



## 2009 SENATE BILL 165

April 9, 2009 - Introduced by Senators DARLING, LEIBHAM, HOPPER and SCHULTZ, cosponsored by Representatives KNODL, VOS, TOWNSEND, GUNDRUM, BIES, LOTHIAN, KRAMER, BROOKS, MURTHA, KLEEFISCH, SPANBAUER and GUNDERSON. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

1     **AN ACT** *to renumber and amend* 71.07 (6) (am) 1.; *to amend* 71.07 (6) (am) 2.  
2             *d.*; and *to create* 71.07 (6) (am) 1. b. and 71.07 (6) (am) 2. e. of the statutes;  
3             **relating to:** changing the type of income that may be used to calculate the  
4             married persons tax credit.

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### *Analysis by the Legislative Reference Bureau*

Generally, under current law, married persons filing a joint income tax return may claim as a credit against Wisconsin income taxes otherwise due an amount equal to 3 percent of the earned income of the spouse with the lower earned income, but not more than \$480. Because this tax credit is nonrefundable, it may be claimed only up to the amount of income taxes otherwise due.

Under the bill, the credit that may be claimed is an amount equal to 3 percent of the sum of the earned income and retirement income of the spouse with the lower earned income but not more than \$480. The bill defines retirement income as payments or distributions received by an individual from a qualified retirement plan under the Internal Revenue Code or an individual retirement account.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

**SENATE BILL 165****SECTION 1**

1           **SECTION 1.** 71.07 (6) (am) 1. of the statutes is renumbered 71.07 (6) (am) 1.  
2 (intro.) and amended to read:

3           71.07 (6) (am) 1. In this paragraph, “earned”

4           a. “Earned income” means qualified earned income, as defined in section 221  
5 (b) of the ~~internal revenue code~~ Internal Revenue Code as amended to December 31,  
6 1985, plus employee business expenses under section 62 (2) (B) to (D) of that code,  
7 allocable to Wisconsin under s. 71.04, plus amounts received by the individual for  
8 services performed in the employ of the individual’s spouse minus the amount of  
9 disability income excluded under s. 71.05 (6) (b) 4. and minus any other amount not  
10 subject to tax under this chapter. Earned income is computed notwithstanding the  
11 fact that each spouse owns an undivided one-half interest in the whole of the marital  
12 property. A marital property agreement or unilateral statement under ch. 766  
13 transferring income between spouses has no effect in computing earned income  
14 under this paragraph.

15           **SECTION 2.** 71.07 (6) (am) 1. b. of the statutes is created to read:

16           71.07 (6) (am) 1. b. “Retirement income” means any payment or distribution  
17 received each year by an individual from a qualified retirement plan under the  
18 Internal Revenue Code or from an individual retirement account established under  
19 26 USC 408. Retirement income is computed notwithstanding the fact that each  
20 spouse owns an undivided one-half interest in the whole of the marital property. A  
21 marital property agreement or unilateral statement under ch. 766 transferring  
22 income between spouses has no effect in computing earned income under this  
23 paragraph.

24           **SECTION 3.** 71.07 (6) (am) 2. d. of the statutes is amended to read:

