



State of Wisconsin
2011 – 2012 LEGISLATURE



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**SENATE SUBSTITUTE AMENDMENT 1,
TO 2011 SENATE BILL 60**

September 19, 2011 – Offered by Senator WANGGAARD.

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 (5p), 71.10 (4) (ct), 71.28 (5p), 71.30
3 (3) (dt), 71.47 (5p), 71.49 (1) (dt) and 238.18 of the statutes; **relating to:** a small
4 business expansion income and franchise tax credit.

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

5 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2011 Wisconsin Act
6 32, is amended to read:

7 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
9 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), and
10 (8r) and not passed through by a partnership, limited liability company, or
11 tax-option corporation that has added that amount to the partnership's, company's,
12 or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

1 **SECTION 2.** 71.07 (5p) of the statutes is created to read:

2 **71.07 (5p) SMALL BUSINESS EXPANSION CREDIT.** (a) *Definitions.* In this
3 subsection:

4 1. “Claimant” means a person who files a claim under this subsection and is
5 certified under s. 238.18 (2).

6 2. “Full-time job” has the meaning given in s. 238.18 (1) (a).

7 3. “Small business” has the meaning given in s. 238.18 (1) (b).

8 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
9 238.18, for taxable years beginning after December 31, 2011, a claimant may claim
10 as a credit against the taxes imposed under s. 71.02, up to the amount of the taxes,
11 an amount equal to the actual cost of improvements to real property and acquisitions
12 of personal property reported to the department under s. 238.18 (3) (a), if such real
13 and personal property is subject to taxation under ch. 70, made by the claimant’s
14 small business in the taxable year, multiplied by one of the following:

15 1. If the small business employs one more employee in a full-time job in the
16 taxable year than it did in the previous taxable year, 0.002.

17 2. If the small business employs 2 more employees in full-time jobs in the
18 taxable year than it did in the previous taxable year, 0.004.

19 3. If the small business employs 3 more employees in full-time jobs in the
20 taxable year than it did in the previous taxable year, 0.006.

21 4. If the small business employs 4 more employees in full-time jobs in the
22 taxable year than it did in the previous taxable year, 0.008.

23 5. If the small business employs at least 5 more employees in full-time jobs in
24 the taxable year than it did in the previous taxable year, 0.01.

1 (c) *Limitations.* 1. A claimant may only claim a credit under this subsection
2 for 2 consecutive taxable years. The amount that the claimant may claim as a credit
3 under this subsection for the 2nd taxable year is equal to the amount that the
4 claimant claimed as a credit under this subsection for the first taxable year, except
5 that, if the claimant employs more or fewer employees in full-time jobs in the 2nd
6 taxable year than in the first taxable year, the amount that the claimant may claim
7 as a credit under this subsection for the 2nd taxable year is based on the number of
8 employees that it employs in full-time jobs in the 2nd taxable year that is in excess
9 of the number of employees that it employed in full-time jobs in the taxable year
10 previous to the first taxable year.

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

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

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

22 71.10 (4) (ct) Small business expansion credit under s. 71.07 (5p).

23 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
24 amended to read:

1 71.21 **(4)** Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
2 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
3 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), and (8r) and passed
4 through to partners shall be added to the partnership's income.

5 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 32,
6 is amended to read:

7 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
8 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
9 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), (8r),
10 and (9s) and not passed through by a partnership, limited liability company, or
11 tax-option corporation that has added that amount to the partnership's, limited
12 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
13 (g).

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

15 71.28 **(5p)** SMALL BUSINESS EXPANSION CREDIT. (a) *Definitions.* In this
16 subsection:

17 1. "Claimant" means a person who files a claim under this subsection and is
18 certified under s. 238.18 (2).

19 2. "Full-time job" has the meaning given in s. 238.18 (1) (a).

20 3. "Small business" has the meaning given in s. 238.18 (1) (b).

