State of Wisconsin
2007 - 2008 LEGISLATURE

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2007 ASSEMBLY BILL 283

April 23, 2007 – Introduced by Representatives GUNDERSON, GRONEMUS, HINES, MUSSER, NERISON and TOWNSEND, cosponsored by Senators LASSA, LEIBHAM, OLSEN and ROESSLER. Referred to Committee on Ways and Means.

AN ACT ***to amend*** 71.08 (1) (intro.) and 71.10 (4) (i); and ***to create*** 20.835 (2) (cb) and 71.07 (5i) of the statutes; **relating to:** creating a refundable individual income tax credit for sales and use taxes paid to replace damaged or destroyed tangible personal property and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a refundable individual income tax credit that is equal to the amount of the sales and use taxes that an individual paid in the taxable year to which the claim relates on the purchase of tangible personal property that the individual purchased to replace tangible personal property that was damaged or destroyed by fire, flood, or natural disaster.

No person may claim the tax credit unless the governor declares a state of emergency or disaster with regard to the city, village, town, or county in which the damaged or destroyed tangible personal property was located and the total value of all of the claimant's damaged or destroyed tangible personal property exceeds $4,999. In addition, claims must be made within approximately one year after the loss occurs, and no claim may be made for an amount that is reimbursed under an insurance policy.

Because the credit is refundable, if the amount of the credit exceeds the individual's tax liability, the state will issue a check to the individual for the excess amount.

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:

SECTION 1. 20.835 (2) (cb) of the statutes is created to read:

20.835 **(2)** (cb) *Damaged tangible personal property credit.* A sum sufficient to pay the claims approved under s. 71.07 (5i).

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

71.07 **(5i)** DAMAGED TANGIBLE PERSONAL PROPERTY CREDIT. (a) *Definition.* In this subsection, "claimant" means an individual who files a claim under this subsection.

(b) *Filing claims.* Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 the amount of any sales taxes imposed under s. 77.52 and use taxes imposed under s. 77.53 that the claimant paid in the taxable year to which the claim relates on the purchase of tangible personal property that the claimant purchased to replace tangible personal property that was damaged or destroyed by fire, flood, or natural disaster. If the allowable amount of the claim exceeds the income taxes otherwise due on the claimant's income, the amount of the claim not used as an offset against those taxes shall be certified by the department of revenue to the department of administration for payment to the claimant by check, share draft, or other draft drawn from the appropriation under s. 20.835 (2) (cb).

(c) *Limitations.* 1. No claim may be allowed under this subsection unless all of the following apply:

a. The governor declares a state of emergency or disaster with regard to the city, village, town, or county in which the damaged or destroyed tangible personal property was located.

b. The total value of all of the claimant's damaged or destroyed tangible personal property exceeds $4,999 and the claimant submits evidence of such value with the return.

c. The claim is made not later than the first day of the 13th month beginning after the date on which the fire, flood, or natural disaster occurred that damaged or destroyed the claimant's tangible personal property.

2. No credit may be claimed under this subsection for any amounts for which the claimant received payment or reimbursement under an insurance policy.

3. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

(d) *Administration.* Subsection (5m) (d), as it applies to the credit under that subsection, applies to the credit under this subsection.

SECTION 3. 71.08 (1) (intro.) of the statutes is amended to read:

71.08 **(1)** IMPOSITION. (intro.) If the tax imposed on a natural person, married couple filing jointly, trust, or estate under s. 71.02, not considering the credits under ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), ~~(3c), (3e),~~ (3m), (3n), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5i), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), (3n), (3t), and (3w), and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than the tax under this section, there is imposed on that natural person, married couple filing jointly, trust, or estate, instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

SECTION 4. 71.10 (4) (i) of the statutes is amended to read:

71.10 **(4)** (i) The total of claim of right credit under s. 71.07 (1), farmland preservation credit under subch. IX, homestead credit under subch. VIII, farmland tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s. 71.07 (2fd), film production services credit under s. 71.07 (5f) (b) 2., damaged tangible personal property credit under s. 71.07 (5i), veterans and surviving spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w), earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under subch. X.

SECTION 5. Initial applicability.

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

(END)