

stays, RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 2-17-12
Toolay

Regen

ijkf

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

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 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.

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

1 tax-option corporation that has added that amount to the partnership's, company's,
2 or tax-option corporation's income under s. 71.21 (4) (a) or 71.34 (1k) (m) and not
3 included in federal adjusted gross income.

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

6 71.07 (5n) (title) ~~QUALIFIED PRODUCTION ACTIVITIES~~ MANUFACTURING AND
7 AGRICULTURE CREDIT.

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9 is repealed and recreated to read:

10 71.07 (5n) (a) *Definitions.* In this subsection:

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

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. managerial or

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

Insert 3-19

managerial or

Insert 3-22

Insert 3-24

1 5. a. "Manufacturing property factor" means a fraction, the numerator of which
2 is the average value of the claimant's real and personal property assessed under s.
3 70.995, owned or rented and used in this state by the claimant during the taxable
4 year to manufacture qualified production property, and the denominator of which is
5 the average value of all the claimant's real and personal property owned or rented
6 during the taxable year and used by the claimant to manufacture qualified
7 production property.

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

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

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

19 7. "Production gross receipts factor" means a fraction, the numerator of which
20 is production gross receipts and the denominator of which is all ^{gross} income from
21 whatever source, except for those items specifically excluded under the Internal
22 Revenue Code as adopted by this state and otherwise excluded under Wisconsin law.
23 For purposes of the denominator, income includes gross sales, gross dividends, gross
24 interest income, gross rents, gross royalties, the gross sales price from the disposition
25 of capital assets and business assets, gross income from pass-through entities, and

grow

1 all other receipts that are included in income, before apportionment for Wisconsin
2 tax purposes under s. 71.04 (4).

3 8. "Qualified production activities income" means the amount of the claimant's
4 production gross receipts for the taxable year that exceeds the sum of the cost of goods
5 sold that are allocable to such receipts, the direct expenses, losses, and deductions
6 that are allocable to such receipts, and the indirect expenses, losses, and deductions,
7 multiplied by the production gross receipts factor. "Qualified production activities
8 income" does not include any of the following:

cost:
costs

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

- 19 9. "Qualified production property" means either of the following:
- 20 a. Tangible personal property manufactured in whole or in part by the claimant
21 on property that is assessed as manufacturing property under s. 70.995.
- 22 b. Tangible personal property produced, grown, or extracted in whole or in part
23 by the claimant on or from property assessed as agricultural property under s. 70.32

24 (2) (a) 4.

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

3 **SECTION 6.** 71.07 (5n) (d) 2. of the statutes is created to read:

4 71.07 (5n) (d) 2. For purposes of determining a claimant's eligible qualified
5 production activities income under this subsection, the claimant shall multiply the
6 claimant's qualified production activities income from property manufactured by the
7 claimant by the manufacturing property factor and qualified production activities
8 income from property produced, grown, or extracted by the claimant by the
9 agriculture property factor.

10 **SECTION 7.** 71.10 (4) (cr) of the statutes, as created by 2011 Wisconsin Act 32,
11 is amended to read:

12 71.10 (4) (cr) ~~Qualified production activities~~ Manufacturing and agriculture
13 credit under s. 71.07 (5n).

14 **SECTION 8.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
15 renumbered 71.21 (4) (a) and amended to read:

16 71.21 (4) (a) ~~Credits~~ The amount of the credits computed by a partnership
17 under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n),
18 (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r),
19 (5rm), and (8r) and passed through to partners shall be added to the partnership's
20 income.

21 **SECTION 9.** 71.21 (4) (b) of the statutes is created to read:

22 71.21 (4) (b) Amounts computed by a partnership under s. 71.07 (5n) in the
23 previous year and not included in federal ordinary business income shall be added
24 to the partnership's income.

taxable

1 **SECTION 10.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
2 32, is amended to read:

3 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
4 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
5 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and
6 (9s) and not passed through by a partnership, limited liability company, or
7 tax-option corporation that has added that amount to the partnership's, limited
8 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
9 (g).

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

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

13 **SECTION 12.** 71.28 (5n) (title) of the statutes, as created by 2011 Wisconsin Act
14 32, is amended to read:

15 71.28 (5n) (title) ~~QUALIFIED PRODUCTION ACTIVITIES~~ MANUFACTURING AND
16 AGRICULTURE CREDIT.

