



2007 ASSEMBLY BILL 85

February 22, 2007 - Introduced by Representatives SHERIDAN, HAHN, JORGENSEN, ALBERS, BALLWEG, BERCEAU, BIES, GRONEMUS, GUNDERSON, HEBL, HINES, HIXSON, LOTHIAN, MOLEPSKE, MUSSER, A. OTT, OWENS, PETROWSKI, SEIDEL, TURNER, VRUWINK, WOOD and DAVIS, cosponsored by Senators WIRCH, VINEHOUT and SCHULTZ. Referred to Committee on Biofuels and Sustainable Energy.

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 (5j), 71.10 (4) (gn), 71.28 (5j), 71.30
3 (3) (dq), 71.47 (5j) and 71.49 (1) (dq) of the statutes; **relating to:** creating an
4 income and franchise tax credit for motor vehicles that use gasoline and ethanol
5 mixtures as fuel.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit that is equal to the amount of sales and use taxes a person paid in the taxable year on the purchase or lease of any new motor vehicle that is licensed for highway use and capable of using both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel the motor vehicle. The amount of the credit that a person may claim may not exceed an amount equal to \$1,000 for each motor vehicle purchased in the taxable year or \$1,000 for all taxable years combined with respect to the lease of any single motor vehicle. The credit may be claimed for taxable years beginning after December 31, 2007, and before January 1, 2013.

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:

ASSEMBLY BILL 85**SECTION 1**

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), (5b), (5d), ~~and~~
4 (5e), (5f), ~~and~~ (5h), and (5j) 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 (5j) of the statutes is created to read:

8 71.07 **(5j)** FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this
9 subsection, "claimant" means a person who files a claim under this subsection.

10 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
11 taxable years beginning after December 31, 2007, and before January 1, 2013, a
12 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
13 amount of the tax, an amount that is equal to the amount of the taxes imposed under
14 subch. III of ch. 77 that the claimant paid in the taxable year on the purchase or lease
15 of any new motor vehicle, licensed for highway use, that is capable of using both
16 gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to propel
17 the motor vehicle.

18 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
19 claim under this subsection in a taxable year is an amount equal to \$1,000,
20 multiplied by the number of motor vehicles described under par. (b) that the claimant
21 purchased or leased in the taxable year, except that the total amount that a claimant
22 may claim for all taxable years combined with respect to the lease of any single motor
23 vehicle may not exceed \$1,000.

24 2. Partnerships, limited liability companies, and tax-option corporations may
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

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

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

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

10 71.10 (4) (gn) Flexible fuel motor vehicles credit under s. 71.07 (5j).

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

12 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
13 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~
14 and (5j) and passed through to partners shall be added to the partnership's income.

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

16 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
17 the gross income as computed under the Internal Revenue Code as modified under
18 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
19 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
20 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
21 under this paragraph at the time that the taxpayer first claimed the credit plus the
22 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
23 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and (5j) and not passed
24 through by a partnership, limited liability company, or tax-option corporation that
25 has added that amount to the partnership's, limited liability company's, or

ASSEMBLY BILL 85**SECTION 5**

1 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
2 of losses from the sale or other disposition of assets the gain from which would be
3 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
4 disposed of at a gain and minus deductions, as computed under the Internal Revenue
5 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
6 the difference between the federal basis and Wisconsin basis of any asset sold,
7 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
8 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

10 71.28 (5j) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this
11 subsection, "claimant" means a person who files a claim under this subsection.

12 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
13 taxable years beginning after December 31, 2007, and before January 1, 2013, a
14 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
15 amount of the taxes, an amount that is equal to the amount of the taxes imposed
16 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
17 or lease of any new motor vehicle, licensed for highway use, that is capable of using
18 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to
19 propel the motor vehicle.

20 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
21 claim under this subsection in a taxable year is an amount equal to \$1,000,
22 multiplied by the number of motor vehicles described under par. (b) that the claimant
23 purchased or leased in the taxable year, except that the total amount that a claimant
24 may claim for all taxable years combined with respect to the lease of any single motor
25 vehicle may not exceed \$1,000.

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

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

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

12 71.30 (3) (dq) Flexible fuel motor vehicles credit under s. 71.28 (5j).

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

14 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
15 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
16 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and (5j) and passed through to
17 shareholders.

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

19 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
20 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and
21 (5j) and not passed through by a partnership, limited liability company, or tax-option
22 corporation that has added that amount to the partnership's, limited liability
23 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
24 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

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

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1 71.47 (5j) FLEXIBLE FUEL MOTOR VEHICLES CREDIT. (a) *Definitions.* In this
2 subsection, “claimant” means a person who files a claim under this subsection.

3 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
4 taxable years beginning after December 31, 2007, and before January 1, 2013, a
5 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
6 amount of the taxes, an amount that is equal to the amount of the taxes imposed
7 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase
8 or lease of any new motor vehicle, licensed for highway use, that is capable of using
9 both gasoline and a mixture of gasoline and at least 85 percent ethanol as a fuel to
10 propel the motor vehicle.

11 (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
12 claim under this subsection in a taxable year is an amount equal to \$1,000,
13 multiplied by the number of motor vehicles described under par. (b) that the claimant
14 purchased or leased in the taxable year, except that the total amount that a claimant
15 may claim for all taxable years combined with respect to the lease of any single motor
16 vehicle may not exceed \$1,000.

17 2. Partnerships, limited liability companies, and tax-option corporations may
18 not claim the credit under this subsection, but the eligibility for, and the amount of,
19 the credit are based on their payment of amounts described under par. (b). A
20 partnership, limited liability company, or tax-option corporation shall compute the
21 amount of credit that each of its partners, members, or shareholders may claim and
22 shall provide that information to each of them. Partners, members of limited liability
23 companies, and shareholders of tax-option corporations may claim the credit in
24 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 11.** 71.49 (1) (dq) of the statutes is created to read:

4 71.49 (1) (dq) Flexible fuel motor vehicles credit under s. 71.47 (5j).

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

6 77.92 (4) “Net business income,” with respect to a partnership, means taxable
7 income as calculated under section 703 of the Internal Revenue Code; plus the items
8 of income and gain under section 702 of the Internal Revenue Code, including taxable
9 state and municipal bond interest and excluding nontaxable interest income or
10 dividend income from federal government obligations; minus the items of loss and
11 deduction under section 702 of the Internal Revenue Code, except items that are not
12 deductible under s. 71.21; plus guaranteed payments to partners under section 707
13 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
14 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
15 (5g), ~~and (5h), and (5j)~~; and plus or minus, as appropriate, transitional adjustments,
16 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
17 (19); but excluding income, gain, loss, and deductions from farming. “Net business
18 income,” with respect to a natural person, estate, or trust, means profit from a trade
19 or business for federal income tax purposes and includes net income derived as an
20 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

21 (END)