



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1216/2

JK:cjs:rad

3  
RMR

DOA:.....Lillethun, BB0286 - Addbacks expansion

stats

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

SKV  
in 1-15-09  
Do NOT Gen

1 AN ACT ...; relating to: the budget.

*Analysis by the Legislative Reference Bureau*

**TAXATION**

**INCOME TAXATION**

Under current law, a person must add to the person's taxable income the amount of any deduction the person claimed for interest expenses and rental expenses paid to a related entity, unless the expenses are paid primarily for business purposes and not in order to avoid taxes. Under this bill, a person must add to the person's taxable income the amount of any deduction the person claimed for interest expenses, rental expenses, intangible expenses, and management fees paid to a related entity, unless the expenses or fees are paid primarily for business purposes and not in order to avoid taxes.

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:*

2 SECTION 1. 71.01 (5p) of the statutes is created to read:

3 71.01 (5p) For purposes of s. 71.05 (6) (a) 24. and (b) 46., "intangible expenses"

4 include:

the following, to the extent that such amounts would otherwise be deductible in the computation of Wisconsin adjusted gross income

1 (a) Expenses, losses, and costs for, related to, or directly or indirectly in  
 2 connection with, the acquisition, use, maintenance, management, ownership, sale,  
 3 exchange, or other disposition of intangible property, to the extent that the expenses,  
 4 losses, or costs are allowed as deductions or costs to determine federal taxable income  
 5 under the Internal Revenue Code.

6 (b) Losses related to, or incurred directly or indirectly in connection with,  
 7 factoring or discounting transactions.

8 (c) Royalty, patent, technical, copyright, and licensing fees.

9 (d) ~~Licensing fees.~~

*Other similar expenses, losses, and costs*

10 SECTION 2. 71.01 (5q) of the statutes is created to read:

11 71.01 (5q) "Intangible property" includes <sup>stocks, bonds, financial instruments,</sup> patents, patent applications, trade  
 12 names, trademarks, service marks, copyrights, mask works, trade secrets, and  
 13 similar types of intangible assets. *not including interest expenses*

14 SECTION 3. 71.01 (7w) of the statutes is created to read:

15 71.01 (7w) For purposes of s. 71.05 (6) (a) 24. and (b) 46., "management fees"  
 16 include expenses and costs <sup>pertaining</sup> paid for services that pertain to accounts receivable,  
 17 accounts payable, employee benefit plans, insurance, legal matters, payroll, data  
 18 processing, purchasing, taxation, financial matters, securities, accounting, or  
 19 reporting and compliance matters or <sup>activities</sup> for similar services, to the extent that the  
 20 expenses or costs are allowed as deductions or costs to determine net income under  
 21 the Internal Revenue Code.

22 SECTION 4. 71.05 (6) (a) 24. of the statutes is amended to read:

23 71.05 (6) (a) 24. The amount deducted or excluded under the Internal Revenue  
 24 Code for interest expenses and, rental expenses, intangible expenses, and  
 25 management fees that are directly or indirectly paid, accrued, or incurred to, or in

*The amounts would otherwise be deductible in the  
 computation of Wisconsin adjusted gross income*

3 that

*the following, to the extent such amounts would otherwise be deductible in determining net income under the*  
1 connection directly or indirectly with one or more direct or indirect transactions with,  
2 one or more related entities.

*Internal Revenue Code ✓  
as modified by s. 71.26(3)*

**SECTION 5.** 71.05 (6) (b) 46. of the statutes is amended to read:

3  
4 71.05 (6) (b) 46. An amount added, pursuant to par. (a) 24. or s. 71.26 (2) (a) 7.,  
5 71.34 (1k) (j), or 71.45 (2) (a) 16., to the federal income of a related entity that paid  
6 interest expenses or, rental expenses, intangible expenses, or management fees to  
7 the individual or fiduciary, to the extent that the related entity could not offset such  
8 amount with the deduction allowable under subd. 45. or s. 71.26 (2) (a) 8., 71.34 (1k)  
9 (k), or 71.45 (2) (a) 17.

**SECTION 6.** 71.22 (3e) of the statutes is created to read:

10  
11 71.22 (3e) For purposes of s. 71.26 (2) (a) 7. and 9., "intangible expenses"  
12 include:

13 (a) Expenses, losses, and costs for, related to, or directly or indirectly in  
14 connection with, the acquisition, use, maintenance, management, ownership, sale,  
15 exchange, or other disposition of intangible property, to the extent that the expenses,  
16 losses, or costs are allowed as deductions or costs to determine federal taxable income  
17 under the Internal Revenue Code.

18 (b) Losses related to, or incurred directly or indirectly in connection with,  
19 factoring or discounting transactions.

20 (c) Royalty, patent, technical, copyright, and licensing fees.

21 (d) Licensing fees. *Other similar expenses, losses, and costs*

22 **SECTION 7.** 71.22 (3f) of the statutes is created to read:

23 71.22 (3f) "Intangible property" includes patents, patent applications, trade  
24 names, trademarks, service marks, copyrights, mask works, trade secrets, and  
25 similar types of intangible assets.

*stocks, bonds, financial instruments,*

*not including interest expenses*

*pertaining*

SECTION 8. 71.22 (6f) of the statutes is created to read:

71.22 (6f) For purposes of s. 71.26 (2) (a) 7. and 9., "management fees" include expenses and costs paid for services that pertain to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting and compliance matters or for similar services, to the extent that the expenses or costs are allowed as deductions or costs to determine net income under the Internal Revenue Code, *as modified by s. 71.26 (3)* *activities* *amounts would otherwise be deductible in determining*

SECTION 9. 71.26 (2) (a) 7. of the statutes is amended to read:

71.26 (2) (a) 7. Plus the amount deducted or excluded under the Internal Revenue Code for interest expenses and, rental expenses, intangible expenses, and management fees that are directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

SECTION 10. 71.26 (2) (a) 9. of the statutes is amended to read:

71.26 (2) (a) 9. Minus the amount added, pursuant to subd. 7. or s. 71.05 (6) (a) 24., 71.34 (1k) (j), or 71.45 (2) (a) 16., to the federal income of a related entity that paid interest expenses or, rental expenses, intangible expenses, or management fees to the corporation, to the extent that the related entity could not offset such amount with the deduction allowable under subd. 8. or s. 71.05 (6) (b) 45., 71.34 (1k) (k), or 71.45 (2) (a) 17.

SECTION 11. 71.34 (1c) of the statutes is created to read:

71.34 (1c) For purposes of sub. (1k) (j) and (L), "intangible expenses" include:

(a) Expenses, losses, and costs for, related to, or directly or indirectly in connection with, the acquisition, use, maintenance, management, ownership, sale,

*the following, to the extent <sup>that</sup> such amounts would otherwise be deductible in the computation of Wisconsin adjusted gross income*

1 exchange, or other disposition of intangible property, to the extent that the expenses,  
2 losses, or costs are allowed as deductions or costs to determine federal taxable income  
3 under the Internal Revenue Code.

4 (b) Losses related to, or incurred directly or indirectly in connection with,  
5 factoring or discounting transactions.

6 (c) Royalty, patent, technical, copyright, and licensing fees.

7 (d) ~~Licensing fees.~~ *Other similar expenses, losses, and costs*

8 SECTION 12. 71.34 (1d) of the statutes is created to read:

9 71.34 (1d) "Intangible property" includes <sup>stocks, bonds, financial instruments</sup> patents, patent applications, trade  
10 names, trademarks, service marks, copyrights, mask works, trade secrets, and  
11 similar types of intangible assets. *not including interest expenses,*

12 SECTION 13. 71.34 (1h) of the statutes is created to read: *pertaining*

13 71.34 (1h) For purposes of sub. (1k) (j) and (L), "management fees" include  
14 expenses and costs *paid for services that pertain* to accounts receivable, accounts  
15 payable, employee benefit plans, insurance, legal matters, payroll, data processing,  
16 purchasing, taxation, financial matters, securities, accounting, or reporting and  
17 compliance matters or *for similar services* to the extent that the expenses or costs  
18 are allowed as deductions or costs to determine net income under the Internal  
19 Revenue Code. In this subsection, "net income" does not have the meaning given in

20 sub. (1k) *amounts would otherwise be deductible in the computation of Wisconsin adjusted gross income*

21 SECTION 14. 71.34 (1k) (j) of the statutes is amended to read:

22 71.34 (1k) (j) An addition shall be made for any amount deducted or excluded  
23 under the Internal Revenue Code for interest expenses and, rental expenses,  
24 intangible expenses, and management fees that are directly or indirectly paid,

*the following, to the extent that such amounts would otherwise be deductible in determining net income under the Internal Revenue Code or adjusted under s. 71.45(2)*

1 accrued, or incurred to, or in connection directly or indirectly with one or more direct  
2 or indirect transactions with, one or more related entities.

