State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-2623/1
MES:jld:km

2001 ASSEMBLY BILL 381

May 8, 2001 – Introduced by Representatives LEIBHAM, STARZYK, OLSEN, MUSSER, NASS, OWENS, TOWNSEND, VRAKAS, SUDER, ALBERS, LADWIG, STONE and PETROWSKI, cosponsored by Senators DARLING, HUELSMAN, SCHULTZ and ROESSLER. Referred to Committee on Economic Development.

AN ACT ***to amend*** 71.05 (10) (c); and ***to create*** 71.05 (10) (ce) and 71.05 (10) (cg) of the statutes; **relating to:** federalizing the individual income tax capital loss limit.

Analysis by the Legislative Reference Bureau

Under current law, the amount of capital losses that can be used to offset ordinary income in determining taxable income is $500 each year. Disallowed amounts may be carried forward and used to offset income in subsequent years. Under current federal law, capital losses are deductible up to a limit of $3,000 each year. Net losses in excess of the $3,000 limit may be carried over to following tax years.

This bill federalizes the treatment of individual income tax capital losses that can be used to offset ordinary income by increasing the current $500 limit to $3,000. In addition, the bill authorizes taxpayers who would have carried forward to subsequent years losses in excess of $500 may, notwithstanding the $3,000 annual limit, amortize the total amount of their losses over a period of five years. If the loss carried forward is $500 or less, however, the entire amount of the loss may be subtracted from federal adjusted gross income in one year.

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:

SECTION 1. 71.05 (10) (c) of the statutes is amended to read:

71.05 **(10)** (c) The amount required so that the net capital loss, after netting capital gains and capital losses to arrive at total capital gain or loss, is offset against ordinary income only to the extent of $500. Losses in excess of $500 shall be carried forward to the next taxable year and offset against ordinary income up to the limit under this paragraph. Losses shall be used in the order in which they accrue. <u>No subtraction may be made under this paragraph for taxable years that begin after December 31, 2001.</u>

SECTION 2. 71.05 (10) (ce) of the statutes is created to read:

71.05 **(10)** (ce) Subject to par. (cg), for taxable years beginning after December 31, 2001, the amount required so that the net capital loss, after netting capital gains and capital losses to arrive at total capital gain or loss, is offset against ordinary income only to the extent of $3,000. Losses in excess of $3,000 shall be carried forward to the next taxable year and offset against ordinary income up to the limit under this paragraph. Losses shall be used in the order in which they accrue.

SECTION 3. 71.05 (10) (cg) of the statutes is created to read:

71.05 **(10)** (cg) Notwithstanding the limit under par. (ce), for taxable years beginning after December 31, 2001, if a taxpayer has a loss that would have carried forward under par. (c), the amount required so that the net capital loss, after netting capital gains and capital losses to arrive at total capital gain or loss, is offset against ordinary income, in each year for the next succeeding 5 fiscal years, only to the extent of one–fifth of the total loss that would have carried forward, except that if the loss that would have carried forward under par. (c) is $500 or less the entire loss may be subtracted in the next succeeding fiscal year.

(END)