



State of Wisconsin
2011 - 2012 LEGISLATURE



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2011 ASSEMBLY BILL 637

February 27, 2012 – Introduced by Representatives C. TAYLOR, ZAMARRIPA, GRIGSBY, E. COGGS, BERCEAU, ROYS and SINICKI. Referred to Joint Committee on Finance.

1 **AN ACT to repeal** 71.07 (5n), 71.07 (9e) (aj), 71.10 (4) (cr), 71.255 (6) (bm), 71.26
2 (4) (b), 71.28 (5n), 71.30 (3) (dn), 71.45 (4) (b), 71.47 (5n), 71.49 (1) (dn), 71.54
3 (1) (g) and 71.54 (2) (b) 4.; **to renumber and amend** 71.26 (4) (a) and 71.45 (4)
4 (a); **to amend** 71.01 (14), 71.05 (6) (a) 15., 71.05 (6) (b) 9., 71.05 (6) (b) 9m., 71.05
5 (6) (b) 25., 71.05 (6) (b) 47. b., 71.05 (6) (b) 47. c., 71.05 (8) (b), 71.05 (25) (b)
6 (intro.), 71.06 (1p) (e), 71.06 (2) (g) 5., 71.06 (2) (h) 5., 71.06 (2e) (b), 71.07 (9e)
7 (af) (intro.), 71.09 (11) (f), 71.21 (4), 71.255 (2m) (d), 71.255 (6) (a), 71.26 (2) (a)
8 4., 71.34 (1k) (g), 71.36 (1m) (a), 71.45 (2) (a) 10., 71.54 (1) (f) (intro.), 71.54 (2)
9 (b) 3., 71.54 (2m), 72.01 (11m), 72.01 (11n), 72.02 and 77.92 (4); and **to create**
10 71.06 (1p) (f), 71.06 (2) (g) 6. and 71.06 (2) (h) 6. of the statutes; **relating to:**
11 disregarding a taxpayer's election to include another in its combined group,
12 disallowing certain carry-forward amounts for combined reporting purposes,
13 repealing the income and franchise tax credit for qualified production activities
14 income, repealing the changes made to the earned income tax credit in 2011

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1 Wisconsin Act 32, restoring indexing provisions to the homestead tax credit,
2 eliminating the individual income tax exclusion for long-term capital gains
3 other than for farm assets, computing the estate tax based on 2002 federal law,
4 and creating a new individual income tax upper bracket.

Analysis by the Legislative Reference Bureau***Combined reporting***

Under current law, a taxpayer may elect to include in its combined group, for income and franchise tax reporting purposes, every corporation in its commonly controlled group, regardless of whether such corporations are engaged in the same unitary business of the taxpayer. Under current law, the Department of Revenue (DOR) may not disallow such an election, or disregard its effect. Under this bill, if DOR determines that such an election has the effect of tax avoidance, DOR must disregard the election's tax effect or disallow the election.

Under current law, for each taxable year that a corporation that is a member of a combined group has net business loss carry-forward from a taxable year beginning before January 1, 2009, the corporation may, for 20 taxable years, use up to 5 percent of the net business loss carry-forward to offset the income of all other members of the combined group. The bill eliminates this provision.

Qualified production activities income credit

Under the federal Internal Revenue Code, a taxpayer may claim a deduction equal to 9 percent of the taxpayer's qualified production activities income in the taxable year or 9 percent of the taxpayer's total taxable income, whichever is less. For federal tax purposes, qualified production activities income is, generally, the amount of the taxpayer's domestic production gross receipts that exceed the sum of the cost of goods sold and other expenses, losses, or deductions. Domestic production gross receipts are, generally, gross receipts derived from property that was manufactured, produced, grown, or extracted in the United States.

