



2005 ASSEMBLY BILL 243

March 18, 2005 - Introduced by Representatives McCORMICK, PETTIS, SHERIDAN, MUSSER, VOS, F. LASEE, KRAWCZYK, VAN ROY, GUNDERSON, ALBERS, HUNDERTMARK, HONADEL, TOWNSEND and VRAKAS, cosponsored by Senators KANAVAS, DARLING, STEPP, LEIBHAM, A. LASEE and ROESSLER. Referred to Joint Committee on Finance.

1 **AN ACT to renumber and amend** 71.28 (4) (a), 71.28 (5) (a), 71.47 (4) (a) and
2 71.47 (5) (a); **to amend** 71.28 (4) (am) 1. and 71.47 (4) (am); and **to create** 71.28
3 (4) (ab), 71.28 (4) (ad) 2., 71.28 (5) (ab), 71.28 (5) (ad) 2., 71.47 (4) (ab), 71.47 (4)
4 (ad) 2., 71.47 (5) (ab) and 71.47 (5) (ad) 2. of the statutes; **relating to:** the
5 income and franchise tax credit for research and research facilities.

Analysis by the Legislative Reference Bureau

Under current law, a corporation may claim an income and franchise tax credit in an amount equal to 5 percent of its qualified research expenses, as defined by the Internal Revenue Code for research conducted in this state. In addition, a corporation may claim an income and franchise tax credit equal to 5 percent of the amount it paid in the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research, as defined by the Internal Revenue Code. Under this bill, a corporation may claim an income and franchise tax credit in an amount equal to 10 percent of its qualified research expenses related to engine manufacturing and vehicle design for research conducted in this state and 10 percent of the amount it paid in the taxable year to construct and equip new facilities or expand existing facilities used in this state for qualified research related to manufacturing internal combustion engines, including expenses related to designing vehicles that are powered by such engines.

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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.** 71.28 (4) (a) of the statutes is renumbered 71.28 (4) (ad) 1. and
2 amended to read:

3 71.28 (4) (ad) *Credit.* 1. ~~Any~~ Except as provided in subd. 2., any corporation
4 may credit against taxes otherwise due under this chapter an amount equal to 5%
5 5 percent of the amount obtained by subtracting from the corporation's qualified
6 research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal
7 Revenue Code, except that "qualified research expenses" includes only expenses
8 incurred by the claimant, incurred for research conducted in this state for the taxable
9 year, except that a taxpayer may elect the alternative computation under section 41
10 (c) (4) of the Internal Revenue Code and that election applies until the department
11 permits its revocation and except that "qualified research expenses" does not include
12 compensation used in computing the credit under subs. (1dj) and (1dx), the
13 corporation's base amount, as defined in section 41 (c) of the ~~internal revenue code~~
14 Internal Revenue Code, except that gross receipts used in calculating the base
15 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
16 (b) 1. and 2. and (d). Section 41 (h) of the ~~internal revenue code~~ Internal Revenue
17 Code does not apply to the credit under this paragraph.

18 **SECTION 2.** 71.28 (4) (ab) of the statutes is created to read:

19 71.28 (4) (ab) *Definitions.* In this subsection:

20 1. "Frame" includes:

21 a. Every part of a motorcycle, except the tires.

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1 b. In the case of a truck, the control system and the fuel and drive train,
2 excluding any comfort features located in the cab or the tires.

3 c. In the case of a generator, the control modules, fuel train, fuel scrubbing
4 process, fuel mixers, generator, heat exchangers, exhaust train, and similar
5 components.

6 2. "Vehicle" means any vehicle or frame in which or on which an engine is
7 mounted for use in mobile or stationary applications. "Vehicle" includes any truck,
8 tractor, motorcycle, snowmobile, or generator, but does not include any automobile,
9 bus, or aircraft.

