

2017 DRAFTING REQUEST

Assembly Substitute Amendment (ASA-AB259)

For: **Dale Kooyenga (608) 266-9180** Drafter: **jkreye**
 By: **sandy** Secondary Drafters: **kpleviak**
 Date: **2/21/2018** May Contact:
 Same as LRB:

Submit via email: **YES**
 Requester's email: **Rep.Kooyenga@legis.wisconsin.gov**
 Carbon copy (CC) to: **krista.pleviak@legis.wisconsin.gov**
joseph.kreye@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Various tax law changes and IRC update

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye 2/21/2018	kfollett 2/21/2018			
/1			mbarman 2/21/2018	mbarman 2/21/2018	

FE Sent For: **<END>**

Kreye, Joseph

From: Lonergan, Sandy
Sent: Wednesday, February 21, 2018 4:21 PM
To: Reinhardt, Rob; Petrovich, Luke
Cc: Moran, Sean; Olin, Rick; Gentry, John; Kreye, Joseph; Shovers, Marc; Weber, Nathaniel R - DOR; Kooyenga, Dale
Subject: RE: one more Substitute Amendment please

Yes please. Thank you.

From: Reinhardt, Rob
Sent: Wednesday, February 21, 2018 4:21 PM
To: Lonergan, Sandy <Sandy.Lonergan@legis.wisconsin.gov>; Petrovich, Luke <Luke.Petrovich@legis.wisconsin.gov>
Cc: Moran, Sean <Sean.Moran@legis.wisconsin.gov>; Olin, Rick <Rick.Olin@legis.wisconsin.gov>; Gentry, John <John.Gentry@legis.wisconsin.gov>; Kreye, Joseph <Joseph.Kreye@legis.wisconsin.gov>; Shovers, Marc <Marc.Shovers@legis.wisconsin.gov>; Weber, Nathaniel R - DOR <Nathaniel.Weber@wisconsin.gov>; Kooyenga, Dale <Dale.Kooyenga@legis.wisconsin.gov>
Subject: RE: one more Substitute Amendment please

AA 1 to AB 259 was passed in Ways and Means. Should that be included?

From: Lonergan, Sandy
Sent: Wednesday, February 21, 2018 4:15 PM
To: Reinhardt, Rob; Petrovich, Luke
Cc: Moran, Sean; Olin, Rick; Gentry, John; Kreye, Joseph; Shovers, Marc; Weber, Nathaniel R - DOR; Kooyenga, Dale
Subject: one more Substitute Amendment please
Importance: High

LFB and LRB Tax Teams,

Thank you for all of your work on these amendments. The good news is that Dale has reached an agreement with the Speaker for Assembly passage of the tax conformity provisions. The bad news is that we need one more amendment. The Speaker has agreed to amend AB 259 with the tax conformity language – AB 259 is on the Assembly calendar tomorrow.

Please use the language of LRB s0374/P1 (the sub to AB 944, Petersen's child tax credit/sales tax holiday bill) and delete the language relating to the child tax credit and sales tax holiday. We want all the remaining provisions plus the language of AB 259 in the new sub.

Also, please jacket LRB s0374/P1 for introduction.

Please let us know if you have any questions. And again, thank you very much!

Sandy and Dale

Sandy Lonergan

State Representative Dale Kooyenga
14th Assembly District
324-East, State Capitol
608.266.9180

From: Reinhardt, Rob
Sent: Wednesday, February 21, 2018 2:20 PM
To: Lonergan, Sandy <Sandy.Lonergan@legis.wisconsin.gov>; Petrovich, Luke <Luke.Petrovich@legis.wisconsin.gov>
Cc: Moran, Sean <Sean.Moran@legis.wisconsin.gov>; Olin, Rick <Rick.Olin@legis.wisconsin.gov>; Gentry, John <John.Gentry@legis.wisconsin.gov>; Kreye, Joseph <Joseph.Kreye@legis.wisconsin.gov>; Shovers, Marc <Marc.Shovers@legis.wisconsin.gov>; Weber, Nathaniel R - DOR <Nathaniel.Weber@wisconsin.gov>
Subject: 4 Substitute Amendments

We believe all four substitute amendments are ok at this point:

- LRBs0374/P1--amends AB ⁹⁴⁴914 (Assembly version of sales tax rebate and holiday) to add IRC update items
- LRBs0379/P1-- amends SB 799 (Senate version of sales tax rebate and holiday) to add IRC update items
- LRBs0390/P2--amends SB 798 (Senate sales tax rebate only) to add IRC update items
- LRBs0378/P2--amends SB 764 (Senate original IRC update) to add additional IRC items

Thanks



State of Wisconsin
2017 - 2018 LEGISLATURE

50386/1

LRB-2602/1
KRP/ahc

ASA *[initials]*

[initials]

2017 ASSEMBLY BILL 259

Cooley 2-21

April 20, 2017 - Introduced by Representatives KATSMAN, MACCO, BERNIER, E. BROOKS, R. BROOKS, DUCHOW, GANNON, HUTTON, JACQUE, JARCHOW, KOOYENGA, KREMER, KUGLITSCH, KULP, MURPHY, NEYLON, RIPP, SKOWRONSKI and TAUCHEN, cosponsored by Senators MARKLEIN, CRAIG, KAPENGA, NASS, OLSEN and STROEBEL. Referred to Committee on Ways and Means.

1 AN ACT *to repeal* 20.566 (1) (hn) and 73.03 (28d); *to amend* 71.10 (1m) (c), 71.30
 2 (2m) (c), 71.80 (1m) (c) and 73.16 (3) (b); and *to create* 71.98 (8) of the statutes;
 3 **relating to:** the length of the recognition period for built-in gains tax; the
 4 evidentiary standard for proving a transaction has economic substance;
 5 participation by the Department of Revenue in the Multistate Tax Commission
 6 Audit Program; and reliance by a taxpayer on past audits by the Department
 7 of Revenue.

Insert A

Analysis by the Legislative Reference Bureau

This bill makes the following tax law changes: 1) changes the length of the recognition period for built-in gains tax; 2) changes the standard of proof a taxpayer must meet to establish that a transaction has economic substance for income and franchise tax purposes; 3) eliminates the Department of Revenue's obligation and authority to participate in the Multistate Tax Commission Audit Program; and 4) eliminates an exception to current law that allows a taxpayer to rely on past audits to avoid tax liability in later audits.

Length of recognition period for built-in gains tax

The bill changes the period of time after a corporation elects tax-option corporation status, called a recognition period, during which a tax-option corporation that sells certain assets for a profit must pay income or franchise taxes

ASSEMBLY BILL 259

on the profit as though the tax-option corporation were a regular corporation. That tax is commonly called a built-in gains tax.

Under current law, the term "recognition period" is defined by reference to federal law, but the definition is not automatically updated to reflect changes to federal law. The federal Protecting Americans from Tax Hikes Act of 2015 makes permanent a reduction in the recognition period under federal law from ten years to five years. The bill provides that the recognition period for purposes of Wisconsin law is the same as under federal law, as federal law is amended from time to time.

Evidentiary standard to prove transaction has economic substance

The bill changes the standard of proof a taxpayer must meet to establish that a transaction has economic substance for income and franchise tax purposes.

