



WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

Ronald Sklansky
Clearinghouse Director

Richard Sweet
Clearinghouse Assistant Director

Terry C. Anderson
Legislative Council Director

Laura D. Rose
Legislative Council Deputy Director

CLEARINGHOUSE RULE 08-031

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated January 2005.]

1. Statutory Authority

Sections 71.07 (3p), 71.28 (3p), and 71.47 (3p), Stats., as created by 2007 Wisconsin Act 20, provide an income tax credit in an amount the claimant paid in a taxable year for dairy manufacturing modernization or expansion related to the claimant’s dairy manufacturing operation. Section Comm 132.30 (1) provides that a person who intends to claim a dairy manufacturing facility investment credit may apply for certification and allocation of the credit. The note to this provision states that a “person” includes the owner of a building or facility in which a dairy manufacturing operation occurs. It may be implied from the note that an absentee owner of a building or facility that is leased to a dairy manufacturing operation may apply for an income tax credit. Is there statutory authority for this position in light of the statutory requirement that the income tax credit is related to the amount that the claimant pays for modernization or expansion related to the claimant’s dairy manufacturing operation? In other words, how can it be said that an absentee owner of a leased building or facility has a dairy manufacturing operation? The department either should explain the statutory authority for the position taken in the note to s. Comm 132.30 (1) or clarify the provision’s intent. Also, the note is a substantive provision that, if retained, should be placed in the text of the rule.

5. Clarity, Grammar, Punctuation and Use of Plain Language

- a. In s. Comm 132.10 (1), the word “and” should be replaced by the word “or.”

b. Section Comm 132.20 (4) defines the term “eligible capital investment.” Why does the rule not make use of the statutorily listed items that can be found in s. 71.07 (3p) (a) 3., Stats.? Also, why does the rule make no reference to the statutory time period within which the credits may be applied for?