



2007 ASSEMBLY BILL 369

May 29, 2007 - Introduced by Representatives ALBERS, HAHN, WOOD, GUNDERSON, OWENS and TOWNSEND, cosponsored by Senators LEIBHAM, A. LASEE and KEDZIE. Referred to Committee on Ways and Means.

1 **AN ACT** *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (3p), 71.10 (4) (cn), 71.28 (3p), 71.30
3 (3) (dn), 71.47 (3p) and 71.49 (1) (dn) of the statutes; **relating to:** income and
4 franchise tax credits for insulating concrete forms used to construct a building
5 and energy efficient products.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit equal to the amount that the taxpayer pays in the taxable year to purchase or manufacture insulating concrete forms used to construct a building and energy efficient products. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but may claim the amount of any unused credit in subsequent taxable years.

For further information see the *state and local* 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:

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

ASSEMBLY BILL 369**SECTION 1**

1 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), ~~(3p)~~, (3s), (3t), (3w), (5b), (5d),
3 and (5e), (5f), and (5h) and not passed through by a partnership, limited liability
4 company, or tax-option corporation that has added that amount to the partnership's,
5 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

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

7 71.07 (3p) INSULATING CONCRETE FORMS AND ENERGY EFFICIENT PRODUCTS CREDIT.

8 (a) *Definitions.* In this subsection:

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

10 2. "Insulating concrete form" means a hollow expandable polystyrene form
11 system that is filled with concrete and includes the concrete used to fill the form.

12 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
13 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
14 amount of the taxes, an amount equal to the amount that the claimant paid in the
15 taxable year to purchase any of the following for use in this state or to manufacture
16 any of the following in this state:

17 1. Insulating concrete forms used to construct the insulated exterior walls of
18 any building.

19 2. Any item of tangible personal property that is governed by and satisfies any
20 of the following standards for energy efficiency:

21 a. The 2001 supplement of the 2000 International Energy Conservation Code.

22 b. The 2004 supplement of the 2003 International Energy Conservation Code.

23 c. The 2007 energy efficiency guidelines established by the federal
24 environmental protection agency and the federal department of energy under the
25 Energy Star program.

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1 (c) *Limitations.* 1. No person may claim a credit under this subsection for any
2 item for which the person has received a rebate under any state program, including
3 a state program operated in conjunction with private entities.

4 2. Partnerships, limited liability companies, and tax-option corporations may
5 not claim the credit under this subsection, but the eligibility for, and the amount of,
6 the credit are based on their payment of the amounts described under par. (b). A
7 partnership, limited liability company, or tax-option corporation shall compute the
8 amount of credit that each of its partners, members, or shareholders may claim and
9 shall provide that information to each of them. Partners, members of limited liability
10 companies, and shareholders of tax-option corporations may claim the credit in
11 proportion to their ownership interests.

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

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

15 71.10 (4) (cn) Insulating concrete forms and energy efficient products credit
16 under s. 71.07 (3p).

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

18 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
19 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3p), (3s), (3t), (3w), (5b), (5e), (5f), (5g), and
20 (5h) and passed through to partners shall be added to the partnership's income.

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

22 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
23 the gross income as computed under the Internal Revenue Code as modified under
24 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
25 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)

ASSEMBLY BILL 369**SECTION 5**

1 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
2 under this paragraph at the time that the taxpayer first claimed the credit plus the
3 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
4 (1ds), (1dx), (3g), (3n), (3p), (3t), (3w), (5b), (5e), (5f), (5g), and (5h) and not passed
5 through by a partnership, limited liability company, or tax-option corporation that
6 has added that amount to the partnership's, limited liability company's, or
7 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
8 of losses from the sale or other disposition of assets the gain from which would be
9 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
10 disposed of at a gain and minus deductions, as computed under the Internal Revenue
11 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
12 the difference between the federal basis and Wisconsin basis of any asset sold,
13 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
14 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

15 **SECTION 6.** 71.28 (3p) of the statutes is created to read:

16 71.28 (3p) INSULATING CONCRETE FORMS AND ENERGY EFFICIENT PRODUCTS CREDIT.

17 (a) *Definitions.* In this subsection:

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

19 2. "Insulating concrete form" means a hollow expandable polystyrene form
20 system that is filled with concrete and includes the concrete used to fill the form.

21 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
22 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
23 amount of the taxes, an amount equal to the amount that the claimant paid in the
24 taxable year to purchase any of the following for use in this state or to manufacture
25 any of the following in this state:

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1 1. Insulating concrete forms used to construct the insulated exterior walls of
2 any building.

3 2. Any item of tangible personal property that is governed by and satisfies any
4 of the following standards for energy efficiency:

5 a. The 2001 supplement of the 2000 International Energy Conservation Code.

6 b. The 2004 supplement of the 2003 International Energy Conservation Code.

7 c. The 2007 energy efficiency guidelines established by the federal
8 environmental protection agency and the federal department of energy under the
9 Energy Star program.

10 (c) *Limitations.* 1. No person may claim a credit under this subsection for any
11 item for which the person has received a rebate under any state program, including
12 a state program operated in conjunction with private entities.

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

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

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

24 71.30 (3) (dn) Insulating concrete forms and energy efficient products credit
25 under s. 71.28 (3p).

ASSEMBLY BILL 369**SECTION 8**

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

2 71.34 **(1)** (g) An addition shall be made for credits computed by a tax-option
3 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
4 (3n), (3p), (3t), (3w), (5b), (5e), (5f), (5g), and (5h) 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 (1dx), (3n), (3p), (3w), (5b), (5e), (5f), (5g), and (5h)
8 and not passed through by a partnership, limited liability company, or tax-option
9 corporation that has added that amount to the partnership's, limited liability
10 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
11 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

12 **SECTION 10.** 71.47 (3p) of the statutes is created to read:

13 71.47 **(3p)** INSULATING CONCRETE FORMS AND ENERGY EFFICIENT PRODUCTS CREDIT.

14 (a) *Definitions.* In this subsection:

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

16 2. "Insulating concrete form" means a hollow expandable polystyrene form
17 system that is filled with concrete and includes the concrete used to fill the form.

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
19 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
20 amount of the taxes, an amount equal to the amount that the claimant paid in the
21 taxable year to purchase any of the following for use in this state or to manufacture
22 any of the following in this state:

23 1. Insulating concrete forms used to construct the insulated exterior walls of
24 any building.

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1 2. Any item of tangible personal property that is governed by and satisfies any
2 of the following standards for energy efficiency:

- 3 a. The 2001 supplement of the 2000 International Energy Conservation Code.
4 b. The 2004 supplement of the 2003 International Energy Conservation Code.
5 c. The 2007 energy efficiency guidelines established by the federal
6 environmental protection agency and the federal department of energy under the
7 Energy Star program.

8 (c) *Limitations.* 1. No person may claim a credit under this subsection for any
9 item for which the person has received a rebate under any state program, including
10 a state program operated in conjunction with private entities.

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

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

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

22 71.49 (1) (dn) Insulating concrete forms and energy efficient products credit
23 under s. 71.47 (3p).

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

ASSEMBLY BILL 369**SECTION 12**

1 77.92 (4) “Net business income,” with respect to a partnership, means taxable
2 income as calculated under section 703 of the Internal Revenue Code; plus the items
3 of income and gain under section 702 of the Internal Revenue Code, including taxable
4 state and municipal bond interest and excluding nontaxable interest income or
5 dividend income from federal government obligations; minus the items of loss and
6 deduction under section 702 of the Internal Revenue Code, except items that are not
7 deductible under s. 71.21; plus guaranteed payments to partners under section 707
8 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), ~~(3p)~~, (3t), (3w), (5b), (5e),
10 (5f), (5g), and (5h); and plus or minus, as appropriate, transitional adjustments,
11 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
12 (19); but excluding income, gain, loss, and deductions from farming. “Net business
13 income,” with respect to a natural person, estate, or trust, means profit from a trade
14 or business for federal income tax purposes and includes net income derived as an
15 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 13. Initial applicability.

16 (1) This act first applies to taxable years beginning on January 1 of the year
17 in which this subsection takes effect, except that if this subsection takes effect after
18 July 31 this act first applies to taxable years beginning on January 1 of the year
19 following the year in which this subsection takes effect.

20
21 (END)