2009 DRAFTING REQUEST

Bill

Received: **09/23/2008**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Lillethun**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Lillethun, BB0098 -

Topic:

Ethanol and biodiesel fuel credits computation order

Instructions:

See attached

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/P1	jkreye 09/23/2008	jdyer 09/24/2008	rschluet 09/24/2008	_____ _____	lparisi 09/24/2008		State

FE Sent For:

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<END>

0361

2009-11 Budget Bill Statutory Language Drafting Request

- Topic: Tax Credit Correction – Computation Order for Ethanol and Biodiesel Fuel Credits
- Tracking Code: BB0098
- SBO team: Tax, Transportation and Budget Development Team
- SBO analyst: Chad Lillethun
  - Phone: 266-7597
  - Email: Chad.Lillethun@wisconsin.gov
- Agency acronym: DOR
- Agency number: 566
- Priority (Low, Medium, High): Medium

Intent:

Provide that the credit order for computing the ethanol and biodiesel fuel pump credit is the same for corporations and insurance companies. (See attached for description and drafting instructions; refer to LRB-0054/P2 draft.)

2009-2011 Legislative Proposal
Wisconsin Department of Revenue
IS & E Division

Date: September 15, 2008

PROPOSAL 5: Tax Credits – Technical Corrections

DESCRIPTION OF CURRENT LAW AND PROBLEM

The following technical problems exist in the current statutory language relating to various credits:

A. For the electronic medical records credit and ethanol and biodiesel fuel pump credit, the order of computation in sec. 71.10(4), Wis. Stats., places these credits after the alternative minimum tax (AMT). However, the statutory language in sec. 71.07(5i)(b) and (5j)(b) allows these credits to offset the regular tax, but not the AMT. To make these statutes consistent with one another, the credits should be allowed to offset both the regular tax and the AMT.

B. The electronic medical records credit and ethanol and biodiesel fuel pump credit are not included in the list of credits in sec. 71.08(1)(intro.) that are disregarded when computing AMT. This may result in increasing AMT by the amount of the credits, which would nullify any benefit of the credits.

C. Until 2007 Act 20, the credit order for corporations (sec. 71.30(3), Wis. Stats.) was the same as the credit order for insurance companies (sec. 71.49(1)). However, when the ethanol and biodiesel fuel pump credit was enacted in 2007 Act 20, it was not placed in the same order for corporations as it was for insurance companies. This creates an unnecessary level of complexity.

D. All recipients of technology zone credits, except insurance companies, are required to include the amount of technology zone credit in their income. It appears that the intent was to require insurance companies to report the credit as income. However, as written, insurance companies receive a double benefit (both a tax credit and a tax deduction) for the same expenditures.

RECOMMENDATION FOR ACTION

- Provide that the electronic medical records credit and the ethanol and biodiesel fuel pump credit will offset both the regular tax and the AMT.
- Provide that the electronic medical records credit and the ethanol and biodiesel fuel pump credit are included in the list of credits not considered when determining AMT.
- Place the ethanol and biodiesel fuel pump credit after the Health Insurance Risk Sharing Plan assessment credit, in the same manner as for insurance companies.
- Require insurance companies to report the technology zone credit as income, in the same manner as for corporations that are not insurance companies.

ADMINISTRATIVE IMPACT

This proposal would:

- Allow the department to use the same set of instructions regarding these credits for insurance companies as it uses for other corporations.
- Allow the department to use the same set of instructions regarding these credits for taxpayers subject to AMT as it uses for taxpayers not subject to AMT.
- Clarify the computation of AMT.

FAIRNESS/TAX EQUITY

This proposal would promote consistent tax treatment between corporations and insurance companies and allow taxpayers subject to AMT to receive the same benefit of these credits as taxpayers not subject to AMT.

IMPACT ON ECONOMIC DEVELOPMENT

Minimal, since few taxpayers are eligible for these credits.

FISCAL EFFECT

Minimal.

