

CHAPTER 326

AN ACT to repeal and recreate 71.04 (5) and 71.05 (6) of the statutes, relating to deduction of contributions by corporations and individuals to charitable organizations under the state income tax law.

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

SECTION 1. 71.04 (5) of the statutes is repealed and recreated to read:

71.04 (5) (a) Charitable contributions, as defined in par. (d), payment of which is made within the year, to an amount not in excess of 5 per cent of the taxpayer's net income of the calendar or fiscal year as computed without the benefit of this section.

(b) In the case of a corporation reporting its taxable income on the accrual basis, if 1. the board of directors authorizes a charitable contribution during any taxable year, and 2. payment of such contribution is made after the close of such taxable year and on or before the fifteenth day of the third month following the close of such taxable year, then the taxpayer may elect to treat such contribution as paid during such taxable year. The election may be made only at the time of the filing of the return for such taxable year, and shall be signified in such manner as the department of taxation may by rule or instruction prescribe.

(c) Any charitable contribution made by a corporation in a taxable year beginning after December 31, 1954, in excess of the amount deductible in such year under the 5 per cent limitation, shall be deductible in each of the 2 succeeding taxable years in order of time, but only to the extent of the lesser of the 2 following amounts: 1. the excess of the maximum amount deductible for such succeeding taxable year under the 5 per cent limitation over the contributions made in such year; and 2. in the case of the first succeeding taxable year, the amount of such excess contribution, and in the case of the second succeeding taxable year the portion of such excess contribution not deductible in the first succeeding taxable year.

(d) For purposes of this section, the term "charitable contribution" means a contribution or gift to or for the use of:

1. The state or any political subdivision thereof, but only if the contribution or gift is made for exclusively public purposes.

2. A corporation, trust, or community chest, fund or foundation operating within this state; organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual.

3. A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization organized in the United States or any of its possessions, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

4. A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is operating within this state and is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

SECTION 2. 71.05 (6) of the statutes is repealed and recreated to read:

71.05 (6) (a) Charitable contributions, as defined in par. (b), payment of which is made within the year, to an amount not in excess of 10 per cent of the taxpayer's net income of the calendar or fiscal year as computed without the benefit of this section.

(b) For purposes of this section, the term "charitable contributions" means a contribution or gift to or for the use of:

1. The state or any political subdivision thereof, but only if the contribution or gift is made for exclusively public purposes.

2. A corporation, trust, or community chest, fund or foundation operating within this state; organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual.

3. A post or organization of war veterans, or an auxiliary unit or society of, or trust or foundation for, any such post or organization organized in the United States or any of its possessions, and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

4. A cemetery company owned and operated exclusively for the benefit of its members, or any corporation chartered solely for burial purposes as a cemetery corporation and not permitted by its charter to engage in any business not necessarily incident to that purpose, if such company or corporation is operating within this state and is not operated for profit and no part of the net earnings of such company or corporation inures to the benefit of any private shareholder or individual.

5. A fraternal society, order, or association, operating under the lodge system, but only if such contribution or gift is to be used exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals.

6. Any corporation or association organized and operated exclusively for religious purposes.

Approved June 22, 1955.
