



1995 ASSEMBLY BILL 761

January 2, 1996 – Introduced by Representatives BRANCEL, FREESE, HAHN, OTTE, AINSWORTH, HARSDORF, ZUKOWSKI, ZIEGELBAUER, FOTI, SKINDRUD, MUSSER, GOETSCH, GROTHMAN, SCHNEIDERS, KLUSMAN, UNDERHEIM, OLSEN, SPRINGER and ALBERS, cosponsored by Senators FITZGERALD, SCHULTZ, WELCH and BUETTNER. Referred to Committee on Ways and Means.

1 **AN ACT to repeal** 71.07 (10) (a), 71.28 (3) (d), 71.34 (1) (e), 71.365 (3) (b) and 71.47
2 (3) (d); **to renumber** 71.07 (10) (b), 71.28 (3) (c), 71.365 (3) (a) and 71.47 (3) (c);
3 **to amend** 71.05 (6) (a) 15., 71.21 (4), 71.28 (3) (b), 71.34 (1) (g) and 71.47 (3) (b);
4 and **to create** 71.07 (3s), 71.10 (4) (de), 71.28 (3) (c) 2. to 6. and 71.47 (3) (c) 2.
5 to 6. of the statutes; **relating to:** allowing individuals, shareholders in
6 tax-option corporations and partners to claim the income tax and franchise tax
7 credit for sales taxes and use taxes paid on fuel and electricity that are used in
8 manufacturing.

Analysis by the Legislative Reference Bureau

Under current law, corporations, except tax-option corporations, may claim an income tax or franchise tax credit for the sales tax and use tax that they pay on fuel and electricity used in manufacturing. This bill extends that credit to the shareholders of tax-option corporations, partners and individuals. 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:

9 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 1995 Wisconsin Act
10 27, is amended to read:

1 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL) ~~and~~, (2ds) and (3s) and not passed through by a partnership, limited
3 liability company or tax-option corporation that has added that amount to the
4 partnership's, company's or tax-option corporation's income under s. 71.21 (4) or
5 71.34 (1) (g).

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

7 71.07 **(3s)** MANUFACTURING SALES TAX CREDIT. (a) In this subsection:

8 1. "Manufacturing" has the meaning given in s. 77.54 (6m).

9 2. "Sales and use tax under ch. 77 paid by the person" includes use taxes paid
10 directly by the person and sales and use taxes paid by the person's supplier and
11 passed on to the person whether separately stated on the invoice or included in the
12 total price.

13 (b) The tax imposed under s. 71.02 shall be reduced by an amount equal to the
14 sales and use tax under ch. 77 paid by the person in such taxable year on fuel and
15 electricity consumed in manufacturing tangible personal property in this state.
16 Shareholders in a tax-option corporation and partners may claim the credit under
17 this subsection, based on eligible sales and use taxes paid by the partnership or
18 tax-option corporation, in proportion to the ownership interest of each partner or
19 shareholder. The partnership or tax-option corporation shall calculate the amount
20 of the credit which may be claimed by each partner or shareholder and shall provide
21 that information to the partner or shareholder.

22 (c) 1. The credit under par. (b), including any credits carried over, may be offset
23 only against the amount of the tax imposed upon or measured by the business
24 operations of the claimant in which the fuel and electricity are consumed. If the
25 credit computed is not entirely offset against taxes otherwise due, the unused

1 balance shall be carried forward and credited against taxes otherwise due for the
2 following 15 taxable years to the extent not offset by taxes otherwise due in all
3 intervening years between the year in which the expense was incurred and the year
4 in which the carry-forward credit is claimed.

5 2. For shareholders in a tax-option corporation, the credit may be offset only
6 against the tax imposed on the shareholder's prorated share of the tax-option
7 corporation's income.

8 3. For partners, the credit may be offset only against the tax imposed on the
9 partner's distributive share of partnership income.

10 4. If a tax-option corporation becomes liable for tax, the corporation may offset
11 the credit against the tax due, with any remaining credit passing through to the
12 shareholders.

13 5. If a corporation that is not a tax-option corporation has a carry-over credit
14 and becomes a tax-option corporation before the credit carried over is used, the
15 unused portion of the credit may be used by the tax-option corporation's
16 shareholders on a prorated basis.

17 6. If the shareholders of a tax-option corporation have carry-over credits and
18 the corporation becomes a corporation other than a tax-option corporation after the
19 effective date of this subdivision [revisor inserts date], and before the credits
20 carried over are used, the unused portion of the credits may be used by the
21 corporation that is not a tax-option corporation.

22 **SECTION 3.** 71.07 (10) (a) of the statutes is repealed.

23 **SECTION 4.** 71.07 (10) (b) of the statutes is renumbered 71.07 (10).

24 **SECTION 5.** 71.10 (4) (de) of the statutes is created to read:

25 71.10 (4) (de) The manufacturing sales tax credit under s. 71.07 (3s).

