

2005 DRAFTING REQUEST

Bill

Received: **08/25/2005**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **John Ainsworth (608) 266-3097**

By/Representing: **kristina**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies: **MES**

Submit via email: **YES**

Requester's email: **Rep.Ainsworth@legis.state.wi.us**

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

Pre Topic:

No specific pre topic given

Topic:

Tax credit for the sales and use tax paid on the purchase of tangible personal property used in farming

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>
/?				_____			State
/1	jkreye 08/25/2005	csicilia 08/30/2005	rschluet 08/30/2005	_____	mbarman 08/30/2005	sbasford 08/30/2005	

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **08/25/2005**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **John Ainsworth (608) 266-3097**

By/Representing: **kristina**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies: **MES**

Submit via email: **YES**

Requester's email: **Rep.Ainsworth@legis.state.wi.us**

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

Pre Topic:

No specific pre topic given

Topic:

Tax credit for the sales and use tax paid on the purchase of tangible personal property used in farming

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>
/?				_____			State
/1	jkreye 08/25/2005	csicilia 08/30/2005	rschluet 08/30/2005	_____	mbarman 08/30/2005		

FE Sent For:

<END>

2005 DRAFTING REQUEST

Bill

Received: **08/25/2005**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **John Ainsworth (608) 266-3097**

By/Representing: **kristina**

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

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Ainsworth@legis.state.wi.us**

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

Pre Topic:

No specific pre topic given

Topic:

Tax credit for the sales and use tax paid on the purchase of tangible personal property used in farming

Instructions:

See Attached

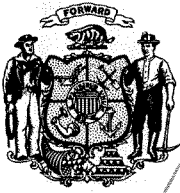
Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	jkreye	1 gjs 8/30 05					

FE Sent For:

<END>

AB346 — Rep. Ainsworth —² drafted to be tax
credit — tangible personal property used in
farming



State of Wisconsin
2005 - 2006 LEGISLATURE

LRB-3555/1

JK:.....

gis

Handwritten: TODAY

2005 BILL

SA

in 8-25-05

D-N

Gen cat.

due 9-1-05

1 AN ACT ...; relating to: an income and franchise tax credit for the sales and use
2 taxes paid on the purchase of tangible personal property used in farming.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for the amount of sales and use taxes that the taxpayer paid on the purchase of tangible personal property used in the business of farming, not including, generally, the purchase of motor vehicles for highway use or tangible personal property that is attached to, fastened to, connected to, or built into real property.

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. 71.05 (6) (a) 15. of the statutes is amended to read:
4 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
5 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), and (5e)
6 and not passed through by a partnership, limited liability company, or tax-option

BILL

SECTION 1

1 corporation that has added that amount to the partnership's, company's, or
2 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

History: 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1988 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237; 1999 a. 9, 32, 44, 54, 65, 167; 2001 a. 16, 104, 105, 109; 2003 a. 85, 99, 119, 135, 183, 255, 289, 321, 326.

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

4 **71.07 (5e) TANGIBLE PERSONAL PROPERTY USED IN FARMING CREDIT.** (a) *Definitions.*

5 In this subsection, "claimant" means a person who files a claim under this subsection.

6 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
7 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
8 amount of those taxes, an amount that is equal to the amount of the taxes imposed
9 under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase
10 of tangible personal property that is used exclusively and directly, or consumed or
11 loses its identity, in the business of farming, including dairy farming, agriculture,
12 horticulture, floriculture, and custom farming services.

13 (c) *Limitations.* 1. The credit under par. (b) does not apply to the purchase of
14 any of the following:

- 15 a. Automobiles, trucks, and other motor vehicles for highway use.
- 16 b. Tangible personal property that is attached to, fastened to, connected to, or
17 built into real property or that becomes an addition to, component of, or capital
18 improvement of real property.

