



2005 ASSEMBLY BILL 892

December 22, 2005 - Introduced by Representatives MONTGOMERY, DAVIS, GARD, LAMB, FREESE, RHOADES, FIELDS, GUNDERSON, ALBERS, VOS, NISCHKE and MUSSER, cosponsored by Senators KANAVAS, JAUCH, LEIBHAM, HARSDORF, STEPP, SCHULTZ, KEDZIE and OLSEN. Referred to Committee on Energy and Utilities.

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 (5e), 71.10 (4) (gy), 71.28 (5e), 71.30
3 (3) (es), 71.47 (5e) and 71.49 (1) (es) of the statutes; **relating to:** an income and
4 franchise tax credit for sales and use taxes paid on the purchase of Internet
5 equipment used in the broadband market.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for Internet equipment used in the broadband market. The amount of the credit is equal to the the amount of sales and use taxes that the taxpayer paid in the taxable year on the purchase of Internet equipment used in the broadband market to provide Internet availability to areas of the state that are not served by a broadband service provider or are served by not more than one broadband service provider, as determined by the Department of Commerce (department). The total amount of the credits that may be claimed by all taxpayers is \$7,500,000. A taxpayer may only claim the credit if the taxpayer certifies to the department that the taxpayer will, within 24 months from the bill's effective date, make an investment that is reasonable calculated to increase Internet availability in this state and in an amount equal to at least 20 percent of the amount of the sales and use taxes that the taxpayer paid during the 12-month period beginning on the bill's effective date on the purchase of Internet equipment used in the broadband market.

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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.** 71.05 (6) (a) 15. of the statutes is amended to read:

2 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
3 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), and (5e)
4 and not passed through by a partnership, limited liability company, or tax-option
5 corporation that has added that amount to the partnership's, company's, or
6 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

7 **SECTION 2.** 71.07 (5e) of the statutes is created to read:

8 71.07 (5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

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

10 2. "Internet equipment used in the broadband market" means equipment that
11 is capable of transmitting data packets or Internet signals at speeds of at least 200
12 kilobits per second in either direction.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the taxes imposed under ss. 71.02 and 71.08,
15 up to the amount of those taxes, an amount that is equal to the amount of the taxes
16 imposed under subchs. III and V of ch. 77 that the claimant paid in the taxable year
17 on the purchase of Internet equipment used in the broadband market to provide
18 Internet availability to areas of the state that are not served by a broadband service
19 provider or are served by not more than one broadband service provider, as
20 determined by the department of commerce.

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1 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
2 claimant certifies to the department of commerce, in the manner prescribed by the
3 department, that the claimant will, within 24 months after the effective date of this
4 subdivision [revisor inserts date], make an investment that is reasonably
5 calculated to increase Internet availability in this state and in an amount equal to
6 at least 20 percent of the amount the claimant paid in taxes imposed under subchs.
7 III and V of ch. 77 on the purchase of Internet equipment used in the broadband
8 market during the 12-month period beginning on the effective date of this
9 subdivision [revisor inserts date]. The claimant shall, within 60 days after the end
10 of the year in which the investment is made, file a report with the department of
11 administration that provides a detailed description of the investment, including the
12 amount invested. The department of administration shall provide copies of the
13 report to the department of commerce, the department of revenue, and the public
14 service commission.

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

23 3. The total amount of the credits that may be claimed by all claimants under
24 this subsection and ss. 71.28 (5e) and 71.47 (5e) is \$7,500,000, as determined by the
25 department of commerce.

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

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

4 71.10 (4) (gy) Internet equipment credit under s. 71.07 (5e).

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

6 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
7 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), ~~and (5b),~~ and (5e) and passed
8 through to partners shall be added to the partnership's income.

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

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

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1 otherwise disposed of in a taxable transaction during the taxable year, except as
2 provided in par. (b) and s. 71.45 (2) and (5).

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

4 71.28 (5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

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

6 2. "Internet equipment used in the broadband market" means equipment that
7 is capable of transmitting data packets or Internet signals at speeds of at least 200
8 kilobits per second in either direction.

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 s. 71.23, up to the
11 amount of those taxes, an amount that is equal to the amount of the taxes imposed
12 under subchs. III and V of ch. 77 that the claimant paid in the taxable year on the
13 purchase of Internet equipment used in the broadband market to provide Internet
14 availability to areas of the state that are not served by a broadband service provider
15 or are served by not more than one broadband service provider, as determined by the
16 department of commerce.

17 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
18 claimant certifies to the department of commerce, in the manner prescribed by the
19 department, that the claimant will, within 24 months after the effective date of this
20 subdivision [revisor inserts date], make an investment that is reasonably
21 calculated to increase Internet availability in this state and in an amount equal to
22 at least 20 percent of the amount the claimant paid in taxes imposed under subchs.
23 III and V of ch. 77 on the purchase of Internet equipment used in the broadband
24 market during the 12-month period beginning on the effective date of this
25 subdivision [revisor inserts date]. The claimant shall, within 60 days after the end

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1 of the year in which the investment is made, file a report with the department of
2 administration that provides a detailed description of the investment, including the
3 amount invested. The department of administration shall provide copies of the
4 report to the department of commerce, the department of revenue, and the public
5 service commission.

6 2. Partnerships, limited liability companies, and tax-option corporations may
7 not claim the credit under this subsection, but the eligibility for, and the amount of,
8 the credit are based on their payment of the amounts described under par. (b). A
9 partnership, limited liability company, or tax-option corporation shall compute the
10 amount of credit that each of its partners, members, or shareholders may claim and
11 shall provide that information to each of them. Partners, members of limited liability
12 companies, and shareholders of tax-option corporations may claim the credit in
13 proportion to their ownership interests.

14 3. The total amount of the credits that may be claimed by all claimants under
15 this subsection and ss. 71.07 (5e) and 71.47 (5e) is \$7,500,000, as determined by the
16 department of commerce.

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

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

20 71.30 (3) (es) Internet equipment credit under s. 71.28 (5e).

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

22 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
23 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
24 (3n), (3t), and (5b), and (5e) and passed through to shareholders.

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

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

7 **SECTION 10.** 71.47 (5e) of the statutes is created to read:

8 71.47 (5e) INTERNET EQUIPMENT CREDIT. (a) *Definitions.* In this subsection:

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

10 2. "Internet equipment used in the broadband market" means equipment that
11 is capable of transmitting data packets or Internet signals at speeds of at least 200
12 kilobits per second in either direction.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
15 amount of those taxes, an amount that is equal to the amount of the taxes imposed
16 under subchs. III and V of ch. 77 that the claimant paid in the taxable year on the
17 purchase of Internet equipment used in the broadband market to provide Internet
18 availability to areas of the state that are not served by a broadband service provider
19 or are served by not more than one broadband service provider, as determined by the
20 department of commerce.

21 (c) *Limitations.* 1. No credit may be allowed under this subsection unless the
22 claimant certifies to the department of commerce, in the manner prescribed by the
23 department, that the claimant will, within 24 months after the effective date of this
24 subdivision [revisor inserts date], make an investment that is reasonably
25 calculated to increase Internet availability in this state and in an amount equal to

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1 at least 20 percent of the amount the claimant paid in taxes imposed under subchs.
2 III and V of ch. 77 on the purchase of Internet equipment used in the broadband
3 market during the 12-month period beginning on the effective date of this
4 subdivision ... [revisor inserts date]. The claimant shall, within 60 days after the end
5 of the year in which the investment is made, file a report with the department of
6 administration that provides a detailed description of the investment, including the
7 amount invested. The department of administration shall provide copies of the
8 report to the department of commerce, the department of revenue, and the public
9 service commission.

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

18 3. The total amount of the credits that may be claimed by all claimants under
19 this subsection and ss. 71.07 (5e) and 71.28 (5e) is \$7,500,000, as determined by the
20 department of commerce.

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

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

24 71.49 (1) (es) Internet equipment credit under s. 71.47 (5e).

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

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1 77.92 (4) “Net business income,” with respect to a partnership, means taxable
2 income as calculated under section 703 of the Internal Revenue Code; plus the items
3 of income and gain under section 702 of the Internal Revenue Code, including taxable
4 state and municipal bond interest and excluding nontaxable interest income or
5 dividend income from federal government obligations; minus the items of loss and
6 deduction under section 702 of the Internal Revenue Code, except items that are not
7 deductible under s. 71.21; plus guaranteed payments to partners under section 707
8 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), ~~and (5b)~~, and (5e); and
10 plus or minus, as appropriate, transitional adjustments, depreciation differences,
11 and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding
12 income, gain, loss, and deductions from farming. “Net business income,” with respect
13 to a natural person, estate, or trust, means profit from a trade or business for federal
14 income tax purposes and includes net income derived as an employee as defined in
15 section 3121 (d) (3) of the Internal Revenue Code.

SECTION 13. Nonstatutory provisions.

(1) INTERNET EQUIPMENT CREDIT PROGRAM.

18 (a) Not later than 30 days after the effective date of this subsection, the
19 department of commerce shall implement a program for certifying businesses as
20 eligible for tax credits under sections 71.07 (5e), 71.28 (5e), and 71.47 (5e) of the
21 statutes.

22 (b) If the department of commerce certifies a business as eligible under
23 paragraph (a), the department shall determine the maximum amount of tax credits
24 the business may claim, subject to paragraph (c). The department of commerce may
25 not allocate tax credits to a business unless the allocation of tax credits to the

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1 business is likely to increase the availability of Internet service in an area of this
2 state that lacks adequate service, as determined by the department. The total
3 amount of tax credits allocated to all eligible businesses may not exceed \$7,500,000.
4 The department of commerce shall complete the certifications and determinations
5 under this paragraph and paragraph (a) not later than the first day of the 7th month
6 after the effective date of this subsection.

7 (c) Not later than 10 days after the department of commerce completes the
8 certifications and determinations under paragraphs (a) and (b), the department of
9 commerce shall submit to the joint committee on finance a report identifying the
10 businesses certified under this subsection and the maximum amount of tax credits
11 each business may claim. If the cochairpersons of the committee do not notify the
12 department of commerce within 14 working days after the department of commerce
13 submits the report that the committee has scheduled a meeting to review the
14 department of commerce's certifications and determinations, the department of
15 commerce shall notify the department of revenue of the department of commerce's
16 certifications and determination. If, within 14 working days after the department
17 of commerce submits the report, the cochairpersons of the committee notify the
18 department of commerce that the committee has scheduled a meeting to review the
19 proposal, the department of commerce may not notify the department of revenue of
20 the department of commerce's certifications and determinations unless one of the
21 following is true:

22 1. The committee approves the department of commerce's certifications and
23 determinations.