17 **SECTION 13.** 71.28 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32,
18 is repealed and recreated to read:

19 71.28 (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

1 improvements owned or rented during the taxable year and used by the claimant to
2 produce, grow, or extract qualified production property.

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

Insert 8-4

4 3. "Direct 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 that are
6 identified as direct costs in the claimant's cost accounting records. (managerial or

7 4. "Indirect costs" include all of the claimant's costs that are deductible under
8 section 162 of the Internal Revenue Code, other than cost of goods sold and direct
9 costs. (INSERT 8-9)

Insert 8-7

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

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

9

gross

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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 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).

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

costs

- 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.

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

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

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

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

8 **SECTION 14.** 71.28 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32,
9 is renumbered 71.28 (5n) (d) 1.

10 **SECTION 15.** 71.28 (5n) (d) 2. of the statutes is created to read:

11 71.28 (5n) (d) 2. Except as provided in subd. 3., for purposes of determining a
12 claimant's eligible qualified production activities income under this subsection, the
13 claimant shall multiply the claimant's qualified production activities income from
14 property manufactured by the claimant by the manufacturing property factor and
15 qualified production activities income from property produced, grown, or extracted
16 by the claimant by the agriculture property factor.

17 **SECTION 16.** 71.28 (5n) (d) 3. of the statutes is created to read:

18 71.28 (5n) (d) 3. The amount of the eligible qualified production activities
19 income that a claimant may claim as a credit under par. (b) is the lesser of the
20 following:

in computing the

21 a. The eligible qualified production activities income determined under subd.

22 2.

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

24 c. Income determined to be taxable under s. 71.255 (2).

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

3 71.30 (3) (dn) ~~Qualified production activities~~ Manufacturing and agriculture
4 credit under s. 71.28 (5n).

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

7 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
8 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
9 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
10 (5k), ~~(5n)~~, (5r), (5rm), and (8r) and passed through to shareholders.

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

12 71.34 (1k) (m) An addition shall be made for the amount computed under s.
13 71.28 (5n) in the previous taxable year that is not included in federal ordinary
14 business income.

15 **SECTION 20.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
16 32, is amended to read:

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

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

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3906/P4ins
JK:jld:ph

Insert 3 - 19

1 ordinary and necessary expenses paid or incurred during the taxable year in
2 carrying on the trade or business

Insert 3 - 22

3 ordinary and necessary expenses paid or incurred during the taxable year in
4 carrying on the trade or business

Insert 3 - 24

5 , and identified as indirect costs in the claimant's managerial or cost accounting
6 records

Insert 8 - 4

7 ordinary and necessary expenses paid or incurred during the taxable year in
8 carrying on the trade or business

Insert 8 - 7

9 ordinary and necessary expenses paid or incurred during the taxable year in
10 carrying on the trade or business

Insert 8 - 9

11 , and identified as indirect costs in the claimant's managerial or cost accounting
12 records

Kreye, Joseph

From: Hardt, Diane L - DOR [Diane.Hardt@revenue.wi.gov]
Sent: Monday, February 20, 2012 5:37 PM
To: Kreye, Joseph
Cc: Crane, Lili B - DOR
Subject: RE: Draft review: LRB 11-3906/P4 Topic: Qualified production activities credit; technical changes
 Hi Joe:

I found another problem and Rick Chandler/internal staff agree that we need this change. Could you prepare another draft that I can see before we ask for the introducible version?

The denominator of the fraction for manufacturing and agriculture property factors cannot refer to "Qualified production property" because that limits it to Wisconsin only. We need manufacturing (real and personal) or agricultural (real) property from **everywhere**. Therefore, the definitions should look like this in 2 places:

71.07(5n)(a)1 and 71.28(5n)(a)1

"Agriculture property factor" means a fraction..., and the denominator of which is the average value of all the claimant's real property and improvements owned or rented during the taxable year and **used by the claimant to produce, grow or extract agricultural property.**

(We believe we will have to expand on what is agricultural property in a rule.)

71.07(5n)(a)5.a. and 71.28(5n)(a)5.a.

"Manufacturing property factor" means a fraction, the numerator of which is...and the denominator of which is the average value of all the claimant's real and personal property owned or rented during the taxable year and **used by the claimant to manufacture tangible personal property.**

After we see this draft, we will ask for the introducible version on Tuesday.

Diane

From: Kreye, Joseph [mailto:Joseph.Kreye@legis.wisconsin.gov]
Sent: Monday, February 20, 2012 9:38 AM
To: Hardt, Diane L - DOR
Subject: RE: Draft review: LRB 11-3906/P4 Topic: Qualified production activities credit; technical changes

Diane,

Please let me know if there are any other changes and if the next version of the draft should an introducible version (/1).

