SENATE BILL 7

January 11, 2011 – Introduced by COMMITTEE ON SENATE ORGANIZATION, by request of Governor Scott Walker, Senator Moulton, and Representative Vos. Referred to Committee on Workforce Development, Small Business, and Tourism.

AN ACT to amend 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45 (2) (a) 10. and 77.92 (4); and to create 71.07 (5p), 71.10 (4) (dw), 71.28 (5p), 71.30 (3) (dw), 71.47 (5p) and 71.49 (1) (dw) of the statutes; relating to: an income and franchise tax credit for small businesses.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for small businesses. Under the bill, a business that has less than $500,000 in gross receipts in the taxable year may claim as a credit a percentage of the taxpayer’s tax liability based on the amount of the gross receipts that exceed $250,000. If the business has no more than $250,000 in gross receipts in the taxable year, the business may claim a credit equal to 15 percent of its tax liability. Under the bill, the taxpayer does not receive a refund, but may apply any remaining credit amounts to subsequent taxable years.

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. 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), (5p), (5p), (5r), (5rm), and (8r) and not passed through by a partnership, limited liability company, or tax–option corporation that has added that amount to the partnership's, company's, or tax–option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

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

71.07 (5p) SMALL BUSINESS CREDIT. (a) Definitions. In this subsection:

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

2. "Gross receipts from all activities" means gross receipts, 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 receipts passed through from other entities, and all other receipts that are included in gross income before apportionment for Wisconsin franchise or income tax purposes.

(b) Filing claims. Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2010, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, the following percentage of the claimant's gross tax liability in the taxable year for which the claim relates:

1. If the gross receipts from all activities of the claimant's business in the taxable year is no more than $250,000, 15 percent.

2. If the gross receipts from all activities of the claimant's business in the taxable year is greater than $250,000, but less than $500,000, a percentage equal to 15, minus the product of 0.00006 multiplied by the amount of the gross receipts for the taxable year that exceed $250,000.
3. If the gross receipts from all activities of the claimant’s business in the taxable year is $500,000 or more, 0 percent.

(c) Limitations. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection. A partnership, limited liability company, or tax-option corporation shall compute the rate of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them.

(d) Administration. 1. A claimant shall claim the credit under this subsection on a form prepared by the department and shall submit to the department any documentation required by the department to administer the credit under this subsection.

2. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

SECTION 3. 71.10 (4) (dw) of the statutes is created to read:

71.10 (4) (dw) Small business credit under s. 71.07 (5p).

SECTION 4. 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), (2e), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and (8r) and passed through to partners shall be added to the partnership’s income.

SECTION 5. 71.26 (2) (a) 4. of the statutes 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), (5p), (5r), (5rm), and (8r) and not passed through by a partnership, limited liability company, or tax-option
corporation that has added that amount to the partnership’s, limited liability
company’s, or tax–option corporation’s income under s. 71.21 (4) or 71.34 (1k) (g).

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

71.28 (5p) SMALL BUSINESS CREDIT. (a) Definitions. In this subsection:
1. “Claimant” means a person who files a claim under this subsection.
2. “Gross receipts from all activities” means gross receipts, 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 receipts passed
through from other entities, and all other receipts that are included in gross income
before apportionment for Wisconsin franchise or income tax purposes.

(b) Filing claims. Subject to the limitations provided in this subsection, for
taxable years beginning after December 31, 2010, a claimant may claim as a credit
against the tax imposed under s. 71.23, up to the amount of the tax, the following
percentage of the claimant’s gross tax liability in the taxable year for which the claim
relates:
1. If the gross receipts from all activities of the claimant’s business in the
taxable year is no more than $250,000, 15 percent.
2. If the gross receipts from all activities of the claimant’s business in the
taxable year is greater than $250,000, but less than $500,000, a percentage equal to
15, minus the product of 0.00006 multiplied by the amount of the gross receipts for
the taxable year that exceed $250,000.
3. If the gross receipts from all activities of the claimant’s business in the
taxable year is $500,000 or more, 0 percent.

(c) Limitations. Partnerships, limited liability companies, and tax–option
corporations may not claim the credit under this subsection. A partnership, limited
liability company, or tax-option corporation shall compute the rate of credit that each
of its partners, members, or shareholders may claim and shall provide that
information to each of them.

(d) Administration. 1. A claimant shall claim the credit under this subsection
on a form prepared by the department and shall submit to the department any
documentation required by the department to administer the credit under this
subsection.

2. Subsection (4) (e) to (h), as it applies to the credit under sub. (4), applies to
the credit under this subsection.

SECTION 7. 71.30 (3) (dw) of the statutes is created to read:
71.30 (3) (dw) Small business credit under s. 71.28 (5p).

SECTION 8. 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), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
(5k), (5p), (5r), (5rm), and (8r) and passed through to shareholders.

SECTION 9. 71.45 (2) (a) 10. of the statutes 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), (3t),
(3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5p), (5r), (5rm), and (8r) and not passed
through by a partnership, limited liability company, or tax-option corporation that
has added that amount to the partnership's, 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 10. 71.47 (5p) of the statutes is created to read:
71.47 (5p) SMALL BUSINESS CREDIT. (a) Definitions. In this subsection:

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

2. “Gross receipts from all activities” means gross receipts, 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 receipts passed through from other entities, and all other receipts that are included in gross income before apportionment for Wisconsin franchise or income tax purposes.

(b) Filing claims. Subject to the limitations provided in this subsection, for taxable years beginning after December 31, 2010, a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of the tax, the following percentage of the claimant’s gross tax liability in the taxable year for which the claim relates:

1. If the gross receipts from all activities of the claimant’s business in the taxable year is no more than $250,000, 15 percent.

2. If the gross receipts from all activities of the claimant’s business in the taxable year is greater than $250,000, but less than $500,000, a percentage equal to 15, minus the product of 0.00006 multiplied by the amount of the gross receipts for the taxable year that exceed $250,000.

3. If the gross receipts from all activities of the claimant’s business in the taxable year is $500,000 or more, 0 percent.

(c) Limitations. Partnerships, limited liability companies, and tax–option corporations may not claim the credit under this subsection. A partnership, limited liability company, or tax–option corporation shall compute the rate of credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them.
(d) Administration. 1. A claimant shall claim the credit under this subsection on a form prepared by the department and shall submit to the department any documentation required by the department to administer the credit under this subsection.

2. Section 71.28 (4) (e) to (h), as it applies to the credit under s. 71.28 (4), applies to the credit under this subsection.

SECTION 11. 71.49 (1) (dw) of the statutes is created to read:

71.49 (1) (dw) Small business credit under s. 71.47 (5p).

SECTION 12. 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), (5p), (5r), (5rm), and (8r); 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.

(1) REQUIRED GENERAL FUND BALANCE. Section 20.003 (4) of the statutes does not apply to the action of the legislature in enacting this act.

(END)