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**WISCONSIN TAX PRACTICE AND THE MARITAL PROPERTY ACT**

**THOMAS M. BOYKOFF**

**I. INTRODUCTION**

Significant Wisconsin tax law reforms were enacted by the Wisconsin Marital Property Act (MPA). Other Wisconsin inheritance and gift tax laws were changed by Act 194. These changes are being phased in and are scheduled to be fully effective by January 1, 1986. The MPA was largely patterned after the Uniform Marital Property Act (UMPA), developed and adopted by the National Conference of Commissioners on Uniform State Laws. To the extent that MPA provisions are identical or similar to UMPA provisions, the comment following each section of UMPA may be used to interpret or clarify the MPA.

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1. 1983 Wis. Laws 186.
2. 1983 Wis. Laws 194.
4. The National Conference of Commissioners on Uniform State Laws (NCCUSL) established a Uniform Marital Property Act Drafting Committee. This Drafting Committee, chaired by William C. Hillman of Rhode Island with William P. Cantwell of Colorado as reporter, met regularly over four years and prepared and revised numerous drafts. The committee's work product was formally adopted by the NCCUSL at its annual meeting in Boca Raton, Florida in July 1983. Peter J. Dykman, Director of Legislative Attorneys in the Wisconsin Legislative Reference Bureau, was a Drafting Committee member. For a summary of the Drafting Committee's plans for additional revisions to UMPA, see LEGISLATIVE COUNCIL, SUMMARY OF PROCEEDINGS OF THE SPECIAL COMMITTEE'S AUGUST 28, 1984 MEETING, at 2-3; Dykman, Memorandum to Special Committee on Marital Property Implementation, (August 24, 1984).
5. The complete text of the MPA and UMPA is presented in Wis. B. BULL., July 1984, at 40. The text of the MPA is preceded by the prefatory note to UMPA; provisions of the MPA for which there are corresponding sections of UMPA are followed by the UMPA sections and any related comments. The Bulletin also contains eight articles discussing and analyzing various aspects of the MPA.

Both acts are also set forth in 1983 Wisconsin Act 186; Marital Property Act; A Compilation of Materials, by the Legislative Reference Bureau (Informational Bulletin 84-IB-1, May 1984). In addition to the MPA, UMPA, and commentary, this publication contains two summaries of the MPA, a summary of changes to UMPA contained in the MPA, and a bibliography of materials germane to UMPA.
A study committee of the Legislative Council, the Special Committee on Marital Property Implementation, was established in June 1984 and held monthly meetings during the next nine months. At its first meeting, on July 11, 1984, the Special Committee's agenda was summarized:

Co-chairperson Munts observed that fine tuning, rather than a general study, was the primary objective of the Special Committee. She stated that the goal of the legislative leaders involved in establishing the Special Committee was to develop a bill which could be passed in the first floorperiod of the 1985 Legislative Session. It appeared possible because the bill will not have a fiscal estimate and, therefore, will not require an emergency note to ensure early legislative consideration.

At the November 12, 1984 meeting, the Special Committee reviewed thirty-six tax issues raised and discussed in short documents prepared by the Department of Revenue. Co-chairperson Mary Lou Munts had stated, at the August 28, 6.

The members of this Special Committee are Wisconsin State Representatives Mary Lou Munts (co-chairperson), James Rutkowski, and Joanne Huelsman; Senators Lynn Adelman (co-chairperson), Russ Feingold, and Donald Hanaway (secretary); University of Wisconsin Law Professor June Weisberger; and Madison attorneys John E. Knight and Michael W. Wilcox.

7. LEGISLATIVE COUNCIL, SUMMARY OF PROCEEDINGS OF THE SPECIAL COMMITTEE'S JULY 11, 1984 MEETING, at 3.

Documents prepared for, generated by, or sent to the Special Committee may be useful research tools for interpreting the Special Committee's recommendations which will be enacted in 1985. Examples of such documents include a series of numbered background memoranda prepared by the Legislative Council Staff, other memoranda or letters prepared for or submitted to the Special Committee, summaries of proceedings of the Special Committee's meetings, and bill drafts prepared by the Legislative Council Staff and discussed by the Special Committee.

8. The Special Committee deferred to future meetings its decisions relating to the filing of separate returns by married persons, the proper way for part-year residents to file, the tax effect of marital property agreements, and the innocent spouse concept. Most of the Special Committee's early decisions favored paralleling Wisconsin law to comparable federal law. Such policy decisions include: allowing married persons who qualify to file a joint federal income tax return to file a joint Wisconsin return; requiring married persons who must file separate federal income tax returns to file separate Wisconsin returns; prohibiting an irrevocable election made on a separate Wisconsin income tax return from being changed by the filing of a joint Wisconsin return; imposing joint and several liability on both spouses filing a joint return for tax, interest, penalties, additions to the tax, and additional assessments; and federalizing or providing federal-type Wisconsin tax provisions for joint returns relating to taxable unemployment compensation, exclusions for gain on a personal residence sale, itemized deductions, standard deductions, personal exemptions, property tax or rent credit, earned income credit, child and dependent care credit, and the married persons' credit. See LEGISLATIVE
1984 meeting, that only technical tax matters would be included in the committee's recommended draft bill, since more comprehensive changes to Wisconsin tax laws were planned by the Governor and would be included in his 1985-1987 Biennial Budget Bill. Subsequent public statements by the Governor and key administration members confirmed that major changes to Wisconsin's income tax would be included in the budget bill, including adjustments in rates, brackets, and an expansion of the tax base.

Most observers would agree that Wisconsin's tax laws will not have the same statutory framework established by the MPA and Act 194 when the MPA becomes effective on January 1, 1986. Nevertheless, a current review of the statutory framework of tax laws in effect at the beginning of 1985 is meaningful for several reasons. First, it reflects the state tax system which the Wisconsin Legislature and Governor expected would accompany the MPA in 1986, if no further changes were enacted. Second, while many tax changes are anticipated in 1985, major concepts developed and enacted by the MPA and Act 194 are likely to be retained. A working knowledge of these concepts should help practitioners with 1985 tax planning and provide a foundation to better comprehend the laws which are finally enacted.

This Article discusses Wisconsin tax law changes enacted by the MPA and Act 194 in three major areas: (1) income tax; (2) inheritance tax; and (3) gift tax. The Article has three purposes: to inform practitioners of the basic state tax structure enacted with the MPA; to identify tax areas scheduled to be addressed by the legislature in 1985; and to identify primary resource materials which may be used to interpret the MPA's tax provisions.

II. IS WISCONSIN A "COMMUNITY PROPERTY" STATE?

At the outset, it is important to determine whether Wisconsin's system of marital property can be considered a "community property" system under the Internal Revenue Code. If Wisconsin's property system established by the MPA is considered a community property system, practitioners in this...
state can look to federal and state tax law interpretations in the eight states currently classified as community property states.  

