

2003 DRAFTING REQUEST

Bill

Received: **04/01/2003**

Received By: **rmarchan**

Wanted: **As time permits**

Identical to LRB:

For: **Sheila Harsdorf (608) 266-7745**

By/Representing: **chris**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Econ. Development - bus. dev.**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Harsdorf@legis.state.wi.us**

Carbon copy (CC:) to: **joseph.kreye@legis.state.wi.us**

> PDF sent

Pre Topic:

No specific pre topic given

Topic:

LLC, S-Corp., and partnership eligibility for technology zone credits

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	rmarchan 04/01/2003	wjackson 04/01/2003		_____			State
/1	jkreye 04/17/2003	wjackson 04/17/2003	chaskett 04/01/2003	_____	amentkow 04/01/2003		State
/2	jkreye	kgilfoy	jfrantze	_____	amentkow	amentkow	State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	05/15/2003	05/15/2003	04/17/2003	_____	04/17/2003	04/17/2003	
/3			jfrantze	_____	mbarman	mbarman	
			05/15/2003	_____	05/15/2003	05/15/2003	

FE Sent For:

<END>

At
Intro.

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/2		1/3-5/15 King	jfrantze		amentkow	amentkow	

To 5/15 Self
5/15

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May Contact:

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Subject: Econ. Development - bus. dev.

Extra Copies:

Submit via email: YES

Requester's email: Sen.Harsdorf@legis.state.wi.us

Carbon copy (CC:) to: robert.marchant@legis.state.wi.us removed
joseph.kreye@legis.state.wi.us

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J 4/17 *Self 4/17*

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/?	rmarchan	1 WLJ 4/1	1 cph 4/1	Pg/cph <u>4/1</u>			

FE Sent For:

<END>

Marchant, Robert

From: Schneider, Christian
Sent: Tuesday, April 01, 2003 11:09 AM
To: Marchant, Robert
Subject: Bill draft request

Robert:

Senator Harsdorf would like to draft legislation that would revise technology zones to include S Corporations by enabling them credits as if they were organized as S Corporations. From our understanding, As it stands right now, S-Corps, LLPs, and LLCs cannot include income taxes in their 3 years of projections that are used to estimate the possible state tax credits. This is because income taxes pass through to the shareholders.

Please contact me if you have any questions.

Thanks,

Chris Schneider
Senator Harsdorf's Office

245011

4-15-03

2003 BILL

Handwritten signatures and initials in circles.

REGEN

1 AN ACT to amend 560.96 (5) (d) of the statutes; relating to: the amount of
2 technology zone tax credits.

Analysis by the Legislative Reference Bureau

Current law authorizes the Department of Commerce (department) to designate up to eight technology zones and to certify an amount of tax credits for eligible businesses that are located within the technology zones. Current law requires the department to establish standards for establishing limits on the amount of tax credits that a business may claim. This bill specifies that such a limit may be based, at least in part, upon the amount of income taxes paid by a business, unless the business is a partnership, limited liability company, or tax-option corporation, in which case the limit may be based, at least in part, upon the amount of income taxes paid by the partners, members, or shareholders, respectively, that are allocable to the income of the partnership, limited liability corporation, or tax-option corporation.

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:

3 SECTION 1. 560.96 (5) (d) of the statutes is amended to read:

BILL

1 560.96 (5) (d) Standards for establishing the limit on the amount of tax credits
2 that a business may claim. Such a limit may be based, at least in part, upon the
3 amount of income and franchise taxes imposed under ss. 71.02, 71.23, and 71.43 paid
4 by a business, unless the business is a partnership, limited liability company, or
5 tax-option corporation, as defined in s. 71.34 (2), in which case the limit may be
6 based, at least in part, upon the amount of income and franchise taxes imposed under
7 ss. 71.02, 71.23, and 71.43 paid by the partners, members, or shareholders,
8 respectively, that are allocable to the income of the partnership, limited liability
9 corporation, or tax-option corporation.

SECTION 2. Initial applicability.

10 (1) This act first applies to applications submitted on the effective date of this
11 subsection to the department of commerce for certification under section 560.96 (3)
12 of the statutes.
13

14 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

2450/1dn
LRB-1859/1dn
RJM:wlj:cph

February 5, 2003

Senator Hursdorf

~~Representative Lassa~~

within the scope of the draft
because each has

Attached is the draft you requested concerning technology zones. ~~Because the rationale of the draft also seems to apply to partnerships, I included them in the draft.~~ Partnerships, ~~the~~ LLCs, and S-corporations, ~~have~~ pass-through taxation. You may want to have the Department of Commerce review this draft to ensure that it is administratively feasible.

Please feel free to call if you have any questions or desire any changes.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2450/1dn
RJM:wlj:cph

April 1, 2003

Senator Harsdorf:

Attached is the draft you requested concerning technology zones. I included partnerships, LLCs and S-corporations, within the scope of the draft because each has pass-through taxation. You may want to have the Department of Commerce review this draft to ensure that it is administratively feasible.

Please feel free to call if you have any questions or desire any changes.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

Emery, Lynn

From: Emery, Lynn
Sent: Monday, April 07, 2003 9:13 AM
To: Schneider, Christian
Subject: LRB-2450/1 & 1dn (attached as requested)



03-2450/1



03-2450/1dn

Lynn Emery
Program Assistant
Legislative Reference Bureau
608-266-3561
lynn.emery@legis.state.wi.us

Kreye, Joseph

From: Marchant, Robert
Sent: Thursday, April 17, 2003 11:33 AM
To: Kreye, Joseph
Subject: FW: LRB-2450

You're just Mr. Popularity, eh? Will you handle this?

-----Original Message-----

From: Schneider, Christian
Sent: Thursday, April 17, 2003 11:31 AM
To: Marchant, Robert
Subject: LRB-2450

Rob,

We would like to redraft our LRB 2450 (relating to tech zone tax credits) to make it identical to Rep. Suder's. I believe Joe Kreye drafted their version. If you need permission from Suder's office, please feel free to call Ann.

Thanks.

Christian Schneider
Committee Clerk, Senate Committee on Higher Education and Tourism
Staff, Joint Committee on Finance
Office of State Senator Sheila Harsdorf
(608)266-7745
christian.schneider@legis.state.wi.us



2450/2

2003 BILL

in 4-17-03

Today

1 AN ACT to amend 560.96 (5) (d) of the statutes; relating to: the amount of
2 technology zone tax credits.

Analysis by the Legislative Reference Bureau

Current law authorizes the Department of Commerce (department) to designate up to eight technology zones and to certify an amount of tax credits for eligible businesses that are located within the technology zones. Current law requires the department to establish standards for establishing limits on the amount of tax credits that a business may claim. This bill specifies that such a limit may be based, at least in part, upon the amount of income taxes paid by a business, unless the business is a partnership, limited liability company, or tax-option corporation, in which case the limit may be based, at least in part, upon the amount of income taxes paid by the partners, members, or shareholders, respectively, that are allocable to the income of the partnership, limited liability corporation, or tax-option corporation.

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:

3 SECTION 1. 560.96 (5) (d) of the statutes is amended to read:



BILL

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5 tax-option corporation, as defined in s. 71.34 (2), in which case the limit may be
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9 corporation, or tax-option corporation.

SECTION 2. Initial applicability.

10 (1) This act first applies to applications submitted on the effective date of this
11 subsection to the department of commerce for certification under section 560.96 (3)
12 of the statutes.
13

14 (END)



2450/2

2003 BILL

REGEN

1 AN ACT *to amend* 71.07 (3g) (a) 2., 71.28 (3g) (a) 2. and 71.47 (3g) (a) 2. of the
2 statutes; **relating to:** claiming the technology zone tax credit.

