

**2009 DRAFTING REQUEST**

**Bill**

Received: **12/19/2008**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget 6-7597**

By/Representing: **Lillethun**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Adl. Drafters: **jkreye**

Subject: **Tax, Individual - income  
Tax, Business - crp inc, fran**

Extra Copies:

Submit via email: **YES**

Requester's email:

Carbon copy (CC:) to:

**Pre Topic:**

DOA:.....Lillethun, BB0295 -

**Topic:**

Interest on unpaid income and franchise tax doesn't apply during an extention period due to federally-declared disaster

**Instructions:**

See attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	mshovers 12/26/2008 jkreye 01/05/2009	bkraft 01/06/2009	rschluet 01/06/2009	_____	sbasford 01/06/2009		State
/2	jkreye 01/30/2009	csicilia 02/02/2009	phenry 02/02/2009	_____	mbarman 02/02/2009		

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For:

**<END>**

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/? mshovers

11bjk/16

12/26/08

FE Sent For:

169  
<END>

## 2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Interest Waivers for Disasters & Allowing Casualty Losses
- Tracking Code: BB0295
- SBO team: Tax, Transportation and Budget Development Team
- SBO analyst: Chad Lillethun
  - Phone: 266-7597
  - Email: Chad.Lillethun@wisconsin.gov
- Agency acronym: DOR
- Agency number: 566
- Priority (Low, Medium, High): Low

Intent:

Provide that interest on unpaid income and franchise tax does not apply during an extension period due to a federally declared disaster.

**2009-2011 Legislative Proposal  
Wisconsin Department of Revenue  
IS&E Division**

**Date:** November 28, 2008

**TITLE: Interest Waivers for Disasters & Allowing Casualty Losses**

**DESCRIPTION OF CURRENT LAW AND PROBLEM**

Section 7508A, IRC, allows the Internal Revenue Service to grant extensions of time to file and pay certain taxes due to a presidentially declared disaster or terroristic or military actions. Whenever there is a presidentially declared disaster or a terroristic or military action, the IRS allows an extension of time to file certain returns and no interest is charged during the extension period. This applies to the filing of tax returns as well as to estimated tax payments.

Sections 71.03(7), 71.24(7), and 71.44(3), Wis. Stats., provides that any extension of time to file granted by law or by the IRS for the filing of that corresponding federal return extends the time for filing the Wisconsin income or franchise tax return. Therefore, whenever there is a presidentially declared disaster or terroristic or military action, taxpayers will automatically have a Wisconsin extension of time to file for the same period of time allowed for federal purposes.

However, unlike for federal tax purposes, Wisconsin taxpayers are charged interest during any extension period. There is no provision in Wisconsin law to allow the department to forgive interest during the extension period when there is a presidentially declared disaster or terroristic or military action. The interest rate is 12% per year during the extension period.

In addition, Wisconsin law does not allow an extension of time to deposit withholding tax, even in disaster situations.

Wisconsin law does not allow the federal itemized deduction for casualty losses to be used in the computation of the Wisconsin itemized deduction credit. This is a hardship for persons whose property is damaged as a result of a presidentially declared disaster. Often insurance does not cover damage (such as from flooding) to property. It would be financially helpful to persons affected by a disaster to be able to use the resulting casualty loss for the Wisconsin itemized deduction credit.

**RECOMMENDATION FOR ACTION**

Amend Wisconsin law to provide that interest on unpaid income and franchise tax does not apply during an extension period for persons allowed a federal extension under sec. 7508A, Internal Revenue Code, due to a presidentially declared disaster or terroristic or military action. Also, allow an extension of time to deposit withholding tax and sales taxes for good cause.

Amend Wisconsin law to allow the amount of the federal itemized deduction for a casualty loss that is directly related to a presidentially declared disaster to be used in the computation of the Wisconsin itemized deduction credit.

## **ADMINISTRATIVE IMPACT**

These changes would require adjustments in processing procedures to ensure that interest will not be charged when the taxpayer has an extension of time to file an income or franchise tax return due to a presidentially declared disaster or terroristic or military action and to allow an extension for withholding tax deposits.

