



## 2009 ASSEMBLY BILL 965

April 20, 2010 – Introduced by Representatives FIELDS, MONTGOMERY, RIPP, VUKMIR, HUEBSCH, VOS, HONADEL, KNODL, STRACHOTA, MURSAU and MASON, cosponsored by Senators PLALE, TAYLOR, HANSEN and HOPPER. Referred to Committee on Ways and Means.

1     **AN ACT** *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45  
2           (2) (a) 10. and 77.92 (4); and *to create* 71.07 (3x), 71.10 (4) (cr), 71.28 (3x), 71.30  
3           (3) (dr), 71.47 (3x) and 71.49 (1) (dr) of the statutes; **relating to:** an income and  
4           franchise tax credit for the sales tax paid on certain products.

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### *Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit for the sales tax paid on any of the following items, if they are new when purchased by the taxpayer:

1. Motorcycles.
2. All-terrain vehicles.
3. Personal watercraft.
4. Generators.
5. Motorized lawn or garden equipment.
6. Snowmobiles.
7. Motorboats.
8. Inboard or outboard boat motors.

If the amount of a taxpayer's claim exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but, instead, may claim the amount of the unused credit in subsequent taxable years.

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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:***

1           **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Acts  
2 and 28, is amended to read:

3           71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
4 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),  
5 (3t), (3w), (3x), (5e), (5f), (5h), (5i), (5j), (5k), and (8r) and not passed through by a  
6 partnership, limited liability company, or tax-option corporation that has added that  
7 amount to the partnership's, company's, or tax-option corporation's income under s.  
8 71.21 (4) or 71.34 (1k) (g).

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

10           71.07 **(3x)** SALES TAX CREDIT. (a) *Definition.* In this subsection, "claimant"  
11 means a person who files a claim under this subsection.

12           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
13 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the  
14 amount of the taxes, an amount that is equal to the amount of the taxes imposed  
15 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase  
16 of any of the following that are new when purchased by the claimant:

- 17           1. Motorcycles registered under ch. 341.
- 18           2. All-terrain vehicles, not including automobiles or trucks.
- 19           3. Personal watercraft, as defined in s. 30.50 (9d).
- 20           4. Generators, regardless of whether they are used for personal or business  
21 purposes.

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1           5. Motorized lawn or garden equipment.

2           6. Snowmobiles

3           7. Motorboats.

4           8. Inboard or outboard boat motors.

5           (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
6 claim under this subsection in a taxable year is \$1,500 for each single purchase of an  
7 item described in par. (b).

8           2. The credit under par. (b) may be claimed only for items that are purchased  
9 during the period beginning on the effective date of this subdivision .... [LRB inserts  
10 date], and ending on the date that is 12 months after the effective date of this  
11 subdivision .... [LRB inserts date], and may be claimed only for the taxable year in  
12 which the purchase is made.

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

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

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

24           71.10 (4) (cr) Sales tax credit under s. 71.07 (3x).

**ASSEMBLY BILL 965****SECTION 4**

1           **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Acts 2 and  
2 28, is amended to read:

3           71.21 **(4)** Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
4 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),  
5 ~~(3x)~~, (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and passed through to partners shall  
6 be added to the partnership's income.

7           **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Acts  
8 2 and 28, is amended to read:

9           71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),  
10 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),  
11 (3w), ~~(3x)~~, (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and not passed through by a  
12 partnership, limited liability company, or tax-option corporation that has added that  
13 amount to the partnership's, limited liability company's, or tax-option corporation's  
14 income under s. 71.21 (4) or 71.34 (1k) (g).

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

16           71.28 **(3x)** SALES TAX CREDIT. (a) *Definition.* In this subsection, "claimant"  
17 means a person who files a claim under this subsection.

18           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
19 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the  
20 amount of the taxes, an amount that is equal to the amount of the taxes imposed  
21 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase  
22 of any of the following that are new when purchased by the claimant:

- 23           1. Motorcycles registered under ch. 341.
- 24           2. All-terrain vehicles, not including automobiles or trucks.
- 25           3. Personal watercraft, as defined in s. 30.50 (9d).

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1           4. Generators, regardless of whether they are used for personal or business  
2 purposes.

3           5. Motorized lawn or garden equipment.

4           6. Snowmobiles.

5           7. Motorboats.

6           8. Inboard or outboard boat motors.

7           (c) *Limitations.* 1. The maximum amount of the credit that a claimant may  
8 claim under this subsection in a taxable year is \$1,500 for each single purchase of an  
9 item described in par. (b).

10           2. The credit under par. (b) may be claimed only for items that are purchased  
11 during the period beginning on the effective date of this subdivision .... [LRB inserts  
12 date], and ending on the date that is 12 months after the effective date of this  
13 subdivision .... [LRB inserts date], and may be claimed only for the taxable year in  
14 which the purchase is made.

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

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

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

**ASSEMBLY BILL 965****SECTION 7**

1           71.30 **(3)** (dr) Sales tax credit under s. 71.28 (3x).

2           **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Acts 2  
3 and 28, is amended to read:

4           71.34 **(1k)** (g) An addition shall be made for credits computed by a tax–option  
5 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),  
6 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), (3x), (5e), (5f), (5g), (5h), (5i), (5j), (5k),  
7 and (8r) and passed through to shareholders.

8           **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Acts  
9 2 and 28, is amended to read:

10           71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit  
11 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3w), (3x), (5e),  
12 (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and not passed through by a partnership,  
13 limited liability company, or tax–option corporation that has added that amount to  
14 the partnership’s, limited liability company’s, or tax–option corporation’s income  
15 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47  
16 (1), (3), (3t), (4), (4m), and (5).

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

18           71.47 **(3x)** SALES TAX CREDIT. (a) *Definition.* In this subsection, “claimant”  
19 means a person who files a claim under this subsection.

20           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
21 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the  
22 amount of the taxes, an amount that is equal to the amount of the taxes imposed  
23 under subch. III of ch. 77 that the claimant paid in the taxable year on the purchase  
24 of any of the following that are new when purchased by the claimant:

25           1. Motorcycles registered under ch. 341.

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- 1           2. All-terrain vehicles, not including automobiles or trucks.
  - 2           3. Personal watercraft, as defined in s. 30.50 (9d).
  - 3           4. Generators, regardless of whether they are used for personal or business
  - 4 purposes.
  - 5           5. Motorized lawn or garden equipment.
  - 6           6. Snowmobiles.
  - 7           7. Motorboats.
  - 8           8. Inboard or outboard boat motors.
- 9           (c) *Limitations.* 1. The maximum amount of the credit that a claimant may
- 10 claim under this subsection in a taxable year is \$1,500 for each single purchase of an
- 11 item described in par. (b).
- 12           2. The credit under par. (b) may be claimed only for items that are purchased
- 13 during the period beginning on the effective date of this subdivision .... [LRB inserts
- 14 date], and ending on the date that is 12 months after the effective date of this
- 15 subdivision .... [LRB inserts date], and may be claimed only for the taxable year in
- 16 which the purchase is made.
- 17           3. 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 under par. (b). A partnership,
- 20 limited liability company, or tax-option corporation shall compute the amount of
- 21 credit that each of its partners, members, or shareholders may claim and shall
- 22 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.

**ASSEMBLY BILL 965****SECTION 10**

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) (dr) of the statutes is created to read:

4 71.49 (1) (dr) Sales tax credit under s. 71.47 (3x).

5 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Acts 2 and  
6 28, is amended to read:

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

23 (END)