Joe

Joseph Kreye
Senior Legislative Attorney
 Legislative Reference Bureau

2/21/2012

608 266-2263

From: Hardt, Diane L - DOR [mailto:Diane.Hardt@revenue.wi.gov]
Sent: Friday, February 17, 2012 1:28 PM
To: Kreye, Joseph
Subject: FW: Draft review: LRB 11-3906/P4 Topic: Qualified production activities credit; technical changes

One correction

Sec. 71.28(5n)(a)9.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 70.32(2)(a)4.

From: LRB.Legal [mailto:LRB-LegalServices@legis.wisconsin.gov]
Sent: Friday, February 17, 2012 12:41 PM
To: Hardt, Diane L - DOR
Subject: Draft review: LRB 11-3906/P4 Topic: Qualified production activities credit; technical changes

Following is the PDF version of draft LRB 11-3906/P4.

CONFIDENTIALITY NOTICE: This electronic mail transmission and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to whom this electronic mail transmission was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately contact the sender and delete the message. Thank you.

CONFIDENTIALITY NOTICE: This electronic mail transmission and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to whom this electronic mail transmission was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately contact the sender and delete the message. Thank you.

2/21/2012

Kreye, Joseph

From: Hardt, Diane L - DOR [Diane.Hardt@revenue.wi.gov]
Sent: Friday, February 17, 2012 1:28 PM
To: Kreye, Joseph
Subject: FW: Draft review: LRB 11-3906/P4 Topic: Qualified production activities credit; technical changes
Attachments: LRB-3906_P4.pdf

One correction

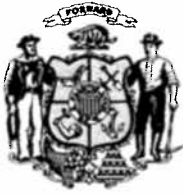
Sec. 71.28(5n)(a)9.b.

Tangible personal property produced, grown, or extracted in whole or in part **by the claimant** on or from property assessed as agricultural property under 70.32(2)(a)4.

From: LRB.Legal [mailto:LRB-LegalServices@legis.wisconsin.gov]
Sent: Friday, February 17, 2012 12:41 PM
To: Hardt, Diane L - DOR
Subject: Draft review: LRB 11-3906/P4 Topic: Qualified production activities credit; technical changes

Following is the PDF version of draft LRB 11-3906/P4.

CONFIDENTIALITY NOTICE: This electronic mail transmission and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to whom this electronic mail transmission was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately contact the sender and delete the message. Thank you.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3906/PA
JK:jld&kjf:jm

P5

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

m 2-21-12

Today

X

Regen

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

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 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.

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

1 tax-option corporation that has added that amount to the partnership's, company's,
2 or tax-option corporation's income under s. 71.21 (4) (a) or 71.34 (1k) (m) and not
3 included in federal adjusted gross income.

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

6 71.07 (5n) (title) ~~QUALIFIED PRODUCTION ACTIVITIES~~ MANUFACTURING AND
7 AGRICULTURE CREDIT.

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

10 71.07 (5n) (a) *Definitions.* In this subsection:

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

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

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

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

1 sold and direct costs, and identified as indirect costs in the claimant's managerial or
2 cost accounting records.

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

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

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

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

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

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

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

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

10 a. Income from film production.

11 b. Income from producing, transmitting, or distributing electricity, natural gas,
12 or potable water.

13 c. Income from constructing real property.

14 d. Income from engineering or architectural services performed with respect
15 to constructing real property.

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

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

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

21 a. Tangible personal property manufactured in whole or in part by the claimant
22 on property that is assessed as manufacturing property under s. 70.995.

23 b. Tangible personal property produced, grown, or extracted in whole or in part
24 by the claimant on or from property assessed as agricultural property under s. 70.32

25 (2) (a) 4.

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

3 **SECTION 6.** 71.07 (5n) (d) 2. of the statutes is created to read:

4 71.07 (5n) (d) 2. For purposes of determining a claimant's eligible qualified
5 production activities income under this subsection, the claimant shall multiply the
6 claimant's qualified production activities income from property manufactured by the
7 claimant by the manufacturing property factor and qualified production activities
8 income from property produced, grown, or extracted by the claimant by the
9 agriculture property factor.

10 **SECTION 7.** 71.10 (4) (cr) of the statutes, as created by 2011 Wisconsin Act 32,
11 is amended to read:

12 71.10 (4) (cr) ~~Qualified production activities~~ Manufacturing and agriculture
13 credit under s. 71.07 (5n).

14 **SECTION 8.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
15 renumbered 71.21 (4) (a) and amended to read:

16 71.21 (4) (a) ~~Credits~~ The amount of the credits computed by a partnership
17 under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n),
18 (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5n), (5r),
19 (5rm), and (8r) and passed through to partners shall be added to the partnership's
20 income.

21 **SECTION 9.** 71.21 (4) (b) of the statutes is created to read:

22 71.21 (4) (b) Amounts computed by a partnership under s. 71.07 (5n) in the
23 previous taxable year and not included in federal ordinary business income shall be
24 added to the partnership's income.

1 **SECTION 10.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
2 32, is amended to read:

3 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
4 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
5 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and
6 (9s) and not passed through by a partnership, limited liability company, or
7 tax-option corporation that has added that amount to the partnership's, limited
8 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
9 (g).

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

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

13 **SECTION 12.** 71.28 (5n) (title) of the statutes, as created by 2011 Wisconsin Act
14 32, is amended to read:

15 71.28 (5n) (title) ~~QUALIFIED PRODUCTION ACTIVITIES~~ MANUFACTURING AND
16 AGRICULTURE CREDIT.

17 **SECTION 13.** 71.28 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32,
18 is repealed and recreated to read:

19 71.28 (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

1 improvements owned or rented during the taxable year and used by the claimant to
2 produce, grow, or extract qualified production property. Agricultural

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

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

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

13 5. a. "Manufacturing property factor" means a fraction, the numerator of which
14 is the average value of the claimant's real and personal property assessed under s.
15 70.995, owned or rented and used in this state by the claimant during the taxable
16 year to manufacture qualified production property, and the denominator of which is
17 the average value of all the claimant's real and personal property owned or rented
18 during the taxable year and used by the claimant to manufacture qualified

19 production property. Tangible personal ✓

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

24 c. For purposes of subd. 6. a., the average value of property is determined by
25 averaging the values at the beginning and ending of the taxable year, except that the

1 secretary of revenue may require the averaging of monthly values during the taxable
2 year, if such averaging is reasonably required to properly reflect the average value
3 of the claimant's property.

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

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

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

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

- 20 a. Income from film production.
- 21 b. Income from producing, transmitting, or distributing electricity, natural gas,
22 or potable water.
- 23 c. Income from constructing real property.
- 24 d. Income from engineering or architectural services performed with respect
25 to constructing real property.

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

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

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

6 a. Tangible personal property manufactured in whole or in part by the claimant
7 on property that is assessed as manufacturing property under s. 70.995.

by the claimant

8 b. Tangible personal property produced, grown, or extracted in whole or in part
9 on or from property assessed as agricultural property under s. 70.32 (2) (a) 4.

10 **SECTION 14.** 71.28 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32,
11 is renumbered 71.28 (5n) (d) 1.

12 **SECTION 15.** 71.28 (5n) (d) 2. of the statutes is created to read:

13 71.28 (5n) (d) 2. Except as provided in subd. 3., for purposes of determining a
14 claimant's eligible qualified production activities income under this subsection, the
15 claimant shall multiply the claimant's qualified production activities income from
16 property manufactured by the claimant by the manufacturing property factor and
17 qualified production activities income from property produced, grown, or extracted
18 by the claimant by the agriculture property factor.

19 **SECTION 16.** 71.28 (5n) (d) 3. of the statutes is created to read:

20 71.28 (5n) (d) 3. The amount of the eligible qualified production activities
21 income that a claimant may claim in computing the credit under par. (b) is the lesser
22 of the following:

23 a. The eligible qualified production activities income determined under subd.
24 2.

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

1 c. Income determined to be taxable under s. 71.255 (2).

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

4 71.30 (3) (dn) ~~Qualified production activities~~ Manufacturing and agriculture
5 credit under s. 71.28 (5n).

6 **SECTION 18.** 71.34 (1k) (g) of the statutes, as affected by 2011 Wisconsin Act 32,
7 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 19.** 71.34 (1k) (m) of the statutes is created to read:

13 71.34 (1k) (m) An addition shall be made for the amount computed under s.
14 71.28 (5n) in the previous taxable year that is not included in federal ordinary
15 business income.

