2011 SENATE BILL 123


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 71.92 (4); and to create 71.07 (5n), 71.10 (4) (cr), 71.28 (5n), 71.30 (3) (dn), 71.47 (5n) and 71.49 (1) (dn) of the statutes; relating to: an income and franchise tax credit for qualified production activities income.

Analysis by the Legislative Reference Bureau

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

Under this bill, an individual taxpayer may claim a state income tax credit equal to the taxpayer’s qualified production activities income derived from manufacturing property and agricultural property, multiplied by 7.5 percent. A corporation or insurer may claim a state income and franchise tax credit equal to the lesser of its taxable income apportioned to this state or its qualified production activities income derived from manufacturing property or agricultural property, multiplied by 7.5 percent.
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), (5n), (5r), (5rm), and (8r) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership’s, company’s, or tax-option corporation’s income under s. 71.21 (4) or 71.34 (1k) (g).

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

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

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

2. “Eligible qualified production activities income” means qualified production activities income that derives from property assessed as manufacturing property under s. 70.995 or property assessed as agricultural property under s. 70.32 (2) (a).

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

(b) Filing claims. Subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02, up to the amount of the tax, an amount equal to the claimant’s eligible qualified production activities income in the taxable year, multiplied by 7.5 percent.
(c) **Limitations.** 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 share of the income described under par. (b). 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 interests.

(d) **Administration.** 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) (cr) of the statutes is created to read:

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

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

SECTION 5. 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), (5n), (5r), (5rm), (8r), and (9s) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership’s, limited
liability company’s, or tax-option corporation’s income under s. 71.21 (4) or 71.34 (1k) (g).

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

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

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

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

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

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

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

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

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

   (c) Limitations. 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 share of the income described under par. (b). 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 interests.

(d) Administration. 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) (dn) of the statutes is created to read:

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

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), (5n), (5r), (5rm), and (8r) and passed through to shareholders.

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

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

71.47 (5n) Qualified production activities credit. (a) Definitions. In this
subsection:

1. “Claimant” means a person who files a claim under this subsection.
2. “Eligible qualified production activities income” means the lesser of the following:

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

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

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

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

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

(c) **Limitations.** 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 share of the income described under par. (b). 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 interests.

(d) **Administration.** 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) (dn) of the statutes is created to read:

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

SECTION 13. Initial applicability.

(1) This act first applies to taxable years beginning on January 1 of the year in which this subsection takes effect, except that if this subsection takes effect after July 31 this act first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)