Additional audit time will be needed to verify the accuracy of casualty loss claims.

## **FAIRNESS /TAX EQUITY**

The affected taxpayers are those who generally suffer severe losses (for example, persons affected by the severe 2008 Wisconsin flooding). It is inequitable for them to be charged interest when they need an extension of time to file through no fault of their own. When the federal government is willing to eliminate interest, Wisconsin should do the same.

Also, a one-month extension for making any return or paying any tax and for interest accrual is allowed for good cause for sales and use tax purposes. This same extension should apply for withholding tax purposes.

Persons who are affected by disasters need help. One way to help them is to allow the itemized deduction credit for casualty losses, which will result in a refund or lower their tax liability.

## **IMPACT ON ECONOMIC DEVELOPMENT**

Affected taxpayers would have additional funds available to aid in the redevelopment of homes and businesses.

## **FISCAL EFFECT**

If Wisconsin allowed casualty and theft losses as part of the itemized deduction credit, limited to uninsured losses incurred as a result of a disaster in areas declared federal disaster areas, GPR tax revenues would decline as follows, assuming the change was effective beginning tax year 2009.

If it is assumed that, on average, one fourth of the claims in a given tax year are due to these disasters, the revenue loss in FY10 would be approximately \$240,000 annually. Disasters are, by their nature, unpredictable, so the cost of the bill will vary considerably depending on natural events. This estimate will differ from the actual fiscal effect to the extent that future disasters cause more or less damage and occur more or less frequently.

## **DRAFTING INSTRUCTIONS**

Create sec. 71.03(7)(f), Wis. Stats., to provide an exception for persons who qualify for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action.

Create sec. 71.09(11)(e), Wis. Stats., to provide an exception to underpayment interest during an extension period for a taxpayer who qualifies for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action.

JK Amend secs. 71.24(7) and 71.44(3), Wis. Stats., to provide an exception to the 12% interest during the extension period and for 30 days after the end of the federal extension period for corporations that qualify for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action.

JK Create sec. 71.29(7)(c), Wis. Stats., for an exception to underpayment interest during an extension period for corporations that qualify for a federal extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action.

Amend sec. 71.65(5)(b), Wis. Stats., to include the sales and use tax extension language in 77.58(7) which reads "The department for good cause may extend for not to exceed one month the time for making any return or paying any amount required to be paid by this subchapter, including penalties and interest. The extension may be granted at any time provided a request therefore is filed with the department within or prior to the period for which the extension is requested."

JK Amend sec. 71.775(4)(b)2, Wis. Stats., to provide an exception to the 12% interest during the extension period and for 30 days after the end of the federal extension period for pass-through entities that qualify for an extension of time to file under 26 USC 7508A due to a presidentially declared disaster or terroristic or military action.

Amend sec. 71.07(5)(a)3., Wis. Stats., to provide an exception for casualty losses that are directly related to a presidentially declared disaster under 26 USC 7508A.

#### **EFFECTIVE DATE AND/OR INITIAL APPLICABILITY**

The amendment to sec. 71.07(5)(a)3. should first apply to taxable years beginning on or after January 1, 2009. All other provisions should be effective day after publication.

#### **INTERESTED/AFFECTED PARTIES**

Individuals and businesses affected by disasters.

#### **DOR CONTACT PERSON**

Diane Hardt, Division Administrator  
(608) 266-6798

#### **PREPARED BY**

Marcy Stock



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1239/7  
MES&JK.....

RMA

DOA:.....Lillethun, BB0295 - Interest on unpaid income and franchise tax doesn't apply during an extension period due to federally-declared disaster

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SA ✓  
X-ref ✓

do not gen

- 1 AN ACT ...; relating to: interest waivers for disasters and allowing certain
- 2 casualty losses under the itemized deductions credit.

