



2023 SENATE BILL 389

August 11, 2023 - Introduced by Senator MARKLEIN, cosponsored by Representative KATSMA. Referred to Committee on Universities and Revenue.

1 **AN ACT** *to renumber and amend* 71.98 (5); *to amend* 71.01 (6) (m) 1., 71.22 (4)
2 (m) 1., 71.22 (4m) (m) 1., 71.34 (1g) (m) 1. and 71.42 (2) (m) 1.; and *to create*
3 71.01 (6) (n), 71.01 (6) (o), 71.22 (4) (n), 71.22 (4) (o), 71.22 (4m) (n), 71.22 (4m)
4 (o), 71.34 (1g) (n), 71.34 (1g) (o), 71.42 (2) (n), 71.42 (2) (o) and 71.98 (5) (b) of
5 the statutes; **relating to:** adopting changes to the federal Internal Revenue
6 Code for state tax purposes.

Analysis by the Legislative Reference Bureau

This bill adopts, for state income and franchise tax purposes, certain changes made to the Internal Revenue Code by the following federal acts:

1. The American Rescue Plan Act of 2021.
2. The Infrastructure Investment and Jobs Act.
3. The Consolidated Appropriations Act of 2022.
4. The Inflation Reduction Act of 2022.
5. The Consolidated Appropriations Act of 2023.

The bill also updates the reference to the federal Internal Revenue Code regarding the exclusion for gain from certain small business stock so that the exclusion allowed under state law is always in compliance with the exclusion under federal law.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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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:

1 **SECTION 1.** 71.01 (6) (m) 1. of the statutes is amended to read:

2 71.01 **(6)** (m) 1. For taxable years beginning after December 31, 2020, and
3 before January 1, 2022, for individuals and fiduciaries, except fiduciaries of nuclear
4 decommissioning trust or reserve funds, “Internal Revenue Code” means the federal
5 Internal Revenue Code as amended to December 31, 2020, except as provided in
6 subds. 2. and 3. and s. 71.98 and subject to subd. 4.

7 **SECTION 2.** 71.01 (6) (n) of the statutes is created to read:

8 71.01 **(6)** (n) 1. For taxable years beginning after December 31, 2021, and before
9 January 1, 2023, for individuals and fiduciaries, except fiduciaries of nuclear
10 decommissioning trust or reserve funds, “Internal Revenue Code” means the federal
11 Internal Revenue Code as amended to December 31, 2021, except as provided in
12 subds. 2. and 3. and s. 71.98 and subject to subd. 4.

13 2. For purposes of this paragraph, “Internal Revenue Code” does not include
14 the following provisions of federal public laws for taxable years beginning after
15 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
16 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
17 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of
18 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.
19 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
20 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
21 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.

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1 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; section 2122 of P.L.
2 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95; sections
3 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101 of P.L.
4 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143, 144,
5 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of P.L.
6 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301, 13304
7 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202, 14211,
8 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401 of P.L.
9 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101 (c) of
10 division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302, and 401
11 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii) and
12 (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145 of
13 division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
14 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.
15 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. 117-103; P.L.
16 117-167; P.L. 117-263; and P.L. 117-286.

17 3. For purposes of this paragraph, “Internal Revenue Code” does not include
18 amendments to the federal Internal Revenue Code enacted after December 31, 2021.

19 4. For purposes of this paragraph, the provisions of federal public laws that
20 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
21 apply for Wisconsin purposes at the same time as for federal purposes, except that
22 changes made by section 9671 of P.L. 117-2; and sections 80501 and 80504 of division
23 H of P.L. 117-58 apply for taxable years beginning after December 31, 2021.

24 **SECTION 3.** 71.01 (6) (o) of the statutes is created to read:

SENATE BILL 389**SECTION 3**

1 71.01 (6) (o) 1. For taxable years beginning after December 31, 2022, for
2 individuals and fiduciaries, except fiduciaries of nuclear decommissioning trust or
3 reserve funds, “Internal Revenue Code” means the federal Internal Revenue Code
4 as amended to December 31, 2022, except as provided in subds. 2. and 3. and s. 71.98
5 and subject to subd. 4.

6 2. For purposes of this paragraph, “Internal Revenue Code” does not include
7 the following provisions of federal public laws for taxable years beginning after
8 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
9 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
10 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of
11 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.
12 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
13 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
14 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.
15 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122
16 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95;
17 sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101
18 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143,
19 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of
20 P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301,
21 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202,
22 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401
23 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101
24 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302,
25 and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii)

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1 and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145
2 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
3 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.
4 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. 117-103; P.L.
5 117-167; P.L. 117-263; P.L. 117-286; and section 4151 of P.L. 117-328.

6 3. For purposes of this paragraph, “Internal Revenue Code” does not include
7 amendments to the federal Internal Revenue Code enacted after December 31, 2022.

8 4. For purposes of this paragraph, the provisions of federal public laws that
9 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
10 apply for Wisconsin purposes at the same time as for federal purposes, except that
11 changes made by sections 9623 and 9624 of P.L. 117-2; sections 80401, 80402, and
12 80601 of division H of P.L. 117-58; sections 13203, 13303, and 13801 of P.L. 117-169;
13 and sections 102, 111, 114, 124, 126, and 605 of division T of P.L. 117-328 apply for
14 taxable years beginning after December 31, 2022.

15 **SECTION 4.** 71.22 (4) (m) 1. of the statutes is amended to read:

16 71.22 (4) (m) 1. For taxable years beginning after December 31, 2020, and
17 before January 1, 2022, “Internal Revenue Code” means the federal Internal
18 Revenue Code as amended to December 31, 2020, except as provided in subds. 2. and
19 3. and subject to subd. 4., and except as provided in sub. (4m) and ss. 71.26 (2) (b) and
20 (3), 71.34 (1g), 71.42 (2), and 71.98.

21 **SECTION 5.** 71.22 (4) (n) of the statutes is created to read:

22 71.22 (4) (n) 1. For taxable years beginning after December 31, 2021, and before
23 January 1, 2023, “Internal Revenue Code” means the federal Internal Revenue Code
24 as amended to December 31, 2021, except as provided in subds. 2. and 3. and subject

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1 to subd. 4., and except as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g),
2 71.42 (2), and 71.98.

3 2. For purposes of this paragraph, "Internal Revenue Code" does not include
4 the following provisions of federal public laws for taxable years beginning after
5 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
6 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
7 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of
8 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.
9 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
10 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
11 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.
12 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122
13 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95;
14 sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101
15 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143,
16 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of
17 P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301,
18 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202,
19 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401
20 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101
21 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302,
22 and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii)
23 and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145
24 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
25 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.

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1 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. 117-103; P.L.
2 117-167; P.L. 117-263; and P.L. 117-286.

3 3. For purposes of this paragraph, “Internal Revenue Code” does not include
4 amendments to the federal Internal Revenue Code enacted after December 31, 2021.

5 4. For purposes of this paragraph, the provisions of federal public laws that
6 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
7 apply for Wisconsin purposes at the same time as for federal purposes, except that
8 changes made by section 9671 of P.L. 117-2; and sections 80501 and 80504 of division
9 H of P.L. 117-58 apply for taxable years beginning after December 31, 2021.

10 **SECTION 6.** 71.22 (4) (o) of the statutes is created to read:

11 71.22 (4) (o) 1. For taxable years beginning after December 31, 2022, “Internal
12 Revenue Code” means the federal Internal Revenue Code as amended to December
13 31, 2022, except as provided in subds. 2. and 3. and subject to subd. 4., and except
14 as provided in sub. (4m) and ss. 71.26 (2) (b) and (3), 71.34 (1g), 71.42 (2), and 71.98.

15 2. For purposes of this paragraph, “Internal Revenue Code” does not include
16 the following provisions of federal public laws for taxable years beginning after
17 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
18 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
19 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of
20 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.
21 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
22 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
23 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.
24 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122
25 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95;

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1 sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101
2 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143,
3 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of
4 P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301,
5 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202,
6 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401
7 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101
8 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302,
9 and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii)
10 and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145
11 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
12 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.
13 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. 117-103; P.L.
14 117-167; P.L. 117-263; P.L. 117-286; and section 4151 of P.L. 117-328.

15 3. For purposes of this paragraph, “Internal Revenue Code” does not include
16 amendments to the federal Internal Revenue Code enacted after December 31, 2022.

17 4. For purposes of this paragraph, the provisions of federal public laws that
18 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
19 apply for Wisconsin purposes at the same time as for federal purposes, except that
20 changes made by sections 9623 and 9624 of P.L. 117-2; sections 80401, 80402, and
21 80601 of division H of P.L. 117-58; sections 13203, 13303, and 13801 of P.L. 117-169;
22 and sections 102, 111, 114, 124, 126, and 605 of division T of P.L. 117-328 apply for
23 taxable years beginning after December 31, 2022.

24 **SECTION 7.** 71.22 (4m) (m) 1. of the statutes is amended to read:

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1 71.22 (4m) (m) 1. For taxable years beginning after December 31, 2020, and
2 before January 1, 2022, “Internal Revenue Code,” for corporations that are subject
3 to a tax on unrelated business income under s. 71.26 (1) (a), means the federal
4 Internal Revenue Code as amended to December 31, 2020, except as provided in
5 subds. 2. and 3. and s. 71.98 and subject to subd. 4.

6 **SECTION 8.** 71.22 (4m) (n) of the statutes is created to read:

7 71.22 (4m) (n) 1. For taxable years beginning after December 31, 2021, and
8 before January 1, 2023, “Internal Revenue Code,” for corporations that are subject
9 to a tax on unrelated business income under s. 71.26 (1) (a), means the federal
10 Internal Revenue Code as amended to December 31, 2021, except as provided in
11 subds. 2. and 3. and s. 71.98 and subject to subd. 4.

12 2. For purposes of this paragraph, “Internal Revenue Code” does not include
13 the following provisions of federal public laws for taxable years beginning after
14 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
15 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
16 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of
17 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.
18 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
19 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
20 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.
21 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122
22 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95;
23 sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101
24 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143,
25 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of

SENATE BILL 389**SECTION 8**

1 P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301,
2 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202,
3 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401
4 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101
5 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302,
6 and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii)
7 and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145
8 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
9 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.
10 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. 117-103; P.L.
11 117-167; P.L. 117-263; and P.L. 117-286.

12 3. For purposes of this paragraph, “Internal Revenue Code” does not include
13 amendments to the federal Internal Revenue Code enacted after December 31, 2021.

14 4. For purposes of this paragraph, the provisions of federal public laws that
15 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
16 apply for Wisconsin purposes at the same time as for federal purposes, except that
17 changes made by section 9671 of P.L. 117-2; and sections 80501 and 80504 of division
18 H of P.L. 117-58 apply for taxable years beginning after December 31, 2021.

19 **SECTION 9.** 71.22 (4m) (o) of the statutes is created to read:

20 71.22 (4m) (o) 1. For taxable years beginning after December 31, 2022,
21 “Internal Revenue Code,” for corporations that are subject to a tax on unrelated
22 business income under s. 71.26 (1) (a), means the federal Internal Revenue Code as
23 amended to December 31, 2022, except as provided in subds. 2. and 3. and s. 71.98
24 and subject to subd. 4.

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1 2. For purposes of this paragraph, “Internal Revenue Code” does not include
2 the following provisions of federal public laws for taxable years beginning after
3 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
4 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
5 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of
6 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.
7 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
8 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
9 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.
10 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122
11 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95;
12 sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101
13 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143,
14 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of
15 P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301,
16 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202,
17 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401
18 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101
19 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302,
20 and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii)
21 and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145
22 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
23 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.
24 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. 117-103; P.L.
25 117-167; P.L. 117-263; P.L. 117-286; and section 4151 of P.L. 117-328.

SENATE BILL 389**SECTION 9**

1 3. For purposes of this paragraph, “Internal Revenue Code” does not include
2 amendments to the federal Internal Revenue Code enacted after December 31, 2022.

3 4. For purposes of this paragraph, the provisions of federal public laws that
4 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
5 apply for Wisconsin purposes at the same time as for federal purposes, except that
6 changes made by sections 9623 and 9624 of P.L. 117-2; sections 80401, 80402, and
7 80601 of division H of P.L. 117-58; sections 13203, 13303, and 13801 of P.L. 117-169;
8 and sections 102, 111, 114, 124, 126, and 605 of division T of P.L. 117-328 apply for
9 taxable years beginning after December 31, 2022.

10 **SECTION 10.** 71.34 (1g) (m) 1. of the statutes is amended to read:

11 71.34 (1g) (m) 1. For taxable years beginning after December 31, 2020, and
12 before January 1, 2022, for tax option corporations, “Internal Revenue Code” means
13 the federal Internal Revenue Code as amended to December 31, 2020, except as
14 provided in subds. 2., 3., and 5. and s. 71.98 and subject to subd. 4.

15 **SECTION 11.** 71.34 (1g) (n) of the statutes is created to read:

16 71.34 (1g) (n) 1. For taxable years beginning after December 31, 2021, and
17 before January 1, 2023, for tax option corporations, “Internal Revenue Code” means
18 the federal Internal Revenue Code as amended to December 31, 2021, except as
19 provided in subds. 2., 3., and 5. and s. 71.98 and subject to subd. 4.

20 2. For purposes of this paragraph, “Internal Revenue Code” does not include
21 the following provisions of federal public laws for taxable years beginning after
22 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
23 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
24 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of
25 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.

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1 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
2 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
3 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.
4 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122
5 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95;
6 sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101
7 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143,
8 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of
9 P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301,
10 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202,
11 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401
12 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101
13 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302,
14 and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii)
15 and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145
16 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
17 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.
18 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. of 117-103; P.L.
19 117-167; P.L. 117-263; and P.L. 117-286.

20 3. For purposes of this paragraph, “Internal Revenue Code” does not include
21 amendments to the federal Internal Revenue Code enacted after December 31, 2021.

22 4. For purposes of this paragraph, the provisions of federal public laws that
23 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
24 apply for Wisconsin purposes at the same time as for federal purposes, except that

SENATE BILL 389**SECTION 11**

1 changes made by section 9671 of P.L. 117-2; and sections 80501 and 80504 of division
2 H of P.L. 117-58 apply for taxable years beginning after December 31, 2021.

3 5. For purposes of this paragraph, section 1366 (f) of the Internal Revenue Code
4 (relating to pass-through of items to shareholders) is modified by substituting the
5 tax under s. 71.35 for the taxes under sections 1374 and 1375 of the Internal Revenue
6 Code.

7 **SECTION 12.** 71.34 (1g) (o) of the statutes is created to read:

8 71.34 (1g) (o) 1. For taxable years beginning after December 31, 2022, for tax
9 option corporations, “Internal Revenue Code” means the federal Internal Revenue
10 Code as amended to December 31, 2022, except as provided in subds. 2., 3., and 5. and
11 s. 71.98 and subject to subd. 4.

12 2. For purposes of this paragraph, “Internal Revenue Code” does not include
13 the following provisions of federal public laws for taxable years beginning after
14 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
15 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
16 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of
17 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.
18 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
19 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
20 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.
21 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122
22 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95;
23 sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101
24 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143,
25 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of

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1 P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301,
2 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202,
3 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401
4 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101
5 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302,
6 and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii)
7 and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145
8 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
9 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.
10 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. of 117-103; P.L.
11 117-167; P.L. 117-263; P.L. 117-286; and section 4151 of P.L. 117-328.

12 3. For purposes of this paragraph, “Internal Revenue Code” does not include
13 amendments to the federal Internal Revenue Code enacted after December 31, 2022.

14 4. For purposes of this paragraph, the provisions of federal public laws that
15 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
16 apply for Wisconsin purposes at the same time as for federal purposes, except that
17 changes made by sections 9623 and 9624 of P.L. 117-2; sections 80401, 80402, and
18 80601 of division H of P.L. 117-58; sections 13203, 13303, and 13801 of P.L. 117-169;
19 and sections 102, 111, 114, 124, 126, and 605 of division T of P.L. 117-328 apply for
20 taxable years beginning after December 31, 2022.

21 5. For purposes of this paragraph, section 1366 (f) of the Internal Revenue Code
22 (relating to pass-through of items to shareholders) is modified by substituting the
23 tax under s. 71.35 for the taxes under sections 1374 and 1375 of the Internal Revenue
24 Code.

25 **SECTION 13.** 71.42 (2) (m) 1. of the statutes is amended to read:

SENATE BILL 389**SECTION 13**

1 71.42 (2) (m) 1. For taxable years beginning after December 31, 2020, and
2 before January 1, 2022, “Internal Revenue Code” means the federal Internal
3 Revenue Code as amended to December 31, 2020, except as provided in subds. 2. and
4 3. and s. 71.98 and subject to subd. 4.

5 **SECTION 14.** 71.42 (2) (n) of the statutes is created to read:

6 71.42 (2) (n) 1. For taxable years beginning after December 31, 2021, and before
7 January 1, 2023, “Internal Revenue Code” means the federal Internal Revenue Code
8 as amended to December 31, 2021, except as provided in subds. 2. and 3. and s. 71.98
9 and subject to subd. 4.

10 2. For purposes of this paragraph, “Internal Revenue Code” does not include
11 the following provisions of federal public laws for taxable years beginning after
12 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
13 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
14 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of
15 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.
16 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
17 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
18 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.
19 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122
20 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95;
21 sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101
22 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143,
23 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of
24 P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301,
25 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202,

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1 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401
2 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101
3 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302,
4 and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii)
5 and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145
6 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
7 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.
8 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. of 117-103; P.L.
9 117-167; P.L. 117-263; and P.L. 117-286.

10 3. For purposes of this paragraph, “Internal Revenue Code” does not include
11 amendments to the federal Internal Revenue Code enacted after December 31, 2021.

12 4. For purposes of this paragraph, the provisions of federal public laws that
13 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
14 apply for Wisconsin purposes at the same time as for federal purposes, except that
15 changes made by section 9671 of P.L. 117-2; and sections 80501 and 80504 of division
16 H of P.L. 117-58 apply for taxable years beginning after December 31, 2021.

17 **SECTION 15.** 71.42 (2) (o) of the statutes is created to read:

18 71.42 (2) (o) 1. For taxable years beginning after December 31, 2022, “Internal
19 Revenue Code” means the federal Internal Revenue Code as amended to December
20 31, 2022, except as provided in subds. 2. and 3. and s. 71.98 and subject to subd. 4.

21 2. For purposes of this paragraph, “Internal Revenue Code” does not include
22 the following provisions of federal public laws for taxable years beginning after
23 December 31, 2021: sections 1, 3, 4, and 5 of P.L. 106-519; sections 101, 102, and 422
24 of P.L. 108-357; sections 1310 and 1351 of P.L. 109-58; section 11146 of P.L. 109-59;
25 section 403 (q) of P.L. 109-135; section 513 of P.L. 109-222; sections 104 and 307 of

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1 P.L. 109-432; sections 8233 and 8235 of P.L. 110-28; section 11 (e) and (g) of P.L.
2 110-172; section 301 of P.L. 110-245; section 15351 of P.L. 110-246; section 302 of
3 division A, section 401 of division B, and sections 312, 322, 502 (c), 707, and 801 of
4 division C of P.L. 110-343; sections 1232, 1251, 1501, and 1502 of division B of P.L.
5 111-5; sections 211, 212, 213, 214, and 216 of P.L. 111-226; sections 2011 and 2122
6 of P.L. 111-240; sections 754 and 760 of P.L. 111-312; section 1106 of P.L. 112-95;
7 sections 104, 318, 322, 323, 326, 327, and 411 of P.L. 112-240; P.L. 114-7; section 1101
8 of P.L. 114-74; section 305 of division P of P.L. 114-113; sections 123, 125 to 128, 143,
9 144, 151 to 153, 165 to 167, 169 to 171, 189, 191, 307, 326, and 411 of division Q of
10 P.L. 114-113; sections 11011, 11012, 13201 (a) to (e) and (g), 13206, 13221, 13301,
11 13304 (a), (b), and (d), 13531, 13601, 13801, 14101, 14102, 14103, 14201, 14202,
12 14211, 14212, 14213, 14214, 14215, 14221, 14222, 14301, 14302, 14304, and 14401
13 of P.L. 115-97; sections 40304, 40305, 40306, and 40412 of P.L. 115-123; section 101
14 (c) of division T of P.L. 115-141; sections 101 (d) and (e), 102, 201 to 207, 301, 302,
15 and 401 (a) (47) and (195), (b) (13), (17), (22) and (30), and (d) (1) (D) (v), (vi), and (xiii)
16 and (xvii) (II) of division U of P.L. 115-141; sections 104, 114, 115, 116, 130, and 145
17 of division Q of P.L. 116-94; sections 2304 and 2306 of P.L. 116-136; sections 111, 114,
18 115, 116, 118 (a) and (d), 133, 137, 138, and 210 of division EE of P.L. 116-260; P.L.
19 117-6; P.L. 117-44; P.L. 117-52; section 307 of division P of P.L. of 117-103; P.L.
20 117-167; P.L. 117-263; P.L. 117-286; and section 4151 of P.L. 117-328.

21 3. For purposes of this paragraph, “Internal Revenue Code” does not include
22 amendments to the federal Internal Revenue Code enacted after December 31, 2022.

23 4. For purposes of this paragraph, the provisions of federal public laws that
24 directly or indirectly affect the Internal Revenue Code, as defined in this paragraph,
25 apply for Wisconsin purposes at the same time as for federal purposes, except that

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1 changes made by sections 9623 and 9624 of P.L. 117-2; sections 80401, 80402, and
2 80601 of division H of P.L. 117-58; sections 13203, 13303, and 13801 of P.L. 117-169;
3 and sections 102, 111, 114, 124, 126, and 605 of division T of P.L. 117-328 apply for
4 taxable years beginning after December 31, 2022.

5 **SECTION 16.** 71.98 (5) of the statutes is renumbered 71.98 (5) (a) and amended
6 to read:

7 71.98 (5) (a) ~~For~~ Except as provided in par. (b), for stock acquired after
8 December 31, 2013, section 1202 of the Internal Revenue Code, as amended to
9 December 31, 2012, related to the exclusion for gain from certain small business
10 stock.

11 **SECTION 17.** 71.98 (5) (b) of the statutes is created to read:

12 71.98 (5) (b) For taxable years beginning after December 31, 2018, section 1202
13 of the Internal Revenue Code in effect for federal purposes.

14 (END)