State of Wisconsin
1997 - 1998 LEGISLATURE

LRB–1804/1
MES:kaf:kat

1997 ASSEMBLY BILL 212

March 25, 1997 – Introduced by Representatives GRONEMUS, FREESE, OTT, DOBYNS, GROTHMAN, GUNDERSON, HAHN, HARSDORF, HASENOHRL, HUTCHISON, KREIBICH, F. LASEE, LORGE, MUSSER, OLSEN, OTTE, OWENS and SERATTI, cosponsored by Senators CLAUSING, A. LASEE, BUETTNER and ZIEN. Referred to Joint survey committee on Tax Exemptions.

AN ACT *to create* 71.05 (6) (b) 25. of the statutes; **relating to:** excluding from income taxation capital gains derived from the intergenerational transfer of certain farming or small business assets.

Analysis by the Legislative Reference Bureau

Under current law, there is an income tax exclusion for 60% of the capital gain from the sale of assets held at least one year and on all assets acquired from a decedent.

This bill allows an income tax exclusion for 100% of the capital gains realized from the intergenerational transfer of certain farming assets or the assets of a small business, or both, to the extent that the capital gains on such assets are not excluded from taxation under current law. The exclusion may be claimed only if the transfer is to a person such as a child, grandchild, great–grandchild or niece or nephew of the transferor. In this bill, "small business" means an independently owned and operated entity which employs less than 25 full–time employes or which has gross annual sales of less than $2,500,000.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to the bill.

For further information see the ***state*** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.05 (6) (b) 25. of the statutes is created to read:

71.05 **(6)** (b) 25. To the extent that the capital gains are not excluded from taxation under subd. 9., on the assets of a small business, as that term is defined in s. 814.245 (2) (b), or on assets used in farming, including shares in a corporation or trust that meets the standards under s. 182.001 (1), or both, that are sold or otherwise disposed of to persons who are related to the seller or transferor by blood, marriage or adoption within the 3rd degree of kinship, as that term is used in s. 852.03 (2), and who belong to a generation that is subsequent to the generation of the seller or transferor, 100% of the capital gains as computed under the Internal Revenue Code, not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason. For purposes of this subdivision, the capital gains and capital losses for all assets shall be netted before application of the percentage.

SECTION 2. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this act takes effect.

(END)