

**WISCONSIN DEPARTMENT OF REVENUE
DIVISION OF INCOME, SALES, AND EXCISE TAX**

NOTICE OF PROPOSED GUIDANCE DOCUMENTS

Pursuant to sec. 227.112, Wis. Stats., the Wisconsin Department of Revenue, Division of Income, Sales, and Excise Taxes hereby seeks comment on the proposed guidance document listed in the table below.

SUBMITTING PUBLIC COMMENTS

Public comments on proposed or adopted guidance documents may be submitted online at: <https://www.revenue.wi.gov/Pages/contactUs/proposed-Guidance.aspx>.

DEADLINE FOR SUBMISSION

The period for public comment for proposed guidance documents ends 21 days after publication in the Administrative Register, unless the Governor approves a shorter commenting period.

Document Number	Document Title
100157	Manufacturing and Agriculture Credit - General - Common Questions

State of Wisconsin
Department of Revenue

Manufacturing and Agriculture Credit - A. General Questions

This is a proposed guidance document. The document has been submitted to the Legislative Reference Bureau for publication in the Administrative Register for public comment as provided by sec. 227.112(1), Wis. Stats.

1. What is the manufacturing and agriculture credit?
2. Did Wisconsin follow the federal domestic production activities deduction (DPAD)?
3. Who is eligible to claim the credit?
4. Who may not claim the credit?
5. What is the rate of credit?
6. Is there a maximum amount of credit that may be claimed?
7. What income producing activities do not qualify for the credit?
8. Does income received from producing and installing real property qualify for the credit?
9. Is the credit refundable or nonrefundable?
10. If a partner leaves the partnership in the year following the computation of the credit, is the partner able to use the credit?
11. Can the credit be shared with other members of a Wisconsin combined group?
12. When must the credit be claimed?
13. Where can I find this credit in the Wisconsin Statutes?
14. When is a tax-option (S) corporation with a fiscal year beginning October 1, 2012 and ending on September 30, 2013 eligible to claim the manufacturing and agriculture credit?
15. How does the Department of Revenue's manufacturing assessment approval date determine the tax year in which the credit is computed and claimed for a fiscal year taxpayer?
16. If I elect to use a 52-53 week tax year beginning on December 29, 2014 and ending on December 28, 2015, am I eligible to claim the credit in 2015?

1. What is the manufacturing and agriculture credit?

The manufacturing and agriculture credit is available to claimants that derive qualified production activities income from property located in Wisconsin that is assessed as either manufacturing or agricultural.

2. Did Wisconsin follow the federal domestic production activities deduction (DPAD)?
No.**3. Who is eligible to claim the credit?**

An individual, estate, trust, partnership, limited liability company (LLC), or corporation can compute the credit if the claimant owns or rents and uses in Wisconsin, real property and improvements assessed as agricultural property under s. 70.32(2)(a)4., Wis. Stats., or owns or rents and uses in Wisconsin, real property, personal property, or both, assessed under s. 70.995, Wis. Stats.

4. Who may not claim the credit?

Insurance companies cannot claim the credit. Partnerships, LLCs treated as partnerships, and tax-option (S) corporations cannot claim the credit; however, the eligibility for claiming the credit and the computation of the credit is based on the amount of qualified production activities income generated by the pass-through entity. The credit computed by those entities can pass through to the partners, members, or shareholders. Additionally, trusts and estates may pass the credit through to their beneficiaries based on the income allocable to each.

5. What is the rate of credit?

The credit is a percentage of eligible qualified production activities income. The credit is calculated by multiplying eligible qualified production activities income by one of the following percentages:

- For taxable years beginning after December 31, 2012, and before January 1, 2014, 1.875%
- For taxable years beginning after December 31, 2013, and before January 1, 2015, 3.75%
- For taxable years beginning after December 31, 2014, and before January 1, 2016, 5.025%
- For taxable years beginning after December 31, 2015, 7.5%

6. Is there a maximum amount of credit that may be claimed?

There is no maximum dollar limit; however, the maximum amount of credit that may be claimed is up to the gross tax computed from the business operations that were used to claim the credit on the corporate franchise or income tax return.

7. What income producing activities do not qualify for the credit?

The following activities do not qualify as qualified production activities income for purposes of the manufacturing and agriculture credit:

- Income from film production
- Income from producing, transmitting, or distributing electricity, natural gas, or potable water
- Income from constructing real property (except that income from producing real property can qualify for the credit. See example in number 11)
- Income from engineering or architectural services performed with respect to constructing real property

- Income from the sale of food and beverages prepared by the claimant at a retail establishment
- Income from the lease, rental, license, sale, exchange, or other disposition of land

8. Does income received from producing and installing real property qualify for the credit?

Income received from producing/manufacturing materials or products on property that is assessed as manufacturing property qualifies for the manufacturing and agriculture credit; however, income received from constructing real property does not qualify for the credit.

In order to qualify for the manufacturing and agriculture credit, a claimant must derive qualified production activities income from the sale, lease, rental, license, exchange, or other disposition of tangible personal property that is located in Wisconsin and assessed as manufacturing or agricultural. However, qualified production activities income does not include income from any of the following activities: film production; producing, transmitting, or distributing electricity, natural gas, or potable water; constructing real property, engineering or architectural services performed with respect to constructing real property; food and beverages prepared by the claimant at a retail establishment; and income from the lease, rental, license, sale, exchange, or other disposition of land.