Under current law, an individual taxpayer may claim a state income tax credit equal to the taxpayer's qualified production activities income derived from manufacturing property and agricultural property, multiplied by a certain percentage. A corporation or insurer may claim a state income and franchise tax credit equal to the lesser of its taxable income apportioned to this state or its qualified production activities income derived from manufacturing property or agricultural property located in this state, multiplied by a certain percentage. The percentage of qualified production activities income that a taxpayer may claim as a credit is 1.875 percent for 2013, 3.75 percent for 2014, 5.526 percent for 2015, and 7.5 percent for 2016 and for each year thereafter.

The bill eliminates the tax credit for qualified production activities income.

ASSEMBLY BILL 637***Estate tax***

Under current law, the estate tax is equal to the federal estate tax credit allowed for state death taxes as computed under the federal estate tax law in effect on the day of the decedent's death. Under current federal law, the estate tax is imposed on the portion of an estate that is in excess of \$5,000,000 and the federal credit for state death taxes has been eliminated for 2011 and 2012.

Under this bill, for deaths occurring after December 31, 2011, the estate tax is equal to the federal estate tax credit allowed for state death taxes as computed under the federal estate tax law in effect on December 31, 2002. Under the bill, the tax imposed on estates of \$1,000,000 or more, but not on property used in farming.

Upper income tax bracket

Under current law, there are five income tax brackets for single individuals, certain fiduciaries, heads of households, and married persons. The brackets are indexed for inflation. The rate of taxation under current law for the lowest bracket for single individuals, certain fiduciaries, heads of households, and married persons is 4.6 percent of taxable income; the rate for the second bracket is 6.15 percent; the rate for the third bracket is 6.5 percent; the rate for the fourth bracket is 6.75 percent; and the rate for the highest bracket, which was created in the 2009-11 biennial budget act, 2009 Wisconsin Act 28, is 7.75 percent.

For taxable year 2011, the highest bracket applies to taxable income exceeding \$224,210 for single individuals, certain fiduciaries, and heads of households. For married persons, the highest current bracket applies to taxable income exceeding \$298,940 for joint filers and \$149,470 for separate filers.

For taxable year 2012 and thereafter, this bill creates a sixth bracket with a taxation rate of 8.75 percent. For single individuals, certain fiduciaries, and heads of households, this bracket applies to taxable income exceeding \$1,000,000. For married persons, this bracket applies to taxable income exceeding \$1,000,000 for joint filers and \$500,000 for separate filers. This bracket is indexed for inflation.

Earned income tax credit

Under current law, as created in 2011 Wisconsin Act 32, the earned income tax credit (EITC) is reduced for claimants with two or more qualifying children. The bill repeals those provisions and restores former law. Under the bill, the EITC, as a percentage of the federal credit, would be 4 percent for claimants with one qualifying child, 14 percent for claimants with two qualifying children, and 43 percent for claimants with three or more qualifying children.

Homestead tax credit

Under current law, as created in 2011 Wisconsin Act 32, the homestead tax credit formula factors (maximum income, maximum property taxes, and income threshold) are not indexed for inflation after 2010. The bill repeals those provisions and restores former law. Under the bill, the homestead tax credit formula factors would be indexed for inflation for 2011 and beyond.

Exclusion of capital gains

Under current law, there is an income tax exclusion for individuals, fiduciaries, members of limited liability companies and partnerships, and shareholders of

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tax-option corporations for 30 percent of the net long-term capital gains realized from the sale of assets held more than one year and the sale of all assets acquired from a decedent, and an exclusion for 60 percent of such gains realized from the sale of farm assets held more than one year and the sale of all farm assets acquired from a decedent.

Under this bill, the exclusion of 30 percent of such net long-term capital gains, and all assets acquired from a decedent, does not apply to taxable years beginning after December 31, 2011. The bill does not affect the exclusion of the gains realized from the sale of farm assets held more than one year and the sale of farm assets acquired from a decedent.

