



1995 ASSEMBLY BILL 768

January 2, 1996 - Introduced by Representative OTTE, cosponsored by Senator HUELSMAN, by request of the Department of Revenue. Referred to Joint survey committee on Tax Exemptions.

1 **AN ACT to amend** 71.02 (1) and 71.04 (1) (a) of the statutes; **relating to:** the taxa-
2 tion of nonresident gambling winnings.

Analysis by the Legislative Reference Bureau

Under current law, nonresidents of this state are taxed on income derived from sources that include, but are not limited to, the state lottery, a multistate lottery if the winning lottery ticket or share was purchased from a retailer located in this state and pari-mutuel wager winnings. Current law does not specifically tax income of nonresidents from other gambling winnings that are derived from sources such as casino games, video poker, bingo, slot machines and other games conducted on Indian reservations located in Wisconsin.

This bill changes current law by including in the taxable income of nonresidents income derived from other gambling winnings which result from gambling in Wisconsin.

This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state* 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:

3 **SECTION 1.** 71.02 (1) of the statutes is amended to read:
4 71.02 (1) For the purpose of raising revenue for the state and the counties, ci-
5 ties, villages and towns, there shall be assessed, levied, collected and paid a tax on
6 all net incomes of individuals and fiduciaries, except fiduciaries of nuclear decom-

1 missioning trust or reserve funds subject to the tax under s. 71.23 (2), by every natu-
2 ral person residing within the state or by his or her personal representative in case
3 of death, and trusts administered within the state; by every nonresident natural per-
4 son and trust of this state, upon such income as is derived from property located or
5 business transacted within the state including, but not limited by enumeration, in-
6 come derived from a limited partner's distributive share of partnership income, in-
7 come derived from a limited liability company member's distributive share of limited
8 liability company income, the state lottery under ch. 565, any multistate lottery un-
9 der ch. 565 if the winning lottery ticket or lottery share was purchased from a retail-
10 er, as defined in s. 565.01 (6), located in this state or from the gaming commission
11 and, pari-mutuel wager winnings or purses under ch. 562 and other gambling win-
12 nings from gambling within the state, and also by every nonresident natural person
13 upon such income as is derived from the performance of personal services within the
14 state, except as exempted under s. 71.05 (1) to (3). Every natural person domiciled
15 in the state shall be deemed to be residing within the state for the purposes of deter-
16 mining liability for income taxes and surtaxes.

17 **SECTION 2.** 71.04 (1) (a) of the statutes is amended to read:

18 71.04 (1) (a) All income or loss of resident individuals and resident estates and
19 trusts shall follow the residence of the individual, estate or trust. Income or loss of
20 nonresident individuals and nonresident estates and trusts from business, not re-
21 quiring apportionment under sub. (4), (10) or (11), shall follow the situs of the busi-
22 ness from which derived. All items of income, loss and deductions of nonresident in-
23 dividuals and nonresident estates and trusts derived from a tax-option corporation
24 not requiring apportionment under sub. (9) shall follow the situs of the business of
25 the corporation from which derived. Income or loss of nonresident individuals and

1 nonresident estates and trusts derived from rentals and royalties from real estate
2 or tangible personal property, or from the operation of any farm, mine or quarry, or
3 from the sale of real property or tangible personal property shall follow the situs of
4 the property from which derived. Income from personal services of nonresident indi-
5 viduals, including income from professions, shall follow the situs of the services. A
6 nonresident limited partner's distributive share of partnership income shall follow
7 the situs of the business. A nonresident limited liability company member's distribu-
8 tive share of limited liability company income shall follow the situs of the business.
9 Income of nonresident individuals, estates and trusts from the state lottery under
10 ch. 565 is taxable by this state. Income of nonresident individuals, estates and trusts
11 from any multistate lottery under ch. 565 is taxable by this state, but only if the win-
12 ning lottery ticket or lottery share was purchased from a retailer, as defined in s.
13 565.01 (6), located in this state or from the gaming commission. Income of nonresi-
14 dent individuals, ~~nonresident trusts and nonresident estates~~ and trusts from pari-
15 mutuel winnings or purses under ch. 562 is taxable by this state. Income of nonresi-
16 dent individuals, estates and trusts from other gambling activity shall follow the
17 situs of the gambling activity. All other income or loss of nonresident individuals and
18 nonresident estates and trusts, including income or loss derived from land contracts,
19 mortgages, stocks, bonds and securities or from the sale of similar intangible person-
20 al property, shall follow the residence of such persons, except as provided in par. (b)
21 and sub. (9).

22 **SECTION 3. Initial applicability.**

23 (1) This act first applies to taxable years beginning on January 1, 1996.

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(END)