

2003 SENATE BILL 449

February 10, 2004 – Introduced by Senators WELCH, ROESSLER and LASSA, cosponsored by Representatives OLSEN, MUSSER, ALBERS, GUNDERSON, HINES and McCORMICK. Referred to Committee on Homeland Security, Veterans and Military Affairs and Government Reform.

1 **AN ACT** *to amend* 71.08 (1) (intro.) and 71.10 (4) (i); and *to create* 20.835 (2) (cb)
2 and 71.07 (5d) of the statutes; **relating to:** creating a refundable individual
3 income tax credit for sales and use taxes paid to replace damaged or destroyed
4 tangible personal property and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a refundable individual income tax credit that is equal to the amount of the sales and use taxes that an individual paid in the taxable year to which the claim relates on the purchase of tangible personal property that the individual purchased to replace tangible personal property that was damaged or destroyed by fire, flood, or natural disaster. No person may claim the tax credit unless the governor declares a state of emergency or disaster with regards to the county, city, village, or town in which the damaged or destroyed tangible personal property was located and the total value of all of the claimant's damaged or destroyed tangible personal property exceeds \$4,999. If the amount of the credit exceeds the individual's tax liability, the state will issue a check to the individual for the excess amount.

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:

SENATE BILL 449

1 **SECTION 1.** 20.835 (2) (cb) of the statutes is created to read:

2 20.835 **(2)** (cb) *Damaged tangible personal property credit.* A sum sufficient to
3 make the payments under s. 71.07 (5d).

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

5 71.07 **(5d)** DAMAGED TANGIBLE PERSONAL PROPERTY CREDIT. (a) *Definition.* In this
6 subsection, “claimant” means an individual who files a claim under this subsection.

7 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
8 claimant may claim as a credit against the tax imposed under s. 71.02 the amount
9 of any sales taxes imposed under s. 77.52 and use taxes imposed under s. 77.53 that
10 the claimant paid in the taxable year to which the claim relates on the purchase of
11 tangible personal property that the claimant purchased to replace tangible personal
12 property that was damaged or destroyed by fire, flood, or natural disaster. If the
13 allowable amount of the claim under this subsection exceeds the income taxes
14 otherwise due on the claimant’s income, the amount of the claim that is not used to
15 offset those taxes shall be certified by the department of revenue to the department
16 of administration for payment by check, share draft, or other draft drawn from the
17 appropriation under s. 20.835 (2) (cb).

18 (c) *Limitations.* 1. No claim may be allowed under this subsection unless all
19 of the following apply:

20 a. The governor declares a state of emergency or disaster with regards to the
21 county, city, village, or town in which the damaged or destroyed tangible personal
22 property was located.

23 b. The total value of all of the claimant’s damaged or destroyed tangible
24 personal property exceeds \$4,999 and the claimant submits evidence of such value
25 with the return.

SENATE BILL 449

1 2. For a claimant who is a nonresident or part-year resident of this state and
2 who is a single person or a married person filing a separate return, multiply the
3 credit for which the claimant is eligible under par. (b) by a fraction the numerator of
4 which is the individual's Wisconsin adjusted gross income and the denominator of
5 which is the individual's federal adjusted gross income. If a claimant is married and
6 files a joint return, and if the claimant or the claimant's spouse, or both, are
7 nonresidents or part-year residents of this state, multiply the credit for which the
8 claimant is eligible under par. (b) by a fraction the numerator of which is the couple's
9 joint Wisconsin adjusted gross income and the denominator of which is the couple's
10 joint federal adjusted gross income.

11 3. No credit may be allowed under this subsection unless it is claimed within
12 the time period under s. 71.75 (2).

13 (d) *Administration.* Subsection (5m) (d), as it applies to the credit under that
14 subsection, applies to the credit under this subsection.

15 **SECTION 3.** 71.08 (1) (intro.) of the statutes, as affected by 2003 Wisconsin Act
16 99, is amended to read:

17 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
18 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
19 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3s), (3t),
20 (5d), (6), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3),
21 and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd), (2m), (3), and (3t)
22 and subchs. VIII and IX and payments to other states under s. 71.07 (7), is less than
23 the tax under this section, there is imposed on that natural person, married couple
24 filing jointly, trust or estate, instead of the tax under s. 71.02, an alternative
25 minimum tax computed as follows:

