

2007 DRAFTING REQUEST

Bill

Received: **11/13/2006**

Received By: **jkreye**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Easton**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax, Business - credits**

Extra Copies:

Submit via email: **NO**

Pre Topic:

DOA:.....Easton, BB0155 -

Topic:

Changes to film production credits

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?				_____			State
/1	jkreye 11/14/2006	kfollett 11/15/2006	pgreensl 11/15/2006	_____	lparisi 11/15/2006		

FE Sent For:

<END>

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/?	jkreye	1/15 KPK	1/15 P8	1/15 P8			

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<END>

0720

2007-09 Budget Bill Statutory Language Drafting Request

- Topic: Film Production Credits Correction
- Tracking Code: BB0155
- SBO team: Tax and Local Government
- SBO analyst: Easton
 - Phone: 6-7597
 - Email: Darren.easton@wisconsin.gov
- Agency acronym: DOR
- Agency number: 566
- Priority (Low, Medium, High): Low

August 18, 2006

TITLE: FILM INDUSTRY TAX CREDITS

DESCRIPTION OF CURRENT LAW AND PROBLEM

2005 Wisconsin Act 483 created income and franchise tax credits for expenses relating to film production services and for capital investments made by film production companies. These credits have some technical problems which should be corrected in order to simplify compliance with and administration of the credits.

Film Production Services Credit

The film production services credit consists of three parts:

- (1) A nonrefundable credit equal to 25 percent of the wages paid to the claimant's employees for services performed in Wisconsin by employees who are Wisconsin residents.
- (2) A refundable credit equal to 25 percent of the production expenditures to produce an accredited production.
- (3) A nonrefundable credit equal to the sales and use taxes paid during the taxable year on the purchase of taxable tangible personal property and taxable services used directly in producing the accredited production.

For individuals, sec. 71.10(4), relating to the order of claiming the credits, properly includes the nonrefundable credits under (1) and (3) with the other nonrefundable credits and includes the refundable credit under (2) with the other refundable credits. However, the order for claiming the credits in secs. 71.30(3) and 71.49(1) for corporations and insurance companies, respectively, differs from the treatment of the credits for individuals. The refundable credit is not separated from the nonrefundable credits and, unlike for individuals, the film production services credit must be claimed before the investment credit. As a result, it is possible that a corporation would not be able to claim the investment credit.

Film Production Company Investment Credit

The film production investment credit is equal to 15 percent of the claimant's expenditures in the first three years that the claimant is doing business in Wisconsin for tangible personal property and real property to establish a film production company in Wisconsin. However, the law contains contradictory language with respect to the actual computation of the credit.

1. The definition of "previously owned property" is not the same definition that is used for the development zones capital investment credit. It appears that the definition in par. (a) of secs. 71.07(5h), 71.28(5h), and 71.47(5h) enables existing Wisconsin businesses to reorganize in order to qualify for the tax credits.
2. Paragraph (b) of secs. 71.07(5h), 71.28(5h), and 71.47(5h) states that the credit is 15 percent of the amount that the claimant paid in the taxable year. However, par. (c)2. and 3. appears to allow credit for real property expenditures made before the effective date of the credit.

RECOMMENDATION FOR ACTION

1. ✓ Renumber sec. 71.30(3)(epp) to 71.30(3)(epr) and ~~sec. 71.30(3)(epr) to 71.30(3)(epp)~~.
Amend sec. 71.30(3)(epr) as renumbered to read as follows:

71.30(3)(epr) Film production services credit under s. 71.28 (5f) (b) 1. and 3.

2. ✓ Amend sec. 71.30(3)(f) to include the following language:

"film production services credit under s. 71.28 (5f) (b) 2.,"

3. ✓ Renumber sec. 71.49(1)(epp) to 71.49(1)(epr) and ~~sec. 71.49(1)(epr) to 71.49(1)(epp)~~.
Amend sec. 71.49(1)(epr) as renumbered to read as follows:

71.49(1)(epr) Film production services credit under s. 71.47 (5f) (b) 1. and 3.