- 19 c. Tangible personal property used or consumed in the erection of buildings or
20 in the alteration, repair, or improvement of real property, regardless of any
21 contribution that that personal property makes to the production process in that
22 building or real property and regardless of the extent to which that personal property
23 functions as a machine

Handwritten annotations include:
 - A circled 'or' with an arrow pointing to the word 'and' in item (a).
 - A circled 'a' with an arrow pointing to the word 'or' in item (c).
 - A circled '23' with an arrow pointing to the word 'functions' in item (c).
 - A circled '19' next to item (c).

BILL

1 2. 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 their payment of amounts 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 interests. ✓

9 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
10 s. 71.28 (4), applies to the credit under this subsection. ✓

11 **SECTION 3.** 71.10 (4) (cq) of the statutes is created to read: ✓

12 71.10 (4) (cq) Tangible personal property used in farming credit under s. 71.07 ✓
13 (5e).

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

15 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
16 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), ~~and (5b)~~, and (5e) and passed ✓
17 through to partners shall be added to the partnership's income.

18 History: 1987 a. 312, 411; 1989 a. 31; 1993 a. 112; 1995 a. 27, 400; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255, 326.

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

19 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
20 the gross income as computed under the Internal Revenue Code as modified under
21 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
22 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
23 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
24 under this paragraph at the time that the taxpayer first claimed the credit plus the

BILL**SECTION 5**

1 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
2 (1ds), (1dx), (3g), (3n), (3t), ~~and (5b),~~ and (5e) and not passed through by a ✓
3 partnership, limited liability company, or tax-option corporation that has added that
4 amount to the partnership's, limited liability company's, or tax-option corporation's
5 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
6 other disposition of assets the gain from which would be wholly exempt income, as
7 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
8 minus deductions, as computed under the Internal Revenue Code as modified under
9 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
10 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
11 otherwise disposed of in a taxable transaction during the taxable year, except as
12 provided in par. (b) and s. 71.45 (2) and (5).

History: 1987 a. 312; 1987 a. 411 ss. 22, 124 to 129; 1989 a. 31, 336; 1991 a. 37, 39, 221, 269; 1993 a. 16, 112, 246, 263, 399, 437, 491; 1995 a. 27, 56, 351, 371, 380, 428;
1997 a. 27, 37, 184, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 106, 109; 2003 a. 33, 85, 99, 135, 255, 326.

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

14 **71.28 (5e) TANGIBLE PERSONAL PROPERTY USED IN FARMING CREDIT.** (a) *Definitions.*

15 In this subsection, "claimant" means a person who files a claim under this subsection. ✓

16 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
17 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the ✓
18 amount of those taxes, an amount that is equal to the amount of the taxes imposed
19 under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase
20 of tangible personal property that is used exclusively and directly, or consumed or
21 loses its identity, in the business of farming, including dairy farming, agriculture,
22 horticulture, floriculture, and custom farming services. ✓

23 (c) *Limitations.* 1. The credit under par. (b) does not apply to the purchase of
24 any of the following:

BILL

or

1 a. Automobiles, trucks, and other motor vehicles for highway use.

2 b. Tangible personal property that is attached to, fastened to, connected to, or
3 built into real property or that becomes an addition to, component of, or capital
4 improvement of real property.

5 c. Tangible personal property used or consumed in the erection of buildings or
6 in the alteration, repair, or improvement of real property, regardless of any
7 contribution that that personal property makes to the production process in that
8 building or real property and regardless of the extent to which that personal property
9 functions as a machine

10 2. Partnerships, limited liability companies and tax-option corporations may
11 not claim the credit under this subsection, but the eligibility for, and the amount of,
12 the credit are based on their payment of amounts under par. (b). A partnership,
13 limited liability company, or tax-option corporation shall compute the amount of
14 credit that each of its partners, members, or shareholders may claim and shall
15 provide that information to each of them. Partners, members of limited liability
16 companies and shareholders of tax-option corporations may claim the credit in
17 proportion to their ownership interests.

18 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
19 sub. (4), applies to the credit under this subsection.

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

21 71.30 (3) (dq) Tangible personal property used in farming credit under s. 71.28
22 (5e).

