



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-6234/1
EKL:cjs&ahe

2019 BILL

1 **AN ACT** *to create* 71.05 (6) (b) 54., 71.26 (2) (a) 13., 71.34 (1k) (q) and 71.45 (2)
2 (a) 22. of the statutes; **relating to:** income and franchise tax subtraction based
3 on commercial property taxes imposed in 2020.

Analysis by the Legislative Reference Bureau

This bill allows a business whose gross receipts are less during the COVID-19 public health emergency declared in executive order 72 than during the corresponding period in 2019 to subtract, for income and franchise tax purposes, a portion of the property taxes imposed in 2020 on the business's commercial property in Wisconsin. Specifically, the bill provides that, for each month during the COVID-19 public health emergency in which the business's Wisconsin gross receipts are at least 50 percent less than its Wisconsin gross receipts for the corresponding month in 2019, the subtraction equals one-twelfth of the property taxes multiplied by the fraction whose numerator is the gross receipts for that month and whose denominator is the gross receipts for the corresponding month in 2019. In order to make the subtraction, the business must be able to show, to the satisfaction of the Department of Revenue, that the 50 percent threshold is met and that the difference between the two months' gross receipts is primarily a result of the COVID-19 public health emergency or emergency order 28, the "safer at home" order, issued on April 16, 2020. The bill specifies that if the commercial property is leased, only the person who is obligated to pay the property taxes under the terms of the lease may make the subtraction. The subtraction is only available for taxable years beginning after December 31, 2019, and before January 1, 2021.

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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.

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.** 71.05 (6) (b) 54. of the statutes is created to read:

2 71.05 **(6)** (b) 54. a. For taxable years beginning after December 31, 2019, and
3 before January 1, 2021, an amount equal to, for each applicable month, one-twelfth
4 of the amount of property taxes imposed on the claimant's qualified property that are
5 payable and due in 2021 multiplied by a fraction, the numerator of which is the
6 claimant's gross receipts in this state during the applicable month and the
7 denominator of which is the claimant's gross receipts in this state during the
8 corresponding month in 2019. If the qualified property is leased, only the person who
9 is obligated to pay the property taxes under the terms of the lease may make the
10 subtraction under this subdivision.

11 b. In this subdivision, "applicable month" means any month that includes at
12 least one day covered by the public health emergency declared on March 12, 2020,
13 by executive order 72 if the claimant can show, to the satisfaction of the department,
14 that the claimant's gross receipts in this state during the month are at least 50
15 percent less than the claimant's gross receipts in this state during the corresponding
16 month in 2019 and that the difference in the gross receipts is primarily a result of
17 the public health emergency or emergency order 28, issued on April 16, 2020.

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1 c. In this subdivision, “claimant” means a sole proprietor; an individual partner
2 or member of a partnership, limited liability company, or limited liability
3 partnership; or an individual shareholder of a tax-option corporation.

4 d. In this subdivision, “qualified property” means real property, as defined in
5 s. 70.03, or personal property, as defined in s. 70.04, if the property is located in this
6 state, is used for commercial purposes, and was assessed under ch. 70 as of January
7 1, 2020.

8 e. An individual partner, member, or shareholder may not make a subtraction
9 under this subdivision if the entity of which the individual is a partner, member, or
10 shareholder makes a subtraction under this subdivision when computing net income
11 under s. 71.21 (6) (d) 1. or makes a subtraction under s. 71.34 (1k) (q) when computing
12 net income under s. 71.365 (4m) (d) 1.

13 **SECTION 2.** 71.26 (2) (a) 13. of the statutes is created to read:

14 71.26 (2) (a) 13. a. For taxable years beginning after December 31, 2019, and
15 before January 1, 2021, minus an amount equal to, for each applicable month,
16 one-twelfth of the amount of property taxes imposed on the corporation’s qualified
17 property that are payable and due in 2021 multiplied by a fraction, the numerator
18 of which is the corporation’s gross receipts in this state during the applicable month
19 and the denominator of which is the corporation’s gross receipts in this state during
20 the corresponding month in 2019. If the qualified property is leased, only the person
21 who is obligated to pay the property taxes under the terms of the lease may make the
22 subtraction under this subdivision.

