



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3906/P1
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PA
RWR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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1 **AN ACT to repeal** 71.07 (5n) (a) 2., 71.07 (5n) (a) 3., 71.10 (4) (cr), 71.28 (5n) (a)
2 2., 71.28 (5n) (a) 3., 71.30 (3) (dn), 71.47 (5n) and 71.49 (1) (dn); **to renumber**
3 71.07 (5n) (d) and 71.28 (5n) (d); **to renumber and amend** 71.21 (4); **to amend**
4 71.05 (6) (a) 15., 71.07 (5n) (title), 71.07 (5n) (b) (intro.), 71.26 (2) (a) 4., 71.28
5 (5n) (title), 71.28 (5n) (b) (intro.), 71.34 (1k) (g) and 71.45 (2) (a) 10.; and **to**
6 **create** 71.05 (6) (a) 25., 71.07 (5n) (a) 2m., 71.07 (5n) (a) 3m., 71.07 (5n) (a) 4.,
7 71.07 (5n) (d) 2., 71.21 (4) (b), 71.26 (2) (a) 11., 71.28 (5n) (a) 2m., 71.28 (5n) (a)
8 3m., 71.28 (5n) (a) 4., 71.28 (5n) (d) 2. and 71.34 (1k) (m) of the statutes;
9 **relating to:** technical changes to the qualified production activities income and
10 franchise tax credit.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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 2011 Wisconsin Act
2 32, 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),
5 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5h), (5i), (5j), (5k), (5n), (5r), (5rm), and (8r) and
6 not passed through by a partnership, limited liability company, or tax-option
7 corporation that has added that amount to the partnership's, company's, or
8 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

9 SECTION 2. 71.05 (6) (a) 25. of the statutes is created to read:

10 71.05 (6) (a) 25. The amount computed under s. 71.07 (5n) in the previous
11 taxable year and not passed through by a partnership, limited liability company, or
12 tax-option corporation that has added that amount to the partnership's, company's,
13 or tax-option corporation's income under s. 71.21 (4) (a) or 71.34 (1k) (m) and not
14 included in federal adjusted gross income.

15 SECTION 3. 71.07 (5n) (title) of the statutes, as created by 2011 Wisconsin Act
16 32, is amended to read:

17 71.07 (5n) (title) ~~QUALIFIED PRODUCTION~~ MANUFACTURING AND AGRICULTURAL
18 ACTIVITIES CREDIT.

19 SECTION 4. 71.07 (5n) (a) 2. of the statutes, as created by 2011 Wisconsin Act
20 32, is repealed.

21 SECTION 5. 71.07 (5n) (a) 2m. of the statutes is created to read:

22 71.07 (5n) (a) 2m. "Production gross receipts" means receipts from the lease,
23 rental, license, sale, exchange, or other disposition of qualified production property.

24 SECTION 6. 71.07 (5n) (a) 3. of the statutes, as created by 2011 Wisconsin Act
25 32, is repealed.

INSERT 2 - 25 ✓

✓ INSERT 2 - 23

INSERT 2 - 18

SECTION 7. 71.07 (5n) (a) 3m. of the statutes is created to read:

71.07 (5n) (a) 3m. ⁸ "Qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold that are allocable to such receipts, as determined under par. (d) 2., and the direct and indirect expenses, losses, and deductions that are allocable to such receipts, as determined under par. (d) 2. "Qualified production activities income" does not include any of the following:

- a. Income from film production.
- b. Income from producing, transmitting, or distributing electricity, natural gas, or potable water.
- c. Income from constructing real property.
- d. Income from engineering or architectural services performed with respect to constructing real property.
- e. Income from the sale of food and beverages prepared by the claimant at a retail establishment.
- f. Income from the lease, rental, license, sale, exchange, or other disposition of land.

SECTION 8. 71.07 (5n) (a) 4. of the statutes is created to read:

71.07 (5n) (a) 4. ⁹ "Qualified production property" means ^{either of the following} tangible personal property manufactured by the claimant on property that is assessed as manufacturing property under s. 70.995 ^{or} tangible personal property produced, grown, or extracted by the claimant on or from property assessed as agricultural property under s. 70.32 (2) (a) 4.

SECTION 9. 71.07 (5n) (b) (intro.) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

1 71.07 (5n) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
2 subsection, a claimant may claim as a credit against the tax imposed under s. 71.02,
3 up to the amount of the tax, an amount equal to one of the following percentages of
4 the claimant's eligible qualified production activities income in the taxable year:

5 **SECTION 10.** 71.07 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32,
6 is renumbered 71.07 (5n) (d) 1.

7 **SECTION 11.** 71.07 (5n) (d) 2. of the statutes is created to read:

8 71.07 (5n) (d) 2. (a.) For purposes of determining a claimant's qualified
9 production activities income under this subsection, the claimant shall multiply the
10 claimant's production gross receipts by a fraction consisting of a numerator that is
11 the average value of the claimant's real and tangible personal manufacturing
12 property assessed under s. 70.995 or agricultural property assessed under s. 70.32
13 (2) (a) 4. that is owned or rented by the claimant during the taxable year and used
14 by the claimant to produce qualified production property; and a denominator that is
15 the average value of all the claimant's real property and tangible personal property
16 that is owned or rented by the claimant during the taxable year.

17 b. For purposes of subd. 2. a., property owned by the claimant is valued at its
18 original cost and property rented by the claimant is valued at an amount equal to the
19 annual rental paid by the claimant, less any annual rental received by the claimant
20 from sub-rentals, multiplied by 8.

21 c. For purposes of subd. 2. a., if property is acquired and disposed of during the
22 taxable year, the average value of property is determined by averaging the values at
23 the beginning and ending of the taxable year, except that the secretary of revenue
24 may require the averaging of monthly values during the taxable year, if such

1 averaging is reasonably required to properly reflect the average value of the
 2 claimant's property. *INSERT 5-2 ✓*

3 **SECTION 12.** 71.10 (4) (cr) of the statutes, as created by 2011 Wisconsin Act 32,
 4 is repealed.

5 **SECTION 13.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
 6 renumbered 71.21 (4) (a) and amended to read:

7 71.21 (4) (a) ~~Credits~~ *the amount of the credits* computed by a partnership under s. 71.07 (2dd), (2de),
 8 (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm),
 9 (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), and (8r) and
 10 passed through to partners shall be added to the partnership's income.

11 **SECTION 14.** 71.21 (4) (b) of the statutes is created to read:

12 71.21 (4) (b) ~~Credits~~ *Amounts* computed by a partnership under s. 71.07 (5n) in the
 13 previous year and not included in federal ordinary business income shall be added
 14 to the partnership's income.

15 **SECTION 15.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
 16 32, is amended to read:

17 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
 18 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
 19 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and
 20 (9s) and not passed through by a partnership, limited liability company, or
 21 tax-option corporation that has added that amount to the partnership's, limited
 22 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
 23 (g).

24 **SECTION 16.** 71.26 (2) (a) 11. of the statutes is created to read:

1 71.26 (2) (a) 11. Plus the amount computed under s. 71.28 (5n) in the previous
2 taxable year that is not included in federal taxable income.

3 SECTION 17. 71.28 (5n) (title) of the statutes, as created by 2011 Wisconsin Act
4 32, is amended to read:

5 71.28 (5n) (title) ~~QUALIFIED PRODUCTION~~ MANUFACTURING AND AGRICULTURAL
6 ACTIVITIES CREDIT.

7 SECTION 18. 71.28 (5n) (a) 2. of the statutes, as created by 2011 Wisconsin Act
8 32, is repealed.

9 SECTION 19. 71.28 (5n) (a) 2m. of the statutes is created to read:

10 71.28 (5n) (a) 2m. "Production gross receipts" means receipts from the lease,
11 rental, license, sale, exchange, or other disposition of qualified production property.

12 SECTION 20. 71.28 (5n) (a) 3. of the statutes, as created by 2011 Wisconsin Act
13 32, is repealed.

14 SECTION 21. 71.28 (5n) (a) 3m. of the statutes is created to read:

15 71.28 (5n) (a) 3m. "Qualified production activities income" means the amount
16 of the claimant's production gross receipts for the taxable year that exceeds the sum
17 of the cost of goods sold that are allocable to such receipts, as determined under par.
18 (d) 2., and the direct and indirect expenses, losses, and deductions that are allocable
19 to such receipts, as determined under par. (d) 2. "Qualified production activities
20 income" does not include any of the following:

- 21 a. Income from film production.
- 22 b. Income from producing, transmitting, or distributing electricity, natural gas,
23 or potable water.
- 24 c. Income from constructing real property.

