

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2001 ASSEMBLY BILL 124**

April 24, 2001 – Offered by Representative PLALE.

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) (dw), 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.

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

6 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:
7 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and (3s)~~, and (5d) and not passed through by a
9 partnership, limited liability company or tax-option corporation that has added that
10 amount to the partnership's, company's or tax-option corporation's income under s.
11 71.21 (4) or 71.34 (1) (g).

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

1 71.07 **(5d)** BREAST-MILK FACILITY CREDIT. (a) In this subsection:

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

6 2. “Claimant” means a sole proprietor, a partner, a member of a limited liability
7 company, or a shareholder of a tax option corporation who files a claim under this
8 subsection.

9 (b) A claimant may claim as a credit against the tax imposed under s. 71.02 an
10 amount equal to 50% of the amount paid or incurred to construct or equip a
11 breast–milk facility in this state, up to a maximum credit of \$5,000. A claimant may
12 claim a credit in each succeeding taxable year that the claimant constructs or equips
13 an additional breast–milk facility.

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

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

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

1 **SECTION 3.** 71.10 (4) (dw) of the statutes is created to read:

2 71.10 **(4)** (dw) Breast–milk facility credit under s. 71.07 (5d).

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

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

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

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

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

24 71.28 **(5d)** BREAST–MILK FACILITY CREDIT. (a) In this subsection:

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

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

6 (b) A claimant may claim as a credit against the tax imposed under s. 71.23 an
7 amount equal to 50% of the amount paid to construct or equip a breast–milk facility
8 in this state, up to a maximum credit of \$5,000. A claimant may claim a credit in each
9 succeeding taxable year that the claimant constructs or equips an additional
10 breast–milk facility.

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

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

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

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

24 71.30 (3) (dm) Breast–milk facility credit under s. 71.28 (5d).

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

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
3 (5d) and passed through to shareholders.

4 **SECTION 9.** 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 10.** 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 employees to pump and store breast milk during the
16 employees’ 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 to construct or equip a
20 breast–milk facility in this state, up to a maximum credit of \$5,000. A claimant may
21 claim a credit in each succeeding taxable year that the claimant constructs or equips
22 an additional breast–milk facility.

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

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

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

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

12 71.49 (1) (dm) Breast–milk facility credit under s. 71.47 (5d).

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

14 77.92 (4) “Net business income”, with respect to a partnership, means taxable
15 income as calculated under section 703 of the Internal Revenue Code; plus the items
16 of income and gain under section 702 of the Internal Revenue Code, including taxable
17 state and municipal bond interest and excluding nontaxable interest income or
18 dividend income from federal government obligations; minus the items of loss and
19 deduction under section 702 of the Internal Revenue Code, except items that are not
20 deductible under s. 71.21; plus guaranteed payments to partners under section 707
21 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
22 (2di), (2dj), (2dL), (2dr), (2ds), (2dx) ~~and (3s)~~, and (5d); and plus or minus, as
23 appropriate, transitional adjustments, depreciation differences and basis
24 differences under s. 71.05 (13), (15), (16), (17) and (19); but excluding income, gain,
25 loss and deductions from farming. “Net business income”, with respect to a natural

1 person, estate or trust, means profit from a trade or business for federal income tax
2 purposes and includes net income derived as an employee as defined in section 3121
3 (d) (3) of the Internal Revenue Code.

4 **SECTION 13. Initial applicability.**

5 (1) BREAST-MILK FACILITY CREDIT. This act first applies to taxable years
6 beginning on January 1 of the year in which this subsection takes effect, except that
7 if this subsection takes effect after July 31 this act first applies to taxable years
8 beginning on January 1 of the year after the year in which this subsection takes
9 effect.

10 (END)