The Internal Revenue Code does not specifically define "community property." About fifty subsections of the Code use the phrase "community property" in referring to the laws of the eight community property states. In contrast, the MPA uses the phrase "marital property," and not "community property."

This Article assumes that the Internal Revenue Code will treat Wisconsin as the ninth community property state for several reasons. First, the MPA’s classification closely resembles the property and related systems of community property states. Second, a 1984 IRS publication describes how federal tax laws apply to community property systems; Wisconsin’s marital property system can easily be applied to each statement. Third, at a May 1984 meeting of the American Bar Association’s Section of Taxation, the Internal Revenue Service officials responsible for revising IRS Publications 504 and 555 indicated their intention to add Wisconsin to the list of community property states.  

III. THE INDIVIDUAL INCOME TAX

A. Joint Returns, Tax Rates, and Brackets

The most significant tax reform in the MPA is the enactment of a Wisconsin joint income tax return for married

9. The eight states currently classified as community property states are Arizona, California, Idaho, Louisiana, Nevada, Oregon, Texas, and Washington.
13. See supra note 11.
14. Letter from Professor Mary Moers Wenig, University of Bridgeport School of Law (an American Bar Association Advisor to the UMPA Drafting Committee) to Professor Robert L. Mennell, Hamline University School of Law (May 29, 1984) (this letter responded to Professor Mennell’s May 5, 1984 letter to Peter J. Dykman in which Professor Mennell wrote: "I understand from Leo Kornfeld, editor of the Community Property Journal, that the Internal Revenue Service has indicated that it will not treat the Wisconsin marital property [system] as if it were [a] community property [system] in the traditional sense.")
couples. Many have thought that Wisconsin already permits a joint return because both spouses commonly file a single tax form. In fact, Wisconsin’s current income tax return is properly characterized as a “combined,” not a “joint,” return. While spouses may file the same tax form, they must separately list both their income and tax liabilities. Beginning with tax year 1986 and income tax returns filed in 1987, spouses may file a Wisconsin joint return.

This new statute appears to allow married persons who file a joint federal tax return to file either a joint or separate Wisconsin tax return. It is, however, silent on several related issues, including whether married persons who file separate federal returns may file a joint Wisconsin return, and whether married persons who first elect to file either jointly or separately may later elect to change their filing status.

The MPA established three new sets of tax rates for three groups beginning in 1986: (1) unmarried people; (2) married persons filing joint returns; and (3) married persons filing separately. The tax table for unmarried people also will apply to calculating income tax by fiduciaries and of estates and trusts.

Table A shows the maximum potential changes in tax liabilities under the newly enacted tax rates, compared to 1979 rates, for several hypothetical families at various income levels. Table B indicates the maximum potential change in

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15. See 1983 Wis. Laws 186, § 16 (to be codified at Wis. Stat. § 71.10(19)).
17. See 1983 Wis. Laws 186, § 16 (to be codified at Wis. Stat. § 71.10(19)).
18. See id. The statutory language provides that married persons filing a joint federal return “may,” not “shall,” file a joint state return.
19. See id., § 15 (to be codified at Wis. Stat. § 71.09(1c)).
20. See id. (to be codified at Wis. Stat. § 71.09(1d)(a)).
21. See id. (to be codified at Wis. Stat. § 71.09(1d)(b)).
22. See id. (to be codified at Wis. Stat. § 71.09(1c)).
23. See id. § 13 (to be codified at Wis. Stat. § 71.08(1)).
24. See infra Table A in Appendix.
25. See Lang, Assembly Substitute Amendment 1 to Assembly Bill 200: Marital Property Reform — Tax Provisions (Legislative Fiscal Bureau), Table III, at 4 (October 5, 1983) (memorandum to Joint Committee on Finance) [hereinafter cited as LFB Memorandum].
26. See infra Table B in Appendix.
tax liabilities under these rates, compared to 1979 rates, for various tax filing units.\textsuperscript{27} Table C\textsuperscript{28} details the number of tax returns, the change in tax liability, and the mean tax change for all Wisconsin income tax filers in terms of 1979 tax information.\textsuperscript{29} It indicates that over 980,000 tax filers would have a reduction of income tax liability of almost $34 million and approximately 970,000 tax filers would have an increase in taxes paid of $32.1 million.\textsuperscript{30}

It must be noted that these changes will not occur in the precise manner suggested in Table C for two reasons. First, the MPA requires that the new brackets be indexed annually from 1979 before they are applied.\textsuperscript{31} Second, major income tax changes are expected in 1985, including changes in tax rates and brackets.

Several problem areas deserve legislative consideration or clarifying administrative rules prior to the date the MPA takes effect. These include the proper method of allocating income, losses, deductions, and tax credits between spouses filing separate returns; the proper filing procedure for spouses with domiciles in different states, one of which is Wisconsin; the proper filing procedure for nonresident couples if only one spouse has taxable income in Wisconsin; a clarification of the standards used to determine when Wisconsin domicile status commences and terminates;\textsuperscript{32} and the development of meth-

\textsuperscript{27} See LFB Memorandum, \textit{supra} note 25, Table IV, at 5.
\textsuperscript{28} See \textit{infra} Table C in Appendix.
\textsuperscript{29} See LFB Memorandum, \textit{supra} note 25, Table V, at 12.
\textsuperscript{30} See \textit{id.} at 11. For additional information on the projected fiscal impact of 1983 Assembly Bill 200 which was enacted as the MPA, see the Fiscal Estimates prepared by the Department of Health and Social Services (March 15, 1983), the Department of Revenue (March 25, 1983), the Director of State Courts (April 8, 1983), the Joint Survey Committee on Retirement Systems (April 12, 1984), and the Report of the Joint Survey Committee on Retirement Systems (October 4, 1983). For the statutory requirement of fiscal estimates, see \textsc{Wis. Stat.} \textsection 13.093(2)(a) (1983-84). For the statutory requirement of this Joint Survey Committee report, see \textsc{Wis. Stat.} \textsection 13.50(6)(1983-84).
\textsuperscript{31} See 1983 Wis. Laws 186, \textsection 15 (to be codified at \textsc{Wis. Stat.} \textsection 71.09(2c)). Indexing was suspended from 1983-1985 by the 1983-84 Biennial Budget Act, 1983 Wis. Laws 27, \textsection 1221, amending \textsc{Wis. Stat.} 71.09(2). The MPA requires indexing of the three new sets of tax brackets "[f]or years after 1979 and before the year of the effective date of this subsection . . . ." 1983 Wis. Laws 186, \textsection 15 (to be codified at \textsc{Wis. Stat.} \textsection 71.09(2c)). This evidences an intent to override the preceding budget amendment.
\textsuperscript{32} The definition of "determination date" includes "12:01 a.m. on the date of establishment of a \textit{marital domicile} in this state." 1983 Wis. Laws 186, \textsection 47 (to be codified at \textsc{Wis. Stat.} \textsection 766.01(5) (intro.) and (b)) (emphasis added). This suggests that
ods for tracing interests in property which becomes "mixed" under future section 766.63 of the Wisconsin Statutes.33

B. Married Persons' Credit

The MPA established a married persons' credit.34 This credit is intended to lessen the impact of the so-called "marriage penalty" when spouses file a joint return and both have earned income.35 The credit may only be claimed by a married couple filing a joint return; it may not be claimed when spouses file separate returns. The nonrefundable credit equals 1.5% of the earned income of the spouse with the lower earned income and may not exceed $450. The maximum credit is available when both spouses' earned incomes are $30,000 or more.36

As used in the statute, "earned income" means wages, salaries, tips, other employee compensation, and net earnings from self-employment. It does not include interest, dividends, pension or annuity payments, or income to which section 871(a) of the Internal Revenue Code applies. Earned income must be reduced by any net loss from self-employment and is computed notwithstanding each spouse's undivided half interest in the other's earned income by virtue of being classified as "marital property."37

An "earned income credit" was enacted by the 1983-85 Biennial Budget Act.38 Beginning with tax year 1986, a married couple may calculate and claim both the married persons'
credit and the earned income credit based on the same income.39

C. Capital Gains

The MPA contained two important general principles regarding the tax status of capital gains. First, during a marriage, no capital gain or loss may be recognized solely by reason of the conversion of individual property to marital property or of marital property to individual property.40 The following examples illustrate the application of this vital provision. (1) After December 31, 1985, if one spouse converts real property from individual property to marital property or survivorship marital property by executing a deed, no capital gain or loss is recognized. (2) After December 31, 1985, if both spouses convert marital property to individual property by entering into a marital property agreement under future section 766.58, no capital gain or loss is recognized. (3) After December 31, 1985, if one spouse converts individual property to marital property by “mixing” under future section 766.63 (whether intentional or unintentional), no capital gain or loss is recognized. This may occur when one spouse makes untraceable deposits of marital property to a savings account held by that spouse as individual property.

This general principle provides that if no capital gain or loss is recognized under a conversion transfer, the basis of the property immediately before the transfer is the basis of the property immediately after the transfer.41 This is clear in examples (1) and (2) above. It is neither clear nor accurate in example (3); there, the basis of the marital property is computed by adding the amount in the original savings account, the additions of marital (or individual) property to the account, and any interest accrued on the account. Legislation can easily clarify this to avoid possible litigation.

39. The definition of “earned income” is the same for each credit, though stated somewhat differently. See 1983 Wis. Laws 186, § 15 (to be codified at Wis. Stat. § 71.09(7m)) (married persons’ credit definition); Wis. Stat. § 71.09(120)(a)); I.R.C. § 32(c)(2) (earned income credit definition) (1985).

40. See 1983 Wis. Laws 186, §§ 9, 10 (to be codified at Wis. Stat. §§ 71.03(7), 71.05(1)(a)(25) (b)(8)).

41. See id. § 9 (to be codified at Wis. Stat. § 71.03(7)).
This nonrecognition principle only covers conversion of marital and individual property. It does not cover conversions from unclassified property\(^4\) to either individual or marital property, nor conversions of either individual or marital property to unclassified property. Therefore, legislation is appropriate to clarify whether or not any recognized gain results from such conversions and to clarify the basis of such property after a conversion.

The second important general principle is that if a gain or loss is recognized for federal income tax purposes because of an unequal division of marital property upon divorce, the gain or loss must be recognized for Wisconsin income tax purposes. Thus, the United States Supreme Court's holding in *United States v. Davis*\(^4\) is codified and preserved in Wisconsin. As a general statement of the "*Davis* tax," if one spouse transfers to the other (who may be a former spouse) appreciated marital property incident to a divorce or legal separation, a gain will be recognized and taxed to the transferring spouse. The capital gain will equal the difference between half the basis of the asset and half the asset's fair market value on the transfer date.\(^4\) The basis of this property to the transferee will equal half the asset's basis plus half the asset's fair market value on the transfer date.

This well-established capital gain concept was repealed for federal income tax purposes by the Tax Reform Act of 1984,\(^4\) generally effective for transfers attributable to divorce judgments entered after July 18, 1984. Under the new law, when a spouse transfers appreciated property to the other spouse or former spouse pursuant to a judgment of divorce or separation

\(^{42}\) See id. § 47 (to be codified at Wis. Stat. §§ 766.31(1), (2), (4) - (8), 766.90(1)).

\(^{43}\) 370 U.S. 65 (1962).


entered after July 18, 1984, and within one year after the marriage license ceases or the transfer is related to the marriage's termination, no gain is recognized by the transferring spouse. However, the transferee's basis in the property is the same as the basis of the property before the transfer; the basis is not "stepped-up." 46

This results in a significant difference between the federal and Wisconsin income tax laws. For example, assume that an August 1984 divorce judgment dissolved a marriage and ordered one spouse to transfer a joint tenancy interest in the couple's residence to the other spouse. Further, assume that the first spouse complied with this order in 1984, that the residence was purchased in 1980 for $40,000, that no capital improvements were subsequently added to it, and that on the transfer date, the property's fair market value was $60,000. For 1984 federal income tax purposes, the transfer recognizes no gain on the transfer. The federal basis of the property to the transferee would be $40,000, the same basis as before the transfer. If the transferee sells the property in 1985 for $65,000, the gain on the sale would be $25,000 ($65,000 less $40,000).

By contrast, for 1984 Wisconsin income tax purposes, the transferor would realize a $10,000 capital gain (half the transfer date fair market value [$60,000 \times 1/2 = 30,000] less half the basis [$40,000 \times 1/2 = 20,000$]). The transferee's new basis in the property would be $50,000 (half the basis [$40,000 \times 1/2 = 20,000$] plus half the transfer date fair market value [$60,000 \times 1/2 = 30,000$]). If the transferee sells the

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46. There are two exceptions to the general rule which allows additional persons to escape the "Davis tax" if the property's basis is passed on to the transferee. First, if an instrument directing the transfer of property was in effect prior to July 19, 1984, and the transfer occurred after July 18, 1984, both spouses or former spouses may elect to have the new statute apply to transfers under the instrument. If both spouses cannot or do not agree to this election, transfers between them are governed by the old law. Second, if, pursuant to an instrument directing the transfer of property, transfers occur on or after January 1, 1984, both spouses or former spouses may elect to have the new statute apply. If they so elect, the new law applies to all transfers between them made on or after January 1, 1984.

