

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 1999 ASSEMBLY BILL 244**

February 1, 2000 – Offered by Representatives RHOADES and JENSEN.

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 for businesses.

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 is amended to read:

6 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
7 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) and, (3s) and (5r) and not passed through by a
8 partnership, limited liability company or tax-option corporation that has added that
9 amount to the partnership's, company's or tax-option corporation's income under s.
10 71.21 (4) or 71.34 (1) (g).

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

1 71.07 (5r) EDUCATION CREDIT. (a) In this subsection:

2 1. “Claimant” means a sole proprietor, a partner, a member of a limited liability
3 company or a shareholder of a tax–option corporation who files a claim under this
4 subsection.

5 2. “Degree–granting program” means an educational program for which an
6 associate, a bachelor’s or a graduate degree is awarded upon successful completion.

7 3. “Family member” has the meaning given in s. 157.061 (7).

8 4. “Managing employe” means an individual who wholly or partially exercises
9 operational or managerial control over, or who directly or indirectly conducts, the
10 operation of the claimant’s business.

11 5. “Qualified postsecondary institution” means a University of Wisconsin
12 System institution, a technical college system institution or a regionally accredited
13 4–year nonprofit college or university having its regional headquarters and principal
14 place of business in this state, notwithstanding s. 16.973 (1) (b).

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

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

23 (cm) A claimant may not claim the credit under par. (b) for any tuition amounts
24 that the claimant paid or incurred for a family member of the claimant or of a
25 managing employe unless all of the following apply:

1 1. The family member was employed an average of at least 20 hours a week as
2 an employe of the claimant, or the claimant's business, during the one-year period
3 prior to commencing participation in the education program for which the claimant
4 claims a credit under par. (b).

5 2. The family member is enrolled in a degree-granting program that is
6 substantially related to the claimant's business.

7 3. The family member is making satisfactory progress towards completing the
8 degree-granting program under subd. 2.

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

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

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

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

22 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
23 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
24 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5r),
25 (6) and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~ (3) and

1 (5r) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~, (3) and (5r)
2 and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than
3 the tax under this section, there is imposed on that natural person, married couple
4 filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
5 minimum tax computed as follows:

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

7 71.10 **(4)** (i) The total of claim of right credit under s. 71.07 (1), farmland
8 preservation credit under subch. IX, homestead credit under subch. VIII, farmland
9 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.
10 71.07 (2fd), earned income tax credit under s. 71.07 (9e), education credit under s.
11 71.07 (5r), estimated tax payments under s. 71.09, and taxes withheld under subch.
12 X.

13 **SECTION 5.** 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), (2ds), (2dx) ~~and~~, (3s) and (5r) and passed through to partners shall be
16 added to the partnership's income.

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

18 71.26 **(2)** (a) *Corporations in general.* The "net income" of a corporation means
19 the gross income as computed under the internal revenue code as modified under
20 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
21 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed
22 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) ~~and~~, (1dx) and (5r) and not passed
23 through by a partnership, limited liability company or tax-option corporation that
24 has added that amount to the partnership's, limited liability company's or tax-option
25 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from

1 the sale or other disposition of assets the gain from which would be wholly exempt
2 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at
3 a gain and minus deductions, as computed under the internal revenue code as
4 modified under sub. (3), plus or minus, as appropriate, an amount equal to the
5 difference between the federal basis and Wisconsin basis of any asset sold,
6 exchanged, abandoned or otherwise disposed of in a taxable transaction during the
7 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

9 **71.28 (5r) EDUCATION CREDIT.** (a) In this subsection:

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

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

13 3. “Family member” has the meaning given in s. 157.061 (7).

14 4. “Managing employe” means an individual who wholly or partially exercises
15 operational or managerial control over, or who directly or indirectly conducts, the
16 operation of the claimant’s business.