10 **SECTION 3.** 71.28 (4) (ad) 2. of the statutes is created to read:

11 71.28 (4) (ad) 2. For taxable years beginning after December 31, 2006, any
12 corporation may credit against taxes otherwise due under this chapter an amount
13 equal to 10 percent of the amount obtained by subtracting from the corporation's
14 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
15 except that "qualified research expenses" includes only expenses incurred by the
16 claimant for research related to manufacturing internal combustion engines for
17 vehicles, including expenses related to designing vehicles that are powered by such
18 engines, incurred for research conducted in this state for the taxable year, except that
19 a taxpayer may elect the alternative computation under section 41 (c) (4) of the
20 Internal Revenue Code and that election applies until the department permits its
21 revocation and except that "qualified research expenses" does not include
22 compensation used in computing the credit under subs. (1dj) and (1dx), the
23 corporation's base amount, as defined in section 41 (c) of the Internal Revenue Code,
24 except that gross receipts used in calculating the base amount means gross receipts

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1 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section
2 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

3 **SECTION 4.** 71.28 (4) (am) 1. of the statutes is amended to read:

4 71.28 (4) (am) 1. In addition to the credit under par. (a) ~~(ad)~~, any corporation
5 may credit against taxes otherwise due under this chapter an amount equal to ~~5%~~
6 5 percent of the amount obtained by subtracting from the corporation's qualified
7 research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal
8 Revenue Code, except that "qualified research expenses" include only expenses
9 incurred by the claimant in a development zone under subch. VI of ch. 560, except
10 that a taxpayer may elect the alternative computation under section 41 (c) (4) of the
11 Internal Revenue Code and that election applies until the department permits its
12 revocation and except that "qualified research expenses" do not include
13 compensation used in computing the credit under sub. (1dj) nor research expenses
14 incurred before the claimant is certified for tax benefits under s. 560.765 (3), the
15 corporation's base amount, as defined in section 41 (c) of the ~~internal revenue code~~
16 Internal Revenue Code, in a development zone, except that gross receipts used in
17 calculating the base amount means gross receipts from sales attributable to
18 Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d) and research expenses used in
19 calculating the base amount include research expenses incurred before the claimant
20 is certified for tax benefits under s. 560.765 (3), in a development zone, if the claimant
21 submits with the claimant's return a copy of the claimant's certification for tax
22 benefits under s. 560.765 (3) and a statement from the department of commerce
23 verifying the claimant's qualified research expenses for research conducted
24 exclusively in a development zone. The rules under s. 73.03 (35) apply to the credit
25 under this subdivision. The rules under sub. (1di) (f) and (g) as they apply to the

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1 credit under that subsection apply to claims under this subdivision. Section 41 (h)
2 of the ~~internal revenue code~~ Internal Revenue Code does not apply to the credit under
3 this subdivision.

4 **SECTION 5.** 71.28 (5) (a) of the statutes is renumbered 71.28 (5) (ad) 1. and
5 amended to read:

6 71.28 (5) (ad) *Credit*. 1. ~~For~~ Except as provided in subd. 2., for taxable year
7 1986 and subsequent years, any corporation may credit against taxes otherwise due
8 under this chapter an amount equal to ~~5%~~ 5 percent of the amount paid or incurred
9 by that corporation during the taxable year to construct and equip new facilities or
10 expand existing facilities used in this state for qualified research, as defined in
11 section 41 of the ~~internal revenue code~~ Internal Revenue Code. Eligible amounts
12 include only amounts paid or incurred for tangible, depreciable property but do not
13 include amounts paid or incurred for replacement property.

14 **SECTION 6.** 71.28 (5) (ab) of the statutes is created to read:

15 71.28 (5) (ab) *Definitions*. In this subsection:

16 1. "Frame" includes:

17 a. Every part of a motorcycle, except the tires.

18 b. In the case of a truck, the control system and the fuel and drive train,
19 excluding any comfort features located in the cab or the tires.

20 c. In the case of a generator, the control modules, fuel train, fuel scrubbing
21 process, fuel mixers, generator, heat exchangers, exhaust train, and similar
22 components.

23 2. "Vehicle" means any vehicle or frame in which or on which an engine is
24 mounted for use in mobile or stationary applications. "Vehicle" includes any truck,

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1 tractor, motorcycle, snowmobile, or generator, but does not include any automobile,
2 bus, or aircraft.