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 and local* 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:

1 **SECTION 1.** 71.01 (14) of the statutes is amended to read:

2 71.01 (14) "Wisconsin net operating loss" of persons other than corporations
3 means "federal net operating loss" adjusted as prescribed in s. 71.05 (6) (a) and (b),
4 (7) to (12) and (19) to (21), ~~except s. 71.05 (6) (b) 9.~~, except that no deductions
5 allowable on schedule A for federal income tax purposes are allowable.

6 **SECTION 2.** 71.05 (6) (a) 15. of the statutes, as affected by 2011 Wisconsin Act
7 32, is amended to read:

8 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
10 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), and (8r) and
11 not passed through by a partnership, limited liability company, or tax-option
12 corporation that has added that amount to the partnership's, company's, or
13 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

2 71.05 **(6)** (b) 9. On assets held more than one year and on all assets acquired
3 from a decedent, 30 percent of the capital gain as computed under the internal
4 revenue code, not including capital gains for which the federal tax treatment is
5 determined under section 406 of P.L. 99-514; not including amounts treated as
6 ordinary income for federal income tax purposes because of the recapture of
7 depreciation or any other reason; and not including amounts treated as capital gain
8 for federal income tax purposes from the sale or exchange of a lottery prize. For
9 purposes of this subdivision, the capital gains and capital losses for all assets shall
10 be netted before application of the percentage. This subdivision does not apply to
11 taxable years that begin after December 31, 2011.

12 **SECTION 4.** 71.05 (6) (b) 9m. of the statutes is amended to read:

13 71.05 **(6)** (b) 9m. On farm assets held more than one year and on all farm assets
14 acquired from a decedent, to the extent that they are not subtracted under subd. ~~9.~~
15 ~~or~~ 10., 60 percent of the capital gain as computed under the Internal Revenue Code,
16 not including capital gains for which the federal tax treatment is determined under
17 section 406 of P.L. 99-514; not including amounts treated as ordinary income for
18 federal income tax purposes because of the recapture of depreciation or any other
19 reason; and not including amounts treated as capital gain for federal income tax
20 purposes from the sale or exchange of a lottery prize. In this subdivision, “farm
21 assets” means livestock, farm equipment, farm real property, and farm depreciable
22 property. For purposes of this subdivision, the capital gains and capital losses for all
23 assets shall be netted before application of the percentage.

24 **SECTION 5.** 71.05 (6) (b) 25. of the statutes is amended to read:

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1 71.05 (6) (b) 25. All gains that are not excluded from taxation under subd. 9.,
2 ~~on business assets or 9m.~~ on assets used in farming, including shares in a corporation
3 or trust that meets the standards under s. 182.001 (1), or both, held more than one
4 year, that are sold or otherwise disposed of to persons who are related to the seller
5 or transferor by blood, marriage or adoption within the 3rd degree of kinship as
6 determined under s. 990.001 (16), as computed under the Internal Revenue Code, not
7 including amounts treated as ordinary income for federal income tax purposes
8 because of the recapture of depreciation or any other reason.

9 **SECTION 6.** 71.05 (6) (b) 47. b. of the statutes, as created by 2011 Wisconsin Act
10 3, is amended to read:

11 71.05 (6) (b) 47. b. With respect to partners and members of limited liability
12 companies, for taxable years beginning after December 31, 2010, for 2 consecutive
13 taxable years beginning with the taxable year in which the partnership's or limited
14 liability company's business locates to this state from another state or another
15 country and begins doing business in this state, as defined in s. 71.22 (1r), and subject
16 to the limitations provided under subd. 47. d. and e., the partner's or member's
17 distributive share of taxable income as calculated under section 703 of the Internal
18 Revenue Code; plus the items of income and gain under section 702 of the Internal
19 Revenue Code, including taxable state and municipal bond interest and excluding
20 nontaxable interest income or dividend income from federal government obligations;
21 minus the items of loss and deduction under section 702 of the Internal Revenue
22 Code, except items that are not deductible under s. 71.21; plus guaranteed payments
23 to partners under section 707 (c) of the Internal Revenue Code; plus the credits
24 claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy),
25 (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i),

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1 (5j), (5k), (5r), (5rm), and (8r); and plus or minus, as appropriate, transitional
2 adjustments, depreciation differences, and basis differences under s. 71.05 (13), (15),
3 (16), (17), and (19), multiplied by the apportionment fraction determined in s. 71.04
4 (4) and subject to s. 71.04 (7) or by separate accounting. No amounts subtracted
5 under this subd. 47. b. may be included in the modification under par. (b) ~~9. or 9m.~~

6 **SECTION 7.** 71.05 (6) (b) 47. c. of the statutes, as created by 2011 Wisconsin Act
7 3, is amended to read:

8 71.05 (6) (b) 47. c. With respect to shareholders of a tax-option corporation, for
9 taxable years beginning after December 31, 2010, for 2 consecutive taxable years
10 beginning with the taxable year in which the tax-option corporation's business
11 locates to this state from another state or another country and begins doing business
12 in this state, as defined in s. 71.22 (1r), and subject to the limitations provided under
13 subd. 47. d. and e., the shareholder's distributive share of the entity's net income or
14 loss as determined under this chapter, including interest income from federal, state,
15 and municipal government obligations, multiplied by the apportionment fraction
16 determined in s. 71.25 (6m) and subject to s. 71.25 (9) or by separate accounting. No
17 amounts subtracted under this subdivision may be included in the modification
18 under par. (b) ~~9. or 9m.~~

19 **SECTION 8.** 71.05 (8) (b) of the statutes, as affected by 2011 Wisconsin Act 32,
20 is amended to read:

21 71.05 (8) (b) A Wisconsin net operating loss may be carried forward against
22 Wisconsin taxable incomes of the next 15 taxable years, if the taxpayer was subject
23 to taxation under this chapter in the taxable year in which the loss was sustained,
24 to the extent not offset against other income of the year of loss and to the extent not
25 offset against Wisconsin modified taxable income of any year between the loss year

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1 and the taxable year for which the loss carry-forward is claimed. In this paragraph,
2 “Wisconsin modified taxable income” means Wisconsin taxable income with the
3 following exceptions: a net operating loss deduction or offset for the loss year or any
4 taxable year thereafter is not allowed, the deduction for long-term capital gains
5 under subs. (6) (b) ~~9. and 9m.~~ and (25) is not allowed, the amount deductible for losses
6 from sales or exchanges of capital assets may not exceed the amount includable in
7 income for gains from sales or exchanges of capital assets and “Wisconsin modified
8 taxable income” may not be less than zero.

9 **SECTION 9.** 71.05 (25) (b) (intro.) of the statutes, as created by 2011 Wisconsin
10 Act 32, is amended to read:

11 71.05 (25) (b) (intro.) For taxable years beginning after December 31, 2015, for
12 a Wisconsin capital asset that is purchased after December 31, 2010, and held for at
13 least 5 years, a claimant may subtract from federal adjusted gross income the lesser
14 of one of the following amounts, to the extent that it is not subtracted under sub. (6)
15 (b) ~~9. or 9m.:~~

16 **SECTION 10.** 71.06 (1p) (e) of the statutes is amended to read:

17 71.06 (1p) (e) On all taxable income exceeding \$225,000 but not exceeding
18 \$1,000,000, 7.75 percent.

19 **SECTION 11.** 71.06 (1p) (f) of the statutes is created to read:

20 71.06 (1p) (f) On all taxable income exceeding \$1,000,000, 8.75 percent.

21 **SECTION 12.** 71.06 (2) (g) 5. of the statutes is amended to read:

22 71.06 (2) (g) 5. On all taxable income exceeding \$300,000 but not exceeding
23 \$1,000,000, 7.75 percent.

24 **SECTION 13.** 71.06 (2) (g) 6. of the statutes is created to read:

25 71.06 (2) (g) 6. On all taxable income exceeding \$1,000,000, 8.75 percent.

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1 **SECTION 14.** 71.06 (2) (h) 5. of the statutes is amended to read:

2 71.06 (2) (h) 5. On all taxable income exceeding \$150,000 but not exceeding
3 \$500,000, 7.75 percent.

4 **SECTION 15.** 71.06 (2) (h) 6. of the statutes is created to read:

5 71.06 (2) (h) 6. On all taxable income exceeding \$500,000, 8.75 percent.

6 **SECTION 16.** 71.06 (2e) (b) of the statutes is amended to read:

7 71.06 (2e) (b) For taxable years beginning after December 31, 2009, the
8 maximum dollar amount in each tax bracket, and the corresponding minimum dollar
9 amount in the next bracket, under subs. (1p) (d) and (e) and (2) (g) 4. and 5. and (h)
10 4. and 5., and the dollar amount in the top bracket under subs. (1p) (e) (f) and (2) (g)
11 ~~5. 6.~~ and (h) ~~5. 6.~~, shall be increased each year by a percentage equal to the percentage
12 change between the U.S. consumer price index for all urban consumers, U.S. city
13 average, for the month of August of the previous year and the U.S. consumer price
14 index for all urban consumers, U.S. city average, for the month of August 2008, as
15 determined by the federal department of labor, except that for taxable years
16 beginning after December 31, 2011, the adjustment may occur only if the resulting
17 amount is greater than the corresponding amount that was calculated for the
18 previous year. Each amount that is revised under this paragraph shall be rounded
19 to the nearest multiple of \$10 if the revised amount is not a multiple of \$10 or, if the
20 revised amount is a multiple of \$5, such an amount shall be increased to the next
21 higher multiple of \$10. The department of revenue shall annually adjust the changes
22 in dollar amounts required under this paragraph and incorporate the changes into
23 the income tax forms and instructions.

24 **SECTION 17.** 71.07 (5n) of the statutes, as created by 2011 Wisconsin Act 32, is
25 repealed.

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1 **SECTION 18.** 71.07 (9e) (af) (intro.) of the statutes, as affected by 2011 Wisconsin
2 Act 32, is amended to read:

3 71.07 **(9e)** (af) (intro.) For taxable years beginning after December 31, 1995,
4 ~~and before January 1, 2011,~~ any natural person may credit against the tax imposed
5 under s. 71.02 an amount equal to one of the following percentages of the federal
6 basic earned income credit for which the person is eligible for the taxable year under
7 section 32 (b) (1) (A) to (C) of the Internal Revenue Code:

8 **SECTION 19.** 71.07 (9e) (aj) of the statutes, as created by 2011 Wisconsin Act 32,
9 is repealed.

10 **SECTION 20.** 71.09 (11) (f) of the statutes is amended to read:

11 71.09 **(11)** (f) The taxpayer has underpaid the taxpayer's estimated taxes due
12 to the change in brackets under s. 71.06 (1p) (e) or (f) and (2) (g) 5. or 6. and (h) 5. or
13 6. This paragraph applies only in the first taxable year to which these bracket
14 changes apply.

15 **SECTION 21.** 71.10 (4) (cr) of the statutes, as created by 2011 Wisconsin Act 32,
16 is repealed.

17 **SECTION 22.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
18 amended to read:

19 71.21 **(4)** Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
20 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
21 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), and (8r) and passed
22 through to partners shall be added to the partnership's income.

23 **SECTION 23.** 71.255 (2m) (d) of the statutes, as affected by 2011 Wisconsin Act
24 32, is amended to read:

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1 71.255 **(2m)** (d) The department ~~may not~~ shall disregard the tax effect of an
2 election under this subsection, or disallow the election, with respect to any controlled
3 group member or members for any year of the election period, if the department
4 determines that the election has the effect of tax avoidance.