INSERT 6-6

INSERT 6-11B

9

INSERT 6-11A

7

9

1 d. Income from engineering or architectural services performed with respect
2 to constructing real property.

3 e. Income from the sale of food and beverages prepared by the claimant at a
4 retail establishment.

5 f. Income from the lease, rental, license, sale, exchange, or other disposition of
6 land.

7 **SECTION 22.** 71.28 (5n) (a) 4. of the statutes is created to read:

8 71.28 (5n) (a) 4) "Qualified production property" means ^{either} tangible personal
9 property manufactured by the claimant in whole or in significant part on property
10 that is assessed as manufacturing property under s. 70.995 ^{or} tangible personal
11 property produced, grown, or extracted on or from property assessed as agricultural
12 property under s. 70.32 (2) (a) 4.

13 **SECTION 23.** 71.28 (5n) (b) (intro.) of the statutes, as created by 2011 Wisconsin
14 Act 32, is amended to read:

15 71.28 (5n) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
16 subsection, a claimant may claim as a credit against the tax imposed under s. 71.02,
17 up to the amount of the tax, an amount equal to one of the following percentages of
18 the claimant's eligible qualified production activities income in the taxable year:

19 **SECTION 24.** 71.28 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32,
20 is renumbered 71.28 (5n) (d) 1.

21 **SECTION 25.** 71.28 (5n) (d) 2. of the statutes is created to read:

22 71.28 (5n) (d) 2. a) For purposes of determining a claimant's qualified
23 production activities income under this subsection, the claimant shall multiply the
24 claimant's production gross receipts by a fraction consisting of a numerator that is
25 the average value of the claimant's real and tangible personal manufacturing

1 property assessed under s. ~~70.995~~ or agricultural property assessed under s. 70.32
 2 (2) (a) 4. that is owned or rented by the claimant during the taxable year and used
 3 by the claimant to produce qualified production property; and a denominator that is
 4 the average value of all the claimant's real property and tangible personal property
 5 that is owned or rented by the claimant during the taxable year.

6 b. For purposes of subd. 2. a., property owned by the claimant is valued at its
 7 original cost and property rented by the claimant is valued at an amount equal to the
 8 annual rental paid by the claimant, less any annual rental received by the claimant
 9 from sub-rentals, multiplied by 8.

10 c. For purposes of subd. 2. a., if property is acquired and disposed of during the
 11 taxable year, the average value of property is determined by averaging the values at
 12 the beginning and ending of the taxable year, except that the secretary of revenue
 13 may require the averaging of monthly values during the taxable year, if such
 14 averaging is reasonably required to properly reflect the average value of the

15 claimant's property.

INSERT 8-15 ✓

16 **SECTION 26.** 71.30 (3) (dn) of the statutes, as created by 2011 Wisconsin Act 32,
 17 is repealed.

18 **SECTION 27.** 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
 19 is amended to read:

20 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
 21 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
 22 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
 23 (5k), ~~(5n)~~, (5r), (5rm), and (8r) and passed through to shareholders.

24 **SECTION 28.** 71.34 (1k) (m) of the statutes is created to read:

Insert 2 - 18

1 SECTION 1. 71.07 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32,
2 is repealed and recreated to read:

3 71.07 (5n) (a) *Definitions*. In this subsection:

4 1. "Agriculture property factor" means a fraction, the numerator of which is the
5 average value of the claimant's real property and improvements assessed under s.
6 70.32 (2) (a) 4., owned or rented and used in this state by the claimant during the
7 taxable year to produce, grow, or extract qualified production property, and the
8 denominator of which is the average value of all of the claimant's real property and
9 improvements owned or rented during the taxable year.

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

11 3. "Direct costs" include all of the claimant's costs that are deductible under
12 section 162 of the Internal Revenue Code, other than cost of goods sold, and that are
13 identified as direct costs in the claimant's cost accounting records.

14 4. "Indirect costs" include all of the claimant's costs that are deductible under
15 section 162 of the Internal Revenue Code, other than cost of goods sold and direct
16 costs.

17 5. a. "Manufacturing property factor" means a fraction, the numerator of which
18 is the average value of the claimant's real and personal property assessed under s.
19 70.995, owned or rented and used in this state by the claimant during the taxable
20 year to produce qualified production property, and the denominator of which is the
21 average value of all the claimant's real and personal property owned or rented during
22 the taxable year.



1 b. For purposes of subd. 5. a.,[✓] property owned by the claimant is valued at its
 2 original cost and property rented by the claimant is valued at an amount equal to the
 3 annual rental paid by the claimant, less any annual rental received by the claimant
 4 from sub-rentals, multiplied by 8.[✓]

5 c. For purposes of subd. 5. a.,[✓] the average value of property is determined by
 6 averaging the values at the beginning and ending of the taxable year, except that the
 7 secretary of revenue may require the averaging of monthly values during the taxable
 8 year, if such averaging is reasonably required to properly reflect the average value
 9 of the claimant's property.

Insert 2 - 23

10 ~~NO~~ Φ , multiplied by the manufacturing property factor, for qualified production
 11 property under subd. 9. a.,[✓] or by the agriculture property factor, for qualified
 12 production property under subd. 9. b. ~~NO~~ Φ

Insert 2 - 25

13 7. "Production gross receipts factor"[✓] means a fraction, the numerator of which
 14 is production gross receipts and the denominator of which is all income from
 15 whatever source, except for those items specifically excluded under the Internal
 16 Revenue Code as adopted by this state and otherwise excluded under Wisconsin law.
 17 For purposes of the denominator,[✓] income includes gross sales, gross dividends, gross
 18 interest income, gross rents, gross royalties, the gross sales price from the disposition
 19 of capital assets and business assets, gross income from pass-through entities, and
 20 all other receipts that are included in income, before apportionment for Wisconsin
 21 tax purposes under s. 71.04 (4).[✓]

Insert 5 - 2



1 ~~NO~~ total cost of goods sold and direct costs, losses, or deductions for property
 2 manufactured by the claimant by the manufacturing property factor and the total
 3 cost of goods sold and direct costs, losses, or deductions related to the claimant's
 4 agricultural production, growth, or extraction by the agriculture property factor. For
 5 purposes of determining a claimant's qualified production activities income under
 6 this subsection, the claimant shall multiply the claimant's total indirect costs for
 7 property manufactured by the claimant, or related to the claimant's agricultural
 8 production, growth, or extraction, by the production gross receipts factor ~~NO~~

Insert 6 - 6

9 ~~X~~ **SECTION 2.** 71.28 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32,
 10 is repealed and recreated to read:

11 71.28 (5n) (a) *Definitions.* In this subsection: ✓

12 1. "Agriculture property factor" ✓ means a fraction, the numerator of which is the
 13 average value of the claimant's real property and improvements assessed under s.
 14 70.32 (2) (a) 4., ✓ owned or rented and used in this state by the claimant during the
 15 taxable year to produce, grow, or extract qualified production property, and the
 16 denominator of which is the average value of all of the claimant's real property and
 17 improvements owned or rented during the taxable year. ✓

18 2. "Claimant" means a person who files a claim under this subsection. ✓

19 3. "Direct costs" include all of the claimant's costs that are deductible under
 20 section 162 of the Internal Revenue Code, ✓ other than cost of goods sold, and that are
 21 identified as direct costs in the claimant's cost accounting records. ✓

22 4. "Eligible qualified production activities income" ✓ means the lesser of the
 23 following:



- 1 a. Qualified production activities income. ✓
- 2 b. Income that is apportioned to this state under s. 71.25 (5), (6), and (6m). ✓ ✓ ✓
- 3 c. Income that is determined to be taxable in this state under s. 71.255 (2). ✓
- 4 5. "Indirect costs" include all of the claimant's costs that are deductible under
- 5 section 162 of the Internal Revenue Code, other than cost of goods sold and direct
- 6 costs.
- 7 6. a. "Manufacturing property factor" means a fraction, the numerator of which
- 8 is the average value of the claimant's real and personal property assessed under s.
- 9 70.995, owned or rented and used in this state by the claimant during the taxable
- 10 year to produce qualified production property, and the denominator of which is the
- 11 average value of all the claimant's real and personal property owned or rented during
- 12 the taxable year.
- 13 b. For purposes of subd. 6. a., property owned by the claimant is valued at its ✓
- 14 original cost and property rented by the claimant is valued at an amount equal to the
- 15 annual rental paid by the claimant, less any annual rental received by the claimant
- 16 from sub-rentals, multiplied by 8. ✓
- 17 c. For purposes of subd. 6. a., the average value of property is determined by ✓
- 18 averaging the values at the beginning and ending of the taxable year, except that the
- 19 secretary of revenue may require the averaging of monthly values during the taxable
- 20 year, if such averaging is reasonably required to properly reflect the average value
- 21 of the claimant's property.

