

State of Wisconsin



2021 Assembly Bill 3

Date of enactment: **February 18, 2021**

Date of publication*: **February 19, 2021**

2021 WISCONSIN ACT 2

AN ACT *to renumber and amend* 71.365 (4m) (d) 1.; *to amend* 71.29 (7) (b) and 71.29 (10) (a); and *to create* 71.29 (10) (d) and 71.365 (4m) (d) 1. a. and b. of the statutes; **relating to:** modifications to the tax treatment of tax-option corporations that elect to pay tax at the entity level.

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

SECTION 1. 71.29 (7) (b) of the statutes is amended to read:

71.29 (7) (b) The preceding taxable year was 12 months, the corporation or virtually exempt entity had no liability under s. 71.125 or 71.23 (1) or (2) for that year and, except for a corporation making an election under s. 71.365 (4m) (a), the corporation or virtually exempt entity has a Wisconsin net income of less than \$250,000 for the current taxable year.

SECTION 2. 71.29 (10) (a) of the statutes is amended to read:

71.29 (10) (a) Except as provided in ~~par. (c)~~ and (d), for corporations or virtually exempt entities that have Wisconsin net incomes of \$250,000 or more, the amount of each installment required under sub. (8) is 25 percent of the amount under par. (b).

SECTION 3. 71.29 (10) (d) of the statutes is created to read:

71.29 (10) (d) For a corporation making an election under s. 71.365 (4m) (a), the amount of the installments

required under sub. (8) shall be determined according to sub. (9) (a).

SECTION 4. 71.365 (4m) (d) 1. of the statutes is renumbered 71.365 (4m) (d) 1. (intro.) and amended to read:

71.365 (4m) (d) 1. (intro.) The net income of the tax-option corporation is computed under s. 71.34 (1k), with the following modifications, and the situs of income shall be determined as if the election was not made:

SECTION 5. 71.365 (4m) (d) 1. a. and b. of the statutes are created to read:

71.365 (4m) (d) 1. a. An adjustment shall be made so that the net capital loss, after netting capital gains and capital losses to arrive at total capital gain or loss, is offset against income only to the extent of \$500. Losses in excess of \$500 shall be carried forward to the next taxable year for which an election is made under par. (a) and offset against income up to the limit under this subd. 1. a. Losses shall be used in the order in which they accrue.

b. The subtraction under s. 71.05 (6) (b) 9. or 9m. shall be allowed.

SECTION 6. Initial applicability.

(1) This act first applies to taxable years beginning after December 31, 2019.

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."