3 SECTION 15. 71.34 (1k) (L) of the statutes is amended to read:

4 71.34 (1k) (L) A deduction shall be allowed for the amount added, pursuant to  
5 par. (j) or s. 71.05 (6) (a) 24., 71.26 (2) (a) 7., or 71.45 (2) (a) 16., to the federal income  
6 of a related entity that paid interest expenses or rental expenses, intangible  
7 expenses, or management fees to the corporation, to the extent that the related entity  
8 could not offset such amount with the deduction allowable under par. (k) or s. 71.05  
9 (6) (b) 45., 71.26 (2) (a) 8., or 71.45 (2) (a) 17.

10 SECTION 16. 71.42 (1sm) of the statutes is created to read:

11 71.42 (1sm) For purposes of s. 71.45 (2) (a) 16. and 18., "intangible expenses"  
12 include:

13 (a) Expenses, losses, and costs for, related to, or directly or indirectly in  
14 connection with, the acquisition, use, maintenance, management, ownership, sale,  
15 exchange, or other disposition of intangible property, to the extent that the expenses,  
16 losses, or costs are allowed as deductions or costs to determine federal taxable income  
17 under the Internal Revenue Code.

18 (b) Losses related to, or incurred directly or indirectly in connection with,  
19 factoring or discounting transactions.

20 (c) Royalty, patent, technical, copyright, and licensing fees.

21 (d) Licensing fees, *other similar expenses, losses, and costs*

22 SECTION 17. 71.42 (1sn) of the statutes is created to read:

23 71.42 (1sn) "Intangible property" includes patents, patent applications, trade  
24 names, trademarks, service marks, copyrights, mask works, trade secrets, and  
25 similar types of intangible assets.

*stocks, bonds, financial instruments,*

*not including interest expenses,*

*pertaining*

**SECTION 18.** 71.42 (3c) of the statutes is created to read:

71.42 (3c) For purposes of s. 71.45 (2) (a) 16., and 18., "management fees" include expenses and costs paid for services that pertain to accounts receivable, accounts payable, employee benefit plans, insurance, legal matters, payroll, data processing, purchasing, taxation, financial matters, securities, accounting, or reporting and compliance matters or for similar services, to the extent that the expenses or costs are allowed as deductions or costs to determine net income under the Internal Revenue Code or adjusted under s. 71.45(2)

**SECTION 19.** 71.45 (2) (a) 16. of the statutes is amended to read:

71.45 (2) (a) 16. By adding to federal taxable income any amount deducted or excluded under the Internal Revenue Code for interest expenses and, rental expenses, intangible expenses, and management fees that are directly or indirectly paid, accrued, or incurred to, or in connection directly or indirectly with one or more direct or indirect transactions with, one or more related entities.

**SECTION 20.** 71.45 (2) (a) 18. of the statutes is amended to read:

71.45 (2) (a) 18. A deduction shall be allowed for the amount added, pursuant to subd. 16. or s. 71.05 (6) (a) 24., 71.26 (2) (a) 7., or 71.34 (1k) (j), to the federal income of a related entity that paid interest expenses ~~or~~, rental expenses, intangible expenses, or management fees to the insurer, to the extent that the related entity could not offset such amount with the deduction allowable under subd. 17. or s. 71.05 (6) (b) 45., 71.26 (2) (a) 8., or 71.34 (1k) (k).

**SECTION 21.** 71.80 (23) (a) (intro.) of the statutes is amended to read:

71.80 (23) (a) (intro.) The deductions provided under ss. 71.05 (6) (b) 45., 71.26 (2) (a) 8., 71.34 (1k) (k), and 71.45 (2) (a) 17. shall be allowed for any interest expenses ~~or~~, rental expenses, intangible expenses, or management fees described in ss. 71.05

*amounts would otherwise be deductible in determining*

1 (6) (a) 24., 71.26 (2) (a) 7., 71.34 (1k) (j), or 71.45 (2) (a) 16. if any of the following  
2 applies to the interest expenses ~~or~~, rental expenses, intangible expenses, or  
3 management fees:

4 **SECTION 22.** 71.80 (23) (a) 1. of the statutes is amended to read:

5 71.80 (23) (a) 1. The related entity to which the taxpayer paid, accrued, or  
6 incurred the interest expenses ~~or~~, rental expenses, intangible expenses, or  
7 management fees during the taxable year directly or indirectly paid, accrued, or  
8 incurred such amounts in the same taxable year to a person who is not a related  
9 entity or the related entity to which the taxpayer paid, accrued, or incurred such  
10 expenses or fees is a holding company or a direct or indirect subsidiary of a holding  
11 company, as defined in 12 USC 1841 (a) or (l) or 12 USC 1467a (a) (1) (D), not  
12 including any entity that is organized under the laws of another jurisdiction and that  
13 primarily holds and manages investments of a bank, subsidiary, or affiliate. For  
14 purposes of this subdivision, "interest" does not include interest that is paid in  
15 connection with any debt that is incurred to acquire the taxpayer's assets or stock  
16 under section 368 of the Internal Revenue Code. If a portion of such an interest  
17 expense ~~or~~, rental expense, intangible expense, or management fee is paid, accrued,  
18 or incurred in the same taxable year to a person who is not a related entity, that  
19 portion shall be allowed as a deduction to the taxpayer.

20 **SECTION 23.** 71.80 (23) (a) 2. of the statutes is amended to read:

21 71.80 (23) (a) 2. The related entity was subject to tax on, or measured by, its  
22 net income or receipts in this state or any state, U.S. possession, or foreign country;  
23 the related entity's tax base in such state, U.S. possession, or foreign country  
24 included the income received from the taxpayer for the interest expenses ~~or~~, rental  
25 expenses, intangible expenses, or management fees; the related entity's aggregate



1 effective tax rate applied to such income or receipts was at least 80 percent of the  
2 taxpayer's aggregate effective tax rate; and the related entity is not a real estate  
3 investment trust under section 856 of the Internal Revenue Code, other than a  
4 qualified real estate investment trust. For purposes of this subdivision, "any state,  
5 U.S. possession, or foreign country" does not include any state, U.S. possession, or  
6 foreign country under the laws of which the taxpayer files with the related entity, or  
7 the related entity files with another entity, a combined income tax report or return,  
8 a consolidated income tax report or return, or any other report or return that is due  
9 because of the imposition of a tax that is measured on or by income or receipts, if the  
10 report or return results in eliminating the tax effects of transactions, directly or  
11 indirectly, between either the taxpayer and the related entity or between the related  
12 entity and another entity.

13 **SECTION 24.** 71.80 (23) (a) 3. of the statutes is amended to read:

14 71.80 (23) (a) 3. The taxpayer establishes that the transaction satisfies any  
15 other conditions that the department considers relevant, based on the facts and  
16 circumstances, to determine that the primary motivation for the transaction was one  
17 or more business purposes other than the avoidance or reduction of state income or  
18 franchise taxes; that the transaction changed the economic position of the taxpayer  
19 in a meaningful way apart from tax effects; and that the interest expenses or rental  
20 expenses, intangible expenses, or management fees were paid, accrued, or incurred  
21 using terms that reflect an arm's-length relationship.

22 **SECTION 25.** 71.80 (23) (b) of the statutes is amended to read:

23 71.80 (23) (b) Notwithstanding par. (a), the deductions provided under ss. 71.05  
24 (6) (b) 45., 71.26 (2) (a) 8., 71.34 (1k) (k), and 71.45 (2) (a) 17. shall not be allowed for  
25 any interest expenses or rental expenses, intangible expenses, or management fees

1 that are directly or indirectly paid, accrued, or incurred to, or in connection directly  
2 or indirectly with one or more direct or indirect transactions with, one or more  
3 related entities, if the aggregate amount paid, accrued, or incurred for those related  
4 entity transactions is not disclosed on a separate form prescribed by the department  
5 in the manner prescribed by the department.

