



2009 SENATE BILL 187

May 4, 2009 - Introduced by Senators HARSDORF and TAYLOR, cosponsored by Representatives TOWNSEND, LEMAHIEU, NASS, SPANBAUER, A. OTT, VOS, GUNDERSON, LOTHIAN, BROOKS and KNODL. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

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 (5n), 71.10 (4) (cr), 71.28 (5n), 71.30
3 (3) (dr), 71.47 (5n) and 71.49 (1) (dr) of the statutes; **relating to:** an income and
4 franchise tax credit for wages paid to an employee who is deployed or called to
5 active duty with the national guard or a reserve unit of the U.S. armed forces.

Analysis by the Legislative Reference Bureau

Under this bill, a taxpayer may claim an income and franchise tax credit in an amount equal to 20 percent of the amount of wages that the taxpayer paid in the taxable year to the taxpayer's employees who are members of the national guard or a reserve unit of the U.S. armed forces and who, in the taxable year, are deployed or called into active duty with the national guard or reserve unit. The maximum amount of the credit that a taxpayer may claim in a taxable year is \$10,000. If the credit amount exceeds the amount of the taxpayer's tax liability, the taxpayer does not receive a refund, but, instead, may carry forward the amount of the unused credit 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:

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1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
2 2, is amended to read:

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

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

10 71.07 **(5n)** ACTIVE DUTY EMPLOYEE CREDIT. (a) *Definitions.* In this subsection,
11 “claimant” means a person who files a claim under this subsection.

12 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
13 taxable years beginning after December 31, 2008, a claimant may claim as a credit
14 against the taxes imposed under s. 71.02, up to the amount of the taxes, 20 percent
15 of the amount of wages that the claimant paid in the taxable year to the claimant's
16 employees who are members of the national guard or a reserve unit of the U.S. armed
17 forces and who, in the taxable year, are deployed or called into active duty with the
18 national guard or reserve unit.

19 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
20 claim under this subsection in a taxable year is \$10,000.

21 2. Partnerships, limited liability companies, and tax-option corporations may
22 not claim the credit under this subsection, but the eligibility for, and the amount of,
23 the credit are based on their payment of amounts under par. (b). A partnership,
24 limited liability company, or tax-option corporation shall compute the amount of
25 credit that each of its partners, members, or shareholders may claim and shall

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1 provide that information to each of them. Partners, members of limited liability
2 companies, and shareholders of tax-option corporations may claim the credit in
3 proportion to their ownership interests.

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

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

7 71.10 (4) (cr) Active duty employee credit under s. 71.07 (5n).

8 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 2, is
9 amended to read:

10 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
11 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3r), (3s), (3t), (3w), (5e),
12 (5f), (5g), (5h), (5i), (5j), ~~and (5k),~~ and (5n) and passed through to partners shall be
13 added to the partnership's income.

14 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 2,
15 is amended to read:

16 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
17 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3r), (3t), (3w),
18 (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k),~~ and (5n) and not passed through by a
19 partnership, limited liability company, or tax-option corporation that has added that
20 amount to the partnership's, limited liability company's, or tax-option corporation's
21 income under s. 71.21 (4) or 71.34 (1k) (g).

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

23 71.28 (5n) ACTIVE DUTY EMPLOYEE CREDIT. (a) *Definitions.* In this subsection,
24 "claimant" means a person who files a claim under this subsection.

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1 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
2 taxable years beginning after December 31, 2008, a claimant may claim as a credit
3 against the taxes imposed under s. 71.23, up to the amount of the taxes, 20 percent
4 of the amount of wages that the claimant paid in the taxable year to the claimant's
5 employees who are members of the national guard or a reserve unit of the U.S. armed
6 forces and who, in the taxable year, are deployed or called into active duty with the
7 national guard or reserve unit.

8 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
9 claim under this subsection in a taxable year is \$10,000.

10 2. Partnerships, limited liability companies, and tax-option corporations may
11 not claim the credit under this subsection, but the eligibility for, and the amount of,
12 the credit are based on their payment of amounts under par. (b). A partnership,
13 limited liability company, or tax-option corporation shall compute the amount of
14 credit that each of its partners, members, or shareholders may claim and shall
15 provide that information to each of them. Partners, members of limited liability
16 companies, and shareholders of tax-option corporations may claim the credit in
17 proportion to their ownership interests.

18 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
19 sub. (4), applies to the credit under this subsection.

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

21 71.30 **(3)** (dr) Active duty employee credit under s. 71.28 (5n).

22 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 2,
23 is amended to read:

24 71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option
25 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),

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1 (3), (3g), (3h), (3n), (3p), (3r), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), and (5k), and (5n)
2 and passed through to shareholders.

3 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
4 2, is amended to read:

5 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
6 computed under s. 71.47 (1dd) to (1dy), (3h), (3n), (3p), (3r), (3w), (5e), (5f), (5g), (5h),
7 (5i), (5j), and (5k), and (5n) and not passed through by a partnership, limited liability
8 company, or tax-option corporation that has added that amount to the partnership's,
9 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
10 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and
11 (5).

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

13 71.47 (5n) ACTIVE DUTY EMPLOYEE CREDIT. (a) *Definitions.* In this subsection,
14 "claimant" means a person who files a claim under this subsection.

15 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
16 taxable years beginning after December 31, 2008, a claimant may claim as a credit
17 against the taxes imposed under s. 71.43, up to the amount of the taxes, 20 percent
18 of the amount of wages that the claimant paid in the taxable year to the claimant's
19 employees who are members of the national guard or a reserve unit of the U.S. armed
20 forces and who, in the taxable year, are deployed or called into active duty with the
21 national guard or reserve unit.

22 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
23 claim under this subsection in a taxable year is \$10,000.

24 2. Partnerships, limited liability companies, and tax-option corporations may
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

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1 the credit are based on their payment of amounts under par. (b). A partnership,
2 limited liability company, or tax-option corporation shall compute the amount of
3 credit that each of its partners, members, or shareholders may claim and shall
4 provide that information to each of them. Partners, members of limited liability
5 companies, and shareholders of tax-option corporations may claim the credit in
6 proportion to their ownership interests.

7 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
8 s. 71.28 (4), applies to the credit under this subsection.

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

10 71.49 (1) (dr) Active duty employee credit under s. 71.47 (5n).

11 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 2, is
12 amended to read:

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

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1 person, estate, or trust, means profit from a trade or business for federal income tax
2 purposes and includes net income derived as an employee as defined in section 3121
3 (d) (3) of the Internal Revenue Code.

4 (END)