Under current law, if a taxpayer engages in a transaction without economic substance to create a loss, to reduce taxable income, or to increase credits allowed in determining Wisconsin income or franchise tax, DOR may disregard the transaction for purposes of calculating the taxpayer's tax liability. Under current law, there is a rebuttable presumption that transactions between members of a controlled group lack economic substance.

The bill changes the evidentiary standard for a taxpayer to rebut the presumption from "clear and convincing evidence" to "a preponderance of the evidence."

Multistate Tax Commission Audit Program

The bill eliminates DOR's obligation and authority to participate in the Multistate Tax Commission Audit Program.

Reliance by taxpayer on past audits

The bill eliminates an exception to current law that allows a taxpayer to rely on past audits to avoid tax liability in later audits. Under current law, a taxpayer subject to an audit determination by DOR is not liable for amounts asserted by DOR if the following conditions are met:

1. The tax issue giving rise to the liability was present during a period of time for which the taxpayer was previously audited.
2. DOR identified the tax issue during the prior audit.
3. DOR did not assert any liability for the tax issue during the prior audit.

Current law provides certain exceptions to a taxpayer's ability to rely on past audits to avoid liability in later audits.

The bill eliminates an exception that provides that, if a taxpayer did not give DOR adequate and accurate information regarding the tax issue during the prior audit or if the taxpayer and DOR settled the tax issue in the prior audit by a written agreement, the taxpayer cannot rely on the prior audit to avoid liability for the tax issue in a later audit. Under the bill, a taxpayer can rely on a prior audit even if the taxpayer provided inadequate or inaccurate information during the prior audit or settled the same tax issue with DOR during the prior audit.

ASSEMBLY BILL 259

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:

Insert
3-1

1

SECTION 1. 20.566 (1) (hm) of the statutes is repealed.

2

SECTION 2. 71.10 (1m) (c) of the statutes is amended to read:

3

71.10 (1m) (c) With respect to ~~transactions~~ a transaction between members of

4

a controlled group, as defined in section 267 (f) (1) of the Internal Revenue Code, such

5

transactions the transaction shall be presumed to lack economic substance, and the

6

taxpayer shall bear the burden of establishing by ^{plain} ~~clear and~~ convincing ~~a~~

7

preponderance of the ^{satisfactory} evidence that ~~a~~ the transaction or ~~a~~ the series of transactions

8

between the taxpayer and one or more members of the controlled group has economic

9

substance.

Insert
3-9

10

SECTION 3. 71.30 (2m) (c) of the statutes is amended to read:

11

71.30 (2m) (c) With respect to ~~transactions~~ a transaction between members of

12

a controlled group, as defined in section 267 (f) (1) of the Internal Revenue Code, such

13

transactions the transaction shall be presumed to lack economic substance, and the

14

taxpayer shall bear the burden of establishing by ^{plain} ~~clear and~~ convincing ~~a~~

15

preponderance of the ^{satisfactory} evidence that ~~a~~ the transaction or ~~a~~ the series of transactions

16

between the taxpayer and one or more members of the controlled group has economic

17

substance.

Insert
3-17

18

SECTION 4. 71.80 (1m) (c) of the statutes is amended to read:

19

71.80 (1m) (c) With respect to ~~transactions~~ a transaction between members of

20

a controlled group, as defined in section 267 (f) (1) of the Internal Revenue Code, such

21

transactions the transaction shall be presumed to lack economic substance, and the

Insert
3-21

ASSEMBLY BILL 259

SECTION 4

plain

1 taxpayer shall bear the burden of establishing by clear and convincing ^a
 2 preponderance of the ^{*satisfactory*} evidence that ~~a~~ the transaction or ~~a~~ the series of transactions
 3 between the taxpayer and one or more members of the controlled group has economic
 4 substance.

5 **SECTION 5.** 71.98 (8) of the statutes is created to read:

6 71.98 (8) RECOGNITION PERIOD FOR BUILT-IN GAINS TAX. For taxable years
 7 beginning after December 31, 2017, and for purposes of determining the recognition
 8 period for tax imposed on certain built-in gains, section 1374 (d) (7) of the Internal
 9 Revenue Code means section 1374 (d) (7) of the federal Internal Revenue Code in
 10 effect on the date the recognition period of the corporation begins.

11 **SECTION 6.** 73.03 (28d) of the statutes is repealed.

12 **SECTION 7.** 73.16 (3) (b) of the statutes is amended to read:

13 73.16 (3) (b) ^{*Paragraph (a)*} ~~This subsection~~ does not apply to any period associated with an
 14 audit determination, if the period begins after the promulgation of a rule,
 15 dissemination of written guidance to the public or to the person who is subject to the
 16 audit determination, the effective date of a statute, or the date on which a tax appeals
 17 commission or court decision becomes final and conclusive and if the rule, guidance,
 18 statute, or decision imposes the liability as a result of the tax issue described in par.

19 (a) 1. ~~This subsection does not apply to any period associated with an audit~~
 20 ~~determination if the taxpayer did not give the department employee adequate and~~
 21 ~~accurate information regarding the tax issue in the prior audit determination or if~~
 22 ~~the tax issue was settled in the prior audit determination by a written agreement~~
 23 ~~between the department and the taxpayer.~~

24 **SECTION 8. Nonstatutory provisions.**

*Insert
4-23A & B*

ASSEMBLY BILL 259

*insert
5-4*

(1) MULTISTATE TAX COMMISSION AUDIT PROGRAM. The repeal of sections 20.566 (1) (hn) and 73.03 (28d) of the statutes does not affect the validity of any assessment based entirely or in part on information or documents obtained from the multistate tax commission prior to the repeal.

SECTION 9. Initial applicability.

(1) EVIDENTIARY STANDARD TO PROVE TRANSACTION HAS ECONOMIC SUBSTANCE. The treatment of sections 71.10 (1m) (c), 71.30 (2m) (c), and 71.80 (1m) (c) of the statutes first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31, this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

~~(2) MULTISTATE TAX COMMISSION AUDIT PROGRAM. The treatment of section 73.03 (28d) of the statutes first applies to a contract that is entered into or extended, modified, or renewed on July 1, 2018.~~

(3) RELIANCE ON PAST AUDITS. The treatment of section 73.16 (3) (b) of the statutes first applies to an audit commenced on the effective date of this subsection.

SECTION 10. Effective dates. This act takes effect on the day after publication, except as follows:

(1) MULTISTATE TAX COMMISSION AUDIT PROGRAM. The treatment of section 20.566 (1) (hn) of the statutes takes effect on July 1, 2018.

21

(END)

*insert
5-21A & B*



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBa0586/1
KRP:emw

ASSEMBLY AMENDMENT 1,
TO ASSEMBLY BILL 259

Insects

January 23, 2018 - Offered by Representative KATSMÄ.

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

2 **1.** Page 1, line 3: delete the material beginning with "the length" and ending
3 with "tax;"

4 **2.** Page 1, line 4: delete the material beginning with "substance;" and ending
5 with "Program;" on line 6 and substitute "substance".

6 **3.** Page 3, line 1: delete that line.

