

## 2007 ASSEMBLY BILL 786

February 11, 2008 – Introduced by Representatives SHILLING and ALBERS. Referred to Committee on Ways and Means.

1     **AN ACT** *to create* 71.07 (6g) and 71.10 (4) (cg) of the statutes; **relating to:**  
2             creating a nonrefundable individual income tax credit for the purchase of  
3             gluten-free food.

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### ***Analysis by the Legislative Reference Bureau***

This bill creates a nonrefundable individual income tax credit for the purchase of gluten-free food. Foods containing wheat, barley, rye, and possibly oats contain gluten. The credit may be claimed only if the purchase and use of such food is medically necessary, as certified by a physician. The maximum credit that may be claimed is \$10,000, or \$5,000 if each spouse of a married couple files a separate income tax return.

Because the credit is nonrefundable, it may be claimed only up to the amount of a claimant's income tax liability. For claimants who are nonresidents or part-year residents of Wisconsin, the credit that may be claimed is prorated based on the ratio of the claimant's Wisconsin adjusted gross income (AGI) to federal AGI.

For further information see the *state* 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:***

4             **SECTION 1.** 71.07 (6g) of the statutes is created to read:

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1           71.07 **(6g)** GLUTEN-FREE FOOD TAX CREDIT. (a) *Definitions.* In this subsection:

2           1. “Claimant” means an individual who purchases gluten-free food and files  
3 a claim under this subsection.

4           2. “Household” means a claimant and his or her spouse and all minor  
5 dependents.

6           3. “Physician” means a person licensed to practice medicine and surgery under  
7 ch. 448.

8           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
9 claimant may claim as a credit against the tax imposed under s. 71.02, up to the  
10 amount of those taxes, any amount that is spent on the purchase of gluten-free food  
11 in the year to which the claim relates.

12           (c) *Limitations.* 1. No credit may be allowed under this subsection unless it  
13 is claimed within the time period under s. 71.75 (2).

14           2. The maximum credit that may be claimed under this subsection is \$10,000,  
15 except that, if a claimant and his or her spouse file separate returns, the maximum  
16 credit that may be claimed by each spouse under this subsection is \$5,000.

17           3. No credit may be allowed under this subsection unless the purchase of the  
18 gluten-free food is medically necessary. A claimant shall submit with his or her  
19 income tax return a form, that is prepared by the department of revenue, containing  
20 a physician’s certification that the purchase and use of gluten-free food is a medical  
21 necessity for the claimant or a member of the claimant’s household.

22           4. A claimant who is a nonresident or part-year resident of this state, and who  
23 is a single person or a married person filing a separate return, shall multiply the  
24 credit for which the claimant is eligible under par. (b) by a fraction the numerator of  
25 which is the claimant’s Wisconsin adjusted gross income and the denominator of

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

7 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit  
8 under that subsection, applies to the credit under this subsection.

9 **SECTION 2.** 71.10 (4) (cg) of the statutes is created to read:

10 71.10 (4) (cg) The gluten-free food tax credit under s. 71.07 (6g).

11 **SECTION 3. Initial applicability.**

12 (1) This act first applies to taxable years beginning on January 1 of the year  
13 in which this subsection takes effect, except that if this subsection takes effect after  
14 July 31 this act first applies to taxable years beginning on January 1 of the year  
15 following the year in which this subsection takes effect.

16 (END)