



## 2021 ASSEMBLY BILL 3

January 15, 2021 - Introduced by Representatives WITKE and MACCO, cosponsored by Senators MARKLEIN, KOOYENGA and KAPENGA. Referred to Committee on Ways and Means.

1     **AN ACT** *to renumber and amend* 71.365 (4m) (d) 1.; *to amend* 71.29 (7) (b) and  
2     71.29 (10) (a); and *to create* 71.29 (10) (d) and 71.365 (4m) (d) 1. a. and b. of the  
3     statutes; **relating to:** modifications to the tax treatment of tax-option  
4     corporations that elect to pay tax at the entity level.

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### *Analysis by the Legislative Reference Bureau*

This bill makes the following changes to the tax treatment of tax-option corporations that elect to pay income or franchise tax at the entity level:

1. The bill allows these corporations to exclude from tax 30 percent of the gains realized from the sale of assets held more than one year and the sale of all assets acquired from a decedent and 60 percent of the gains realized from the sale of farm assets held more than one year and the sale of all farm assets acquired from a decedent.

2. The bill limits the excess capital loss deduction for these corporations to \$500. As such, under the bill, an electing tax-option corporation with a net loss after netting capital gains and losses may use up to \$500 of the net loss to offset income. A loss in excess of \$500 may be carried forward to the next taxable year in which the corporation makes the election to pay tax at the entity level.

3. The bill provides that an exception from the general requirement to pay interest on the underpayment of estimated taxes for corporations whose Wisconsin net income is less than \$250,000 does not apply to these corporations.

4. The bill provides that these corporations, when making quarterly estimated tax payments, compute the amount due using the standards applicable to taxpayers

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with net income of less than \$250,000, regardless of the corporation's actual net income.

The bill applies to taxable years beginning after December 31, 2019.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 71.29 (7) (b) of the statutes is amended to read:

2           71.29 (7) (b) The preceding taxable year was 12 months, the corporation or  
3           virtually exempt entity had no liability under s. 71.125 or 71.23 (1) or (2) for that year  
4           and, except for a corporation making an election under s. 71.365 (4m) (a), the  
5           corporation or virtually exempt entity has a Wisconsin net income of less than  
6           \$250,000 for the current taxable year.

7           **SECTION 2.** 71.29 (10) (a) of the statutes is amended to read:

8           71.29 (10) (a) Except as provided in ~~par.~~ pars. (c) and (d), for corporations or  
9           virtually exempt entities that have Wisconsin net incomes of \$250,000 or more, the  
10          amount of each installment required under sub. (8) is 25 percent of the amount under  
11          par. (b).

12          **SECTION 3.** 71.29 (10) (d) of the statutes is created to read:

13          71.29 (10) (d) For a corporation making an election under s. 71.365 (4m) (a),  
14          the amount of the installments required under sub. (8) shall be determined according  
15          to sub. (9) (a).

16          **SECTION 4.** 71.365 (4m) (d) 1. of the statutes is renumbered 71.365 (4m) (d) 1.  
17          (intro.) and amended to read:

