

State of Wisconsin



2005 Senate Bill 103

Date of enactment: **May 25, 2006**
Date of publication*: **June 9, 2006**

2005 WISCONSIN ACT 452

AN ACT *to renumber and amend* 71.28 (4) (a), 71.28 (5) (a), 71.47 (4) (a) and 71.47 (5) (a); *to amend* 71.28 (4) (am) 1. and 71.47 (4) (am); and *to create* 71.28 (4) (ab), 71.28 (4) (ad) 2., 71.28 (4) (ad) 3., 71.28 (4) (af), 71.28 (5) (ab), 71.28 (5) (ad) 2., 71.28 (5) (ad) 3., 71.47 (4) (ab), 71.47 (4) (ad) 2., 71.47 (4) (ad) 3., 71.47 (4) (af), 71.47 (5) (ab), 71.47 (5) (ad) 2. and 71.47 (5) (ad) 3. of the statutes; **relating to**: the income and franchise tax credit for research and research facilities.

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

SECTION 1. 71.28 (4) (a) of the statutes is renumbered 71.28 (4) (ad) 1. and amended to read:

71.28 (4) (ad) *Credit*. 1. Any Except as provided in subs. 2. and 3., any corporation may credit against taxes otherwise due under this chapter an amount equal to 5% 5 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the ~~internal revenue code~~ Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d).

Section 41 (h) of the ~~internal revenue code~~ Internal Revenue Code does not apply to the credit under this paragraph.

SECTION 2. 71.28 (4) (ab) of the statutes is created to read:

71.28 (4) (ab) *Definitions*. In this subsection:

1. "Frame" includes:
 - a. Every part of a motorcycle, except the tires.
 - b. In the case of a truck, the control system and the fuel and drive train, excluding any comfort features located in the cab or the tires.
 - c. In the case of a generator, the control modules, fuel train, fuel scrubbing process, fuel mixers, generator, heat exchangers, exhaust train, and similar components.
2. "Internal combustion engine" includes substitute products such as fuel cell, electric, and hybrid drives.
3. "Vehicle" means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. "Vehicle" includes any truck, tractor, motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

SECTION 3. 71.28 (4) (ad) 2. of the statutes is created to read:

71.28 (4) (ad) 2. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

SECTION 3e. 71.28 (4) (ad) 3. of the statutes is created to read:

71.28 (4) (ad) 3. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

SECTION 4. 71.28 (4) (af) of the statutes is created to read:

71.28 (4) (af) *Computation.* If in any taxable year a corporation claims a credit under par. (ad) 1., 2., or 3., or any combination of those credits, the corporation may use a different computation method to calculate each of the credits and may choose to change the computation method once for each credit without the department's approval.

SECTION 5. 71.28 (4) (am) 1. of the statutes is amended to read:

71.28 (4) (am) 1. In addition to the credit under par. ~~(a) (ad)~~, any corporation may credit against taxes otherwise due under this chapter an amount equal to ~~5%~~ 5 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal Revenue Code, except that "qualified research expenses" include only expenses incurred by the claimant in a development zone under subch. VI of ch. 560, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation and except that "qualified research expenses" do not include compensation used in computing the credit under sub. (1dj) nor research expenses incurred before the claimant is certified for tax benefits under s. 560.765 (3), the corporation's base amount, as defined in section 41 (c) of the ~~internal revenue code~~ Internal Revenue Code, in a development zone, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d) and research expenses used in calculating the base amount include research expenses incurred before the claimant is certified for tax benefits under s. 560.765 (3), in a development zone, if the claimant submits with the claimant's return a copy of the claimant's certification for tax benefits under s. 560.765 (3) and a statement from the department of commerce verifying the claimant's qualified research expenses for research conducted exclusively in a development zone. The rules under s. 73.03 (35) apply to the credit under this subdivision. The rules under sub. (1di) (f) and (g) as they apply to the credit under that subsection apply to claims under this subdivision. Section 41 (h) of the ~~internal revenue code~~ Internal Revenue Code does not apply to the credit under this subdivision.