16 **SECTION 20.** 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)~~, (5r), (5rm), (8r), and (9s) and not passed
21 through by a partnership, limited liability company, or tax-option corporation that
22 has added that amount to the partnership's, limited liability company's, or
23 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
24 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

Kreye, Joseph

From: Hardt, Diane L - DOR [Diane.Hardt@revenue.wi.gov]
Sent: Tuesday, February 21, 2012 2:50 PM
To: Kreye, Joseph
Cc: Shanovich, Ron
Subject: FW: Draft review: LRB 11-3906/P5 Topic: Qualified production activities credit; technical changes
Attachments: LRB-3906_P5.pdf

We are now ready to ask for an introducible bill.

*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: LRB.Legal [mailto:LRB-LegalServices@legis.wisconsin.gov]
Sent: Tuesday, February 21, 2012 2:36 PM
To: Hardt, Diane L - DOR
Subject: Draft review: LRB 11-3906/P5 Topic: Qualified production activities credit; technical changes

Following is the PDF version of draft LRB 11-3906/P5.

CONFIDENTIALITY NOTICE: This electronic mail transmission and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to whom this electronic mail transmission was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately contact the sender and delete the message. Thank you.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3906/P6
JK:jld&kjf:rs

Stays RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

in 2-21-12

Regen

Today

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

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 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 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.

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

1 tax-option corporation that has added that amount to the partnership's, company's,
2 or tax-option corporation's income under s. 71.21 (4) (a) or 71.34 (1k) (m) and not
3 included in federal adjusted gross income.

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

6 71.07 **(5n)** (title) ~~QUALIFIED PRODUCTION ACTIVITIES~~ MANUFACTURING AND
7 AGRICULTURE CREDIT.

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

10 71.07 **(5n)** (a) *Definitions.* In this subsection:

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

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

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

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

1 sold and direct costs, and identified as indirect costs in the claimant's managerial or
2 cost accounting records.

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

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

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

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

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

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

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

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

10 a. Income from film production.

11 b. Income from producing, transmitting, or distributing electricity, natural gas,
12 or potable water.

13 c. Income from constructing real property.

14 d. Income from engineering or architectural services performed with respect
15 to constructing real property.

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

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

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

21 a. Tangible personal property manufactured in whole or in part by the claimant
22 on property that is assessed as manufacturing property under s. 70.995.

23 b. Tangible personal property produced, grown, or extracted in whole or in part
24 by the claimant on or from property assessed as agricultural property under s. 70.32

25 (2) (a) 4.

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

3 **SECTION 6.** 71.07 (5n) (d) 2. of the statutes is created to read:

4 71.07 **(5n)** (d) 2. For purposes of determining a claimant's eligible qualified
5 production activities income under this subsection, the claimant shall multiply the
6 claimant's qualified production activities income from property manufactured by the
7 claimant by the manufacturing property factor and qualified production activities
8 income from property produced, grown, or extracted by the claimant by the
9 agriculture property factor.

10 **SECTION 7.** 71.10 (4) (cr) of the statutes, as created by 2011 Wisconsin Act 32,
11 is amended to read:

12 71.10 **(4)** (cr) ~~Qualified production activities~~ Manufacturing and agriculture
13 credit under s. 71.07 (5n).

14 **SECTION 8.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
15 renumbered 71.21 (4) (a) and amended to read:

16 71.21 **(4)** (a) ~~Credits~~ The amount of the credits computed by a partnership
17 under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n),
18 (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r),
19 (5rm), and (8r) and passed through to partners shall be added to the partnership's
20 income.

21 **SECTION 9.** 71.21 (4) (b) of the statutes is created to read:

22 71.21 **(4)** (b) Amounts computed by a partnership under s. 71.07 (5n) in the
23 previous taxable year and not included in federal ordinary business income shall be
24 added to the partnership's income.

1 **SECTION 10.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
2 32, is amended to read:

3 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
4 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
5 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and
6 (9s) and not passed through by a partnership, limited liability company, or
7 tax-option corporation that has added that amount to the partnership's, limited
8 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
9 (g).

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

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

13 **SECTION 12.** 71.28 (5n) (title) of the statutes, as created by 2011 Wisconsin Act
14 32, is amended to read:

15 71.28 (5n) (title) ~~QUALIFIED PRODUCTION ACTIVITIES~~ MANUFACTURING AND
16 AGRICULTURE CREDIT.

17 **SECTION 13.** 71.28 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32,
18 is repealed and recreated to read:

19 71.28 (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

1 improvements owned or rented during the taxable year and used by the claimant to
2 produce, grow, or extract agricultural property.

