in the new property for federal income tax purposes is \$27,000 (\$47,000 cost minus \$20,000 gain postponed).

Subsequent to the involuntary conversion, you became a Wisconsin resident. Several years later, while still a Wisconsin resident, you sell the Ohio property for \$65,000. For federal income tax purposes, you compute a gain of \$38,000 (\$65,000 selling price minus \$27,000 adjusted basis). The portion of the gain (\$20,000) attributable to the involuntary conversion that occurred before you became a Wisconsin resident may be excluded from Wisconsin income. Your gain for Wisconsin income tax purposes is \$18,000.

Gain or Loss on Sale of Assets Acquired Before Becoming a Wisconsin Resident - The Wisconsin basis of assets acquired before you become a Wisconsin resident is the same as the federal basis. Thus, gain or loss on the sale of such assets is the same for Wisconsin and federal tax purposes.

Example: You purchased stock for \$5,000 while a nonresident of Wisconsin. You later became a Wisconsin resident. On the date you became a Wisconsin resident, the fair market value of the stock was \$7,000. You sold the stock for \$9,000 in 2016. The gain for both federal and Wisconsin tax purposes is \$4,000 (\$9,000 selling price less \$5,000 original cost).

Exception – The Wisconsin basis and the federal basis of assets may differ where the federal basis was adjusted due to deferred gain from the sale or exchange of property located outside Wisconsin (see Sale of Your Main Home on page 11 and Involuntarily Converted Property and Like-Kind Exchanges on page 12).

Note: See [Publication 102](#), *Wisconsin Tax Treatment of Tax-Option (S) Corporations and Their Shareholders*, for information on the basis of stock in a tax-option (S) corporation. See page 28 for information on how to get this publication.

Sale of a Partnership Interest by a Nonresident - Gain or loss on the sale of a partnership interest by an individual who is not a resident of Wisconsin is not taxable income or a deductible loss for Wisconsin purposes. Both a general partnership interest and a limited partnership interest in a partnership are considered to be intangible personal property. In general,

income or loss received by an individual who is not a Wisconsin resident from the sale of intangible assets is not taxable or deductible for Wisconsin.

Example: You are an Illinois resident. You are a general partner in ABC Partnership and a limited partner in DEF Partnership. Both partnerships operated solely in Wisconsin. In 2016, you sold your partnership interests in both partnerships.

Under terms of the agreement for the sale of your interest in ABC Partnership, you received payment for a specified percentage of the value of the partnership's outstanding receivables plus an amount for selling your interest in the other partnership assets. Although DEF Partnership held inventory items which had substantially appreciated in value, no part of the selling price was specifically allocated to these items in the sale agreement.

For federal purposes, you must treat the sale of your interest in each of the partnerships as the sale of two separate assets as provided in sec. 751 of the IRC. ABC Partnership's receivables and DEF Partnership inventory items are sec. 751 property that, upon sale, are treated as ordinary gain or loss for federal purposes. Your interest in each partnership's non-sec. 751 property, upon sale, is treated as a capital gain or loss for federal purposes.

Neither your ordinary gain or loss on the sale of the sec. 751 property nor your capital gain or loss on the sale of the non-sec. 751 property of ABC or DEF Partnership is taxable income or a deductible loss for Wisconsin purposes. Because you are a nonresident and your partnership interests are intangible personal property, your sales of your interests in ABC and DEF Partnerships are not reportable for Wisconsin income tax purposes.

However, if the partnership sells partnership assets located in Wisconsin, your distributive share of the gain or loss realized on the sale is taxable income or a deductible loss for Wisconsin purposes.

Example: You are a Texas resident and a general partner in GHI Partnership and a limited partner in JKL Partnership. Both partnerships have been operating solely in Wisconsin. In 2016, both partnerships sold all of the partnership assets located in Wisconsin, including land, buildings, office equipment, and goodwill.

Your distributive share of the gains or losses realized by GHI and JKL Partnerships, other than on the sale of their goodwill, is taxable income or a deductible loss for Wisconsin purposes. A partnership that sells its assets passes through any gain or loss realized on the sale to its partners.

Because the property was located in Wisconsin, your distributive share of GHI Partnership's and JKL Partnership's gains or losses on the sale of tangible property is taxable or deductible by Wisconsin.

Your share of the gain or loss from the sale of each partnership's goodwill is not taxable income or a deductible loss for Wisconsin purposes. Because the goodwill is intangible property, your share of the gain or loss from its sale is not taxable by Wisconsin.

E. IRA Distributions, Pensions, and Annuities

Distributions Received While a Wisconsin Resident - Except as provided below, IRA (individual retirement arrangement) distributions and payments (distributions) from retirement plans, life insurance annuity contracts, profit-sharing plans, stock bonus plans, and employee-savings plans received while a Wisconsin resident are taxable by Wisconsin, regardless of whether the distribution may be attributable to services performed outside Wisconsin.

Example: You retired from your job in Ohio on September 1, 2016. On October 1, 2016, you became a resident of Wisconsin. In November, you received a lump-sum distribution of \$60,000 from your former Ohio employer's noncontributory retirement plan. The \$60,000 is taxable by Wisconsin.

Exception – The following payments are not taxable by Wisconsin:

- Retirement benefits from the U.S. Railroad Retirement Board
- Payments from a U.S. Government civilian employee retirement system, the Wisconsin State Teachers retirement system, or various Milwaukee city or county retirement systems if the payments are made on the account of a person who was a member of such retirement system as of December 31, 1963 or who was retired from such system as of December 31, 1963.
- Retirement benefits from the U.S. military retirement system. This includes any retirement

payments received from Defense Finance and Accounting Services (DFAS).

- Retirement benefits from the U.S. government that relate to service with the Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, or the commissioned corps of the Public Health Service.

Distributions Received By a Nonresident of Wisconsin - Distributions received by an individual who is not a resident of Wisconsin from a qualified retirement plan or qualified deferred compensation plan are not taxable by Wisconsin, regardless of whether the distribution may be attributable to personal services performed in Wisconsin.

A "qualified retirement plan" or "qualified deferred compensation plan" includes income from:

- a qualified trust under sec. 401(a) of the IRC which forms part of a stock bonus, pension, or profit-sharing plan and which is exempt from taxation under sec. 501(a), IRC.
- a simplified employee pension (SEP) under sec. 408(k), IRC.
- an annuity plan under sec. 403(a), IRC.
- an annuity contract under sec. 403(b), IRC (employees of a public school or tax-exempt organization).
- an IRA under sec. 7701(a)(37), IRC.
- a deferred compensation plan of state and local governments and tax-exempt organizations under sec. 457, IRC.
- a government plan under sec. 414(d), IRC.
- a trust described in sec. 501(c)(18), IRC.