Analysis by the Legislative Reference Bureau

Under current law, a business that is located in a technology zone and certified by the Department of Commerce to receive tax credits, may claim such credits in an amount, as adjusted by the Department of Commerce, that is equal to the sum of the property taxes, income and franchise taxes, and sales and use taxes that the business paid in the taxable year. Under current law, generally, partnerships, limited liability companies, and tax-option corporations do not pay income or franchise taxes, but, instead, pass their tax liability on to their partners, members, and shareholders who report the income received from such entities.

Under this bill, a partner of a partnership, a member of a limited liability company, and a shareholder of a tax-option corporation may claim a tax credit, related to doing business in a technology zone, that is equal in part to a proportionate share of the amount, as adjusted by the Department of Commerce, of income or franchise taxes that the partnership, limited liability company, or tax-option corporation would have paid in the previous taxable year had the entity been a corporation. The amount of such taxes is determined by multiplying the entity's reported net income for the previous taxable year by the income or franchise tax rate applicable to a corporation.

BILL

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.** 71.07 (3g) (a) 2. of the statutes is amended to read:

2 71.07 (3g) (a) 2. The amount of income and franchise taxes imposed under s.
3 71.02 that the business paid in on the return for the previous taxable year or, in the
4 case of partnerships, limited liability companies, and tax-option corporations, the
5 amount of income or franchise taxes that the entity would have paid in the previous
6 taxable year had the entity been a corporation subject to the tax imposed under s.
7 71.23 and determined by multiplying the income that the entity would have reported
8 if the entity had been a corporation by the appropriate tax rate under s. 71.27 (1) or
9 (2).

10 **SECTION 2.** 71.28 (3g) (a) 2. of the statutes is amended to read:

11 71.28 (3g) (a) 2. The amount of income and franchise taxes imposed under s.
12 71.23 that the business paid in on the return for the previous taxable year or, in the
13 case of partnerships, limited liability companies, and tax-option corporations, the
14 amount of income or franchise taxes that the entity would have paid in the previous
15 taxable year had the entity been a corporation subject to the tax imposed under s.
16 71.23 and determined by multiplying the income that the entity would have reported
17 if the entity had been a corporation by the appropriate tax rate under s. 71.27 (1) or
18 (2).

19 **SECTION 3.** 71.47 (3g) (a) 2. of the statutes is amended to read:

20 71.47 (3g) (a) 2. The amount of income and franchise taxes imposed under s.
21 71.23 that the business paid in on the return for the previous taxable year or, in the

BILL

1 case of partnerships, limited liability companies, and tax-option corporations, the
2 amount of income or franchise taxes that the entity would have paid in the previous
3 taxable year had the entity been a corporation subject to the tax imposed under s.
4 71.23 and determined by multiplying the income that the entity would have reported
5 if the entity had been a corporation by the appropriate tax rate under s. 71.46 (1) or
6 (2).

SECTION 4. Initial applicability.

8 (1) This act first applies to taxable years beginning on January 1, 2003.

9 (END)

Emery, Lynn

From: Schneider, Christian
Sent: Thursday, April 17, 2003 1:11 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2450/2 Topic: LLC, S-Corp., and partnership eligibility for technology zone credits

It has been requested by <Schneider, Christian> that the following draft be jacketed for the SENATE:

Draft review: LRB 03-2450/2 Topic: LLC, S-Corp., and partnership eligibility for technology zone credits

Kreye, Joseph

From: Schneider, Christian
Sent: Wednesday, May 14, 2003 7:05 PM
To: Kreye, Joseph
Subject: FW: Technology Zones Credit -- technical clarification

Joe,

Here are some technical corrections to our LRB 2450 suggested by DOR. We have run them by the folks at Commerce, and they are okay with them. So we would like to have them incorporated into the draft, if possible.

