



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-1191/P2
MES:kjf

DOA:.....Quinn, BB0162 - Individual income tax capital gains exclusion limitation

FOR 2019-2021 BUDGET -- NOT READY FOR INTRODUCTION

AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

1. Capital gains exclusion limitation

Under current law, there is an income tax exclusion for individuals, fiduciaries, members of limited liability companies and partnerships, and shareholders of tax-option corporations for 30 percent of the net long-term capital gains realized from the sale of assets held more than one year and the sale of all assets acquired from a decedent, and an exclusion for 60 percent of such gains realized from the sale of farm assets held more than one year and the sale of all farm assets acquired from a decedent.

Under this bill, for individuals, the exclusion of 30 percent of such net long-term capital gains, and all assets acquired from a decedent, does not apply to taxable years beginning after December 31, 2018, if the taxpayer's federal adjusted gross income exceeds specified threshold amounts. These amounts are \$100,000 for a single individual or head of household filer; \$150,000 for a married couple who files jointly; and \$75,000 for a married individual who files separately. The bill also provides that for a taxpayer whose FAGI, before adjustment for net capital gains, is below the specified threshold amounts, such a taxpayer may claim the current law

capital gains exclusion for nonfarm assets to the extent that the sum of the taxpayer's noncapital gains adjusted FAGI and the taxpayer's net federal capital gains does not exceed the threshold amount. The bill does not affect the exclusion of the gains realized from the sale of farm assets held more than one year and the sale of farm assets acquired from a decedent.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

For further information see the *state and local* 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:

SECTION 1. 71.05 (6) (b) 9. of the statutes is renumbered 71.05 (6) (b) 9. (intro.) and amended to read:

71.05 (6) (b) 9. (intro.) On assets held more than one year and on all assets acquired from a decedent, 30 percent of the capital gain as computed under the ~~internal revenue code~~ Internal Revenue Code, not including capital gains for which the federal tax treatment is determined under section 406 of P.L. 99-514; not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason; and not including amounts treated as capital gain for federal income tax purposes from the sale or exchange of a lottery prize. For purposes of this subdivision, the capital gains and capital losses for all assets shall be netted before application of the percentage. For taxable years beginning after December 31, 2018, this subdivision does not apply to any of the following individuals whose federal adjusted gross income in the year to which the subtraction relates exceeds the following threshold amounts, except that for a taxpayer whose federal adjusted gross income, less 30 percent of eligible long-term capital gains from nonfarm assets, is below the specified threshold amount, the taxpayer may claim the subtraction under this subdivision reduced by

the amount of the taxpayer's federal adjusted gross income that exceeds the threshold amount:

SECTION 2. 71.05 (6) (b) 9. a. of the statutes is created to read:

71.05 (6) (b) 9. a. For an estate, a trust, a single individual, or an individual who files as a head of household, \$100,000.

SECTION 3. 71.05 (6) (b) 9. b. of the statutes is created to read:

71.05 (6) (b) 9. b. For a married couple who files a joint return, \$150,000.

SECTION 4. 71.05 (6) (b) 9. c. of the statutes is created to read:

71.05 (6) (b) 9. c. For a married individual who files a separate return, \$75,000.

(END)