

Assembly Bill 415

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CHAPTER 287, LAWS OF 1967

AN ACT to amend 71.10 (1); and to create 71.04 (5) (e), 71.11 (7m) and 71.22 (3a) of the statutes, relating to income and franchise taxes.

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

SECTION 1. 71.04 (5) (e) of the statutes is created to read:

71.04 (5) (e) If the contribution is other than money, the basis for the calculation of the amount thereof shall be the fair market value of the property at the time of the contribution, except that if the basis of the property was deducted pursuant to sub. (7) or charged down or off and deducted pursuant to sub. (8) or the property was depreciable, amortizable or depletable, such fair market value shall be reduced by the lesser of 1) the amount which would have been treated (but was not actually treated) as gain if the property contributed had been sold at its fair market value determined at the time of such contribution, or 2) the amount of depreciation, amortization, write-off or depletion to the extent allowed as deductions in computing taxable income under all Wisconsin franchise and income tax laws and which resulted in a tax benefit, but not less than the amount allowable under all Wisconsin franchise and income tax laws.

SECTION 1m. 71.10 (1) of the statutes is amended to read:

71.10 (1) Every corporation, except corporations all of whose income is exempt from taxation, shall furnish to the department of ~~taxation~~ a true and accurate statement, on or before March 15 of each year (except that returns for fiscal years ending on some other date than December 31 shall be furnished on or before the 15th day of the 3rd month following the close of such fiscal year) in such manner and form and setting forth such facts as said department deems necessary to enforce the provisions of this chapter. Such statement shall be subscribed by the president, ~~or vice president or other principal officer~~ and the , treasurer, assistant treasurer ~~or~~, chief accounting officer ~~of said corporation~~; and in the case of corporations in liquidation ~~or in the hands of a receiver~~ such return shall be subscribed by the person responsible for the conduct of the affairs of such corporation ~~or any other officer duly authorized so to act. In the case of a return made for a corporation by a fiduciary such fiduciary shall subscribe the return. The fact that an individual's name is subscribed on the return shall be prima facie evidence that such individual is authorized to subscribe the return on behalf of the corporation.~~ All corporations doing business in this state shall also file with the department of ~~taxation~~ on or before March 15 of each year on forms prescribed by the department of ~~taxation~~, a statement of such transfers of its capital stock as have been made by or to residents of this state during the preceding calendar year. Such schedule shall contain the name and address of the seller, date of transfer, and the number of shares of stock transferred; and such corporation shall also file with

the department of ~~taxation~~ on or before March 15 of each year any information relative to payments made within the preceding calendar year of rents, royalties, interest, dividends and liquidating dividends to persons taxable thereon under this chapter in amounts and in the manner and form prescribed by the department of ~~taxation~~. Nothing contained in this subsection shall preclude the department of ~~taxation~~ from requiring any corporation to file a return when in the judgment of the department of ~~taxation~~ a return should be filed.

SECTION 2. 71.11 (7m) of the statutes is created to read:

71.11 (7m) In any case of 2 or more organizations, trades or businesses (whether or not incorporated, whether or not organized in the United States and whether or not affiliated) owned or controlled directly or indirectly by the same interests, the commissioner or his delegate may distribute, apportion or allocate gross income, deductions, credits or allowances between or among such organizations, trades or businesses, if he determines that such distribution, apportionment or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades or businesses.

SECTION 3. 71.22 (3a) of the statutes is created to read:

71.22 (3a) If upon the filing of its complete franchise or income tax return or an amended return following the filing of such complete return, a corporation claims a refund of franchise or income taxes (previously paid with a tentative return or with declarations of estimated tax, or otherwise) it shall indicate on such return whether such refund, if approved, should be refunded or applied against any instalment of estimated tax. In the absence of such indication, the amount refundable shall be refunded and may not be claimed as payment on a declaration of estimated tax. No refund shall be made or credit applied prior to filing of the complete return.

SECTION 4. EFFECTIVE DATE. This act shall take effect, commencing with the taxable year 1967 and corresponding fiscal years and thereafter.

Approved December 28, 1967.