



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-4862/P3
JK:amn

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal** 71.03 (2) (a) 3., 4. and 5., 71.05 (22) (f) 1., 71.05 (22) (f) 2., 71.05
2 (22) (f) 3., 71.07 (8), 71.10 (4) (b), 71.15 (2), 71.25 (14) and 77.94 (2); **to**
3 **renumber and amend** 71.05 (22) (f) 4. and 77.94 (1); and **to amend** 71.05 (22)
4 (g), 71.05 (22) (h), 71.10 (4) (j), 71.22 (11), 632.897 (10) (a) 3., 767.511 (1) (b),
5 767.804 (3) (c), 767.805 (4) (c) and 767.89 (3) (d) of the statutes; **relating to:**
6 repealing obsolete statutory references and updating certain statutory
7 provisions (suggested as remedial legislation by the Department of Revenue).

Analysis by the Legislative Reference Bureau

This bill repeals a number of obsolete provisions of current law and adds cross-references to a number of statutory penalties in the income tax order of computation.

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

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:

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.

1 **SECTION 1.** 71.03 (2) (a) 3., 4. and 5. of the statutes are repealed.

2 **SECTION 2.** 71.05 (22) (f) 1. of the statutes is repealed.

3 **SECTION 3.** 71.05 (22) (f) 2. of the statutes is repealed.

4 **SECTION 4.** 71.05 (22) (f) 3. of the statutes is repealed.

5 **SECTION 5.** 71.05 (22) (f) 4. of the statutes is renumbered 71.05 (22) (f), and
6 71.05 (22) (f) 1., as renumbered, is amended to read:

7 71.05 (22) (f) 1. For taxable years beginning after December 31, 1997, in the
8 case of a taxpayer with respect to whom an exemption under sub. (23) (b) 2. is
9 allowable to another person, the Wisconsin standard deduction shall be the lesser of
10 the amount under subd. ~~4. b.~~ 2. or one of the amounts calculated under subd. ~~4. e.~~
11 3., whichever amount under subd. ~~4. e.~~ 3. is greater.

12 **SECTION 6.** 71.05 (22) (g) of the statutes is amended to read:

13 71.05 (22) (g) *Nonresidents.* With respect to nonresident natural persons
14 deriving income from property located, business transacted or personal or
15 professional services performed in this state, including natural persons changing
16 their domicile into or from this state, the Wisconsin standard deduction and itemized
17 deductions are based on federal adjusted gross income, and as provided in par. (f) 4.,
18 and are limited by such fraction of that amount as Wisconsin adjusted gross income
19 is of federal adjusted gross income. In this paragraph, for married persons filing
20 separately “adjusted gross income” means the separate adjusted gross income of
21 each spouse, and for married persons filing jointly “adjusted gross income” means the
22 total adjusted gross income of both spouses.

1 **SECTION 7.** 71.05 (22) (h) of the statutes is amended to read:

2 71.05 (22) (h) *Part-year residents.* If a person and that person's spouse are not
3 both domiciled in this state during the entire taxable year, the Wisconsin standard
4 deduction or itemized deduction on a joint return is determined by multiplying the
5 Wisconsin standard deduction or itemized deduction, each calculated on the basis of
6 federal adjusted gross income, and as provided in par. (f) -4-, by a fraction the
7 numerator of which is their joint Wisconsin adjusted gross income and the
8 denominator of which is their joint federal adjusted gross income. For a married
9 person who is not domiciled in this state for the entire taxable year and who files a
10 separate return, the Wisconsin standard deduction and itemized deduction are
11 determined under par. (g).

12 **SECTION 8.** 71.07 (8) of the statutes is repealed.

NOTE: This SECTION repeals a personal exemption credit that does not apply for taxable years that begin after December 31, 1999. SECTIONS 1, 2, 3, 4, 9, and 11 repeal statutes that cross-reference the personal exemption credit and are obsolete. SECTIONS 16, 17, 18, 19, and 20 modify statutes that cross-reference the personal exemption credit but are not obsolete. In those SECTIONS, the cross-reference is changed to the 2019 version of the personal exemption credit.

13 **SECTION 9.** 71.10 (4) (b) of the statutes is repealed.

14 **SECTION 10.** 71.10 (4) (j) of the statutes is amended to read:

15 71.10 (4) (j) Any amount computed under s. 71.83 (1) (a) 6., (c), (ce), (cf), and
16 (d).

