

## 1999 ASSEMBLY BILL 556

October 25, 1999 – Introduced by Representatives PLALE, JESKEWITZ, SCHOOFF, MUSSER, WASSERMAN, CULLEN, STASKUNAS, BOCK, SINICKI, MILLER, RILEY, HAHN, COLON, PETTIS, BOYLE and F. LASEE, cosponsored by Senators ERPENBACH, ROSENZWEIG, MOORE, ROESSLER, ZIEN, PANZER, DARLING and HUELSMAN. Referred to Committee on Ways and Means.

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 (5d), 71.28 (5d) and 71.47 (5d) of the statutes; **relating to:** an  
 4           income and franchise tax credit for a business that constructs or equips a  
 5           facility for its employes to pump and store breast milk.

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### ***Analysis by the Legislative Reference Bureau***

This bill creates an income tax and franchise tax credit for businesses that construct or equip a facility for an employe to pump and store breast milk during the employe's working hours. 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 amount paid or incurred by a business to construct or equip a facility for an employe to pump and store breast milk during the employe's working hours. The credit may not exceed \$10,000 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.

**ASSEMBLY BILL 556**

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

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 (5d) 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 (5d) of the statutes is created to read:

8           71.07 **(5d)** BREAST-MILK FACILITY CREDIT. (a) In this subsection:

9           1. "Breast-milk facility" means a private location that has a clean water source,  
10           a sink and equipment for the pumping and storage of breast milk, and is used  
11           exclusively by a claimant's employees to pump and store breast milk during the  
12           employees' working hours.

13           2. "Claimant" means a person who files a claim under this subsection.

14           (b) A claimant may claim as a credit against the tax imposed under s. 71.02 an  
15           amount equal to 50% of the amount paid or incurred by the claimant to construct or  
16           equip a breast-milk facility, except that the credit shall not exceed \$10,000 in a  
17           taxable year.

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

20           (d) Partnerships, limited liability companies and tax-option corporations may  
21           not claim the credit under this subsection, but the eligibility for, and the amount of,

**ASSEMBLY BILL 556**

1 the credit are based on the amount paid or incurred under par. (b). A partnership,  
2 limited liability company or tax-option corporation shall compute the amount of  
3 credit that each of its partners, members or shareholders may claim and shall  
4 provide that information to each of them. Partners, members of limited liability  
5 companies and shareholders of tax-option corporations may claim the credit in  
6 proportion to their ownership interest.

7 (e) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),  
8 applies to the credit under this subsection.

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

10 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married  
11 couple filing jointly, trust or estate under s. 71.02, not considering the credits under  
12 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (5d),  
13 (6) and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~, (3) and  
14 (5d) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~, (3) and (5d)  
15 and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than  
16 the tax under this section, there is imposed on that natural person, married couple  
17 filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative  
18 minimum tax computed as follows:

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

20 71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland  
21 preservation credit under subch. IX, homestead credit under subch. VIII, farmland  
22 tax relief credit under s. 71.07 (3m), farmers' drought property tax credit under s.  
23 71.07 (2fd), breast-milk facility credit under s. 71.07 (5d), earned income tax credit  
24 under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under  
25 subch. X.

**ASSEMBLY BILL 556****SECTION 5**

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

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

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

6           71.26 **(2)** (a) *Corporations in general.* The “net income” of a corporation means  
7 the gross income as computed under the internal revenue code as modified under  
8 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
9 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed  
10 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) ~~and (1dx)~~ and (5d) and not passed  
11 through by a partnership, limited liability company or tax-option corporation that  
12 has added that amount to the partnership's, limited liability company's or tax-option  
13 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from  
14 the sale or other disposition of assets the gain from which would be wholly exempt  
15 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at  
16 a gain and minus deductions, as computed under the internal revenue code as  
17 modified under sub. (3), plus or minus, as appropriate, an amount equal to the  
18 difference between the federal basis and Wisconsin basis of any asset sold,  
19 exchanged, abandoned or otherwise disposed of in a taxable transaction during the  
20 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

22           71.28 **(5d)** BREAST-MILK FACILITY CREDIT. (a) In this subsection:

23           1. “Breast-milk facility” means a private location that has a clean water source,  
24 a sink and equipment for the pumping and storage of breast milk, and is used

**ASSEMBLY BILL 556**

1 exclusively by a claimant's employes to pump and store breast milk during the  
2 employes' working hours.