4. ✓ Amend sec. 71.49(1)(f) to include the following language:

"film production services credit under s. 71.47 (5f) (b) 2.,"

5. ✓ Amend secs. 71.07(5h), 71.28(5h), and 71.47(5h) (a) 4. to add the following language from sec. 71.28(1dm), Stats., at the end of the definition of "previously owned property":

"... Code, except that section 267 (b) of the Internal Revenue Code is modified so that if the claimant owns any part of the property, rather than 50% ownership, the claimant is subject to section 267 (a) (1) of the Internal Revenue Code for purposes of this subsection."

6. ✓ Amend the last part of secs. 71.07(5h), 71.28(5h), and 71.47(5h) (c) 2. and 3. to read as follows:

"... after December 31, 2007, ~~or if~~ and the completed project is placed in service after December 31, 2007."

ADMINISTRATIVE IMPACT

Eliminating conflicts in the law will simplify administration of the law and lessen the likelihood of litigation.

FAIRNESS / TAX EQUITY

Will allow film production companies to claim the credits for accredited film productions as intended.

IMPACT ON ECONOMIC DEVELOPMENT

The credits will promote the growth of the film production industry in Wisconsin.

FISCAL EFFECT

Minimal or no change from the law as originally enacted.

DRAFTING INSTRUCTIONS

See the Recommendation.

EFFECTIVE DATE AND/OR INITIAL APPLICABILITY

Day after publication.

INTERESTED/AFFECTED PARTIES

Department of Commerce, taxpayers interested in establishing film production companies in Wisconsin

DOR CONTACT PERSON

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PREPARED BY

Carol L. Held

Legislative Proposal Template.doc



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0720/1
JK: 16f

DOA:.....Easton, BB0155 - Changes to film production credits

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

m 11-14-06

Do Not Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

TAXATION

INCOME TAXATION

This bill makes technical corrections to the film production services and film production company investment income and franchise tax credits in order to simplify the administration of the credits.

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:

2 SECTION 1. 71.07 (5h) (a) 4. of the statutes is amended to read:

3 71.07 (5h) (a) 4. "Previously owned property" means real property that the
4 claimant or a related person owned during the 2 years prior to doing business in this
5 state as a film production company and for which the claimant may not deduct a loss

1 from the sale of the property to, or an exchange of the property with, the related
2 person under section 267 of the Internal Revenue Code, except that section 267 of the
3 Internal Revenue Code is modified so that if the claimant owns any part of the
4 property, rather than 50 percent ownership, the claimant is subject to section 267 of
5 the Internal Revenue Code for purposes of this subsection.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487.

6 **SECTION 2.** 71.07 (5h) (c) 2. of the statutes is amended to read:

7 71.07 (5h) (c) 2. A claimant may claim the credit under par. (b) 2. for an amount
8 expended to construct, rehabilitate, remodel, or repair real property, if the claimant
9 began the physical work of construction, rehabilitation, remodeling, or repair, or any
10 demolition or destruction in preparation for the physical work, after December 31,
11 2007, ~~or if~~ and the completed project is placed in service after December 31, 2007.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487.

12 **SECTION 3.** 71.07 (5h) (c) 3. of the statutes is amended to read:

13 71.07 (5h) (c) 3. A claimant may claim the credit under par. (b) 2. for an amount
14 expended to acquire real property, if the property is not previously owned property
15 and if the claimant acquires the property after December 31, 2007, ~~or if~~ and the
16 completed project is placed in service after December 31, 2007.

History: 1987 a. 312; 1987 a. 411 ss. 63, 79 to 82, 85, 86; 1987 a. 419, 422; 1989 a. 31, 44, 56, 100, 359; 1991 a. 39, 269, 292; 1993 a. 16, 112, 204, 471, 491; 1995 a. 27 ss. 3377m to 3393m, 9116 (5); 1995 a. 209, 227, 400, 453; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9, 10, 32; 1999 a. 150 s. 672; 1999 a. 198; 2001 a. 16, 109; 2003 a. 72, 99, 135, 183, 255, 267, 326; 2005 a. 25, 49, 72, 74, 97, 177, 254, 361, 387, 479, 483, 487.