6 **SECTION 9343. Initial applicability; Revenue.**

7 (1) INTANGIBLE EXPENSES AND MANAGEMENT FEES. The treatment of sections 71.01  
8 (5p), (5q), and (7w), 71.05 (6) (a) 24. and (b) 46., 71.22 (3e), (3f), and (6f), 71.26 (2) (a)  
9 7. and 9., 71.34 (1c), (1d), (1h), and (1k) (j) and (L), 71.42 (1sm), (1sn), and (3c), 71.45  
10 (2) (a) 16. and 18., and 71.80 (23) (a) (intro.), 1., 2., and 3. and (b) of the statutes first  
11 applies to taxable years beginning on January 1, 2010.

12

(END)

2009



DOA:.....Lillethun, BB0286 - Addbacks expansion

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**INCOME TAXATION**

Under current law, a person must add to the person's taxable income the amount of any deduction the person claimed for interest expenses and rental expenses paid to a related entity, unless the expenses are paid primarily for business purposes and not in order to avoid taxes. Under this bill, a person must add to the person's taxable income the amount of any deduction the person claimed for interest expenses, rental expenses, intangible expenses, and management fees paid to a related entity, unless the expenses or fees are paid primarily for business purposes and not in order to avoid taxes.

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:*

2 SECTION 1. 71.01 (5p) of the statutes is created to read:

1           71.01 (5p) For purposes of s. 71.05 (6) (a) 24. and (b) 46., “intangible expenses”  
2 include the following, to the extent that such amounts would otherwise be deductible  
3 in the computation of Wisconsin adjusted gross income:

4           (a) Expenses, losses, and costs for, related to, or directly or indirectly in  
5 connection with, the acquisition, use, maintenance, management, ownership, sale,  
6 exchange, or other disposition of intangible property.

7           (b) Losses related to, or incurred directly or indirectly in connection with,  
8 factoring or discounting transactions.

9           (c) Royalty, patent, technical, copyright, and licensing fees.

10           (d) Other similar expenses, losses, and costs.

11           **SECTION 2.** 71.01 (5q) of the statutes is created to read:

12           71.01 (5q) “Intangible property” includes stocks, bonds, financial instruments,  
13 patents, patent applications, trade names, trademarks, service marks, copyrights,  
14 mask works, trade secrets, and similar types of intangible assets.

15           **SECTION 3.** 71.01 (7w) of the statutes is created to read:

16           71.01 (7w) For purposes of s. 71.05 (6) (a) 24. and (b) 46., “management fees”  
17 include expenses and costs, not including interest expenses, pertaining to accounts  
18 receivable, accounts payable, employee benefit plans, insurance, legal matters,  
19 payroll, data processing, purchasing, taxation, financial matters, securities,  
20 accounting, or reporting and compliance matters or similar activities, to the extent  
21 that the amounts would otherwise be deductible in the computation of Wisconsin  
22 adjusted gross income.

23           **SECTION 4.** 71.05 (6) (a) 24. of the statutes is amended to read:

24           71.05 (6) (a) 24. The amount deducted or excluded under the Internal Revenue  
25 Code for interest expenses ~~and~~, rental expenses, intangible expenses, and

1 management fees that are directly or indirectly paid, accrued, or incurred to, or in  
2 connection directly or indirectly with one or more direct or indirect transactions with,  
3 one or more related entities.

4 **SECTION 5.** 71.05 (6) (b) 46. of the statutes is amended to read:

5 71.05 (6) (b) 46. An amount added, pursuant to par. (a) 24. or s. 71.26 (2) (a) 7.,  
6 71.34 (1k) (j), or 71.45 (2) (a) 16., to the federal income of a related entity that paid  
7 interest expenses ~~or~~, rental expenses, intangible expenses, or management fees to  
8 the individual or fiduciary, to the extent that the related entity could not offset such  
9 amount with the deduction allowable under subd. 45. or s. 71.26 (2) (a) 8., 71.34 (1k)  
10 (k), or 71.45 (2) (a) 17.

11 **SECTION 6.** 71.22 (3e) of the statutes is created to read:

12 71.22 (3e) For purposes of s. 71.26 (2) (a) 7. and 9., "intangible expenses" include  
13 the following, to the extent that such amounts would otherwise be deductible in  
14 determining net income under the Internal Revenue Code as modified by s. 71.26 (3):

15 (a) Expenses, losses, and costs for, related to, or directly or indirectly in  
16 connection with, the acquisition, use, maintenance, management, ownership, sale,  
17 exchange, or other disposition of intangible property.

18 (b) Losses related to, or incurred directly or indirectly in connection with,  
19 factoring or discounting transactions.

