

CHAPTER 437

AN ACT to amend 71.02 (2) (b), 71.05 (1) (d) and 71.10 (9) (c), all as affected by chapter 163, laws of 1965; and to create 71.01 (3) (f), 71.02 (2) (L) and (m), 71.05 (1) (a) 6 and (f) and (4) and 71.08 (8) of the statutes, relating to various changes in the tax simplification provisions of the state income and franchise tax law, and creating tax exemptions.

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

SECTION 1. 71.01 (3) (f) of the statutes is created to read:

71.01 (3) (f) The first \$1,000 of compensation received from the United States for service as a reserve or active member of the armed forces.

SECTION 2. 71.02 (2) (b) of the statutes, as affected by chapter 163, laws of 1965, is amended to read:

71.02 (2) (b) "Internal revenue code" means the federal internal revenue code as effective with respect to the taxpayer for the taxable year and reference herein to particular provisions of the internal revenue code of 1954 are deemed to include subsequent amendments thereto and the corresponding provisions of any subsequently enacted internal revenue code; except that for any taxpayer who so elects they shall mean the internal revenue code as ~~in effect on January~~ *amended to October 1, 1965*, and in such case "federal taxable income" and "federal adjusted gross income" shall mean taxable income and adjusted gross income as defined by such code. *The revisor of statutes shall prepare and at each session of the legislature present one or more appropriate bills to make as current as practicable the foregoing reference.* Such election for any taxable year shall be made within the time prescribed by law, excluding any extensions thereof, for filing the return for such taxable year and shall be made in such manner as the department by rule prescribes.

SECTION 3. 71.02 (2) (L) and (m) of the statutes are created to read:

71.02 (2) (L) "Federal net operating loss" of persons other than corporations means net operating loss as determined by the taxpayer under the internal revenue code, or if redetermined by the department, as determined by the department under such code or as may be determined on final appeal therefrom.

(m) "Wisconsin net operating loss" of persons other than corporations for years prior to 1965 means Wisconsin net business loss as computed pursuant to s. 71.06, 1963 stats., and for 1965 and thereafter means "federal net operating loss" adjusted by the modifications prescribed in s. 71.05 (1).

SECTION 4. 71.05 (1) (a) 6 and (f) and (4) of the statutes are created to read:

71.05 (1) (a) 6. Gain on the involuntary conversion of property excluded under section 1033 of the internal revenue code if the replacement property is located outside this state.

(f) Add to or subtract from federal adjusted gross income, as appropriate, any amounts excluded or included therein solely by reason of subchapter S (small business corporations electing to be taxed as partnerships) or subchapter R (proprietorships or partnerships electing to be taxed as corporations) under the internal revenue code.

(4) Whenever a person other than a corporation acquires, after the transitional date, as defined in sub. (2) (a), a constant basis asset, the federal basis of which is different from the Wisconsin basis, an appropriate modification of federal adjusted gross income shall be made in the year of sale, exchange, abandonment or other disposition of such asset properly to reflect the income consequences of such difference. Whenever such a person acquires, after said transitional date, a changing basis asset the federal basis of which is different from the Wisconsin basis, appropriate modifications of federal adjusted gross income shall be made each year properly to reflect the income consequences of such difference; in any such case the commissioner of taxation or his delegate may agree with the taxpayer for an amortization of such difference in basis over a period of 5 years or less.

SECTION 5. 71.05 (1) (d) of the statutes, as affected by chapter 163, laws of 1965, is amended to read:

71.05 (1) (d) The carry back of losses to reduce income of prior years shall not be permitted. ~~Where a person would have been allowed to deduct an amount as a net operating loss carry over in determining federal taxable income of the current year but for the fact that such loss, or a portion of such loss, had been carried back in determining federal taxable income, there shall be added any amount deducted as a net operating loss carry over and there shall be subtracted the amount which could have been deducted as a net operating loss carry-over but for the fact that such loss, or a portion of such loss, had been carried back. There shall be added any amount deducted as a federal net operating loss carry-over and there may be subtracted any Wisconsin net operating loss carry-forward in an amount not in excess of the Wisconsin taxable income computed before the deduction of such Wisconsin net operating loss carry-forward. A Wisconsin net operating loss, to the extent not offset against other income of the year of loss may be carried forward against Wisconsin taxable income of consecutive succeeding years subsequent to the loss year for a period not to exceed 5 years.~~

SECTION 6. 71.08 (8) of the statutes is created to read:

71.08 (8) Trusts exempt from federal income tax pursuant to subtitle A, chapter I, subchapter F of the internal revenue code shall to the same extent be exempt from taxation under this chapter.

SECTION 7. 71.10 (9) (c) of the statutes, as affected by chapter 163, laws of 1965, is amended to read:

71.10 (9) (c) If the taxpayer elects under s. 71.09 (4) (a) to have the department compute the tax on his income *and the taxpayer files his return on or before the date on which such return is required to be filed*, the amount of taxes due thereon, as stated in the notice from the department under s. 71.09 (4) (b), shall become delinquent if not paid on or before the due date stated in the notice to the taxpayer. Such amounts of taxes due shall not be subject to any interest, *other than extension interest*, prior to the date of delinquency. *Taxes due on returns filed after the date on which returns are required to be filed shall be deemed delinquent as of the due date of the return.*

Approved December 8, 1965.