17 **SECTION 4.** 71.28 (5h) (a) 4. of the statutes is amended to read:

18 71.28 (5h) (a) 4. "Previously owned property" means real property that the
19 claimant or a related person owned during the 2 years prior to doing business in this
20 state as a film production company and for which the claimant may not deduct a loss
21 from the sale of the property to, or an exchange of the property with, the related
22 person under section 267 of the Internal Revenue Code, except that section 267 of the

1 Internal Revenue Code is modified so that if the claimant owns any part of the
 2 property, rather than 50 percent ownership, the claimant is subject to section 267 of
 3 the Internal Revenue Code for purposes of this subsection.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; s. 13.93 (2) (c).

4 **SECTION 5.** 71.28 (5h) (c) 2. of the statutes is amended to read:

5 71.28 (5h) (c) 2. A claimant may claim the credit under par. (b) 2. for an amount
 6 expended to construct, rehabilitate, remodel, or repair real property, if the claimant
 7 began the physical work of construction, rehabilitation, remodeling, or repair, or any
 8 demolition or destruction in preparation for the physical work, after December 31,
 9 2007, ~~or if~~ and the completed project is placed in service after December 31, 2007.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; s. 13.93 (2) (c).

10 **SECTION 6.** 71.28 (5h) (c) 3. of the statutes is amended to read:

11 71.28 (5h) (c) 3. A claimant may claim the credit under par. (b) 2. for an amount
 12 expended to acquire real property, if the property is not previously owned property
 13 and if the claimant acquires the property after December 31, 2007, ~~or if~~ and the
 14 completed project is placed in service after December 31, 2007.

History: 1987 a. 312; 1987 a. 411 ss. 88, 130 to 139; 1987 a. 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292; 1993 a. 16, 112, 232, 491; 1995 a. 2; 1995 a. 27 ss. 3399r to 3404c, 9116 (5); 1995 a. 209, 227; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; s. 13.93 (2) (c).

15 **SECTION 7.** 71.30 (3) (epp) of the statutes is renumbered 71.30 (3) (eps) and

16 amended to read:

17 71.30 (3) (eps) Film production services credit under s. 71.28 (5f) (b) 1. and 3.

History: 1987 a. 312; 1987 a. 411 ss. 144, 145, 182 to 185; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33, 99, 135, 255; 2005 a. 25, 74, 361, 479, 483.

18 **SECTION 8.** 71.30 (3) (f) of the statutes is amended to read:

19 71.30 (3) (f) The total of farmers' drought property tax credit under s. 71.28
 20 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under

1 s. 71.28 (2m), enterprise zone jobs credit under s. 71.28 (3w), film production services
2 credit under s. 71.28 (5f) (b) 2., and estimated tax payments under s. 71.29.

History: 1987 a. 312; 1987 a. 411 ss. 144, 145, 182 to 185; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33, 99, 135, 255; 2005 a. 25, 74, 361, 479, 483.

3 **SECTION 9.** 71.47 (5h) (a) 4. of the statutes is amended to read:

4 71.47 (5h) (a) 4. "Previously owned property" means real property that the
5 claimant or a related person owned during the 2 years prior to doing business in this
6 state as a film production company and for which the claimant may not deduct a loss
7 from the sale of the property to, or an exchange of the property with, the related
8 person under section 267 of the Internal Revenue Code, except that section 267 of the
9 Internal Revenue Code is modified so that if the claimant owns any part of the
10 property, rather than 50 percent ownership, the claimant is subject to section 267 of
11 the Internal Revenue Code for purposes of this subsection.

