

No. 220, S.]

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CHAPTER 549.

AN ACT to amend 71.02 (2) (d) of the statutes, relating to basis of profit or loss on sales subsequent to gifts.

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

71.02 (2) (d) of the statutes is amended to read:

71.02 (2) (d) All profits derived from the transaction of business or from the sale or other disposition of real estate or other capital assets; provided, that for the purpose of ascertaining the gain or loss resulting from the sale or other disposition of property, real or personal, acquired prior to January 1, 1911, the fair market value of such property as of January 1, 1911, shall be the basis for determining the amount of such gain or loss; and, provided, further, that the basis for computing the profit or loss on the sale of property acquired by gift after 1922 *but prior to the effective date hereof (1943)* shall be the same as it would have been had the sale been made by the last preceding owner who did not acquire it by gift; and in case the taxing officers are unable to ascertain the cost of the property to such prior owner, if acquired after January 1, 1911, then the basis shall be the value thereof at or about the time it was acquired by him, and such value shall be determined from the best information obtainable. *However, with respect to all gifts made after the effective date hereof (1943) the basis for computing gain or loss resulting from the sale or other disposition of said property acquired by gift shall be the fair market value of said property at the time of the said gift or the valuation on which a gift tax has been paid or is payable.* In computing profit or loss on the sale of property acquired by descent or by will since January 1, 1911, the appraised value of such property in the administration of the estate of the deceased owner as of the date of his death shall be the basis for determining the amount of such profit or loss. The cost, or other basis mentioned above, shall be diminished by the amount of the deduction for exhaustion, wear and tear and depletion which have, since the acquisition of the property, been allowed as deductions under all Wisconsin income tax laws; and such basis shall also be diminished by the amounts of all income deferred by the taxpayer and used to reduce property, and all

anticipated losses on such property which have been deducted from taxable income. If property, exclusive of inventories (as raw materials, goods in process and finished goods), as a result of its destruction in whole or in part by fire or other casualty, is involuntarily converted into money which is within one year in good faith, under regulations prescribed by the * * * *department of taxation*, expended in the replacement of the property destroyed or in the acquisition of other property similar or related in service or use to the property so destroyed, or in the establishment of a replacement fund which, within 2 years from date of the fire or other casualty is actually expended to replace the property destroyed or in the acquisition of other property similar or related in service or use to the property destroyed, no gain shall be recognized, and in the case of gain the property so replaced or acquired, for purposes of depreciation and all other purposes of taxation, shall be deemed to take the place of the property so destroyed. If any part of the money is not so expended, the gain, if any, shall be recognized, but in an amount not in excess of the money which is not so expended. A replacement of property by an insurance company shall be deemed to be an expenditure by the taxpayer of insurance moneys received by him from the insurance company for the purposes of this subsection. If shares of stock in a corporation acquired subsequent to January 1, 1934, are sold from lots acquired at different dates or at different prices, the basis for determining gain or loss shall be that of the specific shares sold. If the identity of the lots cannot be determined, the stock sold shall be charged against the earliest acquisitions of such stock. The basis for determining gain or loss on sales of stock acquired prior to January 1, 1934, shall be the average cost of all such shares of the same stock, determined in accordance with the regulations of the * * * *department of taxation* in effect on January 1, 1934.

Approved July 27, 1943.