

2005 ASSEMBLY BILL 21

1 **AN ACT** *to renumber* 71.738 (1) and 71.738 (2); *to renumber and amend* 71.01
2 (7r), 71.26 (3) (y) and 71.365 (1m); and *to create* 71.01 (7r) (b), 71.26 (3) (y) 2.,
3 71.365 (1m) (b), 71.738 (1d), 71.738 (2d) and 71.765 of the statutes; **relating to:**
4 computing expense deductions and amortization and depreciation on property
5 used in farming for income and franchise tax purposes.

Analysis by the Legislative Reference Bureau

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

6 **SECTION 1.** 71.01 (7r) of the statutes is renumbered 71.01 (7r) (a) and amended
7 to read:
8 71.01 **(7r)** (a) Notwithstanding sub. (6), and except as provided in par. (b), for
9 purposes of computing amortization or depreciation, “Internal Revenue Code”
10 means the federal Internal Revenue Code as amended to December 31, 2000, except

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1 that property that, under s. 71.02 (2) (d) 12., 1985 stats., is required to be depreciated
2 for taxable year 1986 under the Internal Revenue Code as amended to
3 December 31, 1980, shall continue to be depreciated under the Internal Revenue
4 Code as amended to December 31, 1980.

5 **SECTION 2.** 71.01 (7r) (b) of the statutes is created to read:

6 71.01 (7r) (b) Notwithstanding sub. (6), for property acquired and placed in
7 service in taxable years beginning on or after January 1, 2006, a person who is
8 actively engaged in farming may compute amortization and depreciation on property
9 used in farming under any subsequent change to section 101 of P.L. 107–147 or
10 section 201 of P.L. 108–27 enacted after December 31, 2005. For purposes of this
11 paragraph, “actively engaged in farming” has the meaning given in 7 CFR 1400.201,
12 and “farming” has the meaning given in section 464 (e) (1) of the Internal Revenue
13 Code. This paragraph does not apply unless a federal law change enacted after
14 December 31, 2005, revises section 101 of P.L. 107–147 or section 201 of P.L. 108–27.

15 **SECTION 3.** 71.26 (3) (y) of the statutes is renumbered 71.26 (3) (y) 1. and
16 amended to read:

17 71.26 (3) (y) 1. ~~A~~ Except as provided in subd. 2., a corporation shall compute
18 amortization and depreciation under the federal Internal Revenue Code as amended
19 to December 31, 2000, except that property first placed in service by the taxpayer on
20 or after January 1, 1983, but before January 1, 1987, that, under s. 71.04 (15) (b) and
21 (br), 1985 stats., is required to be depreciated under the Internal Revenue Code as
22 amended to December 31, 1980, and property first placed in service in taxable year
23 1981 or thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985
24 stats., is required to be depreciated under the Internal Revenue Code as amended

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1 to December 31, 1980, shall continue to be depreciated under the Internal Revenue
2 Code as amended to December 31, 1980.

3 **SECTION 4.** 71.26 (3) (y) 2. of the statutes is created to read:

4 71.26 (3) (y) 2. For property acquired and placed in service in taxable years
5 beginning on or after January 1, 2006, a corporation that is actively engaged in
6 farming may compute amortization and depreciation on property used in farming
7 under any subsequent change to section 101 of P.L. 107–147 or section 201 of P.L.
8 108–27 enacted after December 31, 2005. For purposes of this subdivision, “actively
9 engaged in farming” has the meaning given in 7 CFR 1400.201, and “farming” has
10 the meaning given in section 464 (e) (1) of the Internal Revenue Code. This
11 subdivision does not apply unless a federal law change enacted after December 31,
12 2005, revises section 101 of P.L. 107–147 or section 201 of P.L. 108–27.

13 **SECTION 5.** 71.365 (1m) of the statutes is renumbered 71.365 (1m) (a) and
14 amended to read:

15 71.365 (1m) TAX-OPTION CORPORATIONS; DEPRECIATION. (a) ~~A~~ Except as provided
16 in par. (b), a tax-option corporation shall compute amortization and depreciation
17 under the federal Internal Revenue Code as amended to December 31, 2000, except
18 that property first placed in service by the taxpayer on or after January 1, 1983, but
19 before January 1, 1987, that, under s. 71.04 (15) (b) and (br), 1985 stats., is required
20 to be depreciated under the Internal Revenue Code as amended to
21 December 31, 1980, and property first placed in service in taxable year 1981 or
22 thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985 stats., is
23 required to be depreciated under the Internal Revenue Code as amended to
24 December 31, 1980, shall continue to be depreciated under the Internal Revenue
25 Code as amended to December 31, 1980. Any difference between the adjusted basis

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1 for federal income tax purposes and the adjusted basis under this chapter shall be
2 taken into account in determining net income or loss in the year or years for which
3 the gain or loss is reportable under this chapter. If that property was placed in
4 service by the taxpayer during taxable year 1986 and thereafter but before the
5 property is used in the production of income subject to taxation under this chapter,
6 the property's adjusted basis and the depreciation or other deduction schedule are
7 not required to be changed from the amount allowable on the owner's federal income
8 tax returns for any year because the property is used in the production of income
9 subject to taxation under this chapter. If that property was acquired in a transaction
10 in taxable year 1986 or thereafter in which the adjusted basis of the property in the
11 hands of the transferee is the same as the adjusted basis of the property in the hands
12 of the transferor, the Wisconsin adjusted basis of that property on the date of transfer
13 is the adjusted basis allowable under the Internal Revenue Code as defined for
14 Wisconsin purposes for the property in the hands of the transferor.

15 **SECTION 6.** 71.365 (1m) (b) of the statutes is created to read:

16 71.365 (1m) (b) For property acquired and placed in service in taxable years
17 beginning on or after January 1, 2006, a tax-option corporation that is actively
18 engaged in farming may compute amortization and depreciation on property used in
19 farming under any subsequent change to section 101 of P.L. 107-147 or section 201
20 of P.L. 108-27 enacted after December 31, 2005. For purposes of this paragraph,
21 "actively engaged in farming" has the meaning given in 7 CFR 1400.201, and
22 "farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code.
23 This paragraph does not apply unless a federal law change enacted after December
24 31, 2005, revises section 101 of P.L. 107-147 or section 201 of P.L. 108-27.

25 **SECTION 7.** 71.738 (1) of the statutes is renumbered 71.738 (1m).

