



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-1377/P3
MES:jld

DOA:.....Quinn, BB0249 - Limitations for the earned income tax credit and the homestead tax credit

FOR 2017-2019 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Under this bill, for taxable years beginning after 2017, eligibility to claim the earned income tax credit and the homestead tax credit is limited for certain high-wage earners who have investment or business losses in excess of \$15,000 in the year to which the claim relates. The limitation created in the bill does not apply to a farmer whose primary income is from farming and whose farming generates less than \$250,000 in gross receipts from farming in the year to which the claim relates.

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. 71.07 (9e) (h) of the statutes is created to read:

71.07 **(9e)** (h) 1. Subject to subd. 2., for taxable years beginning after December 31, 2017, no credit may be allowed under this subsection to an individual with a

disqualified loss of greater than \$15,000 deducted in determining Wisconsin adjusted gross income. In this subdivision, “disqualified loss” has the meaning given in s. 71.52 (1e).

2. Subdivision 1. does not apply to a claimant who is a farmer whose primary income is from farming and whose farming generates less than \$250,000 in gross receipts from the operation of farm premises in the year to which the claim relates. In this subdivision, “farmer,” “farming,” and “farm premises” have the meanings given in s. 102.04 (3).

SECTION 2. 71.52 (1e) of the statutes is created to read:

71.52 (1e) “Disqualified loss” means the sum of the following amounts, exclusive of net gains from the sale or exchange of capital or business assets and exclusive of net profits:

(a) Net loss from sole proprietorships.

(b) Net capital loss.

(c) Net loss from sales of business property, excluding loss from involuntary conversions.

(d) Net loss from rental real estate, royalties, partnerships, tax-option S corporations, trusts, estates, and real estate mortgage investment conduits.

(e) Net farm loss.

SECTION 3. 71.52 (1m) of the statutes is created to read:

71.52 (1m) “Farmer,” “farming,” and “farm premises” have the meanings given in s. 102.04 (3).

SECTION 4. 71.52 (6) of the statutes is amended to read:

71.52 (6) “Income” means the sum of Wisconsin adjusted gross income and the following amounts, to the extent not included in Wisconsin adjusted gross income:

maintenance payments (except foster care maintenance and supplementary payments excludable under section 131 of the internal revenue code), support money, cash public assistance (not including credit granted under this subchapter and amounts under s. 46.27), cash benefits paid by counties under s. 59.53 (21), the gross amount of any pension or annuity (including railroad retirement benefits, all payments received under the federal social security act and veterans disability pensions), nontaxable interest received from the federal government or any of its instrumentalities, nontaxable interest received on state or municipal bonds, worker's compensation, unemployment insurance, the gross amount of "loss of time" insurance, compensation and other cash benefits received from the United States for past or present service in the armed forces, scholarship and fellowship gifts or income, capital gains, gain on the sale of a personal residence excluded under section 121 of the internal revenue code, dividends, income of a nonresident or part-year resident who is married to a full-year resident, housing allowances provided to members of the clergy, the amount by which a resident manager's rent is reduced, nontaxable income of an American Indian, nontaxable income from sources outside this state and nontaxable deferred compensation. Intangible drilling costs, depletion allowances and depreciation, including first-year depreciation allowances under section 179 of the internal revenue code, amortization, contributions to individual retirement accounts under section 219 of the internal revenue code, contributions to Keogh plans, net operating loss carry-backs and carry-forwards and, capital loss carry-forwards, and disqualified losses greater than \$15,000 deducted in determining Wisconsin adjusted gross income shall be added to "income". "Income" does not include gifts from natural persons, cash reimbursement payments made under title XX of the federal social security act, surplus food or other

relief in kind supplied by a governmental agency, the gain on the sale of a personal residence deferred under section 1034 of the internal revenue code or nonrecognized gain from involuntary conversions under section 1033 of the internal revenue code. Amounts not included in adjusted gross income but added to “income” under this subsection in a previous year and repaid may be subtracted from income for the year during which they are repaid. Scholarship and fellowship gifts or income that are included in Wisconsin adjusted gross income and that were added to household income for purposes of determining the credit under this subchapter in a previous year may be subtracted from income for the current year in determining the credit under this subchapter. A marital property agreement or unilateral statement under ch. 766 has no effect in computing “income” for a person whose homestead is not the same as the homestead of that person’s spouse.

SECTION 5. 71.55 (10) of the statutes is created to read:

71.55 (10) FARMERS. Notwithstanding the provision in s. 71.52 (6) that requires the addition of certain disqualified losses to income, such an addition may not be made by a claimant who is a farmer whose primary income is from farming and whose farming generates less than \$250,000 in gross receipts from the operation of farm premises in the year to which the claim relates.

SECTION 9338. Initial applicability; Revenue.

(1) **EARNED INCOME, HOMESTEAD CREDITS; INVESTMENT LOSS LIMITS.** The treatment of sections 71.07 (9e) (h), 71.52 (1e), (1m), and (6), and 71.55 (10) of the statutes first applies to taxable years beginning after December 31, 2017.

(END)