

## 2005 DRAFTING REQUEST

### Bill

Received: **01/11/2006**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Karl Van Roy (608) 266-0616**

By/Representing: **tanya**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.VanRoy@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

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### Pre Topic:

No specific pre topic given

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### Topic:

Income and franchise tax credit for property taxes paid for restaurant kitchen equipment

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### Instructions:

See Attached

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### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	jkreye 01/11/2006	jdyer 01/13/2006	jfrantze 01/13/2006	_____	mbarman 01/13/2006	lemery 01/17/2006	

FE Sent For:

<END>

01-30-2006  
(1/1)  
see attached  
Rush

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Subject: Tax, Business - credits

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/?	jkreye	1 1/13 jcd		J. Selb 1/13			State

FE Sent For:

<END>

1-11-06

Conyo — Van Roy AP339 +

a 0852/1

(definitions)

Turn into the tax credit



## 2005 ASSEMBLY BILL 339

April 15, 2005 – Introduced by Representatives VAN ROY, AINSWORTH, DAVIS, FREESE, GARD, GRONEMUS, GUNDERSON, HINES, JENSEN, JESKEWITZ, KRAWCZYK, KREIBICH, F. LASEE, MURSAU, MUSSER, NASS, NISCHKE, OTT, OWENS, PETTIS, PETROWSKI, SEIDEL, SHILLING, STRACHOTA, SUDER, TOWNS, VOS, VRAKAS, M. WILLIAMS and WOOD, cosponsored by Senators LEIBHAM, KEDZIE, A. LASEE, REYNOLDS and ROESSLER. Referred to Committee on Small Business. Referred to Joint Survey Committee on Tax Exemptions.

1 AN ACT *to create* 70.11 (27m) of the statutes; **relating to:** a property tax  
2 exemption for restaurant kitchen equipment.

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### *Analysis by the Legislative Reference Bureau*

This bill creates a property tax exemption for machinery and equipment used primarily in the operation of a restaurant's kitchen to prepare or serve food or beverages, regardless of whether the machinery or equipment is attached to real property.

This bill will be referred to the Joint Survey Committee on Tax Exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* 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:*

3 SECTION 1. 70.11 (27m) of the statutes is created to read:  
4 70.11 (27m) RESTAURANT KITCHEN EQUIPMENT. (a) In this subsection,  
5 "machinery" has the meaning given in sub. (27) (a) 2.



**ASSEMBLY AMENDMENT 1,  
TO 2005 ASSEMBLY BILL 339**

September 6, 2005 – Offered by COMMITTEE ON SMALL BUSINESS.

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 1, line 4: delete lines 4 and 5 and substitute:

3 “70.11 **(27m)** RESTAURANT KITCHEN EQUIPMENT. (a) In this subsection:

4 1. “Machinery” has the meaning given in sub. (27) (a) 2.

5 2. “Restaurant” includes pizza delivery establishments, snack bars, beverage  
6 bars, takeout food shops, and mobile food services, including mobile snack stands,  
7 mobile canteens, and ice cream vendors.”.

8 **2.** Page 2, line 1: after “equipment” insert “, including refrigerators and other  
9 storage equipment,”.

10 **3.** Page 2, line 5: delete “2005” and substitute “2006”.

11

(END)



Jld

2005 BILL

m 1-11-06

SOON

Gen

1 AN ACT ...; relating to: an income and franchise credit for property taxes paid on  
2 restaurant kitchen machinery and equipment.

*Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit in an amount that is equal to the amount of property taxes that a taxpayer paid in the taxable year on machinery and equipment, including refrigerators and other storage equipment, used primarily in the operation of a restaurant's kitchen to prepare or serve food or beverages. Under the bill, a restaurant includes pizza delivery establishments, snack bars, beverage bars, takeout food shops, and mobile food services, including mobile snack stands, mobile canteens, and ice cream vendors.

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:*

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

4 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
5 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), and (5h)  
6 and not passed through by a partnership, limited liability company, or tax-option

## BILL

## SECTION 1

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

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 55; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326; 2005 a. 22, 25; s. 13.93 (2) (c).

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

4 **71.07 (5h) RESTAURANT KITCHEN EQUIPMENT CREDIT.** (a) *Definitions.* In this  
5 subsection:

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

7 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.

8 3. "Restaurant" includes pizza delivery establishments, snack bars, beverage  
9 bars, takeout food shops, and mobile food services, including mobile snack stands,  
10 mobile canteens, and ice cream vendors.