The Internal Revenue Service is authorized to adopt regulations prescribing the manner, timing, and conditions for exercising these elections. See DRTR, supra note 45, § 421(d).
property in 1985 for $65,000, the gain on the sale would be 
$15,000 ($65,000 less $50,000).

These 1984 federal law changes are scheduled to become 
effective for Wisconsin income tax purposes on January 1, 
1986.\textsuperscript{47} An earlier effective date, however, could be enacted 
by the legislature in 1985 by updating Wisconsin’s reference to 
the Internal Revenue Code for 1985 in section 71.02(2)(b).

\textbf{D. Miscellaneous Provisions}

The MPA amends and creates several additional income 
tax statutes designed to conform the laws to the newly enacted 
joint return.\textsuperscript{48} These changes generally cover three areas: 
penalties, declarations of estimated tax, and nonsubstantive, 
“clean-up” amendments.

Under its penalty provision, the MPA explicitly provides 
that both spouses filing a joint return will be jointly and sever-
ally liable for all penalties imposed by section 71.11.\textsuperscript{49} These 
include such civil penalties as a fifty percent penalty for filing 
an “incorrect” return with the intent to “defeat or evade” the 
income tax,\textsuperscript{50} a late filing penalty,\textsuperscript{51} and the negligence pen-
alty.\textsuperscript{52} One spouse may be relieved of this liability if the per-
son is covered by the innocent spouse provision of section 
6013(e) of the Internal Revenue Code.\textsuperscript{53}

A married couple may file a joint declaration of estimated 
tax regardless of whether the spouses file a joint return for the

\textsuperscript{47} For a concise summary of these tax law changes, see D. Mahoney, A. Kortizin-


\textsuperscript{48} Under 1983 Wis. Laws 186, § 9 (to be codified at Wis. STAT. § 71.03(7)), no 
capital gain or loss may be recognized solely by reason of the conversion of individual 
property to marital property or marital property to individual property, “except that if 
a gain or loss is recognized for federal income tax purposes because of an unequal divi-

sion of marital property upon divorce, that amount of gain or loss shall be recognized 
for the purposes of this chapter.” Id. Thus, on January 1, 1986, the Wisconsin income 
tax law will correlate with the federal income tax law which previously repealed the 
\textit{Davis} concept.

For an article discussing the validity of states’ adopting federal laws by reference, 
see Rochwarg, \textit{State Adoption of Federal Law — Legislative Abdication or Reasoned 

\textsuperscript{49} See 1983 Wis. Laws 186, § 17 (to be codified at Wis. STAT. § 71.11(2)).

\textsuperscript{50} See Wis. STAT. § 71.11(6)(b)(1983-84).

\textsuperscript{51} See Wis. STAT. § 71.11(40)(1983-84).

\textsuperscript{52} See Wis. STAT. § 71.11(47)(1983-84).

\textsuperscript{53} See Wis. STAT. § 71.11(2)(1983-84).
year covered by the declaration. If the spouses file a joint declaration but separate tax returns for the same tax year, they may allocate the estimated tax payments between themselves as they choose.\textsuperscript{54} If a married couple files a joint declaration, the provisions governing declarations of estimated tax by individuals also apply to the couple jointly.\textsuperscript{55} These include the due dates of estimated tax payments,\textsuperscript{56} the eligibility to amend a declaration,\textsuperscript{57} joint and several liability for any underpayment penalty,\textsuperscript{58} and qualification for the exemptions from the underpayment penalty.\textsuperscript{59}

The MPA enacted several nonsubstantive amendments to conform other income tax statutes to the new joint return. These amendments eliminate references to "combined" income or "combined" tax returns and substitute references to "joint" income or "joint" tax returns.\textsuperscript{60}

IV. INHERITANCE TAX

A. Basis of Inherited Property

The MPA has amended an important statute which governs both income and inheritance taxes. The statute determines the basis, for income tax purposes, of inherited individual and marital property.\textsuperscript{61} This change becomes effective during the taxable year 1986.\textsuperscript{62}

\textsuperscript{54} See 1983 Wis. Laws 186, § 19 (to be codified at Wis. Stat. § 71.21(20)).
\textsuperscript{55} See Wis. Stat. § 71.21 (1983-84).
\textsuperscript{56} See Wis. Stat. § 71.21(5)(1983-84)).
\textsuperscript{57} See Wis. Stat. § 71.21(7)(1983-84)).
\textsuperscript{58} See Wis. Stat. § 71.21(11)(1983-84)).
\textsuperscript{59} See Wis. Stat. § 71.21(14)(1983-84)).
\textsuperscript{60} See, e.g., 1983 Wis. Laws 186, §§ 8, 14 (to be codified at Wis. Stat. §§ 71.02(2)(f) and (gp)6 and 71.09(4)(a) and (6p)(d)2).
\textsuperscript{61} See 1983 Wis. Laws 186, § 11 (to be codified at Wis. Stat. § 71.05(1)(g)). For some examples of how this grammatically complex statute is applied, see Boykoff, The Taxation of Joint Tenancy Property Enacted by Chapter 222, Laws of 1975, 49 Wis. B. Bull. 31, 35-36 (Oct. 1976).
\textsuperscript{62} Section 92(1) of the MPA reads in part “The treatment of . . . [s.] 71.05(1) . . . (g) . . . of the statutes by this act first applies . . . to taxable year 1986 . . .” It would be clearer if it read “The treatment of section 71.05(1)(g) of the statutes by this act applies to the basis of property transferred on account of deaths occurring on or after the effective date of this paragraph”; this would parallel the initial applicability language of section 92(2) of the MPA. While the statutory language enacted is not as precise as it might be, the provision appears to have this meaning. It could, however, be logically and persuasively argued that the statute first applies to property transferred on an earlier date if the earlier date is in the taxpayer’s 1986 fiscal year.
Under present law, when a person acquires appreciated, solely owned property from a decedent, the Wisconsin inheritance tax is generally imposed on the property's "clear market value on the date of [the] decedent's death."63 Thus, if a person purchased a painting or real property for $5,000, never depreciated it, and transferred the property by will at death when the property's clear market value was $8,000, the property's basis to its transferee would be $8,000. A transferee who sold the property for $10,000 would realize a taxable capital gain of $2,000 ($10,000 sales price less $8,000 basis).

In addition, when two people (commonly spouses) hold appreciated property in joint tenancy and one joint tenant dies, the deceased joint tenant's commonly regarded half-interest in the property is "stepped up" to half the property's value on the date of death. For example, assume that a married couple holds real property with a basis of $10,000 in joint tenancy and that one spouse dies in 1985 when the real property's clear market value is $20,000. The income tax basis of the property to the surviving spouse is $15,000, calculated by adding half the basis of the property ($5,000) and half the clear market value of the property on the decedent's date of death ($10,000). If the property is later sold for $22,000, the surviving spouse has a capital gain of $7,000 ($22,000 sales price less $15,000 basis).