21 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
22 238.18, for taxable years beginning after December 31, 2011, a claimant may claim
23 as a credit against the taxes imposed under s. 71.23, up to the amount of the taxes,
24 an amount equal to the actual cost of improvements to real property and acquisitions
25 of personal property reported to the department under s. 238.18 (3) (a), if such real

1 and personal property is subject to taxation under ch. 70, made by the claimant's
2 small business in the taxable year, multiplied by one of the following:

3 1. If the small business employs one more employee in a full-time job in the
4 taxable year than it did in the previous taxable year, 0.002.

5 2. If the small business employs 2 more employees in full-time jobs in the
6 taxable year than it did in the previous taxable year, 0.004.

7 3. If the small business employs 3 more employees in full-time jobs in the
8 taxable year than it did in the previous taxable year, 0.006.

9 4. If the small business employs 4 more employees in full-time jobs in the
10 taxable year than it did in the previous taxable year, 0.008.

11 5. If the small business employs at least 5 more employees in full-time jobs in
12 the taxable year than it did in the previous taxable year, 0.01.

13 (c) *Limitations.* 1. A claimant may only claim a credit under this subsection
14 for 2 consecutive taxable years. The amount that the claimant may claim as a credit
15 under this subsection for the 2nd taxable year is equal to the amount that the
16 claimant claimed as a credit under this subsection for the first taxable year, except
17 that, if the claimant employs more or fewer employees in full-time jobs in the 2nd
18 taxable year than in the first taxable year, the amount that the claimant may claim
19 as a credit under this subsection for the 2nd taxable year is based on the number of
20 employees that it employs in full-time jobs in the 2nd taxable year that is in excess
21 of the number of employees that it employed in full-time jobs in the taxable year
22 previous to the first taxable year.

23 2. Partnerships, limited liability companies, and tax-option corporations may
24 not claim the credit under this subsection, but the eligibility for, and the amount of,
25 the credit are based on their payment of amounts under par. (b). A partnership,

1 limited liability company, or tax–option corporation shall compute the amount of
2 credit that each of its partners, members, or shareholders may claim and shall
3 provide that information to each of them. Partners, members of limited liability
4 companies, and shareholders of tax–option corporations may claim the credit in
5 proportion to their ownership interests.

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

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

9 71.30 (3) (dt) Small business expansion credit under s. 71.28 (5p).

10 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
11 is amended to read:

12 71.34 (1k) (g) An addition shall be made for credits computed by a tax–option
13 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
14 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
15 (5k), (5n), (5p), (5r), (5rm), and (8r) and passed through to shareholders.

16 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
17 32, is amended to read:

18 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
19 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
20 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5p), (5r), (5rm), (8r), and (9s) and not
21 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 (1k) (g) and
24 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

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

1 71.47 **(5p)** SMALL BUSINESS EXPANSION CREDIT. (a) *Definitions.* In this
2 subsection:

3 1. “Claimant” means a person who files a claim under this subsection and is
4 certified under s. 238.18 (2).

5 2. “Full-time job” has the meaning given in s. 238.18 (1) (a).

6 3. “Small business” has the meaning given in s. 238.18 (1) (b).

7 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
8 238.18, for taxable years beginning after December 31, 2011, a claimant may claim
9 as a credit against the taxes imposed under s. 71.43, up to the amount of the taxes,
10 an amount equal to the actual cost of improvements to real property and acquisitions
11 of personal property reported to the department under s. 238.18 (3) (a), if such real
12 and personal property is subject to taxation under ch. 70, made by the claimant’s
13 small business in the taxable year, multiplied by one of the following:

14 1. If the small business employs one more employee in a full-time job in the
15 taxable year than it did in the previous taxable year, 0.002.

16 2. If the small business employs 2 more employees in full-time jobs in the
17 taxable year than it did in the previous taxable year, 0.004.

18 3. If the small business employs 3 more employees in full-time jobs in the
19 taxable year than it did in the previous taxable year, 0.006.