5 **SECTION 24.** 71.255 (6) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
6 is amended to read:

7 71.255 **(6)** (a) Except as provided in pars. (b), ~~(bm)~~, and (c) no tax credit,
8 Wisconsin net business loss carry-forward, or other post-apportionment deduction
9 earned by one member of the combined group, but not fully used by or allowed to that
10 member, may be used in whole or in part by another member of the combined group
11 or applied in whole or in part against the total income of the combined group. A
12 member of a combined group may use a carry-forward of a credit, Wisconsin net
13 business loss carry-forward, or other post-apportionment deduction otherwise
14 allowable under s. 71.26 or 71.45, that was incurred by that same member in a
15 taxable year beginning before January 1, 2009.

16 **SECTION 25.** 71.255 (6) (bm) of the statutes, as created by 2011 Wisconsin Act
17 32, is repealed.

18 **SECTION 26.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
19 32, is amended to read:

20 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
21 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
22 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and
23 (9s) and not passed through by a partnership, limited liability company, or
24 tax-option corporation that has added that amount to the partnership's, limited

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1 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
2 (g).

3 **SECTION 27.** 71.26 (4) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
4 is renumbered 71.26 (4) and amended to read:

5 71.26 (4) ~~Except as provided in par. (b), a~~ A corporation, except a tax-option
6 corporation or an insurer to which s. 71.45 (4) applies, may offset against its
7 Wisconsin net business income any Wisconsin net business loss sustained in any of
8 the next 15 preceding taxable years, if the corporation was subject to taxation under
9 this chapter in the taxable year in which the loss was sustained, to the extent not
10 offset by other items of Wisconsin income in the loss year and by Wisconsin net
11 business income of any year between the loss year and the taxable year for which an
12 offset is claimed. For purposes of this subsection Wisconsin net business income or
13 loss shall consist of all the income attributable to the operation of a trade or business
14 in this state, less the business expenses allowed as deductions in computing net
15 income. The Wisconsin net business income or loss of corporations engaged in
16 business within and without the state shall be determined under s. 71.25 (6) and (10)
17 to (12). Nonapportionable losses having a Wisconsin situs under s. 71.25 (5) (b) shall
18 be included in Wisconsin net business loss; and nonapportionable income having a
19 Wisconsin situs under s. 71.25 (5) (b), whether taxable or exempt, shall be included
20 in other items of Wisconsin income and Wisconsin net business income for purposes
21 of this subsection.

22 **SECTION 28.** 71.26 (4) (b) of the statutes, as created by 2011 Wisconsin Act 32,
23 is repealed.

24 **SECTION 29.** 71.28 (5n) of the statutes, as created by 2011 Wisconsin Act 32, is
25 repealed.

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1 **SECTION 30.** 71.30 (3) (dn) of the statutes, as created by 2011 Wisconsin Act 32,
2 is repealed.

3 **SECTION 31.** 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
4 is amended to read:

5 71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option
6 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
7 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
8 (5k), ~~(5n)~~, (5r), (5rm), and (8r) and passed through to shareholders.

9 **SECTION 32.** 71.36 (1m) (a) of the statutes is amended to read:

10 71.36 **(1m)** (a) A tax-option corporation may deduct from its net income all
11 amounts included in the Wisconsin adjusted gross income of its shareholders, ~~the~~
12 ~~capital gain deduction under s. 71.05 (6) (b) 9.~~ and all amounts not taxable to
13 nonresident shareholders under ss. 71.04 (1) and (4) to (9) and 71.362.