*Analysis by the Legislative Reference Bureau*

**TAXATION**

INCOME TAXATION

Under current law, any extension of time to file a federal individual income or corporate income or franchise tax return granted under federal law or by the Internal Revenue Service automatically extends the time to file the corresponding Wisconsin individual income or corporate income or franchise tax return. If the federal extension is granted due to a presidentially declared disaster or terroristic or military action, however, Wisconsin taxpayers are charged interest at the rate of 12 percent per year during extension period.

Under this bill, interest on unpaid individual income or corporate income or franchise tax, or interest that would otherwise be due for an underpayment of estimated taxes, does not apply if the taxpayer is allowed an extension due to a presidentially declared disaster or terroristic or military action. The bill also allows, for good cause, an extension of time to deposit withholding tax. In addition, the bill exempts from interest a late payment of withholding tax from a pass-through entity

if the taxpayer is allowed an extension due to a presidentially declared disaster or terroristic or military action.

Under current law, the itemized deductions credit is calculated as 5 percent of the difference between the sum of certain amounts that are allowed as itemized deductions under the Internal Revenue Code and the standard deduction. Some amounts that are allowed as itemized deductions under the Internal Revenue Code, such as casualty and theft deductions and miscellaneous deductions, are not allowed in the calculation of the itemized deductions credit. Under this bill, a casualty loss that is directly related to a presidentially declared disaster may be used in the computation of the itemized deductions credit.

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                   X  
SECTION 1. 71.03 (7) (f) of the statutes is created to read:

2                   71.03 (7) (f) For taxable years beginning after December 31, 2008, for persons  
3 who qualify for a federal extension of time to file under 26 USC 7508A due to a  
4 presidentially declared disaster or terroristic or military action.

5                   X  
SECTION 2. 71.07 (5) (a) 3. of the statutes is amended to read:

6                   71.07 (5) (a) 3. Casualty and theft deductions under section 165 (c) (3) of the  
7 internal revenue code, except for casualty losses that are directly related to a  
8 presidentially declared disaster under 26 USC 7508A.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487; 2007 a. 11, 20, 96, 97, 100; s. 13.92 (2) (i).

9                   X  
SECTION 3. 71.09 (11) (e) of the statutes is created to read:

10                   71.09 (11) (e) For taxable years beginning after December 31, 2008, the  
11 taxpayer qualifies for a federal extension of time to file under 26 USC 7508A due to  
12 a presidentially declared disaster or terroristic or military action.

13                   X  
SECTION 4. 71.24 (7) of the statutes is renumbered 71.24(7)(a) and amended to  
14 read:

1

2 71.24 (7) (a) EXTENSIONS In the case of a corporation required to file a return,  
3 the department of revenue shall allow an automatic extension of 7 months or until  
4 the original due date of the corporation's corresponding federal return, whichever is  
5 later. Any extension of time granted by law or by the internal revenue service for the  
6 filing of corresponding federal returns shall extend the time for filing under this  
7 subchapter to 30 days after the federal due date if the corporation reports the  
8 extension in the manner specified by the department on the return. Except for  
9 payments of estimated taxes, income or franchise taxes payable upon the filing of the  
10 tax return shall not become delinquent during such extension period, but shall,  
11 except as provided in par. (b), be subject to interest at the rate of 12% per year during  
12 such period.

12 ~~Cross Reference:~~ ~~Cross Reference:~~ ~~Cross Reference:~~ See also ss. Tax 2.88 and 2.96, Wis. adm. code. ~~Cross Reference:~~  
13 ~~History:~~ 1987 a. 312; 1987 a. 411 ss. 91, 116; 1989 a. 31; 1991 a. 39; 1993 a. 199; 1995 a. 428; 1997 a. 27; 2007 a. 20.

14 **SECTION 5.** 71.27 (7) (b) of the statutes is created to read:

15 71.27 (7) (b) For taxable years beginning after December 31, 2008, for persons  
16 who qualify for a federal extension of time to file under 26 USC 7508A due to a  
17 presidentially declared disaster or terroristic or military action, income or franchise  
18 taxes payable upon the filing of the tax return are not subject to interest as otherwise  
19 provided under par. (a).

20 **SECTION 6.** 71.29 (7) (c) of the statutes is created to read:

21 71.29 (7) (c) For taxable years beginning after December 31, 2008, the taxpayer  
22 qualifies for a federal extension of time to file under 26 USC 7508A due to a  
23 presidentially declared disaster or terroristic or military action.

24 **SECTION 7.** 71.44 (3) of the statutes is renumbered 71.44 (3) (a) and amended  
to read:

SECTION 7

1 71.44 (3) (a) EXTENSIONS In the case of a corporation required to file a return,  
 2 the department of revenue shall allow an automatic extension of 7 months or until  
 3 the original due date of the corporation's corresponding federal return, whichever is  
 4 later. Any extension of time granted by law or by the internal revenue service for the  
 5 filing of corresponding federal returns shall extend the time for filing under this  
 6 subchapter to 30 days after the federal due date if the corporation reports the  
 7 extension in the manner specified by the department on the return. Except for  
 8 payments of estimated taxes, income or franchise taxes payable upon the filing of the  
 9 tax return shall not become delinquent during such extension period, but shall,  
 10 except as provided in par. (b), be subject to interest at the rate of 12% per year during  
 11 such period.

12 ~~Cross Reference:~~ Cross Reference: Cross Reference: See also ss. Tax 2.88 and 2.96, Wis. adm. code. Cross Reference:  
 13 History: 1987 a. 312, 411; 1989 a. 31; 1991 a. 39; 1993 a. 199; 1995 a. 428; 1997 a. 27; 2007 a. 20.

13 SECTION 8. 71.44 (3) (b) of the statutes is created to read:

14 71.44 (3) (b) For taxable years beginning after December 31, 2008, for persons  
 15 who qualify for a federal extension of time to file under 26 USC 7508A due to a  
 16 presidentially declared disaster or terroristic or military action, income or franchise  
 17 taxes payable upon the filing of the tax return are not subject to interest as otherwise  
 18 provided under par. (a).

19 SECTION 9. 71.65 (5) (b) of the statutes is amended to read:

20 71.65 (5) (b) No extension under par. (a) extends the time to deposit with the  
 21 public depository or pay to the department amounts that are required to be deducted  
 22 and withheld under this subchapter. The department for good cause may extend for  
 23 a period, not to exceed one month, the time for making any return or paying any  
 24 amount required to be paid under this subchapter. The extension may be granted

1 at any time if the extension request is filed with the department within or before the  
2 period for which the extension is requested.

3 History: 1987 a. 312; 1991 a. 39; 1993 a. 112; 1997 a. 27, 291; 2005 a. 49.

**SECTION 10.** 71.775 (4) (b) 2. of the statutes is amended to read:

4 71.775 (4) (b) 2. Except as provided in par. (f), and subject to subd. 3., interest  
5 at the rate of 12 percent shall be imposed on the unpaid amount of the tax due under  
6 sub. (2) during any extension period and interest at the rate of 18 percent shall be  
7 imposed on the unpaid amount of the tax due under sub. (2) for the period beginning  
8 with the extended due date and ending with the date that the unpaid amount is paid  
9 in full.

10 History: 2005 a. 25, 254; 2007 a. 20.

**SECTION 11.** 71.775 (4) (b) 3. of the statutes is created to read:

11 71.775 (4) (b) 3. For taxable years beginning after December 31, 2008, for  
12 persons who qualify for a federal extension of time to file under 26 USC 7508A due  
13 to a presidentially declared disaster or terroristic or military action, withholding  
14 taxes that are otherwise due from a pass-through entity under sub. (2) are not  
15 subject to 12 percent interest as otherwise provided under subd. 2. during the  
16 extension period and for 30 days after the end of the federal extension period.

**SECTION 9343. Initial applicability; Revenue.**

18 (1) ITEMIZED DEDUCTION CREDIT. The treatment of section 71.07 (5) (a) 3. of the  
19 statutes first applies to taxable years beginning on January 1, 2009.