Insert 6- 11 A



1 ~~20~~ \$, multiplied by the manufacturing property factor, for qualified production
 2 property under subd. 10. a. ✓, or by the agriculture property factor, for qualified
 3 production property under subd. ✓ 10. b ~~20~~ \$

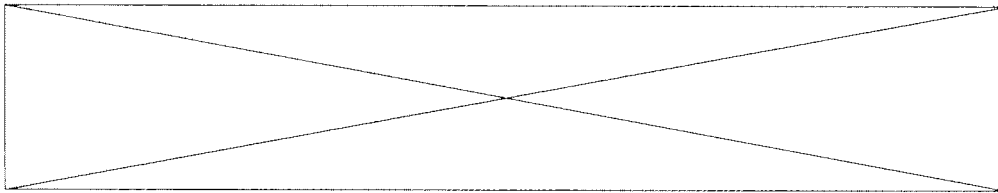
Insert 6 - 11 B

4 8. "Production gross receipts factor" means a fraction, the numerator of which
 5 is production gross receipts and the denominator of which is all income from
 6 whatever source, except for those items specifically excluded under the Internal
 7 Revenue Code ✓ as adopted by this state and otherwise excluded under Wisconsin law.
 8 For purposes of the denominator, income includes gross sales, gross dividends, gross
 9 interest income, gross rents, gross royalties, the gross sales price from the disposition
 10 of capital assets and business assets, gross income from pass-through entities, and
 11 all other receipts that are included in income, before apportionment for Wisconsin
 12 tax purposes under s. 71.25 (6). ✓

Insert 8 - 15

13 ~~20~~ \$ total cost of goods sold and direct costs, losses, or deductions for property
 14 manufactured by the claimant by the manufacturing property factor and the total
 15 cost of goods sold and direct costs, losses, or deductions related to the claimant's
 16 agricultural production, growth, or extraction by the agriculture property factor. For
 17 purposes of determining a claimant's qualified production activities income under
 18 this subsection, ✓ the claimant shall multiply the claimant's total indirect costs for
 19 property manufactured by the claimant, or related to the claimant's agricultural
 20 production, growth, or extraction, by the production gross receipts factor ~~20~~ \$

2011 Special Session
2011 - 2012 LEGISLATURE



Qualified production activities credit; technical changes

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

ENGROSSED 2011 BILL

AN ACT *to repeal* 71.10 (4) (cr), 71.30 (3) (dn), 71.47 (5n) and 71.49 (1) (dn); *to renumber* 71.07 (5n) (d) and 71.28 (5n) (d); *to renumber and amend* 71.21 (4); *to amend* 71.05 (6) (a) 15., 71.07 (5n) (title), 71.07 (5n) (b) (intro.), 71.26 (2) (a) 4., 71.28 (5n) (title), 71.34 (1k) (g) and 71.45 (2) (a) 10.; *to repeal and recreate* 71.07 (5n) (a) and 71.28 (5n) (a); and *to create* 71.05 (6) (a) 25., 71.07 (5n) (d) 2., 71.21 (4) (b), 71.26 (2) (a) 11., 71.28 (5n) (d) 2. and 71.34 (1k) (m) of the statutes; **relating to:** technical changes to the qualified production activities income and franchise tax credit.

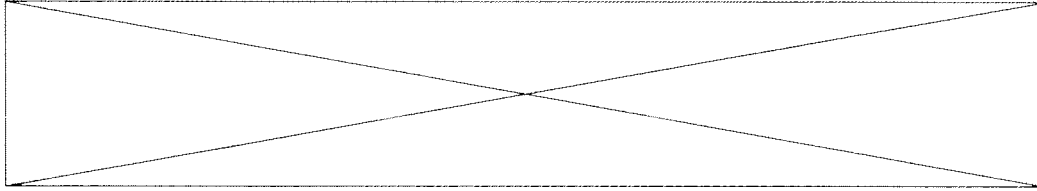
Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

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

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

ENGROSSED BILL



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

SECTION 2. 71.05 (6) (a) 25. of the statutes is created to read:

71.05 (6) (a) 25. The amount computed under s. 71.07 (5n) in the previous taxable year and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) (a) or 71.34 (1k) (m) and not included in federal adjusted gross income.

SECTION 3. 71.07 (5n) (title) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

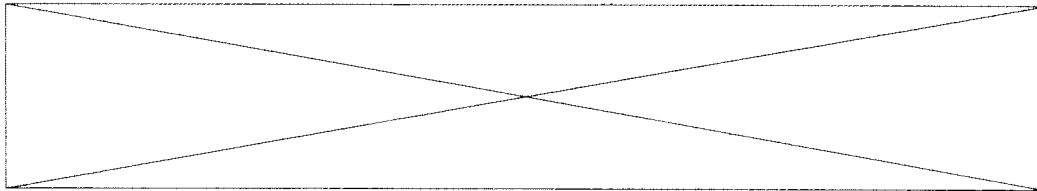
71.07 (5n) (title) ~~QUALIFIED PRODUCTION MANUFACTURING AND AGRICULTURE~~
TAX CREDIT.

Deleted: AL
Deleted: ACTIVITIES

SECTION 4. 71.07 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32, is repealed and recreated to read:

71.07 (5n) (a) *Definitions.* In this subsection:

ENGROSSED BILL



1. "Agriculture property factor" means a fraction, the numerator of which is the average value of the claimant's real property and improvements assessed under s. 70.32 (2) (a) 4., owned or rented and used in this state by the claimant during the taxable year to produce, grow, or extract qualified production property, and the denominator of which is the average value of all of the claimant's real property and improvements owned or rented during the taxable year and used by the claimant to produce, grow or extract qualified production property.

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

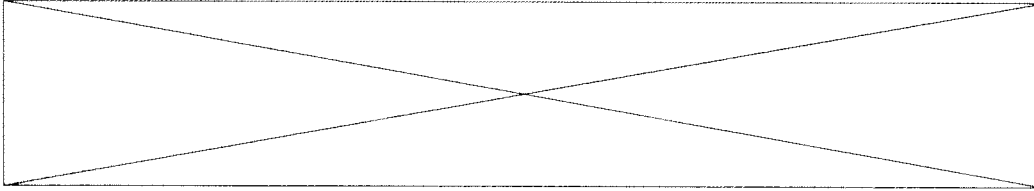
3. "Direct costs" include all of the claimant's costs that are deductible under section 162 of the Internal Revenue Code, other than cost of goods sold, and that are identified as direct costs in the claimant's cost accounting records.

4. "Indirect costs" include all of the claimant's costs that are deductible under section 162 of the Internal Revenue Code, other than cost of goods sold and direct costs.

5. a. "Manufacturing property factor" means a fraction, the numerator of which is the average value of the claimant's real and personal property assessed under s. 70.995, owned or rented and used in this state by the claimant during the taxable year to manufacture, qualified production property, and the denominator of which is the average value of all the claimant's real and personal property

Deleted: produce

ENGROSSED BILL



owned or rented during the taxable year and used by the claimant to manufacture qualified production property.

b. For purposes of subd. 5. a., property owned by the claimant is valued at its original cost and property rented by the claimant is valued at an amount equal to the annual rental paid by the claimant, less any annual rental received by the claimant from sub-rentals, multiplied by 8.

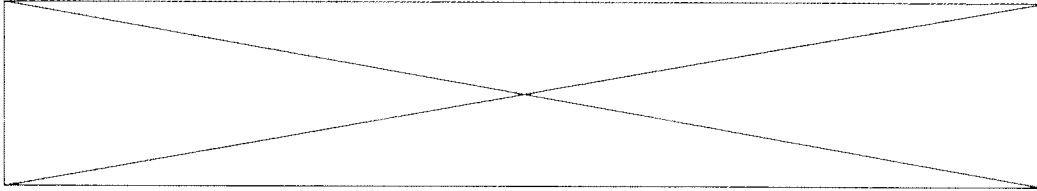
c. For purposes of subd. 5. a., the average value of property is determined by averaging the values at the beginning and ending of the taxable year, except that the secretary of revenue may require the averaging of monthly values during the taxable year, if such averaging is reasonably required to properly reflect the average value of the claimant's property.