3 2. "Claimant" means a person who files a claim under this subsection.

4 (b) A claimant may claim as a credit against the tax imposed under s. 71.23 an  
5 amount equal to 50% of the amount paid or incurred by the claimant to construct or  
6 equip a breast-milk facility, except that the credit shall not exceed \$10,000 in a  
7 taxable year.

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

10 (d) 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 the amount paid or incurred under par. (b). A partnership,  
13 limited liability company or tax-option corporation shall compute the amount of  
14 credit that each of its partners, members or shareholders may claim and shall  
15 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 interest.

18 (e) Subsection (4) (g) and (h), as it applies to the credit under sub. (4), applies  
19 to the credit under this subsection.

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

21 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28  
22 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under  
23 s. 71.28 (2m), breast-milk facility credit under s. 71.28 (5d) and estimated tax  
24 payments under s. 71.29.

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

**ASSEMBLY BILL 556****SECTION 9**

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

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

5           71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit  
6 computed under s. 71.47 (1dd) to (1dx) and (5d) and not passed through by a  
7 partnership, limited liability company or tax–option corporation that has added that  
8 amount to the partnership’s, limited liability company’s or tax–option corporation’s  
9 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under  
10 s. 71.47 (1), (3), (4) and (5).

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

12           71.47 **(5d)** BREAST–MILK FACILITY CREDIT. (a) In this subsection:

13           1. “Breast–milk facility” means a private location that has a clean water source,  
14 a sink and equipment for the pumping and storage of breast milk, and is used  
15 exclusively by a claimant’s employes to pump and store breast milk during the  
16 employes’ working hours.

17           2. “Claimant” means a person who files a claim under this subsection.

18           (b) A claimant may claim as a credit against the tax imposed under s. 71.43 an  
19 amount equal to 50% of the amount paid or incurred by the claimant to construct or  
20 equip a breast–milk facility, except that the credit shall not exceed \$10,000 in a  
21 taxable year.

22           (c) The carry–over provisions of s. 71.28 (4) (e) and (f), as they apply to the credit  
23 under s. 71.28 (4), apply to the credit under this subsection.

24           (d) Partnerships, limited liability companies and tax–option corporations may  
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

**ASSEMBLY BILL 556**

1 the credit are based on the amount paid or incurred under par. (b). A partnership,  
2 limited liability company or tax-option corporation shall compute the amount of  
3 credit that each of its partners, members or shareholders may claim and shall  
4 provide that information to each of them. Partners, members of limited liability  
5 companies and shareholders of tax-option corporations may claim the credit in  
6 proportion to their ownership interest.

7 (e) Section 71.28 (4) (g) and (h), as it applies to the credit under s. 71.28 (4),  
8 applies to the credit under this subsection.

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

10 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47  
11 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under  
12 s. 71.47 (2m), breast-milk facility credit under s. 71.47 (5d) and estimated tax  
13 payments under s. 71.48.

14 **SECTION 13.** 77.92 (4) of the statutes is amended to read:

15 77.92 (4) "Net business income", with respect to a partnership, means taxable  
16 income as calculated under section 703 of the internal revenue code; plus the items  
17 of income and gain under section 702 of the internal revenue code; minus the items  
18 of loss and deduction under section 702 of the internal revenue code; plus payments  
19 treated as not made to partners under section 707 (a) of the internal revenue code;  
20 plus the credits claimed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds),  
21 (2dx) ~~and~~ (3s) and (5d); but excluding income, gain, loss and deductions from  
22 farming. "Net business income", with respect to a natural person, estate or trust,  
23 means profit from a trade or business for federal income tax purposes and includes  
24 net income derived as an employe as defined in section 3121 (d) (3) of the internal  
25 revenue code.