14 **SECTION 33.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
15 32, is amended to read:

16 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
17 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
18 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and (9s) and not passed
19 through by a partnership, limited liability company, or tax-option corporation that
20 has added that amount to the partnership's, limited liability company's, or
21 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
22 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

23 **SECTION 34.** 71.45 (4) (a) of the statutes, as affected by 2011 Wisconsin Act 32,
24 is renumbered 71.45 (4) and amended to read:

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1 71.45 (4) ~~Except as provided in par. (b), insurers~~ Insurers computing tax under
2 this subchapter may subtract from Wisconsin net income any Wisconsin net business
3 loss sustained in any of the next 15 preceding taxable years to the extent not offset
4 by Wisconsin net business income of any year between the loss year and the taxable
5 year for which an offset is claimed and computed without regard to sub. (2) (a) 8. and
6 9. and this subsection and limited to the amount of net income, but no loss incurred
7 for a taxable year before taxable year 1987 by a nonprofit service plan of sickness care
8 under ch. 148, or dental care under s. 447.13 may be treated as a net business loss
9 of the successor service insurer under ch. 613 operating by virtue of s. 148.03 or
10 447.13.

11 **SECTION 35.** 71.45 (4) (b) of the statutes, as created by 2011 Wisconsin Act 32,
12 is repealed.

13 **SECTION 36.** 71.47 (5n) of the statutes, as created by 2011 Wisconsin Act 32, is
14 repealed.

15 **SECTION 37.** 71.49 (1) (dn) of the statutes, as created by 2011 Wisconsin Act 32,
16 is repealed.

17 **SECTION 38.** 71.54 (1) (f) (intro.) of the statutes, as affected by 2011 Wisconsin
18 Act 32, is amended to read:

19 71.54 (1) (f) ~~2001 to 2011~~ and thereafter. (intro.) Subject to sub. (2m), the
20 amount of any claim filed in 2001 ~~to 2011~~ and thereafter and based on property taxes
21 accrued or rent constituting property taxes accrued during the previous year is
22 limited as follows:

23 **SECTION 39.** 71.54 (1) (g) of the statutes, as created by 2011 Wisconsin Act 32,
24 is repealed.

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1 **SECTION 40.** 71.54 (2) (b) 3. of the statutes, as affected by 2011 Wisconsin Act
2 32, is amended to read:

3 71.54 **(2)** (b) 3. Subject to sub. (2m), in calendar years ~~1990 to 2010~~ year 1990
4 or any subsequent calendar year, \$1,450.

5 **SECTION 41.** 71.54 (2) (b) 4. of the statutes, as created by 2011 Wisconsin Act
6 32, is repealed.

7 **SECTION 42.** 71.54 (2m) of the statutes, as affected by 2011 Wisconsin Act 32,
8 is amended to read:

9 71.54 **(2m)** INDEXING FOR INFLATION; 2010 AND THEREAFTER. (a) For calendar years
10 beginning after December 31, 2009, ~~and before January 1, 2011~~, the dollar amounts
11 of the threshold income under sub. (1) (f) 1. and 2., the maximum household income
12 under sub. (1) (f) 3. and the maximum property taxes under sub. (2) (b) 3. shall be
13 increased each year by a percentage equal to the percentage change between the U.S.
14 consumer price index for all urban consumers, U.S. city average, for the 12-month
15 average of the U.S. consumer price index for the month of August of the year before
16 the previous year through the month of July of the previous year and the U.S.
17 consumer price index for all urban consumers, U.S. city average, for the 12-month
18 average of the U.S. consumer price index for August 2007 through July 2008, as
19 determined by the federal department of labor, except that the adjustment may occur
20 only if the percentage is a positive number. Each amount that is revised under this
21 paragraph shall be rounded to the nearest multiple of \$10 if the revised amount is
22 not a multiple of \$10 or, if the revised amount is a multiple of \$5, such an amount
23 shall be increased to the next higher multiple of \$10. The department of revenue
24 shall annually adjust the changes in dollar amounts required under this paragraph
25 and incorporate the changes into the income tax forms and instructions.

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1 (b) The department of revenue shall annually adjust the slope under sub. (1)
2 (f) 2. such that, as a claimant's income increases from the threshold income as
3 calculated under par. (a), to an amount that exceeds the maximum household income
4 as calculated under par. (a), the credit that may be claimed is reduced to \$0 and the
5 department of revenue shall incorporate the changes into the income tax forms and
6 instructions.