Example: You retired from your job in Wisconsin on March 1, 2016, and became a Florida resident on March 15, 2016. On April 1, 2016, you began receiving monthly payments from your former employer's qualified retirement plan. Amounts received while you are a Florida resident are not taxable by Wisconsin.

See page 7 for information on the Wisconsin tax treatment of amounts received from nonqualified deferred compensation plans.

Penalties on Retirement Plans, Coverdell Education Savings Accounts, and Medical Savings Accounts - If you are subject to the federal penalty tax

on a qualified retirement plan (including an IRA), a Coverdell education savings account, an ABLER account, a health savings account or an Archer medical savings account, you may be subject to a Wisconsin penalty. The Wisconsin penalty is equal to 33% of the federal penalty tax and applies if the action which caused you to owe the federal penalty tax occurred while you were a Wisconsin resident.

Example: You became a Wisconsin resident in July of 2016. In August 2016, you received a distribution of \$10,000 from your former employer's qualified retirement plan. For federal tax purposes you are subject to the 10% tax on early distributions. Because you were a Wisconsin resident when you received the early distribution, you are also subject to the Wisconsin penalty. (**Note:** Receipt of the \$10,000 is the action which caused you to owe the federal penalty tax.)

You are not subject to the Wisconsin penalty on retirement plans, education savings accounts, ABLER account, health savings account or medical savings accounts if the action which caused you to owe the federal penalty tax occurred while you were not a resident of Wisconsin.

F. Losses

Net Operating Losses - A net operating loss (NOL) incurred while you were not a resident of Wisconsin cannot be used to offset Wisconsin taxable income unless the NOL is attributable to Wisconsin business income and deductions.

For additional information and worksheets to compute a Wisconsin NOL, obtain [Publication 120](#), *Net Operating Losses for Individuals, Estates, and Trusts*. See page 28 for information on how to get this publication.

Passive Losses - Passive activity losses incurred while you are not a resident of Wisconsin and which are not allocable to Wisconsin may not be carried forward and deducted on a Wisconsin income tax return for a year in which you are a Wisconsin resident.

Example: You were a Minnesota resident. You are a partner in Partnership D which conducts business solely in Minnesota. You determine that you must treat the partnership interest as a passive activity. Your unallowed passive activity losses which may be carried forward to 2016 for federal tax purposes are \$12,000.

On January 1, 2016, you became a Wisconsin resident.

On your 2016 federal income tax return, you report passive activity income of \$20,000 from Partnership D. For federal tax purposes, you are allowed to deduct the \$12,000 of unallowed passive activity losses which were carried forward to 2016.

You must report \$20,000 of income from Partnership D on your 2016 Wisconsin income tax return. You are not allowed to deduct the pre-2016 passive activity losses which were carried forward to 2016.

Passive activity losses incurred while you are a Wisconsin resident may be carried forward and deducted on a Wisconsin income tax return for a year in which you are not a resident of Wisconsin. The losses are deductible even though income from the passive activity may no longer be taxable by Wisconsin. The passive activity losses are allowed as a deduction on the Wisconsin income tax return for the same year in which they are allowed as a deduction on the federal income tax return.

Example: For 2015, you were a full-year resident of Wisconsin. You became a partner in two partnerships: Partnership A which conducts business solely in Illinois and Partnership B which conducts business solely in Wisconsin. You determine that you must treat the partnership interests as passive activities. Your unallowed passive activity losses which may be carried forward to 2016 for federal and Wisconsin tax purposes are as follows:

Partnership A (Illinois)	\$6,200
Partnership B (Wisconsin)	\$8,000

On January 1, 2016, you became an Illinois resident.

For 2016, you report passive activity income of \$2,000 from Partnership A and \$30,000 from Partnership B. For federal tax purposes, you are allowed to deduct all of the unallowed passive activity losses which were carried forward to 2016.

The amount of income and loss from passive activities which you report on your 2016 Wisconsin income tax return is as follows:

Partnership A: Income from Partnership A, which does business solely in Illinois, is not taxable by Wisconsin. You are allowed to deduct \$6,200 of

previously unallowed passive activity loss which was incurred while you were a Wisconsin resident.

Partnership B: The income (\$30,000) from Partnership B, which does business solely in Wisconsin, is taxable by Wisconsin. You are allowed to deduct the \$8,000 of previously unallowed passive activity loss which was carried forward to 2016.

CAUTION Wisconsin follows the federal treatment of passive activity losses. However, if there is a difference in the federal and Wisconsin definition of the Internal Revenue Code, any passive activity loss may have to be adjusted on Wisconsin Schedule I to account for the difference. The amount of passive activity losses allowed for Wisconsin are the losses from Wisconsin sources taken from federal Form 8582 as recomputed for federal purposes due to the Schedule I adjustments.

G. Gambling Winnings

Part-year Resident of Wisconsin - For the period of time during which you are a resident of Wisconsin, all gambling winnings are taxable by Wisconsin. For the period of time during which you are not a resident of Wisconsin, only gambling winnings specified below are taxable by Wisconsin.

Nonresident of Wisconsin - If you are not a resident of Wisconsin, you are subject to Wisconsin income tax on:

- winnings from the Wisconsin Lottery,
- winnings from a multijurisdictional lottery (for example, Powerball) if the multijurisdictional lottery ticket was purchased from a Wisconsin retailer,
- winnings from pari-mutuel wagering paid by a Wisconsin racetrack, and
- winnings from a casino or bingo hall located in Wisconsin and operated by a Native American tribe or band.

This includes all income realized from the sale of or purchase and subsequent sale or redemption of lottery prizes if you originally purchased the winning tickets in Wisconsin.

Withholding on Gambling Winnings - Wisconsin income tax is withheld on lottery winnings of \$2,000 or more and pari-mutuel wager winnings over \$1,000.

The amount withheld is claimed as a credit on your Wisconsin income tax return for the year. Even if you are not required to file a Wisconsin income tax return (for example, you are a nonresident and your gross income is under \$2,000), you must file a Wisconsin return (Form 1NPR) to claim a refund of Wisconsin tax withheld from gambling winnings.