History: 1987 a. 312, 411, 422; 1989 a. 31, 44, 56, 100, 336, 359; 1991 a. 39, 292, 315; 1993 a. 16, 112; 1995 a. 27 ss. 3407m to 3412m, 9116 (5); 1995 a. 209, 227, 417; 1997 a. 27, 41, 237, 299; 1999 a. 5, 9; 2001 a. 16; 2003 a. 72, 99, 135, 255, 267, 326; 2005 a. 25, 74, 97, 361, 387, 452, 479, 483, 487; s. 13.93 (2) (c).

12 **SECTION 10.** 71.47 (5h) (c) 2. of the statutes is amended to read:

13 71.47 (5h) (c) 2. A claimant may claim the credit under par. (b) 2. for an amount
14 expended to construct, rehabilitate, remodel, or repair real property, if the claimant
15 began the physical work of construction, rehabilitation, remodeling, or repair, or any
16 demolition or destruction in preparation for the physical work, after December 31,
17 2007, ~~or if~~ and the completed project is placed in service after December 31, 2007.

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19 71.47 (5h) (c) 3. A claimant may claim the credit under par. (b) 2. for an amount
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1 **SECTION 12.** 71.49 (1) (epp) of the statutes is renumbered 71.49 (1) (eps) and
2 amended to read:

3 71.49 (1) (eps) Film production services credit under s. 71.47 (5f) (b) 1. and 3.

4 History: 1987 a. 312, 411; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255; 2005 a. 74, 361, 479, 483.

4 **SECTION 13.** 71.49 (1) (f) of the statutes is amended to read:

5 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47
6 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
7 s. 71.47 (2m), enterprise zone jobs credit under s. 71.47 (3w), film production services
8 credit under s. 71.28 (5f) (b) 2., and estimated tax payments under s. 71.48.

9 History: 1987 a. 312, 411; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 2001 a. 16; 2003 a. 99, 135, 255; 2005 a. 74, 361, 479, 483.

(END)



State of Wisconsin
2007 - 2008 LEGISLATURE

LRB-0720/1
JK:kjf:pg

DOA:.....Easton, BB0155 - Changes to film production credits

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

1 AN ACT ...; relating to: the budget.

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INCOME TAXATION

This bill makes technical corrections to the film production services and film production company investment income and franchise tax credits in order to simplify the administration of the credits.

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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3 71.07 (5h) (a) 4. "Previously owned property" means real property that the
4 claimant or a related person owned during the 2 years prior to doing business in this
5 state as a film production company and for which the claimant may not deduct a loss

1 from the sale of the property to, or an exchange of the property with, the related
2 person under section 267 of the Internal Revenue Code, except that section 267 of the
3 Internal Revenue Code is modified so that if the claimant owns any part of the
4 property, rather than 50 percent ownership, the claimant is subject to section 267 of
5 the Internal Revenue Code for purposes of this subsection.

6 **SECTION 2.** 71.07 (5h) (c) 2. of the statutes is amended to read:

7 71.07 **(5h)** (c) 2. A claimant may claim the credit under par. (b) 2. for an amount
8 expended to construct, rehabilitate, remodel, or repair real property, if the claimant
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10 demolition or destruction in preparation for the physical work, after December 31,
11 2007, ~~or if~~ and the completed project is placed in service after December 31, 2007.

12 **SECTION 3.** 71.07 (5h) (c) 3. of the statutes is amended to read:

13 71.07 **(5h)** (c) 3. A claimant may claim the credit under par. (b) 2. for an amount
14 expended to acquire real property, if the property is not previously owned property
15 and if the claimant acquires the property after December 31, 2007, ~~or if~~ and the
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17 **SECTION 4.** 71.28 (5h) (a) 4. of the statutes is amended to read:

18 71.28 **(5h)** (a) 4. "Previously owned property" means real property that the
19 claimant or a related person owned during the 2 years prior to doing business in this
20 state as a film production company and for which the claimant may not deduct a loss
21 from the sale of the property to, or an exchange of the property with, the related
22 person under section 267 of the Internal Revenue Code, except that section 267 of the
23 Internal Revenue Code is modified so that if the claimant owns any part of the
24 property, rather than 50 percent ownership, the claimant is subject to section 267 of
25 the Internal Revenue Code for purposes of this subsection.

