

ASSEMBLY BILL 21 (LRB -0680)

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

2005

01-18. A. Introduced by Representatives **Towns, LeMahieu, Ott, Nass, Kestell, Petrowski, Hines, Hahn, Gronemus, Ainsworth, McCormick, Hundertmark, Freese, Gunderson, Vrakas, Stone, Musser, Suder, F. Lasee, Kreibich, Wood, Pettis, Albers, Bies, Van Roy, Vos, Nelson and Davis**; cosponsored by Senators **Kedzie, Harsdorf, Olsen, Zien, Kanavas, Roessler and Brown**.

01-20. A. Read first time and referred to committee on Agriculture 37

01-20. A. Read first time and referred to joint survey committee on Tax Exemptions 37

02-11. A. Fiscal estimate received.

08-09. A. Assembly amendment 1 offered by Representative **Towns (LRB a0875)** 428

08-18. A. Assembly amendment 2 offered by Representative **Towns (LRB a0900)** 438

08-18. A. Public hearing held by committee on Agriculture.

09-06. A. Executive action taken.

09-09. A. Report Assembly Amendment 2 adoption recommended by committee on Agriculture, Ayes 12, Noes 1 453

09-09. A. Report passage as amended recommended by committee on Agriculture, Ayes 12, Noes 1 453

09-15. A. Placed on calendar 9-20-2005 by committee on Rules.

09-15. A. Assembly amendment 1 to Assembly amendment 2 offered by Representative **Ziegelbauer (LRB a0979)** 459

09-15. A. Assembly amendment 2 to Assembly amendment 2 offered by Representative **Ziegelbauer (LRB a0980)** 459

09-22. A. Referred to joint committee on Finance 476

11-30. A. Executive action taken.

11-30. A. Assembly amendment 3 to Assembly amendment 2 offered by committee on Finance **(LRB a1187)** 638

12-05. A. Report Assembly Amendment 3 to Assembly Amendment 2 adoption recommended by joint committee on Finance, Ayes 14, Noes 0 639

12-05. A. Report Assembly Amendment 2 adoption recommended by joint committee on Finance, Ayes 13, Noes 1 639

12-05. A. Report passage as amended recommended by joint committee on Finance, Ayes 11, Noes 3 639

12-05. A. Referred to committee on Rules 639

12-13. A. Placed on calendar 12-15-2005 by committee on Rules.

12-13. A. Made a special order of business at 11:02 A.M. on 12-15-2005 pursuant to Assembly Resolution 45 674

12-15. A. Read a second time 689

12-15. A. Assembly amendment 3 to Assembly amendment 2 **adopted** 689

12-15. A. Assembly amendment 2 **adopted** 689

12-15. A. Ordered to a third reading 689

12-15. A. Rules suspended 689

12-15. A. Read a third time and **passed**, Ayes 81, Noes 13, Paired 2 689

12-15. A. Ordered immediately messaged 690

12-16. S. Received from Assembly 503

12-16. S. Read first time and referred to committee on Agriculture and Insurance 503

2006

01-18. S. Public hearing held.

01-31. S. Executive action taken.

01-31. S. Report concurrence recommended by committee on Agriculture and Insurance, Ayes 5, Noes 2 565

01-31. S. Available for scheduling.

03-01. S. Placed on calendar 3-2-2006 by committee on Senate Organization.

03-02. S. Senator **Leibham** added as a cosponsor.

03-02. S. Read a second time.

03-02. S. Point of order that the bill is not properly before the Senate taken under advisement.

03-02. S. Point of order that the bill is not properly before the Senate not well taken.

03-02. S. Decision of the Chair stands as the judgement of the Senate, Ayes 19, Noes 13.

03-02. S. Senator **A. Lasee** added as a cosponsor.

03-02. S. Senate amendment 1 offered by Senator **Carpenter (LRB f345)**.

03-02. S. Refused to adopt Senate amendment 1, Ayes 12, Noes 20.

03-02. S. Ordered to a third reading.

03-03. S. Read a third time.

03-03. S. **Concurred in**, Ayes 18, Noes 14.

03-03. S. Ordered immediately messaged.

SN

**2005
ENROLLED BILL**

05en AB-21

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

05-0680/1

Amendments to above (if none, write "NONE"): AA2 - 20900/1
as amended by AA3 to AA2 - 21187/1

Corrections - show date (if none, write "NONE"): None

Topic Rel

3/6/06

JR Miller

Date

Enrolling Drafter

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2005 ASSEMBLY BILL 21

January 20, 2005 - Introduced by Representatives TOWNS, LEMAHIEU, OTT, NASS, KESTELL, PETROWSKI, HINES, HAHN, GRONEMUS, AINSWORTH, MCCORMICK, HUNDERTMARK, FREESE, GUNDERSON, VRAKAS, STONE, MUSSER, SUDER, F. LASEE, KREIBICH, WOOD, PETTIS, ALBERS, BIES, VAN ROY, VOS, NELSON and DAVIS, cosponsored by Senators KEDZIE, HARSDORF, OLSEN, ZIEN, KANAVAS, ROESSLER and BROWN. Referred to Committee on Agriculture. Referred to Joint Survey Committee on Tax Exemptions.

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

Under current law, for income and franchise tax purposes, expense deductions and amortization and depreciation is computed as specified by the federal Internal Revenue Code as amended to December 31, 2000. Under this bill, amortization and depreciation of property used in the business of farming is computed as specified under the federal Internal Revenue Code as amended by section 101 of Public Law 107-147 and section 201 of Public Law 108-27. Under section 101 of Public Law 107-147, generally, a taxpayer may claim a 30 percent bonus depreciation for property acquired after September 10, 2001, and before September 11, 2004. Under section 201 of Public Law 108-27, generally, a taxpayer may claim a 50 percent bonus depreciation for property acquired after May 5, 2003, and before January 1, 2005.

For taxable years beginning in 2005, this bill also adopts section 202 of Public Law 108-27 for the purpose of computing expense deductions on property used in the business of farming. Under section 202 of Public Law 108-27, generally, the maximum aggregate cost of certain property that a taxpayer may treat as an expense for taxable years beginning after 2002 and before 2006 is \$100,000 rather than \$25,000.

ASSEMBLY BILL 21

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

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:

1 **SECTION 1.** 71.01 (7r) of the statutes is renumbered 71.01 (7r) (a) and amended
2 to read:

3 71.01 (7r) (a) Notwithstanding sub. (6), and except as provided in par. (b), for
4 purposes of computing amortization or depreciation, “Internal Revenue Code”
5 means the federal Internal Revenue Code as amended to December 31, 2000, except
6 that property that, under s. 71.02 (2) (d) 12., 1985 stats., is required to be depreciated
7 for taxable year 1986 under the Internal Revenue Code as amended to
8 December 31, 1980, shall continue to be depreciated under the Internal Revenue
9 Code as amended to December 31, 1980.

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

11 71.01 (7r) (b) A person who is actively engaged in farming may compute
12 amortization and depreciation on property used in farming under the federal
13 Internal Revenue Code as amended by section 101 of P.L. 107-147 and section 201
14 of P.L. 108-27. Section 101 of P.L. 107-147 and section 201 of P.L. 108-27 apply for
15 Wisconsin purposes at the same time as for federal purposes. For purposes of this
16 paragraph, “actively engaged in farming” has the meaning given in 7 CFR 1400.201,
17 and “farming” has the meaning given in section 464 (e) (1) of the Internal Revenue
18 Code.

INSERT 2-1

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

ASSEMBLY BILL 21

1 71.26 (3) (y) 1. ~~A~~ Except as provided in subd. 2., a corporation shall compute
 2 amortization and depreciation under the federal Internal Revenue Code as amended
 3 to December 31, 2000, except that property first placed in service by the taxpayer on
 4 or after January 1, 1983, but before January 1, 1987, that, under s. 71.04 (15) (b) and
 5 (br), 1985 stats., is required to be depreciated under the Internal Revenue Code as
 6 amended to December 31, 1980, and property first placed in service in taxable year
 7 1981 or thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985
 8 stats., is required to be depreciated under the Internal Revenue Code as amended
 9 to December 31, 1980, shall continue to be depreciated under the Internal Revenue
 10 Code as amended to December 31, 1980.

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

12 ~~71.26 (3) (y) 2. A corporation that is actively engaged in farming may compute~~
 13 ~~amortization and depreciation on property used in farming under the federal~~
 14 ~~Internal Revenue Code as amended by section 101 of P.L. 107-147 and section 201~~
 15 ~~of P.L. 108-27. Section 101 of P.L. 107-147 and section 201 of P.L. 108-27 apply for~~
 16 ~~Wisconsin purposes at the same time as for federal purposes. For purposes of this~~
 17 ~~subdivision, "actively engaged in farming" has the meaning given in 7 CFR 1400.201,~~
 18 ~~and "farming" has the meaning given in section 464 (c) (1) of the Internal Revenue~~
 19 ~~Code.~~

INSERT 2-2

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

22 71.365 (1m) TAX-OPTION CORPORATIONS; DEPRECIATION. (a) ~~A~~ Except as provided
 23 in par. (b), a tax-option corporation shall compute amortization and depreciation
 24 under the federal Internal Revenue Code as amended to December 31, 2000, except
 25 that property first placed in service by the taxpayer on or after January 1, 1983, but

ASSEMBLY BILL 21**SECTION 5**

1 before January 1, 1987, that, under s. 71.04 (15) (b) and (br), 1985 stats., is required
2 to be depreciated under the Internal Revenue Code as amended to
3 December 31, 1980, and property first placed in service in taxable year 1981 or
4 thereafter but before January 1, 1987, that, under s. 71.04 (15) (bm), 1985 stats., is
5 required to be depreciated under the Internal Revenue Code as amended to
6 December 31, 1980, shall continue to be depreciated under the Internal Revenue
7 Code as amended to December 31, 1980. Any difference between the adjusted basis
8 for federal income tax purposes and the adjusted basis under this chapter shall be
9 taken into account in determining net income or loss in the year or years for which
10 the gain or loss is reportable under this chapter. If that property was placed in
11 service by the taxpayer during taxable year 1986 and thereafter but before the
12 property is used in the production of income subject to taxation under this chapter,
13 the property's adjusted basis and the depreciation or other deduction schedule are
14 not required to be changed from the amount allowable on the owner's federal income
15 tax returns for any year because the property is used in the production of income
16 subject to taxation under this chapter. If that property was acquired in a transaction
17 in taxable year 1986 or thereafter in which the adjusted basis of the property in the
18 hands of the transferee is the same as the adjusted basis of the property in the hands
19 of the transferor, the Wisconsin adjusted basis of that property on the date of transfer
20 is the adjusted basis allowable under the Internal Revenue Code as defined for
21 Wisconsin purposes for the property in the hands of the transferor.

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

23 71.365 (1m) (b) A tax-option corporation that is actively engaged in farming
24 may compute amortization and depreciation on property used in farming under the
25 federal Internal Revenue Code as amended by section 101 of P.L. 107-147 and

ASSEMBLY BILL 21

1 section 201 of P.L. 108-27. Section 101 of P.L. 107-147 and section 201 of P.L. 108-27
2 apply for Wisconsin purposes at the same time as for federal purposes. For purposes
3 of this paragraph, "actively engaged in farming" has the meaning given in 7 CFR
4 1400.201, and "farming" has the meaning given in section 464 (e) (1) of the Internal
5 Revenue Code. **INSERT 2-3**

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

7 SECTION 8. 71.738 (1d) of the statutes is created to read:

8 71.738 (1d) "Actively engaged in farming" has the meaning given in 7 CFR
9 1400.201.

10 SECTION 9. 71.738 (2) of the statutes is renumbered 71.738 (2m).

11 SECTION 10. 71.738 (2d) of the statutes is created to read:

12 71.738 (2d) "Farming" has the meaning given in section 464 (e) (1) of the
13 Internal Revenue Code.

14 SECTION 11. 71.765 of the statutes is created to read:

15 **71.765 Expense deduction; farming.** A person who is actively engaged in
16 farming may compute an expense deduction on property used in farming under the
17 federal Internal Revenue Code as amended by section 202 of P.L. 108-27. For
18 purposes of this section, section 202 of P.L. 108-27 applies for Wisconsin purposes
19 at the same time as for federal purposes.

20 SECTION 12. **Initial applicability.**

21 (1) BONUS DEPRECIATIONS. The renumbering and amendment of sections 71.01
22 (7r), 71.26 (3) (y), and 71.365 (1m) of the statutes and the creation of sections 71.01
23 (7r) (b), 71.26 (3) (y) 2., and 71.365 (1m) (b) of the statutes first apply, as they relate
24 to section 101 of Public Law 107-147, to property acquired after September 10, 2001,

ASSEMBLY BILL 21

SECTION 12

1 and, as they relate to section 201 of Public Law 108-27, to property acquired after
2 May 5, 2003. 

3 (2) EXPENSE DEDUCTIONS. The renumbering and amendment of section 71.738
4 (1) and (2) of the statutes and the creation of sections 71.738 (1d) and (2d) and 71.765
5 of the statutes first apply to taxable years beginning on January 1, 2005.

6 (END)

**ASSEMBLY AMENDMENT 2,
TO 2005 ASSEMBLY BILL 21**

August 18, 2005 – Offered by Representative TOWNS.

2-1

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

2 **1.** Page 2, line 11: delete lines 11 to 18 and substitute:

3 “71.01 (7r) (b) Notwithstanding sub. (6), for property acquired and placed in
4 service in taxable years beginning on or after January 1, 2006, a person who is
5 actively engaged in farming may compute amortization and depreciation on property
6 used in farming under any subsequent change to section 101 of P.L. 107-147 or
7 section 201 of P.L. 108-27 enacted after December 31, 2005. For purposes of this
8 paragraph, “actively engaged in farming” has the meaning given in 7 CFR 1400.201,
9 and “farming” has the meaning given in section 464 (e) (1) of the Internal Revenue
10 Code. This paragraph does not apply unless a federal law change enacted after
11 December 31, 2005, revises section 101 of P.L. 107-147 or section 201 of P.L. 108-27.”

12 **2.** Page 3, line 12: delete lines 12 to 19 and substitute:

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

10 **3.** Page 4, line 23: delete the material beginning with that line and ending with
11 page 5, line 5, and substitute:

12 "71.365 (1m) (b) For property acquired and placed in service in taxable years
13 beginning on or after January 1, 2006, a tax-option corporation that is actively
14 engaged in farming may compute amortization and depreciation on property used in
15 farming under any subsequent change to section 101 of P.L. 107-147 or section 201
16 of P.L. 108-27 enacted after December 31, 2005. For purposes of this paragraph,
17 "actively engaged in farming" has the meaning given in 7 CFR 1400.201, and
18 "farming" has the meaning given in section 464 (e) (1) of the Internal Revenue Code.
19 This paragraph does not apply unless a federal law change enacted after December
20 31, 2005, revises section 101 of P.L. 107-147 or section 201 of P.L. 108-27."

21 **4.** Page 5, line 15: delete the material beginning with that line and ending with
22 page 6, line 5, and substitute:

23 "71.765 Expense deduction; farming. (1) For property acquired and placed
24 in service in taxable years beginning after December 31, 2005, and before January

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~~1, 2008, a person who is actively engaged in farming may compute an expense deduction on property used in farming under the federal Internal Revenue Code as amended by section 202 of P.L. 108-27 and section 201 of P.L. 108-357 and as amended to December 31, 2005.~~

~~(2)~~ For property acquired and placed in service in taxable years beginning on or after January 1, 2008, a person who is actively engaged in farming may compute an expense deduction on property used in farming under any subsequent change to section 202 of P.L. 108-27 and section 201 of P.L. 108-357. This subsection does not apply unless a federal law change enacted after December 31, 2005, revises section 202 of P.L. 108-27 or section 201 of P.L. 108-357.”

(END)

**ASSEMBLY AMENDMENT 3,
TO ASSEMBLY AMENDMENT 2,
TO 2005 ASSEMBLY BILL 21**

November 30, 2005 - Offered by JOINT COMMITTEE ON FINANCE.

- 1 At the locations indicated, amend the amendment as follows:
- 2 **1.** Page 2, line 23: delete the material beginning with “(1) For” and ending
- 3 with “January” on line 24.
- 4 **2.** Page 3, line 1: delete lines 1 to 4.
- 5 **3.** Page 3, line 5: delete “(2)”.
- 6 (END)