H. Unemployment Compensation and Supplemental Unemployment Benefits

Nonresident of Wisconsin - Unemployment compensation received by an individual who is not a resident of Wisconsin is not taxable by Wisconsin, regardless of whether the payments relate to services performed in Wisconsin or another state.

Supplemental unemployment benefits paid by a Wisconsin employer under a company plan to an individual who is not a resident of Wisconsin are not taxable by Wisconsin.

Part-year Resident of Wisconsin - Unemployment compensation received while a resident of Wisconsin is subject to Wisconsin income tax, regardless of whether the payments relate to services performed in Wisconsin or another state. The taxable amount depends on filing status and income level. A worksheet is included in the Form 1NPR instructions for use in determining the amount of taxable unemployment compensation.

Supplemental unemployment benefits paid under a company plan and received while you are a resident of Wisconsin are subject to Wisconsin income tax. Unemployment compensation and supplemental employment benefits received while you are not a resident of Wisconsin are not subject to Wisconsin income tax.

I. Moving Expense

Federal law allows a deduction for certain moving expenses if the move is closely related to the start of work and a distance test and time test are met. (For information on moving expenses allowable on the federal return, obtain federal Publication 521, *Moving Expenses*, which is available from the federal IRS.)

Moving expenses that are deductible under federal law, and are incurred to move into Wisconsin by an individual who is establishing Wisconsin residence are deductible on the Wisconsin income tax return. Mov-

ing expenses incurred to move from Wisconsin by an individual who is abandoning Wisconsin residence or incurred by a nonresident to move between two locations are not deductible.

Example 1: You are a nonresident of Wisconsin. You file a 2016 Wisconsin Form 1NPR to report the gain on the sale of property located in Wisconsin. You claim a deduction on your federal return for expenses which were incurred for a move from Minnesota to California. The moving expenses may not be deducted on Form 1NPR for Wisconsin.

Example 2: You are a resident of Wisconsin from January 1 through August 31, 2016. On September 1, 2016, you became a resident of Illinois. You file a 2016 Wisconsin Form 1NPR to report income earned through August of 2016. You claim a deduction on your federal return for expenses which were incurred for the move from Wisconsin to Illinois. The moving expenses may not be deducted on Form 1NPR for Wisconsin.

Example 3: You were a resident of Tennessee from January 1 through May 31, 2016. On June 1, 2016, you became a resident of Wisconsin. You file a 2016 Wisconsin Form 1NPR to report income received after June 1, 2016. You claim a deduction on your federal return for expenses which were incurred for the move from Tennessee to Wisconsin. The moving expenses may be deducted on Form 1NPR for Wisconsin.

J. Standard Deduction

You generally are allowed to claim a standard deduction on Wisconsin Form 1NPR (see Exception below).

Your standard deduction is based on your *federal* adjusted gross income using the Standard Deduction Table in the Form 1NPR instructions.

Your standard deduction is limited if you have non-wage income and can be claimed as a dependent on another person's income tax return. In this case, you must complete the Standard Deduction Worksheet for Dependents included in the Form 1NPR instructions.

Exception – You may not claim a Wisconsin standard deduction for any year in which:

- You are a nonresident alien or dual-status alien (see Part VI, Aliens, on page 24).

- You file a short period income tax return (return for a taxable year consisting of a period of less than 12 months).
- You exclude income from sources within U.S. possessions (Guam, American Samoa, or the Northern Mariana Islands) under sec. 931 of the IRC.

Amended Returns - If, after filing Form 1NPR, you file an amended federal return, you must also file an amended Wisconsin return if the changes or corrections to your federal return also affect your Wisconsin net tax, credits, or carryover amounts. Thus, you generally must file an amended Wisconsin Form 1NPR if you make any changes to your federal return that affect your federal adjusted gross income.

Information on filing an amended Form 1NPR is included in the Form 1NPR instructions. Enclose Schedule AR, *Explanation of Amended Return*, with your amended Form 1NPR.

Example: You are a nonresident of Wisconsin. You filed a 2015 Form 1NPR to report the sale of rental property located in Wisconsin. You subsequently amended your 2015 federal income tax return because you forgot to report a \$10,000 gain realized on the sale of 500 shares of stock in ABC Corporation. Even though the gain on the sale of the stock is not taxable by Wisconsin, you must amend your 2015 Wisconsin Form 1NPR if the amount of your Wisconsin standard deduction changes because of the change to your federal adjusted gross income.

K. Deduction for Exemptions

You generally are allowed to claim a personal exemption deduction of \$700 (see Exception below). A personal exemption deduction of \$700 may also be claimed for a spouse if married filing a joint return.

You may claim an exemption of \$700 for each person who qualifies as your dependent for federal income tax purposes.

If you (or you and your spouse if married filing a joint return) were age 65 or older on December 31, 2016, an additional exemption of \$250 may be claimed. If married filing a joint return and both spouses were age 65 or older on December 31, 2016, an additional exemption of \$250 may be claimed for each spouse.

Exception – You may not claim a personal exemption deduction if you can be claimed as a dependent on someone else’s return.

L. Credits

Various credits are available on Wisconsin Form 1NPR. See page 23 of this publication for a chart showing which credits are available to part-year residents and nonresidents of Wisconsin.

Certain credits are no longer available. However, any unused credits may be carried forward and offset against tax for 15 years or until entirely used, whichever is earlier. These credits are: manufacturer's sales tax credit; dairy and livestock farm investment credit; film production company investment credit; film production services credit; health insurance risk-sharing plan assessments credit; Internet equipment credit; ethanol and biodiesel fuel pump credit; post-secondary education credit; water consumption credit; biodiesel fuel production credit; electronic medical records credit; veteran employment credit; and research facilities credit. See Schedule CF for claiming the credit carryforward (Schedule MS if claiming the manufacturer's sales tax credit carryforward).

Following are brief explanations of the Wisconsin credits. For additional information on claiming these credits, see the Form 1NPR instructions.

1. Wisconsin Itemized Deduction Credit

Who May Claim the Credit - The Wisconsin itemized deduction credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit - For federal tax purposes, deductions that are itemized on federal Schedule A are allowed as a subtraction from federal adjusted gross income. Wisconsin does not allow a similar subtraction for itemized deductions. Instead, Wisconsin allows a credit against tax equal to 5% of the amount by which certain federal itemized deductions exceed the Wisconsin standard deduction.

