



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-1244/P2  
JK:wlj

DOA:.....Quinn, BB0239 - Internal Revenue Code update

**FOR 2023-2025 BUDGET -- NOT READY FOR INTRODUCTION**

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

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*Analysis by the Legislative Reference Bureau*

**TAXATION**

**INCOME TAXATION**

***Internal Revenue Code references***

This bill adopts, for state income and franchise tax purposes, certain changes made to the Internal Revenue Code by the following federal acts:

1. The American Rescue Plan Act of 2021.
2. The PPP (Paycheck Protection Program) Extension Act of 2021.
3. The Surface Transportation Extension Act of 2021.
4. The Further Transportation Extension Act of 2021.
5. The Infrastructure Investment and Jobs Act.
6. The Consolidated Appropriations Act of 2022.
7. The Supreme Court Security Funding Act of 2022.
8. The Inflation Reduction Act of 2022.

The bill also adopts, for state income and franchise tax purposes, certain changes made to the Internal Revenue Code by the federal Tax Cuts and Jobs Act, enacted in December 2017. The bill adopts provisions of the act related to the limitation on losses for taxpayers other than for corporations; certain special rules for the taxable year of inclusion; the limitation on business-related deduction for interest; the limitation on the deduction by employers of expenses for fringe benefits;

the limitation on the deduction for Federal Deposit Insurance Corporation premiums; and the limitation on excessive employee remuneration.

The bill also makes technical changes to the definition of “Internal Revenue Code” for state income and franchise tax purposes so that the same definition is not repeated for each type of taxpayer, as is the case under current law.

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.

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:***

**SECTION 1.** 71.01 (6) of the statutes is repealed and recreated to read:

71.01 (6) For individuals and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, “Internal Revenue Code” has the meaning given in s. 71.99.

**SECTION 2.** 71.01 (7) of the statutes is repealed.

**SECTION 3.** 71.01 (7g) of the statutes is repealed.

**SECTION 4.** 71.01 (7m) of the statutes is repealed.

**SECTION 5.** 71.01 (7n) of the statutes is repealed.

**SECTION 6.** 71.01 (7r) of the statutes is repealed.

**SECTION 7.** 71.22 (4) of the statutes is repealed and recreated to read:

71.22 (4) “Internal Revenue Code” has the meaning given in s. 71.99.

**SECTION 8.** 71.22 (4m) of the statutes is repealed and recreated to read:

71.22 (4m) For corporations that are subject to a tax on unrelated business income under s. 71.26 (1) (a), “Internal Revenue Code” has the meaning given in s. 71.99.

**SECTION 9.** 71.22 (5) of the statutes is repealed.

**SECTION 10.** 71.22 (5g) of the statutes is repealed.

**SECTION 11.** 71.22 (5m) of the statutes is repealed.

**SECTION 12.** 71.26 (2) (b) of the statutes is repealed and recreated to read:

71.26 (2) (b) *Regulated investment companies, real estate mortgage investment conduits, real estate investment trusts, and financial asset securitization investment trusts.* For a corporation, conduit, or common law trust that qualifies as a regulated investment company, real estate mortgage investment conduit, real estate investment trust, or financial asset securitization investment trust under the Internal Revenue Code, “net income” means the federal regulated investment company taxable income, federal real estate mortgage investment conduit taxable income, federal real estate investment trust taxable income, or financial asset securitization investment trust taxable income of the corporation, conduit, or trust as determined under the Internal Revenue Code.

**SECTION 13.** 71.34 (1g) of the statutes is repealed and recreated to read:

71.34 (1g) For tax option corporations, “Internal Revenue Code” has the meaning given in s. 71.99.

**SECTION 14.** 71.34 (1m) of the statutes is repealed.

**SECTION 15.** 71.34 (1u) of the statutes is repealed.

**SECTION 16.** 71.42 (2) of the statutes is repealed and recreated to read:

71.42 (2) “Internal Revenue Code” has the meaning given in s. 71.99.

**SECTION 17.** 71.42 (2m) of the statutes is repealed.

**SECTION 18.** 71.42 (2p) of the statutes is repealed.

**SECTION 19.** Subchapter XVI (title) of chapter 71 [precedes 71.98] of the statutes is amended to read:

## **CHAPTER 71**

## SUBCHAPTER XVI

## INTERNAL REVENUE CODE UPDATE

**SECTION 20.** 71.98 of the statutes is repealed and recreated to read:

**71.98 Internal Revenue Code conformity.** The following federal laws, to the extent that they apply to the federal Internal Revenue Code in effect for federal purposes, apply to this chapter:

(1) **STATIC CONFORMITY.** (a) *Depreciation and amortization.* For taxable years beginning after December 31, 2013, and for purposes of computing depreciation and amortization, the Internal Revenue Code means the Internal Revenue Code in effect for federal purposes on January 1, 2014, except that sections 13201 (f), 13203, 13204, and 13205 of P.L. 115-97, section 2307 of division A of P.L. 116-136, and section 202 of division EE of P.L. 116-260 apply at the same time as for federal purposes.

(b) *Gain from small business stock.* For stock acquired after December 31, 2013, section 1202 of the Internal Revenue Code in effect for federal purposes on December 31, 2012.

(2) **CONTINUOUS CONFORMITY.** (a) *Depletion.* For taxable years beginning after December 31, 2013, sections 611 to 617 of the Internal Revenue Code in effect for federal purposes for the year in which the property is placed in service.

(b) *Expensing of depreciable business assets.* For taxable years beginning after December 31, 2013, sections 179, 179A, 179B, 179C, 179D, and 179E of the Internal Revenue Code in effect for federal purposes for the year in which property is placed in service.

(c) *Trade or business income limitation.* For taxable years beginning after December 31, 2013, the section 179 (b) (3) (A) trade or business income limitation is calculated using the Internal Revenue Code defined in s. 71.99.

(d) *College savings accounts.* For taxable years beginning after December 31, 2021, section 529 of the Internal Revenue Code in effect for federal purposes.

(e) *Milk production termination program.* Notwithstanding ss. 71.26 (2) and (3) and 71.99, for natural persons, fiduciaries, trusts, estates, and corporations, at the taxpayer's option, "Internal Revenue Code," for taxable year 1986 and subsequent taxable years, includes any revisions to the Internal Revenue Code in effect for federal purposes adopted after January 1, 1986, that relate to the taxation of income derived from any source as a direct consequence of participation in the milk production termination program created by section 101 of P.L. 99-198.

(f) *Regulated investment companies.* Notwithstanding s. 71.99, for natural persons, fiduciaries, trusts, and estates, at the taxpayer's option, "Internal Revenue Code" for taxable years beginning after December 31, 1987, includes any revisions to section 67 (c) of the Internal Revenue Code in effect for federal purposes adopted after January 1, 1988, that relate to the indirect expenses of regulated investment companies.

(g) *Qualified retirement fund.* Notwithstanding s. 71.99, a qualified retirement fund for a taxable year for federal income tax purposes is a qualified retirement fund for the taxable year for purposes of this chapter.

(h) *Federal Tax Cuts and Jobs Act.* For taxable years beginning after December 31, 2022, sections 11012, 13221, 13301, 13304 (a), (b), and (d), 13531, and 13601 of P.L. 115-97.

\*\*\*\*NOTE: This is reconciled s. 71.98. This SECTION has been affected by drafts with the following LRB numbers: -1244/P1 and -1327/P1.

**SECTION 21.** 71.99 of the statutes is created to read:

**71.99 Internal Revenue Code definition. (1) TAXABLE YEARS; 2017.** (a) For taxable years beginning after December 31, 2016, and before January 1, 2018, “Internal Revenue Code” means the federal Internal Revenue Code as amended to December 31, 2016, except as provided in pars. (b) and (c) and ss. 71.26 (3) and 71.98, and subject to par. (d).

(b) For purposes of this subsection, “Internal Revenue Code” does not include the following provisions of federal public laws for taxable years beginning after December 31, 2016: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; section 104 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L. 111-312; sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division P of P.L. 114-113; and sections 112, 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 326, and 411 of division Q of P.L. 114-113.

(c) For purposes of this subsection, “Internal Revenue Code” does not include amendments to the federal Internal Revenue Code, including provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, enacted after December 31, 2016, except that “Internal Revenue Code” includes sections 11024, 11025, and 13543 of P.L. 115-97; sections 40307 and 40413 of P.L. 115-123; sections

101 (m), (n), (o), (p), and (q), 104 (a), and 109 of division U of P.L. 115-141; section 102 of division M and sections 110, 111, and 116 (b) of division O of P.L. 116-94; and section 9707 of P.L. 117-2.

