

**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2007 ASSEMBLY BILL 85**

May 7, 2007 – Offered by Representative SHERIDAN.

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 (5i), 71.07 (5j), 71.10 (4) (cn), 71.10 (4)
3 (cs), 71.28 (5j), 71.30 (3) (dq), 71.47 (5j), 71.49 (1) (dq) and 110.23 of the statutes;
4 **relating to:** creating income and franchise tax credits for motor vehicles that
5 use gasoline and ethanol mixtures as fuel and for the purchase of fuel
6 containing ethanol.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

7 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:
8 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5d), and
10 (5e), (5f), and (5h), (5i) and (5j) and not passed through by a partnership, limited
11 liability company, or tax-option corporation that has added that amount to the

1 partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or
2 71.34 (1) (g).

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

4 **71.07 (5i) EIGHTY-FIVE PERCENT ETHANOL FUEL CREDIT.** (a) *Definition.* In this
5 subsection, "claimant" means an individual who files a claim under this subsection.

6 (b) *Filing claims.* Subject to the limitations provided in this subsection, for
7 taxable years beginning after December 31, 2007, and before January 1, 2013, a
8 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
9 amount of the tax, \$100 for each taxable year in which the claimant purchases in this
10 state:

11 1. For taxable years beginning after December 31, 2007, and before January
12 1, 2009, at least 100 gallons of motor vehicle fuel that is sold as 85 percent ethanol.

13 2. For taxable years beginning after December 31, 2008, and before January
14 1, 2010, at least 200 gallons of motor vehicle fuel that is sold as 85 percent ethanol.

15 3. For taxable years beginning after December 31, 2009, and before January
16 1, 2011, at least 300 gallons of motor vehicle fuel that is sold as 85 percent ethanol.

17 4. For taxable years beginning after December 31, 2010, and before January
18 1, 2012, at least 400 gallons of motor vehicle fuel that is sold as 85 percent ethanol.

19 5. For taxable years beginning after December 31, 2011, and before January
20 1, 2013, at least 500 gallons of motor vehicle fuel that is sold as 85 percent ethanol.

21 (c) *Limitations.* For a claimant who is a part-year resident of this state and
22 who is a single person or a married person filing a separate return, multiply the
23 credit for which the claimant is eligible under par. (b) by a fraction, the numerator
24 of which is the individual's Wisconsin adjusted gross income and the denominator of
25 which is the individual's federal adjusted gross income. If a claimant is married and

1 files a joint return, and if the claimant or the claimant's spouse, or both, are
2 part-year residents of this state, multiply the credit for which the claimant is eligible
3 under par. (b) by a fraction, the numerator of which is the couple's joint Wisconsin
4 adjusted gross income and the denominator of which is the couple's joint federal
5 adjusted gross income.

6 (d) *Administration.* Section 71.28 (4) (f) to (h), as it applies to the credit under
7 s. 71.28 (4), applies to the credit under this subsection.

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

9 71.07 (5j) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this
10 subsection, "claimant" means a person who files a claim under this subsection.

11 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
12 taxable years beginning after December 31, 2007, and before January 1, 2013, a
13 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
14 amount of the tax, one of the following amounts, if, in the taxable year, the claimant
15 purchased or leased a new motor vehicle, licensed for highway use, that is capable
16 of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as
17 a fuel to propel the motor vehicle:

18 1. If the purchase price of the motor vehicle is \$18,000 or more, \$600 for a
19 purchased motor vehicle and \$120 for a leased motor vehicle.

20 2. If the purchase price of the motor vehicle is at least \$17,000, but less than
21 \$18,000, \$550 for a purchased motor vehicle and \$110 for a leased motor vehicle.

22 3. If the purchase price of the motor vehicle is at least \$16,000, but less than
23 \$17,000, \$500 for a purchased motor vehicle and \$100 for a leased motor vehicle.

24 4. If the purchase price of the motor vehicle is at least \$15,000, but less than
25 \$16,000, \$450 for a purchased motor vehicle and \$90 for a leased motor vehicle.

1 5. If the purchase price of the motor vehicle is at least \$14,000, but less than
2 \$15,000, \$400 for a purchased motor vehicle and \$80 for a leased motor vehicle.

3 6. If the purchase price of the motor vehicle is at least \$13,000, but less than
4 \$14,000, \$350 for a purchased motor vehicle and \$70 for a leased motor vehicle.

5 7. If the purchase price of the motor vehicle is at least \$12,000, but less than
6 \$13,000, \$300 for a purchased motor vehicle and \$60 for a leased motor vehicle.

7 8. If the purchase price of the motor vehicle is at least \$11,000, but less than
8 \$12,000, \$250 for a purchased motor vehicle and \$50 for a leased motor vehicle.

9 9. If the purchase price of the motor vehicle is at least \$10,000, but less than
10 \$11,000, \$200 for a purchased motor vehicle and \$40 for a leased motor vehicle.