The Wisconsin itemized deduction credit is computed on Schedule 1 of Form 1NPR. Certain amounts are taken from federal Schedule A and used to complete Schedule 1. Other amounts from

federal Schedule A are not used to complete Schedule 1 (for example, taxes, casualty and theft losses unless the casualty loss is directly related to a federally-declared disaster, interest paid on a second home located outside Wisconsin, miscellaneous deductions, etc.).

2. School Property Tax Credit

Who May Claim the Credit – The school property tax credit is available to full-year residents and part-year residents of Wisconsin. It is not available to nonresidents of Wisconsin. However, if a joint return is being filed and one spouse is a full-year or part-year Wisconsin resident and the other spouse is a nonresident, the school property tax credit may be claimed on that joint return.

Computing the Credit – The credit is based on rent or property taxes paid for living quarters used as a principal home. Rent or property taxes paid for property not used as a principal home may not be used in computing the credit.

Example: You owned a home in Indiana and lived there from January through April of 2016 (four months). On May 1, 2016, you became a Wisconsin resident. You rented an apartment in Wisconsin for the remainder of 2016. You were unable to sell your home in Indiana. In December of 2016, you paid \$1,200 of property taxes on the Indiana home. You may claim the school property tax credit based on the amount of rent paid for May through December of 2016 and on \$400 of property taxes paid on your home for the period during which you occupied the home ($\frac{4}{12} \times \$1,200 = \400).

Tables are provided in the Form 1NPR instructions for determining the credit amount.

3. Armed Forces Member Credit

Who May Claim the Credit – The armed forces member credit is available only to full-year residents of Wisconsin. It is not available to nonresidents of Wisconsin or part-year residents.

If one spouse is a full-year Wisconsin resident and the other spouse is a nonresident or part-year resident of Wisconsin, the full-year resident may claim the credit on Form 1NPR when a joint return is filed.

Computing the Credit – The armed forces member credit is equal to the amount of military pay from the federal government for services performed while stationed outside the United States, up to a maximum credit of \$300. See the Form 1NPR instructions for further information.

4. Married Couple Credit

Who May Claim the Credit - The married couple credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

The credit may be claimed only on a joint return, and both spouses must have earned income taxable by Wisconsin.

Example: You and your spouse became Wisconsin residents in June of 2016. You were both employed in Kansas prior to becoming Wisconsin residents. After the move, you continued working but your spouse retired. You may not claim the married couple credit as your spouse does not have earned income taxable by Wisconsin.

Computing the Credit - The married couple credit is computed on Schedule 2 of Form 1NPR.

5. Earned Income Credit

Who May Claim the Credit - The Wisconsin earned income credit is available only to full-year residents of Wisconsin. It is not available to nonresidents of Wisconsin or part-year residents.

If one spouse is a full-year Wisconsin resident and the other spouse is a nonresident or part-year resident of Wisconsin, the full-year resident may claim the credit on Form 1NPR if a joint return is filed.

Computing the Credit - The Wisconsin earned income credit is equal to a percentage of the federal earned income credit. The percentage is based on the number of qualifying children. Additional information on this credit is included in the Form 1NPR instructions.

6. Farmland Preservation Credit

Who May Claim the Credit - Farmland preservation credit is available only to full-year residents of Wisconsin. It is not available to nonresidents of Wisconsin or part-year residents.

If one spouse is a full-year Wisconsin resident and the other spouse is a nonresident or part-year resident of Wisconsin, the full-year resident may claim the credit on Form 1NPR if a joint return is filed.

For additional information on this credit, obtain Schedule FC or FC-A and its instructions or [Publication 503](#), *Wisconsin Farmland Preservation Credit*. See page 28 for information on how to get Schedules FC and FC-A and this publication.

7. Credit for Net Income Tax Paid to Another State

Who May Claim the Credit - Only full-year or part-year residents of Wisconsin may claim a credit for net income tax paid to another state. A nonresident of Wisconsin may not claim the credit, except in those cases where the credit is based on taxes paid by a tax-option (S) corporation, partnership, or limited liability company treated as a partnership on income earned while the person was a Wisconsin resident.

Computing the Credit - The credit may be allowed if you paid net income tax to another state or the District of Columbia on income earned while you were a Wisconsin resident. The income that was taxed by the other state must also be taxed by Wisconsin. The credit is limited to the amount of your Wisconsin net tax.

The credit is allowed only for net *income* tax paid to the other state. You may not claim credit for other taxes paid, such as city tax, county tax, foreign tax, severance tax, education tax, building tax, etc.

Example: You became a Wisconsin resident in September of 2016. Prior to becoming a Wisconsin resident, you lived and worked in Idaho. After you became a Wisconsin resident your only income was from employment in Wisconsin. You filed a 2016 Idaho income tax return which shows that you paid Idaho income tax of \$1,400 on the income earned and received while you were an Idaho resident. You may not claim a credit on your 2016 Wisconsin Form 1NPR for the tax paid to Idaho. The income that was taxable by Idaho is not taxable by Wisconsin.

If only part of the income taxed by the other state is taxed by Wisconsin (for example, capital gain on assets held more than one year is taxed 100% for Illinois but only 70% for Wisconsin), your credit for net tax paid to other states is limited. The following formula is used to figure the amount of credit.

$$\frac{\text{Income taxable by both Wisconsin and other state}}{\text{Total income taxable by other state}} \times \text{Total net income tax paid to other state} = \text{Amount of credit allowable against Wisconsin tax}$$

Additional information on credit for net tax paid to another state can be found in the Schedule OS instructions and in [Publication 125](#), *Credit for Tax Paid to Another State*. See page 28 for information on how to get this schedule and publication.

8. Homestead Credit

Who May Claim the Credit - Homestead credit is available only to full-year legal residents of Wisconsin. It is not available to nonresidents of Wisconsin or part-year residents.

If one spouse is a full-year Wisconsin resident and the other spouse is a nonresident or part-year resident of Wisconsin, the full-year resident may claim the credit on Form 1NPR if a joint return is filed.

Full-year residents of Wisconsin with household income under \$24,680 for 2016 should obtain a copy of Schedule H, the homestead credit claim form, to see if they qualify for the credit. See page 28 for information on how to get Schedule H.

9. Development Zones Credits

Who May Claim the Credits - Development zones credits are available to full-year residents, nonresidents, and part-year residents of Wisconsin.

The credits are available to persons doing business in Wisconsin development zones who have been certified by the Wisconsin Economic Development Corporation.

