



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-1323/P1
KP:wlj

DOA:.....Quinn, BB0304 - Capital gains exclusion limitation

FOR 2023-2025 BUDGET -- NOT READY FOR INTRODUCTION

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

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Limitation on capital gains exclusion

Current law allows individuals, when computing their income for state tax purposes, to subtract 30 percent of the net capital gains realized from the sale of assets held more than one year or acquired from a decedent. The subtraction is increased to 60 percent for gains realized from the sale of farm assets held more than one year or acquired from a decedent.

Under this bill, an individual may not make the 30 percent subtraction if his or her federal adjusted gross income (AGI) exceeds \$400,000 for a single individual or head of household filer; \$533,000 for a married couple who files jointly; or \$266,500 for a married individual who files separately. The bill creates an exception for individuals whose federal AGI, after subtracting 30 percent of net capital gains from nonfarm assets, is below the threshold amount. These individuals may make the subtraction, subject to the 30 percent limitation, but must reduce the amount subtracted by the amount that federal AGI exceeds the threshold amount. The bill makes no changes to the 60 percent subtraction. The bill applies to taxable years beginning after December 31, 2022.

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.

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

SECTION 1. 71.05 (6) (b) 9. of the statutes is renumbered 71.05 (6) (b) 9. (intro.) and amended to read:

71.05 (6) (b) 9. (intro.) On assets held more than one year and on all assets acquired from a decedent, 30 percent of the capital gain as computed under the ~~internal revenue code~~ Internal Revenue Code, not including capital gains for which the federal tax treatment is determined under section 406 of P.L. 99-514; not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason; and not including amounts treated as capital gain for federal income tax purposes from the sale or exchange of a lottery prize. For purposes of this subdivision, the capital gains and capital losses for all assets shall be netted before application of the percentage. For taxable years beginning after December 31, 2022, no subtraction may be made under this subdivision by an individual whose federal adjusted gross income in the taxable year exceeds the applicable threshold amount, except that an individual whose federal adjusted gross income, less 30 percent of the capital gains otherwise eligible for subtraction under this subdivision, is below the applicable threshold amount may make the subtraction reduced by the amount that the individual's federal adjusted gross income exceeds the applicable threshold amount. In this subdivision, "applicable threshold amount" means:

SECTION 2. 71.05 (6) (b) 9. a. of the statutes is created to read:

71.05 (6) (b) 9. a. For an estate, a trust, a single individual, or an individual who files as a head of household, \$400,000.

SECTION 3. 71.05 (6) (b) 9. b. of the statutes is created to read:

71.05 (6) (b) 9. b. For a married couple who files a joint return, \$533,000.

SECTION 4. 71.05 (6) (b) 9. c. of the statutes is created to read:

71.05 (6) (b) 9. c. For a married individual who files a separate return, \$266,500.

(END)