

2007 ASSEMBLY BILL 659

January 3, 2008 – Introduced by Representatives JORGENSEN, BLACK, ALBERS, BERCEAU, GUNDERSON, HRAYCHUCK, NELSON, PARISI, STASKUNAS and TURNER, cosponsored by Senators OLSEN, DARLING and ROESSLER. Referred to Committee on Health and Healthcare 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 (5m), 71.10 (4) (er), 71.28 (5m), 71.30
 3 (3) (er), 71.47 (5m) and 71.49 (1) (er) of the statutes; **relating to:** income and
 4 franchise tax credits for sales and use taxes paid on nonprescription drugs.

Analysis by the Legislative Reference Bureau

Under this bill, a person may claim an income and franchise tax credit in an amount that is equal to the sales and use taxes that the person paid in the taxable year on the purchase of nonprescription drugs.

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:

5 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2007 Wisconsin Act
 6 20, is amended to read:
 7 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
 8 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3n), (3p), (3s), (3t), (3w), (5e),

ASSEMBLY BILL 659**SECTION 1**

1 (5f), (5h), (5i), (5j), ~~and (5k)~~, and (5m) and not passed through by a partnership,
2 limited liability company, or tax-option corporation that has added that amount to
3 the partnership's, company's, or tax-option corporation's income under s. 71.21 (4)
4 or 71.34 (1) (g).

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

6 71.07 **(5m)** NONPRESCRIPTION DRUGS CREDIT. (a) *Definitions.* In this subsection,
7 “claimant” means a person who files a claim under this subsection.

8 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
9 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
10 amount of the taxes, an amount that is equal to the amount of the taxes imposed
11 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
12 of drugs sold without a prescription that are for human consumption only,
13 prepackaged for use by consumers, and labeled in accordance with the requirements
14 of state and federal laws.

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

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

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

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1 71.10 (4) (er) Nonprescription drugs credit under s. 71.07 (5m).

2 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
3 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), (3h), (3n), (3p), (3s), (3t), (3w), (5e), (5f), (5g),
6 (5h), (5i), (5j), ~~and (5k)~~, and (5m) and passed through to partners shall be added to
7 the partnership's income.

8 **SECTION 5.** 71.26 (2) (a) of the statutes, as affected by 2007 Wisconsin Act 20,
9 is amended to read:

10 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
11 the gross income as computed under the Internal Revenue Code as modified under
12 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
13 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
14 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
15 under this paragraph at the time that the taxpayer first claimed the credit plus the
16 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
17 (1ds), (1dx), (3g), (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and
18 (5m) and not passed through by a partnership, limited liability company, or
19 tax-option corporation that has added that amount to the partnership's, limited
20 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1)
21 (g) plus the amount of losses from the sale or other disposition of assets the gain from
22 which would be wholly exempt income, as defined in sub. (3) (L), if the assets were
23 sold or otherwise disposed of at a gain and minus deductions, as computed under the
24 Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an
25 amount equal to the difference between the federal basis and Wisconsin basis of any

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1 asset sold, exchanged, abandoned, or otherwise disposed of in a taxable transaction
2 during the taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

4 71.28 (5m) NONPRESCRIPTION DRUGS CREDIT. (a) *Definitions.* In this subsection,
5 “claimant” means a person who files a claim under this subsection.

6 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
7 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
8 amount of the taxes, an amount that is equal to the amount of the taxes imposed
9 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
10 of drugs sold without a prescription that are for human consumption only,
11 prepackaged for use by consumers, and labeled in accordance with the requirements
12 of state and federal laws.

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

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

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

24 71.30 (3) (er) Nonprescription drugs credit under s. 71.28 (5m).

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1 **SECTION 8.** 71.34 (1) (g) of the statutes, as affected by 2007 Wisconsin Act 20,
2 is amended to read:

3 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
4 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
5 (3h), (3n), (3p), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and (5m) and passed
6 through to shareholders.

7 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2007 Wisconsin Act
8 20, is amended to read:

9 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
10 computed under s. 71.47 (1dd) to (1dx), (3h), (3n), (3p), (3w), (5e), (5f), (5g), (5h), (5i),
11 (5j), ~~and (5k)~~, and (5m) and not passed through by a partnership, limited liability
12 company, or tax-option corporation that has added that amount to the partnership's,
13 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
14 71.34 (1) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and
15 (5).

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

17 71.47 (5m) NONPRESCRIPTION DRUGS CREDIT. (a) *Definitions.* In this subsection,
18 “claimant” means a person who files a claim under this subsection.

19 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
20 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
21 amount of the taxes, an amount that is equal to the amount of the taxes imposed
22 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
23 of drugs sold without a prescription that are for human consumption only,
24 prepackaged for use by consumers, and labeled in accordance with the requirements
25 of state and federal laws.

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1 (c) *Limitations.* Partnerships, limited liability companies, and tax–option
2 corporations may not claim the credit under this subsection, but the eligibility for,
3 and the amount of, the credit are based on their payment of amounts under par. (b).
4 A partnership, limited liability company, or tax–option corporation shall compute
5 the amount of credit that each of its partners, members, or shareholders may claim
6 and shall provide that information to each of them. Partners, members of limited
7 liability companies, and shareholders of tax–option corporations may claim the
8 credit in 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 11.** 71.49 (1) (er) of the statutes is created to read:

12 71.49 (1) (er) Nonprescription drugs credit under s. 71.47 (5m).

13 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2007 Wisconsin Act 20, is
14 amended to read:

15 77.92 (4) “Net business income,” with respect to a partnership, means taxable
16 income as calculated under section 703 of the Internal Revenue Code; plus the items
17 of income and gain under section 702 of the Internal Revenue Code, including taxable
18 state and municipal bond interest and excluding nontaxable interest income or
19 dividend income from federal government obligations; minus the items of loss and
20 deduction under section 702 of the Internal Revenue Code, except items that are not
21 deductible under s. 71.21; plus guaranteed payments to partners under section 707
22 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
23 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3h), (3s), (3n), (3p), (3t), (3w), (5e),
24 (5f), (5g), (5h), (5i), (5j), ~~and (5k), and (5m)~~; and plus or minus, as appropriate,
25 transitional adjustments, depreciation differences, and basis differences under s.

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1 71.05 (13), (15), (16), (17), and (19); but excluding income, gain, loss, and deductions
2 from farming. “Net business income,” with respect to a natural person, estate, or
3 trust, means profit from a trade or business for federal income tax purposes and
4 includes net income derived as an employee as defined in section 3121 (d) (3) of the
5 Internal Revenue Code.

6 **SECTION 13. Initial applicability.**

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

8 (END)