



State of Wisconsin  
2019 - 2020 LEGISLATURE

LRB-4104/1  
MES:cdc

## 2019 BILL

1     **AN ACT** *to amend* 71.07 (6) (am) 1. and 71.07 (6) (am) 2. d.; and *to create* 71.07  
2           (6) (am) 1m. of the statutes; **relating to:** updating the references to the Internal  
3           Revenue Code definition of earned income for the married persons tax credit  
4           (suggested as remedial legislation by the Department of Revenue).

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***Analysis by the Legislative Reference Bureau***

This bill updates references to, and incorporates definitions from, the Internal Revenue Code.

For further information, see the NOTES provided by the Law Revision Committee of the Joint Legislative Council.

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

LAW REVISION COMMITTEE PREFATORY NOTE: This bill is a remedial legislation proposal, requested by the Department of Revenue and introduced by the Law Revision Committee under s. 13.83 (1) (c) 4. and 5., stats. After careful consideration of the various provisions of the bill, the Law Revision Committee has determined that this bill makes minor substantive changes in the statutes, and that these changes are desirable as a matter of public policy.

5     **SECTION 1.** 71.07 (6) (am) 1. of the statutes is amended to read:

**BILL****SECTION 1**

1           71.07 (6) (am) 1. ~~In this paragraph~~ For purposes of subd. 1m., “earned income”  
2 means qualified earned income, as defined in section 221 (b) of the internal revenue  
3 code as amended to December 31, 1985, plus employee business expenses under  
4 section 62 (2) (B) to (D) of that code, allocable to Wisconsin under s. 71.04, plus  
5 amounts received by the individual for services performed in the employ of the  
6 individual’s spouse minus the amount of disability income excluded under s. 71.05  
7 (6) (b) 4. and minus any other amount not subject to tax under this chapter wages,  
8 salaries, or professional fees, and other amounts received as compensation for  
9 personal services actually rendered, but does not include that part of the  
10 compensation derived by the taxpayer for personal services rendered by him or her  
11 to a corporation which represents a distribution of earnings or profits rather than a  
12 reasonable allowance as compensation for the personal services actually rendered.  
13 In the case of a taxpayer engaged in a trade or business in which both personal  
14 services and capital are material income-producing factors, under federal  
15 regulations, a reasonable allowance as compensation for the personal services  
16 rendered by the taxpayer shall be considered as earned income. Earned income does  
17 not include any amount not included in gross income, received as a pension or  
18 annuity, paid or distributed out of an individual retirement plan (within the meaning  
19 of section 7701 (a) (37) of the Internal Revenue Code), received as deferred  
20 compensation, or received for services, not in the course of the employer’s trade or  
21 business, or domestic service in a private home of the employer, performed by an  
22 individual in the employ of his or her spouse. Earned income is computed  
23 notwithstanding the fact that each spouse owns an undivided one-half interest in  
24 the whole of the marital property. A marital property agreement or unilateral

**BILL**

1 statement under ch. 766 transferring income between spouses has no effect in  
2 computing earned income under this paragraph.

NOTE: This SECTION incorporates the text of the definition of “earned income” from the Internal Revenue Code.

3 **SECTION 2.** 71.07 (6) (am) 1m. of the statutes is created to read:

4 71.07 (6) (am) 1m. In this paragraph, “qualified earned income” means an  
5 amount equal to the excess of the earned income of the spouse for the taxable year,  
6 over an amount equal to the sum of the deductions described in paragraphs (1), (2)  
7 (B), (C), and (E), (6), (7), and (12) of section 62 (a) of the Internal Revenue Code to the  
8 extent such deductions are properly allocable to or chargeable against earned  
9 income, allocable to Wisconsin under s. 71.04, minus the amount of disability income  
10 excluded under s. 71.05 (6) (b) 4. and minus any other amount not subject to tax  
11 under this chapter.

NOTE: This SECTION incorporates the text of the definition of “qualified earned income” from the Internal Revenue Code. Because this SECTION defines “qualified earned income” separately from “earned income,” SECTION 3 also replaces the phrase “earned income” with “qualified earned income.”

12 **SECTION 3.** 71.07 (6) (am) 2. d. of the statutes is amended to read:

13 71.07 (6) (am) 2. d. For taxable years beginning after December 31, 2000, 3  
14 percent of the qualified earned income of the spouse with the lower qualified earned  
15 income, but not more than \$480.

16 **SECTION 4. Initial applicability.**

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

18 (END)