NOTE: This SECTION adds, for purposes of the computation order, penalties relating to retirement plans, health savings account withdrawals, inconsistent estate basis reporting, and sale of certain assets or assets used in farming.

17 **SECTION 11.** 71.15 (2) of the statutes is repealed.

18 **SECTION 12.** 71.22 (11) of the statutes is amended to read:

19 71.22 (11) Except as provided in s. 71.45 (2), "Wisconsin net income", for
20 corporations engaged in business wholly within this state, means net income and,

1 for corporations engaged in business both within and outside this state, means the
2 amount assigned to this state under s. 71.25 (6), (10) (c) or (13) or by a separate
3 accounting or allocation, if allowed under s. 71.25 (6), or by another method approved
4 under s. 71.25 (11), or (12) ~~or (14)~~.

5 **SECTION 13.** 71.25 (14) of the statutes is repealed.

NOTE: This SECTION repeals the alternative allocation method for corporations,
which was available upon request on or before January 1, 2000. SECTION 12 deletes a
cross-reference to this method.

6 **SECTION 14.** 77.94 (1) of the statutes is renumbered 77.94 and amended to read:

7 **77.94 Surcharge determination.** ~~Except as provided in sub. (2), the~~ The
8 surcharge imposed under s. 77.93 is an amount equal to the amount calculated by
9 multiplying gross tax liability for the taxable year of the corporation by 3 percent,
10 or in the case of a tax-option corporation an amount equal to the amount calculated
11 by multiplying net income under s. 71.34 by 0.2 percent, up to a maximum of \$9,800,
12 or \$25, whichever is greater.

13 **SECTION 15.** 77.94 (2) of the statutes is repealed.

NOTE: This SECTION repeals an economic development surcharge computation.
SECTION 14 deletes a cross-reference to this computation.

14 **SECTION 16.** 632.897 (10) (a) 3. of the statutes is amended to read:

15 632.897 (10) (a) 3. The fact that the group member or insured does not claim
16 the child as an exemption for federal income tax purposes under 26 USC 151 (c), or
17 as an exemption for state income tax purposes under s. 71.07 (8) (b), 2019 stats., or
18 under the laws of another state, if a court order under s. 767.513 or the laws of
19 another state assigns responsibility for the child's health care expenses to the group
20 member or insured.

21 **SECTION 17.** 767.511 (1) (b) of the statutes is amended to read:

1 767.511 (1) (b) Ensure that the parties have stipulated which party, if either
2 is eligible, will claim each child as an exemption for federal income tax purposes
3 under 26 USC 151 (c), or as an exemption for state income tax purposes under s. 71.07
4 (8) (b), 2019 stats., or under the laws of another state. If the parties are unable to
5 reach an agreement about the tax exemption for each child, the court shall make the
6 decision in accordance with state and federal tax laws. In making its decision, the
7 court shall consider whether the parent who is assigned responsibility for the child's
8 health care expenses under s. 767.513 is covered under a health insurance policy or
9 plan, including a self-insured plan, that is not subject to s. 632.897 (10) and that
10 conditions coverage of a dependent child on whether the child is claimed by the
11 insured parent as an exemption for purposes of federal or state income taxes.

12 **SECTION 18.** 767.804 (3) (c) of the statutes is amended to read:

13 767.804 (3) (c) A determination as to which parent, if eligible, shall have the
14 right to claim the child as an exemption for federal tax purposes under 26 USC 151
15 (c), or as an exemption for state tax purposes under s. 71.07 (8) (b), 2019 stats.

16 **SECTION 19.** 767.805 (4) (c) of the statutes is amended to read:

17 767.805 (4) (c) A determination as to which parent, if eligible, shall have the
18 right to claim the child as an exemption for federal tax purposes under 26 USC 151
19 (c), or as an exemption for state tax purposes under s. 71.07 (8) (b), 2019 stats.

20 **SECTION 20.** 767.89 (3) (d) of the statutes is amended to read:

21 767.89 (3) (d) A determination as to which parent, if eligible, shall have the
22 right to claim the child as an exemption for federal tax purposes under 26 USC 151
23 (c), or as an exemption for state tax purposes under s. 71.07 (8) (b), 2019 stats.

24 **SECTION 21. Initial applicability.**

1 (1) This act first applies to taxable years beginning after December 31, 2021.

2 (END)