

1969 Senate Bill 110

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**CHAPTER 390, LAWS OF 1969**

AN ACT to create 71.04 (2d), (2e) and (2f) of the statutes relating to tax exemptions or treatment of organizational expenses, trademark and trade name expenditures and research and experimental expenditures.

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

SECTION 1. 71.04 (2d) of the statutes is created to read:

71.04 (2d) (a) The organizational expenditures of a corporation may, at the election of the corporation, be treated as deferred expenses, and such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as is selected by the taxpayer corporation, beginning with the month in which the corporation begins business.

(b) The term "organizational expenditures" means any expenditure which:

1. Is incident to the creation of the corporation;
2. Is chargeable to capital account; and
3. Is of a character which, if expended incident to the creation of a corporation having a limited life, would be amortizable over such life.

(c) The election provided by par. (a) may be made for any taxable year beginning after December 31, 1969, but only if made not later than the time prescribed by law for filing the return for the taxable year, including extensions thereof, in which the taxpayer begins business. The period so elected shall be adhered to in computing the taxable income of the corporation for the taxable year for which the election is made and all subsequent taxable years. The election shall apply only with respect to expenditures paid or incurred on or after the date of enactment of this subsection.

SECTION 2. 71.04 (2e) of the statutes is created to read:

71.04 (2e) (a) Any trademark or trade name expenditure paid or incurred during a taxable year beginning after December 31, 1969, may, at the election of the taxpayer, be treated as a deferred expense. In computing taxable income, all expenditures paid or incurred during the taxable year which are so treated shall be allowed as a deduction ratably over such period of not less than 60 months, beginning with the 1st month in the taxable year, as is selected by the taxpayer in making the election. The expenditures so treated are expenditures properly chargeable to capital account for purposes of s. 71.03 (1) (g).

(b) For purposes of par. (a), "trademark or trade name expenditure" means any expenditure which:

1. Is directly connected with the acquisition, protection, expansion, registration (federal, state or foreign), or defense of a trademark or trade name;

2. Is chargeable to capital account; and
3. Is not part of the consideration paid for a trademark, trade name, or business.

(c) The election provided by par. (a) shall be made within the time prescribed by law, including extensions thereof, for filing the return for the taxable year during which the expenditure is paid or incurred. The period selected by the taxpayer under par. (a) with respect to the expenditures paid or incurred during the taxable year which are treated as deferred expenses shall be adhered to in computing his taxable income for the taxable year for which the election is made and all subsequent years.

SECTION 3. 71.04 (2f) of the statutes is created to read:

71.04 (2f) (a) Research or experimental expenditures paid or incurred during a taxable year beginning after December 31, 1969, in connection with the taxpayer's trade or business, may at the election of the taxpayer, be treated as expenses which are not chargeable to capital account. The expenditures so treated shall be allowed as a deduction. The election of this method shall be made within the time prescribed by law, including extensions thereof, for filing the return for the taxable year in which the expenditures are paid or incurred and shall apply to all such expenditures. The method adopted shall be adhered to in computing taxable income for the taxable year and for all subsequent taxable years unless, with the approval of the department of revenue, a change to a different method is authorized with respect to part or all of such expenditures.

(b) At the election of the taxpayer, research or experimental expenditures paid or incurred during a taxable year beginning after December 31, 1969, in connection with the taxpayer's trade or business, chargeable to capital account, but not chargeable to property of a character which is subject to amortization, depreciation or depletion, and not treated as expenses under par. (a), may be treated as deferred expenses and such deferred expenses shall be allowed as a deduction ratably over such period of not less than 60 months as is selected by the taxpayer, beginning with the month in which the taxpayer first realizes benefits from the expenditures. These deferred expenditures are properly chargeable to capital account under s. 71.03 (1) (g). The election may be made for any taxable year beginning after December 31, 1969, but only if made not later than the time prescribed by law for filing the return for the taxable year including extensions thereof. The method so elected, and the period selected by the taxpayer, shall be adhered to in computing taxable income for the taxable year for which the election is made and for all subsequent years unless, with the approval of the department of revenue, a change to a different method or to a different period is authorized with respect to part or all of such expenditures. The election shall not apply to any expenditures paid or incurred during any taxable year before the taxable year for which the taxpayer makes the election.

(c) This subsection shall not apply to any expenditure paid or incurred for the purpose of ascertaining the existence, location, extent, or quality of any deposit of ore or other mineral, including oil and gas; or any expenditure for the acquisition or improvement of land, or for the acquisition or improvement of property to be used in connection with the research or experimentation and of a character which is subject to allowance for depreciation or depletion, but such depreciation or depletion allowances shall be considered as expenditures for purposes of this subsection.

Approved February 3, 1970.