(d) For purposes of this subsection, the provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, as defined in this subsection, apply for Wisconsin purposes at the same time as for federal purposes, except as follows:

1. Changes made by section 4007 (b) of P.L. 114-41, section 1102 of P.L. 114-74, sections 105, 111, 113 to 115, 133, 301, 302, 304, 305, 308, 311, 313 to 323, 325, 331, and 343 to 345 of division Q of P.L. 114-113 first apply for taxable years beginning after December 31, 2016.

2. Changes made by section 1201 of P.L. 108-173 and section 307 of P.L. 109-432 first apply for taxable years beginning after December 31, 2010.

**(2) TAXABLE YEARS, 2018 TO 2020.** (a) For taxable years beginning after December 31, 2017, and before January 1, 2021, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2017, except as provided in pars. (b) and (c) and ss. 71.26 (3) and 71.98, and subject to par. (d).

(b) For purposes of this subsection, "Internal Revenue Code" does not include the following provisions of federal public laws for taxable years beginning after December 31, 2017: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; section 104 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322,

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

(c) For purposes of this subsection, “Internal Revenue Code” does not include amendments to the federal Internal Revenue Code, including provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, enacted after December 31, 2017, except that “Internal Revenue Code” includes sections 40307, 40413, and 41113 of P.L. [115-123](#); sections 101 (m), (n), (o), (p), and (q), 104 (a), 109, 401 (a) (54) and (b) (15) (A), (B), and (C), 19, 20, 23, 26, 27, and 28 of division U of P.L. [115-141](#); sections 102 and 104 of division M, sections 102, 103, 106, 107, 108, 109, 110, 111, 113, 114, 115, 116, 201, 204, 205, 206, 302, 401, and 601 of division O, section 1302 of division P, and sections 131, 202 (d), and 205 of division Q of P.L. [116-94](#); sections 1106, 2202, 2203, 2204, 2205, 2206, 2307, 3608, 3609, 3701, and 3702 of division A of P.L. [116-136](#); sections 202, 208, 209, 211, and 214 of division EE and sections 276 (a) and (b), 277, 278 (a), (b), (c), and (d), 280, and 285 of division N of P.L. [116-260](#); and sections 9701, 9702, 9703, 9704, 9705, 9706, and 9707 of P.L. [117-2](#).

(d) For purposes of this subsection, the provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, as defined in this subsection,



apply for Wisconsin purposes at the same time as for federal purposes, except as follows:

1. Changes made by P.L. [115-63](#) and sections 11026, 11027, 11028, 13207, 13306, 13307, 13308, 13311, 13312, 13501, 13705, 13821, and 13823 of P.L. [115-97](#) first apply for taxable years beginning after December 31, 2017.

2. Changes made by section 1201 of P.L. [108-173](#) and section 307 of P.L. [109-432](#) first apply for taxable years beginning after December 31, 2010.

**(3) TAXABLE YEARS, 2021 TO 2022.** (a) For taxable years beginning after December 31, 2020, and before January 1, 2023, “Internal Revenue Code” means the federal Internal Revenue Code as amended to December 31, 2020, except as provided in pars. (b) and (c) and ss. 71.26 (3) and 71.98, and subject to par. (d).

(b) For purposes of this subsection, “Internal Revenue Code” does not include the following provisions of federal public laws for taxable years beginning after December 31, 2020: section 13113 of P.L. [103-66](#); sections 1, 3, 4, and 5 of P.L. [106-519](#); sections 101, 102, and 422 of P.L. [108-357](#); sections 1310 and 1351 of P.L. [109-58](#); section 11146 of P.L. [109-59](#); section 403 (q) of P.L. [109-135](#); section 513 of P.L. [109-222](#); section 104 of P.L. [109-432](#); sections 8233 and 8235 of P.L. [110-28](#); section 11 (e) and (g) of P.L. [110-172](#); section 301 of P.L. [110-245](#); section 15351 of P.L. [110-246](#); section 302 of division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of division C of P.L. [110-343](#); sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. [111-5](#); sections 211, 212, 213, 214, and 216 of P.L. [111-226](#); sections 2011 and 2122 of P.L. [111-240](#); sections 753, 754, and 760 of P.L. [111-312](#); sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. [112-240](#); P.L. [114-7](#); section 1101 of P.L. [114-74](#); section 305 of division P of P.L. [114-113](#); sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 326, and 411

of division Q of P.L. [114-113](#); sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. [115-97](#); sections 40304, 40305, 40306, and 40412 of P.L. [115-123](#); section 101 (c) of division T of P.L. [115-141](#); sections 101 (d) and (e), 102, 201 to 207, 301, 302, and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii) and (xvii) (II) of division U of P.L. [115-141](#); sections 104, 114, 115, 116, 130, and 145 of division Q of P.L. [116-94](#); sections 2304 and 2306 of P.L. [116-136](#); and sections 111, 114, 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. [116-260](#).

