



State of Wisconsin
2011 - 2012 LEGISLATURE

January 2011 Special Session



LRB-0763/7
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ASSEMBLY BILL 7

January 11, 2011 - Introduced by COMMITTEE ON ASSEMBLY ORGANIZATION, by request of Governor Scott Walker, Representative Vos, and Senator Moulton. Referred to Committee on Jobs, Economy and Small Business.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45
2 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (5p), 71.10 (4) (dw), 71.28 (5p),
3 71.30 (3) (dw), 71.47 (5p) and 71.49 (1) (dw) of the statutes; **relating to:** an
4 income and franchise tax credit for small businesses.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for small businesses. Under the bill, a business that has less than \$500,000 in gross receipts in the taxable year may claim as a credit a percentage of the taxpayer's tax liability based on the amount of the gross receipts that exceed \$250,000. If the business has no more than \$250,000 in gross receipts in the taxable year, the business may claim a credit equal to 15 percent of its tax liability. Under the bill, the taxpayer does not receive a refund, but may apply any remaining credit amounts to subsequent taxable years.

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:

5 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

1 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
3 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), ~~(5p)~~, (5r), (5rm), and (8r) and
4 not passed through by a partnership, limited liability company, or tax-option
5 corporation that has added that amount to the partnership's, company's, or
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

7 **SECTION 2.** 71.07 (5p) of the statutes is created to read:

8 71.07 (5p) SMALL BUSINESS CREDIT. (a) *Definitions.* In this subsection:

9 1. "Claimant" means a person who files a claim under this subsection.

10 2. "Gross receipts from all activities" means gross receipts, gross sales, gross
11 dividends, gross interest income, gross rents, gross royalties, the gross sales price
12 from the disposition of capital assets and business assets, gross receipts passed
13 through from other entities, and all other receipts that are included in gross income
14 before apportionment for Wisconsin franchise or income tax purposes.

15 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
16 taxable years beginning after December 31, 2010, a claimant may claim as a credit
17 against the tax imposed under s. 71.02, up to the amount of the tax, the following
18 percentage of the claimant's gross tax liability in the taxable year for which the claim
19 relates:

20 1. If the gross receipts from all activities of the claimant's business in the
21 taxable year is no more than \$250,000, 15 percent.

22 2. If the gross receipts from all activities of the claimant's business in the
23 taxable year is greater than \$250,000, but less than \$500,000, a percentage equal to
24 15, minus the product of 0.00006 multiplied by the amount of the gross receipts for
25 the taxable year that exceed \$250,000.

1 3. If the gross receipts from all activities of the claimant's business in the
2 taxable year is \$500,000 or more, 0 percent.

3 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
4 corporations may not claim the credit under this subsection. A partnership, limited
5 liability company, or tax-option corporation shall compute the rate of credit that each
6 of its partners, members, or shareholders may claim and shall provide that
7 information to each of them.

8 (d) *Administration.* 1. A claimant shall claim the credit under this subsection
9 on a form prepared by the department and shall submit to the department any
10 documentation required by the department to administer the credit under this
11 subsection.

12 2. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies
13 to the credit under this subsection.

14 **SECTION 3.** 71.10 (4) (dw) of the statutes is created to read:

15 71.10 (4) (dw) Small business credit under s. 71.07 (5p).

16 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

17 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
18 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
19 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and (8r) and passed
20 through to partners shall be added to the partnership's income.

21 **SECTION 5.** 71.26 (2) (a) 4. of the statutes is amended to read:

22 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
23 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
24 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and (8r) and
25 not passed through by a partnership, limited liability company, or tax-option

1 corporation that has added that amount to the partnership's, limited liability
2 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

3 **SECTION 6.** 71.28 (5p) of the statutes is created to read:

4 71.28 (5p) SMALL BUSINESS CREDIT. (a) *Definitions.* In this subsection:

5 1. "Claimant" means a person who files a claim under this subsection.

6 2. "Gross receipts from all activities" means gross receipts, gross sales, gross
7 dividends, gross interest income, gross rents, gross royalties, the gross sales price
8 from the disposition of capital assets and business assets, gross receipts passed
9 through from other entities, and all other receipts that are included in gross income
10 before apportionment for Wisconsin franchise or income tax purposes.

11 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
12 taxable years beginning after December 31, 2010, a claimant may claim as a credit
13 against the tax imposed under s. 71.23, up to the amount of the tax, the following
14 percentage of the claimant's gross tax liability in the taxable year for which the claim
15 relates:

16 1. If the gross receipts from all activities of the claimant's business in the
17 taxable year is no more than \$250,000, 15 percent.

18 2. If the gross receipts from all activities of the claimant's business in the
19 taxable year is greater than \$250,000, but less than \$500,000, a percentage equal to
20 15, minus the product of 0.00006 multiplied by the amount of the gross receipts for
21 the taxable year that exceed \$250,000.

22 3. If the gross receipts from all activities of the claimant's business in the
23 taxable year is \$500,000 or more, 0 percent.

24 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
25 corporations may not claim the credit under this subsection. A partnership, limited

1 liability company, or tax-option corporation shall compute the rate of credit that each
2 of its partners, members, or shareholders may claim and shall provide that
3 information to each of them.

4 (d) *Administration.* 1. A claimant shall claim the credit under this subsection
5 on a form prepared by the department and shall submit to the department any
6 documentation required by the department to administer the credit under this
7 subsection.

8 2. Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to
9 the credit under this subsection.

10 **SECTION 7.** 71.30 (3) (dw) of the statutes is created to read:

11 71.30 (3) (dw) Small business credit under s. 71.28 (5p).

12 **SECTION 8.** 71.34 (1k) (g) of the statutes is amended to read:

13 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
14 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
15 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
16 (5k), (5p), (5r), (5rm), and (8r) and passed through to shareholders.

17 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

18 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
19 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
20 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and (8r) and not passed
21 through by a partnership, limited liability company, or tax-option corporation that
22 has added that amount to the partnership's, limited liability company's, or
23 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
24 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

25 **SECTION 10.** 71.47 (5p) of the statutes is created to read:

1 71.47 (5p) SMALL BUSINESS CREDIT. (a) *Definitions.* In this subsection:

2 1. "Claimant" means a person who files a claim under this subsection.

3 2. "Gross receipts from all activities" means gross receipts, gross sales, gross
4 dividends, gross interest income, gross rents, gross royalties, the gross sales price
5 from the disposition of capital assets and business assets, gross receipts passed
6 through from other entities, and all other receipts that are included in gross income
7 before apportionment for Wisconsin franchise or income tax purposes.

8 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
9 taxable years beginning after December 31, 2010, a claimant may claim as a credit
10 against the tax imposed under s. 71.43, up to the amount of the tax, the following
11 percentage of the claimant's gross tax liability in the taxable year for which the claim
12 relates:

13 1. If the gross receipts from all activities of the claimant's business in the
14 taxable year is no more than \$250,000, 15 percent.

15 2. If the gross receipts from all activities of the claimant's business in the
16 taxable year is greater than \$250,000, but less than \$500,000, a percentage equal to
17 15, minus the product of 0.00006 multiplied by the amount of the gross receipts for
18 the taxable year that exceed \$250,000.

19 3. If the gross receipts from all activities of the claimant's business in the
20 taxable year is \$500,000 or more, 0 percent.

21 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
22 corporations may not claim the credit under this subsection. A partnership, limited
23 liability company, or tax-option corporation shall compute the rate of credit that each
24 of its partners, members, or shareholders may claim and shall provide that
25 information to each of them.

1 (d) *Administration*. 1. A claimant shall claim the credit under this subsection
2 on a form prepared by the department and shall submit to the department any
3 documentation required by the department to administer the credit under this
4 subsection.

5 2. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies
6 to the credit under this subsection.

7 **SECTION 11.** 71.49 (1) (dw) of the statutes is created to read:

8 71.49 (1) (dw) Small business credit under s. 71.47 (5p).

9 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

10 77.92 (4) “Net business income,” with respect to a partnership, means taxable
11 income as calculated under section 703 of the Internal Revenue Code; plus the items
12 of income and gain under section 702 of the Internal Revenue Code, including taxable
13 state and municipal bond interest and excluding nontaxable interest income or
14 dividend income from federal government obligations; minus the items of loss and
15 deduction under section 702 of the Internal Revenue Code, except items that are not
16 deductible under s. 71.21; plus guaranteed payments to partners under section 707
17 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
18 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
19 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (~~5p~~), (5r), (5rm), and
20 (8r); and plus or minus, as appropriate, transitional adjustments, depreciation
21 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
22 excluding income, gain, loss, and deductions from farming. “Net business income,”
23 with respect to a natural person, estate, or trust, means profit from a trade or
24 business for federal income tax purposes and includes net income derived as an
25 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

