State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1178/1
MES:kjf

2015 ASSEMBLY BILL 494

November 10, 2015 – Introduced by Representatives ZEPNICK, BROSTOFF, KESSLER, BERCEAU, POPE, WACHS, OHNSTAD, ZAMARRIPA and C. TAYLOR, cosponsored by Senators CARPENTER, C. LARSON and WIRCH. Referred to Committee on Ways and Means.

AN ACT ***to amend*** 71.07 (9e) (aj) (intro.), 71.08 (1) (intro.) and 71.10 (4) (i); and ***to create*** 20.835 (2) (cb), 71.07 (9e) (ak) and 71.07 (9g) of the statutes; **relating to:** creating an additional refundable earned income tax credit for individuals and changing the eligibility for, and the percentages that may be claimed by eligible claimants under, the earned income tax credit.

Analysis by the Legislative Reference Bureau

Under current law the earned income tax credit (EITC), as a percentage of the federal credit, is 4 percent for claimants with one qualifying child, 11 percent for claimants with two qualifying children, and 34 percent for claimants with three or more qualifying children. Under the bill, for taxable years beginning after December 31, 2014, the EITC, as a percentage of the federal credit, would be 11 percent for claimants with no qualifying children or one qualifying child, and 25 percent for claimants with two or more qualifying children.

This bill also creates a new refundable individual income tax credit for persons who have earned income, as defined under the Internal Revenue Code, during the taxable year to which the claim relates. Because the credit is refundable, if the amount of the credit for which the claimant is eligible exceeds his or her tax liability, the difference will be refunded to the claimant by check.

Under the bill, a claimant who has zero or one qualifying child may claim a credit of $500, and a claimant who has two or more qualifying children may claim a credit of $1,000. To be eligible to claim the credit, an individual must be at least 18 years old for the entire year to which the claim relates and the individual may not be an individual who is eligible to be claimed as a dependent for federal income tax purposes on another individual's tax return. The credit may not be claimed by nonresidents or part–year residents of the state. In addition, only one spouse of a married couple may claim the credit.

If a claimant is eligible to receive a check under the credit created in the bill, the check must be direct deposited into an individual retirement account or college savings 529 plan, which the claimant must establish.

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) (cb) of the statutes is created to read:

20.835 **(2)** (cb) *Additional earned income tax credit.* A sum sufficient to pay the claims approved under s. 71.07 (9g).

SECTION 2. 71.07 (9e) (aj) (intro.) of the statutes is amended to read:

71.07 **(9e)** (aj) (intro.) For taxable years beginning after December 31, 2010, and before January 1, 2015, an individual may credit against the tax imposed under s. 71.02 an amount equal to one of the following percentages of the federal basic earned income credit for which the person is eligible for the taxable year under section 32 (b) (1) (A) to (C) of the Internal Revenue Code:

SECTION 3. 71.07 (9e) (ak) of the statutes is created to read:

71.07 **(9e)** (ak) For taxable years beginning after December 31, 2014, an individual may credit against the tax imposed under s. 71.02 an amount equal to one of the following percentages of the federal basic earned income credit for which the person is eligible for the taxable year under section 32 (b) (1) (A) to (C) of the Internal Revenue Code:

1. If the person has no qualifying children, or one qualifying child who has the same principal place of abode as the person, 11 percent.

2. If the person has 2 or more qualifying children who have the same principal place of abode as the person, 25 percent.

SECTION 4. 71.07 (9g) of the statutes is created to read:

71.07 **(9g)** ADDITIONAL EARNED INCOME TAX CREDIT. (a) *Definitions*. In this subsection:

1. "Claimant" means an individual who claims the credit under this subsection.

2. "College savings program" means a program that meets the requirements of a qualified state tuition plan under section 529 of the Internal Revenue Code.

3. "Earned income" has the meaning given in section 32 (c) (2) of the Internal Revenue Code.

4. "Household" means a claimant and an individual related to the claimant as husband or wife.

5. "Individual retirement account" means an account under section 408 or 408A of the Internal Revenue Code.

6. "Qualifying child" or "qualifying children" has the meaning given for qualifying child in section 32 (c) (3) of the Internal Revenue Code, and is an individual who has the same principal place of abode as the claimant.

(b) *Filing claims*. Subject to the limitations and conditions provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08 one of the following amounts in the taxable year to which the claim relates, and if the allowable amount of the claim exceeds the income taxes otherwise due on the claimant's income, the amount of the claim not used as an offset against those taxes shall be certified by the department of revenue to the department of administration for payment to the claimant by check, share draft, or other draft drawn from the appropriation account under s. 20.835 (2) (cb):

1. If the claimant has zero or one qualifying child, $500.

2. If the claimant has 2 or more qualifying children, $1,000.

(c) *Limitations and conditions.* 1. To be eligible to claim a credit under this subsection, all of the following must apply to an individual who files a claim under this subsection:

a. He or she is at least 18 years old for the entire year to which the claim relates.

b. He or she received earned income in the year to which the claim relates.

c. He or she is not an individual for whom a deduction is allowable under section 151 of the Internal Revenue Code to another individual for the taxable year to which the claim relates.

2. No credit may be claimed under this subsection by a part–year resident or a nonresident of this state.

3. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

4. No credit may be allowed under this subsection for a taxable year covering a period of less than 12 months, except for a taxable year closed by reason of the death of the taxpayer.

5. If a claimant is eligible to receive a check as described in par. (b), the claimant must complete forms, which shall be created and distributed by the department, to ensure that the check is direct deposited into one of the following accounts that the claimant must establish:

a. An individual retirement account for the claimant.

b. A college savings program for the benefit of the claimant's qualifying child.

6. Only one member of a household may claim the credit under this subsection each year.

(d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

SECTION 5. 71.08 (1) (intro.) of the statutes, as affected by 2015 Wisconsin Act 55, 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), (2dx), (2dy), (3m), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (3y), (4k), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5n), (6), (6e), (8r), (9e), (9g), (9m), and (9r), 71.28 (1dx), (1dy), (2m), (3), (3n), (3t), (3w), and (3y), 71.47 (1dx), (1dy), (2m), (3), (3n), (3t), (3w), and (3y), 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 6. 71.10 (4) (i) of the statutes, as affected by 2015 Wisconsin Act 55, 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 (3rn), business development credit under s. 71.07 (3y), 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), earned income tax credit under s. 71.07 (9e), additional earned income tax credit under s. 71.07 (9g), estimated tax payments under s. 71.09, and taxes withheld under subch. X.

SECTION 7. Initial applicability.

(1) The treatment of sections 20.835 (2) (cb), 71.07 (9g), 71.08 (1) (intro.), and 71.10 (4) (i) of the statutes 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 the treatment of sections 20.835 (2) (cb), 71.07 (9g), 71.08 (1) (intro.), and 71.10 (4) (i) of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

(END)