20 4. If the small business employs 4 more employees in full-time jobs in the
21 taxable year than it did in the previous taxable year, 0.008.

22 5. If the small business employs at least 5 more employees in full-time jobs in
23 the taxable year than it did in the previous taxable year, 0.01.

24 (c) *Limitations.* 1. A claimant may only claim a credit under this subsection
25 for 2 consecutive taxable years. The amount that the claimant may claim as a credit

1 under this subsection for the 2nd taxable year is equal to the amount that the
2 claimant claimed as a credit under this subsection for the first taxable year, except
3 that, if the claimant employs more or fewer employees in full-time jobs in the 2nd
4 taxable year than in the first taxable year, the amount that the claimant may claim
5 as a credit under this subsection for the 2nd taxable year is based on the number of
6 employees that it employs in full-time jobs in the 2nd taxable year that is in excess
7 of the number of employees that it employed in full-time jobs in the taxable year
8 previous to the first taxable year.

9 2. 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 amounts under par. (b). A partnership,
12 limited liability company, or tax-option corporation shall compute the amount of
13 credit that each of its partners, members, or shareholders may claim and shall
14 provide that information to each of them. Partners, members of limited liability
15 companies, and shareholders of tax-option corporations may claim the credit in
16 proportion to their ownership interests.

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

19 **SECTION 11.** 71.49 (1) (dt) of the statutes is created to read:

20 71.49 (1) (dt) Small business expansion credit under s. 71.47 (5p).

21 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
22 amended to read:

23 77.92 (4) “Net business income,” with respect to a partnership, means taxable
24 income as calculated under section 703 of the Internal Revenue Code; plus the items
25 of income and gain under section 702 of the Internal Revenue Code, including taxable

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

14 **SECTION 13.** 238.18 of the statutes is created to read:

15 **238.18 Small business expansion tax credit. (1) DEFINITIONS.** In this
16 section:

17 (a) “Full-time job” means a regular, nonseasonal, full-time position in which
18 an individual, as a condition of employment, is required to work at least 2,080 hours
19 per year, including paid leave and holidays.

20 (b) “Small business” means a business entity, including its affiliates, that is
21 independently owned and operated and not dominant in its field, and that employs
22 25 or fewer full-time employees or that has gross annual sales of less than
23 \$5,000,000.

24 **(2) CERTIFICATION.** (a) The corporation may certify a person under this section
25 to claim tax credits under s. 71.07 (5p), 71.28 (5p), or 71.47 (5p) for one taxable year

1 if the person applies to the corporation on a form prepared by the corporation and
2 submits evidence satisfactory to the corporation that the person is operating a small
3 business that did all of the following in the taxable year:

4 1. Made improvements to real property and acquisitions of personal property
5 as part of expanding the small business.

6 2. Employed more employees in full-time jobs than in the previous taxable
7 year.

8 (b) The corporation may certify a person certified under par. (a) to claim tax
9 credits under s. 71.07 (5p), 71.28 (5p), or 71.47 (5p) for an additional taxable year if
10 the person's small business retains one or more of the full-time jobs that were used
11 to calculate the amount of the tax credit claimed by the person under s. 71.07 (5p),
12 71.28 (5p), or 71.47 (5p) in the first taxable year.

13 (c) The corporation may only certify a person to claim tax credits under s. 71.07
14 (5p), 71.28 (5p), or 71.47 (5p) for 2 consecutive taxable years.

15 **(3) DUTIES OF THE CORPORATION.** (a) The corporation shall report to the
16 department of revenue every certification issued under sub. (2), the improvements
17 and acquisitions described in sub. (2) (a) 1. for which each certification is provided,
18 the number of full-time jobs the certified person's small business added in the
19 taxable year, and the date on which any certification is revoked or expires.

20 (b) The corporation shall adopt policies and procedures for the implementation
21 and operation of this section.

22 (END)