6. "Production gross receipts" means receipts from the lease, rental, license, sale, exchange, or other disposition of qualified production property.

7. "Production gross receipts factor" means a fraction, the numerator of which is production gross receipts and the denominator of which is all income from whatever source, except for those items specifically excluded under the Internal Revenue Code as adopted by this state and otherwise excluded under Wisconsin law. For purposes of the denominator, income includes gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales

Deleted: , multiplied by the manufacturing property factor, for qualified production property under subd. 9. a., or by the agriculture property factor, for qualified production property under subd. 9. b.

ENGROSSED BILL



price from the disposition of capital assets and business assets, gross income from pass-through entities, and all other receipts that are included in income, before apportionment for Wisconsin tax purposes under s. 71.04 (4).

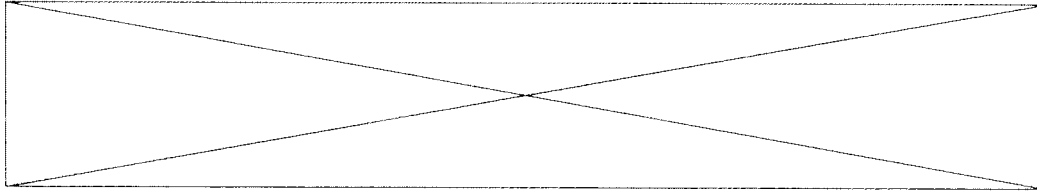
8. "Qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold that are allocable to such receipts, ~~the direct expenses,~~ losses, and deductions that are allocable to such receipts, ~~and the indirect expenses, losses and deductions multiplied by the production gross receipts factor.~~

Deleted: , as determined under par. (d) 2., and
Deleted: and indirect
Deleted: as determined under par. (d) 2

"Qualified production activities income" does not include any of the following:

- a. Income from film production.
- b. Income from producing, transmitting, or distributing electricity, natural gas, or potable water.
- c. Income from constructing real property.
- d. Income from engineering or architectural services performed with respect to constructing real property.
- e. Income from the sale of food and beverages prepared by the claimant at a retail establishment.
- f. Income from the lease, rental, license, sale, exchange, or other disposition of land.

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9. "Qualified production property" means either of the following:

- a. Tangible personal property manufactured in whole or in part by the claimant on property that is assessed as manufacturing property under s. 70.995.
- b. Tangible personal property produced, grown, or extracted in whole or in part by the claimant on or from property assessed as agricultural property under s. 70.32 (2) (a) 4.

SECTION 5. 71.07 (5n) (b) (intro.) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

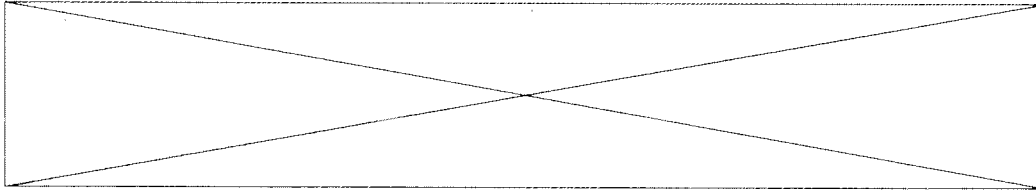
71.07 (5n) (b) *Filing claims.* (intro.) Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, an amount equal to one of the following percentages of the claimant's ~~eligible~~ eligible qualified production activities income in the taxable year:

SECTION 6. 71.07 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32, is renumbered 71.07 (5n) (d) 1.

SECTION 7. 71.07 (5n) (d) 2. of the statutes is created to read:

71.07 (5n) (d) 2. For purposes of determining a claimant's eligible qualified production activities income under this subsection, the claimant shall multiply the claimant's qualified production activities income from property manufactured

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by the claimant by the manufacturing property factor and from property produced, grown or extracted by the claimant by the agriculture property factor.

SECTION 8. 71.10 (4) (cr) of the statutes, as created by 2011 Wisconsin Act 32, is repealed. (This should be reinstated for the manufacturing and agriculture tax credit.)

SECTION 9. 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is renumbered 71.21 (4) (a) and amended to read:

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

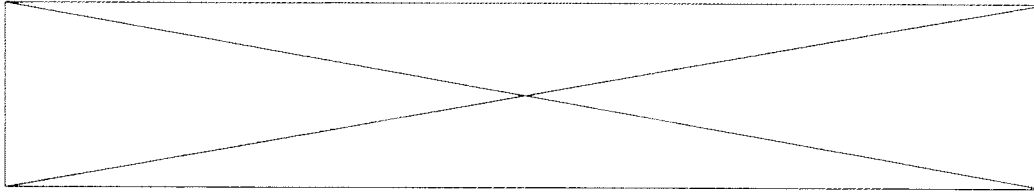
SECTION 10. 71.21 (4) (b) of the statutes is created to read:

71.21 (4) (b) Amounts computed by a partnership under s. 71.07 (5n) in the previous year and not included in federal ordinary business income shall be added to the partnership's income.

SECTION 11. 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

Deleted: total cost of goods sold and direct costs, losses, or deductions for property manufactured by the claimant by the manufacturing property factor and the total cost of goods sold and direct costs, losses, or deductions related to the claimant's agricultural production, growth, or extraction by the agriculture property factor. For purposes of determining a claimant's qualified production activities income under this subsection, the claimant shall multiply the claimant's total indirect costs for property manufactured by the claimant, or related to the claimant's agricultural production, growth, or extraction, by the production gross receipts factor.

ENGROSSED BILL



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

SECTION 12. 71.26 (2) (a) 11. of the statutes is created to read:

71.26 (2) (a) 11. Plus the amount computed under s. 71.28 (5n) in the previous taxable year that is not included in federal taxable income.

SECTION 13. 71.28 (5n) (title) of the statutes, as created by 2011 Wisconsin Act 32, is amended to read:

71.28 (5n) (title) QUALIFIED PRODUCTION MANUFACTURING AND AGRICULTURE TAX CREDIT.

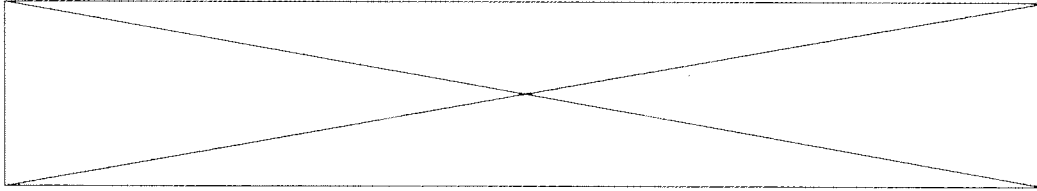
Deleted: ALL ACTIVITIES

SECTION 14. 71.28 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32, is repealed and recreated to read:

71.28 (5n) (a) *Definitions.* In this subsection:

1. "Agriculture property factor" means a fraction, the numerator of which is the average value of the claimant's real property and improvements assessed

ENGROSSED BILL



under s. 70.32 (2) (a) 4., owned or rented and used in this state by the claimant during the taxable year to produce, grow, or extract qualified production property, and the denominator of which is the average value of all of the claimant's real property and improvements owned or rented during the taxable year and used by the claimant to produce, grow or extract qualified production property.

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

3. "Direct costs" include all of the claimant's costs that are deductible under section 162 of the Internal Revenue Code, other than cost of goods sold, and that are identified as direct costs in the claimant's cost accounting records.

4. "Indirect costs" include all of the claimant's costs that are deductible under section 162 of the Internal Revenue Code, other than cost of goods sold and direct costs.

5. a. "Manufacturing property factor" means a fraction, the numerator of which is the average value of the claimant's real and personal property assessed under s. 70.995, owned or rented and used in this state by the claimant during the taxable year to manufacture, qualified production property, and the denominator of which is the average value of all the claimant's real and personal property

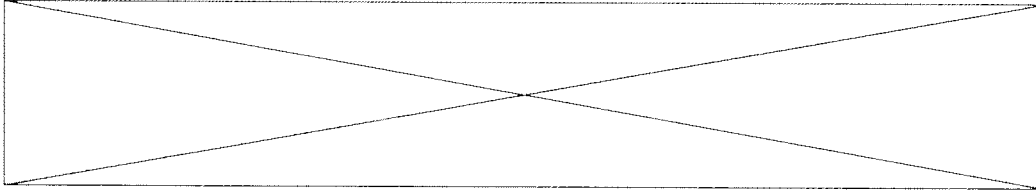
Deleted: 4. "Eligible qualified production activities income" means the lesser of the following:¶
a. Qualified production activities income.¶
b. Income that is apportioned to this state under s. 71.25 (5), (6), and (6m).¶
c. Income that is determined to be taxable in this state under s. 71.255 (2).