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

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

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

13 5. a. "Manufacturing property factor" means a fraction, the numerator of which
14 is the average value of the claimant's real and personal property assessed under s.
15 70.995, owned or rented and used in this state by the claimant during the taxable
16 year to manufacture qualified production property, and the denominator of which is
17 the average value of all the claimant's real and personal property owned or rented
18 during the taxable year and used by the claimant to manufacture tangible personal
19 property.

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

24 c. For purposes of subd. 6. a., the average value of property is determined by
25 averaging the values at the beginning and ending of the taxable year, except that the

1 secretary of revenue may require the averaging of monthly values during the taxable
2 year, if such averaging is reasonably required to properly reflect the average value
3 of the claimant's property.

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

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

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

- 20 a. Income from film production.
- 21 b. Income from producing, transmitting, or distributing electricity, natural gas,
22 or potable water.
- 23 c. Income from constructing real property.
- 24 d. Income from engineering or architectural services performed with respect
25 to constructing real property.

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

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

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

6 a. Tangible personal property manufactured in whole or in part by the claimant
7 on property that is assessed as manufacturing property under s. 70.995.

8 b. Tangible personal property produced, grown, or extracted in whole or in part
9 by the claimant on or from property assessed as agricultural property under s. 70.32
10 (2) (a) 4.

11 **SECTION 14.** 71.28 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32,
12 is renumbered 71.28 (5n) (d) 1.

13 **SECTION 15.** 71.28 (5n) (d) 2. of the statutes is created to read:

14 71.28 (5n) (d) 2. Except as provided in subd. 3., for purposes of determining a
15 claimant's eligible qualified production activities income under this subsection, the
16 claimant shall multiply the claimant's qualified production activities income from
17 property manufactured by the claimant by the manufacturing property factor and
18 qualified production activities income from property produced, grown, or extracted
19 by the claimant by the agriculture property factor.

20 **SECTION 16.** 71.28 (5n) (d) 3. of the statutes is created to read:

21 71.28 (5n) (d) 3. The amount of the eligible qualified production activities
22 income that a claimant may claim in computing the credit under par. (b) is the lesser
23 of the following:

24 a. The eligible qualified production activities income determined under subd.
25 2.

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

2 c. Income determined to be taxable under s. 71.255 (2).

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

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

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

9 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
10 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
11 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
12 (5k), ~~(5n)~~, (5r), (5rm), and (8r) and passed through to shareholders.

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

14 71.34 (1k) (m) An addition shall be made for the amount computed under s.
15 71.28 (5n) in the previous taxable year that is not included in federal ordinary
16 business income.

17 **SECTION 20.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
18 32, is amended to read:

19 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
20 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
21 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and (9s) and not passed
22 through by a partnership, limited liability company, or tax-option corporation that
23 has added that amount to the partnership's, limited liability company's, or
24 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
25 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

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

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

5 **(END)**

Kreye, Joseph

From: Hardt, Diane L - DOR [Diane.Hardt@revenue.wi.gov]
Sent: Wednesday, February 22, 2012 11:35 AM
To: Kreye, Joseph
Cc: Erlandsen, Dana J - DOR; Crane, Lili B - DOR
Subject: FW: Draft review: LRB 11-3906/1 Topic: Qualified production activities credit; technical changes
Attachments: LRB-3906_1.pdf

Joe,

I am very sorry but upon further discussion with Don Millis and Dana Erlandsen, I need to make corrections again (and go back to what we had).

I've been told we can get a /2 bill before introduction.

Here are the changes.

For the definition of "agriculture property factor" in 71.07(5n)(a)1. and 71.28(5n)(a)1., end as follows:

...used by the claimant to produce, grow, or extract qualified production property. (*instead of agricultural property*)

For the definition of "manufacturing property factor" in 71.07(5n)(a)5.a. and 71.28(5n)(a)5.a., end as follows:

...used by the claimant to manufacture qualified production property. (*instead of tangible personal property*)

Thank you.

Diane Hardt

From: LRB.Legal [mailto:LRB-LegalServices@legis.wisconsin.gov]
Sent: Tuesday, February 21, 2012 3:13 PM
To: Hardt, Diane L - DOR
Subject: Draft review: LRB 11-3906/1 Topic: Qualified production activities credit; technical changes

State of Wisconsin - Legislative Reference Bureau
One East Main Street - Suite 200 - Madison

The attached draft was prepared at your request. Please review it carefully to ensure that it satisfies your intent. If you have any questions concerning the draft or would like to have it redrafted, please contact Joseph T. Kreye, Senior Attorney, at (608) 266-2263, at joseph.kreye@legis.wisconsin.gov, or at One East Main Street, Suite 200.

