



2009 SENATE BILL 474

January 22, 2010 – Introduced by Senators LEIBHAM, KANAVAS and SCHULTZ, cosponsored by Representatives VAN AKKEREN, BROOKS, GUNDERSON, KESTELL, RIPP, TOWNSEND and ZIGMUNT. 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 (3x), 71.10 (4) (cr), 71.28 (3x), 71.30
3 (3) (dn), 71.47 (3x) 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.

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 insulating concrete forms used to construct a building. 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:

5 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
6 28, is amended to read:

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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), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
3 (3t), (3w), (3x), (5e), (5f), (5h), (5i), (5j), (5k), and (8r) and not passed through by a
4 partnership, limited liability company, or tax-option corporation that has added that
5 amount to the partnership's, company's, or tax-option corporation's income under s.
6 71.21 (4) or 71.34 (1k) (g).

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

8 71.07 (3x) INSULATING CONCRETE FORMS CREDIT. (a) *Definitions.* In this
9 subsection:

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

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

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
15 amount of the taxes, an amount equal to the amount that the claimant paid in the
16 taxable year to purchase for use in this state insulating concrete forms used to
17 construct the insulated exterior and interior walls of any building.

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

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

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

4 71.10 (4) (cr) Insulating concrete forms credit under s. 71.07 (3x).

5 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
6 amended to read:

7 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
8 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),
9 (3x), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and passed through to partners shall
10 be added to the partnership's income.

11 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 28,
12 is amended to read:

13 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
14 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),
15 (3w), (3x), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) 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 (1k) (g).

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

20 71.28 (3x) INSULATING CONCRETE FORMS CREDIT. (a) *Definitions*. In this
21 subsection:

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

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

SENATE BILL 474**SECTION 6**

1 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
2 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
3 amount of the taxes, an amount equal to the amount that the claimant paid in the
4 taxable year to purchase for use in this state insulating concrete forms used to
5 construct the insulated exterior and interior walls of any building.

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 the amounts described
9 under par. (b). A partnership, limited liability company, or tax-option corporation
10 shall compute the amount of credit that each of its partners, members, or
11 shareholders may claim and shall provide that information to each of them.
12 Partners, members of limited liability companies, and shareholders of tax-option
13 corporations may claim the credit in proportion to their ownership interests.

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

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

17 71.30 (3) (dn) Insulating concrete forms credit under s. 71.28 (3x).

18 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
19 is amended to read:

20 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
21 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
22 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (3x), (5e), (5f), (5g), (5h), (5i), (5j), (5k),
23 and (8r) and passed through to shareholders.

24 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
25 28, is amended to read:

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

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

9 71.47 (3x) INSULATING CONCRETE FORMS CREDIT. (a) *Definitions.* In this
10 subsection:

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

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

14 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
15 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
16 amount of the taxes, an amount equal to the amount that the claimant paid in the
17 taxable year to purchase for use in this state insulating concrete forms used to
18 construct the insulated exterior and interior walls of any building.

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

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1 Partners, members of limited liability companies, and shareholders of tax-option
2 corporations may 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) (dn) of the statutes is created to read:

6 71.49 (1) (dn) Insulating concrete forms credit under s. 71.47 (3x).

7 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
8 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), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
18 (3t), (3w), ~~(3x)~~, (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r); and plus or minus, as
19 appropriate, transitional adjustments, depreciation differences, and basis
20 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
21 loss, and deductions from farming. “Net business income,” with respect to a natural
22 person, estate, or trust, means profit from a trade or business for federal income tax
23 purposes and includes net income derived as an employee as defined in section 3121
24 (d) (3) of the Internal Revenue Code.

25 **SECTION 13. Initial applicability.**