SECTION 6. 71.28 (5) (a) of the statutes is renumbered 71.28 (5) (ad) 1. and amended to read:

71.28 (5) (ad) *Credit.* 1. ~~For~~ Except as provided in subs. 2. and 3., for taxable year 1986 and subsequent years, any corporation may credit against taxes otherwise due under this chapter an amount equal to ~~5%~~ 5 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified

research, as defined in section 41 of the ~~internal revenue code~~ Internal Revenue Code. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

SECTION 7. 71.28 (5) (ab) of the statutes is created to read:

71.28 (5) (ab) *Definitions.* In this subsection:

1. "Frame" includes:

- a. Every part of a motorcycle, except the tires.
- b. In the case of a truck, the control system and the fuel and drive train, excluding any comfort features located in the cab or the tires.
- c. In the case of a generator, the control modules, fuel train, fuel scrubbing process, fuel mixers, generator, heat exchangers, exhaust train, and similar components.

2. "Internal combustion engine" includes substitute products such as fuel cell, electric, and hybrid drives.

3. "Vehicle" means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. "Vehicle" includes any truck, tractor, motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

SECTION 8. 71.28 (5) (ad) 2. of the statutes is created to read:

71.28 (5) (ad) 2. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses paid or incurred by the claimant for research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

SECTION 8e. 71.28 (5) (ad) 3. of the statutes is created to read:

71.28 (5) (ad) 3. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses paid or incurred by the claimant

for research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

SECTION 9. 71.47 (4) (a) of the statutes is renumbered 71.47 (4) (ad) 1. and amended to read:

71.47 (4) (ad) *Credit.* 1. ~~Any~~ Except as provided in subs. 2. and 3., any corporation may credit against taxes otherwise due under this chapter an amount equal to ~~5%~~ 5 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the ~~internal revenue code~~ Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section 41 (h) of the ~~internal revenue code~~ Internal Revenue Code does not apply to the credit under this paragraph.

SECTION 10. 71.47 (4) (ab) of the statutes is created to read:

71.47 (4) (ab) *Definitions.* In this subsection:

1. "Frame" includes:

- a. Every part of a motorcycle, except the tires.
- b. In the case of a truck, the control system and the fuel and drive train, excluding any comfort features located in the cab or the tires.
- c. In the case of a generator, the control modules, fuel train, fuel scrubbing process, fuel mixers, generator, heat exchangers, exhaust train, and similar components.

2. "Internal combustion engine" includes substitute products such as fuel cell, electric, and hybrid drives.

3. "Vehicle" means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. "Vehicle" includes any truck, tractor, motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

SECTION 11. 71.47 (4) (ad) 2. of the statutes is created to read:

71.47 (4) (ad) 2. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

SECTION 11e. 71.47 (4) (ad) 3. of the statutes is created to read:

71.47 (4) (ad) 3. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the Internal Revenue Code, except that "qualified research expenses" includes only expenses incurred by the claimant for research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use, incurred for research conducted in this state for the taxable year, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation, except as provided in par. (af), and except that "qualified research expenses" does not include compensation used in computing the credit under subs. (1dj) and (1dx), the corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

SECTION 12. 71.47 (4) (af) of the statutes is created to read:

71.47 (4) (af) *Computation.* If in any taxable year a corporation claims a credit under par. (ad) 1., 2., or 3., or any combination of those credits, the corporation may use a different computation method to calculate each of the credits and may choose to change the computation method once for each credit without the department's approval.

