



## 2005 ASSEMBLY BILL 644

August 30, 2005 - Introduced by Representatives WIECKERT, GOTTLIEB, JENSEN, GARD, KAUFERT, WOOD, KESTELL, BIES, HUNDERTMARK, GUNDERSON, MUSSER, HINES, NASS, VAN ROY, PETTIS, KRAWCZYK, NISCHKE, HAHN, KREIBICH, VOS, STRACHOTA, STONE, TOWNSEND, ALBERS, OWENS, F. LASEE, PRIDEMORE and BALLWEG, cosponsored by Senators DARLING, REYNOLDS, LAZICH, BROWN, ROESSLER, KANAVAS and GROTHMAN. Referred to Committee on Ways and Means.

1     **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)  
2           (a) 10. and 77.92 (4); and **to create** 71.07 (3w), 71.10 (4) (cq), 71.28 (3w), 71.30  
3           (3) (dq), 71.47 (3w) and 71.49 (1) (dq) of the statutes; **relating to:** creating an  
4           income and franchise tax credit for sales taxes paid on services provided by a  
5           temporary help company.

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### *Analysis by the Legislative Reference Bureau*

This bill creates an income and franchise tax credit in an amount equal to the sales tax that a person paid in the taxable year for services provided by a temporary help company. Under current law, a temporary help company is, generally, an entity that contracts with a client to perform services for the client on a temporary basis.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

6           **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:  
7           71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),  
8           (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3w), (3n), (3s), (3t), (5b), and (5d)

**ASSEMBLY BILL 644****SECTION 1**

1 and not passed through by a partnership, limited liability company, or tax-option  
2 corporation that has added that amount to the partnership's, company's, or  
3 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

4 **SECTION 2.** 71.07 (3w) of the statutes is created to read:

5 71.07 (3w) TEMPORARY HELP COMPANY SALES TAX CREDIT. (a) *Definitions.* In this  
6 subsection:

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

8 2. "Temporary help company" has the meaning given in s. 108.02 (24m).

9 (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
10 claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,  
11 up to the amount of those taxes, an amount that is equal to the amount of the taxes  
12 imposed under s. 71.52 that the claimant paid in the taxable year for services  
13 provided by a temporary help company, if the client for whom the services are  
14 provided controls the means of performing the services and is responsible for the  
15 satisfactory completion of the services.

16 (c) *Limitations.* Partnerships, limited liability companies, and tax-option  
17 corporations may not claim the credit under this subsection, but the eligibility for,  
18 and the amount of, the credit are based on their payment of amounts described under  
19 par. (b). A partnership, limited liability company, or tax-option corporation shall  
20 compute the amount of credit that each of its partners, members, or shareholders  
21 may claim and shall provide that information to each of them. Partners, members  
22 of limited liability companies, and shareholders of tax-option corporations may  
23 claim the credit in proportion to their ownership interests.

24 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
25 s. 71.28 (4), applies to the credit under this subsection.

**ASSEMBLY BILL 644**

1           **SECTION 3.** 71.10 (4) (cq) of the statutes is created to read:

2           71.10 (4) (cq) Temporary help company sales tax credit under s. 71.07 (3w).

3           **SECTION 4.** 71.21 (4) of the statutes is amended to read:

4           71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),  
5           (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), and (5b) and passed through  
6           to partners shall be added to the partnership's income.

7           **SECTION 5.** 71.26 (2) (a) of the statutes is amended to read:

8           71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means  
9           the gross income as computed under the Internal Revenue Code as modified under  
10          sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit  
11          computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)  
12          7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income  
13          under this paragraph at the time that the taxpayer first claimed the credit plus the  
14          amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),  
15          (1ds), (1dx), (3g), (3n), (3t), (3w), and (5b) and not passed through by a partnership,  
16          limited liability company, or tax-option corporation that has added that amount to  
17          the partnership's, limited liability company's, or tax-option corporation's income  
18          under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or other  
19          disposition of assets the gain from which would be wholly exempt income, as defined  
20          in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and minus  
21          deductions, as computed under the Internal Revenue Code as modified under sub.  
22          (3), plus or minus, as appropriate, an amount equal to the difference between the  
23          federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or  
24          otherwise disposed of in a taxable transaction during the taxable year, except as  
25          provided in par. (b) and s. 71.45 (2) and (5).

**ASSEMBLY BILL 644****SECTION 6**

1           **SECTION 6.** 71.28 (3w) of the statutes is created to read:

2           71.28 **(3w)** TEMPORARY HELP COMPANY SALES TAX CREDIT. (a) *Definitions.* In this  
3 subsection:

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

5           2. “Temporary help company” has the meaning given in s. 108.02 (24m).