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

BILL**SECTION 8**

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), (1dm), (1ds), (1dx), (3), (3g),
3 (3n), (3t), ~~and (5b)~~, and (5e) and passed through to shareholders. ✓

History: 1987 a. 312; 1987 a. 411 ss. 18, 23, 146; 1989 a. 31, 336; 1991 a. 39, 269; 1993 a. 16, 437; 1995 a. 27, 380, 428; 1997 a. 27, 37, 237; 1999 a. 9, 194; 2001 a. 16, 109; 2003 a. 33, 99, 135, 255, 326.

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), (3n), ~~and (5b)~~, and (5e) and not passed
7 through by a partnership, limited liability company, or tax-option corporation that
8 has added that amount to the partnership's, limited liability company's, or
9 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
10 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

History: 1987 a. 312; 1989 a. 31, 336, 359; 1991 a. 37, 39, 269; 1993 a. 16, 112, 263, 437; 1995 a. 27, 56, 371, 380; 1997 a. 27, 37, 237; 1999 a. 9, 65; 1999 a. 150 s. 672; 1999 a. 167, 194; 2001 a. 16, 38, 109; 2003 a. 37, 85, 99, 135, 255, 326.

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

12 71.47 (5e) TANGIBLE PERSONAL PROPERTY USED IN FARMING CREDIT. (a) *Definitions.*
13 In this subsection, "claimant" means a person who files a claim under this subsection. ✓

14 (b) *Filing claims.* Subject to the limitations provided under this subsection, a
15 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
16 amount of those taxes, an amount that is equal to the amount of the taxes imposed
17 under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase
18 of tangible personal property that is used exclusively and directly, or consumed or
19 loses its identity, in the business of farming, including dairy farming, agriculture,
20 horticulture, floriculture, and custom farming services. ✓

21 (c) *Limitations.* 1. The credit under par. (b) does not apply to the purchase of
22 any of the following:

23 a. Automobiles, trucks, and other motor vehicles for highway use. ^{or}

BILL

1 b. Tangible personal property that is attached to, fastened to, connected to, or
2 built into real property or that becomes an addition to, component of, or capital
3 improvement of real property.

4 c. Tangible personal property used or consumed in the erection of buildings or
5 in the alteration, repair, or improvement of real property, regardless of any
6 contribution that that personal property makes to the production process in that
7 building or real property and regardless of the extent to which that personal property
8 functions as a machine.

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

17 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
18 s. 71.28 (4), applies to the credit under this subsection.

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

20 71.49 (1) (dq) Tangible personal property used in farming credit under s. 71.47
21 (5e).

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

23 77.92 (4) "Net business income," with respect to a partnership, means taxable
24 income as calculated under section 703 of the Internal Revenue Code; plus the items
25 of income and gain under section 702 of the Internal Revenue Code, including taxable

BILL**SECTION 12**

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

13 **History:** 1989 a. 335; 1991 a. 39, 269; 1993 a. 16, 112, 490; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 99, 135, 255, 326.

SECTION 13. Initial applicability.

14 (1) This act first applies to taxable years beginning on January 1, 2006. ✓

15 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3555/1dn

JK.:.....

js

Representative Ainsworth:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-3555/1dn
JK:cjs:rs

August 30, 2005

Representative Ainsworth:

Please review this draft carefully to ensure that it is consistent with your intent.

Joseph T. Kreye
Legislative Attorney
Phone: (608) 266-2263
E-mail: joseph.kreye@legis.state.wi.us

Basford, Sarah

From: Boardman, Kristina
Sent: Tuesday, August 30, 2005 2:56 PM
To: LRB.Legal
Subject: Draft review: LRB 05-3555/1 Topic: Tax credit for the sales and use tax paid on the purchase of tangible personal property used in farming

It has been requested by <Boardman, Kristina> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 05-3555/1 Topic: Tax credit for the sales and use tax paid on the purchase of tangible personal property used in farming