11 (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
12 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the  
13 amount of those taxes, an amount that is equal to the taxes imposed under ch. 70 that  
14 the claimant paid in the taxable year on machinery and equipment, including  
15 refrigerators and other storage equipment, used primarily in the operation of a  
16 restaurant's kitchen to prepare or serve food or beverages.

17 (c) *Limitations.* Partnerships, limited liability companies, and tax-option  
18 corporations may not claim the credit under this subsection, but the eligibility for,  
19 and the amount of, the credit are based on their payment of amounts under par. (b).  
20 A partnership, limited liability company, or tax-option corporation shall compute  
21 the amount of credit that each of its partners, members, or shareholders may claim  
22 and shall provide that information to each of them. Partners, members of limited  
23 liability companies, and shareholders of tax-option corporations may claim the  
24 credit in proportion to their ownership interests.

**BILL**

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

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

4 71.10 (4) (gxx) Restaurant kitchen equipment credit under s. 71.07 (5h).

5 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is  
6 amended to read:

7 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
8 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5g), and (5h) and passed  
9 through to partners shall be added to the partnership's income.

10 History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 40; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326.

10 **SECTION 5.** 71.26 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 74,  
11 is amended to read:

12 71.26 (2) (a) *Corporations in general*. The "net income" of a corporation means  
13 the gross income as computed under the Internal Revenue Code as modified under  
14 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
15 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
16 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
17 under this paragraph at the time that the taxpayer first claimed the credit plus the  
18 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
19 (1ds), (1dx), (3g), (3n), (3t), (5b), and (5g), and (5h) and not passed through by a  
20 partnership, limited liability company, or tax-option corporation that has added that  
21 amount to the partnership's, limited liability company's, or tax-option corporation's  
22 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or  
23 other disposition of assets the gain from which would be wholly exempt income, as  
24 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and

## BILL

## SECTION 5

1 minus deductions, as computed under the Internal Revenue Code as modified under  
2 sub. (3), plus or minus, as appropriate, an amount equal to the difference between  
3 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or  
4 otherwise disposed of in a taxable transaction during the taxable year, except as  
5 provided in par. (b) and s. 71.45 (2) and (5).

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428; 1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326; 2005 a. 25.

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

7 **71.28 (5h) RESTAURANT KITCHEN EQUIPMENT CREDIT.** (a) *Definitions.* In this  
8 subsection:

- 9 1. "Claimant" means a person who files a claim under this subsection.
- 10 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.
- 11 3. "Restaurant" includes pizza delivery establishments, snack bars, beverage  
12 bars, takeout food shops, and mobile food services, including mobile snack stands,  
13 mobile canteens, and ice cream vendors.

14 (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
15 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the  
16 amount of those taxes, an amount that is equal to the taxes imposed under ch. 70 that  
17 the claimant paid in the taxable year on machinery and equipment, including  
18 refrigerators and other storage equipment, used primarily in the operation of a  
19 restaurant's kitchen to prepare or serve food or beverages.

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

**BILL**

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

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

6 **SECTION 7.** 71.30 (3) (epa) ✓ of the statutes is created to read:

7 71.30 (3) (epa) Restaurant kitchen equipment credit under s. 71.28 (5h). ✓

8 **SECTION 8.** 71.34 (1) (g) ✓ of the statutes, as affected by 2005 Wisconsin Act 74,  
9 is amended to read:

10 71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
11 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
12 (3n), (3t), (5b), and (5g), and (5h) ✓ and passed through to shareholders.

History: 2005 a. 74.

13 **SECTION 9.** 71.45 (2) (a) 10. ✓ of the statutes, as affected by 2005 Wisconsin Act  
14 74, is amended to read:

15 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
16 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), and (5g), and (5h) ✓ and not passed  
17 through by a partnership, limited liability company, or tax-option corporation that  
18 has added that amount to the partnership's, limited liability company's, or  
19 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of  
20 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

History: 2005 a. 74.

21 **SECTION 10.** 71.47 (5h) ✓ of the statutes is created to read:

22 71.47 (5h) RESTAURANT KITCHEN EQUIPMENT CREDIT. (a) *Definitions.* ✓ In this  
23 subsection:

**BILL****SECTION 10**

- 1           1. "Claimant" means a person who files a claim under this subsection. ✓  
2           2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2. ✓  
3           3. "Restaurant" includes pizza delivery establishments, snack bars, beverage  
4 bars, takeout food shops, and mobile food services, including mobile snack stands,  
5 mobile canteens, and ice cream vendors.