6           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
7 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the  
8 amount of those taxes, an amount that is equal to the amount of the taxes imposed  
9 under s. 71.52 that the claimant paid in the taxable year for services provided by a  
10 temporary help company, if the client for whom the services are provided controls the  
11 means of performing the services and is responsible for the satisfactory completion  
12 of the services.

13           (c) *Limitations.* Partnerships, limited liability companies, and tax-option  
14 corporations may not claim the credit under this subsection, but the eligibility for,  
15 and the amount of, the credit are based on their payment of amounts described under  
16 par. (b). A partnership, limited liability company, or tax-option corporation shall  
17 compute the amount of credit that each of its partners, members, or shareholders  
18 may claim and shall provide that information to each of them. Partners, members  
19 of limited liability companies, and shareholders of tax-option corporations may  
20 claim the credit in proportion to their ownership interests.

21           (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under  
22 sub. (4), applies to the credit under this subsection.

23           **SECTION 7.** 71.30 (3) (dq) of the statutes is created to read:

24           71.30 **(3)** (dq) Temporary help company sales tax credit under s. 71.28 (3w).

25           **SECTION 8.** 71.34 (1) (g) of the statutes is amended to read:

**ASSEMBLY BILL 644****SECTION 8**

1           71.34 (1) (g) An addition shall be made for credits computed by a tax-option  
2 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),  
3 (3n), (3t), (3w), and (5b) and passed through to shareholders.

4           **SECTION 9.** 71.45 (2) (a) 10. of the statutes is amended to read:

5           71.45 (2) (a) 10. By adding to federal taxable income the amount of credit  
6 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), and (5b) and not passed through  
7 by a partnership, limited liability company, or tax-option corporation that has added  
8 that amount to the partnership's, limited liability company's, or tax-option  
9 corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit  
10 computed under s. 71.47 (1), (3), (3t), (4), and (5).

11           **SECTION 10.** 71.47 (3w) of the statutes is created to read:

12           71.47 (3w) TEMPORARY HELP COMPANY SALES TAX CREDIT. (a) *Definitions.* In this  
13 subsection:

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

15           2. "Temporary help company" has the meaning given in s. 108.02 (24m).

16           (b) *Filing claims.* Subject to the limitations provided in this subsection, a  
17 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the  
18 amount of those taxes, an amount that is equal to the amount of the taxes imposed  
19 under s. 71.52 that the claimant paid in the taxable year for services provided by a  
20 temporary help company, if the client for whom the services are provided controls the  
21 means of performing the services and is responsible for the satisfactory completion  
22 of the services.

23           (c) *Limitations.* Partnerships, limited liability companies, and tax-option  
24 corporations may not claim the credit under this subsection, but the eligibility for,  
25 and the amount of, the credit are based on their payment of amounts described under

**ASSEMBLY BILL 644****SECTION 10**

1 par. (b). A partnership, limited liability company, or tax-option corporation shall  
2 compute the amount of credit that each of its partners, members, or shareholders  
3 may claim and shall provide that information to each of them. Partners, members  
4 of limited liability companies, and shareholders of tax-option corporations may  
5 claim the credit in proportion to their ownership interests.

6 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under  
7 s. 71.28 (4), applies to the credit under this subsection.

8 **SECTION 11.** 71.49 (1) (dq) of the statutes is created to read:

9 71.49 (1) (dq) Temporary help company sales tax credit under s. 71.47 (3w).

10 **SECTION 12.** 77.92 (4) of the statutes is amended to read:

11 77.92 (4) "Net business income," with respect to a partnership, means taxable  
12 income as calculated under section 703 of the Internal Revenue Code; plus the items  
13 of income and gain under section 702 of the Internal Revenue Code, including taxable  
14 state and municipal bond interest and excluding nontaxable interest income or  
15 dividend income from federal government obligations; minus the items of loss and  
16 deduction under section 702 of the Internal Revenue Code, except items that are not  
17 deductible under s. 71.21; plus guaranteed payments to partners under section 707  
18 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),  
19 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), and (5b); and  
20 plus or minus, as appropriate, transitional adjustments, depreciation differences,  
21 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding  
22 income, gain, loss, and deductions from farming. "Net business income," with respect  
23 to a natural person, estate, or trust, means profit from a trade or business for federal  
24 income tax purposes and includes net income derived as an employee as defined in  
25 section 3121 (d) (3) of the Internal Revenue Code.