For additional information on these credits, obtain Schedule DC, *Wisconsin Development Zones Credits*. See page 28 for information on how to get Schedule DC.

10. Historic Rehabilitation Credits

Who May Claim the Credits - The historic rehabilitation credits are available to full-year residents, nonresidents, and part-year residents of Wisconsin.

The credits are available for preserving or rehabilitating historic property located in Wisconsin. Projects must be certified or approved through the State Historical Society of Wisconsin and the Wisconsin Economic Development Corporation.

For additional information on these credits, obtain Schedule HR, *Wisconsin Historic Rehabilitation Credits*. See page 28 for information on how to get Schedule HR.

11. Repayment Credit

Who May Claim the Credit - The credit for repayment of income previously taxed is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit - If you repaid during the taxable year an amount that you included in Wisconsin income in an earlier year because at that time you thought you had an unrestricted right to it, you may be able to claim a credit based on the amount repaid. To qualify for the credit, the amount repaid must be over \$3,000 and cannot have been subtracted in computing Wisconsin adjusted gross income or used in computing the Wisconsin itemized deduction credit.

Use the following steps to compute your credit:

- a) Refigure your tax from the earlier year without including in income the amount you repaid in 2016.
- b) Subtract the tax in (a) from the tax shown on your return for the earlier year. The difference is the amount of your credit.

12. Working Families Tax Credit

Who May Claim the Credit - The working families tax credit is available only to full-year residents of Wisconsin. It is not available to nonresidents of Wisconsin or part-year residents. It is also not available to persons who can be claimed as a dependent on another person's (for example, parent's) income tax return.

If one spouse is a full-year Wisconsin resident and the other spouse is a nonresident or part-year resident of Wisconsin, the full-year resident may claim the credit on Form 1NPR if a joint return is filed.

Computing the Credit - For married persons filing a joint return, the credit is equal to the net tax liability for persons with Wisconsin income of \$18,000 or less. The credit is phased out over the next \$1,000 of income and is no longer available to married persons with Wisconsin income of \$19,000 or more.

13. Technology Zone Credit

Who May Claim the Credit - The technology zone credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

The credit is available to a business that is located in a technology zone and that is certified by the Wisconsin Economic Development Corporation. For additional information on this credit, obtain Schedule TC, *Technology Zone Credit*.

14. Venture Capital Credits

Who May Claim the Credit - There are two venture capital credits, the angel investment credit and the early stage seed investment credit. Both credits are available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit - The angel investment credit is equal to 25% of a bona fide angel investment made directly in a qualified new business venture that is certified by the Wisconsin Economic Development Corporation.

The early stage seed investment credit is equal to 25% of the initial investment paid in the taxable year to a fund manager that the fund manager in-

vests in a business that is certified by the Wisconsin Economic Development Corporation. For additional information on these credits, obtain Schedule VC, *Wisconsin Venture Capital Credits*.

15. Veterans and Surviving Spouses Property Tax Credit

Who May Claim the Credit - The veterans and surviving spouses property tax credit is available to full-year residents and part-year residents of Wisconsin.

The credit is available to surviving spouses of certain veterans who died while on active duty or to certain veterans (or their surviving spouses) who have a service-connected disability rating of 100% or a 100% disability rating based on individual unemployment.

Computing the Credit - The credit is equal to the amount paid by the eligible veteran or surviving spouse for property taxes on his or her principal dwelling in Wisconsin.

16. Enterprise Zone Jobs Credit

Who May Claim the Credit - The credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit - The Wisconsin Economic Development Corporation certifies a business for the amount of credit. For additional information on this credit, obtain Schedule EC, *Enterprise Zone Jobs Credit*.

17. Manufacturing Investment Credit

Who May Claim the Credit - The manufacturing investment credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin. The credit is available to persons who had more than \$25,000 of unused manufacturer's sales tax credit as of January 1, 2006.

Computing the Credit - The manufacturing investment credit is equal to the unused manufacturer's sales tax credit amortized over 15 taxable years. Taxpayers must have been certified by the Department of Commerce. For additional information, obtain Schedule MI, *Manufacturing Investment Credit*.

18. Economic Development Tax Credit

Who May Claim the Credit – The economic development tax credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin. Claimants must be certified by the Wisconsin Economic Development Corporation.

Computing the Credit - The credit is equal to the amount authorized by the Wisconsin Economic Development Corporation. The credit is available for a job creation project, capital investment project, employee training project, or a project related to persons with corporate headquarters in Wisconsin. For additional information on this credit, obtain Schedule ED, *Economic Development Tax Credit*.

19. Jobs Tax Credit

Who May Claim the Credit – The jobs tax credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin. Claimants must be certified by the Wisconsin Economic Development Corporation.

Computing the Credit – The credit is equal to up to 10% of wages paid to an eligible employee and the amount of costs incurred to undertake certain training activities, as determined by the Wisconsin Economic Development Corporation. For additional information on this credit, obtain Schedule JT, *Wisconsin Jobs Tax Credit*.

20. Community Rehabilitation Program Credit

Who May Claim the Credit – The community rehabilitation program credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The credit is equal to five percent of the amount paid in the taxable year to a community rehabilitation program to perform work for the claimant's business pursuant to a contract. For additional information on this credit, obtain Schedule CM, *Community Rehabilitation Program Credit*.

21. Manufacturing and Agriculture Credit

Who May Claim the Credit – The manufacturing and agriculture credit is available to full-year res-

idents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The credit is equal to the qualified production activities income from manufacturing property or agricultural property located in Wisconsin, multiplied by a certain percentage (7.5 percent for taxable years beginning in 2016). For additional information on this credit, obtain Schedule MA-M, *Manufacturing Credit* or Schedule MA-A, *Agriculture Credit*.

22. Research Expense Credit

Who May Claim the Credit – The research expense credit is available to full-year residents, nonresidents, and part-year residents of Wisconsin.

Computing the Credit – The credit is available for increasing research activities in Wisconsin. For additional information on these credits, obtain Schedule R.

23. Business Development Credit

Who May Claim the Credit – The business development credit is available to full-year residents, nonresidents, and part-year residents.

Computing the Credit – The credit is equal to a percentage of wages paid to eligible employees, the amount of training costs, and real and personal property investment as determined by the Wisconsin Economic Development Corporation.