SECTION 13. 71.47 (4) (am) of the statutes is amended to read:

71.47 (4) (am) *Development zone additional research credit.* In addition to the credit under par. (a) (ad), any corporation may credit against taxes otherwise due under this chapter an amount equal to ~~5%~~ 5 percent of the amount obtained by subtracting from the corporation's qualified research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal Revenue Code, except that "qualified research expenses" include only expenses incurred by the claimant in a development zone under subch. VI of ch. 560, except that a taxpayer may elect the alternative computation under section 41 (c) (4) of the Internal Revenue Code and that election applies until the department permits its revocation and except that "qualified research expenses" do not include compensation used in computing the credit under sub. (1dj) nor research expenses incurred before the claimant is certified for tax benefits under s. 560.765 (3), the corporation's base amount, as defined in section 41 (c) of the ~~internal revenue code~~ Internal Revenue Code, in a development zone, except that gross receipts used in calculating the base amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d) and research expenses used in calculating the base amount include research expenses incurred before the claimant is certified for tax benefits under s. 560.765 (3), in a development zone, if the claimant submits with the claimant's return a copy of the claimant's certification for tax benefits under s. 560.765 (3) and a statement from the department of commerce verifying the claimant's qualified research expenses for research conducted exclusively in a development zone. The rules under s. 73.03 (35) apply to the credit under this paragraph. The rules under sub. (1di) (f) and (g) as they apply to the credit under that subsection apply to claims under this paragraph. Section 41 (h) of the ~~internal revenue code~~ Internal Revenue Code does not apply to the credit under this paragraph. No credit may be claimed under this paragraph for taxable years that begin on January 1, 1998, or thereafter. Credits under this paragraph for taxable years that begin before January 1, 1998, may be carried forward to taxable years that begin on January 1, 1998, or thereafter.

SECTION 14. 71.47 (5) (a) of the statutes is renumbered 71.47 (5) (ad) 1. and amended to read:

71.47 (5) (ad) *Credit.* 1. ~~For~~ Except as provided in subs. 2. and 3., for taxable year 1986 and subsequent years, any corporation may credit against taxes otherwise

due under this chapter an amount equal to ~~5%~~ 5 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the ~~internal revenue code~~ Internal Revenue Code. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

SECTION 15. 71.47 (5) (ab) of the statutes is created to read:

71.47 (5) (ab) *Definitions.* In this subsection:

1. “Frame” includes:

a. Every part of a motorcycle, except the tires.

b. In the case of a truck, the control system and the fuel and drive train, excluding any comfort features located in the cab or the tires.

c. In the case of a generator, the control modules, fuel train, fuel scrubbing process, fuel mixers, generator, heat exchangers, exhaust train, and similar components.

2. “Internal combustion engine” includes substitute products such as fuel cell, electric, and hybrid drives.

3. “Vehicle” means any vehicle or frame, including parts, accessories, and component technologies, in which or on which an engine is mounted for use in mobile or stationary applications. “Vehicle” includes any truck, tractor, motorcycle, snowmobile, all-terrain vehicle, boat, personal watercraft, generator, construction equipment, lawn and garden maintenance equipment, automobile, van, sports utility vehicle, motor home, bus, or aircraft.

SECTION 16. 71.47 (5) (ad) 2. of the statutes is created to read:

71.47 (5) (ad) 2. For taxable years beginning after June 30, 2007, any corporation may credit against taxes

otherwise due under this chapter an amount equal to 10 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code, except that “qualified research expenses” includes only expenses paid or incurred by the claimant for research related to designing internal combustion engines for vehicles, including expenses related to designing vehicles that are powered by such engines and improving production processes for such engines and vehicles. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.

SECTION 16e. 71.47 (5) (ad) 3. of the statutes is created to read:

71.47 (5) (ad) 3. For taxable years beginning after June 30, 2007, any corporation may credit against taxes otherwise due under this chapter an amount equal to 10 percent of the amount paid or incurred by that corporation during the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined in section 41 of the Internal Revenue Code, except that “qualified research expenses” includes only expenses paid or incurred by the claimant for research related to the design and manufacturing of energy efficient lighting systems, building automation and control systems, or automotive batteries for use in hybrid-electric vehicles, that reduce the demand for natural gas or electricity or improve the efficiency of its use. Eligible amounts include only amounts paid or incurred for tangible, depreciable property but do not include amounts paid or incurred for replacement property.