20 (2) FILING WITHHOLDING STATEMENTS, EXTENSIONS. The treatment of section 71.65  
21 (5) (b) of the statutes first applies to taxable years beginning on January 1, 2009.

22 (END)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1239/1  
MES&JK:bjk:rs

12  
Stacy  
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DOA:.....Lillethun, BB0295 - Interest on unpaid income and franchise tax doesn't apply during an extension period due to federally-declared disaster

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

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

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1            **SECTION 1.** <sup>✓</sup> 71.03 (7) (f) of the statutes is created to read:

2            71.03 (7) (f) For taxable years beginning after December 31, 2008, for persons  
3 who qualify for a federal extension of time to file under 26 USC 7508A due to a  
4 presidentially declared disaster or terroristic or military action.

5            **SECTION 2.** <sup>✓</sup> 71.07 (5) (a) 3. of the statutes is amended to read:

6            71.07 (5) (a) 3. Casualty and theft deductions under section 165 (c) (3) of the  
7 internal revenue code, except for casualty losses that are directly related to a  
8 presidentially declared disaster under 26 USC 7508A.

9            **SECTION 3.** <sup>✓</sup> 71.09 (11) (e) of the statutes is created to read:

10           71.09 (11) (e) For taxable years beginning after December 31, 2008, the  
11 taxpayer qualifies for a federal extension of time to file under 26 USC 7508A due to  
12 a presidentially declared disaster or terroristic or military action.

13           **SECTION 4.** <sup>✓</sup> 71.24 (7) of the statutes is renumbered 71.24 (7) (a) and amended  
14 to read:

1           71.24 (7) (a) In the case of a corporation required to file a return, the  
2 department of revenue shall allow an automatic extension of 7 months or until the  
3 original due date of the corporation's corresponding federal return, whichever is  
4 later. Any extension of time granted by law or by the internal revenue service for the  
5 filing of corresponding federal returns shall extend the time for filing under this  
6 subchapter to 30 days after the federal due date if the corporation reports the  
7 extension in the manner specified by the department on the return. Except for  
8 payments of estimated taxes, income or franchise taxes payable upon the filing of the  
9 tax return shall not become delinquent during such extension period, but shall,  
10 except as provided in par. (b), be subject to interest at the rate of 12% per year during  
11 such period.

12           **SECTION 5.** 71.27 (7) (b) of the statutes is created to read:

13           71.27 (7) (b) For taxable years beginning after December 31, 2008, for persons  
14 who qualify for a federal extension of time to file under 26 USC 7508A due to a  
15 presidentially declared disaster or terroristic or military action, income or franchise  
16 taxes payable upon the filing of the tax return are not subject to interest as otherwise  
17 provided under par. (a).

18           **SECTION 6.** 71.29 (7) (c) of the statutes is created to read:

19           71.29 (7) (c) For taxable years beginning after December 31, 2008, the taxpayer  
20 qualifies for a federal extension of time to file under 26 USC 7508A due to a  
21 presidentially declared disaster or terroristic or military action.

22           **SECTION 7.** 71.44 (3) of the statutes is renumbered 71.44 (3) (a) and amended  
23 to read:

24           71.44 (3) (a) In the case of a corporation required to file a return, the  
25 department of revenue shall allow an automatic extension of 7 months or until the

## SECTION 7

1 original due date of the corporation's corresponding federal return, whichever is  
2 later. Any extension of time granted by law or by the internal revenue service for the  
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5 extension in the manner specified by the department on the return. Except for  
6 payments of estimated taxes, income or franchise taxes payable upon the filing of the  
7 tax return shall not become delinquent during such extension period, but shall,  
8 except as provided in par. (b), be subject to interest at the rate of 12% per year during  
9 such period.

10 **SECTION 8.** 71.44 (3) (b) of the statutes is created to read:

11 71.44 (3) (b) For taxable years beginning after December 31, 2008, for persons  
12 who qualify for a federal extension of time to file under 26 USC 7508A due to a  
13 presidentially declared disaster or terroristic or military action, income or franchise  
14 taxes payable upon the filing of the tax return are not subject to interest as otherwise  
15 provided under par. (a).