Wisconsin Credits - Who May Claim

Credit	Credit May be Claimed By:		For Additional Information See Part:
	Part-Year Resident	Nonresident	
1. Itemized Deduction Credit	Yes	Yes	L.1 on page 18 - Non-resident aliens also see Part VI.F.
2. School Property Tax Credit	Yes	No	L.2 on page 18
3. Armed Forces Member Credit	No	No	L.3 on page 18
4. Married Couple Credit	Yes	Yes	L.4 on page 19
5. Earned Income Credit	No	No	L.5 on page 19
6. Farmland Preservation Credit	No	No	L.6 on page 19
7. Net Income Tax Paid to Another State	Yes	No	L.7 on page 19
8. Homestead Credit	No	No	L.8 on page 20
9. Development Zones Credit	Yes	Yes	L.9 on page 20
10. Historic Rehabilitation Credit	Yes	Yes	L.10 on page 20
11. Repayment of Income Previously Taxed	Yes	Yes	L.11 on page 20
12. Working Families Tax Credit	No	No	L.12 on page 21
13. Technology Zone Credit	Yes	Yes	L.13 on page 21
14. Venture Capital Credits	Yes	Yes	L.14 on page 21
15. Veterans and Surviving Spouses Property Tax Credit	Yes	No	L.15 on page 21
16. Enterprise Zone Jobs Credit	Yes	Yes	L.16 on page 21
17. Manufacturing Investment Credit	Yes	Yes	L.17 on page 21
18. Economic Development Credit	Yes	Yes	L.18 on page 22
19. Jobs Tax Credit	Yes	Yes	L.19 on page 22
20. Community Rehabilitation Program Credit	Yes	Yes	L.20 on page 22
21. Manufacturing and Agriculture Credit	Yes	Yes	L.21 on page 22
22. Research Expense Credit	Yes	Yes	L.22 on page 22
23. Business Development Credit	Yes	Yes	L.23 on page 22

Note: All of the above credits may be claimed by full-year residents of Wisconsin.

M. Withholding From Pass-Through Entities

A pass-through entity that has Wisconsin income for the taxable year that is allocable to a nonresident partner, member, shareholder, or beneficiary is required to withhold tax on the amount of pass-through income. A pass-through entity is a partnership, limited liability company treated as a partnership, a tax-option (S) corporation, an estate, or a trust that is treated as a pass-through entity for federal income tax purposes.

If you are a partner, member, shareholder, or beneficiary of a pass-through entity that withheld Wisconsin

income tax, you will receive information as to the amount of tax withheld on the Schedule 2K-1, 3K-1, or 5K-1 that you received from the entity. Include the amount of tax withheld for you on line 65 of Form 1NPR. Enclose a copy of the Schedule 2K-1, 3K-1, or 5K-1 with your Form 1NPR.

V. ESTIMATED TAX PAYMENT REQUIREMENTS

Tax (including the Wisconsin alternative minimum tax) is required to be paid on income as it is earned or construc-

tively received. Withholding tax and estimated tax are the two methods used to make those required tax payments.

If you work for wages, you generally have tax withheld from your wages to prepay any tax which will be computed on your income tax return for the year. If you have income from which tax is not withheld (for example, interest, dividends, pension or annuity income, gain from the sale of property, etc.), you must make estimated tax payments to prepay any tax that will be computed on your income tax return for the year.

You must make estimated tax payments if you expect to owe, after subtracting your withholding and credits, at least \$500 in tax when filing your return. However, you do not have to make estimated tax payments if you expect your withholding to be at least:

- 90% of the tax (including alternative minimum tax) that will be shown on your income tax return, or
- 100% of the tax (including alternative minimum tax) shown on your Wisconsin income tax return for the preceding taxable year.

Full-year residents, part-year residents, and nonresidents are subject to the estimated tax requirement.

Form 1-ES, *Wisconsin Estimated Tax Voucher*, must be submitted with your estimated tax payment. A personalized copy of Form 1-ES is available from our website at revenue.wi.gov or from any Wisconsin Department of Revenue office.

If you do not make required estimated tax payments, you may be charged interest on the underpayment. Wisconsin Schedule U, *Underpayment of Estimated Tax by Individuals and Fiduciaries*, is used to determine if you owe interest for underpayment of estimated tax.

VI. ALIENS

The information in Parts I through V of this publication generally applies for both U.S. citizens and aliens. However, certain provisions that affect aliens are discussed below.

A. Federal Resident Status

For tax purposes, an alien is an individual who is not a U.S. citizen. Aliens are classified for federal tax purposes as nonresident aliens or resident aliens.

An alien must first determine whether he or she is a resident alien or nonresident alien before completing the federal income tax return for the year. Determining the correct status is important.

Resident Alien - You are a resident alien of the United States for federal tax purposes if you meet either the green card test or the substantial presence test during the calendar year.

Nonresident Alien - You are a nonresident alien of the United States for federal tax purposes if you do not meet either the green card or the substantial presence test during the calendar year or if one of the federal exceptions applies.

An alien whose status changes during the tax year from nonresident alien to resident alien, or vice versa, has a dual-status for that year. This usually occurs for the year you arrive in or depart from the United States.

To determine whether you are a resident alien or nonresident alien, see the instructions for federal Form 1040NR, *U.S. Nonresident Alien Income Tax Return*, Form 1040NR-EZ, *U.S. Income Tax Return for Certain Nonresident Aliens With No Dependents*, or federal Publication 519, *U.S. Tax Guide for Aliens*. These forms and publications are available from the federal Internal Revenue Service (IRS).

B. Wisconsin Resident Status

If you are a nonresident alien for federal tax purposes for the entire taxable year, you are considered a nonresident of Wisconsin. If you are a resident alien for federal tax purposes for all or part of the taxable year, you may be a full-year resident, nonresident, or part-year resident of Wisconsin.

- If you are a lawful permanent resident of the United States and you intend to remain permanently and indefinitely in Wisconsin, you are considered a Wisconsin resident. You are a lawful permanent resident of the United States at any time if you have been given the privilege, according to the immigration laws, of residing permanently in the United States as an immigrant. You generally have this status if the federal government has issued you an alien registration card, also known as Form I-551, green card, or permanent residence card.
- If you have not been granted immigrant status by the federal government, you are considered a non-

resident of Wisconsin. **Exception** – If you are a refugee or have been granted asylum and you intend to remain permanently and indefinitely in Wisconsin, you are considered a Wisconsin resident.