7 **4.** Page 3, line 6: delete the material beginning with "clear" and ending with
8 "of the" on line 7 and substitute "clear and convincing satisfactory".

9 **5.** Page 3, line 14: delete the material beginning with "clear" and ending with
10 "of the" on line 15 and substitute "clear and convincing satisfactory".

11 **6.** Page 4, line 1: delete the material beginning with "clear" and ending with
12 "of the" on line 2 and substitute "clear and convincing satisfactory".

1 **7.** Page 4, line 5: delete lines 5 to 11.

2 **8.** Page 4, line 13: delete "This subsection" and substitute "This subsection
3 Paragraph (a)".

4 **9.** Page 4, line 23: after that line insert:

5 ~~SECTION 7m.~~ 73.16 (3) (c) of the statutes is created to read:
6 73.16 (3) (c) Paragraph (a) does not apply to any period associated with an audit
7 determination if any of the following applies:
8 1. The department establishes by clear and satisfactory evidence that the
9 taxpayer provided incomplete or false information relevant to the tax issue in the
10 prior audit determination.
11 2. The tax issue was settled in the prior audit determination by a written
12 agreement between the department and the taxpayer that was entered into before
13 the effective date of this subdivision ... [LRB inserts date].
14 3. The tax issue was settled in the prior audit determination by a written
15 agreement between the department and the taxpayer that was entered into on or
16 after the effective date of this subdivision ... [LRB inserts date], and in which the
17 parties acknowledged that the department did not adopt the taxpayer's position on
18 the tax issue.

19 **10.** Page 4, line 24: delete the material beginning with that line and ending
20 with page 5, line 4.

21 **11.** Page 5, line 12: delete lines 12 to 14.

22 **12.** Page 5, line 15: delete lines 15 and 16 and substitute:

insert
4-23A



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0374/1
JK&MES:wlj/klm/amn

ASSEMBLY SUBSTITUTE AMENDMENT ,
TO ASSEMBLY BILL 944

1 **AN ACT to amend** 71.01 (6) (k) 1., 71.01 (6) (k) 3., 71.05 (6) (b) 28. (intro.), 71.05
2 (6) (b) 49. a., 71.05 (6) (b) 49. b., 71.05 (10) (i) 1., 71.05 (23) (b) 2., 71.08 (1) (d),
3 71.22 (4) (k) 1., 71.22 (4) (k) 3., 71.22 (4m) (k) 1., 71.22 (4m) (k) 3., 71.26 (2) (b)
4 11. a., 71.26 (2) (b) 11. d., 71.26 (3) (j), 71.34 (1g) (k) 1., 71.34 (1g) (k) 3., 71.42
5 (2) (k) 1., 71.42 (2) (k) 3., 71.98 (3), 77.52 (13), 77.53 (10), 77.54 (9m) and 224.50
6 (2) (a); and **to create** 20.835 (2) (cb), 71.01 (6) (L), 71.05 (6) (b) 49. k., 71.22 (4)
7 (L), 71.22 (4m) (L), 71.26 (2) (b) 12., 71.34 (1g) (L), 71.42 (2) (L), 71.98 (9), 77.54
8 (9a) (fc), 77.54 (67) and 77.68 of the statutes; **relating to:** a sales and use tax
9 rebate for certain dependent children, a sales tax holiday in August 2018,
10 updating Internal Revenue Code references for state tax purposes, clarifying
11 the duties of the College Savings Program Board, a sales and use tax exemption
12 for title holding entities for certain tax-exempt charitable organizations.

Insert A

1 computing depletion for income and franchise tax purposes, and making an
2 appropriation.

end of insert A

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

3 **SECTION 1.** 20.835 (2) (cb) of the statutes is created to read:

4 20.835 (2) (cb) *Qualified child sales and use tax rebate for 2018.* A sum
5 sufficient to pay the claims approved under s. 77.68.

6 **SECTION 2.** 71.01 (6) (k) 1. of the statutes, as created by 2017 Wisconsin Act 59,
7 is amended to read:

8 71.01 (6) (k) 1. For taxable years beginning after December 31, 2016, and before
9 January 1, 2018, for individuals and fiduciaries, except fiduciaries of nuclear
10 decommissioning trust or reserve funds, "Internal Revenue Code" means the federal
11 Internal Revenue Code as amended to December 31, 2016, except as provided in
12 subds. 2. and 3. and s. 71.98 and subject to subd. 4.

13 **SECTION 3.** 71.01 (6) (k) 3. of the statutes, as created by 2017 Wisconsin Act 59,
14 is amended to read:

15 71.01 (6) (k) 3. For purposes of this paragraph, "Internal Revenue Code" does
16 not include amendments to the federal Internal Revenue Code enacted after
17 December 31, 2016, except that "Internal Revenue Code" includes sections 11024,
18 11025, and 13543 of P.L. 115-97.

19 **SECTION 4.** 71.01 (6) (L) of the statutes is created to read:

20 71.01 (6) (L) 1. For taxable years beginning after December 31, 2017, for
21 individuals and fiduciaries, except fiduciaries of nuclear decommissioning trust or
22 reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code

Insert 3-1

1 as amended to December 31, 2017, except as provided in subds. 2. and 3. and s. 71.98
2 and subject to subd. 4.

3 2. For purposes of this paragraph, "Internal Revenue Code" does not include
4 the following provisions of federal public laws for taxable years beginning after
5 December 31, 2017: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L.
6 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L.
7 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of
8 P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L.
9 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section
10 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections
11 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251,
12 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L.
13 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L.
14 111-312; section 1106 of P.L. 112-95; sections 104, 318, 322, 323, 324, 326, 327, and
15 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division
16 P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to
17 171, 189, 191, 307, 326, and 411 of division Q of P.L. 114-113; and sections 11011,
18 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531,
19 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214,
20 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97.

21 3. For purposes of this paragraph, "Internal Revenue Code" does not include
22 amendments to the federal Internal Revenue Code enacted after December 31, 2017.

23 4. For purposes of this paragraph, the provisions of federal public laws that
24 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
25 apply for Wisconsin purposes at the same time as for federal purposes.

Current
3-1

✓

Insert
3-1
1 **SECTION 5.** 71.05 (6) (b) 28. (intro.) of the statutes, as affected by 2017

2 Wisconsin Act 59, is amended to read:

3 71.05 **(6)** (b) 28. (intro.) An amount paid by a claimant for tuition expenses and
4 mandatory student fees for a student who is the claimant or who is the claimant's
5 child and the claimant's dependent ~~who is claimed under section 151 (e), as defined~~
6 under section 152 of the Internal Revenue Code, to attend any university, college,
7 technical college or a school approved under s. 440.52, that is located in Wisconsin
8 or to attend a public vocational school or public institution of higher education in
9 Minnesota under the Minnesota-Wisconsin reciprocity agreement under s. 39.47,
10 calculated as follows:

11 **SECTION 6.** 71.05 (6) (b) 49. a. of the statutes is amended to read:


12 71.05 **(6)** (b) 49. a. Subject to the definitions provided in subd. 49. b. to g. and
13 the limitations specified in subd. 49. h. to j. for taxable years beginning after
14 December 31, 2013, and subject to the limitation in subd. 49. k. for taxable years
15 beginning after December 31, 2017, tuition expenses that are paid by a claimant for
16 tuition for a pupil to attend an eligible institution.

17 **SECTION 7.** 71.05 (6) (b) 49. b. of the statutes is amended to read:

18 71.05 **(6)** (b) 49. b. In this subdivision, "claimant" means an individual who
19 claims a pupil as a dependent ~~under section 151 (e), as defined under section 152~~ of
20 the Internal Revenue Code, on his or her tax return.

21 **SECTION 8.** 71.05 (6) (b) 49. k. of the statutes is created to read:

22 71.05 **(6)** (b) 49. k. For taxable years beginning after December 31, 2017, no
23 modification may be claimed under this subdivision for an amount paid for tuition
24 expenses, as described under this subdivision, if the source of the payment is an
25 amount withdrawn from a college savings account, as described in s. 224.50.



Insert
3-1

1 **SECTION 9.** 71.05 (10) (i) 1. of the statutes is amended to read:

2 71.05 **(10)** (i) 1. Subject to the conditions in this paragraph, an individual may
3 subtract up to \$10,000 from federal adjusted gross income if he or she, or his or her
4 dependent ~~who is claimed under section 151 (e), as defined under section 152~~ of the
5 Internal Revenue Code, while living, donates one or more of his or her human organs
6 to another human being for human organ transplantation, as defined in s. 146.345
7 (1), except that in this paragraph, "human organ" means all or part of a liver,
8 pancreas, kidney, intestine, lung, or bone marrow. A subtract modification that is
9 claimed under this paragraph may be claimed in the taxable year in which the
10 human organ transplantation occurs.

11 **SECTION 10.** 71.05 (23) (b) 2. of the statutes is amended to read:

12 71.05 **(23)** (b) 2. An exemption of \$700 for each ~~individual for whom the~~
13 ~~taxpayer is entitled to an exemption for the taxable year under section 151 (e)~~
14 dependent, as defined under section 152 of the Internal Revenue Code, of the
15 taxpayer.

16 **SECTION 11.** 71.08 (1) (d) of the statutes is amended to read:

17 71.08 **(1)** (d) Subtract from the amount under par. (c) the appropriate amount
18 under section 55 (d) ~~(1), (3), and (4)~~ of the federal Internal Revenue Code in effect for
19 the taxable year; except that surviving spouses shall be treated as single individuals;
20 except that the amount under par. (c), not the federal alternative minimum taxable
21 income, shall be used in calculating the phase-out and except that for nonresidents
22 and part-year residents the amount under section 55 (d) ~~(1), (3), and (4)~~ of the federal
23 Internal Revenue Code in effect for the taxable year shall be prorated on the basis
24 of the ratio of Wisconsin adjusted gross income to federal adjusted gross income.

end of 3-1

Amend
3-9

1 **SECTION 12.** 71.22 (4) (k) 1. of the statutes, as created by 2017 Wisconsin Act
2 59, is amended to read:

3 71.22 (4) (k) 1. For taxable years beginning after December 31, 2016, and before
4 January 1, 2018, “Internal Revenue Code” means the federal Internal Revenue Code
5 as amended to December 31, 2016, except as provided in subds. 2. and 3. and subject
6 to subd. 4., and except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g),
7 71.42 (2), and 71.98.

8 **SECTION 13.** 71.22 (4) (k) 3. of the statutes, as created by 2017 Wisconsin Act
9 59, is amended to read:

10 71.22 (4) (k) 3. For purposes of this paragraph, “Internal Revenue Code” does
11 not include amendments to the federal Internal Revenue Code enacted after
12 December 31, 2016, except that “Internal Revenue Code” includes sections 11024,
13 11025, and 13543 of P.L. 115-97.

14 **SECTION 14.** 71.22 (4) (L) of the statutes is created to read:

15 71.22 (4) (L) 1. For taxable years beginning after December 31, 2017, “Internal
16 Revenue Code” means the federal Internal Revenue Code as amended to December
17 31, 2017, except as provided in subds. 2. and 3. and subject to subd. 4., and except
18 as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), 71.42 (2), and 71.98.

19 2. For purposes of this paragraph, “Internal Revenue Code” does not include
20 the following provisions of federal public laws for taxable years beginning after
21 December 31, 2017: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L.
22 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L.
23 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of
24 P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L.
25 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section

Amend
39

1 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections
2 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251,
3 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L.
4 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L.
5 111-312; section 1106 of P.L. 112-95; sections 104, 318, 322, 323, 324, 326, 327, and
6 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division
7 P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to
8 171, 189, 191, 307, 326, and 411 of division Q of P.L. 114-113; and sections 11011,
9 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531,
10 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214,
11 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97.

12 3. For purposes of this paragraph, "Internal Revenue Code" does not include
13 amendments to the federal Internal Revenue Code enacted after December 31, 2017.

14 4. For purposes of this paragraph, the provisions of federal public laws that
15 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
16 apply for Wisconsin purposes at the same time as for federal purposes.

17 **SECTION 15.** 71.22 (4m) (k) 1. of the statutes, as created by 2017 Wisconsin Act
18 59, is amended to read:

19 71.22 (4m) (k) 1. For taxable years beginning after December 31, 2016, and
20 before January 1, 2018, "Internal Revenue Code", for corporations that are subject
21 to a tax on unrelated business income under s. 71.26 (1) (a), means the federal
22 Internal Revenue Code as amended to December 31, 2016, except as provided in
23 subds. 2. and 3. and s. 71.98 and subject to subd. 4.

24 **SECTION 16.** 71.22 (4m) (k) 3. of the statutes, as created by 2017 Wisconsin Act
25 59, is amended to read:

Insert
3-9

1 71.22 (4m) (k) 3. For purposes of this paragraph, “Internal Revenue Code” does
2 not include amendments to the federal Internal Revenue Code enacted after
3 December 31, 2016, except that “Internal Revenue Code” includes sections 11024,
4 11025, and 13543 of P.L. 115-97.

5 **SECTION 17.** 71.22 (4m) (L) of the statutes is created to read:

6 71.22 (4m) (L) 1. For taxable years beginning after December 31, 2017,
7 “Internal Revenue Code”, for corporations that are subject to a tax on unrelated
8 business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as
9 amended to December 31, 2017, except as provided in subds. 2. and 3. and s. 71.98
10 and subject to subd. 4.

11 2. For purposes of this paragraph, “Internal Revenue Code” does not include
12 the following provisions of federal public laws for taxable years beginning after
13 December 31, 2017: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L.
14 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L.
15 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of
16 P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L.
17 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section
18 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections
19 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251,
20 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L.
21 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L.
22 111-312; section 1106 of P.L. 112-95; sections 104, 318, 322, 323, 324, 326, 327, and
23 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division
24 P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to
25 171, 189, 191, 307, 326, and 411 of division Q of P.L. 114-113; and sections 11011,



1 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531,
2 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214,
3 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97.

4 3. For purposes of this paragraph, "Internal Revenue Code" does not include
5 amendments to the federal Internal Revenue Code enacted after December 31, 2017.


