



State of Wisconsin
2011 – 2012 LEGISLATURE
January 2011 Special Session



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**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO ASSEMBLY BILL 7**

January 20, 2011 – Offered by JOINT COMMITTEE ON FINANCE.

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 (5p), 71.10 (4) (dw), 71.28 (5p),
3 71.30 (3) (dw), 71.47 (5p) and 71.49 (1) (dw) of the statutes; **relating to:** an
4 income and franchise tax credit for small businesses.

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

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

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

2 71.07 **(5p)** SMALL BUSINESS CREDIT. (a) *Definitions.* In this subsection:

3 1. “Claimant” means a person who files a claim under this subsection.

4 2. “Increase in the number of full–time equivalent employees employed by the
5 taxpayer in this state during the taxable year” means the number determined by
6 subtracting from the number of full–time equivalent employees employed by the
7 taxpayer in this state during the taxable year, as determined by computing the
8 average employee count from the taxpayer’s quarterly unemployment insurance
9 reports for the taxable year, the number of full–time equivalent employees employed
10 by the taxpayer in this state during the immediately preceding taxable year, as
11 determined by computing the average employee count from the taxpayer’s quarterly
12 unemployment insurance reports for the immediately preceding taxable year.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
14 taxable years beginning after December 31, 2010, a claimant may claim as a credit
15 against the tax imposed under s. 71.02, up to the amount of the tax, an amount equal
16 to \$250 multiplied by the increase in the number of full–time equivalent employees
17 employed by the taxpayer in this state during the taxable year.

18 (c) *Limitations.* Partnerships, limited liability companies, and tax–option
19 corporations may not claim the credit under this subsection. A partnership, limited
20 liability company, or tax–option corporation shall compute the rate of credit that each
21 of its partners, members, or shareholders may claim and shall provide that
22 information to each of them.

23 (d) *Administration.* 1. A claimant shall claim the credit under this subsection
24 on a form prepared by the department and shall submit to the department any

1 documentation required by the department to administer the credit under this
2 subsection.

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

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

6 71.10 (4) (dw) Small business credit under s. 71.07 (5p).

7 **SECTION 4.** 71.21 (4) of the statutes is amended to read:

8 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
9 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
10 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and (8r) and passed
11 through to partners shall be added to the partnership's income.

12 **SECTION 5.** 71.26 (2) (a) 4. of the statutes is amended to read:

13 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
14 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
15 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and (8r) and
16 not passed through by a partnership, limited liability company, or tax-option
17 corporation that has added that amount to the partnership's, limited liability
18 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

20 71.28 (5p) SMALL BUSINESS CREDIT. (a) *Definitions.* In this subsection:

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

22 2. "Increase in the number of full-time equivalent employees employed by the
23 taxpayer in this state during the taxable year" means the number determined by
24 subtracting from the number of full-time equivalent employees employed by the
25 taxpayer in this state during the taxable year, as determined by computing the

1 average employee count from the taxpayer’s quarterly unemployment insurance
2 reports for the taxable year, the number of full–time equivalent employees employed
3 by the taxpayer in this state during the immediately preceding taxable year, as
4 determined by computing the average employee count from the taxpayer’s quarterly
5 unemployment insurance reports for the immediately preceding taxable year.

6 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
7 taxable years beginning after December 31, 2010, a claimant may claim as a credit
8 against the tax imposed under s. 71.23, up to the amount of the tax, an amount equal
9 to \$250 multiplied by the increase in the number of full–time equivalent employees
10 employed by the taxpayer in this state during the taxable year.

11 (c) *Limitations.* Partnerships, limited liability companies, and tax–option
12 corporations may not claim the credit under this subsection. A partnership, limited
13 liability company, or tax–option corporation shall compute the rate of credit that each
14 of its partners, members, or shareholders may claim and shall provide that
15 information to each of them.

16 (d) *Administration.* 1. A claimant shall claim the credit under this subsection
17 on a form prepared by the department and shall submit to the department any
18 documentation required by the department to administer the credit under this
19 subsection.

20 2. Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to
21 the credit under this subsection.

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

23 71.30 (3) (dw) Small business credit under s. 71.28 (5p).

24 **SECTION 8.** 71.34 (1k) (g) of the statutes is amended to read:

1 71.34 **(1k)** (g) An addition shall be made for credits computed by a tax–option
2 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
3 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
4 (5k), (5p), (5r), (5rm), and (8r) and passed through to shareholders.

5 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

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

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

14 71.47 **(5p)** SMALL BUSINESS CREDIT. (a) *Definitions.* In this subsection:

15 1. “Claimant” means a person who files a claim under this subsection.

16 2. “Increase in the number of full–time equivalent employees employed by the
17 taxpayer in this state during the taxable year” means the number determined by
18 subtracting from the number of full–time equivalent employees employed by the
19 taxpayer in this state during the taxable year, as determined by computing the
20 average employee count from the taxpayer’s quarterly unemployment insurance
21 reports for the taxable year, the number of full–time equivalent employees employed
22 by the taxpayer in this state during the immediately preceding taxable year, as
23 determined by computing the average employee count from the taxpayer’s quarterly
24 unemployment insurance reports for the immediately preceding taxable year.

1 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
2 taxable years beginning after December 31, 2010, a claimant may claim as a credit
3 against the tax imposed under s. 71.43, up to the amount of the tax, an amount equal
4 to \$250 multiplied by the increase in the number of full-time equivalent employees
5 employed by the taxpayer in this state during the taxable year.

6 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
7 corporations may not claim the credit under this subsection. A partnership, limited
8 liability company, or tax-option corporation shall compute the rate of credit that each
9 of its partners, members, or shareholders may claim and shall provide that
10 information to each of them.

11 (d) *Administration.* 1. A claimant shall claim the credit under this subsection
12 on a form prepared by the department and shall submit to the department any
13 documentation required by the department to administer the credit under this
14 subsection.

15 2. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies
16 to the credit under this subsection.

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

18 71.49 (1) (dw) Small business credit under s. 71.47 (5p).

19 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

20 77.92 (4) “Net business income,” with respect to a partnership, means taxable
21 income as calculated under section 703 of the Internal Revenue Code; plus the items
22 of income and gain under section 702 of the Internal Revenue Code, including taxable
23 state and municipal bond interest and excluding nontaxable interest income or
24 dividend income from federal government obligations; minus the items of loss and
25 deduction under section 702 of the Internal Revenue Code, except items that are not

1 deductible under s. 71.21; plus guaranteed payments to partners under section 707
2 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
4 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and
5 (8r); and plus or minus, as appropriate, transitional adjustments, depreciation
6 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
7 excluding income, gain, loss, and deductions from farming. “Net business income,”
8 with respect to a natural person, estate, or trust, means profit from a trade or
9 business for federal income tax purposes and includes net income derived as an
10 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

11 **SECTION 13. Nonstatutory provisions.**

12 (1) REQUIRED GENERAL FUND BALANCE. Section 20.003 (4) of the statutes does not
13 apply to the action of the legislature in enacting this act.

14 (END)