20 (c) Royalty, patent, technical, copyright, and licensing fees.

21 (d) Other similar expenses, losses, and costs.

22 **SECTION 7.** 71.22 (3f) of the statutes is created to read:

23 71.22 (3f) "Intangible property" includes stocks, bonds, financial instruments,  
24 patents, patent applications, trade names, trademarks, service marks, copyrights,  
25 mask works, trade secrets, and similar types of intangible assets.

1           **SECTION 8.** 71.22 (6f) of the statutes is created to read:

2           **71.22 (6f)** For purposes of s. 71.26 (2) (a) 7. and 9., “management fees” include  
3 expenses and costs, not including interest expenses, pertaining to accounts  
4 receivable, accounts payable, employee benefit plans, insurance, legal matters,  
5 payroll, data processing, purchasing, taxation, financial matters, securities,  
6 accounting, or reporting and compliance matters or similar activities, to the extent  
7 that the amounts would otherwise be deductible in determining net income under  
8 the Internal Revenue Code as modified by s. 71.26 (3).

9           **SECTION 9.** 71.26 (2) (a) 7. of the statutes is amended to read:

10           **71.26 (2) (a) 7.** Plus the amount deducted or excluded under the Internal  
11 Revenue Code for interest expenses and, rental expenses, intangible expenses, and  
12 management fees that are directly or indirectly paid, accrued, or incurred to, or in  
13 connection directly or indirectly with one or more direct or indirect transactions with,  
14 one or more related entities.

15           **SECTION 10.** 71.26 (2) (a) 9. of the statutes is amended to read:

16           **71.26 (2) (a) 9.** Minus the amount added, pursuant to subd. 7. or s. 71.05 (6) (a)  
17 24., 71.34 (1k) (j), or 71.45 (2) (a) 16., to the federal income of a related entity that  
18 paid interest expenses or, rental expenses, intangible expenses, or management fees  
19 to the corporation, to the extent that the related entity could not offset such amount  
20 with the deduction allowable under subd. 8. or s. 71.05 (6) (b) 45., 71.34 (1k) (k), or  
21 71.45 (2) (a) 17.

22           **SECTION 11.** 71.34 (1c) of the statutes is created to read:

23           **71.34 (1c)** For purposes of sub. (1k) (j) and (L), “intangible expenses” include  
24 the following, to the extent that such amounts would otherwise be deductible in the  
25 computation of Wisconsin adjusted gross income:

1 (a) Expenses, losses, and costs for, related to, or directly or indirectly in  
2 connection with, the acquisition, use, maintenance, management, ownership, sale,  
3 exchange, or other disposition of intangible property.

4 (b) Losses related to, or incurred directly or indirectly in connection with,  
5 factoring or discounting transactions.

6 (c) Royalty, patent, technical, copyright, and licensing fees.

7 (d) Other similar expenses, losses, and costs.

8 **SECTION 12.** 71.34 (1d) of the statutes is created to read:

9 71.34 (1d) "Intangible property" includes stocks, bonds, financial instruments,  
10 patents, patent applications, trade names, trademarks, service marks, copyrights,  
11 mask works, trade secrets, and similar types of intangible assets.

12 **SECTION 13.** 71.34 (1h) of the statutes is created to read:

13 71.34 (1h) For purposes of sub. (1k) (j) and (L), "management fees" include  
14 expenses and costs, not including interest expenses, pertaining to accounts  
15 receivable, accounts payable, employee benefit plans, insurance, legal matters,  
16 payroll, data processing, purchasing, taxation, financial matters, securities,  
17 accounting, or reporting and compliance matters or similar activities, to the extent  
18 that the amounts would otherwise be deductible in the computation of Wisconsin  
19 adjusted gross income.

20 **SECTION 14.** 71.34 (1k) (j) of the statutes is amended to read:

21 71.34 (1k) (j) An addition shall be made for any amount deducted or excluded  
22 under the Internal Revenue Code for interest expenses and, rental expenses,  
23 intangible expenses, and management fees that are directly or indirectly paid,  
24 accrued, or incurred to, or in connection directly or indirectly with one or more direct  
25 or indirect transactions with, one or more related entities.