6 4. For purposes of this paragraph, the provisions of federal public laws that
7 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
8 apply for Wisconsin purposes at the same time as for federal purposes.

9 **SECTION 18.** 71.26 (2) (b) 11. a. of the statutes, as created by 2017 Wisconsin
10 Act 59, is amended to read:

11 71.26 (2) (b) 11. a. For taxable years beginning after December 31, 2016, and
12 before January 1, 2018, for a corporation, conduit, or common law trust which
13 qualifies as a regulated investment company, real estate mortgage investment
14 conduit, real estate investment trust, or financial asset securitization investment
15 trust under the Internal Revenue Code, "net income" means the federal regulated
16 investment company taxable income, federal real estate mortgage investment
17 conduit taxable income, federal real estate investment trust or financial asset
18 securitization investment trust taxable income of the corporation, conduit, or trust
19 as determined under the Internal Revenue Code.

20 **SECTION 19.** 71.26 (2) (b) 11. d. of the statutes, as created by 2017 Wisconsin
21 Act 59, is amended to read:

22 71.26 (2) (b) 11. d. For purposes of subd. 11. a., "Internal Revenue Code" does
23 not include amendments to the federal Internal Revenue Code enacted after
24 December 31, 2016, except that "Internal Revenue Code" includes sections 11024,
25 11025, and 13543 of P.L. 115-97.



1 **SECTION 20.** 71.26 (2) (b) 12. of the statutes is created to read:

2 71.26 (2) (b) 12. a. For taxable years beginning after December 31, 2017, for a
3 corporation, conduit, or common law trust which qualifies as a regulated investment
4 company, real estate mortgage investment conduit, real estate investment trust, or
5 financial asset securitization investment trust under the Internal Revenue Code,
6 “net income” means the federal regulated investment company taxable income,
7 federal real estate mortgage investment conduit taxable income, federal real estate
8 investment trust or financial asset securitization investment trust taxable income
9 of the corporation, conduit, or trust as determined under the Internal Revenue Code.

10 b. For purposes of subd. 12. a., “Internal Revenue Code” means the federal
11 Internal Revenue Code as amended to December 31, 2017, except as provided in
12 subd. 12. c. and d. and s. 71.98 and subject to subd. 12. e.

13 c. For purposes of subd. 12. a., “Internal Revenue Code” does not include the
14 following provisions of federal public laws for taxable years beginning after
15 December 31, 2017: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L.
16 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L.
17 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of
18 P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L.
19 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section
20 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections
21 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251,
22 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L.
23 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L.
24 111-312; section 1106 of P.L. 112-95; sections 104, 318, 322, 323, 324, 326, 327, and
25 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division

1 P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to
2 171, 189, 191, 307, 326, and 411 of division Q of P.L. 114-113; and sections 11011,
3 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531,
4 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214,
5 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97.

6 d. For purposes of subd. 12. a., "Internal Revenue Code" does not include
7 amendments to the federal Internal Revenue Code enacted after December 31, 2017.

8 e. For purposes of subd. 12. a., the provisions of federal public laws that directly
9 or indirectly affect the Internal Revenue Code, as defined in this subdivision, apply
10 for Wisconsin purposes at the same time as for federal purposes.

11 **SECTION 21.** 71.26 (3) (j) of the statutes is amended to read:

12 71.26 (3) (j) Sections 243, 244, 245, 245A, 246 and 246A are excluded and
13 replaced by the rule that corporations may deduct from income dividends received
14 from a corporation with respect to its common stock if the corporation receiving the
15 dividends owns, directly or indirectly, during the entire taxable year at least 70
16 percent of the total combined voting stock of the payor corporation. In this
17 paragraph, "dividends received" means gross dividends minus taxes on those
18 dividends paid to a foreign nation and claimed as a deduction under this chapter. The
19 same dividends may not be deducted more than once. *end of 3-9*

20 **SECTION 22.** 71.34 (1g) (k) 1. of the statutes, as created by 2017 Wisconsin Act
21 59, is amended to read:

22 71.34 (1g) (k) 1. For taxable years beginning after December 31, 2016, and
23 before January 1, 2018, for tax option corporations, "Internal Revenue Code" means
24 the federal Internal Revenue Code as amended to December 31, 2016, except as
25 provided in subds. 2., 3., and 5. and s. 71.98 and subject to subd. 4.

1 **SECTION 23.** 71.34 (1g) (k) 3. of the statutes, as created by 2017 Wisconsin Act
2 59, is amended to read:

3 71.34 **(1g)** (k) 3. For purposes of this paragraph, "Internal Revenue Code" does
4 not include amendments to the federal Internal Revenue Code enacted after
5 December 31, 2016, except that "Internal Revenue Code" includes sections 11024,
6 11025, and 13543 of P.L. 115-97.

7 **SECTION 24.** 71.34 (1g) (L) of the statutes is created to read:

8 71.34 **(1g)** (L) 1. For taxable years beginning after December 31, 2017, for tax
9 option corporations, "Internal Revenue Code" means the federal Internal Revenue
10 Code as amended to December 31, 2017, except as provided in subds. 2., 3., and 5. and
11 s. 71.98 and subject to subd. 4.

12 2. For purposes of this paragraph, "Internal Revenue Code" does not include
13 the following provisions of federal public laws for taxable years beginning after
14 December 31, 2017: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L.
15 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L.
16 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of
17 P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L.
18 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section
19 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections
20 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251,
21 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L.
22 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L.
23 111-312; section 1106 of P.L. 112-95; sections 104, 318, 322, 323, 324, 326, 327, and
24 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division
25 P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to

Amend
3-17

1 171, 189, 191, 307, 326, and 411 of division Q of P.L. 114-113; and sections 11011,
2 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531,
3 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214,
4 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97.

5 3. For purposes of this paragraph, "Internal Revenue Code" does not include
6 amendments to the federal Internal Revenue Code enacted after December 31, 2017.

7 4. For purposes of this paragraph, the provisions of federal public laws that
8 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
9 apply for Wisconsin purposes at the same time as for federal purposes

10 5. For purposes of this paragraph, section 1366 (f) of the Internal Revenue Code
11 (relating to pass-through of items to shareholders) is modified by substituting the
12 tax under s. 71.35 for the taxes under sections 1374 and 1375 of the Internal Revenue
13 Code.

14 **SECTION 25.** 71.42 (2) (k) 1. of the statutes, as created by 2017 Wisconsin Act
15 59, is amended to read:

16 71.42 (2) (k) 1. For taxable years beginning after December 31, 2016, and before
17 January 1, 2018, "Internal Revenue Code" means the federal Internal Revenue Code
18 as amended to December 31, 2016, except as provided in subds. 2. to 4. and s. 71.98
19 and subject to subd. 5.

20 **SECTION 26.** 71.42 (2) (k) 3. of the statutes, as created by 2017 Wisconsin Act
21 59, is amended to read:

22 71.42 (2) (k) 3. For purposes of this paragraph, "Internal Revenue Code" does
23 not include amendments to the federal Internal Revenue Code enacted after
24 December 31, 2016, except that "Internal Revenue Code" includes sections 11024,
25 11025, and 13543 of P.L. 115-97.