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Deleted: produce

ENGROSSED BILL



owned or rented during the taxable year and used by the claimant to manufacture qualified production property.

b. For purposes of subd. 6. a., property owned by the claimant is valued at its original cost and property rented by the claimant is valued at an amount equal to the annual rental paid by the claimant, less any annual rental received by the claimant from sub-rentals, multiplied by 8.

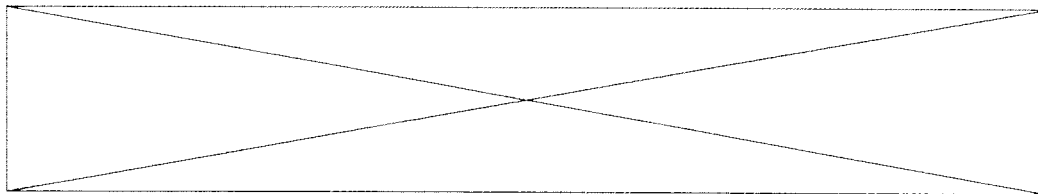
c. For purposes of subd. 6. a., the average value of property is determined by averaging the values at the beginning and ending of the taxable year, except that the secretary of revenue may require the averaging of monthly values during the taxable year, if such averaging is reasonably required to properly reflect the average value of the claimant's property.

7. "Production gross receipts" means receipts from the lease, rental, license, sale, exchange, or other disposition of qualified production property.

8. "Production gross receipts factor" means a fraction, the numerator of which is production gross receipts and the denominator of which is all income from whatever source, except for those items specifically excluded under the Internal Revenue Code as adopted by this state and otherwise excluded under Wisconsin law. For purposes of the denominator, income includes gross sales, gross dividends, gross interest income, gross rents, gross royalties, the gross sales

Deleted: , multiplied by the manufacturing property factor, for qualified production property under subd. 10. a., or by the agriculture property factor, for qualified production property under subd. 10. b.

ENGROSSED BILL



price from the disposition of capital assets and business assets, gross income from pass-through entities, and all other receipts that are included in income, before apportionment for Wisconsin tax purposes under s. 71.25 (6).

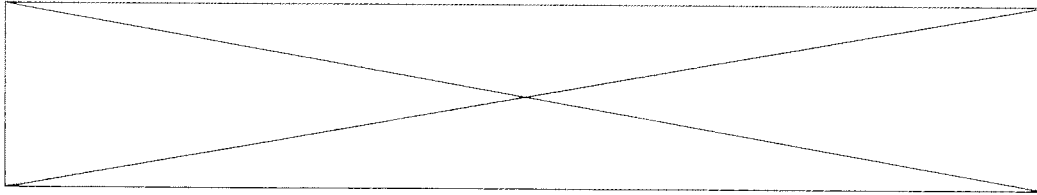
9. "Qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold that are allocable to such receipts, the direct expenses, losses, and deductions that are allocable to such receipts, and the indirect expenses, losses and deductions multiplied by the production gross receipts factor.

Deleted: as determined under par. (d) 2., and
Deleted: and indirect
Deleted: as determined under par. (d) 2

"Qualified production activities income" does not include any of the following:

- a. Income from film production.
- b. Income from producing, transmitting, or distributing electricity, natural gas, or potable water.
- c. Income from constructing real property.
- d. Income from engineering or architectural services performed with respect to constructing real property.
- e. Income from the sale of food and beverages prepared by the claimant at a retail establishment.
- f. Income from the lease, rental, license, sale, exchange, or other disposition of land.

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10. "Qualified production property" means either of the following:

- a. Tangible personal property manufactured in whole or in part by the claimant, on property that is assessed as manufacturing property under s. 70.995.
- b. Tangible personal property produced, grown, or extracted in whole or in part on or from property assessed as agricultural property under s. 70.32 (2) (a) 4.

Deleted: in whole or in significant part

SECTION 15. 71.28 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32, is renumbered 71.28 (5n) (d) 1.

SECTION 16. 71.28 (5n) (d) 2. of the statutes is created to read:

71.28 (5n) (d) 2. For purposes of determining a claimant's eligible qualified production activities income under this subsection, the claimant shall multiply the claimant's qualified production activities income for property manufactured by the claimant by the manufacturing property factor, and from property produced, grown or extracted by the claimant by the agriculture property factor.

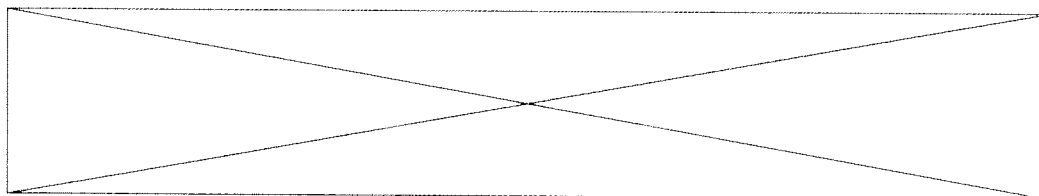
Deleted: total cost of goods sold and direct costs, losses, or deductions for property manufactured by the claimant by the manufacturing property factor and the total cost of goods sold and direct costs, losses, or deductions related to the claimant's agricultural production, growth, or extraction

(Create 71.28(5n)(d)3.)

Eligible qualified production activities income shall be the lesser of the following:

- a. Qualified production activities income as computed in s. 71.28(5n)(d)3.
- b. Income that is apportioned to this state under s. 71.25 (5), (6), and (6m).
- c. Income that is determined to be taxable in this state under s. 71.255(2).

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SECTION 17. 71.30 (3) (dn) of the statutes, as created by 2011 Wisconsin Act 32, is repealed. (This should be reinstated for the manufacturing and agriculture tax credit.)

SECTION 18. 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

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

SECTION 19. 71.34 (1k) (m) of the statutes is created to read:

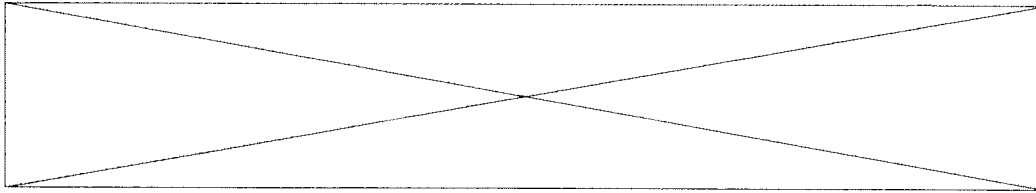
71.34 (1k) (m) An addition shall be made for the amount computed under s. 71.28 (5n) in the previous taxable year that is not included in federal ordinary business income.

SECTION 20. 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

71.45 (2) (a) 10. By adding to federal taxable income the amount of credit computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),

Deleted: For purposes of determining a claimant's qualified production activities income under this subsection, the claimant shall multiply the claimant's total indirect costs for property manufactured by the claimant, or related to the claimant's agricultural production, growth, or extraction, by the production gross receipts factor.

ENGROSSED BILL

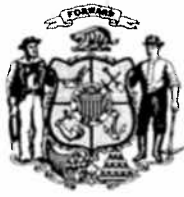


(3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and (9s) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, limited liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

SECTION 21. 71.47 (5n) of the statutes, as created by 2011 Wisconsin Act 32, is repealed.

SECTION 22. 71.49 (1) (dn) of the statutes, as created by 2011 Wisconsin Act 32, is repealed.

(END)



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3906/P2
JK:jld:jm

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

4

re you

1 AN ACT *to repeal* 71.10 (4) (cr), 71.30 (3) (dn), 71.47 (5n) and 71.49 (1) (dn); *to*
2 *renumber* 71.07 (5n) (d) and 71.28 (5n) (d); *to renumber and amend* 71.21
3 (4); *to amend* 71.05 (6) (a) 15., 71.07 (5n) (title), 71.07 (5n) (b) (intro.), 71.26 (2)
4 (a) 4., 71.28 (5n) (title), 71.34 (1k) (g) and 71.45 (2) (a) 10.; *to repeal and*
5 *recreate* 71.07 (5n) (a) and 71.28 (5n) (a); and *to create* 71.05 (6) (a) 25., 71.07
6 (5n) (d) 2., 71.21 (4) (b), 71.26 (2) (a) 11., 71.28 (5n) (d) 2. and 71.34 (1k) (m) of
7 the statutes; **relating to:** technical changes to the qualified production
8 activities income and franchise tax credit.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

Insert A

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

9 SECTION 1. 71.05 (6) (a) 15. of the statutes, as affected by 2011 Wisconsin Act
10 32, is amended to read:

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

7 **SECTION 2.** 71.05 (6) (a) 25. of the statutes is created to read:

8 71.05 (6) (a) 25. The amount computed under s. 71.07 (5n) in the previous
 9 taxable year and not passed through by a partnership, limited liability company, or
 10 tax-option corporation that has added that amount to the partnership's, company's,
 11 or tax-option corporation's income under s. 71.21 (4) (a) or 71.34 (1k) (m) and not
 12 included in federal adjusted gross income.