7 **SECTION 43.** 72.01 (11m) of the statutes is amended to read:

8 72.01 (11m) "Federal credit" means, for deaths occurring after September 30,
9 2002, and before January 1, 2008, the federal estate tax credit allowed for state death
10 taxes as computed under the federal estate tax law in effect on December 31, 2000,
11 ~~and~~; for deaths occurring after December 31, 2007, and before January 1, 2012, the
12 federal estate tax credit allowed for state death taxes as computed under the federal
13 estate tax law in effect on the day of the decedent's death; and for deaths occurring
14 after December 31, 2011, the federal estate tax credit allowed for state death taxes
15 as computed under the federal estate tax law in effect on December 31, 2002.

16 **SECTION 44.** 72.01 (11n) of the statutes is amended to read:

17 72.01 (11n) "Federal estate tax" means, for deaths occurring after September
18 30, 2002, and before January 1, 2008, the federal estate tax as computed under the
19 federal estate tax law in effect on December 31, 2000, ~~and~~; for deaths occurring after
20 December 31, 2007, and before January 1, 2012, the federal estate tax as computed
21 under the federal estate tax law in effect on the day of the decedent's death; and for
22 deaths occurring after December 31, 2011, the federal estate tax as computed under
23 the federal estate tax law in effect on December 31, 2002.

24 **SECTION 45.** 72.02 of the statutes is amended to read:

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1 **72.02 Estate tax imposed.** An estate tax is imposed upon the transfer of all
2 property that is subject to a federal estate tax and that has a taxable situs in this
3 state, not including property used in farming as described under section 464 (e) (1)
4 of the Internal Revenue Code. The tax imposed is equal to the federal credit against
5 the federal estate tax as finally determined. If only a portion of a decedent's property
6 has a taxable situs in this state, the tax imposed is the amount obtained by
7 multiplying the federal credit by a fraction the numerator of which is the value of the
8 decedent's estate that has a taxable situs in this state and the denominator of which
9 is the total value of the property in the estate that qualifies for the federal credit.

10 **SECTION 46.** 77.92 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
11 amended to read:

12 77.92 (4) "Net business income," with respect to a partnership, means taxable
13 income as calculated under section 703 of the Internal Revenue Code; plus the items
14 of income and gain under section 702 of the Internal Revenue Code, including taxable
15 state and municipal bond interest and excluding nontaxable interest income or
16 dividend income from federal government obligations; minus the items of loss and
17 deduction under section 702 of the Internal Revenue Code, except items that are not
18 deductible under s. 71.21; plus guaranteed payments to partners under section 707
19 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
20 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
21 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), and
22 (8r); and plus or minus, as appropriate, transitional adjustments, depreciation
23 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
24 excluding income, gain, loss, and deductions from farming. "Net business income,"
25 with respect to a natural person, estate, or trust, means profit from a trade or

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1 business for federal income tax purposes and includes net income derived as an
2 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

3 **SECTION 47. Initial applicability.**

4 (1) The treatment of section 71.255 (2m) (d) of the statutes first applies
5 retroactively to taxable years beginning on January 1, 2009.

6 (2) The treatment of sections 71.01 (14), 71.05 (6) (b) 9m., 25., and 47. b. and
7 c., (8) (b), and (25) (b) (intro.), and 71.36 (1m) (a) of the statutes first applies to taxable
8 years beginning after December 31, 2011.

9 (3) The treatment of sections 71.06 (1p) (e) and (f) and (2) (g) 5. and 6. and (h)
10 5. and 6. and 71.09 (11) (f) of the statutes first applies to taxable years beginning on
11 January 1, 2012.

12 **SECTION 48. Effective date.**

13 (1) The treatment of section 71.255 (2m) (d) of the statutes takes effect
14 retroactively to January 1, 2009.

15 (END)