

# Gov. Evers Signs Wisconsin COVID-19 Relief Act Into Law

On April 15, 2020, Gov. Evers signed into law 2019 Wisconsin Act 185 (Act 185), providing COVID-19 relief for the State of Wisconsin. Act 185 provides several important changes to the State Income and Franchise Tax and the Property Tax.

## Income/Franchise Tax Provisions

Act 185 adopts a number of changes to conform Wisconsin's income and franchise tax laws to changes enacted by Congress and President Trump in March 2020, to the Internal Revenue Code (IRC) in response to COVID-19. The changes are detailed below:

- **Retirement Accounts** – The CARES Act provided several changes for retirement accounts including suspending required minimum distributions, increasing 401(k) loan limitations, and creating a coronavirus-related distribution.

The coronavirus-related distribution allows for up to \$100,000 to be withdrawn from a retirement account exempt from the 10 percent penalty tax. To qualify, the individual or their spouse must have been diagnosed with COVID-19 or experienced adverse financial consequences caused by COVID-19. Any amount of the distribution that is taxable can be recognized over the next three years or the taxpayer can elect to treat the distribution as taxable in 2020.

For Wisconsin income tax purposes, otherwise applicable penalties on distributions from a retirement account qualified under the IRC will be waived for tax year 2020. In addition, for Wisconsin income tax, these distributions, subject to a number of conditions, will be exempt from tax.

- **Charitable Contributions** – Confirms Wisconsin law to the federal charitable contribution changes for tax year 2020, which include:
  - A new \$300 above-the-line charitable deduction for cash contributions to certain qualifying charities by individuals who take the standard deduction.
  - Eliminating the adjusted gross income limitation for individual cash charitable contributions.
  - Increasing the corporate cash charitable contribution limitation to 25 percent.

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- Increasing contributions of food inventory to 25 percent.
- **High Deductible Health Plans** – Clarifies that an individual’s health insurance plan is still treated as a high deductible plan even if it fails to provide a deductible for telehealth and other remote care services.
- **Payroll Protection Program Loans (PPP Loans)** – To incentivize employers to continue paying workers during the COVID-19 crisis, [Congress and the President created PPP Loans](#) to give federally backed loans to small businesses for certain payroll, rent, mortgage interest and utility expenses through June 30, 2020. The loans are forgivable if certain requirements are met. The CARES Act expressly excludes the forgiveness of PPP Loans from federal taxable income. There was concern as to whether Wisconsin would conform to this provision. Under Act 185, Wisconsin law conforms to federal law allowing a portion of the loans to be forgiven on a tax-free basis.
- **Employer-Paid Student Loans** – The CARES Act contained a temporary provision that provides for an exclusion from income for certain student loan principal and interest payments made by an employer on behalf of an employee during 2020. The payments are subject to the same current law cap of \$5,250 in payments for qualified educational expenses made on behalf of an employee by an employer. Act 185 brings Wisconsin law into conformity with the federal law for payments made from March 28, 2020 through December 31, 2020.
- **Qualified Improvement Property** – Corrects a drafting error in the federal Tax Cuts and Jobs Act of 2017 and Wisconsin Statute § 71.98(3) to provide a 15-year recovery period for qualified improvement property.

## Property Taxes

Act 185 makes numerous statutory changes intended to alleviate the consequences of the COVID-19 pandemic. Reinhart addressed certain [Wisconsin property tax matters](#) in an April 1, 2020 alert, but Act 185 changes several of the points raised in the April 1 article, and taxpayers should be aware of those changes.

- **Interest on Property Tax Payments** – For property taxes that are due and payable in 2020, Act 185 authorizes municipalities to make a general or case-by-case finding of hardship and waive interest and/or penalties on late property tax installment payments, provided the installment payment is due and payable

after April 1, 2020, and the taxpayer pays the total amount of property taxes due by October 1, 2020. Interest and penalties would then accrue for any delinquent amounts due after October 1, 2020.

- It is important to remember that waiver of interest and penalties is not automatic. Each municipality must first adopt a resolution authorizing the waiver and establishing criteria for determining hardship. Moreover, municipalities are not required to waive interest and penalties. Finally, a municipality's resolution waiving interest and penalties is not effective unless the county in which the property is located has adopted a resolution permitting the waiver of interest and penalties.
- If you are able to make timely installment payments, we suggest taxpayers continue to do so. If you are unable to make your next property tax installment payment, it is best to check with the municipality and county in which your property is located to determine whether they have adopted resolutions authorizing the waiver of interest and penalties for late property tax payments.
- **Actions Seeking Refunds of Excessive and Unlawful Taxes** – In order to obtain a refund of taxes based on an excessive or unlawful assessment, Wisconsin law requires timely payment of all property tax installments. This applies to (1) actions to obtain a refund of property taxes from a municipality; (2) administrative actions that result in a refund of taxes for property assessed by the Department of Revenue; and (3) objections filed with the local board of review that are not resolved until after the property taxes are due. Act 185 creates a one-time, narrow exception to this rule that applies only to property taxes due and payable in 2020. However, this exception only applies so long as the taxpayer pays all property taxes by October 1, 2020.
  - This narrow exception is not tied to the municipal waiver of interest. If you previously challenged your 2019 property tax assessment, and have yet to obtain a resolution, we still recommend you make timely property tax payments if you are able.
- **Possible Delay in 2020 Board of Review Proceedings** – Act 185 affords greater flexibility to local governments to delay Board of Review (BOR) hearings. Previously, Wisconsin law would have required municipal BORs to meet between April 27, 2020 and June 10, 2020, unless the assessment roll was not complete in time for the meeting, in which case, the BOR could be postponed



until the roll was complete. Act 185 provides that even if the 2020 assessment roll is completed during the 45-day period starting April 27, 2020, a municipal BOR may still be postponed to a later date. In the event of such a postponement, the current notice requirements would apply: a 15-day notice prior to the first BOR hearing, or 30 days if the municipality conducted a municipal-wide revaluation. Because deadlines to object to assessments is tied to the initial meeting of the BOR, taxpayers will need to pay close attention to watch for notices of these meetings.

Reinhart is here for clients during these difficult and confusing times. If you have any questions about your taxes or any information discussed in this article, please contact [Don Millis](#), [Kristina Somers](#), [Sara Rapkin](#), [Shawn Lovell](#), or any attorney within [Reinhart's State and Local Tax Planning Practice](#) to discuss further.

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