

2007 SENATE BILL 313

November 6, 2007 – Introduced by Senators PLALE, SULLIVAN and ROESSLER, cosponsored by Representatives MONTGOMERY, KERKMAN, ZIEGELBAUER, CULLEN, STONE, NASS, KAUFERT, JESKEWITZ, HEBL, FIELDS, TOWNSEND, MUSSER, PRIDEMORE, KLEEFISCH and ALBERS. Referred to Committee on Tax Fairness and Family Prosperity.

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 (3y), 71.10 (4) (cr), 71.28 (3y), 71.30
3 (3) (dr), 71.47 (3y) and 71.49 (1) (dr) of the statutes; **relating to:** an income and
4 franchise tax credit for sales tax paid for the right to purchase season admission
5 to athletic events sponsored by an institution of higher education.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit in an amount equal to the sales and use taxes that a taxpayer paid in the taxable year on the right to purchase season admission to athletic events sponsored by certain institutions of higher education. Generally, a “right to purchase” is an amount given to the institution that is greater than the actual cost of the seat at an athletic event. If the credit claimed by a taxpayer exceeds the taxpayer’s tax liability, the state will not issue a refund check, but the taxpayer may carry forward any remaining credit to subsequent taxable years.

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:

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1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

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

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

8 71.07 **(3y)** ATHLETIC EVENTS CREDIT. (a) *Definitions.* In this subsection:

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

10 2. “Institution of higher education” has the meaning given in s. 36.32 (1).

11 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
12 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
13 amount of those taxes, an amount that is equal to the amount of the taxes imposed
14 under subch. III of ch. 77 that the claimant paid in the taxable year on the right to
15 purchase from an institution of higher education season admission to athletic events
16 sponsored by the institution that take place at a facility that is owned or leased by
17 the institution.

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

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

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

4 71.10 (4) (cr) Athletic events credit under s. 71.07 (3y).

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

6 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
7 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (3y), (5b), (5e), (5f), (5g), and
8 (5h) and passed through to partners shall be added to the partnership's income.

9 **SECTION 5.** 71.26 (2) (a) of the statutes 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), (3n), (3t), (3w), (3y), (5b), (5e), (5f), (5g), and (5h) and not passed
18 through by a partnership, limited liability company, or tax-option corporation that
19 has added that amount to the partnership's, limited liability company's, or
20 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
21 of losses from the sale or other disposition of assets the gain from which would be
22 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
23 disposed of at a gain and minus deductions, as computed under the Internal Revenue
24 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
25 the difference between the federal basis and Wisconsin basis of any asset sold,

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

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

4 71.28 (3y) ATHLETIC EVENTS CREDIT. (a) *Definitions.* In this subsection:

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

6 2. “Institution of higher education” has the meaning given in s. 36.32 (1).

7 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
8 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
9 amount of those taxes, an amount that is equal to the amount of the taxes imposed
10 under subch. III of ch. 77 that the claimant paid in the taxable year on the right to
11 purchase from an institution of higher education season admission to athletic events
12 sponsored by the institution that take place at a facility that is owned or leased by
13 the institution.

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

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

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

25 71.30 (3) (dr) Athletic events credit under s. 71.28 (3y).

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

2 71.34 **(1)** (g) An addition shall be made for credits computed by a tax-option
3 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
4 (3n), (3t), (3w), (3y), (5b), (5e), (5f), (5g), and (5h) and passed through to shareholders.

5 **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

6 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
7 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (3y), (5b), (5e), (5f), (5g), and (5h)
8 and not passed through by a partnership, limited liability company, or tax-option
9 corporation that has added that amount to the partnership's, limited liability
10 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
11 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

12 **SECTION 10.** 71.47 (3y) of the statutes is created to read:

13 71.47 **(3y)** ATHLETIC EVENTS CREDIT. (a) *Definitions.* In this subsection:

- 14 1. "Claimant" means a person who files a claim under this subsection.
15 2. "Institution of higher education" has the meaning given in s. 36.32 (1).

16 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
17 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
18 amount of those taxes, an amount that is equal to the amount of the taxes imposed
19 under subch. III of ch. 77 that the claimant paid in the taxable year on the right to
20 purchase from an institution of higher education season admission to athletic events
21 sponsored by the institution that take place at a facility that is owned or leased by
22 the institution.

23 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
24 corporations may not claim the credit under this subsection, but the eligibility for,
25 and the amount of, the credit are based on their payment of amounts described under

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1 par. (b). A partnership, limited liability company, or tax-option corporation shall
2 compute the amount of credit that each of its partners, members, or shareholders
3 may claim and shall provide that information to each of them. Partners, members
4 of limited liability companies, and shareholders of tax-option corporations may
5 claim the credit in proportion to their ownership interests.

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

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

9 71.49 (1) (dr) Athletic events credit under s. 71.47 (3y).

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

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

