



## 2005 ASSEMBLY BILL 735

October 6, 2005 – Introduced by Representatives ALBERS, MUSSER, HAHN, BERCEAU, VAN ROY, TOWNSEND and OWENS, cosponsored by Senators SCHULTZ and KANAVAS. Referred to Committee on Ways and Means.

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 (5e), 71.10 (4) (cp), 71.28 (5e), 71.30  
3           (3) (dm), 71.47 (5e) and 71.49 (1) (dm) of the statutes; **relating to:** an income  
4           and franchise tax credit for insulating concrete forms used in the construction  
5           of any building.

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### *Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit equal to the amount of the sales and use taxes that the taxpayer pays in the taxable year on the purchase of insulating concrete forms used in the construction of any building. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but may claim the amount of any unused credit in subsequent taxable years.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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*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:

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1           71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
2           (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), and (5e)  
3           and not passed through by a partnership, limited liability company, or tax-option  
4           corporation that has added that amount to the partnership's, company's, or  
5           tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

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

7           71.07 (5e) INSULATING CONCRETE FORMS CREDIT. (a) In this subsection:

8           1. "Claimant" means a person who files a claim under this subsection.

9           2. "Insulating concrete form" means a hollow expandable polystyrene form that  
10          is filled with concrete.

11          (b) Subject to the limitations provided in this subsection, a claimant may claim  
12          as a credit against the taxes imposed under s. 71.02 an amount equal to the amount  
13          of the taxes imposed under subch. III of ch. 77 that the claimant paid on the purchase  
14          of insulating concrete forms used in the construction of the insulated exterior walls  
15          of any building.

16          (c) 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 their payment of the amounts described under par. (b). A  
19          partnership, limited liability company, or tax-option corporation shall compute the  
20          amount of credit that each of its partners, members, or shareholders may claim and  
21          shall 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 interests.

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

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

2           71.10 (4) (cp) Insulating concrete forms credit under s. 71.07 (5e).

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), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), ~~and (5b)~~, and (5e) and passed  
6           through to partners shall be 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), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
12          7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
13          under this paragraph at the time that the taxpayer first claimed the credit plus the  
14          amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
15          (1ds), (1dx), (3g), (3n), (3t), ~~and (5b)~~, and (5e) and not passed through by a  
16          partnership, limited liability company, or tax-option corporation that has added that  
17          amount to the partnership's, limited liability company's, or tax-option corporation's  
18          income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or  
19          other disposition of assets the gain from which would be wholly exempt income, as  
20          defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and  
21          minus deductions, as computed under the Internal Revenue Code as modified under  
22          sub. (3), plus or minus, as appropriate, an amount equal to the difference between  
23          the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or  
24          otherwise disposed of in a taxable transaction during the taxable year, except as  
25          provided in par. (b) and s. 71.45 (2) and (5).

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

2           71.28 **(5e)** INSULATING CONCRETE FORMS CREDIT. (a) In this subsection:

3           1. “Claimant” means a person who files a claim under this subsection.

4           2. “Insulating concrete form” means a hollow expandable polystyrene form that  
5 is filled with concrete.

6           (b) Subject to the limitations provided in this subsection, a claimant may claim  
7 as a credit against the taxes imposed under s. 71.23 an amount equal to the amount  
8 of the taxes imposed under subch. III of ch. 77 that the claimant paid on the purchase  
9 of insulating concrete forms used in the construction of the insulated exterior walls  
10 of any building.

11           (c) 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 their payment of the amounts described under par. (b). A  
14 partnership, limited liability company, or tax-option corporation shall compute the  
15 amount of credit that each of its partners, members, or shareholders may claim and  
16 shall 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 interests.

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

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

22           71.30 **(3)** (dm) Insulating concrete forms credit under s. 71.28 (5e).

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

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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.

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).

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

12           71.47 (5e) INSULATING CONCRETE FORMS CREDIT. (a) In this subsection:

13           1. "Claimant" means a person who files a claim under this subsection.

14           2. "Insulating concrete form" means a hollow expandable polystyrene form that  
15 is filled with concrete.

16           (b) Subject to the limitations provided in this subsection, a claimant may claim  
17 as a credit against the taxes imposed under s. 71.43 an amount equal to the amount  
18 of the taxes imposed under subch. III of ch. 77 that the claimant paid on the purchase  
19 of insulating concrete forms used in the construction of the insulated exterior walls  
20 of any building.

21           (c) Partnerships, limited liability companies, and tax-option corporations may  
22 not claim the credit under this subsection, but the eligibility for, and the amount of,  
23 the credit are based on their payment of the amounts described under par. (b). A  
24 partnership, limited liability company, or tax-option corporation shall compute the  
25 amount of credit that each of its partners, members, or shareholders may claim and

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1 shall provide that information to each of them. Partners, members of limited liability  
2 companies, and shareholders of tax-option corporations may claim the credit in  
3 proportion to their ownership interests.

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

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

7 71.49 (1) (dm) Insulating concrete forms credit under s. 71.47 (5e).

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

9 77.92 (4) “Net business income,” with respect to a partnership, means taxable  
10 income as calculated under section 703 of the Internal Revenue Code; plus the items  
11 of income and gain under section 702 of the Internal Revenue Code, including taxable  
12 state and municipal bond interest and excluding nontaxable interest income or  
13 dividend income from federal government obligations; minus the items of loss and  
14 deduction under section 702 of the Internal Revenue Code, except items that are not  
15 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
16 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
17 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), ~~and (5b)~~, and (5e); and  
18 plus or minus, as appropriate, transitional adjustments, depreciation differences,  
19 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding  
20 income, gain, loss, and deductions from farming. “Net business income,” with respect  
21 to a natural person, estate, or trust, means profit from a trade or business for federal  
22 income tax purposes and includes net income derived as an employee as defined in  
23 section 3121 (d) (3) of the Internal Revenue Code.

24 **SECTION 13. Initial applicability.**

