



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 362
[2005 Assembly Bill 21]

**Depreciation of Property
Used in Farming**

As a general rule, Wisconsin tax law provides that for the purposes of state income taxation, a taxpayer is eligible to claim expense deductions and amortization and depreciation using computations based on the federal Internal Revenue Code, as amended through December 31, 2000. As a result of this state statute, Wisconsin taxpayers in general are not eligible to claim certain “bonus depreciation” deductions under section 101 of Public Law 107-147 and section 201 of Public Law 108-27 and the “expensing” deduction authorized under section 202 of Public Law 108-27 because these three federal law provisions were adopted after December 31, 2000. These three federal bonus depreciation and expensing provisions are favorable to taxpayers because they allow a greater portion of the capital investment in business property to be deducted earlier.

2005 Wisconsin Act 362 adopts any future changes to the three federal depreciation and expensing rules for taxpayers who are actively engaged in farming. “Actively engaged in farming” is defined in Act 362 by reference to U.S. Department of Agriculture regulations. The Act provides that, if section 101 of Public Law 107-147 or section 201 of Public Law 108-27 are amended after December 31, 2005, those sections will apply to property acquired and placed in service in taxable years commencing on or after January 1, 2006 by a person who is actively engaged in farming. The Act also provides that if section 202 of Public Law 108-27, as amended by section 201 of Public Law 108-357, is amended after December 31, 2005, that section will apply to property acquired and placed in service on or after January 1, 2008, by a person who is actively engaged in farming.

The effect of Act 362 is to maintain current Wisconsin law relating to depreciation and amortization of property acquired by a person engaged in farming but to automatically adopt for Wisconsin income tax purposes any future amendments adopted by the federal government.

Effective Date: May 4, 2006.

Prepared by: Mark C. Patronsky, Senior Staff Attorney

June 15, 2006

MCP:rv:jal

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.