Thanks,

Chris Schneider
Senator Harsdorf's Office

-----Original Message-----

From: Gates-Hendrix, Sherrie
Sent: Monday, May 05, 2003 12:15 PM
To: Schneider, Christian
Subject: Technology Zones Credit -- technical clarification

Hi Christian -- here's the issue paper I mentioned on the phone related to AB 298/299. This issue is not really related to the policy issue in the bills, but would just make the whole technology zone credit calculation process more clear. Don't know if you'd have the opportunity to raise it, but if you do and have any questions, feel free to contact the people listed on the bottom on the analysis or me at 7-1262. Thanks.

Sherrie



Technology zones
credit amendm...

**Legislative Proposal Summary
Wisconsin Department of Revenue
IS&E Division**

April 2, 2003

TITLE: CLARIFY TREATMENT OF TECHNOLOGY ZONES CREDIT

DESCRIPTION OF CURRENT LAW AND PROBLEM

Section 71.10 (4) specifies the order in which the Wisconsin individual income tax must be computed, and paragraph (grd) provides that a technology zones credit is to be applied after alternative minimum tax (AMT) has been calculated. This conflicts with the provisions of sec. 71.08(1) that prescribe that a technology zones credit is to be applied to reduce regular tax in computing AMT and sec. 71.07(3g)(a) which provides that the credit may be offset against regular tax (not AMT).

This conflict between the provisions of secs. 71.07(3g)(a), 71.08(1) and 71.10(4) produces a calculation problem. The amount of technology zones credit that a taxpayer is allowed to claim for any taxable year cannot be determined until after the taxpayer calculates AMT. However, in order to calculate AMT, the taxpayer must know the amount of technology zones credit that he/she may claim for the tax year.

Because the two statutes conflict and create an unreasonable result, the department has construed the technology zones credit as being among the credits listed in sec. 71.08(1), and not to be subtracted from regular tax in the sec. 71.08(1) computation. This is a reasonable result from reading the affected statutes together. It also makes this credit consistent with other "zone" credits.

RECOMMENDATION FOR ACTION

Clarify the treatment of the technology zones credit by providing that the credit does not reduce regular tax when computing AMT and that the credit may be offset against AMT.

ADMINISTRATIVE IMPACT

None, as the credit is currently administered as recommended.

FAIRNESS /TAX EQUITY

Would eliminate the conflict in the statutes.

IMPACT ON ECONOMIC DEVELOPMENT

The department is more efficient when statutes are not conflicting.

FISCAL EFFECT

None, as the credit is currently administered as recommended.

DRAFTING INSTRUCTIONS

1. Amend sec. 71.07(3g)(a) to provide that “a business . . . may claim as a credit against the taxes imposed under s. 71.02 and s. 71.08 an amount . . .”
2. Amend sec. 71.08(1)(intro.) to include sec. 71.07(3g), 71.28(3g), and 71.47(3g) in the list of credits that are not considered when determining if regular tax is less than AMT.

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

Day after publication.

INTERESTED/AFFECTED PARTIES

Persons claiming the technology zone credit.

DOR CONTACT PERSON

Diane Hardt, 266-6798
dhardt@dor.state.wi.us

PREPARED BY Marcy Stock
April 2, 2003

e:/Legislation/Technology zones credit.doc

Kreye, Joseph

From: Schneider, Christian
Sent: Thursday, May 15, 2003 10:07 AM
To: Kreye, Joseph
Subject: RE: Technology Zones Credit -- technical clarification

Joe:

I will send the jacket over.

Thanks.

-----Original Message-----

From: Kreye, Joseph
Sent: Thursday, May 15, 2003 9:42 AM
To: Schneider, Christian
Subject: RE: Technology Zones Credit -- technical clarification

Chris,

If you want me to redraft LRB-2450 to incorporate the changes, please send the jacket back. Otherwise, I can prepare an amendment (simple or substitute) to the bill. Please advise. Thanks.