6           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
7 claimant may claim as a credit against the taxes imposed under s. 71.43, ✓ up to the  
8 amount of those taxes, an amount that is equal to the taxes imposed under ✓ ch. 70 that  
9 the claimant paid in the taxable year on machinery and equipment, including  
10 refrigerators and other storage equipment, used primarily in the operation of a  
11 restaurant's kitchen to prepare or serve food or beverages.

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

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

22           **SECTION 11.** 71.49 (1) (gxx) ✓ of the statutes is created to read:

23           71.49 (1) (gxx) Restaurant kitchen equipment credit under s. 71.47 (5h). ✓

24           **SECTION 12.** 77.92 (4) ✓ of the statutes, as affected by 2005 Wisconsin Act 74, is  
25 amended to read:



**Emery, Lynn**

---

**From:** Hein, Tanya  
**Sent:** Tuesday, January 17, 2006 2:09 PM  
**To:** LRB.Legal  
**Subject:** Draft review: LRB 05-4382/1 Topic: Income and franchise tax credit for property taxes paid for restaurant kitchen equipment

It has been requested by <Hein, Tanya> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-4382/1 Topic: Income and franchise tax credit for property taxes paid for restaurant kitchen equipment

## Barman, Mike

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**From:** Barman, Mike  
**Sent:** Monday, January 30, 2006 1:06 PM  
**To:** Hein, Tanya  
**Subject:** RE: Small Business Committee PDF bill drafts for public hearing

Tanya -

I will submit these two drafts to DOA for early fiscal estimates. I will note that the FE's are needed by Monday, February 6th so hopefully you will have them for your hearing on Tuesday. Let me know if I can be of further assistance.

**Mike Barman (Senior Program Assistant)**  
State of Wisconsin - Legislative Reference Bureau  
Legal Section - Front Office  
1 East Main Street, Suite 200, Madison, WI 53703  
(608) 266-3561 / [mike.barman@legis.state.wi.us](mailto:mike.barman@legis.state.wi.us)

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**From:** Hein, Tanya  
**Sent:** Monday, January 30, 2006 12:33 PM  
**To:** Barman, Mike  
**Subject:** FW: Small Business Committee PDF bill drafts for public hearing

Mike,

Vicky says I should contact you. I would like to get fiscal estimates for two LRB drafts that will soon be given bill numbers and referred to the Committee on Small Business. We would like to have a public hearing and executive session on the two LRBs attached below on February 7. They are tax credit versions of two bills that were originally drafted as tax exemptions and had fiscal estimates prepared on those.

Please let me know if you have any questions. Thanks.

**Tanya R. Hein**  
Legislative Aide  
Rep. Karl Van Roy

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**From:** LaBelle, Vicky - DOA [<mailto:Vicky.LaBelle@Wisconsin.gov>]  
**Sent:** Monday, January 30, 2006 12:24 PM  
**To:** Hein, Tanya  
**Cc:** Ziegler, Paul D; Barman, Mike  
**Subject:** RE: Small Business Committee PDF bill drafts for public hearing

Tanya, you should work with the Legislative Reference Bureau and the LRB drafter to set these bills up in the Fiscal Estimate System. I have copied Mike Barman of the LRB, so he is aware this will be coming. If you need to contact him, please call him at 266-3561. Neither I, nor the Department of Revenue, can do anything until this has occurred. Vicky LaBelle

---

**From:** Hein, Tanya  
**Sent:** Monday, January 30, 2006 12:02 PM  
**To:** LaBelle, Vicky  
**Cc:** Ziegler, Paul D  
**Subject:** FW: Small Business Committee PDF bill drafts for public hearing

Vicki and Paul,

On February 7, the Assembly Small Business Committee will be holding a public hearing on LRB 4392 and LRB 4382. These LRBs are currently in the Speaker's office and should be referred with an actual bill number to our committee in time for the public hearing. These LRBs are basically a re-drafted tax credit version of tax exemption bills AB 413 and AB 339. The original bills passed unanimously. Since the re-drafted versions of the bill have the same intent, we are planning on execing these bills immediately following the public hearing. Therefore, we need fiscal estimates on the attached LRBs which will be changed to AB form in time for the public hearing. Please let me know if you have any questions.

A tax credit version of AB 413 tax exemption for laundry services.

<< File: 05-43921.pdf >>

A tax credit version of AB 339 tax exemption on restaurant equipment.

<< File: 05-43821.pdf >>

**Tanya R. Hein**  
Legislative Aide

~~~~~  
State Representative Karl Van Roy  
123 West, State Capitol  
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Fax: 608-282-3690