23 b. In this subdivision, “applicable month” means any month that includes at
24 least one day covered by the public health emergency declared on March 12, 2020,
25 by executive order 72 if the claimant can show, to the satisfaction of the department,

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1 that the claimant's gross receipts in this state during the month are at least 50
2 percent less than the claimant's gross receipts in this state during the corresponding
3 month in 2019, and that the difference in the gross receipts is primarily a result of
4 the public health emergency or emergency order 28, issued on April 16, 2020.

5 c. In this subdivision, "qualified property" means real property, as defined in
6 s. 70.03, or personal property, as defined in s. 70.04, if the property is located in this
7 state, is used for commercial purposes, and was assessed under ch. 70 as of January
8 1, 2020.

9 **SECTION 3.** 71.34 (1k) (q) of the statutes is created to read:

10 71.34 (1k) (q) 1. For taxable years beginning after December 31, 2019, and
11 before January 1, 2021, a subtraction may be made in an amount equal to, for each
12 applicable month, one-twelfth of the amount of property taxes imposed on the
13 tax-option corporation's qualified property that are payable and due in 2021
14 multiplied by a fraction, the numerator of which is the tax-option corporation's gross
15 receipts in this state during the applicable month and the denominator of which is
16 the tax-option corporation's gross receipts in this state during the corresponding
17 month in 2019. If the qualified property is leased, only the person who is obligated
18 to pay the property taxes under the terms of the lease may make the subtraction
19 under this paragraph.

20 2. In this paragraph, "applicable month" means any month that includes at
21 least one day covered by the public health emergency declared on March 12, 2020,
22 by executive order 72 if the claimant can show, to the satisfaction of the department,
23 that the claimant's gross receipts in this state during the month are at least 50
24 percent less than the claimant's gross receipts in this state during the corresponding

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1 month in 2019, and that the difference in the gross receipts is primarily a result of
2 the public health emergency or emergency order 28, issued on April 16, 2020.

3 3. In this paragraph, “qualified property” means real property, as defined in s.
4 70.03, or personal property, as defined in s. 70.04, if the property is located in this
5 state, is used for commercial purposes, and was assessed under ch. 70 as of January
6 1, 2020.

7 **SECTION 4.** 71.45 (2) (a) 22. of the statutes is created to read:

8 71.45 (2) (a) 22. a. For taxable years beginning after December 31, 2019, and
9 before January 1, 2021, by subtracting from federal taxable income an amount equal
10 to, for each applicable month, one-twelfth of the amount of property taxes imposed
11 on the insurer’s qualified property that are payable and due in 2021 multiplied by
12 a fraction, the numerator of which is the insurer’s gross receipts in this state during
13 the applicable month and the denominator of which is the insurer’s gross receipts in
14 this state during the corresponding month in 2019. If the qualified property is
15 leased, only the person who is obligated to pay the property taxes under the terms
16 of the lease may make the subtraction under this subdivision.

17 b. In this subdivision, “applicable month” means any month that includes at
18 least one day covered by the public health emergency declared on March 12, 2020,
19 by executive order 72 if the claimant can show, to the satisfaction of the department,
20 that the claimant’s gross receipts in this state during the month are at least 50
21 percent less than the claimant’s gross receipts in this state during the corresponding
22 month in 2019, and that the difference in the gross receipts is primarily a result of
23 the public health emergency or emergency order 28, issued on April 16, 2020.

24 c. In this subdivision, “qualified property” means real property, as defined in
25 s. 70.03, or personal property, as defined in s. 70.04, if the property is located in this

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1 state, is used for commercial purposes, and was assessed under ch. 70 as of January
2 1, 2020.

3 (END)