

2003 DRAFTING REQUEST

Senate Amendment (SA-SSA1-SB44)

Received: 06/17/2003

Received By: jkreye

Wanted: Today

Identical to LRB: 2003 AB 391

For: Fred Risser (608) 266-1627

By/Representing: leslie

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax - corp. inc. and fran.

Extra Copies:

Submit via email: YES

Requester's email: Sen.Risser@legis.state.wi.us

Carbon copy (CC:) to: joseph.kreye@legis.state.wi.us

Pre Topic:

No specific pre topic given

Topic:

Adding payments to related entities to federal taxable income

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>
/?	jkreye 06/17/2003	kgilfoy 06/17/2003		_____			
/1			chaskett 06/17/2003	_____	mbarman 06/17/2003	mbarman 06/17/2003	

FE Sent For:

<END>

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1?	jkreye	11-6/17 King	11/17 85	6/17 6/17			

FE Sent For:

<END>

Kreye, Joseph

From: Shovers, Marc
Sent: Tuesday, June 17, 2003 9:31 AM
To: Kreye, Joseph
Subject: FW: amendments to be drafted

Hi Joe:

I looked at AB 391 and its actually one of your masterpieces.

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

From: Miller, Steve
Sent: Tuesday, June 17, 2003 8:47 AM
To: Shovers, Marc; Champagne, Rick; Kuesel, Jeffery
Subject: FW: amendments to be drafted

Marc, Rick, and Jeff, respectively (I think):

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

From: Travis, Leslie
Sent: Tuesday, June 17, 2003 8:44 AM
To: Miller, Steve
Subject: amendments to be drafted

Hi Steve,

Senator Risser would like the following amendments drafted to the JFC version of the budget:

1) ~~the contents of Assembly Bill 391, adding payments to related entities to federal taxable income for state income tax and franchise tax purposes.~~

2) LRBb0093/2 relating to reinstatement privileges and restoration rights for certain state employees laid off during the 2003-05 fiscal biennium.

and 3) relating to the Building Program: restore general fund supported borrowing (bonding) for maintenance to the level of funding in the Governor's budget. (JFC decreased it by \$30 million.

Thanks so much.

Leslie Travis

2003

Date (time) needed in 6-17-03

LRB b 0532, 1

BUDGET AMENDMENT

[Not for compile]

JK:KMG:

See form AMENDMENTS — COMPONENTS & ITEMS.

SENATE AMENDMENT TO SENATE SUBSTITUTE AMENDMENT 1 TO 2003 SENATE BILL 44

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

✓ #. Page 604, line 2: after that line insert: INSERT A

✓ #. Page 613, line 14: after that line insert: INSERT B

✓ #. Page 613, line 22: after that line insert: INSERT C

✓ #. Page 633, line 4: after that line insert: INSERT Da & Db

✓ #. Page 655, line 6: after that line insert: INSERT E

✓ #. Page 665, line 11: after that line insert: INSERT F

0532/1

JK

✓ #. page 674, line 18: after that line insert:

6

INSERT G

✓ #. page 1139, line 1: after that line insert:

INSERT H

(end)

2003 ASSEMBLY BILL 391

June 5, 2003 - Introduced by Representatives BLACK, BERCEAU, POCAN, MILLER, HEBL and PLOUFF, cosponsored by Senators CARPENTER, RISSER and CHVALA. Referred to Committee on Ways and Means.

1 AN ACT *to renumber and amend* 71.26 (2) (a); and *to create* 71.01 (5p), 71.01
 2 (9b), 71.05 (6) (a) 21., 71.22 (3m), 71.22 (9b), 71.34 (1) (j), 71.26 (2) (a) 6., 71.42
 3 (1p), 71.42 (4m) and 71.45 (2) (a) 16. of the statutes; **relating to:** adding
 4 payments to related entities to federal taxable income for state income tax and
 5 franchise tax purposes.

Analysis by the Legislative Reference Bureau

For purposes of calculating a taxpayer's state income tax or franchise tax liability, this bill requires a taxpayer to add the following amounts to the taxpayer's federal taxable income: any amount that the taxpayer deducted or excluded under the Internal Revenue Code for management and service fees, interest expenses and costs, intangible expenses and costs, and any other expenses and costs directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

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:

✓
INSERT
A

⑥

SECTION 1. 71.01 (5p) of the statutes is created to read:

(cde)
1580cde

ASSEMBLY BILL 391

INSERT A

1 71.01 (5p) "Intangible expenses and costs" includes expenses, losses, and costs
 2 for, related to, or directly or indirectly in connection with the direct or indirect
 3 acquisition of, use of, maintenance or management of, ownership of, sale of, exchange
 4 of, or any other direct or indirect disposition of intangible property to the extent that
 5 such expenses, losses, and costs are allowed as deductions or costs to determine
 6 federal taxable income under the Internal Revenue Code. For purposes of this
 7 subsection, "expenses, losses, and costs" include losses related to or incurred directly
 8 or indirectly in connection with discounting transactions; royalty, patent, technical,
 9 and copyright fees; licensing fees; and other similar expenses and costs.

INSERT B

10 SECTION 2. 71.01 (9b) of the statutes is created to read:
 11 1580 dhd → d h b
 12 71.01 (9b) "Related entity" means any person related to a taxpayer as provided
 13 under section 267, 318, or 1563 (a) (3) of the Internal Revenue Code during all or a
 14 portion of the taxpayer's taxable year. 1580 dhd
 15 SECTION 3. 71.05 (6) (a) 21. of the statutes is created to read:
 16 71.05 (6) (a) 21. Any amount deducted or excluded under the Internal Revenue
 17 Code for management and service fees, interest expenses and costs, intangible
 18 expenses and costs, and any other expenses and costs directly or indirectly paid,
 19 accrued, or incurred to, or in connection directly or indirectly with one or more direct
 or indirect transactions with, one or more related entities.

INSERT B

20 SECTION 4. 71.22 (3m) of the statutes is created to read:
 21 1582 bb
 22 71.22 (3m) "Intangible expenses and costs" includes expenses, losses, and costs
 23 for, related to, or directly or indirectly in connection with the direct or indirect
 24 acquisition of, use of, maintenance or management of, ownership of, sale of, exchange
 25 of, or any other direct or indirect disposition of intangible property to the extent that
 such expenses, losses, and costs are allowed as deductions or costs to determine

bb

INSERT C

ASSEMBLY BILL 391

End of insert C

C

1 federal taxable income under the Internal Revenue Code. For purposes of this
2 subsection, "expenses, losses, and costs" include losses related to or incurred directly
3 or indirectly in connection with discounting transactions; royalty, patent, technical,
4 and copyright fees; licensing fees; and other similar expenses and costs.

5 SECTION 5. 71.22 (9b) of the statutes is created to read:
6 71.22 (9b) "Related entity" means any person related to a taxpayer as provided
7 under section 267, 318, or 1563 (a) (3) of the Internal Revenue Code during all or a
8 portion of the taxpayer's taxable year.

INSERT
Da

9 SECTION 6. 71.34 (1) (j) of the statutes is created to read:
10 71.34 (1) (j) An addition shall be made for any amount deducted or excluded
11 under the Internal Revenue Code for management and service fees, interest
12 expenses and costs, intangible expenses and costs, and any other expenses and costs
13 directly or indirectly paid, accrued, or incurred to, or in connection directly or
14 indirectly with one or more direct or indirect transactions with, one or more related
15 entities.

INSERT
E

16 SECTION 7. 71.26 (2) (a) of the statutes is renumbered 71.26 (2) (a) (intro.) and
17 amended to read:
18 71.26 (2) (a) Corporations in general. (intro.) The "net income" of a corporation
19 means the gross income as computed under the Internal Revenue Code as modified
20 under sub. (3) minus and modified as follows:
21 1. Minus the amount of recapture under s. 71.28 (1di) plus.
22 2. Plus the amount of credit computed under s. 71.28 (1), (3), (4), and (5) plus.
23 3. Plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di),
24 (1dj), (1dL), (1dm), (1ds), (1dx), and (3g) and not passed through by a partnership,
25 limited liability company, or tax-option corporation that has added that amount to

INSERT
D&

ASSEMBLY BILL 391

INSERT D&R

1 the partnership's, limited liability company's, or tax-option corporation's income
2 under s. 71.21 (4) or 71.34 (1) (g) ~~plus~~.

3 4. Plus the amount of losses from the sale or other disposition of assets the gain
4 from which would be wholly exempt income, as defined in sub. (3) (L), if the assets
5 were sold or otherwise disposed of at a gain and minus deductions, as computed
6 under the Internal Revenue Code as modified under sub. (3), ~~plus~~.

7 5. Plus or minus, as appropriate, an amount equal to the difference between
8 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
9 otherwise disposed of in a taxable transaction during the taxable year, except as
10 provided in par. (b) and s. 71.45 (2) and (5).

11 SECTION ~~8.~~ ^{1582 dpg} 71.26 (2) (a) 6. of the statutes is created to read:

12 71.26 (2) (a) 6. Plus any amount deducted or excluded under the Internal
13 Revenue Code for management and service fees, interest expenses and costs,
14 intangible expenses and costs, and any other expenses and costs directly or indirectly
15 paid, accrued, or incurred to, or in connection directly or indirectly with one or more
16 direct or indirect transactions with, one or more related entities. ~~;~~

END OF INSERT D&R

17 SECTION ~~9.~~ ^{1583 dhl -> dhb} 71.42 (1p) of the statutes is created to read:

18 71.42 (1p) "Intangible expenses and costs" includes expenses, losses, and costs
19 for, related to, or directly or indirectly in connection with the direct or indirect
20 acquisition of, use of, maintenance or management of, ownership of, sale of, exchange
21 of, or any other direct or indirect disposition of intangible property to the extent that
22 such expenses, losses, and costs are allowed as deductions or costs to determine
23 federal taxable income under the Internal Revenue Code. For purposes of this
24 subsection, "expenses, losses, and costs" include losses related to or incurred directly

INSERT F



ASSEMBLY BILL 391

End of insert F

1 or indirectly in connection with discounting transactions; royalty, patent, technical,
2 and copyright fees; licensing fees; and other similar expenses and costs.

3 SECTION 10. 71.42 (4m) of the statutes is created to read:

4 71.42 (4m) "Related entity" means any person related to a taxpayer as provided
5 under section 267, 318, or 1563 (a) (3) of the Internal Revenue Code during all or a
6 portion of the taxpayer's taxable year.

7 SECTION 11. 71.45 (2) (a) 16. of the statutes is created to read:

8 71.45 (2) (a) 16. By adding to federal taxable income any amount deducted or
9 excluded under the Internal Revenue Code for management and service fees,
10 interest expenses and costs, intangible expenses and costs, and any other expenses
11 and costs directly or indirectly paid, accrued, or incurred to, or in connection directly
12 or indirectly with one or more direct or indirect transactions with, one or more
13 related entities.

INSERT G

14 ~~SECTION 12. Initial applicability.~~

15 ~~(a) This act~~ first ^{apply} applies to taxable years beginning on January 1 of the year
16 in which this subsection takes effect, except that if this subsection takes effect after
17 July 31 this act first applies to taxable years beginning on January 1 of the year
18 following the year in which this subsection takes effect. "

INSERT H

19 ~~PAYMENTS TO RELATED ENTITIES.~~ ^{CS} ~~The treatment of~~ ^{CS} ~~renumbering and~~
~~amendment of section 71.26(2)(a) of the statutes and creation~~
~~of sections 71.01(5p) and (9b), 71.05(6)(a) 21, 71.22(3m)~~
~~and (9b), 71.34(1)(j), 71.26(2)(a) 6, 71.42(1p) and (4m),~~
~~and 71.45(2)(a) 16, of the statutes and the renumbering~~
~~and amendment of section 71.26(2)(a) of the~~
~~statutes~~