2019 SENATE BILL 213

May 15, 2019 - Introduced by Senators JACQUE, CARPENTER and L. TAYLOR, cosponsored by Representatives HORLACHER, SARGENT, BROOKS, EDMING, HUTTON, MAGNAFICI, PLUMER, PRONSchINSKE, QUINN, SCHRAA, SPREITZER, TUSLER, VRUNWINK, ZIMMERMAN and SKOWRONSKI. Referred to Committee on Agriculture, Revenue and Financial Institutions.

AN ACT to repeal 71.63 (6) (n) 1. and 2.; to renumber and amend 71.63 (6) (n) (intro.); to amend 71.05 (6) (b) 28. e., 71.05 (6) (b) 28. f., 71.05 (6) (b) 32. b., 71.05 (6) (b) 32. c., 71.05 (6) (b) 33. b., 71.05 (6) (b) 33. c., 71.05 (6) (b) 35. c., 71.05 (6) (b) 35. d., 71.05 (6) (b) 36. c., 71.05 (6) (b) 36. d., 71.05 (6) (b) 37. c., 71.05 (6) (b) 37. d., 71.05 (6) (b) 38. c., 71.05 (6) (b) 38. d., 71.05 (6) (b) 39. c., 71.05 (6) (b) 39. d., 71.05 (6) (b) 40. c., 71.05 (6) (b) 40. d., 71.05 (6) (b) 41. c., 71.05 (6) (b) 41. d., 71.05 (6) (b) 42. c., 71.05 (6) (b) 42. d. and 71.05 (6) (b) 43. f.; and to create 71.05 (1) (h) of the statutes; relating to: an income tax exemption for cash tips paid to an employee.

Analysis by the Legislative Reference Bureau

This bill creates an income tax exemption for cash tips received by an employee from the customers of the employee’s employer.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.
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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:

SECTION 1. 71.05 (1) (h) of the statutes is created to read:

71.05 (1) (h) **Tips.** Amounts received as cash tips by an employee from the customers of the employee's employer.

SECTION 2. 71.05 (6) (b) 28. e. of the statutes is amended to read:

71.05 (6) (b) 28. e. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 28. a., am., b., c. or d. by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 28. e., for married persons filing separately "wages, salary, tips, unearned income, and net earnings from a trade or business" means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly "wages, salary, tips, unearned income, and net earnings from a trade or business" means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

SECTION 3. 71.05 (6) (b) 28. f. of the statutes is amended to read:

71.05 (6) (b) 28. f. Reduce the amount calculated under subd. 28. a., am., b., c., d. or e. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

SECTION 4. 71.05 (6) (b) 32. b. of the statutes is amended to read:
71.05 (6) (b) 32. b. For an individual who is a nonresident or part-year resident
of this state, multiply the amount calculated under subd. 32. a. by a fraction the
numerator of which is the individual’s wages, salary, tips, unearned income, and net
earnings from a trade or business that are taxable by this state and the denominator
of which is the individual’s total wages, salary, tips, unearned income, and net
earnings from a trade or business. In this subd. 32. b., for married persons filing
separately “wages, salary, tips, unearned income, and net earnings from a trade or
business” means the separate wages, salary, tips, unearned income, and net earnings
from a trade or business of each spouse, and for married persons filing jointly “wages,
salary, tips, unearned income, and net earnings from a trade or business” means the
total wages, salary, tips, unearned income, and net earnings from a trade or business
of both spouses.

SECTION 5. 71.05 (6) (b) 32. c. of the statutes is amended to read:

71.05 (6) (b) 32. c. Reduce the amount calculated under subd. 32. a. or b. to the
individual’s aggregate wages, salary, tips, unearned income, and net earnings from
a trade or business that are taxable by this state.

SECTION 6. 71.05 (6) (b) 33. b. of the statutes is amended to read:

71.05 (6) (b) 33. b. For an individual who is a nonresident or part-year resident
of this state, multiply the amount calculated under subd. 33. a. by a fraction the
numerator of which is the individual’s wages, salary, tips, unearned income, and net
earnings from a trade or business that are taxable by this state and the denominator
of which is the individual’s total wages, salary, tips, unearned income, and net
earnings from a trade or business. In this subd. 33. b., for married persons filing
separately “wages, salary, tips, unearned income, and net earnings from a trade or
business” means the separate wages, salary, tips, unearned income, and net earnings
from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

SECTION 7. 71.05 (6) (b) 33. c. of the statutes is amended to read:

71.05 (6) (b) 33. c. Reduce the amount calculated under subd. 33. a. or b. to the individual’s aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

SECTION 8. 71.05 (6) (b) 35. c. of the statutes is amended to read:

71.05 (6) (b) 35. c. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 35. a. or b., by a fraction the numerator of which is the individual’s wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual’s total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 35. c., for married persons filing separately “wages, salary, tips, unearned income, and net earnings from a trade or business” means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

SECTION 9. 71.05 (6) (b) 35. d. of the statutes is amended to read:

71.05 (6) (b) 35. d. Reduce the amount calculated under subd. 35. a., b., or c. to the individual’s aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.
**SECTION 10.** 71.05 (6) (b) 36. c. of the statutes is amended to read:

71.05 (6) (b) 36. c. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 36. a. or b., by a fraction the numerator of which is the individual’s wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual’s total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 36. c., for married persons filing separately “wages, salary, tips, unearned income, and net earnings from a trade or business” means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

**SECTION 11.** 71.05 (6) (b) 36. d. of the statutes is amended to read:

71.05 (6) (b) 36. d. Reduce the amount calculated under subd. 36. a., b., or c. to the individual’s aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

**SECTION 12.** 71.05 (6) (b) 37. c. of the statutes is amended to read:

71.05 (6) (b) 37. c. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 37. a. or b., by a fraction the numerator of which is the individual’s wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual’s total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 37. c., for married persons filing separately “wages, salary, tips, unearned income, and net earnings from a trade or business” means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.
“trade or business” means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

SECTION 13. 71.05 (6) (b) 37. d. of the statutes is amended to read:

71.05 (6) (b) 37. d. Reduce the amount calculated under subd. 37. a., b., or c. to the individual’s aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

SECTION 14. 71.05 (6) (b) 38. c. of the statutes is amended to read:

71.05 (6) (b) 38. c. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 38. a. or b., by a fraction the numerator of which is the individual’s wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual’s total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 38. c., for married persons filing separately “wages, salary, tips, unearned income, and net earnings from a trade or business” means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

SECTION 15. 71.05 (6) (b) 38. d. of the statutes is amended to read:
71.05 (6) (b) 38. d. Reduce the amount calculated under subd. 38. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

**SECTION 16.** 71.05 (6) (b) 39. c. of the statutes is amended to read:

71.05 (6) (b) 39. c. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 39. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 39. c., for married persons filing separately “wages, salary, tips, unearned income, and net earnings from a trade or business” means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

**SECTION 17.** 71.05 (6) (b) 39. d. of the statutes is amended to read:

71.05 (6) (b) 39. d. Reduce the amount calculated under subd. 39. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

**SECTION 18.** 71.05 (6) (b) 40. c. of the statutes is amended to read:

71.05 (6) (b) 40. c. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 40. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the
Section 18

Section 18. 71.05 (6) (b) 40. d. of the statutes is amended to read:

71.05 (6) (b) 40. d. Reduce the amount calculated under subd. 40. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

Section 19.

Section 19. 71.05 (6) (b) 40. d. of the statutes is amended to read:

71.05 (6) (b) 40. d. Reduce the amount calculated under subd. 40. a., b., or c. to the individual's aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

Section 20.

Section 20. 71.05 (6) (b) 41. c. of the statutes is amended to read:

71.05 (6) (b) 41. c. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 41. a. or b., by a fraction the numerator of which is the individual's wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual's total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 41. c., for married persons filing separately “wages, salary, tips, unearned income, and net earnings from a trade or business” means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.
SECTION 21. 71.05 (6) (b) 41. d. of the statutes is amended to read:

71.05 (6) (b) 41. d. Reduce the amount calculated under subd. 41. a., b., or c. to the individual’s aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

SECTION 22. 71.05 (6) (b) 42. c. of the statutes is amended to read:

71.05 (6) (b) 42. c. For an individual who is a nonresident or part-year resident of this state, multiply the amount calculated under subd. 42. a. or b., by a fraction the numerator of which is the individual’s wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual’s total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 42. c., for married persons filing separately “wages, salary, tips, unearned income, and net earnings from a trade or business” means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

SECTION 23. 71.05 (6) (b) 42. d. of the statutes is amended to read:

71.05 (6) (b) 42. d. Reduce the amount calculated under subd. 42. a., b., or c. to the individual’s aggregate wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state.

SECTION 24. 71.05 (6) (b) 43. f. of the statutes is amended to read:

71.05 (6) (b) 43. f. An individual who is a nonresident or part-year resident of this state and who claims the subtraction under this subdivision shall multiply the amount calculated under subd. 43. a., b., c., or d. by a fraction the numerator of which
is the individual’s wages, salary, tips, unearned income, and net earnings from a trade or business that are taxable by this state and the denominator of which is the individual’s total wages, salary, tips, unearned income, and net earnings from a trade or business. In this subd. 43. f., for married persons filing separately “wages, salary, tips, unearned income, and net earnings from a trade or business” means the separate wages, salary, tips, unearned income, and net earnings from a trade or business of each spouse, and for married persons filing jointly “wages, salary, tips, unearned income, and net earnings from a trade or business” means the total wages, salary, tips, unearned income, and net earnings from a trade or business of both spouses.

SECTION 25. 71.63 (6) (n) (intro.) of the statutes is renumbered 71.63 (6) (n) and amended to read:

71.63 (6) (n) In the form of cash tips paid to employees if:

SECTION 26. 71.63 (6) (n) 1. and 2. of the statutes are repealed.

SECTION 27. Initial applicability.

(1) This act first applies to taxable years beginning after December 31, 2018.