Joe

Joseph T. Kreye
Legislative Attorney
Legislative Reference Bureau
(608) 266-2263

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To: Kreye, Joseph
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Sherrie



State of Wisconsin
2003 - 2004 LEGISLATURE

LRB-2450/2
JK:kmg:jf



3

2003 BILL

in 5-15-03

by Monday
5-19

re zero

1 AN ACT ~~to amend~~ 71.07 (3g) (a) 2., 71.28 (3g) (a) 2. and 71.47 (3g) (a) 2. of the
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Analysis by the Legislative Reference Bureau

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Under this bill, a partner of a partnership, a member of a limited liability company, and a shareholder of a tax-option corporation may claim a tax credit, related to doing business in a technology zone, that is equal in part to a proportionate share of the amount, as adjusted by the Department of Commerce, of income or franchise taxes that the partnership, limited liability company, or tax-option corporation would have paid in the previous taxable year had the entity been a corporation. The amount of such taxes is determined by multiplying the entity's reported net income for the previous taxable year by the income or franchise tax rate applicable to a corporation.

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SECTION 1. 71.07 (3g) (a) 2. of the statutes is amended to read:

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SECTION 2. 71.28 (3g) (a) 2. of the statutes is amended to read:

71.28 (3g) (a) 2. The amount of income and franchise taxes imposed under s. 71.23 that the business paid ~~in~~ on the return for the previous taxable year or, in the case of partnerships, limited liability companies, and tax-option corporations, the amount of income or franchise taxes that the entity would have paid in the previous taxable year had the entity been a corporation subject to the tax imposed under s. 71.23 and determined by multiplying the income that the entity would have reported if the entity had been a corporation by the appropriate tax rate under s. 71.27 (1) or (2).

SECTION 3. 71.47 (3g) (a) 2. of the statutes is amended to read:

71.47 (3g) (a) 2. The amount of income and franchise taxes imposed under s. 71.23 that the business paid ~~in~~ on the return for the previous taxable year or, in the

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SS.

✓
INSERT
2-9

BILL

1 case of partnerships, limited liability companies, and tax-option corporations, the
2 amount of income or franchise taxes that the entity would have paid in the previous
3 taxable year had the entity been a corporation subject to the tax imposed under s.
4 71.23 and determined by multiplying the income that the entity would have reported
5 if the entity had been a corporation by the appropriate tax rate under s. 71.46 (1) or
6 (2).

SECTION 4. Initial applicability.

8 (1) This act first applies to taxable years beginning on January 1, 2003.

9 (END)

ASSEMBLY AMENDMENT,
TO 2003 ASSEMBLY BILL 299

INSERT
2-9 ✓

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 2: delete "s." and substitute "s. ss."

3 2. Page 2, line 3: after "71.02" insert "and 71.08".

4 3. Page 2, line 9: after that line insert:

5 SECTION ~~109~~ 71.08 (1) (intro.) of the statutes, as affected by 2001 Wisconsin

6 Act 109, is ~~amended~~ to read: *repealed and recreated*

7 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
8 couple filing jointly, trust or estate under s. 71.02, not considering the credits under

9 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3g), (3m), (3s),

10 (6), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~ (3), and

11 (3g), and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m) ~~and~~ (3), and

12 (3g), and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less

13 than the tax under this section, there is imposed on that natural person, married

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1 couple filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
2 minimum tax computed as follows: *l*

3

(END)

end of insert 2-9

Barman, Mike

From: Barman, Mike
Sent: Thursday, May 15, 2003 12:53 PM
To: Sen.Harsdorf
Cc: Kreye, Joseph
Subject: LRB 03-2450/3 (attached - for your review)



03-2450/3

Mike Barman

Mike Barman - Senior Program Asst. (PH. 608-266-3561)
(E-Mail: mike.barman@legis.state.wi.us) (FAX: 608-264-6948)

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