



## WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

**2005 Assembly Bill 21**

**Assembly Amendment 2 and  
Assembly Amendment 3 to  
Assembly Amendment 2**

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*Current law* provides that for the purposes of state income taxation, a taxpayer is eligible to claim expense deductions and amortization and depreciation using computations based on the federal Internal Revenue Code as amended to December 31, 2000. As a result of this state statute, Wisconsin taxpayers are not eligible to claim certain “bonus depreciation” deductions under section 101 of Public Law 107-147 and section 201 of Public Law 108-27 and the “expensing” deduction authorized under section 202 of Public Law 108-27 because these three federal law provisions were adopted after December 31, 2000. These three federal bonus depreciation and expensing provisions are favorable to taxpayers because they allow a greater portion of the capital investment in business property to be deducted earlier.

*Assembly Bill 21* adopts all three federal depreciation and expensing rules for taxpayers who are actively engaged in farming. “Actively engaged in farming” is defined in U.S. Department of Agriculture regulations. The bill entitles farmers to claim depreciation and expenses for property placed in service on various dates from 2001 to 2005. The fiscal estimate prepared by the Department of Revenue contains specific information on the dates to which the bill applies.

*Assembly Amendment 2* eliminates the retroactive applicability of the bill, which would have allowed farmers to amend tax returns filed in prior years to take advantage of the depreciation and expensing provisions in the bill. The amendment instead provides that, if section 101 of Public Law 107-147 or section 201 of Public Law 108-27 are amended after December 31, 2005, they will apply to property acquired and placed in service in taxable years commencing on January 1 by a person engaged in farming.

The effect of Assembly Amendment 2 is to maintain current Wisconsin law relating to depreciation and amortization of property acquired by a person engaged in farming but to automatically adopt for Wisconsin income tax purposes any future amendments adopted by the federal government to sections 101 of Public Law 107-147 or section 201 of Public Law 108-27 adopted after December 31 2005, applicable only to property acquired and placed in service in taxable years commencing on

January 1, 2006. Also, the amendment incorporates existing federal tax law that makes these expensing and depreciation provisions applicable to property acquired by and placed in service in taxable years beginning on January 1, 2006. Finally, the amendment incorporates any future changes made by Congress to the expensing and depreciation provisions, making them applicable to persons actively engaged in farming, but only if Congress specifically amends the federal tax laws which provide for the expensing and depreciation.

*Assembly Amendment 3 to Assembly Amendment 2* delays the effect of the bill so that the bill applies only to property acquired and placed in service on or after January 1, 2008.

**Legislative History**

Assembly Amendment 2 was recommended for adoption on September 6, 2005, by the Assembly Committee on Agriculture by a vote of Ayes, 12; Noes, 1. The committee recommended passage of the bill as amended by a vote of Ayes, 12; Noes, 1, on September 6, 2005. Assembly Amendment 3 to Assembly Amendment 2 was adopted by the Joint Committee on Finance on December 5, 2005, by a vote of Ayes, 14; Noes, 0.

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