If you would like to jacket the draft for introduction, please click on the appropriate button below. Please select only one button. If you wish to introduce this draft in both houses please contact the drafting attorney to have a companion bill drafted.

Jacket for the
ASSEMBLY

Jacket for the
SENATE

Please allow one day for jacketing. If this is a "rush" please make a note in your response e-mail so we are aware that we need to give this request a high priority.

If the last paragraph of the analysis states that a fiscal estimate will be prepared, the LRB will submit a request to DOA when the draft is introduced. You may obtain a fiscal estimate on the draft prior to introduction by contacting our program assistants at LRB.Legal@legis.wisconsin.gov or at (608) 266-3561. If you requested a fiscal estimate on an earlier version of this draft and would like to obtain a fiscal estimate on the current version before it is introduced, you will need to request a revised fiscal estimate from our program assistants.

Please call our program assistants at (608) 266-3561 if you have any questions regarding this email.

Lori Parisi
Program Assistant
State of WI Legislative Reference Bureau
1 East Main Suite 200
Madison, WI, 53703
Phone(608)266-3561 Fax(608)264-6948

CONFIDENTIALITY NOTICE: This electronic mail transmission and any accompanying documents contain information belonging to the sender which may be confidential and legally privileged. This information is only for the use of the individual or entity to whom this electronic mail transmission was intended. If you are not the intended recipient, any disclosure, copying, distribution, or action taken in reliance on the contents of the information contained in this transmission is strictly prohibited. If you have received this transmission in error, please immediately contact the sender and delete the message. Thank you.



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-3906/A
JK:jld&kjf:rs

2

RMR

2011 BILL

m 2-21-12

Today

X Regen

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

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 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

BILL

activities income derived from manufacturing property or agricultural property located in this state, multiplied by a certain percentage. A corporation 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.

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

BILL

1 tax-option corporation that has added that amount to the partnership's, company's,
2 or tax-option corporation's income under s. 71.21 (4) (a) or 71.34 (1k) (m) and not
3 included in federal adjusted gross income.

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

6 71.07 (5n) (title) ~~QUALIFIED PRODUCTION ACTIVITIES~~ MANUFACTURING AND
7 AGRICULTURE CREDIT.

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

10 71.07 (5n) (a) *Definitions.* In this subsection:

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

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

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

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

BILL

1 sold and direct costs, and identified as indirect costs in the claimant's managerial or
2 cost accounting records.

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

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

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

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

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

BILL

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

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

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

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

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

21 a. Tangible personal property manufactured in whole or in part by the claimant
22 on property that is assessed as manufacturing property under s. 70.995.

23 b. Tangible personal property produced, grown, or extracted in whole or in part
24 by the claimant on or from property assessed as agricultural property under s. 70.32

25 (2) (a) 4.

BILL

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

3 **SECTION 6.** 71.07 (5n) (d) 2. of the statutes is created to read:

4 71.07 **(5n)** (d) 2. For purposes of determining a claimant's eligible qualified
5 production activities income under this subsection, the claimant shall multiply the
6 claimant's qualified production activities income from property manufactured by the
7 claimant by the manufacturing property factor and qualified production activities
8 income from property produced, grown, or extracted by the claimant by the
9 agriculture property factor.

10 **SECTION 7.** 71.10 (4) (cr) of the statutes, as created by 2011 Wisconsin Act 32,
11 is amended to read:

12 71.10 **(4)** (cr) ~~Qualified production activities~~ Manufacturing and agriculture
13 credit under s. 71.07 (5n).

14 **SECTION 8.** 71.21 (4) of the statutes, as affected by 2011 Wisconsin Act 32, is
15 renumbered 71.21 (4) (a) and amended to read:

16 71.21 **(4)** (a) ~~Credits~~ The amount of the credits computed by a partnership
17 under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n),
18 (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r),
19 (5rm), and (8r) and passed through to partners shall be added to the partnership's
20 income.

21 **SECTION 9.** 71.21 (4) (b) of the statutes is created to read:

22 71.21 **(4)** (b) Amounts computed by a partnership under s. 71.07 (5n) in the
23 previous taxable year and not included in federal ordinary business income shall be
24 added to the partnership's income.