3 **SECTION 7.** 71.28 (5) (ad) 2. of the statutes is created to read:

4 71.28 (5) (ad) 2. For taxable years beginning after December 31, 2006, any
5 corporation may credit against taxes otherwise due under this chapter an amount
6 equal to 10 percent of the amount paid or incurred by that corporation during the
7 taxable year to construct and equip new facilities or expand existing facilities used
8 in this state for qualified research, as defined in section 41 of the Internal Revenue
9 Code, except that “qualified research expenses” includes only expenses paid or
10 incurred by the claimant for research related to manufacturing internal combustion
11 engines for vehicles, including expenses related to designing vehicles that are
12 powered by such engines. Eligible amounts include only amounts paid or incurred
13 for tangible, depreciable property but do not include amounts paid or incurred for
14 replacement property.

15 **SECTION 8.** 71.47 (4) (a) of the statutes is renumbered 71.47 (4) (ad) 1. and
16 amended to read:

17 71.47 (4) (ad) *Credit.* 1. Any Except as provided in subd. 2., any corporation
18 may credit against taxes otherwise due under this chapter an amount equal to 5%
19 5 percent of the amount obtained by subtracting from the corporation’s qualified
20 research expenses, as defined in section 41 of the ~~internal revenue code~~ Internal
21 Revenue Code, except that “qualified research expenses” includes only expenses
22 incurred by the claimant, incurred for research conducted in this state for the taxable
23 year, except that a taxpayer may elect the alternative computation under section 41
24 (c) (4) of the Internal Revenue Code and that election applies until the department
25 permits its revocation and except that “qualified research expenses” does not include

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1 compensation used in computing the credit under subs. (1dj) and (1dx), the
2 corporation's base amount, as defined in section 41 (c) of the ~~internal revenue code~~
3 Internal Revenue Code, except that gross receipts used in calculating the base
4 amount means gross receipts from sales attributable to Wisconsin under s. 71.25 (9)
5 (b) 1. and 2. and (d). Section 41 (h) of the ~~internal revenue code~~ Internal Revenue
6 Code does not apply to the credit under this paragraph.

7 **SECTION 9.** 71.47 (4) (ab) of the statutes is created to read:

8 71.47 (4) (ab) *Definitions.* In this subsection:

9 1. "Frame" includes:

10 a. Every part of a motorcycle, except the tires.

11 b. In the case of a truck, the control system and the fuel and drive train,
12 excluding any comfort features located in the cab or the tires.

13 c. In the case of a generator, the control modules, fuel train, fuel scrubbing
14 process, fuel mixers, generator, heat exchangers, exhaust train, and similar
15 components.

16 2. "Vehicle" means any vehicle or frame in which or on which an engine is
17 mounted for use in mobile or stationary applications. "Vehicle" includes any truck,
18 tractor, motorcycle, snowmobile, or generator, but does not include any automobile,
19 bus, or aircraft.

20 **SECTION 10.** 71.47 (4) (ad) 2. of the statutes is created to read:

21 71.47 (4) (ad) 2. For taxable years beginning after December 31, 2006, any
22 corporation may credit against taxes otherwise due under this chapter an amount
23 equal to 10 percent of the amount obtained by subtracting from the corporation's
24 qualified research expenses, as defined in section 41 of the Internal Revenue Code,
25 except that "qualified research expenses" includes only expenses incurred by the

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1 claimant for research related to manufacturing internal combustion engines for
2 vehicles, including expenses related to designing vehicles that are powered by such
3 engines, incurred for research conducted in this state for the taxable year, except that
4 a taxpayer may elect the alternative computation under section 41 (c) (4) of the
5 Internal Revenue Code and that election applies until the department permits its
6 revocation and except that “qualified research expenses” does not include
7 compensation used in computing the credit under subs. (1dj) and (1dx), the
8 corporation’s base amount, as defined in section 41 (c) of the Internal Revenue Code,
9 except that gross receipts used in calculating the base amount means gross receipts
10 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d). Section
11 41 (h) of the Internal Revenue Code does not apply to the credit under this paragraph.

12 **SECTION 11.** 71.47 (4) (am) of the statutes is amended to read:

13 71.47 (4) (am) *Development zone additional research credit.* In addition to the
14 credit under par. (a) (ad), any corporation may credit against taxes otherwise due
15 under this chapter an amount equal to ~~5%~~ 5 percent of the amount obtained by
16 subtracting from the corporation’s qualified research expenses, as defined in section
17 41 of the ~~internal revenue code~~ Internal Revenue Code, except that “qualified
18 research expenses” include only expenses incurred by the claimant in a development
19 zone under subch. VI of ch. 560, except that a taxpayer may elect the alternative
20 computation under section 41 (c) (4) of the Internal Revenue Code and that election
21 applies until the department permits its revocation and except that “qualified
22 research expenses” do not include compensation used in computing the credit under
23 sub. (1dj) nor research expenses incurred before the claimant is certified for tax
24 benefits under s. 560.765 (3), the corporation’s base amount, as defined in section 41
25 (c) of the ~~internal revenue code~~ Internal Revenue Code, in a development zone,

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1 except that gross receipts used in calculating the base amount means gross receipts
2 from sales attributable to Wisconsin under s. 71.25 (9) (b) 1. and 2. and (d) and
3 research expenses used in calculating the base amount include research expenses
4 incurred before the claimant is certified for tax benefits under s. 560.765 (3), in a
5 development zone, if the claimant submits with the claimant's return a copy of the
6 claimant's certification for tax benefits under s. 560.765 (3) and a statement from the
7 department of commerce verifying the claimant's qualified research expenses for
8 research conducted exclusively in a development zone. The rules under s. 73.03 (35)
9 apply to the credit under this paragraph. The rules under sub. (1d) (f) and (g) as they
10 apply to the credit under that subsection apply to claims under this paragraph.
11 Section 41 (h) of the ~~internal revenue code~~ Internal Revenue Code does not apply to
12 the credit under this paragraph. No credit may be claimed under this paragraph for
13 taxable years that begin on January 1, 1998, or thereafter. Credits under this
14 paragraph for taxable years that begin before January 1, 1998, may be carried
15 forward to taxable years that begin on January 1, 1998, or thereafter.

16 **SECTION 12.** 71.47 (5) (a) of the statutes is renumbered 71.47 (5) (ad) 1. and
17 amended to read:

18 71.47 (5) (ad) *Credit*. 1. For Except as provided in subd. 2., for taxable year 1986
19 and subsequent years, any corporation may credit against taxes otherwise due under
20 this chapter an amount equal to ~~5%~~ 5 percent of the amount paid or incurred by that
21 corporation during the taxable year to construct and equip new facilities or expand
22 existing facilities used in this state for qualified research, as defined in section 41 of
23 the ~~internal revenue code~~ Internal Revenue Code. Eligible amounts include only
24 amounts paid or incurred for tangible, depreciable property but do not include
25 amounts paid or incurred for replacement property.

ASSEMBLY BILL 243**SECTION 13**

1 **SECTION 13.** 71.47 (5) (ab) of the statutes is created to read:

2 71.47 (5) (ab) *Definitions.* In this subsection:

3 1. “Frame” includes:

4 a. Every part of a motorcycle, except the tires.

5 b. In the case of a truck, the control system and the fuel and drive train,
6 excluding any comfort features located in the cab or the tires.

7 c. In the case of a generator, the control modules, fuel train, fuel scrubbing
8 process, fuel mixers, generator, heat exchangers, exhaust train, and similar
9 components.

10 2. “Vehicle” means any vehicle or frame in which or on which an engine is
11 mounted for use in mobile or stationary applications. “Vehicle” includes any truck,
12 tractor, motorcycle, snowmobile, or generator, but does not include any automobile,
13 bus, or aircraft.

14 **SECTION 14.** 71.47 (5) (ad) 2. of the statutes is created to read:

15 71.47 (5) (ad) 2. For taxable years beginning after December 31, 2006, any
16 corporation may credit against taxes otherwise due under this chapter an amount
17 equal to 10 percent of the amount paid or incurred by that corporation during the
18 taxable year to construct and equip new facilities or expand existing facilities used
19 in this state for qualified research, as defined in section 41 of the Internal Revenue
20 Code, except that “qualified research expenses” includes only expenses paid or
21 incurred by the claimant for research related to manufacturing internal combustion
22 engines for vehicles, including expenses related to designing vehicles that are
23 powered by such engines. Eligible amounts include only amounts paid or incurred

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1 for tangible, depreciable property but do not include amounts paid or incurred for
2 replacement property.

3 (END)