Under the MPA, when a person acquires appreciated individual property from a decedent, the inheritance tax will continue to apply to the property's clear market value, except that transfers between spouses will remain exempt from the inheritance tax.64 The transferee (including a surviving spouse) will retain a stepped-up basis for income tax purposes of the clear market value on the date of the decedent's death. Thus, if a painting or real property is purchased as individual property for $5,000, is not depreciated, and has an $8,000 clear market value on the decedent's date of death, it will have an $8,000 income tax basis, and the transferee will have a $2,000 capital gain if the property is sold for $10,000.

The MPA also provides that when spouses hold appreciated property as marital or survivorship marital property and

64. See 1983 Wis. Laws 186, § 11 (to be codified at Wis. Stat. § 71.05(1)(g)).
one spouse dies, _both_ halves of the property will acquire a stepped up basis as of the date of death.\(^{65}\) These “step-ups” will also occur when someone other than a decedent’s surviving spouse acquires a decedent’s individual or marital property. However, as a condition precedent to these step-ups in basis for individual and marital property, at least fifty percent of the marital property held by the spouses at the time of the decedent’s death must be included for purposes of computing the federal estate tax on the decedent’s estate.\(^{66}\)

The MPA enacted a transitional “reach back” provision relating to the transfer of predetermination date property of spouses when one spouse dies after the determination date. Under the MPA, when a spouse domiciled in Wisconsin dies, the provision applies to all property then owned by the spouse which was acquired during the marriage and before the determination date which would have been marital property if it were acquired after the determination date. This property will be treated, for property and probate purposes, “as if it were marital property.”\(^{67}\) This property is referred to as deferred marital property.

Another MPA provision appears to carve out an exception to the reach-back provision. Three types of property acquired by one or both spouses prior to January 1, 1986, are not altered by the individual-marital property statutory classification of future subsections 766.31(1) to (7): property acquired in joint tenancy,\(^{68}\) in tenancy in common, or as a joint account

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65. See id.
66. See id. This analysis is consistent with the analysis of a parallel federal statute applicable to the basis of inherited property in community property states. See I.R.S. Publication 555 ("Community Property and the Federal Income Tax"), at 2, col. 3.

For an example under the MPA, assume that a married couple holds marital real property with a basis of $10,000, that one spouse dies in 1986 when the real property’s clear market value is $20,000, that the decedent conveys an interest in the marital property by will to the surviving spouse, and that 50% or more of the marital property held by the spouses at the decedent’s death is included in computing the federal estate tax. The income tax basis of the property to the survivor is $20,000, its date-of-death value. If the property is later sold for $22,000, the surviving spouse will have a capital gain of $2,000 ($22,000 sales price less $20,000 basis).

67. 1983 Wis. Laws 186, § 47 (to be codified at Wis. Stat. § 766.77(1)).
68. There is a basic distinction between marital property and joint tenancy property held by spouses. Each spouse has a present, undivided 50% interest in marital property. See 1983 Wis. Laws 186, § 47(to be codified at Wis. Stat. § 766.31(3)). On the death of one spouse, the survivor retains the original 50% interest, and the decedent’s 50% interest is transferred, either by will or by intestacy. In contrast, each joint tenant
subject to Chapter 705 of the Wisconsin Statutes. Nor are the
ownership rights of this property affected by the MPA's clas-
sification system.\textsuperscript{69} It appears that the survivorship aspect of
predetermination date joint tenancy property takes prece-
dence over its classification as individual or marital prop-
erty;\textsuperscript{70} this could be clarified by the legislature in 1985.
However, income from and appreciation of this property after
January 1, 1986 are covered by the MPA.\textsuperscript{71}

The MPA, however, is silent on the income \textit{tax} basis of
this property. The MPA does not address whether or not
such predetermination date co-owned property will receive a
double step-up in basis after the first co-owner dies. Neverthe-
less, it appears that the predetermination date tax law applies.
This issue can easily and will likely be clarified by the legisla-
ture in 1985.\textsuperscript{72}

\begin{itemize}
\item \textsuperscript{69} See \textit{1983 Wis. Laws} 186, § 47 (to be codified at \textit{Wis. Stat.} § 766.90(1)).
\item \textsuperscript{70} This issue was discussed by the Special Committee at its July 11, 1984 meeting.
\item \textsuperscript{71} See \textit{Wis. Laws} 186, § 47 (to be codified at \textit{Wis. Stat.} §§ 766.90(1), .31(8)).
\item \textsuperscript{72} For a discussion of this issue, see \textit{L. Roberson & R. Langer, Wisconsin Marital Property Reform Act: Planning & Analysis Handbook} 8-17, 8-18 and 10-11 to 10-13 (1984). This issue was addressed in Marital Property Memo No. 3, \textit{supra} note 68, at 3, as follows:
\end{itemize}

Ordinarily, in community property states, only the decedent's share of a joint
 tenancy receives a step-up in basis since joint tenancy is individual property.
Arguably, under \textit{the MPA}, both halves of a spousal joint tenancy consisting
wholly or partly of marital property may receive a step-up in basis, in proportion
to the presence of marital property.
B. Exemptions of Class A Distributees

Increased inheritance tax exemptions for class A distributees were enacted by Act 194. Class A distributees are a decedent's surviving lineal issue, lineal ancestors, sons-in-law, and daughters-in-law.\textsuperscript{73}

The increased exemptions are being phased in as follows:

<table>
<thead>
<tr>
<th>Date of Death</th>
<th>Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior to April 13, 1984</td>
<td>$10,000</td>
</tr>
<tr>
<td>April 13, 1984 to June 30, 1985</td>
<td>$25,000</td>
</tr>
<tr>
<td>July 1, 1985 and thereafter</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

Therefore, when the MPA becomes effective on January 1, 1986, transfers to surviving spouses will continue to be exempt from the inheritance tax\textsuperscript{74} and transfers up to $50,000 to class A distributees will be exempt.\textsuperscript{75}

C. Miscellaneous Provisions

The MPA amends two additional inheritance tax statutes as nonsubstantive, "clean-up" amendments. In the definition of "[t]he intestate laws of this state," a reference to dower, is deleted.\textsuperscript{76} Also, section 72.16(4) is amended to clarify that surviving spouses, not identified in distributee class A, B, or C, are not included in the catch-all class D.

