



2005 ASSEMBLY BILL 623

August 24, 2005 – Introduced by Representatives WIECKERT, KLEEFISCH, MUSSER, TOWNSEND, GUNDERSON, HINES and OTT, cosponsored by Senator ROESSLER. 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 (5e), 71.10 (4) (cq), 71.28 (5e), 71.30
3 (3) (dq), 71.47 (5e) and 71.49 (1) (dq) of the statutes; **relating to:** an income and
4 franchise tax credit for sales and use taxes paid on the purchase of electricity
5 used in research and development.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for the amount of the sales and use tax that a taxpayer pays in the taxable year on the purchase of electricity used in research and development. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but, instead, may claim the amount of any unused credit in 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:

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

ASSEMBLY BILL 623**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), (3s), (3t), (5b), and (5d), and (5e)
3 and not passed through by a partnership, limited liability company, or tax-option
4 corporation that has added that amount to the partnership's, company's, or
5 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

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

7 71.07 (5e) ELECTRICITY USED IN RESEARCH AND DEVELOPMENT CREDIT. (a)
8 *Definitions.* In this subsection, "claimant" means a person who files a claim under
9 this subsection.

10 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
11 claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,
12 up to the amount of those taxes, an amount that is equal to the amount of the taxes
13 imposed under ss. 71.52 and 71.53 that the claimant paid in the taxable year on the
14 purchase of electricity consumed in product research or product development.

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

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

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

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1 71.10 (4) (cq) Electricity used in research and development credit under s.
2 71.07 (5e).

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

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

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

8 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
9 the gross income as computed under the Internal Revenue Code as modified under
10 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
11 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
12 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
13 under this paragraph at the time that the taxpayer first claimed the credit plus the
14 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
15 (1ds), (1dx), (3g), (3n), (3t), ~~and (5b)~~, and (5e) and not passed through by a
16 partnership, limited liability company, or tax-option corporation that has added that
17 amount to the partnership's, limited liability company's, or tax-option corporation's
18 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
19 other disposition of assets the gain from which would be wholly exempt income, as
20 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
21 minus deductions, as computed under the Internal Revenue Code as modified under
22 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
23 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
24 otherwise disposed of in a taxable transaction during the taxable year, except as
25 provided in par. (b) and s. 71.45 (2) and (5).

ASSEMBLY BILL 623**SECTION 6**

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

2 71.28 **(5e)** ELECTRICITY USED IN RESEARCH AND DEVELOPMENT CREDIT. (a)
3 *Definitions.* In this subsection, “claimant” means a person who files a claim under
4 this subsection.

5 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
6 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
7 amount of those taxes, an amount that is equal to the amount of the taxes imposed
8 under ss. 71.52 and 71.53 that the claimant paid in the taxable year on the purchase
9 of electricity consumed in product research or product development.

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

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

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

21 71.30 **(3)** (dq) Electricity used in research and development credit under s.
22 71.28 (5e).

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

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1 71.34 (1) (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), (3), (3g),
3 (3n), (3t), ~~and (5b)~~, and (5e) and passed through to shareholders.

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

5 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
6 computed under s. 71.47 (1dd) to (1dx), (3n), ~~and (5b)~~, and (5e) and not passed
7 through by a partnership, limited liability company, or tax-option corporation that
8 has added that amount to the partnership's, limited liability company's, or
9 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
10 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

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

12 71.47 (5e) ELECTRICITY USED IN RESEARCH AND DEVELOPMENT CREDIT. (a)
13 *Definitions.* In this subsection, "claimant" means a person who files a claim under
14 this subsection.

15 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
16 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
17 amount of those taxes, an amount that is equal to the amount of the taxes imposed
18 under ss. 71.52 and 71.53 that the claimant paid in the taxable year on the purchase
19 of electricity consumed in product research or product development.

20 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
21 corporations may not claim the credit under this subsection, but the eligibility for,
22 and the amount of, the credit are based on their payment of amounts described under
23 par. (b). A partnership, limited liability company, or tax-option corporation shall
24 compute the amount of credit that each of its partners, members, or shareholders
25 may claim and shall provide that information to each of them. Partners, members

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1 of limited liability companies, and shareholders of tax-option corporations may
2 claim the credit in proportion to their ownership interests.

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

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

6 71.49 (1) (dq) Electricity used in research and development credit under s.
7 71.47 (5e).

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

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

24 **SECTION 13. Initial applicability.**

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1 (1) This act first applies to taxable years beginning on January 1, 2006.

2 (END)