



2009 SENATE BILL 138

March 26, 2009 - Introduced by Senators HARSDORF, KREITLOW, SULLIVAN, SCHULTZ, TAYLOR and ERPENBACH, cosponsored by Representatives RICHARDS, PETROWSKI, WOOD, BALLWEG, SPANBAUER and RIPP. Referred to Committee on Health, Health Insurance, Privacy, Property Tax Relief, and Revenue.

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) (dq), 71.47 (5n) and 71.49 (1) (dq) of the statutes; **relating to:** creating an
4 income and franchise tax credit for motor vehicles that use gasoline and ethanol
5 mixtures as fuel and for fuel efficient hybrid motor vehicles.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit that is equal to the amount of sales and use taxes a person paid in the taxable year on the purchase or lease of any new motor vehicle that is licensed for highway use and capable of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel the motor vehicle or is a hybrid motor vehicle with a federal Environmental Protection Agency rating that is greater than 40 miles per gallon. The amount of the credit that a person may claim may not exceed an amount equal to \$1,000 in the taxable year for each motor vehicle purchased in that year or \$1,000 for all taxable years combined with respect to the lease of any single motor vehicle.

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:

SENATE BILL 138**SECTION 1**

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

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

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

9 71.07 **(5n)** FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definition.* In this
10 subsection, “claimant” means a person who files a claim under this subsection.

11 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
12 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
13 amount of the taxes, an amount that is equal to the amount of the taxes imposed
14 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
15 or lease of any new motor vehicle, licensed for highway use, that is capable of using
16 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to
17 propel the motor vehicle or that is a hybrid motor vehicle with a federal
18 environmental protection agency rating that is greater than 40 miles per gallon.

19 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
20 claim under this subsection in a taxable year is an amount equal to \$1,000,
21 multiplied by the number of motor vehicles described under par. (b) that the claimant
22 purchased or leased in the taxable year, except that the total amount that a claimant
23 may claim for all taxable years combined with respect to the lease of any single motor
24 vehicle may not exceed \$1,000.

SENATE BILL 138

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

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

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

12 71.10 (4) (cr) Flexible fuel motor vehicles credit under s. 71.07 (5n).

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

14 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
15 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),
16 (5h), (5i), (5j), ~~and (5k),~~ and (5n) and passed through to partners shall be added to
17 the partnership's income.

18 **SECTION 5.** 71.26 (2) (a) 4. of the statutes is amended to read:

19 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
20 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f),
21 (5g), (5h), (5i), (5j), ~~and (5k),~~ and (5n) and not passed through by a partnership,
22 limited liability company, or tax-option corporation that has added that amount to
23 the partnership's, limited liability company's, or tax-option corporation's income
24 under s. 71.21 (4) or 71.34 (1k) (g).

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

SENATE BILL 138**SECTION 6**

1 71.28 (5n) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definition.* In this
2 subsection, “claimant” means a person who files a claim under this subsection.

3 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
4 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
5 amount of the taxes, an amount that is equal to the amount of the taxes imposed
6 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
7 or lease of any new motor vehicle, licensed for highway use, that is capable of using
8 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to
9 propel the motor vehicle or that is a hybrid motor vehicle with a federal
10 environmental protection agency rating that is greater than 40 miles per gallon.

11 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
12 claim under this subsection in a taxable year is an amount equal to \$1,000,
13 multiplied by the number of motor vehicles described under par. (b) that the claimant
14 purchased or leased in the taxable year, except that the total amount that a claimant
15 may claim for all taxable years combined with respect to the lease of any single motor
16 vehicle may not exceed \$1,000.

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

SENATE BILL 138

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

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

4 71.30 (3) (dq) Flexible fuel motor vehicles credit under s. 71.28 (5n).

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

6 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
7 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
8 (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k), and (5n)~~ and passed
9 through to shareholders.

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

11 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
12 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),
13 (5j), ~~and (5k), and (5n)~~ and not passed through by a partnership, limited liability
14 company, or tax-option corporation that has added that amount to the partnership's,
15 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
16 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and
17 (5).

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

19 71.47 (5n) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definition*. In this
20 subsection, "claimant" means a person who files a claim under this subsection.

21 (b) *Filing claims*. Subject to the limitations provided under this subsection, a
22 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
23 amount of the taxes, an amount that is equal to the amount of the taxes imposed
24 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
25 or lease of any new motor vehicle, licensed for highway use, that is capable of using

SENATE BILL 138**SECTION 10**

1 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to
2 propel the motor vehicle or that is a hybrid motor vehicle with a federal
3 environmental protection agency rating that is greater than 40 miles per gallon.

4 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
5 claim under this subsection in a taxable year is an amount equal to \$1,000,
6 multiplied by the number of motor vehicles described under par. (b) that the claimant
7 purchased or leased in the taxable year, except that the total amount that a claimant
8 may claim for all taxable years combined with respect to the lease of any single motor
9 vehicle may not exceed \$1,000.

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

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

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

21 71.49 (1) (dq) Flexible fuel motor vehicles credit under s. 71.47 (5n).

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

23 77.92 (4) “Net business income,” with respect to a partnership, means taxable
24 income as calculated under section 703 of the Internal Revenue Code; plus the items
25 of income and gain under section 702 of the Internal Revenue Code, including taxable

SENATE BILL 138

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

SECTION 13. Initial applicability.

14
15 (1) This act first applies to taxable years beginning on January 1 of the year
16 in which this subsection takes effect, except that if this subsection takes effect after
17 July 31 this act first applies to taxable years beginning on January 1 of the year
18 following the year in which this subsection takes effect.

19 (END)