1 **SECTION 5.** 71.28 (5h) (c) 2. of the statutes is amended to read:

2 71.28 **(5h)** (c) 2. A claimant may claim the credit under par. (b) 2. for an amount
3 expended to construct, rehabilitate, remodel, or repair real property, if the claimant
4 began the physical work of construction, rehabilitation, remodeling, or repair, or any
5 demolition or destruction in preparation for the physical work, after December 31,
6 2007, ~~or if~~ and the completed project is placed in service after December 31, 2007.

7 **SECTION 6.** 71.28 (5h) (c) 3. of the statutes is amended to read:

8 71.28 **(5h)** (c) 3. A claimant may claim the credit under par. (b) 2. for an amount
9 expended to acquire real property, if the property is not previously owned property
10 and if the claimant acquires the property after December 31, 2007, ~~or if~~ and the
11 completed project is placed in service after December 31, 2007.

12 **SECTION 7.** 71.30 (3) (epp) of the statutes is renumbered 71.30 (3) (eps) and
13 amended to read:

14 71.30 **(3)** (eps) Film production services credit under s. 71.28 (5f) (b) 1. and 3.

15 **SECTION 8.** 71.30 (3) (f) of the statutes is amended to read:

16 71.30 **(3)** (f) The total of farmers' drought property tax credit under s. 71.28
17 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
18 s. 71.28 (2m), enterprise zone jobs credit under s. 71.28 (3w), film production services
19 credit under s. 71.28 (5f) (b) 2., and estimated tax payments under s. 71.29.

20 **SECTION 9.** 71.47 (5h) (a) 4. of the statutes is amended to read:

21 71.47 **(5h)** (a) 4. "Previously owned property" means real property that the
22 claimant or a related person owned during the 2 years prior to doing business in this
23 state as a film production company and for which the claimant may not deduct a loss
24 from the sale of the property to, or an exchange of the property with, the related
25 person under section 267 of the Internal Revenue Code, except that section 267 of the

1 Internal Revenue Code is modified so that if the claimant owns any part of the
2 property, rather than 50 percent ownership, the claimant is subject to section 267 of
3 the Internal Revenue Code for purposes of this subsection.

4 **SECTION 10.** 71.47 (5h) (c) 2. of the statutes is amended to read:

5 71.47 (5h) (c) 2. A claimant may claim the credit under par. (b) 2. for an amount
6 expended to construct, rehabilitate, remodel, or repair real property, if the claimant
7 began the physical work of construction, rehabilitation, remodeling, or repair, or any
8 demolition or destruction in preparation for the physical work, after December 31,
9 2007, ~~or if~~ and the completed project is placed in service after December 31, 2007.

10 **SECTION 11.** 71.47 (5h) (c) 3. of the statutes is amended to read:

11 71.47 (5h) (c) 3. A claimant may claim the credit under par. (b) 2. for an amount
12 expended to acquire real property, if the property is not previously owned property
13 and if the claimant acquires the property after December 31, 2007, ~~or if~~ and the
14 completed project is placed in service after December 31, 2007.

15 **SECTION 12.** 71.49 (1) (epp) of the statutes is renumbered 71.49 (1) (eps) and
16 amended to read:

17 71.49 (1) (eps) Film production services credit under s. 71.47 (5f) (b) 1. and 3.

18 **SECTION 13.** 71.49 (1) (f) of the statutes is amended to read:

19 71.49 (1) (f) The total of farmers' drought property tax credit under s. 71.47
20 (1fd), farmland preservation credit under subch. IX, farmland tax relief credit under
21 s. 71.47 (2m), enterprise zone jobs credit under s. 71.47 (3w), film production services
22 credit under s. 71.28 (5f) (b) 2., and estimated tax payments under s. 71.48.

23 (END)