

Assembly Bill 733

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**CHAPTER 239, LAWS OF 1967**

AN ACT to amend 71.05 (2) (a) 7 and (c) (intro.), 72.015 (1) and (3) and 72.18 (8) (b); to repeal and recreate 71.03 (2) (a); and to create 71.05 (1) (g) and 72.01 (3) (c) of the statutes, relating to gift and inheritance taxes.

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

SECTION 1. 71.03 (2) (a) of the statutes is repealed and recreated to read:

71.03 (2) (a) The value of property acquired by gift, bequest, devise or inheritance, but such exemption shall not exclude from gross income the income from any such property, or, where the gift, bequest, devise or inheritance is of income from property, the amount of such income. Where, under the terms of the gift, bequest, devise or inheritance, the payment, crediting or distribution thereof is to be made at intervals, then to the extent that it is paid or credited or to be distributed out of income from property, it shall be treated for the purpose of this paragraph as a gift, bequest, devise or inheritance of income from property. Any amount included in the gross income of a beneficiary under subchapter J of the internal revenue code shall be treated for purposes of this paragraph as a gift, bequest, devise or inheritance of income from property.

SECTION 2. 71.05 (1) (g) of the statutes is created to read:

71.05 (1) (g) Add or subtract from federal adjusted gross income, as appropriate, on sale, exchange, abandonment or other disposition in a transaction in which gain or loss is recognized to the owner of property acquired by inheritance, exclusive of property constituting income under sec. 102 (b) of the internal revenue code, the difference between the federal basis and the inheritance tax value when, by the exercise of the election of alternate values pursuant to sec. 2032 of the internal revenue code or for any other reason the federal basis of such property is more or less than the date of death value determined for inheritance tax purposes in the estate of the person from whom the property was acquired.

SECTION 3. 71.05 (2) (a) 7 and (c) (intro.) of the statutes are amended to read:

71.05 (2) (a) 7. "Owner" means successively the ~~original~~ owner of changing basis assets or constant basis assets as of the transitional date and any subsequent owner whose basis for such assets is found by reference to the basis therefor of ~~such original owner~~ *another person*.

(c) (intro.) With respect to changing basis assets compute the net difference between the federal adjusted basis and the Wisconsin adjusted basis of all such assets as of the transitional date. If such net difference is a net excess of federal adjusted basis it shall be ratably amortized and subtracted from the amounts otherwise allowable to the owner as deductions (under this chapter and the internal revenue code) over such period of not more than 60 months commencing with the first day of the first taxable year ended after the transitional date as may be selected by the ~~original~~ owner *as of the transitional date*. If such net difference is a net excess of Wisconsin adjusted basis it shall be ratably amortized and subtracted from the income of the owner over such period of not less than 60 months commencing with the first day of the first taxable year ended

after the first transitional date as may be selected by the ~~original~~ owner as of the transitional date. In either event:

SECTION 4. 72.01 (3) (c) of the statutes is created to read:

72.01 (3) (c) Benefits paid to a beneficiary under an employe benefit plan shall be taxable for inheritance tax purposes except to the extent that the proportionate share resulting from the employer's contribution would be excludible in the gross estate of the decedent under sec. 2039 of the internal revenue code. However, the tax imposed herein shall not apply to benefits paid under the plans specifically mentioned in s. 72.04 (6) or to benefits payable under the U.S. civil service retirement program. This subsection shall apply regardless of whether or not there is a requirement for filing a federal estate tax return.

SECTION 5. 72.015 (1) and (3) of the statutes are amended to read:

72.015 (1) Debts of the decedent, *including medical expenses to the extent not claimed for income tax purposes;*

(3) Expenses of administration, *but only to the extent not claimed for income tax purposes;*

SECTION 6. 72.18 (8) (b) of the statutes is amended to read:

72.18 (8) (b) Every corporation, partnership, association or individual liable for paying benefits to the estate or a beneficiary of a deceased employe or former employe in the form of an annuity, bonus, pension, or other benefit under a retirement, deferred compensation or profit-sharing plan taxable under s. 72.01 (3) ~~(b)~~ (c), whether directly or through a trust or fund created by the employer for such purpose, ~~in excess of \$1,000,~~ shall give notice of such obligation to the department of taxation within 30 days following the date of payment, or the date of the initial payment if more than one payment is forthcoming, to the estate or any beneficiary of such employe or former employe. Such notice shall be given on the forms prescribed by the department of ~~taxation~~, and shall set forth such information as the department prescribes.

SECTION 7. SECTION 1 of this act shall apply in the determination of Wisconsin taxable income of taxable years beginning on or after January 1, 1968, but no benefit under an employe benefit plan shall be taxable as income to a beneficiary to the extent such benefit was included in the estate of a decedent for inheritance tax purposes by reason of the death of the decedent having occurred prior to January 1, 1968. SECTION 2 shall apply in cases in which the decedent from whom the property was acquired died on or after January 1, 1965. SECTION 4 shall apply to all decedents who die on or after January 1, 1968.

Approved December 6, 1967.