



2009 ASSEMBLY BILL 749

1 **AN ACT** *to amend* 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4), 71.26
2 (2) (a) 4., 71.30 (3) (f), 71.34 (1k) (g), 71.45 (2) (a) 10., 71.49 (1) (f) and 77.92 (4);
3 and *to create* 20.835 (2) (bc), 71.07 (3rm), 71.28 (3rm), 71.47 (3rm) and 560.209
4 of the statutes; **relating to:** an income and franchise tax credit for equipment
5 used to harvest or process woody biomass.

Analysis by the Legislative Reference Bureau

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 20.835 (2) (bc) of the statutes is created to read:
7 20.835 **(2)** (bc) *Woody biomass harvesting and processing credit.* A sum
8 sufficient to make the payments under ss. 71.07 (3rm), 71.28 (3rm), and 71.47 (3rm).
9 **SECTION 2.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
10 28, is amended to read:

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

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

8 71.07 **(3rm)** WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a)

9 *Definitions.* In this subsection:

10 1. "Claimant" means a person who files a claim under this subsection.

11 2. "Used primarily" means used to the exclusion of all other uses except for use
12 not exceeding 25 percent of total use.

13 3. "Woody biomass" means trees and woody plants, including limbs, tops,
14 needles, leaves, and other woody parts, grown in a forest or woodland or on
15 agricultural land.

16 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
17 560.209, for taxable years beginning after December 31, 2009, and before January
18 1, 2016, a claimant may claim as a credit against the taxes imposed under s. 71.02
19 or 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount
20 the claimant paid in the taxable year for equipment that is used primarily to harvest
21 or process woody biomass that is used as fuel or as a component of fuel.

22 (c) *Limitations.* 1. No credit may be allowed under this subsection for any
23 amount that the claimant paid for expenses described under par. (b) that the
24 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

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1 2. The aggregate amount of credits that a claimant may claim under this
2 subsection is \$100,000.

3 3. The maximum amount of the credits that may be claimed under this
4 subsection and ss. 71.28 (3rm) and 71.47 (3rm) is \$900,000, as allocated under s.
5 560.209.

6 4. Partnerships, limited liability companies, and tax–option corporations may
7 not claim the credit under this subsection, but the eligibility for, and the amount of,
8 the credit are based on their payment of expenses under par. (b), except that the
9 aggregate amount of credits that the entity may compute shall not exceed \$100,000.
10 A partnership, limited liability company, or tax–option corporation shall compute
11 the amount of credit that each of its partners, members, or shareholders may claim
12 and shall provide that information to each of them. Partners, members of limited
13 liability companies, and shareholders of tax–option corporations may claim the
14 credit in proportion to their ownership interest.

15 5. If 2 or more persons own and operate a woody biomass harvesting or
16 processing operation, each person may claim a credit under par. (b) in proportion to
17 his or her ownership interest, except that the aggregate amount of the credits
18 claimed by all persons who own and operate the operation shall not exceed \$100,000.

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

21 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
22 due under s. 71.02 or 71.08, the amount of the claim not used to offset the tax due
23 shall be certified by the department of revenue to the department of administration
24 for payment by check, share draft, or other draft drawn from the appropriation
25 account under s. 20.835 (2) (bc).

ASSEMBLY BILL 749**SECTION 4**

1 **SECTION 4.** 71.08 (1) (intro.) of the statutes, as affected by 2009 Wisconsin Act
2 28, is amended to read:

3 **71.08 (1) IMPOSITION.** (intro.) If the tax imposed on a natural person, married
4 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
5 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
6 (3q), (3r), (3rm), (3s), (3t), (3w), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (6), (6e), (8r), and
7 (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and
8 (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1dy), (2m), (3), (3n), (3t), and
9 (3w), 71.57 to 71.61, and 71.613 and subch. VIII and payments to other states under
10 s. 71.07 (7), is less than the tax under this section, there is imposed on that natural
11 person, married couple filing jointly, trust or estate, instead of the tax under s. 71.02,
12 an alternative minimum tax computed as follows:

13 **SECTION 5.** 71.10 (4) (i) of the statutes, as affected by 2009 Wisconsin Act 28,
14 is amended to read:

15 **71.10 (4) (i)** The total of claim of right credit under s. 71.07 (1), farmland
16 preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and
17 beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief
18 credit under s. 71.07 (3m),, dairy manufacturing facility investment credit under s.
19 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment
20 credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s.
21 71.07 (3rm), film production services credit under s. 71.07 (5f), film production
22 company investment credit under s. 71.07 (5h), veterans and surviving spouses
23 property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w),
24 beginning farmer and farm asset owner tax credit under s. 71.07 (8r), earned income

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1 tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes
2 withheld under subch. X.