17 5. “Qualified postsecondary institution” means a University of Wisconsin
18 System institution, a technical college system institution or a regionally accredited
19 4-year nonprofit college or university having its regional headquarters and principal
20 place of business in this state, notwithstanding s. 16.973 (1) (b).

21 (b) Subject to the limitations provided in this subsection, a claimant may claim
22 as a credit against the tax imposed under this subchapter an amount equal to 50%
23 of the tuition that the claimant paid or incurred during the taxable year for an
24 individual to participate in an education program of a qualified postsecondary
25 institution, if the individual is enrolled in a degree-granting program.

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

4 (cm) A claimant may not claim the credit under par. (b) for any tuition amounts
5 that the claimant paid or incurred for a family member of the claimant or of a
6 managing employe unless all of the following apply:

7 1. The family member was employed an average of at least 20 hours a week as
8 an employe of the claimant, or the claimant's business, during the one-year period
9 prior to commencing participation in the education program for which the claimant
10 claims a credit under par. (b).

11 2. The family member is enrolled in a degree-granting program that is
12 substantially related to the claimant's business.

13 3. The family member is making satisfactory progress towards completing the
14 degree-granting program under subd. 2.

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

17 (e) 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 tuition under par. (b). A partnership, limited
20 liability company or tax-option corporation shall compute the amount of credit that
21 each of its partners, members or shareholders may claim and shall provide that
22 information to each of them. Partners, members of limited liability companies and
23 shareholders of tax-option corporations may claim the credit in proportion to their
24 ownership interest.

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

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

4 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28
5 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
6 s. 71.28 (2m), education credit under s. 71.28 (5r) and estimated tax payments under
7 s. 71.29.

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

9 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
10 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and~~, (3) and (5r)
11 and passed through to shareholders.

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

13 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
14 computed under s. 71.47 (1dd) to (1dx) and (5r) and not passed through by a
15 partnership, limited liability company or tax-option corporation that has added that
16 amount to the partnership's, limited liability company's or tax-option corporation's
17 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
18 s. 71.47 (1), (3), (4) and (5).

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

20 71.47 (5r) EDUCATION CREDIT. (a) In this subsection:

- 21 1. "Claimant" means a corporation that files a claim under this subsection.
22 2. "Degree-granting program" means an educational program for which an
23 associate, a bachelor's or a graduate degree is awarded upon successful completion.
24 3. "Family member" has the meaning given in s. 157.061 (7).

1 4. “Managing employe” means an individual who wholly or partially exercises
2 operational or managerial control over, or who directly or indirectly conducts, the
3 operation of the claimant’s business.

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

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

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

16 (cm) A claimant may not claim the credit under par. (b) for any tuition amounts
17 that the claimant paid or incurred for a family member of the claimant or of a
18 managing employe unless all of the following apply:

19 1. The family member was employed an average of at least 20 hours a week as
20 an employe of the claimant, or the claimant’s business, during the one–year period
21 prior to commencing participation in the education program for which the claimant
22 claims a credit under par. (b).

23 2. The family member is enrolled in a degree–granting program that is
24 substantially related to the claimant’s business.

1 3. The family member is making satisfactory progress towards completing the
2 degree-granting program under subd. 2.

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

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

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

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

16 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47
17 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
18 s. 71.47 (2m), education credit under s. 71.47 (5r) and estimated tax payments under
19 s. 71.48.

20 **SECTION 13.** 77.92 (4) of the statutes, as affected by 1999 Wisconsin Act 9, is
21 amended to read:

22 77.92 (4) "Net business income", with respect to a partnership, means taxable
23 income as calculated under section 703 of the Internal Revenue Code; plus the items
24 of income and gain under section 702 of the Internal Revenue Code, including taxable
25 state and municipal bond interest and excluding nontaxable interest income or

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

12 **SECTION 14. Initial applicability.**

13 (1) EDUCATION CREDIT. This act first applies to taxable years beginning on July
14 1, 2001.

15 (END)