1           **SECTION 15.** 71.34 (1k) (L) of the statutes is amended to read:

2           71.34 (1k) (L) A deduction shall be allowed for the amount added, pursuant to  
3 par. (j) or s. 71.05 (6) (a) 24., 71.26 (2) (a) 7., or 71.45 (2) (a) 16., to the federal income  
4 of a related entity that paid interest expenses ~~or~~, rental expenses, intangible  
5 expenses, or management fees to the corporation, to the extent that the related entity  
6 could not offset such amount with the deduction allowable under par. (k) or s. 71.05  
7 (6) (b) 45., 71.26 (2) (a) 8., or 71.45 (2) (a) 17.

8           **SECTION 16.** 71.42 (1sm) of the statutes is created to read:

9           71.42 (1sm) For purposes of s. 71.45 (2) (a) 16. and 18., “intangible expenses”  
10 include the following, to the extent that such amounts would otherwise be deductible  
11 in determining net income under the Internal Revenue Code as adjusted under s.  
12 71.45 (2):

13           (a) Expenses, losses, and costs for, related to, or directly or indirectly in  
14 connection with, the acquisition, use, maintenance, management, ownership, sale,  
15 exchange, or other disposition of intangible property.

16           (b) Losses related to, or incurred directly or indirectly in connection with,  
17 factoring or discounting transactions.

18           (c) Royalty, patent, technical, copyright, and licensing fees.

19           (d) Other similar expenses, losses, and costs.

20           **SECTION 17.** 71.42 (1sn) of the statutes is created to read:

21           71.42 (1sn) “Intangible property” includes stocks, bonds, financial  
22 instruments, patents, patent applications, trade names, trademarks, service marks,  
23 copyrights, mask works, trade secrets, and similar types of intangible assets.

24           **SECTION 18.** 71.42 (3c) of the statutes is created to read:



1           71.42 (3c) For purposes of s. 71.45 (2) (a) 16., and 18., “management fees”  
2 include expenses and costs, not including interest expenses, pertaining to accounts  
3 receivable, accounts payable, employee benefit plans, insurance, legal matters,  
4 payroll, data processing, purchasing, taxation, financial matters, securities,  
5 accounting, or reporting and compliance matters or similar activities, to the extent  
6 that the amounts would otherwise be deductible in determining net income under  
7 the Internal Revenue Code as adjusted under s. 71.45 (2).

8           **SECTION 19.** 71.45 (2) (a) 16. of the statutes is amended to read:

9           71.45 (2) (a) 16. By adding to federal taxable income any amount deducted or  
10 excluded under the Internal Revenue Code for interest expenses and, rental  
11 expenses, intangible expenses, and management fees that are directly or indirectly  
12 paid, accrued, or incurred to, or in connection directly or indirectly with one or more  
13 direct or indirect transactions with, one or more related entities.

14           **SECTION 20.** 71.45 (2) (a) 18. of the statutes is amended to read:

15           71.45 (2) (a) 18. A deduction shall be allowed for the amount added, pursuant  
16 to subd. 16. or s. 71.05 (6) (a) 24., 71.26 (2) (a) 7., or 71.34 (1k) (j), to the federal income  
17 of a related entity that paid interest expenses ~~or~~, rental expenses, intangible  
18 expenses, or management fees to the insurer, to the extent that the related entity  
19 could not offset such amount with the deduction allowable under subd. 17. or s. 71.05  
20 (6) (b) 45., 71.26 (2) (a) 8., or 71.34 (1k) (k).

21           **SECTION 21.** 71.80 (23) (a) (intro.) of the statutes is amended to read:

22           71.80 (23) (a) (intro.) The deductions provided under ss. 71.05 (6) (b) 45., 71.26  
23 (2) (a) 8., 71.34 (1k) (k), and 71.45 (2) (a) 17. shall be allowed for any interest expenses  
24 ~~or~~, rental expenses, intangible expenses, or management fees described in ss. 71.05  
25 (6) (a) 24., 71.26 (2) (a) 7., 71.34 (1k) (j), or 71.45 (2) (a) 16. if any of the following

1 applies to the interest expenses ~~or~~, rental expenses, intangible expenses, or  
2 management fees:

3 **SECTION 22.** 71.80 (23) (a) 1. of the statutes is amended to read:

4 71.80 (23) (a) 1. The related entity to which the taxpayer paid, accrued, or  
5 incurred the interest expenses ~~or~~, rental expenses, intangible expenses, or  
6 management fees during the taxable year directly or indirectly paid, accrued, or  
7 incurred such amounts in the same taxable year to a person who is not a related  
8 entity or the related entity to which the taxpayer paid, accrued, or incurred such  
9 expenses or fees is a holding company or a direct or indirect subsidiary of a holding  
10 company, as defined in 12 USC 1841 (a) or (l) or 12 USC 1467a (a) (1) (D), not  
11 including any entity that is organized under the laws of another jurisdiction and that  
12 primarily holds and manages investments of a bank, subsidiary, or affiliate. For  
13 purposes of this subdivision, "interest" does not include interest that is paid in  
14 connection with any debt that is incurred to acquire the taxpayer's assets or stock  
15 under section 368 of the Internal Revenue Code. If a portion of such an interest  
16 expense ~~or~~, rental expense, intangible expense, or management fee is paid, accrued,  
17 or incurred in the same taxable year to a person who is not a related entity, that  
18 portion shall be allowed as a deduction to the taxpayer.

19 **SECTION 23.** 71.80 (23) (a) 2. of the statutes is amended to read:

20 71.80 (23) (a) 2. The related entity was subject to tax on, or measured by, its  
21 net income or receipts in this state or any state, U.S. possession, or foreign country;  
22 the related entity's tax base in such state, U.S. possession, or foreign country  
23 included the income received from the taxpayer for the interest expenses ~~or~~, rental  
24 expenses, intangible expenses, or management fees; the related entity's aggregate  
25 effective tax rate applied to such income or receipts was at least 80 percent of the

1 taxpayer's aggregate effective tax rate; and the related entity is not a real estate  
2 investment trust under section 856 of the Internal Revenue Code, other than a  
3 qualified real estate investment trust. For purposes of this subdivision, "any state,  
4 U.S. possession, or foreign country" does not include any state, U.S. possession, or  
5 foreign country under the laws of which the taxpayer files with the related entity, or  
6 the related entity files with another entity, a combined income tax report or return,  
7 a consolidated income tax report or return, or any other report or return that is due  
8 because of the imposition of a tax that is measured on or by income or receipts, if the  
9 report or return results in eliminating the tax effects of transactions, directly or  
10 indirectly, between either the taxpayer and the related entity or between the related  
11 entity and another entity.

12 **SECTION 24.** 71.80 (23) (a) 3. of the statutes is amended to read:

13 71.80 (23) (a) 3. The taxpayer establishes that the transaction satisfies any  
14 other conditions that the department considers relevant, based on the facts and  
15 circumstances, to determine that the primary motivation for the transaction was one  
16 or more business purposes other than the avoidance or reduction of state income or  
17 franchise taxes; that the transaction changed the economic position of the taxpayer  
18 in a meaningful way apart from tax effects; and that the interest expenses or, rental  
19 expenses, intangible expenses, or management fees were paid, accrued, or incurred  
20 using terms that reflect an arm's-length relationship.

21 **SECTION 25.** 71.80 (23) (b) of the statutes is amended to read:

22 71.80 (23) (b) Notwithstanding par. (a), the deductions provided under ss. 71.05  
23 (6) (b) 45., 71.26 (2) (a) 8., 71.34 (1k) (k), and 71.45 (2) (a) 17. shall not be allowed for  
24 any interest expenses or, rental expenses, intangible expenses, or management fees  
25 that are directly or indirectly paid, accrued, or incurred to, or in connection directly

1 or indirectly with one or more direct or indirect transactions with, one or more  
2 related entities, if the aggregate amount paid, accrued, or incurred for those related  
3 entity transactions is not disclosed on a separate form prescribed by the department  
4 in the manner prescribed by the department.

5 **SECTION 9343. Initial applicability; Revenue.**

6 (1) INTANGIBLE EXPENSES AND MANAGEMENT FEES. The treatment of sections 71.01  
7 (5p), (5q), and (7w), 71.05 (6) (a) 24. and (b) 46., 71.22 (3e), (3f), and (6f), 71.26 (2) (a)  
8 7. and 9., 71.34 (1c), (1d), (1h), and (1k) (j) and (L), 71.42 (1sm), (1sn), and (3c), 71.45  
9 (2) (a) 16. and 18., and 71.80 (23) (a) (intro.), 1., 2., and 3. and (b) of the statutes first  
10 applies to taxable years beginning on January 1, 2009.

11 (END)