

2001 ASSEMBLY BILL 124

February 14, 2001 – Introduced by Representatives PLALE, HOVEN, JESKEWITZ, SCHOOFF, GRONEMUS, YOUNG, BOCK, POWERS, STASKUNAS, SINICKI, MILLER, OTT, BALOW, WASSERMAN and BERCEAU, cosponsored by Senators GEORGE, BURKE, SCHULTZ, ZIEN, ROESSLER and ROSENZWEIG. Referred to Committee on Ways and Means.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and **to create** 71.07 (5d), 71.10 (4) (fm), 71.28 (5d), 71.30
3 (3) (dm), 71.47 (5d) and 71.49 (1) (dm) of the statutes; **relating to:** an income
4 and franchise tax credit for a business that constructs or equips a facility for its
5 employees to pump and store breast milk.

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 employee to pump and store breast milk during the employee'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 employee to pump and store breast milk during the employee'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.

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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:

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,

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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.** 71.10 (4) (fm) of the statutes is created to read:

10 71.10 (4) (fm) Breast-milk facility credit under s. 71.07 (5d).

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

12 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
13 (2dj), (2dL), (2ds), (2dx) ~~and~~, (3s), and (5d) and passed through to partners shall be
14 added to the partnership's income.

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

16 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
17 the gross income as computed under the internal revenue code as modified under
18 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
19 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed
20 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) ~~and~~, (1dx), and (5d) and not passed
21 through by a partnership, limited liability company or tax-option corporation that
22 has added that amount to the partnership's, limited liability company's or tax-option
23 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from
24 the sale or other disposition of assets the gain from which would be wholly exempt
25 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at

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1 a gain and minus deductions, as computed under the internal revenue code as
2 modified under sub. (3), plus or minus, as appropriate, an amount equal to the
3 difference between the federal basis and Wisconsin basis of any asset sold,
4 exchanged, abandoned or otherwise disposed of in a taxable transaction during the
5 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

6 **SECTION 6.** 71.28 (5d) of the statutes is created to read:

7 **71.28 (5d) BREAST-MILK FACILITY CREDIT.** (a) In this subsection:

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

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

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

17 (c) 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 (d) 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 the amount paid or incurred under par. (b). A partnership,
22 limited liability company, or tax-option corporation shall compute the amount of
23 credit that each of its partners, members, or shareholders may claim and shall
24 provide that information to each of them. Partners, members of limited liability

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

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

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

6 71.30 (3) (dm) Breast-milk facility credit under s. 71.28 (5d).

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

8 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
9 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and (3), and~~
10 (5d) and passed through to shareholders.

11 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

12 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
13 computed under s. 71.47 (1dd) to (1dx) and (5d) and not passed through by a
14 partnership, limited liability company or tax-option corporation that has added that
15 amount to the partnership's, limited liability company's or tax-option corporation's
16 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
17 s. 71.47 (1), (3), (4) and (5).

18 **SECTION 10.** 71.47 (5d) of the statutes is created to read:

19 71.47 (5d) BREAST-MILK FACILITY CREDIT. (a) In this subsection:

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

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

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

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

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

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

17 **SECTION 11.** 71.49 (1) (dm) of the statutes is created to read:

18 71.49 (1) (dm) Breast–milk facility credit under s. 71.47 (5d).

19 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

20 77.92 (4) “Net business income”, with respect to a partnership, means taxable
21 income as calculated under section 703 of the Internal Revenue Code; plus the items
22 of income and gain under section 702 of the Internal Revenue Code, including taxable
23 state and municipal bond interest and excluding nontaxable interest income or
24 dividend income from federal government obligations; minus the items of loss and
25 deduction under section 702 of the Internal Revenue Code, except items that are not

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1 deductible under s. 71.21; plus guaranteed payments to partners under section 707
2 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and~~ (3s) and (5d); and plus or minus, as
4 appropriate, transitional adjustments, depreciation differences and basis
5 differences under s. 71.05 (13), (15), (16), (17) and (19); but excluding income, gain,
6 loss and deductions from farming. “Net business income”, with respect to a natural
7 person, estate or trust, means profit from a trade or business for federal income tax
8 purposes and includes net income derived as an employee as defined in section 3121
9 (d) (3) of the Internal Revenue Code.

10 **SECTION 13. Initial applicability.**

11 (1) BREAST-MILK FACILITY CREDIT. This act first applies to taxable years
12 beginning on January 1 of the year in which this subsection takes effect, except that
13 if this subsection takes effect after July 31 this act first applies to taxable years
14 beginning on January 1 of the year after the year in which this subsection takes
15 effect.

16 (END)