3 **SECTION 6.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
4 amended to read:

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

9 **SECTION 7.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 28,
10 is amended to read:

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

17 **SECTION 8.** 71.28 (3rm) of the statutes is created to read:

18 71.28 (3rm) WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a)

19 *Definitions.* In this subsection:

- 20 1. "Claimant" means a person who files a claim under this subsection.
- 21 2. "Used primarily" means used to the exclusion of all other uses except for use
22 not exceeding 25 percent of total use.
- 23 3. "Woody biomass" means trees and woody plants, including limbs, tops,
24 needles, leaves, and other woody parts, grown in a forest or woodland or on
25 agricultural land.

ASSEMBLY BILL 749**SECTION 8**

1 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
2 560.209, for taxable years beginning after December 31, 2009, and before January
3 1, 2016, a claimant may claim as a credit against the taxes imposed under s. 71.23,
4 up to the amount of the tax, an amount equal to 10 percent of the amount the
5 claimant paid in the taxable year for equipment that is used primarily to harvest or
6 process woody biomass that is used as fuel or as a component of fuel.

7 (c) *Limitations.* 1. No credit may be allowed under this subsection for any
8 amount that the claimant paid for expenses described under par. (b) that the
9 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

10 2. The aggregate amount of credits that a claimant may claim under this
11 subsection is \$100,000.

12 3. The maximum amount of the credits that may be claimed under this
13 subsection and ss. 71.07 (3rm) and 71.47 (3rm) is \$900,000, as allocated under s.
14 560.209.

15 4. 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 expenses under par. (b), except that the
18 aggregate amount of credits that the entity may compute shall not exceed \$100,000.
19 A partnership, limited liability company, or tax-option corporation shall compute
20 the amount of credit that each of its partners, members, or shareholders may claim
21 and shall provide that information to each of them. Partners, members of limited
22 liability companies, and shareholders of tax-option corporations may claim the
23 credit in proportion to their ownership interest.

24 5. If 2 or more persons own and operate a woody biomass harvesting or
25 processing operation, each person may claim a credit under par. (b) in proportion to

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1 his or her ownership interest, except that the aggregate amount of the credits
2 claimed by all persons who own and operate the operation shall not exceed \$100,000.

3 (d) *Administration.* 1. Subsection (4) (e), (g), and (h), as it applies to the credit
4 under sub. (4), applies to the credit under this subsection.

5 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
6 due under s. 71.23, the amount of the claim not used to offset the tax due shall be
7 certified by the department of revenue to the department of administration for
8 payment by check, share draft, or other draft drawn from the appropriation account
9 under s. 20.835 (2) (bc).

10 **SECTION 9.** 71.30 (3) (f) of the statutes, as affected by 2009 Wisconsin Act 28,
11 is amended to read:

12 71.30 **(3)** (f) The total of farmland preservation credit under subch. IX,
13 farmland tax relief credit under s. 71.28 (2m), dairy manufacturing facility
14 investment credit under s. 71.28 (3p), jobs credit under s. 71.28 (3q), meat processing
15 facility investment credit under s. 71.28 (3r), woody biomass harvesting and
16 processing credit under s. 71.28 (3rm), enterprise zone jobs credit under s. 71.28 (3w),
17 film production services credit under s. 71.28 (5f), film production company
18 investment credit under s. 71.28 (5h), beginning farmer and farm asset owner tax
19 credit under s. 71.28 (8r), and estimated tax payments under s. 71.29.

20 **SECTION 10.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
21 is amended to read:

22 71.34 **(1k)** (g) An addition shall be made for credits computed by a tax-option
23 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
24 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k),
25 and (8r) and passed through to shareholders.

ASSEMBLY BILL 749**SECTION 11**

1 **SECTION 11.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
2 28, is amended to read:

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

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

11 71.47 **(3rm)** WOODY BIOMASS HARVESTING AND PROCESSING CREDIT. (a)

12 *Definitions.* In this subsection:

- 13 1. "Claimant" means a person who files a claim under this subsection.
- 14 2. "Used primarily" means used to the exclusion of all other uses except for use
15 not exceeding 25 percent of total use.
- 16 3. "Woody biomass" means trees and woody plants, including limbs, tops,
17 needles, leaves, and other woody parts, grown in a forest or woodland or on
18 agricultural land.

19 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
20 560.209, for taxable years beginning after December 31, 2009, and before January
21 1, 2016, a claimant may claim as a credit against the taxes imposed under s. 71.43,
22 up to the amount of the tax, an amount equal to 10 percent of the amount the
23 claimant paid in the taxable year for equipment that is used primarily to harvest or
24 process woody biomass that is used as fuel or as a component of fuel.