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73. See Wis. Stat. § 72.16(1) (1983-84).
76. See 1983 Wis. Laws 186, § 22 (to be codified at Wis. Stat. § 72.01(13)). The concept of dower was repealed by section 76 of the MPA.
V. GIFT TAX

A. Reclassifying Property

Under the MPA, spouses may reclassify their property by a marital property agreement or by gift.\(^\text{77}\) Interspousal gifts are, therefore, an alternative to executing a marital property agreement. In addition, gifts may be made to effectively amend or revoke prior decisions regarding the classification of property between spouses without the formalities of a new or amended marital property agreement. While gift conveyance may appear to be a simpler, less expensive method of reclassifying property between spouses, it cannot accomplish many of the objectives obtained by a marital property agreement.\(^\text{78}\) Gifts may be made between spouses without concern for any gift tax.\(^\text{79}\)

It appears that any gift by one spouse to the other of individual property or an interest in marital property results in individual property for the donee spouse.\(^\text{80}\) This result can be reached, despite ambiguous statutory language, if the donor spouse executes a document of title or some other writing clearly stating that the gift is made for reclassification. If the document is registered, recorded, or filed in a public office, evidence of the gift will be a public record.

A costly pitfall may be avoided by explicitly stating in the document or writing that the donor transfers to the donee not only the donor's present interest in the property, but also any appreciation in or income from the property. This clause will avoid classifying any income from the property as marital property and the possible later unintended reclassification of gifted property to marital property through untraceable mixing. In addition, a donor spouse will avoid retained income interest under section 2036 of the Internal Revenue Code and section 72.12(4)(b) of the MPA. If the donor retains an interest in the income, the gift is and will continue to be incom-

\(^{77}\) See 1983 Wis. Laws 186, § 47 (to be codified at Wis. Stat. § 766.31(10)).
\(^{78}\) See id. (to be codified at Wis. Stat. § 766.58(3)).
\(^{79}\) Under I.R.C. § 2523(a) and 1983 Wis. Laws 186, § 24 (to be codified at Wis. Stat. § 72.76(13)), interspousal gifts are not subject to the federal or Wisconsin gift tax.
\(^{80}\) See 1983 Wis. Laws 186, § 47 (to be codified at Wis. Stat. §§ 766.31(7)(d), 766.31(10)).
plete, and the property must be included in the donor's estate for federal estate and Wisconsin inheritance taxes.\textsuperscript{81}

\textbf{B. Annual Exemptions and Class A Donor Exemptions}

In addition to increasing inheritance tax exemptions for class A distributees, Act 194 increased two types of gift tax exemptions. First, the annual exemption in any calendar year for gifts by a donor to a donee is increased from $3,000 to $10,000.\textsuperscript{82} This higher exemption first applies to gifts made in 1985. Second, the one-time gift tax exemption for class A donees is increased.\textsuperscript{83} The increased exemptions are being phased in as follows:\textsuperscript{84}

<table>
<thead>
<tr>
<th>Calendar Year</th>
<th>Exemption</th>
</tr>
</thead>
<tbody>
<tr>
<td>1984</td>
<td>$10,000</td>
</tr>
<tr>
<td>1985</td>
<td>$25,000</td>
</tr>
<tr>
<td>1986 and thereafter</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

To illustrate, assume that a parent's first gift to a child was $25,000 in 1984. Of this amount, $13,000 is exempt ($3,000 by the annual exemption and $10,000 by the once-in-a-lifetime exemption), and $12,000 is a taxable gift. The Wisconsin gift tax is $250 ($5,000 \times 5\%\textcopyright). Further assume that in 1985, the same parent gives the child a $30,000 gift. Of this amount, $25,000 is exempt ($10,000 by the increased annual exemption and $15,000 by the additional once-in-a-lifetime exemption) and $5,000 will be a taxable gift. The Wisconsin gift tax is $250 ($5,000 \times 5\%). Assume that in 1986, the parent gives the child a $75,000 gift. Of this amount, $35,000 will be exempt ($10,000 by the annual exemption and $25,000 by the additional once-in-a-lifetime exemption), and $40,000 will be a taxable gift. The Wisconsin gift tax will be $2,625 ($15,000 \times 5\% = $750 plus $25,000 \times 7.5\% = $1,875). If the parent then gives the child an additional $15,000 gift in 1987, $10,000 will be exempt by the annual exemption. The remaining $5,000 will be taxable because the child has used the full $50,000 once-in-a-lifetime exemption. The Wisconsin gift tax will be $125 ($5,000 \times 2.5\%).

\textsuperscript{81} See Wilcox, \textit{Lawyers' Forum}, 57 Wis. B. BULL., July 1984, at 28.
\textsuperscript{82} See 1983 Wis. Laws 194, § 1m (to be codified at Wis. STAT. § 72.81).
\textsuperscript{83} See supra text accompanying note 75.
\textsuperscript{84} See 1983 Wis. Laws 194, § 2 (to be codified at Wis. STAT. § 72.82(1)(b)).
Therefore, when the MPA becomes effective, gifts to surviving spouses will continue to be exempt from the gift tax, the annual gift tax exemption for each donee will increase to $10,000, and the once-in-a-lifetime exemption to class A donees will increase to $50,000.

C. Gifts of Marital Property to Third Persons

Restrictions are imposed on gifts of marital property by a spouse to third persons when the nondonor spouse does not join in the gift. However, these restrictions do not apply to gifts of individual property. Acting alone, a spouse may give a third person marital property that the spouse has the right to manage and control only if the property's value does not aggregate to more than $500 in a calendar year "or a larger amount if, when made, the gift is reasonable in amount considering the economic position of the spouses."

Since each spouse has a present, undivided fifty percent ownership interest in marital property, one spouse's unrestricted gifts of marital property to a third person over which that spouse has management and control could defeat the nondonor spouse's interest in the transferred property. This statute has an objective safe-harbor provision permitting up to $500 in gifts of marital property each year to one individual. An intransigent spouse may avoid the subjective standard by making $500 gifts of marital property, or larger gifts of individual property, to several people. However, at some point, this tactic may violate the good faith requirement of future section 766.15(1). The statute also contains a standard of reasonableness which requires the court to consider "the economic position of the spouses." This subjective standard has great potential for litigation.

85. See id. § 24 (to be codified at Wis. Stat. § 72.76 (13)).
87. See 1983 Wis. Law 186, § 26 (to be codified at Wis. Stat. § 72.82(1)(b)).
88. See 1983 Wis. Laws 186, § 47 (to be codified at Wis. Stat. § 766.53(1)).
89. See id. (to be codified at Wis. Stat. § 766.15(1)). That section provides: "Each spouse shall act in good faith with respect to the other spouse in matters involving marital property or other property of the other spouse. This obligation may not be varied by a marital property agreement."
90. See id. (to be codified at Wis. Stat. § 766.53(1)).
If a gift of marital property exceeds the above two standards, the nondonor spouse may sue to recover either the property or a compensatory judgment equal to the amount by which the gift exceeds the standards. The action may be against the donor, the donee, or both. It must be commenced within the earlier of either one year after the nondonor spouse has notice of the gift or three years after the gift.\textsuperscript{91}

To demonstrate how the gift tax will apply, assume that a spouse acting alone, without the other's consent, makes a $50,000 cash gift of marital property in 1986 to a class D donee and that the transfer is subject to Wisconsin's gift tax. Of the $50,000 gift, $10,000 will be exempt by the annual exemption, and the remaining $40,000 will result in a $6,500 gift tax liability. The donor and donee are jointly and severally liable for this tax.\textsuperscript{92}

Assume that the nondonor spouse promptly commences an action against both the donor and donee for $49,500 under section 766.53(2) of the Wisconsin Statutes and is awarded a judgment for that amount in 1986. The gift tax law does not specify whether or not this recovery reduces the aggregate taxable gift. However, the gift tax law suggests the recovery would not be reduced.\textsuperscript{93}

VI. CONCLUSION

The MPA and Act 194 enacted major revisions to several Wisconsin taxes. The most significant change is, undoubtedly, the enactment of a Wisconsin joint income tax return beginning with tax year 1986.