16 **SECTION 9.** 71.65 (5) (b) of the statutes is amended to read:

17 71.65 (5) (b) No extension under par. (a) extends the time to deposit with the  
18 public depository or pay to the department amounts that are required to be deducted  
19 and withheld under this subchapter. The department for good cause may extend for  
20 a period, not to exceed one month, the time for making any return or paying any  
21 amount required to be paid under this subchapter. The extension may be granted  
22 at any time if the extension request is filed with the department within or before the  
23 period for which the extension is requested.

24 **SECTION 10.** 71.775 (4) (b) 2. of the statutes is amended to read:



**2009-2010 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1239/2ins  
MES&JK:bjk:rs

**Insert 5 - 13**

\*\*\*\*NOTE: This is reconciled s.71.775 (4) (bm). This SECTION has been affected by drafts with the following LRB numbers: 0371<sub>1</sub> and 1239<sub>6</sub>

LRB-

LRB-

1P2

11

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1239/2dn  
MES&JK:bjk:rs

*al*  
*L. Stary*

This draft reconciles LRB-0371/P2 and LRB-1239/1. Both of these drafts should continue to appear in the compiled bill.

Joseph T. Kreye  
Senior Legislative Attorney  
Phone: (608) 266-2263  
E-mail: [joseph.kreye@legis.wisconsin.gov](mailto:joseph.kreye@legis.wisconsin.gov)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-1239/2dn  
JK:bjk:ph

February 2, 2009

This draft reconciles LRB-0371/P2 and LRB-1239/1. Both of these drafts should continue to appear in the compiled bill.

Joseph T. Kreye  
Senior Legislative Attorney  
Phone: (608) 266-2263  
E-mail: [joseph.kreye@legis.wisconsin.gov](mailto:joseph.kreye@legis.wisconsin.gov)



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1239/2  
MES&JK:bjk:ph

DOA:.....Lillethun, BB0295 - Interest on unpaid income and franchise tax doesn't apply during an extension period due to federally-declared disaster

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

- 1 AN ACT ...; **relating to:** interest waivers for disasters and allowing certain  
2 casualty losses under the itemized deductions credit.

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**INCOME TAXATION**

Under current law, any extension of time to file a federal individual income or corporate income or franchise tax return granted under federal law or by the Internal Revenue Service automatically extends the time to file the corresponding Wisconsin individual income or corporate income or franchise tax return. If the federal extension is granted due to a presidentially declared disaster or terroristic or military action, however, Wisconsin taxpayers are charged interest at the rate of 12 percent per year during extension period.

Under this bill, interest on unpaid individual income or corporate income or franchise tax, or interest that would otherwise be due for an underpayment of estimated taxes, does not apply if the taxpayer is allowed an extension due to a presidentially declared disaster or terroristic or military action. The bill also allows, for good cause, an extension of time to deposit withholding tax. In addition, the bill exempts from interest a late payment of withholding tax from a pass-through entity

if the taxpayer is allowed an extension due to a presidentially declared disaster or terroristic or military action.

Under current law, the itemized deductions credit is calculated as 5 percent of the difference between the sum of certain amounts that are allowed as itemized deductions under the Internal Revenue Code and the standard deduction. Some amounts that are allowed as itemized deductions under the Internal Revenue Code, such as casualty and theft deductions and miscellaneous deductions, are not allowed in the calculation of the itemized deductions credit. Under this bill, a casualty loss that is directly related to a presidentially declared disaster may be used in the computation of the itemized deductions credit.

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

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

1           **SECTION 1.** 71.03 (7) (f) of the statutes is created to read:

2           71.03 (7) (f) For taxable years beginning after December 31, 2008, for persons  
3 who qualify for a federal extension of time to file under 26 USC 7508A due to a  
4 presidentially declared disaster or terroristic or military action.