Example 1: For Wisconsin tax purposes, you must be a lawful permanent resident of the United States in order to be considered a resident of Wisconsin. On August 1, 2016, you were issued a green card by the federal government. As such, you are considered a Wisconsin resident as of August 1, 2016 (assuming your intent was to establish a domicile in Wisconsin). For the 2016 tax year, you are considered a part-year resident of Wisconsin (a nonresident of Wisconsin from January 1, 2016, through July 31, 2016, and a resident of Wisconsin from August 1, 2016, through December 31, 2016). As a part-year resident for 2016, you must file a 2016 Form 1NPR.

Note: Certain tax credits (for example, homestead credit and earned income credit) are not eligible to be claimed by part-year residents or nonresidents.

Example 2: You are a foreign student in this country with an “F” visa under the Immigration and Nationality Act. You may be classified for federal tax purposes as a nonresident alien or as a resident alien. Regardless of your alien status, you maintain your residence in your homeland. You are considered a nonresident of Wisconsin. A student with an “F” visa cannot become a resident of Wisconsin.

C. Who Must File a Wisconsin Income Tax Return?

If you are a full-year resident of Wisconsin, you must file your Wisconsin income tax return on Form 1, 1A, or WI-Z. See the Form 1 or the Form 1A and WI-Z instructions for information on filing requirements. Generally, if you are a nonresident or part-year resident of Wisconsin and your gross income (or the combined gross income of you and your spouse) is \$2,000 or more for 2016, you must file a 2016 Wisconsin income tax return on Form 1NPR. See Part III, Filing Requirements, on page 4 for further information.

For purposes of determining whether you must file a 2016 Wisconsin income tax return, **gross income does not include items exempt from Wisconsin income tax.** For example, gross income does not include income which, under a treaty between the United States and a foreign country, is exempt from tax.

Example 1: You are a nonresident alien who is temporarily in the United States primarily to study at a university in Wisconsin. All of your income is exempt from tax because of a tax treaty between the United States and your country of residence. You do not have to file a Wisconsin income tax return because your gross income (\$0) is under \$2,000.

Example 2: You and your spouse are nonresident aliens temporarily in the United States primarily to study at a university in Wisconsin. During 2016, you earned \$6,500 as a teaching assistant of which \$5,000 is exempt because of a tax treaty between the United States and your country of residence. Your spouse is employed and earned \$3,200 in 2016, none of which is exempt. You and your spouse must each file a Wisconsin income tax return because your combined gross income is \$4,700 (\$6,500 minus \$5,000 plus \$3,200).

Example 3: You are a nonresident alien temporarily living in Wisconsin. During 2016, you received wages of \$1,800 and interest income of \$600 from a savings account at a Wisconsin bank. Your income is not exempt under a tax treaty. You are not required to file a Wisconsin income tax return for 2016 as your gross income (\$1,800) is less than \$2,000. Interest income received by a nonresident of Wisconsin is not income from Wisconsin sources and is not included in gross income (see Part III.B on page 4).

D. Filing Status

The filing status that may be chosen for Wisconsin tax purposes is limited for certain nonresident aliens. Following are brief descriptions of each Wisconsin filing status and the limitations that apply to nonresident aliens for 2016.

»» **Single** You are considered single if, on December 31, 2016:

- You were never married, or
- You were legally separated under a **final** decree of divorce or separate maintenance, or
- You were widowed before January 1, 2016, and did not remarry in 2016.

For federal tax purposes, certain nonresident aliens who are married and have a child and who do not live with their spouses may file as single if they meet certain tests. This applies to a married resident of Canada, Mexico, Japan, or the

Republic of Korea or to a U.S. national (see the instructions for federal Form 1040NR for further information). This does not apply for Wisconsin. You cannot consider yourself single if you were married but lived apart from your spouse.

»» **Married filing joint return** If you are filing your federal return as a resident alien, you and your spouse may file a joint return if:

- You were married as of December 31, 2016, or
- Your spouse died in 2016 and you did not remarry in 2016, or
- Your spouse died in 2017 before filing a 2016 return.

A married couple may file a joint return even if only one had income or if they did not live together all year. Both spouses must sign the return, and both are responsible for any tax due on the return. This means that if one spouse does not pay the tax due, the other may have to.

You may not file a joint return if either you or your spouse were a nonresident alien at any time during the tax year. You and your spouse must each file a separate return.

Exception – For federal income tax purposes, you may elect to be taxed as a U.S. resident for the whole year if either of the following applies to you:

- You were a nonresident alien on the last day of the tax year, and your spouse was a U.S. citizen or resident alien on the last day of the tax year.
- You were a nonresident alien at the beginning of the tax year, but you were a resident alien on the last day of the tax year and your spouse was a U.S. citizen or resident alien on the last day of the tax year. This also applies if both you and your spouse were nonresident aliens at the beginning of the tax year and both were resident aliens at the end of the tax year.

If you make this election, your worldwide income for the whole year must be reported as your federal income on federal Form 1040, 1040A, or 1040EZ. (See federal Publication 519, *U. S. Tax Guide for Aliens*, for information on making this

election and the signed statement that you must attach to your federal return.)

If you make this election for federal purposes, you may file a joint return for Wisconsin. Enclose a copy of the required federal statement with Form 1NPR.

Note: Even though electing to be treated as a U.S. resident, the nonresident alien spouse is still considered a nonresident of Wisconsin.

»» **Married filing separate return** If you were married and were a nonresident alien at any time during the tax year (including a dual-status alien), you must use the “married filing separate return” filing status for Wisconsin. This does not apply to nonresident aliens who make the federal election to be taxed as U.S. residents (see the Exception under “Married filing joint return” on this page).

»» **Head of household** If you qualify to file your federal income tax return using the head of household filing status, you also qualify to use the head of household filing status for Wisconsin.

An individual who is a nonresident alien at any time during the tax year may not use the head of household filing status for federal or Wisconsin tax purposes.

Exception – If you are a nonresident alien and your federal filing status is qualifying widow(er) with dependent child, use the head of household filing status for Wisconsin.

E. Tax Treaties

The United States (U.S.) has income tax treaties (conventions) with a number of foreign countries. Under these treaties, residents of foreign countries may be exempt from U.S. income taxes on certain items of income they receive from sources within the U.S. These exemptions vary depending on the country and the specific item of income.

Income that is exempt under a tax treaty for federal income tax purposes is also exempt for Wisconsin tax purposes. The starting point for determining Wisconsin taxable income is federal adjusted gross income. Income that is exempt under a tax treaty is not includ-

ed in federal adjusted gross income and, therefore, is also not included in Wisconsin income.

You can find further information on tax treaties in federal Publication 901, *U.S. Tax Treaties*, which is available from the federal IRS.

F. Completing Form 1NPR When You Are a Nonresident Alien or Have a Dual Status

Persons who file federal Form 1040NR or 1040NR-EZ The Wisconsin Form 1NPR instructions refer to lines on the federal Form 1040, 1040A, or 1040EZ. They do not refer to lines on the federal Form 1040NR or 1040NR-EZ.

When completing Form 1NPR, nonresident aliens should enter the amounts from page 1 of Form 1040NR (lines 3-10 of Form 1040NR-EZ) on the corresponding lines in the “Federal column” of Form 1NPR. If there is no corresponding line on Form 1NPR for an income or adjustment item, include the income item as “other income” (line 15 of Form 1NPR) and the adjustment item as “other adjustments” (line 30 of Form 1NPR).

Note: The amount you reported on line 22 of Form 1040NR (income exempt by a treaty) or line 6 of Form 1040NR-EZ should not be carried over to Form 1NPR.

Example: You are filing federal Form 1040NR. The amount of your wages from line 8 of Form 1040NR is entered in the “Federal column” on line 1, wages, salaries, tips, etc., of Form 1NPR. You reported an amount as scholarship and fellowship grants on line 12 of federal Form 1040NR. Because there is no corresponding line on Form 1NPR for scholarship and fellowship grants, the amount should be entered as “other income” in the “Federal column” on line 15 of Form 1NPR.

Note: See Part IV.B on page 10 for information on the Wisconsin taxation of scholarships and fellowships.

Social Security Number - Certain aliens are not eligible to get a social security number. In this case, the federal IRS will issue the alien an Individual Taxpayer Identification Number (ITIN). If you are an alien who has been issued an ITIN by the IRS, fill in your ITIN wherever your social security number is requested on your Wisconsin return.

Standard Deduction - An individual who is a nonresident alien at any time during the year is not allowed a Wisconsin standard deduction. This includes all nonresident aliens and dual-status aliens who file their federal return on Form 1040NR or Form 1040NR-EZ and all dual-status aliens who file their federal return on Form 1040. It does not include nonresident aliens and dual-status aliens who made the federal election to be taxed as a U.S. resident (see the Exception under “Filing Status, married filing joint return” on page 26).

Note: For federal tax purposes, nonresident aliens who are residents of India and who are students or business apprentices may be able to claim a federal standard deduction due to a tax treaty provision. This does not apply for Wisconsin. A nonresident alien is not allowed a Wisconsin standard deduction.

Deduction for Exemptions – In addition to the personal exemption deduction of \$700 for you and your spouse if married filing a joint return (see Part IV.K on page 17), an exemption deduction of \$700 may be claimed for each person who qualifies as your dependent for federal income tax purposes.

Generally, nonresident aliens may not claim an exemption for dependents on their federal return. However, if you are a resident of Mexico or Canada, or a U.S. national, you may claim an exemption for a dependent using the same rules as U.S. citizens. If you are a resident of Japan or the Republic of Korea or a student or business apprentice from India, you may claim an exemption for dependents if they meet certain conditions. See federal Form 1040NR instructions for information on claiming exemptions for dependents for federal tax purposes.

If you are a nonresident alien and are allowed to claim an exemption for a dependent on your federal income tax return, you may claim a \$700 exemption deduction for that dependent for Wisconsin.

Wisconsin Itemized Deduction Credit - Nonresident aliens who itemize deductions on Schedule A of Form 1040NR may claim the Wisconsin itemized deduction credit. Certain amounts that are allowable as federal itemized deductions are allowed in the computation of the Wisconsin itemized deduction credit. However, the line references on Schedule 1 of Form 1NPR refer to lines on Schedule A of Form 1040 and not to Schedule A of Form 1040NR.

If you are a nonresident alien, you should enter the amount of your gifts to U.S. charities from Schedule A of Form 1040NR on line 3 of Schedule 1 of Form 1NPR. State and local income taxes, casualty and theft losses, and miscellaneous deductions are not used in the computation of the Wisconsin itemized deduction credit.

Exception Casualty losses may be claimed for the itemized deduction credit if such losses are directly related to a federally-declared disaster.

VII. ADDITIONAL INFORMATION

A. IRS Adjustments and Amended Returns

If your federal income tax return is adjusted by the IRS and the adjustments affect your Wisconsin income, the amount of a Wisconsin credit, Wisconsin tax payable, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward, you must report the adjustments to the department within 90 days after they become final. A copy of the final federal audit report must be submitted to the department by either:

- Including it with an amended return that reflects the federal adjustments, or
- Mailing the copy to: Wisconsin Department of Revenue, Audit Bureau, P.O. Box 8906, Madison, WI 53708-8906.

If you file an amended return with the IRS or another state and the changes affect your Wisconsin income, the amount of a Wisconsin credit, Wisconsin tax payable, a Wisconsin net operating loss carryforward, or a Wisconsin capital loss carryforward, you must file an amended Wisconsin return with the department within 90 days.

If you filed your original return on Wisconsin Form 1NPR, you file an amended return by completing another Form 1NPR and checking the amended return box. See the Special Instructions in the Form 1NPR instruction booklet for further information.

If you filed your original return on Wisconsin Form 1, 1A, or WI-Z, file an amended return by completing Form 1X for the year you wish to amend. This applies for tax years beginning before 2015. For tax years beginning on or after January 1, 2015, an amended return is filed by completing another Form 1, 1A, or WI-Z and checking the amended return box.

B. Wisconsin Forms and Publications

If you have questions about the Wisconsin tax treatment of part-year residents and nonresidents of Wisconsin, you may:

- Email your questions to:
DORIncome@wisconsin.gov
- Phone (608) 266-2486
- Write to: Wisconsin Department of Revenue
Mail Stop 5-77
PO Box 8949
Madison, WI 53708-8949

If you need Wisconsin forms or publications, call (608) 266-1961 or you may download them from our Internet website at revenue.wi.gov. Forms and publications are also available at any Department of Revenue office.

C. Federal Forms and Publications

If you need copies of federal forms and publications, they are available by calling the IRS toll-free at 1-800-829-3676 or from the IRS website at irs.gov.