1 **SECTION 6.** 71.21 (4) of the statutes, as affected by 1995 Wisconsin Act 27, is
2 amended to read:

3 71.21 **(4)** Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
4 (2dj), (2dL) ~~and~~, (2ds) and (3s) and passed through to partners or members shall be
5 added to the partnership's or limited liability company's income.

6 **SECTION 7.** 71.28 (3) (b) of the statutes is amended to read:

7 71.28 **(3)** (b) The tax imposed upon or measured by corporation Wisconsin net
8 income under s. 71.23 (1) or (2) shall be reduced by an amount equal to the sales and
9 use tax under ch. 77 paid by the corporation in such taxable year on fuel and
10 electricity consumed in manufacturing tangible personal property in this state.
11 Shareholders of a tax-option corporation and partners may claim the credit under
12 this subsection, based on eligible sales and use taxes paid by the tax-option
13 corporation or partnership, in proportion to the ownership interest of each
14 shareholder or partner. The tax-option corporation or partnership shall calculate
15 the amount of the credit that may be claimed by each shareholder or partner and
16 shall provide that information to the shareholder or partner.

17 **SECTION 8.** 71.28 (3) (c) of the statutes is renumbered 71.28 (3) (c) 1.

18 **SECTION 9.** 71.28 (3) (c) 2. to 6. of the statutes are created to read:

19 71.28 **(3)** (c) 2. For shareholders in a tax-option corporation, the credit may be
20 offset only against the tax imposed on the shareholder's prorated share of the
21 tax-option corporation's income.

22 3. For partners, the credit may be offset only against the tax imposed on the
23 partner's distributive share of partnership income.

1 4. If a tax-option corporation becomes liable for tax, the corporation may offset
2 the credit against the tax due, with any remaining credit passing through to the
3 shareholders.

4 5. If a corporation that is not a tax-option corporation has a carry-over credit
5 and becomes a tax-option corporation before the credit carried over is used, the
6 unused portion of the credit may be used by the tax-option corporation's
7 shareholders on a prorated basis.

8 6. If the shareholders of a tax-option corporation have carry-over credits and
9 the corporation becomes a corporation other than a tax-option corporation after the
10 effective date of this subdivision [revisor inserts date], and before the credits
11 carried over are used, the unused portion of the credits may be used by the
12 corporation that is not a tax-option corporation.

13 **SECTION 10.** 71.28 (3) (d) of the statutes is repealed.

14 **SECTION 11.** 71.34 (1) (e) of the statutes is repealed.

15 **SECTION 12.** 71.34 (1) (g) of the statutes, as affected by 1995 Wisconsin Act 27,
16 is amended to read:

17 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
18 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL) and, (1ds) and (3s) and
19 passed through to shareholders.

20 **SECTION 13.** 71.365 (3) (a) of the statutes is renumbered 71.365 (3).

21 **SECTION 14.** 71.365 (3) (b) of the statutes is repealed.

22 **SECTION 15.** 71.47 (3) (b) of the statutes is amended to read:

23 71.47 (3) (b) The tax imposed upon or measured by corporation Wisconsin net
24 income under s. 71.43 (1) or (2) shall be reduced by an amount equal to the sales and
25 use tax under ch. 77 paid by the corporation in such taxable year on fuel and

1 electricity consumed in manufacturing tangible personal property in this state.
2 Shareholders of a tax-option corporation and partners may claim the credit under
3 this subsection, based on eligible sales and use taxes paid by the tax-option
4 corporation or partnership, in proportion to the ownership interest of each
5 shareholder or partner. The tax-option corporation or partnership shall calculate
6 the amount of the credit that may be claimed by each shareholder or partner and
7 shall provide that information to the shareholder or partner.

8 **SECTION 16.** 71.47 (3) (c) of the statutes is renumbered 71.47 (3) (c) 1.

9 **SECTION 17.** 71.47 (3) (c) 2. to 6. of the statutes are created to read:

10 71.47 **(3)** (c) 2. For shareholders in a tax-option corporation, the credit may be
11 offset only against the tax imposed on the shareholder's prorated share of the
12 tax-option corporation's income.

13 3. For partners, the credit may be offset only against the tax imposed on the
14 partner's distributive share of partnership income.

15 4. If a tax-option corporation becomes liable for tax, the corporation may offset
16 the credit against the tax due, with any remaining credit passing through to the
17 shareholders.

18 5. If a corporation that is not a tax-option corporation has a carry-over credit
19 and becomes a tax-option corporation before the credit carried over is used, the
20 unused portion of the credit may be used by the tax-option corporation's
21 shareholders on a prorated basis.

22 6. If the shareholders of a tax-option corporation have carry-over credits and
23 the corporation becomes a corporation other than a tax-option corporation after the
24 effective date of this subdivision [revisor inserts date], and before the credits

1 carried over are used, the unused portion of the credits may be used by the
2 corporation that is not a tax-option corporation.

3 **SECTION 18.** 71.47 (3) (d) of the statutes is repealed.

4 **SECTION 19. Initial applicability.**

5 (1) This act first applies to taxable years beginning on the January 1 after
6 publication.

7 (END)