

State of Wisconsin



2013 Senate Bill 449

Date of enactment: April 2, 2014
Date of publication*: April 3, 2014

2013 WISCONSIN ACT 184

AN ACT to create 238.3045 of the statutes; relating to: authorizing the transfer of certain tax credits earned in connection with economic development in this state.

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

SECTION 1. 238.3045 of the statutes is created to read:
238.3045 Transferability of tax benefits. (1)

APPLICATION AND CORPORATION APPROVAL. (a) An applicant for certification for tax benefits under s. 238.301 may submit with its application under s. 238.301 (1) an application to the corporation on a form prescribed by the corporation to transfer those tax benefits to another person under this section. The application shall include the name, address, and tax identification number of the person to whom the applicant intends to transfer the tax benefits and any other information the corporation requires. The corporation shall notify the applicant of the corporation's determination concerning the transfer of tax benefits when the corporation notifies the applicant of the corporation's certification determination under s. 238.301.

(b) The corporation may approve the transfer of tax benefits under this section if the corporation certifies the applicant under par. (a) for tax benefits under s. 238.301 and finds that the applicant meets at least one of the following conditions:

1. Is headquartered and employs at least 51 percent of its employees in this state.
2. Intends to relocate its headquarters to this state and employ at least 51 percent of its employees in this state.

3. Intends to expand its operations in this state, and that expansion will result in an increase in the number of full-time employees employed by the applicant in this state in an amount equal to at least 10 percent of the applicant's full-time workforce in this state at the time of application.

4. Intends to expand its operations in this state, and that expansion will result in the applicant making a significant capital investment in property located in this state, as determined by the corporation.

(c) 1. Subject to subd. 2., a person that receives an approval under par. (b) shall transfer tax benefits in accordance with the terms of the application under par. (a) after the corporation authorizes the person to claim tax benefits under s. 238.303 (2) and provides the notice of eligibility under s. 238.303 (3). The notice of eligibility shall contain all relevant information concerning a transfer of tax benefits under this section. The person to whom tax benefits are transferred may carry forward, beginning on the date of the notice of eligibility, any unused amount of the value of those tax benefits as provided under the appropriate provision in ch. 71 or in s. 76.636.

2. Tax benefits may be transferred under this paragraph only in exchange for some consideration, other than money, in connection with the eligible activity for which the tax benefits were initially awarded.

* Section 991.11, WISCONSIN STATUTES: 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."

(2) **REVOCAION.** (a) If the corporation revokes a person's certification for tax benefits under s. 238.305, and, at the time of revocation, that person has transferred those tax benefits under this section, that person shall be liable for the full value of the tax benefits, and the person to whom the tax benefits were transferred may not claim any tax benefits that were not claimed prior to revocation.

(b) The corporation shall notify the department of revenue of a revocation of tax benefits subject to par. (a), including the value of the tax benefits for which the person is liable.

(c) The department of revenue has full power to administer tax benefits transferred under this section and may take any action, conduct any proceeding, and proceed as it is authorized in respect to income and franchise taxes imposed under ch. 71. The income and franchise tax provisions in ch. 71 relating to assessments, refunds, appeals, collection, interest, and penalties apply to tax benefits transferred under this section.

(3) **ANNUAL REPORT.** Annually, the corporation shall submit a report to the joint committee on finance that provides a detailed assessment of the progress to date of the program under this section.

(4) **PROGRAM LIMITS AND TERMINATION.** (a) Except as provided in par. (b), the corporation may not authorize the transfer of tax benefits under this section that total more than \$15,000,000, and the corporation may not authorize the transfer of tax benefits after 36 months after the effective date of this paragraph [LRB inserts date].

(b) Upon expiration of the 36-month period under par. (a), the corporation may continue to authorize the

transfer of tax benefits under this section for up to an additional 36 months, and the corporation may authorize the transfer of up to an additional \$15,000,000 in tax benefits, if the corporation determines that a continuation of the program under this section will promote significant economic development in this state. Before the corporation authorizes the transfer of tax benefits under this paragraph, the chief executive officer of the corporation shall notify the joint committee on finance in writing that the corporation intends to continue authorizing the transfer of tax benefits under this section. That notice shall state the reasons supporting the corporation's determination that the transfer of additional tax benefits will promote significant economic development in this state. If, within 14 working days after the date of that notice, the cochairpersons of the committee do not notify the corporation that the committee has scheduled a meeting to review the corporation's proposed continuation of the program, the corporation may proceed to authorize the transfer of additional tax benefits under this section. If, within 14 working days after the date of that notice, the cochairpersons of the committee notify the corporation that the committee has scheduled a meeting to review the proposed continuation of the program, the corporation may proceed to authorize the transfer of additional tax benefits only upon approval of the committee.

SECTION 2. Initial applicability.

(1) This act first applies to taxable years beginning on January 1, 2014.