In situations where a claimant receives gross receipts from manufacturing the property and installing the manufactured product as real property, the claimant must maintain adequate records in order to allocate the receipts between the manufacturing and installation of the property. In addition, the pricing used to determine the value of the product manufactured must be the fair market value that unrelated third party would pay for the same material.

For a detailed example, see the tax release in Wisconsin Tax Bulletin #179: [/Pages/ISE/wtb-Home.aspx](#)

9. Is the credit refundable or nonrefundable?

The credit is nonrefundable so any amount not used to offset the current Wisconsin income or franchise tax liability may be carried forward for 15 years.

10. If a partner leaves the partnership in the year following the computation of the credit, is the partner able to use the credit?

Yes. The credit is computed by the partnership based on the partnership's business activities and allocated to the partners in proportion to their ownership interests. Once the credit is allocated to the partner, it becomes the partners' credit to use, regardless if the partner leaves the partnership.

11. Can the credit be shared with other members of a Wisconsin combined group?

The credit may not be shared with other members of the combined group.

12. When must the credit be claimed?

The credit must be claimed within four years of the unextended due date of the tax return.

13. Where can I find this credit in the Wisconsin Statutes?

The credit is in the following sections of Chapter 71—Income and Franchise Taxes for State and Local Revenues:

Section 71.07(5n), Wis. Stats., at

<https://docs.legis.wisconsin.gov/statutes/statutes/71/I/07/5n>

Section 71.28(5n), Wis. Stats., at

<https://docs.legis.wisconsin.gov/statutes/statutes/71/IV/28/5n>

14. When is a tax-option (S) corporation with a fiscal year beginning October 1, 2012 and ending on September 30, 2013 eligible to claim the manufacturing and agriculture credit?

The manufacturing and agriculture credit is available for taxable years beginning on or after January 1, 2013. A tax-option (S) corporation cannot claim the credit, but the eligibility for and the amount of the credit is determined by the tax-option (S) corporation's business operations and taxable year. The tax-option (S) corporation's 2012 taxable year begins on October 1, 2012 so it would not be able to compute the credit until its fiscal year beginning October 1, 2013

15. How does the Department of Revenue's manufacturing assessment approval date determine the tax year in which the credit is computed and claimed for a fiscal year taxpayer?

Facts:

- o Taxpayer's fiscal year is 6/1/17 - 5/31/18
- o 2/1/18 - request is made by taxpayer to be classified as a manufacturer
- o 4/1/18 - DOR denies request for manufacturing
- o 11/1/18 - Upon appeal, DOR classifies taxpayer as manufacturer for the 2018 calendar year

When can the taxpayer compute and claim the manufacturing credit?

The taxpayer is first eligible to be listed on the 2018 manufacturing roll, which is based on a calendar year, so the credit for the taxpayer's 2017 fiscal year may be computed and claimed based on the eligible qualified production activities income from goods manufactured on or after January 1, 2018 through the end of the taxpayer's fiscal year. Even though the manufacturing approval date (11/1/18) was after the taxpayer's 2017 taxable year end (5/31/18), the taxpayer is considered a manufacturer for the entire 2018 calendar year, so it doesn't matter that the manufacturing approval date occurred after the end of the taxable year.

16. If I elect to use a 52-53 week tax year beginning on December 29, 2015 and ending on December 28, 2016, am I eligible to claim the credit in 2016?

Yes. The taxable year of a claimant that keeps its accounting records on the basis of a 52–53 week period ends on the last day of the month closest to the end of the 52–53 week period and begins on the first day of the calendar month beginning nearest the first day of the 52-53 week taxable year. A taxable year beginning December 29, 2015 is deemed to begin on January 1, 2016, so a taxpayer would be eligible to claim the manufacturing and agriculture credit for 2016.

Applicable Laws and Rules

This document provides statements or interpretations of the following laws and regulations in effect as of December 17, 2019: Sections 70.32, 70.995, 71.01, 71.07, 71.08, 71.22, 71.255, 71.26, 71.28, 71.34, 71.42 and 71.75, Wis. Stats., and secs. Tax 2.12 and 2.61, Wis. Adm. Code, and 26 U.S. Code §§ 383 and 411.

Laws enacted and in effect after December 17, 2019, new administrative rules, and court decisions may change the interpretations in this document. Guidance issued prior to December 17, 2019, that is contrary to the information in this document is superseded by this document, pursuant to sec. 73.16(2)(a), Wis. Stats.

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Guidance Document Certification: <https://www.revenue.wi.gov/Pages/Certification-Statement.aspx>

Guidance Document Number: 100157

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Related Links

Manufacturing and Agriculture Credits

- [General Questions](#)
- [Schedule MA Questions](#)
- [Credit Computation](#)
- [Cost of Goods Sold, Direct, and Indirect Costs](#)
- [Manufacturing Property Assessment Questions](#)
- [Manufacturing Questions](#)
- [Agricultural Property Assessment](#)

Questions

- Agricultural Questions
- Credit as Income
- Limitation on Qualified Production Activities Income When Credit for Tax Paid to Other State is Claimed

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