BILL

1 **SECTION 10.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act
2 32, is amended to read:

3 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
4 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
5 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (~~5n~~), (5r), (5rm), (8r), and
6 (9s) and not passed through by a partnership, limited liability company, or
7 tax-option corporation that has added that amount to the partnership's, limited
8 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
9 (g).

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

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

13 **SECTION 12.** 71.28 (5n) (title) of the statutes, as created by 2011 Wisconsin Act
14 32, is amended to read:

15 71.28 (5n) (title) ~~QUALIFIED PRODUCTION ACTIVITIES~~ MANUFACTURING AND
16 AGRICULTURE CREDIT.

17 **SECTION 13.** 71.28 (5n) (a) of the statutes, as created by 2011 Wisconsin Act 32,
18 is repealed and recreated to read:

19 71.28 (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

BILL

1 improvements owned or rented during the taxable year and used by the claimant to
2 produce, grow, or [✓] extract agricultural property. *qualified production*

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

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

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

13 5. a. "Manufacturing property factor" means a fraction, the numerator of which
14 is the average value of the claimant's real and personal property assessed under s.
15 70.995, owned or rented and used in this state by the claimant during the taxable
16 year to manufacture qualified production property, and the denominator of which is
17 the average value of all the claimant's real and personal property owned or rented
18 during the taxable year and used by the claimant to [✓] manufacture tangible personal
19 property. *qualified production*

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

24 c. For purposes of subd. 6. a., the average value of property is determined by
25 averaging the values at the beginning and ending of the taxable year, except that the

BILL

1 secretary of revenue may require the averaging of monthly values during the taxable
2 year, if such averaging is reasonably required to properly reflect the average value
3 of the claimant's property.

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

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

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

20 a. Income from film production.

21 b. Income from producing, transmitting, or distributing electricity, natural gas,
22 or potable water.

23 c. Income from constructing real property.

24 d. Income from engineering or architectural services performed with respect
25 to constructing real property.

BILL

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

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

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

6 a. Tangible personal property manufactured in whole or in part by the claimant
7 on property that is assessed as manufacturing property under s. 70.995.

8 b. Tangible personal property produced, grown, or extracted in whole or in part
9 by the claimant on or from property assessed as agricultural property under s. 70.32
10 (2) (a) 4.

11 **SECTION 14.** 71.28 (5n) (d) of the statutes, as created by 2011 Wisconsin Act 32,
12 is renumbered 71.28 (5n) (d) 1.

13 **SECTION 15.** 71.28 (5n) (d) 2. of the statutes is created to read:

14 71.28 (5n) (d) 2. Except as provided in subd. 3., for purposes of determining a
15 claimant's eligible qualified production activities income under this subsection, the
16 claimant shall multiply the claimant's qualified production activities income from
17 property manufactured by the claimant by the manufacturing property factor and
18 qualified production activities income from property produced, grown, or extracted
19 by the claimant by the agriculture property factor.

20 **SECTION 16.** 71.28 (5n) (d) 3. of the statutes is created to read:

21 71.28 (5n) (d) 3. The amount of the eligible qualified production activities
22 income that a claimant may claim in computing the credit under par. (b) is the lesser
23 of the following:

24 a. The eligible qualified production activities income determined under subd.
25 2.

BILL

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

2 c. Income determined to be taxable under s. 71.255 (2).

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

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

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

9 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
10 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
11 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
12 (5k), ~~(5n)~~, (5r), (5rm), and (8r) and passed through to shareholders.

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

14 71.34 (1k) (m) An addition shall be made for the amount computed under s.
15 71.28 (5n) in the previous taxable year that is not included in federal ordinary
16 business income.

17 **SECTION 20.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
18 32, is amended to read:

19 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
20 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn),
21 (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), ~~(5n)~~, (5r), (5rm), (8r), and (9s) and not passed
22 through by a partnership, limited liability company, or tax-option corporation that
23 has added that amount to the partnership's, limited liability company's, or
24 tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g) and the amount
25 of credit computed under s. 71.47 (1), (3), (3t), (4), (4m), and (5).

Parisi, Lori

From: Neville, William
Sent: Friday, February 24, 2012 9:10 AM
To: LRB.Legal
Subject: Draft Review: LRB 11-3906/2 Topic: Qualified production activities credit; technical changes

Please Jacket LRB 11-3906/2 for the ASSEMBLY.