*Amend
3-17*

1 **SECTION 27.** 71.42 (2) (L) of the statutes is created to read:

2 71.42 (2) (L) 1. For taxable years beginning after December 31, 2017, “Internal
3 Revenue Code” means the federal Internal Revenue Code as amended to December
4 31, 2017, except as provided in subds. 2. to 4. and s. 71.98 and subject to subd. 5.

5 2. For purposes of this paragraph, “Internal Revenue Code” does not include
6 the following provisions of federal public laws for taxable years beginning after
7 December 31, 2017: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L.
8 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L.
9 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of
10 P.L. 109-222; sections 104 and 307 of P.L. 109-432; sections 8233 and 8235 of P.L.
11 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section
12 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections
13 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251,
14 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L.
15 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L.
16 111-312; section 1106 of P.L. 112-95; sections 104, 318, 322, 323, 324, 326, 327, and
17 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division
18 P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to
19 171, 189, 191, 307, 326, and 411 of division Q of P.L. 114-113; and sections 11011,
20 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531,
21 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214,
22 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. 115-97.

23 3. For purposes of this paragraph, “Internal Revenue Code” does not include
24 amendments to the federal Internal Revenue Code enacted after December 31, 2017.

Insert
3-17

1 4. For purposes of this paragraph, "Internal Revenue Code" does not include
2 section 847 of the federal Internal Revenue Code.

3 5. For purposes of this paragraph, the provisions of federal public laws that
4 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
5 apply for Wisconsin purposes at the same time as for federal purposes.

6 **SECTION 28.** 71.98 (3) of the statutes is amended to read:

7 71.98 (3) DEPRECIATION, DEPLETION, AND AMORTIZATION. For taxable years
8 beginning after December 31, 2013, and for purposes of computing depreciation and
9 amortization, the Internal Revenue Code means the federal Internal Revenue Code
10 in effect for federal purposes on January 1, 2014, except that sections 13201 (f)
11 13203, 13204, and 13205 of P.L. 115-97 apply at the same time as for federal
12 purposes. For taxable years beginning after December 31, 2013, and for purposes of
13 computing depletion, the Internal Revenue ~~code~~ Code means the federal Internal
14 Revenue ~~code~~ Code in effect for federal purposes for the year in which the property
15 is placed in service. end of 3-17

16 **SECTION 29.** 71.98 (9) of the statutes is created to read:

17 71.98 (9) ROLLOVER AMOUNTS, AIRLINE CARRIER BANKRUPTCY. For taxable years
18 beginning after December 31, 2011, section 1106 of P.L. 112-95, as amended by P.L.
19 113-243 and section 307 of Division Q of P.L. 114-113, as it relates to the treatment
20 of distributions to qualified airline employees that are rolled over into an individual
21 retirement account, due to airline carrier bankruptcy. This provision does not apply
22 to federal provisions relating to extensions of time to file amended federal returns.
23 A qualified airline employee may file a claim for a refund to exclude income provided
24 under this subsection pursuant to the time period specified in s. 71.75 (2) or no later
25 than 180 days after the effective date of this subsection [LRB inserts date].

Insert 3-21

1 **SECTION 30.** 77.52 (13) of the statutes, as affected by 2017 Wisconsin Act 59,
2 is amended to read:

3 77.52 (13) For the purpose of the proper administration of this section and to
4 prevent evasion of the sales tax it shall be presumed that all receipts are subject to
5 the tax until the contrary is established. The burden of proving that a sale of tangible
6 personal property, or items, property, or goods under sub. (1) (b), (c), or (d), or services
7 is not a taxable sale at retail is upon the person who makes the sale unless that
8 person takes from the purchaser an electronic or a paper certificate, in a manner
9 prescribed by the department, to the effect that the property, item, good, or service
10 is purchased for resale or is otherwise exempt, except that no certificate is required
11 for the sale of tangible personal property, or items, property, or goods under sub. (1)
12 (b), (c), or (d), or services that are exempt under s. 77.54 (5) (a) 3., (7), (7m), (8), (10),
13 (11), (14), (15), (17), (20n), (21), (22b), (31), (32), (35), (36), (37), (42), (44), (45), (46),
14 (51), (52), ~~and (66), and (67).~~

15 **SECTION 31.** 77.53 (10) of the statutes is amended to read:

16 77.53 (10) For the purpose of the proper administration of this section and to
17 prevent evasion of the use tax and the duty to collect the use tax, it is presumed that
18 tangible personal property, or items, property, or goods under s. 77.52 (1) (b), (c), or
19 (d), or taxable services sold by any person for delivery in this state is sold for storage,
20 use, or other consumption in this state until the contrary is established. The burden
21 of proving the contrary is upon the person who makes the sale unless that person
22 takes from the purchaser an electronic or paper certificate, in a manner prescribed
23 by department, to the effect that the property, or items, property, or goods under s.
24 77.52 (1) (b), (c), or (d), or taxable service is purchased for resale, or otherwise exempt
25 from the tax, except that no certificate is required for the sale of tangible personal

Amend
4-23 B

Insert
4-23 B

1 property, or items, property, or goods under s. 77.52 (1) (b), (c), or (d), or services that
2 are exempt under s. 77.54 (7), (7m), (8), (10), (11), (14), (15), (17), (20n), (21), (22b),
3 (31), (32), (35), (36), (37), (42), (44), (45), (46), (51), ~~and (52), and (67).~~

4 **SECTION 32.** 77.54 (9a) (fc) of the statutes is created to read:

5 77.54 (9a) (fc) An entity described under section 501 (c) (2) of the Internal
6 Revenue Code that is exempt from federal income tax under section 501 (a) of the
7 Internal Revenue Code and that is organized for the exclusive purpose of holding title
8 to property, collecting income from that property, and turning over the entire amount
9 of that income, less expenses, to an entity described under par. (f).

10 **SECTION 33.** 77.54 (9m) of the statutes is amended to read:

11 77.54 (9m) The sales price from the sale of and the storage, use, or other
12 consumption of tangible personal property, or items or property under s. 77.52 (1) (b)
13 or (c), sold to a construction contractor ~~who~~ that, in fulfillment of a real property
14 construction activity, transfers the tangible personal property, or items or property
15 under s. 77.52 (1) (b) or (c), to an entity described under sub. (9a) (b), (c), (d), (em),
16 ~~or (f), or (fc),~~ if such tangible personal property, or items or property, becomes a
17 component of a facility in this state that is owned by the entity. In this subsection,
18 "facility" means any building, shelter, parking lot, parking garage, athletic field,
19 athletic park, storm sewer, water supply system, or sewerage and waste water
20 treatment facility, but does not include a highway, street, or road.

end of 4-23 B

21 **SECTION 34.** 77.54 (67) of the statutes is created to read:

22 77.54 (67) (a) In this subsection:

- 23 1. "Eligible property" means an item that qualifies for exemption under this
24 subsection.

1 2. "Layaway sale" means a transaction in which property is set aside for future
2 delivery to a customer who makes a deposit, agrees to pay the balance of the sales
3 price over time, and, at the end of the payment period, receives the property. An order
4 is accepted for layaway by the seller when the seller removes the property from
5 inventory or clearly identifies the property as sold to the purchaser.

