

2001 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB55)

Received: 06/26/2001

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Assembly Republican Caucus**

By/Representing: **Emerson**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Addl. Drafters:

Subject: **Tax - individual income
Tax Credits (inc) - homestead**

Extra Copies:

Submit via email: **NO**

Requester's email:

Pre Topic:

ARC:.....Emerson - AM114,

Topic:

Homestead tax credit;offset interst income from installment sales of homestead against interest paid on new homestead

Instructions:

See Attached.

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	shoveme 06/26/2001	jdyer 06/27/2001	haugeca 06/27/2001	_____	lrb_docadmin 06/27/2001		
/2	shoveme 06/28/2001	jdyer 06/28/2001	rschluet 06/28/2001	_____	lrb_docadmin 06/28/2001		

FE Sent For:

<END>

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/1	shoveme 06/26/2001	jdyer 06/27/2001	haugeca 06/27/2001	_____	lrb_docadmin 06/27/2001		

12 MES 6/29/01
FE Sent For:
12 6/29 jld

work
6/29
12
<END>

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/1	shoveme	11/27 JLD	CH 6-27	CH 6-27 JLD			

11 MES 6/26/01
FE Sent For:

<END>

Budget Amendments 2001 - 2003

Prepared by the Assembly Republican Caucus

MES

Statement of Intent Permit a homestead credit claimant who sells homestead/business property on a installment basis, to offset the interest expense on the part of the loan used to purchase a new homestead against the interest income on the sale

Legislator Ainsworth **Amendment** 114

Legislator 2 **Pass or Fail** Pass

Legislator 3 **Spending Cut**

Legislator 4 **Withdrawn**

Staff contact Kristina **Package**

Agency Revenue

Summary For homestead credit purposes, "income" includes interest income received from the sale of property, including business, farm or rental property, on an installment basis. A claimant who sells this type of property, when his or her homestead is part of the property, and then must borrow money to purchase a replacement homestead, must include the interest income from the sale but cannot offset it by the interest expense on the loan to purchase the new homestead.

This amendment would permit a homestead credit claimant who sells homestead/business property on a installment basis, to offset the interest expense on the part of the loan used to purchase a new homestead (but not on any part of a loan used to purchase a business or rental portion of property) against the interest income on the sale

Fiscal Impact According to the Department of Revenue, processing costs would minimally increase because additional verification would likely be required before homestead credit benefits were allowed.

It is unknown how much this proposal would reduce state tax revenues

Drafting Inst

ARC Analyst Emerson

Request # 20



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBb1792/1

MES.....

JL

ARC:.....Emerson – AM114, Homestead tax credit;offset interest income from installment sales of homestead against interest paid on new homestead

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

substitute amendment

1

At the locations indicated, amend the ~~bill~~ as follows:

2
3
4
5
6
7
8
9

1. Page 831, line 23: after that line insert:

“SECTION 2195m. 71.52 (6) of the statutes is amended to read:

71.52 (6) “Income” means the sum of Wisconsin adjusted gross income and the following amounts, to the extent not included in Wisconsin adjusted gross income: maintenance payments (except foster care maintenance and supplementary payments excludable under section 131 of the internal revenue code), support money, cash public assistance (not including credit granted under this subchapter and amounts under s. 46.27), cash benefits paid by counties under s. 59.53 (21), the gross

1 amount of any pension or annuity (including railroad retirement benefits, all
2 payments received under the federal social security act and veterans disability
3 pensions), nontaxable interest received from the federal government or any of its
4 instrumentalities, nontaxable interest received on state or municipal bonds,
5 worker's compensation, unemployment insurance, the gross amount of "loss of time"
6 insurance, compensation and other cash benefits received from the United States for
7 past or present service in the armed forces, scholarship and fellowship gifts or
8 income, capital gains, gain on the sale of a personal residence excluded under section
9 121 of the internal revenue code, dividends, income of a nonresident or part-year
10 resident who is married to a full-year resident, housing allowances provided to
11 members of the clergy, the amount by which a resident manager's rent is reduced,
12 nontaxable income of an American Indian, nontaxable income from sources outside
13 this state and nontaxable deferred compensation. Intangible drilling costs,
14 depletion allowances and depreciation, including first-year depreciation allowances
15 under section 179 of the internal revenue code, amortization, contributions to
16 individual retirement accounts under section 219 of the internal revenue code,
17 contributions to Keogh plans, net operating loss carry-forwards and capital loss
18 carry-forwards deducted in determining Wisconsin adjusted gross income shall be
19 added to "income". "Income" does not include gifts from natural persons, cash
20 reimbursement payments made under title XX of the federal social security act,
21 surplus food or other relief in kind supplied by a governmental agency, the gain on
22 the sale of a personal residence deferred under section 1034 of the internal revenue
23 code, interest income received from the installment sale of property which includes
24 a claimant's homestead up to the amount of interest that is paid by the claimant on
25 a mortgage that is used to purchase another homestead, or nonrecognized gain from

1 involuntary conversions under section 1033 of the internal revenue code. Amounts
 2 not included in adjusted gross income but added to "income" under this subsection
 3 in a previous year and repaid may be subtracted from income for the year during
 4 which they are repaid. Scholarship and fellowship gifts or income that are included
 5 in Wisconsin adjusted gross income and that were added to household income for
 6 purposes of determining the credit under this subchapter in a previous year may be
 7 subtracted from income for the current year in determining the credit under this
 8 subchapter. A marital property agreement or unilateral statement under ch. 766 has
 9 no effect in computing "income" for a person whose homestead is not the same as the
 10 homestead of that person's spouse."

History: 1987 a. 312, 411; 1989 a. 31, 100; 1991 a. 39, 195; 1995 a. 27, 201; 1997 a. 27, 39; 1999 a. 150 s. 672.

11 **2.** Page 1403, line 12: after that line insert:

12 ^e~~(3a)~~ DEFINITION OF INCOME UNDER THE HOMESTEAD CREDIT. The treatment of
 13 section 71.52 (6) of the statutes first applies to claims filed for taxable years
 14 beginning on January 1 of the year in which this subsection takes effect, except that
 15 if this subsection takes effect after July 31 the treatment of section 71.52 (6) first
 16 applies to claims filed for taxable years beginning on January 1 of the year following
 17 the year in which this subsection takes effect."

18 (END)

Shovers, Marc

From: Hanaman, Cathlene
Sent: Wednesday, June 27, 2001 3:46 PM
To: Shovers, Marc
Subject: FW: LRB Draft: 01b1792/1 Homestead tax credit;offset interst income from installment sales of homestead against interest paid on new homestead

-----Original Message-----

From: Emerson, James
Sent: Wednesday, June 27, 2001 3:45 PM
To: Hanaman, Cathlene
Cc: Boardman, Kristina; Pirlot, R.J.; Delaporte, Maggie
Subject: FW: LRB Draft: 01b1792/1 Homestead tax credit;offset interst income from installment sales of homestead against interest paid on new homestead

Please make the following changes to LRB 01b1792/1

Instead of making the language changes on page 2, the DOR would recommend that the new language is inserted on page 3 - line 8. DOR feels that this exception being provided for should be stated as a separate sentence toward the end of the definition, like the "scholarship" sentence.

Therefore instead of the changes on page 2 - I request the following:

Page 3 - line 8

"subchapter. Interest income received from the installment sale of business, farm or rental real property which includes a claimant's former homestead, up to the amount of interest that is paid by the claimant on a mortgage to purchase another homestead, may be subtracted from income in determining the credit under this subchapter. A marital property..."

Also - we would recommend that the definition of "income" for farmland preservation credit purposes (s.71.58(7), Stats.) should be modified to exclude this provision (the farmland preservation definition is tied to the homestead credit income definition).

Please let me know if you have any additional questions. Thank you for your help.

Kristina Boardman

-----Original Message-----

From: Haugen, Caroline
Sent: Wednesday, June 27, 2001 8:47 AM
To: Emerson, James
Cc: Legislative Fiscal Bureau; Hanaman, Cathlene; Haugen, Caroline
Subject: LRB Draft: 01b1792/1 Homestead tax credit;offset interst income from installment sales of homestead against interest paid on new homestead

Following is the PDF version of draft 01b1792/1.



01b1792/1

RMR

ARC:.....Emerson - AM114, Homestead tax credit; offset interest income from installment sales of homestead against interest paid on new homestead

FOR 2001-03 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS ASSEMBLY AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2001 SENATE BILL 55

P-note

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 831, line 23: after that line insert:

3 "SECTION 2195m. 71.52 (6) of the statutes is amended to read:

4 ~~71.52 (6) "Income" means the sum of Wisconsin adjusted gross income and the~~
 5 ~~following amounts, to the extent not included in Wisconsin adjusted gross income:~~
 6 ~~maintenance payments (except foster care maintenance and supplementary~~
 7 ~~payments excludable under section 131 of the internal revenue code), support money,~~
 8 ~~cash public assistance (not including credit granted under this subchapter and~~
 9 ~~amounts under s. 46.27), cash benefits paid by counties under s. 59.53 (21), the gross~~

1 amount of any pension or annuity (including railroad retirement benefits, all
2 payments received under the federal social security act and veterans disability
3 pensions), nontaxable interest received from the federal government or any of its
4 instrumentalities, nontaxable interest received on state or municipal bonds,
5 worker's compensation, unemployment insurance, the gross amount of "loss of time"
6 insurance, compensation and other cash benefits received from the United States for
7 past or present service in the armed forces, scholarship and fellowship gifts or
8 income, capital gains, gain on the sale of a personal residence excluded under section
9 121 of the internal revenue code, dividends, income of a nonresident or part-year
10 resident who is married to a full-year resident, housing allowances provided to
11 members of the clergy, the amount by which a resident manager's rent is reduced,
12 nontaxable income of an American Indian, nontaxable income from sources outside
13 this state and nontaxable deferred compensation. Intangible drilling costs,
14 depletion allowances and depreciation, including first-year depreciation allowances
15 under section 179 of the internal revenue code, amortization, contributions to
16 individual retirement accounts under section 219 of the internal revenue code,
17 contributions to Keogh plans, net operating loss carry-forwards and capital loss
18 carry-forwards deducted in determining Wisconsin adjusted gross income shall be
19 added to "income". "Income" does not include gifts from natural persons, cash
20 reimbursement payments made under title XX of the federal social security act,
21 surplus food or other relief in kind supplied by a governmental agency, the gain on
22 the sale of a personal residence deferred under section 1034 of the internal revenue
23 code, interest income received from the installment sale of property which includes
24 a claimant's homestead up to the amount of interest that is paid by the claimant on
25 a mortgage that is used to purchase another homestead, or nonrecognized gain from

1 involuntary conversions under section 1033 of the internal revenue code. Amounts
 2 not included in adjusted gross income but added to "income" under this subsection
 3 in a previous year and repaid may be subtracted from income for the year during
 4 which they are repaid. Scholarship and fellowship gifts or income that are included
 5 in Wisconsin adjusted gross income and that were added to household income for
 6 purposes of determining the credit under this subchapter in a previous year may be
 7 subtracted from income for the current year in determining the credit under this
 8 subchapter. A marital property agreement or unilateral statement under ch. 766 has
 9 no effect in computing "income" for a person whose homestead is not the same as the
 10 homestead of that person's spouse."

INS
3-10

11 **2.** Page 1403, line 12: after that line insert:

12 "(3e) DEFINITION OF INCOME UNDER THE HOMESTEAD CREDIT. The treatment of
 13 section 71.52 (6) of the statutes first applies to claims filed for taxable years
 14 beginning on January 1 of the year in which this subsection takes effect, except that
 15 if this subsection takes effect after July 31 the treatment of section 71.52 (6) of the
 16 statutes first applies to claims filed for taxable years beginning on January 1 of the
 17 year following the year in which this subsection takes effect."

18 (END)

D-note

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1792/2ins
MES:jld:ch

INS 3-10

~~SECTION ??.~~ 71.52 (6) of the statutes is amended to read:

71.52 (6) "Income" means the sum of Wisconsin adjusted gross income and the following amounts, to the extent not included in Wisconsin adjusted gross income: maintenance payments (except foster care maintenance and supplementary payments excludable under section 131 of the internal revenue code), support money, cash public assistance (not including credit granted under this subchapter and amounts under s. 46.27), cash benefits paid by counties under s. 59.53 (21), the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act and veterans disability pensions), nontaxable interest received from the federal government or any of its instrumentalities, nontaxable interest received on state or municipal bonds, worker's compensation, unemployment insurance, the gross amount of "loss of time" insurance, compensation and other cash benefits received from the United States for past or present service in the armed forces, scholarship and fellowship gifts or income, capital gains, gain on the sale of a personal residence excluded under section 121 of the internal revenue code, dividends, income of a nonresident or part-year resident who is married to a full-year resident, housing allowances provided to members of the clergy, the amount by which a resident manager's rent is reduced, nontaxable income of an American Indian, nontaxable income from sources outside this state and nontaxable deferred compensation. Intangible drilling costs, depletion allowances and depreciation, including first-year depreciation allowances under section 179 of the internal revenue code, amortization, contributions to individual retirement accounts under section 219 of the internal revenue code,



INS 3-10
cont

contributions to Keogh plans, net operating loss carry-forwards and capital loss carry-forwards deducted in determining Wisconsin adjusted gross income shall be added to "income". "Income" does not include gifts from natural persons, cash reimbursement payments made under title XX of the federal social security act, surplus food or other relief in kind supplied by a governmental agency, the gain on the sale of a personal residence deferred under section 1034 of the internal revenue code or nonrecognized gain from involuntary conversions under section 1033 of the internal revenue code. Amounts not included in adjusted gross income but added to "income" under this subsection in a previous year and repaid may be subtracted from income for the year during which they are repaid. Scholarship and fellowship gifts or income that are included in Wisconsin adjusted gross income and that were added to household income for purposes of determining the credit under this subchapter in a previous year may be subtracted from income for the current year in determining the credit under this subchapter. Interest income received from the installment sale of business, farm, or rental real property which includes a claimant's former homestead, up to the amount of interest that is paid by the claimant on a mortgage to purchase another homestead, may be subtracted from income in determining the credit under this subchapter, except that notwithstanding s. 71.58 (7) (a), this provision does not apply to the definition of "income" under s. 71.58 (7). A marital property agreement or unilateral statement under ch. 766 has no effect in computing "income" for a person whose homestead is not the same as the homestead of that person's spouse. ”

History: 1987 a. 312, 411; 1989 a. 31, 100; 1991 a. 39, 195; 1995 a. 27, 201; 1997 a. 27, 39; 1999 a. 150 s. 672.

end of INS 3-10

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1792/2dn
MES:jld:ch

date

James Emerson:

I believe that this version of the amendment meets your intent. Because the definition of "income" in s. 71.52 (6) under the homestead credit and in s. 71.58 (7) under the farmland preservation credit are not easy to amend, I excluded the change made in s. 71.52 (6) from applying to the farmland preservation credit in the homestead definition, instead of trying to actually amend the definition of "income" in s. 71.58 (7). I think this works, but you may wish to have DOR take a look at this amendment to see if it is consistent with the department's instructions.

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266-0129
E-mail: marc.shovers@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1792/2dn
MES:jld.cmlh

June 28, 2001

James Emerson:

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19 statutes first applies to claims filed for taxable years beginning on January 1 of the
20 year following the year in which this subsection takes effect."

21 (END)