



2011 ASSEMBLY BILL 205

July 25, 2011 - Introduced by Representatives BIES, BALLWEG, BROOKS, ENDSLEY, PETROWSKI, SPANBAUER and MEYER, cosponsored by Senators KEDZIE, OLSEN, HOLPERIN and SCHULTZ. Referred to Committee on Tourism, Recreation and State Properties.

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 (5n), 71.10 (4) (cr), 71.28 (5n), 71.30
3 (3) (dn), 71.47 (5n) and 71.49 (1) (dn) of the statutes; **relating to:** a tax credit
4 for hospitality business advertising.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit equal to 10 percent of the amount that a taxpayer spends in the taxable year on advertising outside of this state to promote the taxpayer's hospitality business located in this state. If the credit claimed by a taxpayer exceeds the taxpayer's tax liability, the state will not issue a refund check, but the taxpayer may carry forward any remaining credit to subsequent taxable years.

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:

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),

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1 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r) and
2 not passed through by a partnership, limited liability company, or tax-option
3 corporation that has added that amount to the partnership's, company's, or
4 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

6 71.07 **(5n)** HOSPITALITY BUSINESS ADVERTISING CREDIT. (a) *Definitions.* In this
7 subsection:

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

9 2. "Hospitality business" means a hospitality business located in this state,
10 including a business that is classified in the standard industrial classification
11 manual, 1987 edition, published by the U.S. office of management and budget, under
12 any of the following industry numbers:

13 a. 5812 — Eating places.

14 b. 5813 — Drinking places.

15 c. 7011 — Hotels and motels.

16 d. 7032 — Sporting and recreational camps.

17 e. 7033 — Recreational vehicle parks and campsites.

18 f. 7922 — Theatrical producers and miscellaneous theatrical services.

19 g. 7929 — Bands, orchestras, actors, and other entertainers and entertainment
20 groups.

21 h. 7948 — Racing, including track operation.

22 i. 7992 — Public golf courses.

23 j. 7996 — Amusement parks.

24 k. 7997 — Membership sports and recreation clubs.

25 L. 7999 — Amusement and recreational services, not elsewhere classified.

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1 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
2 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
3 amount of the tax, an amount equal to 10 percent of the amount the claimant spent
4 in the taxable year on advertising outside of this state to promote the claimant's
5 hospitality business.

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

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

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

17 71.10 (4) (cr) Hospitality business advertising credit under s. 71.07 (5n).

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

19 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
20 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
21 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r) and passed
22 through to partners shall be added to the partnership's income.

23 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 3,
24 is amended to read:

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1 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
2 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
3 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), (8r), and
4 (9s) and not passed through by a partnership, limited liability company, or
5 tax-option corporation that has added that amount to the partnership's, limited
6 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
7 (g).

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

9 71.28 (5n) HOSPITALITY BUSINESS ADVERTISING CREDIT. (a) *Definitions.* In this
10 subsection:

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

12 2. "Hospitality business" means a hospitality business located in this state,
13 including a business that is classified in the standard industrial classification
14 manual, 1987 edition, published by the U.S. office of management and budget, under
15 any of the following industry numbers:

16 a. 5812 — Eating places.

17 b. 5813 — Drinking places.

18 c. 7011 — Hotels and motels.

19 d. 7032 — Sporting and recreational camps.

20 e. 7033 — Recreational vehicle parks and campsites.

21 f. 7922 — Theatrical producers and miscellaneous theatrical services.

22 g. 7929 — Bands, orchestras, actors, and other entertainers and entertainment
23 groups.

24 h. 7948 — Racing, including track operation.

25 i. 7992 — Public golf courses.

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1 j. 7996 — Amusement parks.

2 k. 7997 — Membership sports and recreation clubs.

3 L. 7999 — Amusement and recreational services, not elsewhere classified.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
5 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
6 amount of the tax, an amount equal to 10 percent of the amount the claimant spent
7 in the taxable year on advertising outside of this state to promote the claimant's
8 hospitality business.

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

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

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

20 71.30 (3) (dn) Hospitality business advertising credit under s. 71.28 (5n).

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

22 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
23 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
24 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
25 (5k), (5n), (5r), (5rm), and (8r) and passed through to shareholders.

ASSEMBLY BILL 205**SECTION 9**

1 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
2 3, is amended to read:

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

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

11 71.47 **(5n)** HOSPITALITY BUSINESS ADVERTISING CREDIT. (a) *Definitions.* In this
12 subsection:

- 13 1. "Claimant" means a person who files a claim under this subsection.
- 14 2. "Hospitality business" means a hospitality business located in this state,
15 including a business that is classified in the standard industrial classification
16 manual, 1987 edition, published by the U.S. office of management and budget, under
17 any of the following industry numbers:
 - 18 a. 5812 — Eating places.
 - 19 b. 5813 — Drinking places.
 - 20 c. 7011 — Hotels and motels.
 - 21 d. 7032 — Sporting and recreational camps.
 - 22 e. 7033 — Recreational vehicle parks and campsites.
 - 23 f. 7922 — Theatrical producers and miscellaneous theatrical services.
 - 24 g. 7929 — Bands, orchestras, actors, and other entertainers and entertainment
25 groups.

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1 h. 7948 — Racing, including track operation.

2 i. 7992 — Public golf courses.

3 j. 7996 — Amusement parks.

4 k. 7997 — Membership sports and recreation clubs.

5 L. 7999 — Amusement and recreational services, not elsewhere classified.

6 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
7 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
8 amount of the tax, an amount equal to 10 percent of the amount the claimant spent
9 in the taxable year on advertising outside of this state to promote the claimant's
10 hospitality business.

11 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
12 corporations may not claim the credit under this subsection, but the eligibility for,
13 and the amount of, the credit are based on their payment of amounts under par. (b).
14 A partnership, limited liability company, or tax-option corporation shall compute
15 the amount of credit that each of its partners, members, or shareholders may claim
16 and shall provide that information to each of them. Partners, members of limited
17 liability companies, and shareholders of tax-option corporations may claim the
18 credit in 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) Hospitality business advertising credit under s. 71.47 (5n).

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

24 77.92 (4) "Net business income," with respect to a partnership, means taxable
25 income as calculated under section 703 of the Internal Revenue Code; plus the items

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1 of income and gain under section 702 of the Internal Revenue Code, including taxable
2 state and municipal bond interest and excluding nontaxable interest income or
3 dividend income from federal government obligations; minus the items of loss and
4 deduction under section 702 of the Internal Revenue Code, except items that are not
5 deductible under s. 71.21; plus guaranteed payments to partners under section 707
6 (c) of the Internal Revenue Code; plus the credits claimed 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), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and
9 (8r); and plus or minus, as appropriate, transitional adjustments, depreciation
10 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
11 excluding income, gain, loss, and deductions from farming. “Net business income,”
12 with respect to a natural person, estate, or trust, means profit from a trade or
13 business for federal income tax purposes and includes net income derived as an
14 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 13. Initial applicability.

15
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 (END)