2011 ASSEMBLY BILL 360


1 AN ACT to amend 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.10 (4) (i), 71.21 (4), 71.26 (2) (a) 4., 71.30 (3) (f), 71.34 (1k) (g), 71.45 (2) (a) 10., 71.49 (1) (f) and 77.92 (4); and to create 20.835 (2) (ba), 71.07 (8s), 71.28 (8s), 71.47 (8s) and 560.2095 of the statutes; relating to: an income and franchise tax credit for lumber manufacturing facility investments and making an appropriation.

Analysis by the Legislative Reference Bureau
This bill creates an income and franchise tax credit in an amount equal to 10 percent of the amount that a taxpayer pays in a taxable year for lumber manufacturing modernization and expansion. If the credit amount exceeds the amount of the taxpayer’s tax liability, the taxpayer will receive a refund.

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:

SECTION 1. 20.835 (2) (ba) of the statutes is created to read:

20.835 (2) (ba) Lumber manufacturing facility investment credit. A sum sufficient to make the payments under ss. 71.07 (8s), 71.28 (8s), and 71.47 (8s).
SECTION 2. 71.05 (6) (a) 15. of the statutes is amended to read:

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

SECTION 3. 71.07 (8s) of the statutes is created to read:

71.07 (8s) LUMBER MANUFACTURING FACILITY INVESTMENT CREDIT. (a) Definitions.

In this subsection:

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

2. “Lumber manufacturing modernization or expansion” means constructing, improving, or acquiring buildings or facilities, or acquiring equipment for lumber manufacturing, if used exclusively for lumber manufacturing and if acquired and placed in service in this state during taxable years that begin after December 31, 2010, and before January 1, 2017.

3. “Used exclusively” means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) Filing claims. Subject to the limitations provided in this subsection and s. 560.2095, for taxable years beginning after December 31, 2010, and before January 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.02 or 71.08, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for lumber manufacturing modernization or expansion.
(c) **Limitations.** 1. No credit may be allowed under this subsection for any amount that the claimant paid for expenses described under par. (b) that the claimant also claimed as a deduction under section 162 of the Internal Revenue Code.

   2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000.

   3. a. The maximum amount of the credits that may be claimed under this subsection and ss. 71.28 (8s) and 71.47 (8s) in fiscal year 2011–12 is $700,000, as allocated under s. 560.2095.

      b. The maximum amount of the credits that may be claimed under this subsection and ss. 71.28 (8s) and 71.47 (8s) in fiscal year 2012–13, and in each fiscal year thereafter, is $800,000, as allocated under s. 560.2095.

   4. Partnerships, limited liability companies, and tax–option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000. A partnership, limited liability company, or tax–option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax–option corporations may claim the credit in proportion to their ownership interest.

   5. If 2 or more persons own and operate the lumber manufacturing operation, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the operation shall not exceed $200,000.
(d) **Administration.** 1. Section 71.28 (4) (e), (g), and (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

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

**SECTION 4.** 71.08 (1) (intro.) of the statutes is amended to read:

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

**SECTION 5.** 71.10 (4) (i) of the statutes is amended to read:

71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and beyond under s. 71.613, homestead credit under subch. VIII, farmland tax relief credit under s. 71.07 (3m), dairy manufacturing facility investment credit under s. 71.07 (3p), jobs tax credit under s. 71.07 (3q), meat processing facility investment credit under s. 71.07 (3r), woody biomass harvesting and processing credit under s.
71.07 (3rm), food processing plant and food warehouse investment credit under s. 71.07 (3rm), film production services credit under s. 71.07 (5f), film production company investment credit under s. 71.07 (5h), veterans and surviving spouses property tax credit under s. 71.07 (6e), enterprise zone jobs credit under s. 71.07 (3w), beginning farmer and farm asset owner tax credit under s. 71.07 (8r), lumber manufacturing facility investment credit under s. 71.07 (8s), earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under subch. X.

Section 6. 71.21 (4) of the statutes is amended to read:

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

Section 7. 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 3, is amended to read:

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

Section 8. 71.28 (8s) of the statutes is created to read:

71.28 (8s) LUMBER MANUFACTURING FACILITY INVESTMENT CREDIT. (a) Definitions.

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

2. “Lumber manufacturing modernization or expansion” means constructing, improving, or acquiring buildings or facilities, or acquiring equipment for lumber manufacturing, if used exclusively for lumber manufacturing and if acquired and placed in service in this state during taxable years that begin after December 31, 2010, and before January 1, 2017.

3. “Used exclusively” means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) **Filing claims.** Subject to the limitations provided in this subsection and s. 560.2095, for taxable years beginning after December 31, 2010, and before January 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.23, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for lumber manufacturing modernization or expansion.

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

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000.

3. a. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (8s) and 71.47 (8s) in fiscal year 2011–12 is $700,000, as allocated under s. 560.2095.

   b. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (8s) and 71.47 (8s) in fiscal year 2012–13, and in each fiscal year thereafter, is $800,000, as allocated under s. 560.2095.
4. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000. A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate the lumber manufacturing operation, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the operation shall not exceed $200,000.