13 **SECTION 3.** 71.07 (5n) (title) of the statutes, as created by 2011 Wisconsin Act
 14 32, is amended to read:

15 71.07 (5n) (title) ~~QUALIFIED PRODUCTION~~ MANUFACTURING AND ~~AGRICULTURAL~~ AGRICULTURE
 16 ACTIVITIES CREDIT. *move* *CS*

17 **SECTION 4.** 71.07 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32,
 18 is repealed and recreated to read:

19 71.07 (5n) (a) *Definitions.* In this subsection:

20 1. "Agriculture property factor" means a fraction, the numerator of which is the
 21 average value of the claimant's real property and improvements assessed under s.
 22 70.32 (2) (a) 4., owned or rented and used in this state by the claimant during the
 23 taxable year to produce, grow, or extract qualified production property, and the
 24 denominator of which is the average value of all of the claimant's real property and
 25 improvements owned or rented during the taxable year

*and used by the claimant to produce,
 grow, or extract qualified production property*

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

2 3. "Direct costs" include all of the claimant's costs that are deductible under
3 section 162 of the Internal Revenue Code, other than cost of goods sold, and that are
4 identified as direct costs in the claimant's cost accounting records.

5 4. "Indirect costs" include all of the claimant's costs that are deductible under
6 section 162 of the Internal Revenue Code, other than cost of goods sold and direct
7 costs.

8 5. a. "Manufacturing property factor" means a fraction, the numerator of which
9 is the average value of the claimant's real and personal property assessed under s.
10 70.995, owned or rented and used in this state by the claimant during the taxable
11 year to ~~produce~~ manufacture [✓] qualified production property, and the denominator of which is the
12 average value of all the claimant's real and personal property owned or rented during

13 the taxable year

14 b. For purposes of subd. 5. a., property owned by the claimant is valued at its
15 original cost and property rented by the claimant is valued at an amount equal to the
16 annual rental paid by the claimant, less any annual rental received by the claimant
17 from sub-rentals, multiplied by 8.

18 c. For purposes of subd. 5. a., the average value of property is determined by
19 averaging the values at the beginning and ending of the taxable year, except that the
20 secretary of revenue may require the averaging of monthly values during the taxable
21 year, if such averaging is reasonably required to properly reflect the average value
22 of the claimant's property.

23 6. "Production gross receipts" means receipts from the lease, rental, license,
24 sale, exchange, or other disposition of qualified production property, multiplied by
25 the manufacturing property factor, for qualified production property under subd. 9. ✓

1 a., or by the agriculture property factor, for qualified production property under
2 subd. 9. *plain period*

3 7. "Production gross receipts factor" means a fraction, the numerator of which
4 is production gross receipts and the denominator of which is all income from
5 whatever source, except for those items specifically excluded under the Internal
6 Revenue Code as adopted by this state and otherwise excluded under Wisconsin law.
7 For purposes of the denominator, income includes gross sales, gross dividends, gross
8 interest income, gross rents, gross royalties, the gross sales price from the disposition
9 of capital assets and business assets, gross income from pass-through entities, and
10 all other receipts that are included in income, before apportionment for Wisconsin
11 tax purposes under s. 71.04 (4).

12 8. "Qualified production activities income" means the amount of the claimant's
13 production gross receipts for the taxable year that exceeds the sum of the cost of goods
14 sold that are allocable to such receipts, as determined under par. (d) 2., and the direct
15 and indirect expenses, losses, and deductions that are allocable to such receipts, as

16 determined under par. (d) 2. "Qualified production activities income" does not
17 include any of the following:

- 18 a. Income from film production.
- 19 b. Income from producing, transmitting, or distributing electricity, natural gas,
20 or potable water.
- 21 c. Income from constructing real property.
- 22 d. Income from engineering or architectural services performed with respect
23 to constructing real property.
- 24 e. Income from the sale of food and beverages prepared by the claimant at a
25 retail establishment.

expenses and the indirect expenses, losses, and deductions multiplied by the production gross receipts factor ✓

1 f. Income from the lease, rental, license, sale, exchange, or other disposition of
2 land.

✓ in whole or in part

3 9. "Qualified production property" means either of the following:

4 a. Tangible personal property manufactured by the claimant on property that
5 is assessed as manufacturing property under s. 70.995.

6 b. Tangible personal property produced, grown, or extracted by the claimant on
7 or from property assessed as agricultural property under s. 70.32 (2) (a) 4.

8 **SECTION 5.** 71.07 (5n) (b) (intro.) of the statutes, as created by 2011 Wisconsin
9 Act 32, is amended to read:

10 71.07 (5n) (b) *Filing claims.* (intro.) Subject to the limitations provided in this
11 subsection, a claimant may claim as a credit against the tax imposed under s. 71.02,
12 up to the amount of the tax, an amount equal to one of the following percentages of
13 the claimant's eligible qualified production activities income in the taxable year:

14 **SECTION 6.** 71.07 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32,
15 is renumbered 71.07 (5n) (d) 1.

16 **SECTION 7.** 71.07 (5n) (d) 2. of the statutes is created to read:

eligible

17 71.07 (5n) (d) 2. For purposes of determining a claimant's qualified production
18 activities income under this subsection, the claimant shall multiply the claimant's

✓
insert
5-18

19 ~~total cost of goods sold and direct costs, losses, or deductions for property~~
20 ~~manufactured by the claimant by the manufacturing property factor and the total~~

✓
INSERT
5-20

21 ~~cost of goods sold and direct costs, losses, or deductions related to the claimant's~~
22 ~~agricultural production, growth, or extraction~~ by the agriculture property factor. For

23 purposes of determining a claimant's qualified production activities income under
24 this subsection, the claimant shall multiply the claimant's total indirect costs for

1 property manufactured by the claimant, or related to the claimant's agricultural
2 production, growth, or extraction, by the production gross receipts factor.

3 SECTION 8. 71.10 (4) (cr) of the statutes, as created by 2011 Wisconsin Act 32,
4 is repealed.

5 SECTION 9. 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
6 renumbered 71.21 (4) (a) and amended to read:

7 71.21 (4) (a) Credits The amount of the credits computed by a partnership
8 under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n),
9 (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r),
10 (5rm), and (8r) and passed through to partners shall be added to the partnership's
11 income.

12 SECTION 10. 71.21 (4) (b) of the statutes is created to read:

13 71.21 (4) (b) Amounts computed by a partnership under s. 71.07 (5n) in the
14 previous year and not included in federal ordinary business income shall be added
15 to the partnership's income.

16 SECTION 11. 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
17 32, is amended to read:

18 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
19 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
20 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and
21 (9s) and not passed through by a partnership, limited liability company, or
22 tax-option corporation that has added that amount to the partnership's, limited
23 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
24 (g).

25 SECTION 12. 71.26 (2) (a) 11. of the statutes is created to read:

Insert
6-4

1 71.26 (2) (a) 11. Plus the amount computed under s. 71.28 (5n) in the previous
2 taxable year that is not included in federal taxable income.

3 SECTION 13. 71.28 (5n) (title) of the statutes, as created by 2011 Wisconsin Act
4 32, is amended to read:

5 71.28 (5n) (title) ~~QUALIFIED PRODUCTION~~ ~~MANUFACTURING AND AGRICULTURAL~~
6 ~~ACTIVITIES CREDIT.~~ *move* *(CS) → AGRICULTURE*

7 SECTION 14. 71.28 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32,
8 is repealed and recreated to read:

9 71.28 (5n) (a) *Definitions.* In this subsection:

10 1. "Agriculture property factor" means a fraction, the numerator of which is the
11 average value of the claimant's real property and improvements assessed under s.
12 70.32 (2) (a) 4., owned or rented and used in this state by the claimant during the
13 taxable year to produce, grow, or extract qualified production property, and the
14 denominator of which is the average value of all of the claimant's real property and
15 improvements owned or rented during the taxable year.

16 2. "Claimant" means a person who files a claim under this subsection.

