



2021 ASSEMBLY BILL 327

May 13, 2021 - Introduced by Representatives SORTWELL, BROOKS, ALLEN, DITTRICH, HORLACHER, KNODL, KRUG, KUGLITSCH, MOSES, MURPHY, STEFFEN, THIESFELDT, WICHGERS and ZIMMERMAN, cosponsored by Senators KOOYENGA, BALLWEG, JACQUE and NASS. Referred to Committee on Ways and Means.

AUTHORS SUBJECT TO CHANGE

- 1 **AN ACT** *to renumber and amend* 71.05 (10) (c); and *to create* 71.05 (10) (c) 2.
2 and 3. of the statutes; **relating to:** increasing the net capital loss deduction.

Analysis by the Legislative Reference Bureau

This bill increases the maximum amount that individuals may claim as the net capital loss deduction to the same amount currently allowed under federal law.

Under current law, an individual subtracts his or her capital losses from capital gains when computing the amount of gain subject to Wisconsin income tax. If the capital losses exceed the capital gains, the individual may use up to \$500 of the net loss to offset ordinary income, thus reducing the amount of ordinary income subject to tax. If the individual's net capital loss exceeds \$500, the individual may carry forward the excess to future years and offset up to \$500 of ordinary income each year until the net loss is used up. Federal law similarly allows individuals to offset net capital losses against ordinary income and carry forward the excess. However, the maximum annual offset under federal law is \$3,000, which is reduced to \$1,500 for married individuals who file separate returns.

The bill increases the maximum annual offset for Wisconsin income tax purposes from \$500 to \$1,500 for married individuals filing separately and \$3,000 for all other individuals. The bill applies to taxable years beginning after December 31, 2022.

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.** 71.05 (10) (c) of the statutes is renumbered 71.05 (10) (c) 1. and
2 amended to read:

3 71.05 **(10)** (c) 1. ~~The~~ For taxable years ending before January 1, 2023, the
4 amount required so that the net capital loss, after netting capital gains and capital
5 losses to arrive at total capital gain or loss, is offset against ordinary income only to
6 the extent of \$500. ~~Losses and, except as provided in subd. 3., losses~~ in excess of \$500
7 shall be carried forward to the next taxable year and offset against ordinary income
8 up to the limit under this ~~paragraph~~ subdivision. Losses shall be used in the order
9 in which they accrue.

10 **SECTION 2.** 71.05 (10) (c) 2. and 3. of the statutes are created to read:

11 71.05 **(10)** (c) 2. For taxable years beginning after December 31, 2022, the
12 amount required so that the net capital loss, after netting capital gains and capital
13 losses to arrive at total capital gain or loss, is offset against ordinary income only to
14 the extent of \$3,000. Any excess net capital loss shall be carried forward to the next
15 taxable year, subject to subd. 3. If the taxpayer is a married person who files
16 separately, the \$3,000 limitation in this subdivision shall be \$1,500.

17 3. A net capital loss that is carried forward to a taxable year beginning after
18 December 31, 2022, shall be offset against ordinary income, limited to \$3,000, in that
19 taxable year. Losses shall be used in the order in which they accrue. If the taxpayer

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1 is a married person who files separately, the \$3,000 limitation in this subdivision
2 shall be \$1,500.

3 (END)