



State of Wisconsin
2009 - 2010 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2009 ASSEMBLY BILL 773**

April 16, 2010 – Offered by Representative FRISKE.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45
2 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (3x), 71.10 (4) (cr), 71.28 (3x), 71.30
3 (3) (dn), 71.47 (3x) and 71.49 (1) (dn) of the statutes; **relating to:** income and
4 franchise tax credits for insulating concrete forms used to construct a building
5 and recycled glass aggregate.

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, as affected by 2009 Wisconsin Act
7 28, is amended to read:
8 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
9 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
10 (3t), (3w), (3x), (5e), (5f), (5h), (5i), (5j), (5k), and (8r) and not passed through by a
11 partnership, limited liability company, or tax-option corporation that has added that

1 amount to the partnership's, company's, or tax-option corporation's income under s.
2 71.21 (4) or 71.34 (1k) (g).

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

4 **71.07 (3x) INSULATING CONCRETE FORMS AND RECYCLED GLASS AGGREGATE CREDIT.**

5 (a) *Definitions.* In this subsection:

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

7 2. "Insulating concrete form" means a hollow expandable polystyrene form
8 system that is filled with concrete, but does not include the concrete used to fill the
9 form.

10 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
11 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
12 amount of the taxes, an amount equal to the amount that the claimant paid in the
13 taxable year to purchase for use in this state insulating concrete forms used to
14 construct the insulated exterior and interior walls of any building or recycled glass
15 aggregate used to permit water to drain away from a building or through a
16 nonimpervious sidewalk, driveway, or parking lot surface.

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

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

4 71.10 (4) (cr) Insulating concrete forms and recycled glass aggregate credit
5 under s. 71.07 (3x).

6 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
7 amended to read:

8 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
9 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s), (3t), (3w),
10 ~~(3x)~~, (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and passed through to partners shall
11 be added to the partnership's income.

12 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2009 Wisconsin Act 28,
13 is amended to read:

14 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
15 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3t),
16 (3w), ~~(3x)~~, (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and not passed through by a
17 partnership, limited liability company, or tax-option corporation that has added that
18 amount to the partnership's, limited liability company's, or tax-option corporation's
19 income under s. 71.21 (4) or 71.34 (1k) (g).

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

21 71.28 (3x) INSULATING CONCRETE FORMS AND RECYCLED GLASS AGGREGATE CREDIT.

22 (a) *Definitions*. In this subsection:

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

1 2. “Insulating concrete form” means a hollow expandable polystyrene form
2 system that is filled with concrete, but does not include the concrete used to fill the
3 form.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
5 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
6 amount of the taxes, an amount equal to the amount that the claimant paid in the
7 taxable year to purchase for use in this state insulating concrete forms used to
8 construct the insulated exterior and interior walls of any building or recycled glass
9 aggregate used to permit water to drain away from a building or through a
10 nonimpervious sidewalk, driveway, or parking lot surface.

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

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

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

22 71.30 (3) (dn) Insulating concrete forms and recycled glass aggregate credit
23 under s. 71.28 (3x).

24 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 28,
25 is amended to read:

1 71.34 **(1k)** (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), (1dy),
3 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3t), (3w), ~~(3x)~~, (5e), (5f), (5g), (5h), (5i), (5j), (5k),
4 and (8r) and passed through to shareholders.

5 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
6 28, is amended to read:

7 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
8 computed under s. 71.47 (1dd) to (1dy), (3g), (3h), (3n), (3p), (3q), (3r), (3w), ~~(3x)~~, (5e),
9 (5f), (5g), (5h), (5i), (5j), (5k), and (8r) and not passed through by a partnership,
10 limited liability company, or tax-option corporation that has added that amount to
11 the partnership's, limited liability company's, or tax-option corporation's income
12 under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47
13 (1), (3), (3t), (4), (4m), and (5).

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

15 71.47 **(3x)** INSULATING CONCRETE FORMS AND RECYCLED GLASS AGGREGATE CREDIT.

16 (a) *Definitions.* In this subsection:

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

18 2. "Insulating concrete form" means a hollow expandable polystyrene form
19 system that is filled with concrete, but does not include the concrete used to fill the
20 form.

21 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
22 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
23 amount of the taxes, an amount equal to the amount that the claimant paid in the
24 taxable year to purchase for use in this state insulating concrete forms used to
25 construct the insulated exterior and interior walls of any building or recycled glass

1 aggregate used to permit water to drain away from a building or through a
2 nonimpervious sidewalk, driveway, or parking lot surface.

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

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

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

14 71.49 (1) (dn) Insulating concrete forms and recycled glass aggregate credit
15 under s. 71.47 (3x).

16 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 28, is
17 amended to read:

18 77.92 (4) “Net business income,” with respect to a partnership, means taxable
19 income as calculated under section 703 of the Internal Revenue Code; plus the items
20 of income and gain under section 702 of the Internal Revenue Code, including taxable
21 state and municipal bond interest and excluding nontaxable interest income or
22 dividend income from federal government obligations; minus the items of loss and
23 deduction under section 702 of the Internal Revenue Code, except items that are not
24 deductible under s. 71.21; plus guaranteed payments to partners under section 707
25 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),

1 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3s),
2 (3t), (3w), ~~(3x)~~, (5e), (5f), (5g), (5h), (5i), (5j), (5k), and (8r); and plus or minus, as
3 appropriate, transitional adjustments, depreciation differences, and basis
4 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
5 loss, and deductions from farming. "Net business income," with respect to a natural
6 person, estate, or trust, means profit from a trade or business for federal income tax
7 purposes and includes net income derived as an employee as defined in section 3121
8 (d) (3) of the Internal Revenue Code.

9 **SECTION 13. Initial applicability.**

10 (1) This act first applies to taxable years beginning on January 1, 2010.

11 (END)