

2003 SENATE BILL 263

September 29, 2003 – Introduced by Senators PLALE, ROESSLER, LASSA, M. MEYER and SCHULTZ, cosponsored by Representatives JESKEWITZ, BALOW, BOYLE, HAHN, HINES, SHILLING, SINICKI, STASKUNAS and TAYLOR. Referred to Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

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.

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 \$5,000 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), (2dm), (2dr), (2ds), (2dx), (3g), and (3s), and (5d) and not passed
4 through by a partnership, limited liability company, or tax-option corporation that
5 has added that amount to the partnership's, company's, or tax-option corporation's
6 income under s. 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 sole proprietor, a partner, a member of a limited liability
14 company, or a shareholder of a tax option corporation who files a claim under this
15 subsection.

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

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

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

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

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

14 71.10 (4) (dw) Breast-milk facility credit under s. 71.07 (5d).

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

16 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
17 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), ~~and (3s), and (5d)~~ and passed through to
18 partners shall be added to the partnership's income.

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

20 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
21 the gross income as computed under the Internal Revenue Code as modified under
22 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
23 computed under s. 71.28 (1), (3), (4), and (5) plus the amount of the credit computed
24 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), ~~and (3g), and (5d)~~
25 and not passed through by a partnership, limited liability company, or tax-option

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1 corporation that has added that amount to the partnership's, limited liability
2 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus
3 the amount of losses from the sale or other disposition of assets the gain from which
4 would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or
5 otherwise disposed of at a gain and minus deductions, as computed under the
6 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an
7 amount equal to the difference between the federal basis and Wisconsin basis of any
8 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
9 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

11 **71.28 (5d) BREAST-MILK FACILITY CREDIT.** (a) In this subsection:

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

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

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

22 (c) The carry-over provisions of sub. (4) (e) and (f), as they apply to the credit
23 under sub. (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,

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

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

10 71.30 (3) (dm) Breast-milk facility credit under s. 71.28 (5d).

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

12 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
13 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), ~~and~~
14 (3g), and (5d) and passed through to shareholders.

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

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

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

23 71.47 (5d) BREAST-MILK FACILITY CREDIT. (a) In this subsection:

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

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1 exclusively by a claimant's employees to pump and store breast milk during the
2 employees' 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. 71.43 an
5 amount equal to 50% of the amount paid or incurred to construct or equip a
6 breast-milk facility in this state, up to a maximum credit of \$5,000. A claimant may
7 claim a credit in each succeeding taxable year that the claimant constructs or equips
8 an additional breast-milk facility.

9 (c) 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 (d) 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 the amount paid or incurred under par. (b). A partnership,
14 limited liability company, or tax-option corporation shall compute the amount of
15 credit that each of its partners, members, or shareholders may claim and shall
16 provide that information to each of them. Partners, members of limited liability
17 companies, and shareholders of tax-option corporations may claim the credit in
18 proportion to their ownership interest.

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

22 71.49 (1) (dm) Breast-milk facility credit under s. 71.47 (5d).

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

24 77.92 (4) "Net business income", with respect to a partnership, means taxable
25 income as calculated under section 703 of the Internal Revenue Code; plus the items

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

14 **SECTION 13. Initial applicability.**

15 (1) BREAST-MILK FACILITY CREDIT. This act first applies to taxable years
16 beginning on January 1, 2006.

17 (END)