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

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

SECTION 9. 71.30 (3) (f) of the statutes is amended to read:

71.30 (3) (f) The total of farmland preservation credit under subch. IX, farmland tax relief credit under s. 71.28 (2m), dairy manufacturing facility investment credit under s. 71.28 (3p), jobs credit under s. 71.28 (3q), meat processing facility investment credit under s. 71.28 (3r), woody biomass harvesting and
processing credit under s. 71.28 (3rm), food processing plant and food warehouse
investment credit under s. 71.28 (3rn), enterprise zone jobs credit under s. 71.28
(3w), film production services credit under s. 71.28 (5f), film production company
investment credit under s. 71.28 (5h), beginning farmer and farm asset owner tax
credit under s. 71.28 (8r), lumber manufacturing facility investment credit under s.
71.28 (8s), and estimated tax payments under s. 71.29.

SECTION 10. 71.34 (1k) (g) of the statutes is amended to read:

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

SECTION 11. 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
3, is amended to read:

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

SECTION 12. 71.47 (8s) of the statutes is created to read:

71.47 (8s) LUMBER MANUFACTURING FACILITY INVESTMENT CREDIT. (a) Definitions.

In this subsection:

1. “Claimant” means a person who files a claim under this subsection.
2. “Lumber manufacturing modernization or expansion” means constructing, improving, or acquiring buildings or facilities, or acquiring equipment for lumber manufacturing, if used exclusively for lumber manufacturing and if acquired and placed in service in this state during taxable years that begin after December 31, 2010, and before January 1, 2017.

3. “Used exclusively” means used to the exclusion of all other uses except for use not exceeding 5 percent of total use.

(b) **Filing claims.** Subject to the limitations provided in this subsection and s. 560.2095, for taxable years beginning after December 31, 2010, and before January 1, 2017, a claimant may claim as a credit against the taxes imposed under s. 71.43, up to the amount of the tax, an amount equal to 10 percent of the amount the claimant paid in the taxable year for lumber manufacturing modernization or expansion.

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

2. The aggregate amount of credits that a claimant may claim under this subsection is $200,000.

3. a. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (8s) and 71.28 (8s) in fiscal year 2011–12 is $700,000, as allocated under s. 560.2095.

   b. The maximum amount of the credits that may be claimed under this subsection and ss. 71.07 (8s) and 71.28 (8s) in fiscal year 2012–13, and in each fiscal year thereafter, is $800,000, as allocated under s. 560.2095.
4. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of expenses under par. (b), except that the aggregate amount of credits that the entity may compute shall not exceed $200,000. A partnership, limited liability company, or tax-option corporation shall compute the amount of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members of limited liability companies, and shareholders of tax-option corporations may claim the credit in proportion to their ownership interest.

5. If 2 or more persons own and operate the lumber manufacturing operation, each person may claim a credit under par. (b) in proportion to his or her ownership interest, except that the aggregate amount of the credits claimed by all persons who own and operate the operation shall not exceed $200,000.

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

2. If the allowable amount of the claim under par. (b) exceeds the tax otherwise due under s. 71.43, the amount of the claim not used to offset the tax due shall be certified by the department of revenue to the department of administration for payment by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (ba).

SECTION 13. 71.49 (1) (f) of the statutes is amended to read:

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

SECTION 14. 77.92 (4) of the statutes is amended to read:

77.92 (4) “Net business income,” with respect to a partnership, means taxable
income as calculated under section 703 of the Internal Revenue Code; plus the items
of income and gain under section 702 of the Internal Revenue Code, including taxable
state and municipal bond interest and excluding nontaxable interest income or
dividend income from federal government obligations; minus the items of loss and
deduction under section 702 of the Internal Revenue Code, except items that are not
deductible under s. 71.21; plus guaranteed payments to partners under section 707
(c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
(2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
(3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r),
and (8s); and plus or minus, as appropriate, transitional adjustments, depreciation
differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
excluding income, gain, loss, and deductions from farming. “Net business income,”
with respect to a natural person, estate, or trust, means profit from a trade or
business for federal income tax purposes and includes net income derived as an
employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 15. 560.2095 of the statutes is created to read:
560.2095 Lumber manufacturing facility investment credit. (1) The department of commerce shall implement a program to certify taxpayers as eligible for the lumber manufacturing facility investment credit under ss. 71.07 (8s), 71.28 (8s), and 71.47 (8s).

(2) If the department of commerce certifies a taxpayer under sub. (1), the department of commerce shall determine the amount of credits to allocate to that taxpayer. The total amount of lumber manufacturing facility investment credits allocated to taxpayers in fiscal year 2011-12 may not exceed $700,000 and the total amount of lumber manufacturing facility investment credits allocated to taxpayers in fiscal year 2012-13, and in each fiscal year thereafter, may not exceed $800,000.

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

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