5           **SECTION 2.** 71.07 (5) (a) 3. of the statutes is amended to read:

6           71.07 (5) (a) 3. Casualty and theft deductions under section 165 (c) (3) of the  
7 internal revenue code, except for casualty losses that are directly related to a  
8 presidentially declared disaster under 26 USC 7508A.

9           **SECTION 3.** 71.09 (11) (e) of the statutes is created to read:

10          71.09 (11) (e) For taxable years beginning after December 31, 2008, the  
11 taxpayer qualifies for a federal extension of time to file under 26 USC 7508A due to  
12 a presidentially declared disaster or terroristic or military action.

13          **SECTION 4.** 71.24 (7) of the statutes is renumbered 71.24 (7) (a) and amended  
14 to read:

1           71.24 (7) (a) In the case of a corporation required to file a return, the  
2 department of revenue shall allow an automatic extension of 7 months or until the  
3 original due date of the corporation's corresponding federal return, whichever is  
4 later. Any extension of time granted by law or by the internal revenue service for the  
5 filing of corresponding federal returns shall extend the time for filing under this  
6 subchapter to 30 days after the federal due date if the corporation reports the  
7 extension in the manner specified by the department on the return. Except for  
8 payments of estimated taxes, income or franchise taxes payable upon the filing of the  
9 tax return shall not become delinquent during such extension period, but shall,  
10 except as provided in par. (b), be subject to interest at the rate of 12% per year during  
11 such period.

12           **SECTION 5.** 71.27 (7) (b) of the statutes is created to read:

13           71.27 (7) (b) For taxable years beginning after December 31, 2008, for persons  
14 who qualify for a federal extension of time to file under 26 USC 7508A due to a  
15 presidentially declared disaster or terroristic or military action, income or franchise  
16 taxes payable upon the filing of the tax return are not subject to interest as otherwise  
17 provided under par. (a).

18           **SECTION 6.** 71.29 (7) (c) of the statutes is created to read:

19           71.29 (7) (c) For taxable years beginning after December 31, 2008, the taxpayer  
20 qualifies for a federal extension of time to file under 26 USC 7508A due to a  
21 presidentially declared disaster or terroristic or military action.

22           **SECTION 7.** 71.44 (3) of the statutes is renumbered 71.44 (3) (a) and amended  
23 to read:

24           71.44 (3) (a) In the case of a corporation required to file a return, the  
25 department of revenue shall allow an automatic extension of 7 months or until the

1 original due date of the corporation's corresponding federal return, whichever is  
2 later. Any extension of time granted by law or by the internal revenue service for the  
3 filing of corresponding federal returns shall extend the time for filing under this  
4 subchapter to 30 days after the federal due date if the corporation reports the  
5 extension in the manner specified by the department on the return. Except for  
6 payments of estimated taxes, income or franchise taxes payable upon the filing of the  
7 tax return shall not become delinquent during such extension period, but shall,  
8 except as provided in par. (b), be subject to interest at the rate of 12% per year during  
9 such period.

10 **SECTION 8.** 71.44 (3) (b) of the statutes is created to read:

11 71.44 (3) (b) For taxable years beginning after December 31, 2008, for persons  
12 who qualify for a federal extension of time to file under 26 USC 7508A due to a  
13 presidentially declared disaster or terroristic or military action, income or franchise  
14 taxes payable upon the filing of the tax return are not subject to interest as otherwise  
15 provided under par. (a).

16 **SECTION 9.** 71.65 (5) (b) of the statutes is amended to read:

17 71.65 (5) (b) No extension under par. (a) extends the time to deposit with the  
18 public depository or pay to the department amounts that are required to be deducted  
19 and withheld under this subchapter. The department for good cause may extend for  
20 a period, not to exceed one month, the time for making any return or paying any  
21 amount required to be paid under this subchapter. The extension may be granted  
22 at any time if the extension request is filed with the department within or before the  
23 period for which the extension is requested.

24 **SECTION 10.** 71.775 (4) (bm) 2. of the statutes is created to read:

