

## 2005 DRAFTING REQUEST

### Bill

Received: 11/08/2004

Received By: jkreye

Wanted: As time permits

Identical to LRB: 2003 AB 781

For: Debra Towns (608) 266-9650

By/Representing: casey

This file may be shown to any legislator: NO

Drafter: jkreye

May Contact:

Addl. Drafters:

Subject: Tax, Business - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email: Rep.Towns@legis.state.wi.us

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

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### Pre Topic:

No specific pre topic given

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### Topic:

Computing expense deductions and amortization and depreciation on property used in farming

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### Instructions:

See Attached

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### 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 11/08/2004	wjackson 11/24/2004		_____			State Tax
/1			pgreensl 11/29/2004	_____	lemery 11/29/2004	lnorthro 12/21/2004	
				_____	lemery 12/21/2004		

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				_____	lemery 12/21/2004		

FE Sent For:

re-sent for jacketing button

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/1			pgreensl 11/29/2004	_____	lemery 11/29/2004		

**LRB-0680**

11/29/2004 11:44:45 AM

Page 2

FE Sent For:

<END>

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/?	jkreye	1 WJ 2 11/24	1/24 PF	<del>1/24</del> 11/24 P8/12			

FE Sent For:

<END>

**Kreye, Joseph**

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**From:** Langan, Casey  
**Sent:** Monday, November 08, 2004 12:49 PM  
**To:** Kreye, Joseph  
**Subject:** Re-draft of accelerated farm equipment depreciation bill

Mr. Kreye,

Rep. Debi Towns would like to re-introduce a bill that we worked on during the 03-05 session, AB 781. LRB 3840/2.

I don't know if the following would need to be changed in an updated bill:

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.

Obviously there is no great rush on this. However, I wanted to get it on your list.

Please contact me if you have any questions.

Best regards,

**Casey Langan**  
Legislative Assistant  
Office of *Rep. Debi Towns*  
(608) 266-9651

**SHORT NOTICE**

## **Co-sponsorship Memorandum**

**DATE:** January 20, 2004  
**TO:** All Legislators  
**FROM:** Representative Debi Towns  
**RE:** Co-sponsorship of LRB-3840/2 Accelerated Equipment Depreciation

This purpose of this bill is to encourage and foster business growth in Wisconsin's agriculture industry, which will result in job creation and contribute to the growth of our State's economy. It will also be added to the Legislature's current Agricultural Renewal Initiative.

The food and agriculture sector generates an estimated \$40 billion annually for the state and employs approximately one out of five of our residents. At the base of this entire industry are those who produce milk, meat, cranberries, ginseng, or grain. Needless to say, trends in this sector of the economy can have a terrific impact on everyone's financial well-being.

Currently, Wisconsin does not follow the federal IRS tax depreciation schedule. The federal government has realized that allowing a farm business to use an accelerated depreciation schedule on new and used equipment purchases, allows the business owner to keep more dollars in their business sooner. When retained earnings increase, it allows an owner to re-invest in their business. Re-investment in businesses creates growth, which in turn often creates jobs.

This is the practice adopted by the federal government in 2000. The original act allowed up to 30% bonus depreciation for purchases of equipment. The theory proved to work well and in May of 2003, the feds increased the bonus depreciation factor to 50% for property acquired and placed in use after May 5, 2003 and before January 1, 2005. This is one of the actions on the federal level that is helping to grow our nation's economy. Wisconsin, however, has chosen to maintain a static position on depreciation and does not allow these businesses to benefit from accelerating their depreciation expense. In fact, it causes them an added expense by having to account for two separate depreciation schedules.

Depreciation is a "closed window" defined by tax code, that is, a business will only be able to expense a defined dollar amount over the lifetime of the purchase. In the big picture, the State will receive the same overall in tax collections and the owner will expense off the same in depreciation. This bill supports the premise that business owners will invest their discretionary dollars more effectively than the government. Based on that premise, by letting the business owners have access to dollars earlier in the depreciation cycle, we will see a quicker recovery of the economy in this industry.

I would encourage you to support this basic market premise, which has proven time and time again to work.

**If you would like to co-sponsor LRB-3840/2, please respond to this email or call Casey in the Rep. Towns office (266-9651) no later than 4 p.m. Tuesday, Jan. 27.**

#### *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.

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.

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.



03-38402.pdf



0680/11

in 11-8-04

# 2003 ASSEMBLY BILL 781

Lps: Please  
proof amended  
Stats. w/ Folio.

January 29, 2004 - Introduced by Representatives TOWNS, OTT, KESTELL, KREIBICH, PETROWSKI, GIELOW, OLSEN, HINES, MUSSER, AINSWORTH, HAHN, STONE, LEMAHIEU, WEBER, J. WOOD, NISCHKE, GUNDERSON, TOWNSEND, BIES and SERATTI, cosponsored by Senators KEDZIE, KANAVAS, ZIEN, STEPP and BROWN. Referred to Committee on Agriculture.

Regen

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.

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.

Exp taxable years beginning in 2005 ↑

**ASSEMBLY BILL 781**

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.

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*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.

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

**ASSEMBLY BILL 781**

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 (e) (1) of the Internal Revenue  
19 Code.

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 781****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 781**

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.

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 (1)(e) 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 781**

**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, ~~2003~~

6 (END)

2005

**Kreye, Joseph**

---

**From:** Langan, Casey  
**Sent:** Tuesday, December 21, 2004 8:43 AM  
**To:** Kreye, Joseph  
**Subject:** RE: Here's a copy of the draft you requested

Joe,

Could you have someone over there send me the email that would enable this to be jacketed?

Thanks.

Casey Langan  
Rep. Towns office

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

**From:** Kreye, Joseph  
**Sent:** Monday, December 20, 2004 2:55 PM  
**To:** Langan, Casey  
**Subject:** Here's a copy of the draft you requested

<< File: 05-0680/1 >>

**Joseph T. Kreye**  
Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263

**Northrop, Lori**

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**From:** Langan, Casey  
**Sent:** Tuesday, December 21, 2004 1:09 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-0680/1 Topic: Computing expense deductions and amortization and depreciation on property used in farming

It has been requested by <Langan, Casey> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-0680/1 Topic: Computing expense deductions and amortization and depreciation on property used in farming