6 (b) For the 2-day period beginning on the first Saturday in August 2018 and
7 ending on the following Sunday, the sales price from the sale of and the storage, use,
8 or other consumption of any item of tangible personal property or an item described
9 under s. 77.52 (1) (b) or (d), but not lease, licenses, or rentals of tangible personal
10 property, sold at retail to a consumer for the consumer's personal use for which the
11 sales price is no more than \$100. This paragraph does not apply to the sale, storage,
12 use, or other consumption of the following:

- 13 1. Services described under s. 77.52 (2).
- 14 2. Prepared food, candy, soft drinks, and dietary supplements.
- 15 3. Alcoholic beverages, cigarettes, and tobacco products.
- 16 4. Motor vehicles, motor vehicle parts, attachments, accessories, and supplies.
- 17 5. Tangible or intangible property used to access telecommunications services
18 described under s. 77.52 (2) (a) 5. or 5m.
- 19 6. Tangible or intangible property provided by a utility.
- 20 7. Tangible personal property transferred with a service described under s.
21 77.52 (2) (a) 7., 10., 11., or 20.
- 22 8. Pornographic material.

23 (c) The exemption under this subsection shall be administered as follows:

- 24 1. A sale of eligible property under a layaway sale qualifies for exemption if
25 either of the following applies:

1 a. Final payment on a layaway order is made by, and the property is given to,
2 the purchaser during the exemption period.

3 b. The purchaser selects the property and the retailer accepts the order for the
4 item during the exemption period, for immediate delivery upon full payment, even
5 if delivery is made after the exemption period.

6 2. The bundled transaction provisions under subs. (51) and (52) and ss. 77.51
7 (1f) and (3pf) and 77.52 (20), (21), (22), and (23) apply in the same manner during the
8 exemption period under this subsection as they apply in other periods.

9 3. A discount by the seller reduces the sales price of the property, and the
10 discounted sales price determines whether the sales price is within the price
11 threshold under par. (b). A coupon that reduces the sales price is treated as a
12 discount if the seller is not reimbursed for the coupon amount by a 3rd party. If a
13 discount applies to the total amount paid by a purchaser rather than to the sales
14 price of a particular item and the purchaser has purchased both eligible property and
15 taxable property, the seller shall allocate the discount based on the total sales prices
16 of the taxable property compared to the total sales prices of all property sold in that
17 same transaction.

18 4. Products that are normally sold as a single unit shall be sold in that manner
19 and may not be divided into multiple units and sold as individual items in order to
20 obtain the exemption under this subsection.

21 5. Eligible property that is purchased during the exemption period with the use
22 of a rain check qualifies for the exemption regardless of when the rain check was
23 issued. Items purchased after the exemption period with the use of a rain check are
24 not eligible property under this subsection even if the rain check was issued during
25 the exemption period.

1 6. The procedure for an exchange with regard to the exemption under this
2 subsection is as follows:

3 a. If a purchaser purchases an item of eligible property during the exemption
4 period, but later exchanges the item for a similar item of eligible property, even if
5 different in size, color, or another feature, no additional tax is due even if the
6 exchange is made after the exemption period.

7 b. If a purchaser purchases an item of eligible property during the exemption
8 period, but after the exemption period has ended, the purchaser returns the item and
9 receives credit on the purchase of a different item, the appropriate sales tax is due
10 on the sale of the different item.

11 c. If a purchaser purchases an item of eligible property before the exemption
12 period, but during the exemption period the purchaser returns the item and receives
13 credit on the purchase of a different item of eligible property, no sales tax is due on
14 the sale of the new item if the new item is purchased during the exemption period.

15 7. Delivery charges, including shipping, handling, and service charges, are part
16 of the sales price of eligible property. For the purpose of determining the price
17 threshold under par. (b), if all the property in a shipment qualifies as eligible
18 property and the sales price for each item in the shipment is within the price
19 threshold under par. (b), the shipment is considered a sale of eligible property and
20 the seller does not have to allocate the delivery, handling, or service charge to
21 determine if the price threshold under par. (b) is exceeded. If the shipment includes
22 eligible property and taxable property, including an item of eligible property with a
23 sales price in excess of the price threshold under par. (b), the seller shall allocate the
24 delivery, handling, and service charge by using one of the following methods and

1 shall apply the tax to the percentage of the delivery, handling, and service charge
2 allocated to the taxable property:

3 a. A percentage based on the total sales price of the taxable property compared
4 to the total sales price of all property in the shipment.

5 b. A percentage based on the total weight of the taxable property compared to
6 the total weight of all property in the shipment.

7 8. Eligible property qualifies for exemption under this subsection if either of
8 the following applies:

9 a. The item is both delivered to and paid for by the customer during the
10 exemption period.

11 b. The purchaser orders and pays for the item and the seller accepts the order
12 during the exemption period for immediate shipment, even if delivery is made after
13 the exemption period. For purposes of this subd. 8. b., the seller accepts an order
14 when the seller has taken action to fill the order for immediate shipment. Actions
15 to fill an order include placement of a date stamp on a mail order or assignment of
16 an order number to a telephone order. For purposes of this subd. 8. b., an order is
17 for immediate shipment when the customer does not request delayed shipment and
18 regardless of whether the shipment is delayed because of a backlog of orders or
19 because stock is currently unavailable, or on back order, by the seller.

20 9. For a 60-day period immediately after the exemption period, when a
21 purchaser returns an item that would qualify for the exemption, no credit for or
22 refund of sales tax shall be given unless the purchaser provides a receipt or invoice
23 that shows tax was paid or the seller has sufficient documentation to show that tax
24 was paid on the specific item.

1 10. The time zone of the seller's location determines the authorized exemption
2 period when the retailer and purchaser are located in different time zones.

3 11. A retailer who collects tax in error on an eligible item is required to return
4 the tax, and any refund interest paid by the department, to the purchaser within 60
5 days, including when the error is discovered upon audit by the department. The
6 department shall not refund any tax paid by the seller if the seller cannot identify
7 or locate the purchasers to return such tax and interest.

8 (d) This subsection does not apply in 2019 or in any year thereafter.

9 **SECTION 35.** 77.68 of the statutes is created to read:

10 **77.68 Qualified child sales and use tax rebate for 2018. (1) DEFINITIONS.**

11 In this section:

12 (a) "Claimant" means an individual who is eligible under sub. (3) to claim a
13 rebate under this section.

14 (b) "Department" means the department of revenue.

15 (c) "Full-year resident" means an individual who was a resident of this state
16 for the entire year of 2017.

17 (d) "Nonresident" means an individual who was not a resident of this state for
18 any part of 2017.

19 (e) "Part-year resident" means an individual who was a resident of this state
20 for some part of 2017.

21 (f) "Qualified child" means an individual to whom all of the following apply:

22 1. The individual is under 18 years of age for the entire year of 2017.

23 2. The individual is the claimant's child and the claimant's dependent, as
24 defined under section 152 of the Internal Revenue Code.

25 3. The individual is a United States citizen.

1 4. The individual was a resident of this state on December 31, 2017.

2 **(2) CLAIMS.** (a) Subject to the limitations and conditions under sub. (4), a
3 claimant may claim, as an approximation of the nonbusiness Wisconsin sales or use
4 tax paid in 2017 for raising children, a rebate equal to \$100 for each qualified child
5 of the claimant. An eligible claimant may claim the rebate by submitting an online
6 application, as prescribed by the department. The department may request that the
7 claimant verify the eligibility of the claimant or child by submitting to the
8 department vital records information or any other information requested by the
9 department. For purposes of this paragraph, the department of health services shall
10 supply, without charge, vital records information to the department of revenue.

11 (b) For each approved claim described under par. (a), the department shall
12 certify the allowable amount of the claim to the department of administration for
13 payment to the claimant by check, share draft, or other draft drawn from the
14 appropriation account under s. 20.835 (2) (cb) by September 1, 2018.

15 (c) The online application form shall allow an eligible claimant to designate
16 that all of the amount of his or her rebate be donated as provided under s. 71.10 (5),
17 (5f), (5g), (5i), (5j), (5k), (5km), or (5m) or to the general fund.

18 **(3) ELIGIBILITY.** (a) An individual who is a full-year resident, nonresident, or
19 part-year resident and who has a qualified child is eligible to receive a rebate under
20 sub. (2) if the individual files a claim for the rebate with the department not later
21 than June 30, 2018. The claim shall be filed by submitting an online application
22 prescribed by the department. The department shall require a nonresident, or a
23 part-year resident who was not a resident on December 31, 2017, to verify his or her
24 nonbusiness Wisconsin sales or use taxes paid in 2017, and the verified amount must

1 be at least \$100 for each qualified child of the claimant to be eligible to receive a
2 rebate under sub. (2).

3 (b) A qualified child may be claimed for the rebate under sub. (2) by only one
4 claimant.

5 (4) LIMITATIONS AND CONDITIONS. (a) Section 71.80 (3) and (3m), as it applies to
6 income tax refunds, applies to a sales and use tax rebate under this section.

7 (b) The department may enforce the rebate under this section and may take any
8 action, conduct any proceeding, and proceed as it is authorized with respect to taxes
9 under ch. 71. The income tax provisions in ch. 71 relating to assessments, refunds,
10 appeals, collection, interest, and penalties apply to the rebate under this section.

11 (c) After a rebate has been issued under sub. (2) but before the check, share
12 draft, or other draft has been cashed, the spouse of a married claimant may request
13 a separate check, share draft, or other draft for 50 percent of the joint rebate.

14 (d) If the department is unable to locate an eligible claimant who claimed a
15 rebate under sub. (2) by December 31, 2018, or, notwithstanding s. 20.912 (1), (2), and
16 (3), if an eligible claimant who is issued a check, share draft, or other draft does not
17 cash the check, share draft, or other draft by December 31, 2018, the right to the
18 rebate lapses.

19 (e) If a claimant becomes deceased after he or she filed his or her claim for a
20 rebate under sub. (2), the amount of the rebate for which the claimant is eligible shall
21 be paid to the claimant's estate.

22 (5) SUNSET. Except as provided in sub. (4) (b), this section does not apply after
23 December 31, 2018.

24 **SECTION 36.** 224.50 (2) (a) of the statutes, as affected by 2017 Wisconsin Act 59,
25 is amended to read:

Amend 5-4

Insert 5-4

1 224.50 (2) (a) Except as provided in s. 224.51, establish and administer a
2 college savings program that allows an individual, trust, legal guardian, or entity
3 described under 26 USC 529 (e) (1) (C) to establish a college savings account to cover
4 tuition, fees, and the costs of room and board, books, supplies, and equipment
5 required for the enrollment or attendance of a beneficiary at an eligible educational
6 institution, as defined under 26 USC 529, and to cover tuition expenses in connection
7 with enrollment or attendance at an elementary or secondary public, private, or
8 religious school, as described in section 11032 of P.L. 115-97, related to qualified
9 tuition programs under 26 USC 529. *end of insert 5-4*

10 **SECTION 37. Nonstatutory provisions.**

11 (1) DETERMINATIONS OF ELIGIBILITY OR EXTENT OR AMOUNT OF CERTAIN BENEFITS.

12 (a) In this subsection, "state agency" has the meaning given in section 16.417
13 (1) (a) of the statutes.

14 (b) Notwithstanding any other provision of state law that relates to
15 determining, based on an individual's personal income or assets, that individual's
16 eligibility for a state-funded grant, loan, monetary assistance, or other benefit or the
17 amount or extent of that grant, loan, monetary assistance, or other benefit, a state
18 agency may not consider receipt of a onetime rebate of nonbusiness Wisconsin sales
19 or use tax under section 77.68 of the statutes to be income or an asset of the
20 individual. This paragraph shall be broadly construed to avoid determinations of
21 ineligibility for a state-funded grant, loan, monetary assistance, or other benefit.

22 (c) By July 1, 2018, the department of health services shall request a waiver,
23 to the extent permitted under federal law, from the secretary of the federal
24 department of health and human services under 42 USC 1396n (c), and shall amend
25 the state plan for services under 42 USC 1396, to authorize the department of health

1 services to disregard receipt by an individual of a onetime rebate of nonbusiness
2 Wisconsin sales or use tax under section 77.68 of the statutes in determining the
3 individual's eligibility for medical assistance under section 49.46 (1), 49.465, or 49.47
4 (4) of the statutes.

5 (d) To the extent permitted under federal law, a state agency shall disregard
6 receipt by an individual of a onetime rebate of nonbusiness Wisconsin sales or use
7 tax under section 77.68 of the statutes in determining the individual's eligibility for
8 a federally funded grant, loan, monetary assistance, or other benefit or in
9 determining the amount or extent of that grant, loan, monetary assistance, or other
10 benefit.

11 SECTION 38. Fiscal changes.

12 (1) GENERAL PROGRAM OPERATIONS. In the schedule under section 20.005 (3) of
13 the statutes for the appropriation to the department of revenue under section 20.566
14 (1) (a) of the statutes, the dollar amount for fiscal year 2017-18 is increased by
15 \$477,000 due to increased program costs associated with the onetime individual
16 nonbusiness Wisconsin sales and use tax rebate under section 77.68 of the statutes
17 and the dollar amount for fiscal year 2018-19 is increased by \$346,200 for the same
18 purpose.

19 SECTION 39. Initial applicability.

20 (1) DEPRECIATION, DEPLETION, AND AMORTIZATION. The treatment of section 71.98
21 (3) of the statutes first applies retroactively to taxable years beginning after
22 December 31, 2013.

23 (2) BUILDING MATERIALS EXEMPTION. The treatment of section 77.54 (9m) of the
24 statutes first applies retroactively to contracts entered into on September 1, 2017.

Amend
5-21B

1 **SECTION 40. Effective dates.** This act takes effect on the day after publication,
2 except as follows:

3 (1) SALES AND USE TAX EXEMPTION FOR TITLE HOLDING ENTITIES. The treatment of
4 section 77.54 (9a) (fc) and (9m) of the statutes takes effect retroactively to September
5 1, 2017.

6

(END)

end of 5-21B