



2005 ASSEMBLY BILL 21

January 20, 2005 – Introduced by Representatives TOWNS, LEMAHIEU, OTT, NASS, KESTELL, PETROWSKI, HINES, HAHN, GRONEMUS, AINSWORTH, MCCORMICK, HUNDERTMARK, FREESE, GUNDERSON, VRAKAS, STONE, MUSSER, SUDER, F. LASEE, KREIBICH, WOOD, PETTIS, ALBERS, BIES, VAN ROY, VOS, NELSON and DAVIS, cosponsored by Senators KEDZIE, HARSDDORF, OLSEN, ZIEN, KANAVAS, ROESSLER and BROWN. Referred to Committee on Agriculture. Referred to Joint Survey Committee on Tax Exemptions.

1 **AN ACT** *to renumber* 71.738 (1) and 71.738 (2); *to renumber and amend* 71.01
2 (7r), 71.26 (3) (y) and 71.365 (1m); and *to create* 71.01 (7r) (b), 71.26 (3) (y) 2.,
3 71.365 (1m) (b), 71.738 (1d), 71.738 (2d) and 71.765 of the statutes; **relating to:**
4 computing expense deductions and amortization and depreciation on property
5 used in farming for income and franchise tax purposes.

Analysis by the Legislative Reference Bureau

Under current law, for income and franchise tax purposes, expense deductions and amortization and depreciation is computed as specified by the federal Internal Revenue Code as amended to December 31, 2000. Under this bill, amortization and depreciation of property used in the business of farming is computed as specified under the federal Internal Revenue Code as amended by section 101 of Public Law 107-147 and section 201 of Public Law 108-27. Under section 101 of Public Law 107-147, generally, a taxpayer may claim a 30 percent bonus depreciation for property acquired after September 10, 2001, and before September 11, 2004. Under section 201 of Public Law 108-27, generally, a taxpayer may claim a 50 percent bonus depreciation for property acquired after May 5, 2003, and before January 1, 2005.

For taxable years beginning in 2005, this bill also adopts section 202 of Public Law 108-27 for the purpose of computing expense deductions on property used in the business of farming. Under section 202 of Public Law 108-27, generally, the maximum aggregate cost of certain property that a taxpayer may treat as an expense for taxable years beginning after 2002 and before 2006 is \$100,000 rather than \$25,000.

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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 this 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:

1 **SECTION 1.** 71.01 (7r) of the statutes is renumbered 71.01 (7r) (a) and amended
2 to read:

3 71.01 (**7r**) (a) Notwithstanding sub. (6), and except as provided in par. (b), for
4 purposes of computing amortization or depreciation, “Internal Revenue Code”
5 means the federal Internal Revenue Code as amended to December 31, 2000, except
6 that property that, under s. 71.02 (2) (d) 12., 1985 stats., is required to be depreciated
7 for taxable year 1986 under the Internal Revenue Code as amended to
8 December 31, 1980, shall continue to be depreciated under the Internal Revenue
9 Code as amended to December 31, 1980.

10 **SECTION 2.** 71.01 (7r) (b) of the statutes is created to read:

11 71.01 (**7r**) (b) A person who is actively engaged in farming may compute
12 amortization and depreciation on property used in farming under the federal
13 Internal Revenue Code as amended by section 101 of P.L. 107-147 and section 201
14 of P.L. 108-27. Section 101 of P.L. 107-147 and section 201 of P.L. 108-27 apply for
15 Wisconsin purposes at the same time as for federal purposes. For purposes of this
16 paragraph, “actively engaged in farming” has the meaning given in 7 CFR 1400.201,
17 and “farming” has the meaning given in section 464 (e) (1) of the Internal Revenue
18 Code.

19 **SECTION 3.** 71.26 (3) (y) of the statutes is renumbered 71.26 (3) (y) 1. and
20 amended to read:

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1 71.26 (3) (y) 1. ~~A~~ Except as provided in subd. 2., a corporation shall compute
2 amortization and depreciation under the federal Internal Revenue Code as amended
3 to December 31, 2000, except that property first placed in service by the taxpayer on
4 or after January 1, 1983, but before January 1, 1987, that, under s. 71.04 (15) (b) and
5 (br), 1985 stats., is required to be depreciated under the Internal Revenue Code as
6 amended to December 31, 1980, and property first placed in service in taxable year
7 1981 or thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985
8 stats., is required to be depreciated under the Internal Revenue Code as amended
9 to December 31, 1980, shall continue to be depreciated under the Internal Revenue
10 Code as amended to December 31, 1980.

