



## 2005 ASSEMBLY BILL 1001

February 7, 2006 - Introduced by Representatives LEMAHIEU, ZIEGELBAUER, TOWNS, MURSAU, HUNDERTMARK, F. LASEE, MUSSER, JENSEN, KESTELL, BIES, VAN ROY, GUNDERSON, ALBERS, VOS, BALLWEG, HAHN, WOOD, SHERIDAN and PETROWSKI, cosponsored by Senators A. LASEE, LEIBHAM and GROTHMAN. Referred to Committee on Urban and Local Affairs.

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

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### *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, for taxable years beginning in 2006, amortization and depreciation of property 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. However, the computation specified under federal law does apply for state tax purposes unless a federal law change is enacted after December 31, 2005, to revise section 101 of Public Law 107-47 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 2006 and ending in 2007, this bill also adopts section 202 of Public Law 108-27 and section 201 of Public Law 108-357 for the purpose of computing expense deductions on property. The bill also adopts section 202 of Public Law 108-27 and section 201 of Public Law 108-357 for taxable years

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beginning on or after January 1, 2008, if a federal law change is enacted after December 31, 2005, to revise section 202 of Public Law 108-27 and section 201 of Public Law 108-357. Under section 202 of Public Law 108-27 and section 201 of Public Law 108-357, generally, the maximum aggregate cost of certain property that a taxpayer may treat as an expense for taxable years beginning after 2002 and before 2008 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.

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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) Notwithstanding sub. (6), for property acquired and placed in  
12 service in taxable years beginning on or after January 1, 2006, a person may compute  
13 amortization and depreciation on property under any subsequent change to section  
14 101 of P.L. 107-147 or section 201 of P.L. 108-27 enacted after December 31, 2005.  
15 This paragraph does not apply unless a federal law change enacted after December  
16 31, 2005, revises section 101 of P.L. 107-147 or section 201 of P.L. 108-27.

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

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

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

14           71.26 (3) (y) 2. For property acquired and placed in service in taxable years  
15 beginning on or after January 1, 2006, a corporation may compute amortization and  
16 depreciation on property under any subsequent change to section 101 of P.L. 107-147  
17 or section 201 of P.L. 108-27 enacted after December 31, 2005. This subdivision does  
18 not apply unless a federal law change enacted after December 31, 2005, revises  
19 section 101 of P.L. 107-147 or section 201 of P.L. 108-27.

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

22           71.365 (1m) (a) ~~A Except as provided in par. (b), a tax-option corporation shall~~  
23 compute amortization and depreciation under the federal Internal Revenue Code as  
24 amended to December 31, 2000, except that property first placed in service by the  
25 taxpayer on or after January 1, 1983, but before January 1, 1987, that, under s.

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

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

23 71.365 (**1m**) (b) For property acquired and placed in service in taxable years  
24 beginning on or after January 1, 2006, a tax-option corporation may compute  
25 amortization and depreciation on property under any subsequent change to section

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1 101 of P.L. 107-147 or section 201 of P.L. 108-27 enacted after December 31, 2005.

2 This paragraph does not apply unless a federal law change enacted after December  
3 31, 2005, revises section 101 of P.L. 107-147 or section 201 of P.L. 108-27.

4 **SECTION 7.** 71.765 of the statutes is created to read:

5 **71.765 Expense deduction. (1)** For property acquired and placed in service  
6 in taxable years beginning after December 31, 2005, and before January 1, 2008, a  
7 person may compute an expense deduction on property under the federal Internal  
8 Revenue Code as amended by section 202 of P.L. 108-27 and section 201 of P.L.  
9 108-357 and as amended to December 31, 2005.

10 **(2)** For property acquired and placed in service in taxable years beginning on  
11 or after January 1, 2008, a person may compute an expense deduction on property  
12 under any subsequent change to section 202 of P.L. 108-27 and section 201 of P.L.  
13 108-357. This subsection does not apply unless a federal law change enacted after  
14 December 31, 2005, revises section 202 of P.L. 108-27 or section 201 of P.L. 108-357.

15 (END)