

1999 ASSEMBLY BILL 244

March 23, 1999 – Introduced by Representatives JENSEN, RHOADES, PLALE, PETROWSKI, ALBERS, SPILLNER, KAUFERT, STASKUNAS, MUSSER, FREESE, JESKEWITZ, STONE, KELSO, WARD, KREIBICH, SYKORA, ZIEGELBAUER, REYNOLDS, SUDER, OLSEN, HUEBSCH, TOWNSEND, OWENS, PORTER, F. LASEE, KESTELL, HOVEN, PLOUFF, JOHNSRUD, GUNDRUM, LASSA, SERATTI, WALKER, RILEY, DUFF, HUTCHISON, HUNDERTMARK, VRAKAS, MONTGOMERY, PETTIS, OTT, GUNDERSON, LEIBHAM and AINSWORTH, cosponsored by Senators DARLING, RUDE, WELCH, ZIEN and DRZEWIECKI. Referred to Committee on Colleges and Universities.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4), 71.26
 2 (2) (a), 71.30 (3) (f), 71.34 (1) (g), 71.45 (2) (a) 10., 71.49 (1) (f) and 77.92 (4); and
 3 **to create** 71.07 (5r), 71.28 (5r) and 71.47 (5r) of the statutes; **relating to:** an
 4 education tax credit to corporations.

Analysis by the Legislative Reference Bureau

This bill creates an income tax and franchise tax credit for businesses that pay tuition for an individual to attend a university, college or technical college if the individual is enrolled in a degree-granting program. Sole proprietorships, corporations and insurers may claim the credit. Partnerships, limited liability companies and tax-option corporations compute the credit but pass it on to the partners, members and shareholders in proportion to their ownership interests. The credit is an amount equal to 50% of the tuition paid by a business for an individual to attend school in a taxable year. If the credit claimed by a business exceeds the business' tax liability, the state will not issue a refund check, but the business may carry forward any remaining credit to 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:

ASSEMBLY BILL 244**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), (2dr), (2ds), (2dx) ~~and~~, (3s) and (5r) 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 (1) (g).

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

8 71.07 **(5r)** EDUCATION CREDIT. (a) In this subsection:

9 1. "Claimant" means a partner, a member of a limited liability company or a
10 shareholder of a tax-option corporation who files a claim under this subsection.

11 2. "Degree-granting program" means an educational program for which an
12 associate, a bachelor's or a graduate degree is awarded upon successful completion.

13 3. "Qualified postsecondary institution" means a University of Wisconsin
14 System institution, a technical college system institution or a regionally accredited
15 4-year nonprofit college or university having its regional headquarters and principal
16 place of business in this state, notwithstanding s. 16.973 (1) (b).

17 (b) A claimant may claim as a credit against the tax imposed under this
18 subchapter an amount equal to 50% of the tuition that the claimant paid or incurred
19 during the taxable year for an individual to participate in an education program of
20 a qualified postsecondary institution, if the individual is enrolled in a
21 degree-granting program.

22 (c) A claimant may not claim the credit under par. (b) for any tuition amounts
23 that the claimant excluded under s. 71.05 (6) (b) 28. or under section 127 of the
24 Internal Revenue Code.

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1 (d) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
2 under s. 71.28 (4), apply to the credit under this subsection.

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

11 (f) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
12 applies to the credit under this subsection.

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

14 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
15 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
16 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5r),
17 (6) and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~ (3) and
18 (5r) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~ (3) and (5r)
19 and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than
20 the tax under this section, there is imposed on that natural person, married couple
21 filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
22 minimum tax computed as follows:

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

24 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland
25 preservation credit under subch. IX, homestead credit under subch. VIII, farmland

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1 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
2 71.07 (2fd), earned income tax credit under s. 71.07 (9e), education credit under s.
3 71.07 (5r), estimated tax payments under s. 71.09, and taxes withheld under subch.
4 X.

5 **SECTION 5.** 71.21 (4) of the statutes is amended to read:

6 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
7 (2dj), (2dL), (2ds), (2dx) ~~and (3s) and (5r)~~ and passed through to partners shall be
8 added to the partnership's income.

9 **SECTION 6.** 71.26 (2) (a) of the statutes is amended to read:

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

25 **SECTION 7.** 71.28 (5r) of the statutes is created to read:

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1 71.28 (5r) EDUCATION CREDIT. (a) In this subsection:

2 1. “Claimant” means a corporation that files a claim under this subsection.

3 2. “Degree-granting program” means an education program for which an
4 associate, a bachelor’s or a graduate degree is awarded upon successful completion.

5 3. “Qualified postsecondary institution” means a University of Wisconsin
6 System institution, a technical college system institution or a regionally accredited
7 4-year nonprofit college or university having its regional headquarters and principal
8 place of business in this state, notwithstanding s. 16.973 (1) (b).

9 (b) A claimant may claim as a credit against the tax imposed under this
10 subchapter an amount equal to 50% of the tuition that the claimant paid or incurred
11 during the taxable year for an individual to participate in an education program of
12 a qualified postsecondary institution, if the individual is enrolled in a
13 degree-granting program.

14 (c) A claimant may not claim the credit under par. (b) for any tuition amounts
15 that the claimant has excluded under s. 71.05 (6) (b) 28. or under section 127 of the
16 Internal Revenue Code.

17 (d) The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit
18 under sub. (4), apply to the credit under this subsection.

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

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1 shareholders of tax-option corporations may claim the credit in proportion to their
2 ownership interest.

3 (f) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies
4 to the credit under this subsection.

5 **SECTION 8.** 71.30 (3) (f) of the statutes is amended to read:

6 71.30 **(3)** (f) The total of farmers' drought property tax credit under s. 71.28
7 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
8 s. 71.28 (2m), education credit under s. 71.28 (5r) and estimated tax payments under
9 s. 71.29.

10 **SECTION 9.** 71.34 (1) (g) of the statutes is amended to read:

11 71.34 **(1)** (g) An addition shall be made for credits computed by a tax-option
12 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) and (3) and (5r)
13 and passed through to shareholders.

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

15 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
16 computed under s. 71.47 (1dd) to (1dx) and (5r) and not passed through by a
17 partnership, limited liability company or tax-option corporation that has added that
18 amount to the partnership's, limited liability company's or tax-option corporation's
19 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
20 s. 71.47 (1), (3), (4) and (5).

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

22 71.47 **(5r)** EDUCATION CREDIT. (a) In this subsection:

23 1. "Claimant" means a corporation that files a claim under this subsection.

24 2. "Degree-granting program" means an educational program for which an
25 associate, a bachelor's or a graduate degree is awarded upon successful completion.

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1 3. “Qualified postsecondary institution” means a University of Wisconsin
2 System institution, a technical college system institution or a regionally accredited
3 4-year nonprofit college or university having its regional headquarters and principal
4 place of business in this state, notwithstanding s. 16.973 (1) (b).

5 (b) A claimant may claim as a credit against the tax imposed under this
6 subchapter an amount equal to 50% of the tuition that the claimant paid or incurred
7 during the taxable year for an individual to participate in an education program of
8 a qualified postsecondary institution, if the individual is enrolled in a
9 degree-granting program.

10 (c) A claimant may not claim the credit under par. (b) for any tuition amounts
11 that the claimant excluded under s. 71.05 (6) (b) 28. or under section 127 of the
12 Internal Revenue Code.

13 (d) The carry-over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit
14 under s. 71.28 (4), apply to the credit under this subsection.

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

23 (f) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),
24 applies to the credit under this subsection.

25 **SECTION 12.** 71.49 (1) (f) of the statutes is amended to read:

