

2009 DRAFTING REQUEST

Bill

Received: **09/02/2008**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Patricia Strachota (608) 264-8486**

By/Representing: **sara**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters: **mshovers**

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Strachota@legis.wisconsin.gov**

Carbon copy (CC:) to: **joseph.kreye@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Excluding gains from a state business from 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 09/03/2008	wjackson 09/05/2008		_____			State
/1			pgreensl 09/09/2008	_____	sbasford 09/09/2008		State
/2	jkreye 01/16/2009	wjackson 01/20/2009	phenry 01/20/2009	_____	sbasford 01/20/2009	cduerst 01/22/2009	

FE Sent For:

<END>

↳ At Intro.

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ph
1/20 ph/mo

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/?	jkreye	1 wlj 9/15	9/8 P8	9/8 P8/15			

FE Sent For:

<END>

**ASSEMBLY AMENDMENT 2,
TO 2007 ASSEMBLY BILL 671**

February 13, 2008 – Offered by Representative STRACHOTA.

- 1 At the locations indicated, amend the bill as follows:
- 2 **1.** Page 2, line 14: after “agriculture,” insert “silviculture,”.
- 3 (END)

**ASSEMBLY AMENDMENT 3,
TO 2007 ASSEMBLY BILL 671**

February 13, 2008 – Offered by Representatives FIELDS and SHERIDAN.

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

2 **1.** Page 3, line 6: after that line insert:

3 “g. It is not a publicly traded entity.”.

4 (END)

0038/1

Stays

in 9-3-08
D-N ✓

2007 ASSEMBLY BILL 671

January 7, 2008 - Introduced by Representatives STRACHOTA, PRIDEMORE, VOS, JESKEWITZ, MOULTON, GRONEMUS, ROTH, HAHN, LEMAHIEU, NASS, F. LASEE, M. WILLIAMS, PETROWSKI and ZIPPERER, cosponsored by Senators KANAVAS, S. FITZGERALD, DARLING, OLSEN, ROESSLER and LEIBHAM. Referred to Committee on Jobs and The Economy.

Regen

- 1 AN ACT ~~to create~~ 71.05 (24) of the statutes; **relating to:** excluding from taxable
- 2 ~~income~~ gains from a Wisconsin business.

Analysis by the Legislative Reference Bureau

Under current law, there is an income tax exclusion for individuals for 60 percent of the net capital gains realized from the sale of assets held for at least one year.

Under the bill, an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax-option corporation (claimant) may subtract from federal adjusted gross income the amount of capital gain, not to exceed \$10,000,000 in a taxable year, realized from the sale of any asset held more than one year (original asset), to the extent that the gain is not already excluded from taxation.

Under the bill, the claimant must place the gain from the original asset in a segregated account in a financial institution, must invest all of the proceeds in the account in a Wisconsin business within 180 days after the sale of the original asset that generated the gain, and must notify the Department of Revenue (DOR) on a form prepared by DOR that the claimant will not declare the gain from the original asset because the proceeds have been reinvested in a Wisconsin business.

A "Wisconsin business" is defined as a business that is headquartered in Wisconsin; that employs at least 51 percent of its employees in this state; that is engaged in, or is committed to engage, in businesses such as manufacturing, agriculture, conducting research, or developing new products or business processes; that is not engaged in businesses such as real estate development, insurance,

ASSEMBLY BILL 671

banking, lobbying, political consulting, professional services, retail, leisure, hospitality, transportation, or construction; that has fewer than 500 employees; and that has been in operation in this state for not more than seven consecutive years.

The bill also specifies that the basis of the investment shall be its cost minus the gain generated by the sale of the original asset. If a claimant claims the subtraction allowed under the bill, the claimant may not use that gain to net the claimant's gains and losses as the claimant could do if the claimant did not claim the subtraction.

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.** 71.05 (24) of the statutes is created to read:

2 71.05 (24) INCOME TAX ~~EXEMPTION~~: LONG-TERM CAPITAL GAINS; WISCONSIN
3 BUSINESSES. (a) In this subsection: (CS)
EXCLUSION

4 1. "Claimant" means an individual; an individual partner or member of a
5 partnership, limited liability company, or limited liability partnership; or an
6 individual shareholder of a tax-option corporation.

7 2. "Financial institution" has the meaning given in s. 69.30 (1) (b). ✓

8 3. "Long-term capital gain" means the gain realized from the sale of any asset
9 held more than one year.

10 4. "Wisconsin business" means a business to which all of the following apply:

11 ↓ a. Its headquarters is in this state.

