2007 ASSEMBLY BILL 559

October 30, 2007 – Introduced by Representatives MONTGOMERY, KERKMAN, ZIEGELBAUER, CULLEN, STONE, NASS, KAUFERT, JESKEWITZ, HEBL, FIELDS, TOWNSEND, MUSSER, PRIDEMORE and KLEEFISCH, cosponsored by Senators PLALE, SULLIVAN and ROESSLER. Referred to Committee on Ways and Means.

AN ACT to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and to create 71.07 (3y), 71.10 (4) (cr), 71.28 (3y), 71.30 (3) (dr), 71.47 (3y) and 71.49 (1) (dr) of the statutes; relating to: an income and franchise tax credit for sales tax paid for the right to purchase season admission 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:
SECTION 1. 71.05 (6) (a) 15. of the statutes is amended to read:

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

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

71.07 (3y) ATHLETIC EVENTS CREDIT. (a) Definitions. In this subsection:
1. “Claimant” means a person who files a claim under this subsection.
2. “Institution of higher education” has the meaning given in s. 36.32 (1).
(b) Filing claims. Subject to the limitations provided in this subsection, a
claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
amount of those taxes, an amount that is equal to the amount of the taxes imposed
under subch. III of ch. 77 that the claimant paid in the taxable year on the right to
purchase from an institution of higher education season admission to athletic events
sponsored by the institution that take place at a facility that is owned or leased by
the institution.
(c) Limitations. Partnerships, limited liability companies, and tax−option
corporations may not claim the credit under this subsection, but the eligibility for,
and the amount of, the credit are based on their payment of amounts described under
par. (b). A partnership, limited liability company, or tax−option corporation shall
compute the amount of credit that each of its partners, members, or shareholders
may claim and shall provide that information to each of them. Partners, members
of limited liability companies, and shareholders of tax−option corporations may
claim the credit in proportion to their ownership interests.
(d) Administration. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

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

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

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

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

SECTION 5. 71.26 (2) (a) of the statutes is amended to read:

71.26 (2) (a) Corporations in general. The “net income” of a corporation means the gross income as computed under the Internal Revenue Code as modified under sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c) 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income under this paragraph at the time that the taxpayer first claimed the credit plus the amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3g), (3n), (3t), (3w), (3y), (5b), (5e), (5f), (5g), and (5h) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership’s, limited liability company’s, or tax-option corporation’s income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other disposition of assets the gain from which would be wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and minus deductions, as computed under the Internal Revenue Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to the difference between the federal basis and Wisconsin basis of any asset sold,
exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

71.28 (3y)  ATHLETIC EVENTS CREDIT. (a) Definitions. In this subsection:
1. “Claimant” means a person who files a claim under this subsection.
2. “Institution of higher education” has the meaning given in s. 36.32 (1).

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

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

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

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

71.30 (3) (dr)  Athletic events credit under s. 71.28 (3y).
SECTION 8. 71.34 (1) (g) of the statutes is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) This act first applies to taxable years beginning on January 1, 2008.