11 **SECTION 4.** 71.26 (3) (y) 2. of the statutes is created to read:

12 71.26 (3) (y) 2. A corporation that is actively engaged in farming may compute
13 amortization and depreciation on property used in farming under the federal
14 Internal Revenue Code as amended by section 101 of P.L. 107-147 and section 201
15 of P.L. 108-27. Section 101 of P.L. 107-147 and section 201 of P.L. 108-27 apply for
16 Wisconsin purposes at the same time as for federal purposes. For purposes of this
17 subdivision, “actively engaged in farming” has the meaning given in 7 CFR 1400.201,
18 and “farming” has the meaning given in section 464 (e) (1) of the Internal Revenue
19 Code.

20 **SECTION 5.** 71.365 (1m) of the statutes is renumbered 71.365 (1m) (a) and
21 amended to read:

22 71.365 (1m) TAX-OPTION CORPORATIONS; DEPRECIATION. (a) ~~A~~ Except as provided
23 in par. (b), a tax-option corporation shall compute amortization and depreciation
24 under the federal Internal Revenue Code as amended to December 31, 2000, except
25 that property first placed in service by the taxpayer on or after January 1, 1983, but

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1 before January 1, 1987, that, under s. 71.04 (15) (b) and (br), 1985 stats., is required
2 to be depreciated under the Internal Revenue Code as amended to
3 December 31, 1980, and property first placed in service in taxable year 1981 or
4 thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985 stats., is
5 required to be depreciated under the Internal Revenue Code as amended to
6 December 31, 1980, shall continue to be depreciated under the Internal Revenue
7 Code as amended to December 31, 1980. Any difference between the adjusted basis
8 for federal income tax purposes and the adjusted basis under this chapter shall be
9 taken into account in determining net income or loss in the year or years for which
10 the gain or loss is reportable under this chapter. If that property was placed in
11 service by the taxpayer during taxable year 1986 and thereafter but before the
12 property is used in the production of income subject to taxation under this chapter,
13 the property's adjusted basis and the depreciation or other deduction schedule are
14 not required to be changed from the amount allowable on the owner's federal income
15 tax returns for any year because the property is used in the production of income
16 subject to taxation under this chapter. If that property was acquired in a transaction
17 in taxable year 1986 or thereafter in which the adjusted basis of the property in the
18 hands of the transferee is the same as the adjusted basis of the property in the hands
19 of the transferor, the Wisconsin adjusted basis of that property on the date of transfer
20 is the adjusted basis allowable under the Internal Revenue Code as defined for
21 Wisconsin purposes for the property in the hands of the transferor.

22 **SECTION 6.** 71.365 (1m) (b) of the statutes is created to read:

23 71.365 (1m) (b) A tax-option corporation that is actively engaged in farming
24 may compute amortization and depreciation on property used in farming under the
25 federal Internal Revenue Code as amended by section 101 of P.L. 107-147 and

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1 section 201 of P.L. 108-27. Section 101 of P.L. 107-147 and section 201 of P.L. 108-27
2 apply for Wisconsin purposes at the same time as for federal purposes. For purposes
3 of this paragraph, “actively engaged in farming” has the meaning given in 7 CFR
4 1400.201, and “farming” has the meaning given in section 464 (e) (1) of the Internal
5 Revenue Code.

6 **SECTION 7.** 71.738 (1) of the statutes is renumbered 71.738 (1m).

7 **SECTION 8.** 71.738 (1d) of the statutes is created to read:

8 71.738 (1d) “Actively engaged in farming” has the meaning given in 7 CFR
9 1400.201.

10 **SECTION 9.** 71.738 (2) of the statutes is renumbered 71.738 (2m).

11 **SECTION 10.** 71.738 (2d) of the statutes is created to read:

12 71.738 (2d) “Farming” has the meaning given in section 464 (e) (1) of the
13 Internal Revenue Code.

14 **SECTION 11.** 71.765 of the statutes is created to read:

15 **71.765 Expense deduction; farming.** A person who is actively engaged in
16 farming may compute an expense deduction on property used in farming under the
17 federal Internal Revenue Code as amended by section 202 of P.L. 108-27. For
18 purposes of this section, section 202 of P.L. 108-27 applies for Wisconsin purposes
19 at the same time as for federal purposes.

20 **SECTION 12. Initial applicability.**

21 (1) BONUS DEPRECIATIONS. The renumbering and amendment of sections 71.01
22 (7r), 71.26 (3) (y), and 71.365 (1m) of the statutes and the creation of sections 71.01
23 (7r) (b), 71.26 (3) (y) 2., and 71.365 (1m) (b) of the statutes first apply, as they relate
24 to section 101 of Public Law 107-147, to property acquired after September 10, 2001,

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SECTION 12

1 and, as they relate to section 201 of Public Law 108-27, to property acquired after
2 May 5, 2003.

3 (2) **EXPENSE DEDUCTIONS.** The renumbering and amendment of section 71.738
4 (1) and (2) of the statutes and the creation of sections 71.738 (1d) and (2d) and 71.765
5 of the statutes first apply to taxable years beginning on January 1, 2005.

6 (END)