When the legislature was considering the MPA, relatively little attention was focused on tax provisions of the Act. While basic tax changes were made, many issues require further clarification. The Legislative Council's Special Committee on Marital Property Implementation carefully considered several tax aspects of the marital property system. Extensive clarification of these important areas of the new law will be contained in the "trailer bill" and, possibly, in other bills con-

\textsuperscript{91} See id. (to be codified at Wis. Stat. § 766.53(2)).
\textsuperscript{92} See Wis. Stat. §§ 72.85(2), (3)(1983-84).
\textsuperscript{93} See id.§§ 72.01(12), .75(1), .77, .78.
sidered by the 1985 Legislature and enacted prior to January 1, 1986.

**TABLE A**

**Effect of the MPA on Income Tax Liability of Several Hypothetical Families at Selected Income Levels and Earnings Splits Between Spouses Compared to Current Law**

<table>
<thead>
<tr>
<th>Total Family Adjusted Gross Income</th>
<th>Present Tax</th>
<th>Proposed Tax</th>
<th>Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>$10,000 Single Person (SP)</td>
<td>$357</td>
<td>360</td>
<td>3</td>
</tr>
<tr>
<td>One-Earner Married Couple (OEMC)</td>
<td>$262</td>
<td>233</td>
<td>-29</td>
</tr>
<tr>
<td>Two-Earner Married Couple Share of Lesser-Earning Spouse (TEMC)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10%</td>
<td>$233</td>
<td>218</td>
<td>-15</td>
</tr>
<tr>
<td>20%</td>
<td>$217</td>
<td>203</td>
<td>-14</td>
</tr>
<tr>
<td>30%</td>
<td>$197</td>
<td>188</td>
<td>-9</td>
</tr>
<tr>
<td>40%</td>
<td>$194</td>
<td>173</td>
<td>-21</td>
</tr>
<tr>
<td>50%</td>
<td>$194</td>
<td>158</td>
<td>-36</td>
</tr>
<tr>
<td>$15,000 Single Person (SP)</td>
<td>$755</td>
<td>758</td>
<td>3</td>
</tr>
<tr>
<td>One-Earner Married Couple (OEMC)</td>
<td>$640</td>
<td>600</td>
<td>-80</td>
</tr>
<tr>
<td>Two-Earner Married Couple Share of Lesser-Earning Spouse (TEMC)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10%</td>
<td>$570</td>
<td>537</td>
<td>-33</td>
</tr>
<tr>
<td>20%</td>
<td>$504</td>
<td>515</td>
<td>11</td>
</tr>
<tr>
<td>30%</td>
<td>$476</td>
<td>492</td>
<td>16</td>
</tr>
<tr>
<td>40%</td>
<td>$460</td>
<td>470</td>
<td>10</td>
</tr>
<tr>
<td>50%</td>
<td>$460</td>
<td>447</td>
<td>-13</td>
</tr>
<tr>
<td>$20,000 Single Person (SP)</td>
<td>$1,201</td>
<td>1,204</td>
<td>3</td>
</tr>
<tr>
<td>One-Earner Married Couple (OEMC)</td>
<td>$1,087</td>
<td>968</td>
<td>-119</td>
</tr>
<tr>
<td>Two-Earner Married Couple Share of Lesser-Earning Spouse (TEMC)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10%</td>
<td>$972</td>
<td>938</td>
<td>-34</td>
</tr>
<tr>
<td>20%</td>
<td>$882</td>
<td>908</td>
<td>26</td>
</tr>
<tr>
<td>30%</td>
<td>$820</td>
<td>878</td>
<td>58</td>
</tr>
<tr>
<td>40%</td>
<td>$800</td>
<td>848</td>
<td>48</td>
</tr>
<tr>
<td>50%</td>
<td>$800</td>
<td>818</td>
<td>18</td>
</tr>
<tr>
<td>$30,000 Single Person (SP)</td>
<td>$2,143</td>
<td>2,152</td>
<td>9</td>
</tr>
<tr>
<td>One-Earner Married Couple (OEMC)</td>
<td>$2,018</td>
<td>1,865</td>
<td>-153</td>
</tr>
<tr>
<td>Two-Earner Married Couple Share of Lesser-Earning Spouse (TEMC)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10%</td>
<td>$1,837</td>
<td>1,820</td>
<td>-17</td>
</tr>
<tr>
<td>20%</td>
<td>$1,706</td>
<td>1,775</td>
<td>69</td>
</tr>
<tr>
<td>30%</td>
<td>$1,642</td>
<td>1,730</td>
<td>88</td>
</tr>
<tr>
<td>40%</td>
<td>$1,617</td>
<td>1,685</td>
<td>68</td>
</tr>
<tr>
<td>50%</td>
<td>$1,616</td>
<td>1,640</td>
<td>24</td>
</tr>
<tr>
<td>Filing Unit</td>
<td>Maximum Tax Decrease</td>
<td>Maximum Tax Increase</td>
<td></td>
</tr>
<tr>
<td>------------------------</td>
<td>----------------------</td>
<td>----------------------</td>
<td></td>
</tr>
<tr>
<td>Single Taxpayer</td>
<td>$0</td>
<td>$23</td>
<td></td>
</tr>
<tr>
<td>Married Taxpayers</td>
<td>No Limit</td>
<td>477</td>
<td></td>
</tr>
<tr>
<td>—Filing Separately</td>
<td>-0</td>
<td>238</td>
<td></td>
</tr>
<tr>
<td>—Filing Jointly</td>
<td>No Limit</td>
<td>477</td>
<td></td>
</tr>
<tr>
<td>—One-Earner Filing Jointly</td>
<td>193</td>
<td>-0</td>
<td></td>
</tr>
<tr>
<td>—Two-Earner Filing Jointly</td>
<td>No Limit</td>
<td>477</td>
<td></td>
</tr>
</tbody>
</table>

*Based on 1979 tax year rates and brackets. Assumes that taxpayers have no dependents and do not claim itemized deductions. All income is presumed to be earned income. A decrease in tax liability under the MPA compared to current law is a negative difference; an increase in tax liability is a positive difference.
TABLE C

Effect of the MPA's Income Tax Provisions Compared to Current Law on the Tax Liability of All Wisconsin Taxpayers by Income Class 1979 Tax Year

1. Tax Decrease

<table>
<thead>
<tr>
<th>Total Family Adjusted Gross</th>
<th>Returns</th>
<th>Amount</th>
<th>Mean Tax Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - $5,000</td>
<td>465,900</td>
<td>-$224,811</td>
<td>-$0.48</td>
</tr>
<tr>
<td>5,000 - 10,000</td>
<td>124,320</td>
<td>-1,063,453</td>
<td>-8.55</td>
</tr>
<tr>
<td>10,000 - 15,000</td>
<td>85,694</td>
<td>-3,705,186</td>
<td>-43.23</td>
</tr>
<tr>
<td>15,000 - 20,000</td>
<td>94,017</td>
<td>-7,211,617</td>
<td>-76.70</td>
</tr>
<tr>
<td>20,000 - 25,000</td>
<td>86,025</td>
<td>-7,728,545</td>
<td>-89.84</td>
</tr>
<tr>
<td>25,000 - 30,000</td>
<td>56,277</td>
<td>-5,794,301</td>
<td>-102.96</td>
</tr>
<tr>
<td>30,000 - 40,000</td>
<td>41,181</td>
<td>-4,404,072</td>
<td>-106.94</td>
</tr>
<tr>
<td>40,000 - 50,000</td>
<td>9,990</td>
<td>-1,145,010</td>
<td>-114.61</td>
</tr>
<tr>
<td>50,000 - 75,000</td>
<td>11,024</td>
<td>-1,480,887</td>
<td>-134.33</td>
</tr>
<tr>
<td>75,000 -100,000</td>
<td>3,652</td>
<td>-570,722</td>
<td>-156.28</td>
</tr>
<tr>
<td>100,000-200,000</td>
<td>2,817</td>
<td>-453,162</td>
<td>-160.87</td>
</tr>
<tr>
<td>200,000-300,000</td>
<td>329</td>
<td>-53,167</td>
<td>-161.60</td>
</tr>
<tr>
<td>300,000 +</td>
<td>169</td>
<td>-90,594</td>
<td>-536.05</td>
</tr>
<tr>
<td>TOTAL</td>
<td>981,395</td>
<td>-$33,925,535</td>
<td>-$34.57</td>
</tr>
</tbody>
</table>

2. Tax Increase

<table>
<thead>
<tr>
<th>Total Family Adjusted Gross</th>
<th>Returns</th>
<th>Amount</th>
<th>Mean Tax Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>$0 - $5,000</td>
<td>2,997</td>
<td>$19,762</td>
<td>$6.59</td>
</tr>
<tr>
<td>5,000 - 10,000</td>
<td>238,428</td>
<td>800,778</td>
<td>3.35</td>
</tr>
<tr>
<td>10,000 - 15,000</td>
<td>196,253</td>
<td>2,014,836</td>
<td>10.26</td>
</tr>
<tr>
<td>15,000 - 20,000</td>
<td>156,510</td>
<td>3,726,121</td>
<td>23.80</td>
</tr>
<tr>
<td>20,000 - 25,000</td>
<td>129,439</td>
<td>5,933,813</td>
<td>45.84</td>
</tr>
<tr>
<td>25,000 - 30,000</td>
<td>94,572</td>
<td>6,116,531</td>
<td>64.67</td>
</tr>
<tr>
<td>30,000 - 40,000</td>
<td>98,235</td>
<td>7,646,155</td>
<td>77.83</td>
</tr>
<tr>
<td>40,000 - 50,000</td>
<td>28,200</td>
<td>2,470,442</td>
<td>87.60</td>
</tr>
<tr>
<td>50,000 - 75,000</td>
<td>13,910</td>
<td>1,784,709</td>
<td>128.30</td>
</tr>
<tr>
<td>75,000 -100,000</td>
<td>3,880</td>
<td>629,213</td>
<td>162.17</td>
</tr>
<tr>
<td>100,000-200,000</td>
<td>3,814</td>
<td>725,751</td>
<td>190.29</td>
</tr>
<tr>
<td>200,000-300,000</td>
<td>644</td>
<td>143,272</td>
<td>222.47</td>
</tr>
<tr>
<td>300,000 +</td>
<td>417</td>
<td>100,836</td>
<td>241.81</td>
</tr>
<tr>
<td>TOTAL</td>
<td>967,299</td>
<td>$32,112,234</td>
<td>$33.20</td>
</tr>
<tr>
<td>Income</td>
<td>Returns</td>
<td>Amount</td>
<td>Change</td>
</tr>
<tr>
<td>--------------</td>
<td>---------</td>
<td>-------------</td>
<td>--------</td>
</tr>
<tr>
<td>$0 - $5,000</td>
<td>468,897</td>
<td>$-205,049</td>
<td>$-0.43</td>
</tr>
<tr>
<td>5,000 - 10,000</td>
<td>362,748</td>
<td>$-262,675</td>
<td>$-0.72</td>
</tr>
<tr>
<td>10,000 - 15,000</td>
<td>281,947</td>
<td>$-1,690,350</td>
<td>$-5.99</td>
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<td>15,000 - 20,000</td>
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<td>$-3,485,496</td>
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<td>20,000 - 25,000</td>
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<td>$-1,794,732</td>
<td>$-8.32</td>
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<td>25,000 - 30,000</td>
<td>150,849</td>
<td>322,230</td>
<td>2.13</td>
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<td>30,000 - 40,000</td>
<td>139,416</td>
<td>3,242,083</td>
<td>23.25</td>
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<td>40,000 - 50,000</td>
<td>38,190</td>
<td>1,325,432</td>
<td>34.70</td>
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<td>50,000 - 75,000</td>
<td>24,934</td>
<td>303,822</td>
<td>12.19</td>
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<td>75,000 -100,000</td>
<td>7,532</td>
<td>58,491</td>
<td>7.77</td>
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<td>100,000-200,000</td>
<td>6,631</td>
<td>272,589</td>
<td>41.11</td>
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<td>200,000-300,000</td>
<td>973</td>
<td>90,105</td>
<td>92.61</td>
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<tr>
<td>300,000 +</td>
<td>586</td>
<td>10,242</td>
<td>17.48</td>
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<tr>
<td>TOTAL</td>
<td>1,948,694</td>
<td>$-1,813,301</td>
<td>$0.93</td>
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</table>

SOURCE: 1979 Wisconsin Tax Sample (totals may not add due to rounding).