12 ↓ b. At least 51 percent of the employees employed by the business are employed
13 in this state.

14 ↓ c. It is engaged in, or has committed to engage in, manufacturing, agriculture,
15 processing or assembling products, conducting research and development, or
16 developing a new product or business process.

provided ✓

1 ✓ d. It is not engaged in real estate development; insurance; banking; lending;
2 (2) lobbying; political consulting; professional services *provided* by attorneys,
3 accountants, business consultants, physicians, or health care consultants; wholesale
4 or retail trade; leisure; hospitality; transportation; or construction.

5 ✓ e. It has fewer than 500 employees.

6 ✓ f. It has been in operation in this state for not more than 7 consecutive years.

7 (b) To the extent that the gain is not excluded from taxation under sub. (6) (b)
8 9., a claimant may subtract from federal adjusted gross income the amount of a
9 long-term capital gain, not to exceed \$10,000,000 in a taxable year, if the claimant
10 does all of the following:

11 1. Immediately deposits the gain into a segregated account in a financial
12 institution.

13 2. Within 180 days after the sale of the asset that generated the gain, invests
14 in a Wisconsin business using all of the proceeds in the account described under subd.
15 1. ✓

16 3. After investing in a Wisconsin business as described under subd. 2., ✓
17 immediately notifies the department, on a form prepared by the department, that the
18 claimant will not declare on the claimant's income tax return the gain described
19 under subd. 1. ✓ because the claimant has reinvested the capital gain as described
20 under subd. 2. ✓

21 (c) The basis of the investment described in par. (b) 2. ✓ shall be calculated by
22 subtracting the gain described in par. (b) 1. ✓ from the cost of the investment described
23 in par. (b) 2. ✓

ASSEMBLY BILL 671

1 (d) If a claimant claims the subtraction under this subsection, the claimant may
2 not use the gain described under par. (b) 1. to net capital gains and losses, as
3 described under sub. (10) (c). ✓

IN DEBT ✓
4-3 ✓

4 **SECTION 2. Initial applicability.**

5 (1) This act first applies to taxable years beginning on January 1, 2008.

2009

6 (END)

**ASSEMBLY AMENDMENT 1,
TO 2007 ASSEMBLY BILL 671**

February 13, 2008 - Offered by Representative STRACHOTA.

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

2 **1.** Page 4, line 3: after that line insert:

3 (e) No claimant who claims the subtraction under this subsection may use the
4 amount of the investment described under par. (b) 2. as the basis for claiming a credit
5 under s. 71.07 (5d).
6

(END)

INSERT
4-3

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

0033/du
JK:WLj:

D-N

Representative Strachota ①

① This draft is based on 2007 assembly

Bill 671 as amended by assembly amendment 10

JK ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0038/1dn
JK:wlj:pg

September 8, 2008

Representative Strachota:

This draft is based on 2007 Assembly Bill 671, as amended by Assembly Amendment 1.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.wisconsin.gov



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0038/A
JK&MES:wlj:pg

12
RMR (Stays)

2009 BILL

in 1-16-09

Tru 1-20

Regen

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2 income gains from a Wisconsin business.

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silviculture
silviculture^

BILL

and that is not a publicly traded entity

banking, lobbying, political consulting, professional services, retail, leisure, hospitality, transportation, or construction; that has fewer than 500 employees; and that has been in operation in this state for not more than seven consecutive years.

The bill also specifies that the basis of the investment shall be its cost minus the gain generated by the sale of the original asset. If a claimant claims the subtraction allowed under the bill, the claimant may not use that gain to net the claimant's gains and losses as the claimant could do if the claimant did not claim the subtraction.

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1. "Claimant" means an individual; an individual partner or member of a partnership, limited liability company, or limited liability partnership; or an individual shareholder of a tax-option corporation.

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c. It is engaged in, or has committed to engage in, manufacturing, agriculture, processing or assembling products, conducting research and development, or developing a new product or business process.

silviculture

BILL

go It is not a publicly traded entity

1 d. It is not engaged in real estate development; insurance; banking; lending;
2 lobbying; political consulting; professional services provided by attorneys,
3 accountants, business consultants, physicians, or health care consultants; wholesale
4 or retail trade; leisure; hospitality; transportation; or construction.

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23 in par. (b) 2.

Duerst, Christina

From: Buschman, Sara
Sent: Thursday, January 22, 2009 3:39 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-0038/2 Topic: Excluding gains from a state business from taxable income

Please Jacket LRB 09-0038/2 for the ASSEMBLY.