

1975 Senate Bill 252

Date published: April 23, 1976

## CHAPTER 214, Laws of 1975

AN ACT to amend 71.03 (1) (g), 71.04 (4) and 71.10 (5) (a) of the statutes, relating to miscellaneous changes in the corporate income tax.

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

SECTION 1. 71.03 (1) (g) of the statutes is amended to read:

71.03 (1) (g) 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~~ but:

1. 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 that the basis for computing the profit or loss on the sale of property acquired by gift after 1922 but prior to July 31, 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 the 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 it, and such value shall be determined from the best information obtainable. However, with respect to all gifts made after July 31, 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, devise, will or inheritance 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.~~

2. The cost or other basis ~~mentioned above~~ under subd. 1, shall be diminished for exhaustion, wear and tear, obsolescence, amortization, write-offs and depletion to the extent of the amount: ~~1. allowed as deductions but not less than the amount allowable in computing taxable income under all Wisconsin tax laws and 2. resulting (by reason of the deduction so allowed) in a reduction in any taxable year of the taxpayer's taxes under Wisconsin income tax law, but not less than the amount allowable under all Wisconsin income tax laws.~~ Where no method has been adopted under s. 71.04 (13) (relating to depreciation deduction) the amount allowable shall be determined under s. 71.04 (13) (b) 1.

3. 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, theft or seizure, or an exercise of power of requisition or condemnation or the threat or imminence thereof, is involuntarily converted into money which is ~~within one year in good faith, under rules prescribed by the department of revenue, expended in the replacement of the property destroyed or in the acquisition of other property located in Wisconsin 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 conversion, is or within extensions of such period as granted by the department of revenue, actually expended, in good faith under rules prescribed by the department of revenue, to replace the property ~~destroyed or in~~ converted by the acquisition of other property located in Wisconsin similar or related in service or use to the property ~~destroyed~~ converted, no gain shall be recognized, and in the case of gain the property so replaced or newly acquired, for purposes of depreciation and all other purposes of taxation, shall be deemed to take the place of the property so ~~destroyed~~ converted. 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.

4. 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 rules of the department of revenue in effect on January 1, 1934.

SECTION 2. 71.04 (4) of the statutes is amended to read:

71.04 (4) Dividends, except stock dividends not taxable pursuant to s. 71.305, received from any corporation conforming to all of the requirements of this subsection. Such corporation must have filed income tax returns as required by law ~~and the income of such corporation must be have been~~ subject to the income tax law of this state, and the dividend must not have been deductible for tax purposes from the gross income of such corporation. The principal business of the corporation must be attributable to Wisconsin and for the purpose of this subsection any corporation shall be considered as having its principal business attributable to Wisconsin only if 50 ~~per cent~~ % or more of the entire net income or loss of such corporation after adjustment for tax purposes (for the year preceding the payment of such dividends) was used in computing the taxable income provided by ch. 71. If the net incomes of several affiliated corporations have been combined for the purpose of determining the amount of income subject to taxation under the statutes, the location of the principal business of such group shall determine the taxable status of dividends paid, but intercompany dividends passing between affiliated corporations whose incomes are included in the taxable income of the group shall not be assessed as group income.

SECTION 3. 71.10 (5) (a) of the statutes is amended to read:

71.10 (5) (a) In the case of ~~inability of a corporation, or of an officer of any corporation~~ required to file a return, ~~or for other~~ when sufficient reason is shown, the department of revenue may on written request allow such further time for making and delivering such return as ~~they deem is considered~~ necessary not to exceed 30 days. Income Any extension of time granted by law or by the internal revenue service for the filing of corresponding federal returns shall extend the time for filing under this chapter if a copy of any extension requested of the internal revenue service is filed with the return in the case of an automatic 3-month extension, and if a copy of any

additional extension granted by the internal revenue service is submitted to the department within 10 days of its receipt by the taxpayer. Termination of an automatic extension by the internal revenue service, or its refusal to grant such automatic extension, shall similarly require that any returns due under this chapter are due on or before the date for termination fixed by the internal revenue service. Except as provided in s. 71.22 (9) (b) income taxes payable upon the filing of the tax return shall not become delinquent during such extension period, but shall be subject to interest at the rate of 6% per annum during such period.

**SECTION 4. Effective date.** The treatment of sections 71.03 (1) (g) and 71.04 (4) of the statutes by this act shall be effective for the reporting of corporate income and franchise taxes for the tax year of 1975 and succeeding years.

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