11 (c) *Limitations.* 1. For purposes of determining the amount of the credit under
12 par. (b) for a leased motor vehicle, the purchase price is the purchase price of the
13 motor vehicle on the first day of the lease period. A claimant who claims a credit
14 under par. (b) for a leased motor vehicle may claim the credit for each year of the lease
15 period.

16 2. 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 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.

1 3. The credit under this subsection may be claimed only by the first person who
2 takes title of the motor vehicle, other than for resale, or, in the case of a leased vehicle,
3 the first person who leases the vehicle.

4 (d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit
5 under s. 71.28 (4), applies to the credit under this subsection.

6 2. The department may promulgate rules to establish documentation
7 requirements and appropriate forms for consumers and motor vehicle dealers who
8 purchase or sell the motor vehicles described in par. (b), if complying with the rules
9 is not unnecessarily burdensome.

10 **SECTION 4.** 71.10 (4) (cn) of the statutes is created to read:

11 71.10 (4) (cn) Flexible fuel motor vehicles credit under s. 71.07 (5j).

12 **SECTION 5.** 71.10 (4) (cs) of the statutes is created to read:

13 71.10 (4) (cs) Eighty-five percent ethanol fuel credit under s. 71.07 (5i).

14 **SECTION 6.** 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), (3w), (5b), (5e), (5f), (5g), ~~and (5h).~~
17 and (5j) and passed through to partners shall be added to the partnership's income.

18 **SECTION 7.** 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
25 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),

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

12 **SECTION 8.** 71.28 (5j) of the statutes is created to read:

13 71.28 (5j) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this
14 subsection, “claimant” means a person who files a claim under this subsection.

15 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
16 taxable years beginning after December 31, 2007, and before January 1, 2013, a
17 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
18 amount of the taxes, one of the following amounts, if, in the taxable year, the claimant
19 purchased or leased a new motor vehicle, licensed for highway use, that is capable
20 of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as
21 a fuel to propel the motor vehicle:

22 1. If the purchase price of the motor vehicle is \$18,000 or more, \$600 for a
23 purchased motor vehicle and \$120 for a leased motor vehicle.

24 2. If the purchase price of the motor vehicle is at least \$17,000, but less than
25 \$18,000, \$550 for a purchased motor vehicle and \$110 for a leased motor vehicle.

1 3. If the purchase price of the motor vehicle is at least \$16,000, but less than
2 \$17,000, \$500 for a purchased motor vehicle and \$100 for a leased motor vehicle.

3 4. If the purchase price of the motor vehicle is at least \$15,000, but less than
4 \$16,000, \$450 for a purchased motor vehicle and \$90 for a leased motor vehicle.

5 5. If the purchase price of the motor vehicle is at least \$14,000, but less than
6 \$15,000, \$400 for a purchased motor vehicle and \$80 for a leased motor vehicle.

7 6. If the purchase price of the motor vehicle is at least \$13,000, but less than
8 \$14,000, \$350 for a purchased motor vehicle and \$70 for a leased motor vehicle.

9 7. If the purchase price of the motor vehicle is at least \$12,000, but less than
10 \$13,000, \$300 for a purchased motor vehicle and \$60 for a leased motor vehicle.

11 8. If the purchase price of the motor vehicle is at least \$11,000, but less than
12 \$12,000, \$250 for a purchased motor vehicle and \$50 for a leased motor vehicle.

13 9. If the purchase price of the motor vehicle is at least \$10,000, but less than
14 \$11,000, \$200 for a purchased motor vehicle and \$40 for a leased motor vehicle.

15 (c) *Limitations.* 1. For purposes of determining the amount of the credit under
16 par. (b) for a leased motor vehicle, the purchase price is the purchase price of the
17 motor vehicle on the first day of the lease period. A claimant who claims a credit
18 under par. (b) for a leased motor vehicle may claim the credit for each year of the lease
19 period.

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

1 companies, and shareholders of tax–option corporations may claim the credit in
2 proportion to their ownership interests.

3 3. The credit under this subsection may be claimed only by the first person who
4 takes title of the motor vehicle, other than for resale, or, in the case of a leased vehicle,
5 the first person who leases the vehicle.

6 (d) *Administration.* 1. Subsection (4) (e) to (h), as it applies to the credit under
7 sub. (4), applies to the credit under this subsection.

8 2. The department may promulgate rules to establish documentation
9 requirements and appropriate forms for consumers and motor vehicle dealers who
10 purchase or sell the motor vehicles described in par. (b), if complying with the rules
11 is not unnecessarily burdensome.

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

13 71.30 (3) (dq) Flexible fuel motor vehicles credit under s. 71.28 (5j).

14 **SECTION 10.** 71.34 (1) (g) of the statutes is amended to read:

15 71.34 (1) (g) An addition shall be made for credits computed by a tax–option
16 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
17 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and (5j) and passed through to
18 shareholders.

19 **SECTION 11.** 71.45 (2) (a) 10. of the statutes is amended to read:

20 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
21 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and
22 (5j) and not passed through by a partnership, limited liability company, or tax–option
23 corporation that has added that amount to the partnership’s, limited liability
24 company’s, or tax–option corporation’s income under s. 71.21 (4) or 71.34 (1) (g) and
25 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

1 **SECTION 12.** 71.47 (5j) of the statutes is created to read:

2 71.47 **(5j)** FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this
3 subsection, “claimant” means a person who files a claim under this subsection.

4 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
5 taxable years beginning after December 31, 2007, and before January 1, 2013, a
6 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
7 amount of the taxes, one of the following amounts, if, in the taxable year, the claimant
8 purchased or leased a new motor vehicle, licensed for highway use, that is capable
9 of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as
10 a fuel to propel the motor vehicle:

11 1. If the purchase price of the motor vehicle is \$18,000 or more, \$600 for a
12 purchased motor vehicle and \$120 for a leased motor vehicle.

13 2. If the purchase price of the motor vehicle is at least \$17,000, but less than
14 \$18,000, \$550 for a purchased motor vehicle and \$110 for a leased motor vehicle.

15 3. If the purchase price of the motor vehicle is at least \$16,000, but less than
16 \$17,000, \$500 for a purchased motor vehicle and \$100 for a leased motor vehicle.

17 4. If the purchase price of the motor vehicle is at least \$15,000, but less than
18 \$16,000, \$450 for a purchased motor vehicle and \$90 for a leased motor vehicle.

19 5. If the purchase price of the motor vehicle is at least \$14,000, but less than
20 \$15,000, \$400 for a purchased motor vehicle and \$80 for a leased motor vehicle.

21 6. If the purchase price of the motor vehicle is at least \$13,000, but less than
22 \$14,000, \$350 for a purchased motor vehicle and \$70 for a leased motor vehicle.

23 7. If the purchase price of the motor vehicle is at least \$12,000, but less than
24 \$13,000, \$300 for a purchased motor vehicle and \$60 for a leased motor vehicle.

1 8. If the purchase price of the motor vehicle is at least \$11,000, but less than
2 \$12,000, \$250 for a purchased motor vehicle and \$50 for a leased motor vehicle.

3 9. If the purchase price of the motor vehicle is at least \$10,000, but less than
4 \$11,000, \$200 for a purchased motor vehicle and \$40 for a leased motor vehicle.

5 (c) *Limitations.* 1. For purposes of determining the amount of the credit under
6 par. (b) for a leased motor vehicle, the purchase price is the purchase price of the
7 motor vehicle on the first day of the lease period. A claimant who claims a credit
8 under par. (b) for a leased motor vehicle may claim the credit for each year of the lease
9 period.

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 described under par. (b). A
13 partnership, limited liability company, or tax–option corporation shall compute the
14 amount of credit that each of its partners, members, or shareholders may claim and
15 shall 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 3. The credit under this subsection may be claimed only by the first person who
19 takes title of the motor vehicle, other than for resale, or, in the case of a leased vehicle,
20 the first person who leases the vehicle.

21 (d) *Administration.* 1. Section 71.28 (4) (e) to (h), as it applies to the credit
22 under s. 71.28 (4), applies to the credit under this subsection.

23 2. The department may promulgate rules to establish documentation
24 requirements and appropriate forms for consumers and motor vehicle dealers who

1 purchase or sell the motor vehicles described in par. (b), if complying with the rules
2 is not unnecessarily burdensome.

3 **SECTION 13.** 71.49 (1) (dq) of the statutes is created to read:

4 71.49 (1) (dq) Flexible fuel motor vehicles credit under s. 71.47 (5j).

5 **SECTION 14.** 77.92 (4) of the statutes is amended to read:

6 77.92 (4) “Net business income,” with respect to a partnership, means taxable
7 income as calculated under section 703 of the Internal Revenue Code; plus the items
8 of income and gain under section 702 of the Internal Revenue Code, including taxable
9 state and municipal bond interest and excluding nontaxable interest income or
10 dividend income from federal government obligations; minus the items of loss and
11 deduction under section 702 of the Internal Revenue Code, except items that are not
12 deductible under s. 71.21; plus guaranteed payments to partners under section 707
13 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
14 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
15 (5g), and (5h), and (5j); and plus or minus, as appropriate, transitional adjustments,
16 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
17 (19); but excluding income, gain, loss, and deductions from farming. “Net business
18 income,” with respect to a natural person, estate, or trust, means profit from a trade
19 or business for federal income tax purposes and includes net income derived as an
20 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

21 **SECTION 15.** 110.23 of the statutes is created to read:

22 **110.23 Flexible fuel motor vehicles.** No later than January 1 of each year,
23 the department shall prepare and make publicly available a list of motor vehicles,

1 identified by vehicle make and model, that satisfy the criteria established under ss.
2 71.07 (5j) (b), 71.28 (5j) (b), and 71.47 (5j) (b) for tax credit eligibility.

3 (END)