



## 2011 ASSEMBLY BILL 85

April 7, 2011 - Introduced by Representatives ZIEGELBAUER, AUGUST, BIES, BROOKS, KAUFERT, LEMAHIEU, MURSAU, NASS, NYGREN, PETRYK, RIVARD, SPANBAUER and THIESFELDT, cosponsored by Senators LEIBHAM, LASEE, SCHULTZ and WANGGAARD. Referred to Committee on Jobs, Economy and Small Business.

1     **AN ACT** *to repeal* 71.05 (6) (b) 9m.; and *to amend* 71.05 (6) (b) 9. of the statutes;  
2           **relating to:** restoring the treatment of the exclusion of capital gains for  
3           individuals and certain other persons that existed before the enactment of 2009  
4           Wisconsin Act 28.

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### *Analysis by the Legislative Reference Bureau*

Under current law, as affected by the 2009-11 biennial budget act, 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.

This bill reverses the changes made to the taxation of capital gains in the 2009-11 biennial budget act and restores the income tax exclusion for capital gains to 60 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 repeals the separate 60 percent exclusion for farm assets.

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.

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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.** 71.05 (6) (b) 9. of the statutes is amended to read:

2           71.05 **(6)** (b) 9. On assets held more than one year and on all assets acquired  
3 from a decedent, ~~30~~ 60 percent of the capital gain as computed under the ~~internal~~  
4 ~~revenue code~~ Internal Revenue Code, not including capital gains for which the  
5 federal tax treatment is determined under section 406 of P.L. 99-514; not including  
6 amounts treated as ordinary income for federal income tax purposes because of the  
7 recapture of depreciation or any other reason; and not including amounts treated as  
8 capital gain for federal income tax purposes from the sale or exchange of a lottery  
9 prize. For purposes of this subdivision, the capital gains and capital losses for all  
10 assets shall be netted before application of the percentage.

11           **SECTION 2.** 71.05 (6) (b) 9m. of the statutes is repealed.

12           **SECTION 3. Initial applicability.**

13           (1) This act first applies to taxable years beginning on January 1 of the year  
14 in which this subsection takes effect, except that if this subsection takes effect after  
15 July 31 this act first applies to taxable years beginning on January 1 of the year  
16 following the year in which this subsection takes effect.

17   **(END)**