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1 (c) *Limitations.* 1. No credit may be allowed under this subsection for any
2 amount that the claimant paid for expenses described under par. (b) that the
3 claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

4 2. The aggregate amount of credits that a claimant may claim under this
5 subsection is \$100,000.

6 3. The maximum amount of the credits that may be claimed under this
7 subsection and ss. 71.07 (3rm) and 71.28 (3rm) is \$900,000, as allocated under s.
8 560.209.

9 4. Partnerships, limited liability companies, and tax–option corporations may
10 not claim the credit under this subsection, but the eligibility for, and the amount of,
11 the credit are based on their payment of expenses under par. (b), except that the
12 aggregate amount of credits that the entity may compute shall not exceed \$100,000.
13 A partnership, limited liability company, or tax–option corporation shall compute
14 the amount of credit that each of its partners, members, or shareholders may claim
15 and shall provide that information to each of them. Partners, members of limited
16 liability companies, and shareholders of tax–option corporations may claim the
17 credit in proportion to their ownership interest.

18 5. If 2 or more persons own and operate a woody biomass harvesting or
19 processing operation, each person may claim a credit under par. (b) in proportion to
20 his or her ownership interest, except that the aggregate amount of the credits
21 claimed by all persons who own and operate the operation shall not exceed \$100,000.

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

24 2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise
25 due under s. 71.43, the amount of the claim not used to offset the tax due shall be

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1 certified by the department of revenue to the department of administration for
2 payment by check, share draft, or other draft drawn from the appropriation account
3 under s. 20.835 (2) (bc).

4 **SECTION 13.** 71.49 (1) (f) of the statutes, as affected by 2009 Wisconsin Act 28,
5 is amended to read:

6 71.49 (1) (f) The total of farmland preservation credit under subch. IX,
7 farmland tax relief credit under s. 71.47 (2m), dairy manufacturing facility
8 investment credit under s. 71.47 (3p), jobs credit under s. 71.47 (3q), meat processing
9 facility investment credit under s. 71.47 (3r), woody biomass harvesting and
10 processing credit under s. 71.47 (3rm), enterprise zone jobs credit under s. 71.47 (3w),
11 film production services credit under s. 71.47 (5f), film production company
12 investment credit under s. 71.47 (5h), beginning farmer and farm asset owner tax
13 credit under s. 71.47 (8r), and estimated tax payments under s. 71.48.

14 **SECTION 14.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
15 amended to read:

16 77.92 (4) “Net business income,” with respect to a partnership, means taxable
17 income as calculated under section 703 of the Internal Revenue Code; plus the items
18 of income and gain under section 702 of the Internal Revenue Code, including taxable
19 state and municipal bond interest and excluding nontaxable interest income or
20 dividend income from federal government obligations; minus the items of loss and
21 deduction under section 702 of the Internal Revenue Code, except items that are not
22 deductible under s. 71.21; plus guaranteed payments to partners under section 707
23 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
24 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
25 (3rm), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r); and plus or minus,

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1 as appropriate, transitional adjustments, depreciation differences, and basis
2 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
3 loss, and deductions from farming. “Net business income,” with respect to a natural
4 person, estate, or trust, means profit from a trade or business for federal income tax
5 purposes and includes net income derived as an employee as defined in section 3121
6 (d) (3) of the Internal Revenue Code.

7 **SECTION 15.** 560.209 of the statutes is created to read:

8 **560.209 Woody biomass harvesting and processing credit.** (1) The
9 department of commerce shall implement a program to certify taxpayers as eligible
10 for the woody biomass harvesting and processing credit under ss. 71.07 (3rm), 71.28
11 (3rm), and 71.47 (3rm).

12 (2) If the department of commerce certifies a taxpayer under sub. (1), the
13 department of commerce shall determine the amount of credits to allocate to that
14 taxpayer. The total amount of woody biomass harvesting and processing credits
15 allocated to taxpayers in any fiscal year may not exceed \$900,000. In each fiscal year,
16 the department of commerce shall allocate \$450,000 in tax credits to businesses that,
17 individually, have no more than \$5,000,000 in gross receipts from doing business in
18 this state for the taxable year in which the credit is claimed.

19 (3) The department of commerce shall inform the department of revenue of
20 every taxpayer certified under sub. (1) and the amount of credits allocated to the
21 taxpayer.

22 (4) The department of commerce, in consultation with the department of
23 revenue, shall promulgate rules to administer this section.

24 **SECTION 15m. Nonstatutory provisions.**