17 3. "Direct costs" include all of the claimant's costs that are deductible under
18 section 162 of the Internal Revenue Code, other than cost of goods sold, and that are
19 identified as direct costs in the claimant's cost accounting records.

20 4. "Eligible qualified production activities income" means the lesser of the
21 following:
22 a. Qualified production activities income.
23 b. Income that is apportioned to this state under s. 71.25 (5), (6), and (6m).
24 c. Income that is determined to be taxable in this state under s. 71.255 (2).

✓ and used by the claimant to produce, grow, or extract qualified production property

1 (1) (4) ✓
 2 "Indirect costs" include all of the claimant's costs that are deductible under
 3 section 162 of the Internal Revenue Code, other than cost of goods sold and direct
 4 costs.

5 (4) (5) ✓
 6 a. "Manufacturing property factor" means a fraction, the numerator of which
 7 is the average value of the claimant's real and personal property assessed under s.
 8 70.995, owned or rented and used in this state by the claimant during the taxable
 9 year to produce manufacture qualified production property, and the denominator of which is the
 10 average value of all the claimant's real and personal property owned or rented during
 11 the taxable year and used by the claimant to manufacture
 12 qualified production property ✓

13 b. For purposes of subd. 6. a., property owned by the claimant is valued at its
 14 original cost and property rented by the claimant is valued at an amount equal to the
 15 annual rental paid by the claimant, less any annual rental received by the claimant
 16 from sub-rentals, multiplied by 8.

17 c. For purposes of subd. 6. a., the average value of property is determined by
 18 averaging the values at the beginning and ending of the taxable year, except that the
 19 secretary of revenue may require the averaging of monthly values during the taxable
 20 year, if such averaging is reasonably required to properly reflect the average value
 21 of the claimant's property.

22 (19) (7) (6) ← number
 23 "Production gross receipts" means receipts from the lease, rental, license,
 24 sale, exchange, or other disposition of qualified production property, multiplied by
 25 the manufacturing property factor, for qualified production property under subd. 10.
 a., or by the agriculture property factor, for qualified production property under
 subd. 10. b. ✓

26 (24) (8) ✓
 27 "Production gross receipts factor" means a fraction, the numerator of which
 28 is production gross receipts and the denominator of which is all income from

(7)

1 whatever source, except for those items specifically excluded under the Internal
2 Revenue Code as adopted by this state and otherwise excluded under Wisconsin law.
3 For purposes of the denominator, income includes gross sales, gross dividends, gross
4 interest income, gross rents, gross royalties, the gross sales price from the disposition
5 of capital assets and business assets, gross income from pass-through entities, and
6 all other receipts that are included in income, before apportionment for Wisconsin
7 tax purposes under s. 71.25 (6).

8 ¶ 9. "Qualified production activities income" means the amount of the claimant's
9 production gross receipts for the taxable year that exceeds the sum of the cost of goods
10 sold that are allocable to such receipts, as determined under par. (d) 2., and the direct
11 and indirect expenses, losses, and deductions that are allocable to such receipts, as

12 determined under par. (d) 2. "Qualified production activities income" does not
13 include any of the following:

- 14 a. Income from film production.
- 15 b. Income from producing, transmitting, or distributing electricity, natural gas,
16 or potable water.
- 17 c. Income from constructing real property.
- 18 d. Income from engineering or architectural services performed with respect
19 to constructing real property.
- 20 e. Income from the sale of food and beverages prepared by the claimant at a
21 retail establishment.
- 22 f. Income from the lease, rental, license, sale, exchange, or other disposition of
23 land.

24 ¶ 10. "Qualified production property" means either of the following:

and the indirect expenses, losses, and deductions multiplied by the production gross receipts factor

in whole or in part

in whole or in part

1 a. Tangible personal property manufactured by the claimant *in whole or in*
2 *significant part* on property that is assessed as manufacturing property under s.
3 70.995.

4 b. Tangible personal property produced, grown, or extracted on or from
5 property assessed as agricultural property under s. 70.32 (2) (a) 4.

6 SECTION 15. 71.28 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32,
7 is renumbered 71.28 (5n) (d) 1. *Except as provided in subd. 3.*

8 SECTION 16. 71.28 (5n) (d) 2. of the statutes is created to read:
9 71.28 (5n) (d) 2. *eligible* For purposes of determining a claimant's qualified production

10 activities income under this subsection, the claimant shall multiply the claimant's
11 total cost of goods sold and direct costs, losses, or deductions for property
12 manufactured by the claimant by the manufacturing property factor and the total
13 cost of goods sold and direct costs, losses, or deductions related to the claimant's
14 agricultural production, growth, or extraction by the agriculture property factor. For
15 purposes of determining a claimant's qualified production activities income under
16 this subsection, the claimant shall multiply the claimant's total indirect costs for
17 property manufactured by the claimant, or related to the claimant's agricultural
18 production, growth, or extraction, by the production gross receipts factor.

Insert 10-10

INSERT 10-12

19 SECTION 17. 71.30 (3) (dn) of the statutes, as created by 2011 Wisconsin Act 32,
20 is repealed.

21 SECTION 18. 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
22 is amended to read:

23 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
24 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),

INSERT 10-20

1 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
2 (5k), ~~(5n)~~, (5r), (5rm), and (8r) and passed through to shareholders.

3 **SECTION 19.** 71.34 (1k) (m) of the statutes is created to read:

4 71.34 (1k) (m) An addition shall be made for the amount computed under s.
5 71.28 (5n) in the previous taxable year that is not included in federal ordinary
6 business income.

7 **SECTION 20.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
8 32, is amended to read:

9 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
10 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
11 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and (9s) and not passed
12 through by a partnership, limited liability company, or tax-option corporation that
13 has added that amount to the partnership's, limited liability company's, or
14 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
15 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

16 **SECTION 21.** 71.47 (5n) of the statutes, as created by 2011 Wisconsin Act 32, is
17 repealed.

18 **SECTION 22.** 71.49 (1) (dn) of the statutes, as created by 2011 Wisconsin Act 32,
19 is repealed.

20 (END)

Insert A

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 current law, as created by 2011 Wisconsin Act 32, an individual taxpayer may claim a state income tax credit equal to the taxpayer's qualified production activities income derived from manufacturing property or agricultural property located in this state, multiplied by a certain percentage. 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 located in this state, multiplied by a certain percentage. The percentage of qualified production activities income that a taxpayer may claim as a credit is 1.875 percent for 2013, 3.75 percent for 2014, 5.526 percent for 2015, and 7.5 percent for 2016 and for each year thereafter. Under current law, "qualified production activities income" means qualified production activities income as determined under the federal Internal Revenue Code for purposes of claiming a federal tax deduction.

This bill makes technical changes to the state tax credits for qualified production activities income derived from manufacturing property or agricultural property located in this state in order to facilitate the Department of Revenue's administration of the credits. Specifically, the bill provides a method for determining the qualified production activities income derived from manufacturing property or agricultural property located in this state rather than rely on the federal definition of "qualified production activities income," which includes income from economic activities in all states. *

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

Insert 5 - 18

1 ~~NO~~ qualified production activities income from ~~NO~~

Insert 5 - 20

2 ~~NO~~ qualified production activities income from property produced, grown, or
3 extracted by the claimant ~~NO~~

Insert 6 - 4



1 **SECTION 1.** 71.10 (4) (cr)^X of the statutes, as created by 2011 Wisconsin Act 32,
2 is amended to read:

3 71.10 (4) (cr) ~~Qualified production activities~~[✓] Manufacturing and agriculture
4 credit under s. 71.07 (5n).

(end ins 6-4)

History: 1987 a. 312; 1987 a. 411 ss. 94, 97, 176 to 179; 1987 a. 422 s. 4; 1989 a. 31, 56, 359; 1991 a. 39; 1993 a. 16, 184; 1995 a. 27, 209, 418, 453; 1997 a. 27, 63, 237, 248; 1999 a. 9, 167; 2001 a. 16, 109; 2003 a. 33, 99, 135, 176, 255, 321; 2005 a. 25, 49, 71, 74, 177, 178, 323, 361, 460, 479, 483; 2007 a. 1, 20, 96, 97; 2009 a. 2, 28, 89, 265, 269, 295, 332; 2011 a. 32, 76; s. 13.92 (1) (bm) 2., (2) (i).

Insert 10 - 10

5 ~~NO~~^{NO} qualified production activities income from ~~NO~~^{NO}

Insert 10 - 12

6 ~~NO~~^{NO} qualified production activities income from property produced, grown, or
7 extracted by the claimant ~~NO~~^{NO}

Insert 10 - 20

8 **SECTION 2.** 71.28 (5n) (d) 3.^X of the statutes is created to read:

9 71.28 (5n) (d) 3. The amount of the eligible qualified production activities
10 income that a claimant may claim as a credit under par. (b)[✓] is the lesser of the
11 following:

- 12 a. The eligible qualified production activities income determined under subd.
13 2.[✓]
- 14 b. Income apportioned to this state under s. 71.25 (5), (6), and (6m).[✓]
- 15 c. Income determined to be taxable under s. 71.255 (2).[✓]

16 **SECTION 3.** 71.30 (3) (dn)^X of the statutes, as created by 2011 Wisconsin Act 32,
17 is amended to read:

18 71.30 (3) (dn) ~~Qualified production activities~~[✓] Manufacturing and agriculture
19 credit under s. 71.28 (5n).

(end ins 10-20)

History: 1987 a. 312; 1987 a. 411 ss. 144, 145, 182 to 185; 1989 a. 31, 56; 1991 a. 39; 1995 a. 27, 209; 1997 a. 27; 1999 a. 9; 2001 a. 16; 2003 a. 33, 99, 135, 255; 2005 a. 25, 74, 361, 479, 483; 2007 a. 20, 226; 2009 a. 2, 28, 265, 269, 295, 332; 2011 a. 3, 32; s. 13.92 (1) (bm) 2., (2) (i).

Kreye, Joseph

From: Hardt, Diane L - DOR [Diane.Hardt@revenue.wi.gov]
Sent: Thursday, February 16, 2012 11:14 AM
To: Kreye, Joseph
Subject: FW: Draft review: LRB 11-3906/P3 Topic: Qualified production activities credit; technical changes
Attachments: LRB-3906_P3.pdf

Joe:

Here are a few more changes. I am still working with Don Millis on a couple of items.

71.07(5n)(a)

3. "Direct costs" include all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business and deductible under section 162 of the Internal Revenue Code, and that are identified as direct costs in the claimant's managerial or cost accounting records.

4. "Indirect costs" include all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business and deductible under section 162 of the Internal Revenue Code, other than cost of goods sold and direct costs, and that are identified as indirect costs in the claimant's managerial or cost accounting records.

6. "Production gross receipts" means **gross** receipts...

7. "Production gross receipts factor" means a fraction, the numerator of which is production gross receipts and the denominator of which is all **gross** income...pass-through entities, and all other **gross** receipts...

8. "Qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold that are allocable to such receipts, the direct costs that are allocable to such receipts, and the indirect costs multiplied by the production gross receipts factor. "Qualified production activities income" does not include...

71.21(4)(b) Amounts computed by a partnership under s. 71.07(5n) in the previous **taxable** year...

71.28(5n)(a)

3. "Direct costs" include all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business and deductible under section 162 of the Internal Revenue Code, and that are identified as direct costs in the claimant's managerial or cost accounting records.

4. "Indirect costs" include all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business and deductible under section 162 of the Internal Revenue Code, other than cost of goods sold and direct costs, and that are identified as indirect costs in the claimant's managerial or cost accounting records.

6. "Production gross receipts" means **gross** receipts...

7. "Production gross receipts factor" means a fraction, the numerator of which is production **gross** receipts and the denominator of which is all gross income...pass-through entities, and all other **gross** receipts...

9.b. Tangible personal property produced, grown, or extracted in whole or in part **by the claimant...**

71.28(5n)(d)3.

The amount of the eligible qualified production activities income that a claimant may claim in **computing the** credit under par. (b)... *(the income is not claimed as a credit)*

Thank you for your help.

Diane

From: LRB.Legal [mailto:LRB-LegalServices@legis.wisconsin.gov]

Sent: Wednesday, February 15, 2012 3:14 PM

To: Hardt, Diane L - DOR

Subject: Draft review: LRB 11-3906/P3 Topic: Qualified production activities credit; technical changes

Following is the PDF version of draft LRB 11-3906/P3.

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Kreye, Joseph

From: Hardt, Diane L - DOR [Diane.Hardt@revenue.wi.gov]

Sent: Thursday, February 16, 2012 1:52 PM

To: Kreye, Joseph

Subject: RE: Draft review: LRB 11-3906/P3 Topic: Qualified production activities credit; technical changes

Can you also take out the exclusions from the definition of "qualified production activities income" in 2 places?
Thank you.

Diane L. Hardt

Administrator, Division of Income, Sales & Excise Taxes

Wisconsin Department of Revenue

P.O. Box 8933

Madison, WI 53708-8933

(608) 266-6798

Fax (608) 261-6240

E-mail: Diane.Hardt@revenue.wi.gov

From: Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]

Sent: Thursday, February 16, 2012 12:06 PM

To: Hardt, Diane L - DOR

Subject: RE: Draft review: LRB 11-3906/P3 Topic: Qualified production activities credit; technical changes

Thanks Diane.

Joseph Kreye

Senior Legislative Attorney

Legislative Reference Bureau

608 266-2263

From: Hardt, Diane L - DOR [mailto:Diane.Hardt@revenue.wi.gov]

Sent: Thursday, February 16, 2012 11:14 AM

To: Kreye, Joseph

Subject: FW: Draft review: LRB 11-3906/P3 Topic: Qualified production activities credit; technical changes

Joe:

Here are a few more changes. I am still working with Don Millis on a couple of items.

71.07(5n)(a)

3. "Direct costs" include all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business and deductible under section 162 of the Internal Revenue Code, and that are identified as direct costs in the claimant's managerial or cost accounting records.

4. "Indirect costs" include all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business and deductible under section 162 of the Internal Revenue Code, other than cost of goods sold and direct costs, and that are identified as indirect costs in

2/16/2012

the claimant's managerial or cost accounting records.

6. "Production gross receipts" means **gross** receipts...

7. "Production gross receipts factor" means a fraction, the numerator of which is production gross receipts and the denominator of which is all **gross** income...pass-through entities, and all other **gross** receipts...

8. "Qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold that are allocable to such receipts, the direct costs that are allocable to such receipts, and the indirect costs multiplied by the production gross receipts factor. "Qualified production activities income" does not include...

71.21(4)(b) Amounts computed by a partnership under s. 71.07(5n) in the previous **taxable** year...

71.28(5n)(a)

3. "Direct costs" include all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business and deductible under section 162 of the Internal Revenue Code, and that are identified as direct costs in the claimant's managerial or cost accounting records.

4. "Indirect costs" include all of the claimant's ordinary and necessary expenses paid or incurred during the taxable year in carrying on the trade or business and deductible under section 162 of the Internal Revenue Code, other than cost of goods sold and direct costs, and that are identified as indirect costs in the claimant's managerial or cost accounting records.

6. "Production gross receipts" means **gross** receipts...

7. "Production gross receipts factor" means a fraction, the numerator of which is production **gross** receipts and the denominator of which is all gross income...pass-through entities, and all other **gross** receipts...

9.b. Tangible personal property produced, grown, or extracted in whole or in part **by the claimant**...

71.28(5n)(d)3.

The amount of the eligible qualified production activities income that a claimant may claim **in computing the** credit under par. (b)... *(the income is not claimed as a credit)*

Thank you for your help.

Diane

From: LRB.Legal [mailto:LRB-LegalServices@legis.wisconsin.gov]

Sent: Wednesday, February 15, 2012 3:14 PM

To: Hardt, Diane L - DOR

Subject: Draft review: LRB 11-3906/P3 Topic: Qualified production activities credit; technical changes

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Kreye, Joseph

From: Hardt, Diane L - DOR [Diane.Hardt@revenue.wi.gov]
Sent: Friday, February 17, 2012 7:07 AM
To: Kreye, Joseph
Subject: RE: Manufacturing & Ag Credit

I missed one item in my email yesterday.

71.07(5n)(a)8. and 71.28(5n)(a)8. (I missed the second one)

8. "Qualified production activities income" means the amount of the claimant's production gross receipts for the taxable year that exceeds the sum of the cost of goods sold that are allocable to such receipts, **the direct costs** that are allocable to such receipts, and **the indirect costs** multiplied by the production gross receipts factor. "Qualified production activities income" does not include... (list a.-f. per final decision yesterday)

From: Hardt, Diane L - DOR
Sent: Thursday, February 16, 2012 5:20 PM
To: Kreye, Joseph - LEGIS
Subject: Manufacturing & Ag Credit

Please include the exclusions from "Qualified production activities income a. through f. in 2 places.

This is the final issue.

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