DRAFTING INSTRUCTIONS

The drafting instructions in A. through D. below correspond to the problems identified above:

A. Amend sec. 71.07(5i)(b) and (5j)(b), Wis. Stats., to provide that the electronic medical records credit and the ethanol and biodiesel fuel pump credit will offset taxes imposed under secs. 71.02 and 71.08.

B. Amend sec. 71.08(1), Wis. Stats., to include the credits under sec. 71.07(5i) and (5j) in the list of credits not considered when determining AMT.

C. Renumber s. 71.30(3)(ed), Wis. Stats., relating to the ethanol and biodiesel fuel pump credit for corporations, to s. 71.30(3)(ds). This places the ethanol and biodiesel fuel pump credit after the Health Insurance Risk Sharing Plan assessment credit, in the same manner as for insurance companies.

D. Amend s. 71.45(2)(a)10., Wis. Stats., to include a reference to s. 71.47(3g). This change would require insurance companies to report the technology zone credit as income.

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

- Changes relating to the ethanol and biodiesel fuel pump credit should be effective for taxable years beginning on or after January 1, 2008.
- Changes relating to the electronic medical records credit should be effective for taxable years beginning on or after January 1, 2010.
- Changes relating to the technology zone credit should be effective retroactively for taxable years beginning on or after January 1, 2002.

INTERESTED/AFFECTED PARTIES

- Software developers who design products based on Department of Revenue forms and instructions
- Tax preparers
- Taxpayers subject to AMT

DOR CONTACT PERSON

Diane Hardt, Division Administrator, (608) 266-6798

PREPARED BY

Wendy Miller and Marcy Stock

DOA – BB0098....

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

do not gen

AN ACT *to renumber* 71.30 (3) (ed) of the statutes; **relating to:** the computation order for the ethanol and biodiesel fuel pump tax credits.

TAXATION ← head
INCOME TAXATION ← subhead

Analysis by the Legislative Reference Bureau

Under current law, a person may claim an income and franchise tax credit for an amount equal to 25 percent of the amount the person paid in the taxable year to install or retrofit pumps that dispense motor vehicle fuel consisting of at least 85 percent ethanol or at least 20 percent biodiesel fuel. This bill modifies the credit so that corporations compute the credit, with other credits, in the same order as insurance companies.

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:

SECTION 1. 71.30 (3) (ed) of the statutes is renumbered 71.30 (3) (ds).

Fix component

SECTION 2. Initial applicability.

(1) This act first applies retroactively to taxable years beginning after December 31, 2007.

FUEL PUMP TAX CREDITS.

9443 (B) (S) ; Revenue (B)

Fix component

1 SECTION 3. **Effective date.**

2 (1) This act takes effect retroactively on January 1, 2008.

3 **(END)**

The treatment of section 71.30(3)(ed) of the statutes

(CS)

FUEL PUMPS TAX CREDITS.

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-0361/P1
JK:jld:rs

DOA:.....Lillethun, BB0098 - Ethanol and biodiesel fuel credits computation order

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; **relating to:** the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

Under current law, a person may claim an income and franchise tax credit for an amount equal to 25 percent of the amount the person paid in the taxable year to install or retrofit pumps that dispense motor vehicle fuel consisting of at least 85 percent ethanol or at least 20 percent biodiesel fuel. This bill modifies the credit so that corporations compute the credit, with other credits, in the same order as insurance companies.

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:

2 **SECTION 1.** 71.30 (3) (ed) of the statutes is renumbered 71.30 (3) (ds).

3 **SECTION 9343. Initial applicability; Revenue.**

1 (1) FUEL PUMP TAX CREDITS. The treatment of section 71.30 (3) (ed) of the statutes
2 first applies to taxable years beginning after December 31, 2007.

3 **SECTION 9443. Effective dates; Revenue.**

4 (1) FUEL PUMPS TAX CREDITS. The treatment of section 71.30 (3) (ed) of the
5 statutes takes effect retroactively on January 1, 2008.

6 **(END)**