(c) For purposes of this subsection, “Internal Revenue Code” does not include amendments to the federal Internal Revenue Code, including provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, enacted after December 31, 2020, except that “Internal Revenue Code” includes sections 9671, 9675, 9701, 9702, 9703, 9704, 9705, 9706, and 9707 of P.L. [117-2](#); sections 80501, 80504, and 80602 of division H of P.L. [117-58](#); and section 307 of division P of P.L. [117-103](#).

(d) For purposes of this subsection, the provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, as defined in this subsection, apply for Wisconsin purposes at the same time as for federal purposes, except as follows:

1. Changes made by sections 20101, 20102, 20104, 20201, 40201, 40202, 40203, 40308, 40309, 40311, 40414, 41101, 41107, 41114, 41115, and 41116 of P.L. [115-123](#); section 101 (a), (b), and (h) of division U of P.L. [115-141](#); section 1203 of P.L. [116-25](#); section 1122 of P.L. [116-92](#); section 301 of division O, section 1302 of division P, and

sections 101, 102, 103, 117, 118, 132, 201, 202 (a), (b), and (c), 204 (a), (b), and (c), 301, and 302 of division Q of P.L. 116-94; section 2 of P.L. 116-98; and sections 301, 302, and 304 of division EE of P.L. 116-260 apply for taxable years beginning after December 31, 2020.

2. Changes made by section 1201 of P.L. 108-173 and section 307 of P.L. 109-432 first apply for taxable years beginning after December 31, 2010.

(4) TAXABLE YEARS, 2023 AND THEREAFTER. (a) For taxable years beginning after December 31, 2022, "Internal Revenue Code" means the federal Internal Revenue Code as amended to August 16, 2022, except as provided in pars. (b) and (c) and ss. 71.26 (3) and 71.98, and subject to par. (d).

(b) For purposes of this subsection, "Internal Revenue Code" does not include the following provisions of federal public laws for taxable years beginning after December 31, 2022: section 13113 of P.L. 103-66; sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59; section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; section 104 of P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L. 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of division C of P.L. 110-343; sections 1232, 1241, 1251, 1501, and 1502 of division B of P.L. 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122 of P.L. 111-240; sections 753, 754, and 760 of P.L. 111-312; sections 104, 318, 322, 323, 324, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143, 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 326, and 411 of division Q of P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206,

13221, 13301, 13304 (a), (b), and (d), 13531, 13801, 14101, 14102, 14103, 14201, 14202, 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L. [115-97](#); sections 40304, 40305, 40306, and 40412 of P.L. [115-123](#); section 101 (c) of division T of P.L. [115-141](#); sections 101 (d) and (e), 102, 201 to 207, 301, 302, and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii) and (xvii) (II) of division U of P.L. [115-141](#); sections 104, 114, 115, 116, 130, and 145 of division Q of P.L. [116-94](#); sections 2304 and 2306 of P.L. [116-136](#); sections 111, 114, 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. [116-260](#); sections 5003, 9041, and 9673 of P.L. [117-2](#); and section 13903 (b) of P.L. [117-169](#).

(c) For purposes of this subsection, “Internal Revenue Code” does not include amendments to the federal Internal Revenue Code, including provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, enacted after August 16, 2022.

(d) For purposes of this subsection, the provisions of federal public laws that directly or indirectly affect the Internal Revenue Code, as defined in this subsection, apply for Wisconsin purposes at the same time as for federal purposes, except as follows:

1. Changes made by section 13601 of P.L. [115-97](#); sections 5001, 5002, 5005, 9623, 9624, and 9672 of P.L. [117-2](#); section 2 of P.L. [117-6](#); and sections 80401, 80402, and 80601 of division H of P.L. [117-58](#) apply for taxable years beginning after December 31, 2022.

2. Changes made by section 9675 of P.L. [117-2](#) apply for taxable years beginning after December 31, 2021.

3. Changes made by section 1201 of P.L. [108-173](#) and section 307 of P.L. [109-432](#) apply for taxable years beginning after December 31, 2010.

**(END)**