



## 2011 SENATE BILL 123

June 7, 2011 – Introduced by Senators GROTHMAN, LEIBHAM, KAPANKE, GALLOWAY, DARLING, LAZICH and T. CULLEN, cosponsored by Representatives KOOYENGA, JACQUE, KNODL, PETRYK, BROOKS, LEMAHIEU, A. OTT, KAPENGA, THIESFELDT, LITJENS, PRIDEMORE, STRACHOTA, STROEBEL, WYNN, KNILANS and ENDSLEY. Referred to Committee on Public Health, Human Services, and Revenue.

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 (5n), 71.10 (4) (cr), 71.28 (5n), 71.30  
3           (3) (dn), 71.47 (5n) and 71.49 (1) (dn) of the statutes; **relating to:** an income and  
4           franchise tax credit for qualified production activities income.

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### ***Analysis by the Legislative Reference Bureau***

Under the federal Internal Revenue Code, a taxpayer may claim a deduction equal to 9 percent of the taxpayer's qualified production activities income in the taxable year or 9 percent of the taxpayer's total taxable income, whichever is less. For federal tax purposes, qualified production activities income is, generally, the amount of the taxpayer's domestic production gross receipts that exceed the sum of the cost of goods sold and other expenses, losses, or deductions. Domestic production gross receipts are, generally, gross receipts derived from property that was manufactured, produced, grown, or extracted in the United States.

Under this bill, an individual taxpayer may claim a state income tax credit equal to the taxpayer's qualified production activities income derived from manufacturing property and agricultural property, multiplied by 7.5 percent. A corporation or insurer may claim a state income and franchise tax credit equal to the lesser of its taxable income apportioned to this state or its qualified production activities income derived from manufacturing property or agricultural property, multiplied by 7.5 percent.

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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 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), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),  
4           (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r) and  
5           not passed through by a partnership, limited liability company, or tax-option  
6           corporation that has added that amount to the partnership's, company's, or  
7           tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

9           71.07 **(5n)** QUALIFIED PRODUCTION ACTIVITIES CREDIT. (a) *Definitions.* In this  
10          subsection:

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

12           2. "Eligible qualified production activities income" means qualified production  
13          activities income that derives from property assessed as manufacturing property  
14          under s. 70.995 or property assessed as agricultural property under s. 70.32 (2) (a)  
15          4.

16           3. "Qualified production activities income" means qualified production  
17          activities income as defined in 26 USC 199 (c).

18           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
19          claimant may claim as a credit against the tax imposed under s. 71.02, up to the  
20          amount of the tax, an amount equal to the claimant's eligible qualified production  
21          activities income in the taxable year, multiplied by 7.5 percent.

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

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

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

12           71.10 (4) (cr) Qualified production activities credit under s. 71.07 (5n).

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

14           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
15 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),  
16 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r) and passed  
17 through to partners shall be added to the partnership's income.

18           **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 3,  
19 is amended to read:

20           71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),  
21 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),  
22 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), (8r), and  
23 (9s) and not passed through by a partnership, limited liability company, or  
24 tax-option corporation that has added that amount to the partnership's, limited

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1 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)  
2 (g).

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

4 **71.28 (5n) QUALIFIED PRODUCTION ACTIVITIES CREDIT.** (a) *Definitions.* In this  
5 subsection:

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

7 2. "Eligible qualified production activities income" means the lesser of the  
8 following:

9 a. Qualified production activities income that derives from property assessed  
10 as manufacturing property under s. 70.995 or property assessed as agricultural  
11 property under s. 70.32 (2) (a) 4.

12 b. Income that is apportioned to this state under s. 71.25 (5), (6), and (6m).

13 c. Income that is determined to be taxable in this state under s. 71.255 (2).

14 3. "Qualified production activities income" means qualified production  
15 activities income as defined in 26 USC 199 (c).

16 (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
17 claimant may claim as a credit against the tax imposed under s. 71.23, up to the  
18 amount of the tax, an amount equal to the claimant's eligible qualified production  
19 activities income in the taxable year, multiplied by 7.5 percent.

20 (c) *Limitations.* Partnerships, limited liability companies, and tax-option  
21 corporations may not claim the credit under this subsection, but the eligibility for,  
22 and the amount of, the credit are based on their share of the income described under  
23 par. (b). A partnership, limited liability company, or tax-option corporation shall  
24 compute the amount of credit that each of its partners, members, or shareholders  
25 may claim and shall provide that information to each of them. Partners, members

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1 of limited liability companies, and shareholders of tax–option corporations may  
2 claim the credit in proportion to their ownership interests.

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

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

6 71.30 (3) (dn) Qualified production activities credit under s. 71.28 (5n).

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

8 71.34 (1k) (g) An addition shall be made for credits computed by a tax–option  
9 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),  
10 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),  
11 (5k), (5n), (5r), (5rm), and (8r) and passed through to shareholders.

12 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act  
13 3, is amended to read:

14 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
15 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),  
16 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), (8r), and (9s) and not passed  
17 through by a partnership, limited liability company, or tax–option corporation that  
18 has added that amount to the partnership’s, limited liability company’s, or  
19 tax–option corporation’s income under s. 71.21 (4) or 71.34 (1k) (g) and the amount  
20 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

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

22 71.47 (5n) QUALIFIED PRODUCTION ACTIVITIES CREDIT. (a) *Definitions.* In this  
23 subsection:

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

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1           2. “Eligible qualified production activities income” means the lesser of the  
2 following:

3           a. Qualified production activities income that derives from property assessed  
4 as manufacturing property under s. 70.995 or property assessed as agricultural  
5 property under s. 70.32 (2) (a) 4.

6           b. Income that is apportioned to this state under s. 71.45 (3), (3d), and (3e).

7           c. Income that is determined to be taxable in this state under s. 71.255 (2).

8           3. “Qualified production activities income” means qualified production  
9 activities income as defined in 26 USC 199 (c).

10           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
11 claimant may claim as a credit against the tax imposed under s. 71.43, up to the  
12 amount of the tax, an amount equal to the claimant’s eligible qualified production  
13 activities income in the taxable year, multiplied by 7.5 percent.

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

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

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

25           71.49 (1) (dn) Qualified production activities credit under s. 71.47 (5n).

