



2007 ASSEMBLY BILL 177

March 15, 2007 - Introduced by Representatives FRISKE, LEMAHIEU, ALBERS, LOTHIAN, WOOD, PETROWSKI, BIES, A. OTT and VOS. Referred to Committee on Forestry.

1 **AN ACT** *to create* 71.05 (6) (b) 39., 71.26 (3) (hf) and 71.45 (2) (a) 16. of the
2 statutes; **relating to:** creating an individual income and corporate income and
3 franchise tax deduction for a donation of a conservation easement to a unit of
4 government.

Analysis by the Legislative Reference Bureau

This bill creates an individual income and corporate income and franchise tax subtract modification, or deduction, for the fair market value (FMV) of a permanent conservation easement on eligible land that a taxpayer donates to the state or to a county. Under the bill, for a conservation easement to qualify, it must allow the occurrence of hunting, fishing, hiking, sight-seeing, cross-country skiing, and generally accepted forestry management practices and, in general, preclude development of the land.

The maximum deduction, based on the FMV of the donated conservation easement, that may be claimed is an amount of up to 50 percent of the taxpayer's federal adjusted gross income (FAGI) or, if the taxpayer is a farmer or rancher, up to 100 percent of the taxpayer's FAGI. If the FMV of the claimant's donation exceeds the maximum allowable amount of the claimant's deduction, the claimant may carry forward any unused amount of the deduction for the next 15 taxable years.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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For further information see the *state and local* 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:

1 **SECTION 1.** 71.05 (6) (b) 39. of the statutes is created to read:

2 71.05 **(6)** (b) 39. The fair market value of a permanent conservation easement
3 on eligible land that is donated by a claimant, in an amount of up to 50 percent of the
4 claimant’s federal adjusted gross income if the claimant is not a farmer or a rancher
5 or up to 100 percent of the claimant’s federal adjusted gross income if the claimant
6 is a farmer or a rancher, to the state or to a county in this state, in the year in which
7 the donation occurs. If the allowable amount of a claimant’s subtraction under this
8 subdivision exceeds the amount of the claimant’s federal adjusted gross income, the
9 claimant may carry forward the amount of the unused subtraction for the next 15
10 taxable years and may subtract any unused amount as provided under this
11 subdivision. In this subdivision, the following terms have the following meanings
12 and the following conditions apply:

13 a. “Claimant” means an individual who donates a permanent conservation
14 easement on eligible land to the state or to a county in this state and who claims the
15 subtraction under this subdivision.

16 b. “Conservation easement” is an easement that has the meaning given in s.
17 700.40 (1) (a) and that is an easement that allows the occurrence of outdoor
18 nature-based recreational activities and generally accepted forestry management
19 practices.

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1 c. "Eligible land" means a parcel of real property that is at least 10 contiguous
2 acres as calculated under s. 77.82 (1) (a) 1. and that meets the percentage and the
3 timber production requirements specified under s. 77.82 (1) (a) 2.

4 d. "Farmer or rancher" means an individual whose gross income from the trade
5 or business of farming, as defined in section 2032A (e) (5) of the Internal Revenue
6 Code, is greater than 50 percent of the individual's gross income in the taxable year
7 to which the subtraction relates.

8 e. "Generally accepted forestry management practices" has the meaning given
9 in s. 823.075 (1) (d).

10 f. "Outdoor nature-based recreational activities" means hunting, fishing,
11 hiking, sight-seeing, and cross-country skiing.

12 **SECTION 2.** 71.26 (3) (hf) of the statutes is created to read:

13 71.26 (3) (hf) Section 170 is modified so that a claimant may subtract from
14 income the fair market value of a permanent conservation easement on eligible land
15 that is donated by the claimant, in an amount of up to 50 percent of the claimant's
16 federal adjusted gross income if the claimant is not a farmer or a rancher or up to 100
17 percent of the claimant's federal adjusted gross income if the claimant is a farmer or
18 a rancher, to the state or to a county in this state, in the year in which the donation
19 occurs. If the allowable amount of a claimant's subtraction under this paragraph
20 exceeds the amount of the claimant's federal adjusted gross income, the claimant
21 may carry forward the amount of the unused subtraction for the next 15 taxable
22 years and may subtract any unused amount as provided under this paragraph. In
23 this paragraph, the following terms have the following meanings and the following
24 conditions apply:

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1 1. “Claimant” means a corporation that donates a permanent conservation
2 easement on eligible land to the state or to a county in this state and who claims the
3 subtraction under this paragraph.

4 2. “Conservation easement” is an easement that has the meaning given in s.
5 700.40 (1) (a) and that is an easement that allows the occurrence of outdoor
6 nature-based recreational activities and generally accepted forestry management
7 practices.

8 3. “Eligible land” means a parcel of real property that is at least 10 contiguous
9 acres as calculated under s. 77.82 (1) (a) 1. and that meets the percentage and the
10 timber production requirements specified under s. 77.82 (1) (a) 2.

11 4. “Farmer or rancher” means a corporation that has gross income from the
12 trade or business of farming, as defined in section 2032A (e) (5) of the Internal
13 Revenue Code, in an amount that is greater than 50 percent of the corporation’s gross
14 income in the taxable year to which the subtraction relates.

15 5. “Generally accepted forestry management practices” has the meaning given
16 in s. 823.075 (1) (d).

17 6. “Outdoor nature-based recreational activities” means hunting, fishing,
18 hiking, sight-seeing, and cross-country skiing.

19 **SECTION 3.** 71.45 (2) (a) 16. of the statutes is created to read:

20 71.45 (2) (a) 16. By subtracting from federal taxable income the fair market
21 value of a permanent conservation easement on eligible land that is donated by the
22 claimant, in an amount of up to 50 percent of the claimant’s federal adjusted gross
23 income if the claimant is not a farmer or a rancher or up to 100 percent of the
24 claimant’s federal adjusted gross income if the claimant is a farmer or a rancher, to
25 the state or to a county in this state, in the year in which the donation occurs. If the

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1 allowable amount of a claimant's subtraction under this subdivision exceeds the
2 amount of the claimant's federal adjusted gross income, the claimant may carry
3 forward the amount of the unused subtraction for the next 15 taxable years and may
4 subtract any unused amount as provided under this subdivision. In this subdivision,
5 the following terms have the following meanings and the following conditions apply:

6 a. "Claimant" means a corporation that donates a permanent conservation
7 easement on eligible land to the state or to a county in this state and who claims the
8 subtraction under this subdivision.

9 b. "Conservation easement" is an easement that has the meaning given in s.
10 700.40 (1) (a) and that is an easement that allows the occurrence of outdoor
11 nature-based recreational activities and generally accepted forestry management
12 practices.

13 c. "Eligible land" means a parcel of real property that is at least 10 contiguous
14 acres as calculated under s. 77.82 (1) (a) 1. and that meets the percentage and the
15 timber production requirements specified under s. 77.82 (1) (a) 2.

16 d. "Farmer or rancher" means a corporation that has gross income from the
17 trade or business of farming, as defined in section 2032A (e) (5) of the Internal
18 Revenue Code, in an amount that is greater than 50 percent of the corporation's gross
19 income in the taxable year to which the subtraction relates.

20 e. "Generally accepted forestry management practices" has the meaning given
21 in s. 823.075 (1) (d).

22 f. "Outdoor nature-based recreational activities" means hunting, fishing,
23 hiking, sight-seeing, and cross-country skiing.

SECTION 4. Initial applicability.

