



State of Wisconsin
2011 - 2012 LEGISLATURE

January 2011 Special Session



LRBs0011/1
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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO ASSEMBLY BILL 3**

January 18, 2011 - Offered by JOINT COMMITTEE ON FINANCE.

1 **AN ACT** *to amend* 71.26 (2) (a) 4. and 71.45 (2) (a) 10.; and *to create* 71.05 (6)
2 (b) 47., 71.26 (2) (a) 10., 71.28 (9s), 71.30 (3) (ex), 71.47 (9s) and 71.49 (1) (ex)
3 of the statutes; **relating to:** income and franchise tax deductions and credits
4 for businesses that relocate to this state and granting rule-making authority.

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

5 **SECTION 1.** 71.05 (6) (b) 47. of the statutes is created to read:

6 71.05 (6) (b) 47. a. In this subdivision, "locates to this state" means moving
7 either 51 percent or more of the workforce payroll of the business or at least \$200,000
8 of wages, as defined in section 3121 of the Internal Revenue Code, paid to such
9 workforce to Wisconsin during the first taxable year to which a modification under
10 this subdivision relates.

11 am. For taxable years beginning after December 31, 2010, for 2 consecutive
12 taxable years beginning with the taxable year in which the claimant's business

1 locates to this state from another state and begins doing business in this state, as
2 defined in s. 71.22 (1r), and subject to the limitations provided under subd. 47. d. and
3 e., the profit or loss from a trade or business as reported on federal income tax return
4 schedules C and F or their equivalents, plus ordinary gain or loss on the sale of
5 business assets, as determined under s. 71.01 (6), but not less than zero, multiplied
6 by the apportionment fraction determined in s. 71.04 (4) and subject to s. 71.04 (7).

7 b. With respect to partners and members of limited liability companies, for
8 taxable years beginning after December 31, 2010, for 2 consecutive taxable years
9 beginning with the taxable year in which the partnership's or limited liability
10 company's business locates to this state from another state and begins doing
11 business in this state, as defined in s. 71.22 (1r), and subject to the limitations
12 provided under subd. 47. d. and e., the partner's or member's distributive share of
13 taxable income as calculated under section 703 of the Internal Revenue Code; plus
14 the items of income and gain under section 702 of the Internal Revenue Code,
15 including taxable state and municipal bond interest and excluding nontaxable
16 interest income or dividend income from federal government obligations; minus the
17 items of loss and deduction under section 702 of the Internal Revenue Code, except
18 items that are not deductible under s. 71.21; plus guaranteed payments to partners
19 under section 707 (c) of the Internal Revenue Code; plus the credits claimed under
20 s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n),
21 (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r),
22 (5rm), and (8r); and plus or minus, as appropriate, transitional adjustments,
23 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
24 (19), multiplied by the apportionment fraction determined in s. 71.04 (4) and subject

1 to s. 71.04 (7) or by separate accounting. No amounts subtracted under this subd.
2 47. b. may be included in the modification under par. (b) 9. or 9m.

3 c. With respect to shareholders of a tax-option corporation, for taxable years
4 beginning after December 31, 2010, for 2 consecutive taxable years beginning with
5 the taxable year in which the tax-option corporation's business locates to this state
6 from another state and begins doing business in this state, as defined in s. 71.22 (1r),
7 and subject to the limitations provided under subd. 47. d. and e., the shareholder's
8 distributive share of the entity's net income or loss as determined under this chapter,
9 including interest income from federal, state, and municipal government
10 obligations, multiplied by the apportionment fraction determined in s. 71.25 (6m)
11 and subject to s. 71.25 (9) or by separate accounting. No amounts subtracted under
12 this subdivision may be included in the modification under par. (b) 9. or 9m.

13 d. No modification may be made under this subdivision if the person,
14 partnership, limited liability company, or tax-option corporation has done business
15 in this state during any of the 10 taxable years preceding the first taxable year in
16 which the modification would otherwise be allowed.

17 e. The department shall promulgate rules to administer this subdivision.

18 **SECTION 2.** 71.26 (2) (a) 4. of the statutes is amended to read:

19 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
20 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
21 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), and (8r), and (9s)
22 and not passed through by a partnership, limited liability company, or tax-option
23 corporation that has added that amount to the partnership's, limited liability
24 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

25 **SECTION 3.** 71.26 (2) (a) 10. of the statutes is created to read:

1 71.26 (2) (a) 10. Minus the amount computed under 71.05 (6) (b) 47. b.

2 **SECTION 4.** 71.28 (9s) of the statutes is created to read:

3 71.28 (9s) RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection:

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

5 2. “Locates to this state” means moving either 51 percent or more of the
6 workforce payroll of the business or at least \$200,000 of wages, as defined in section
7 3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the
8 first taxable year to which a credit under this subsection relates.

9 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
10 taxable years beginning after December 31, 2010, for 2 consecutive taxable years
11 beginning with the taxable year in which the claimant’s business locates to this state
12 from another state and begins doing business in this state, a claimant may claim as
13 a credit against the taxes imposed under s. 71.23, up to the amount of the taxes, the
14 amount of the claimant’s tax liability under this subchapter after applying all other
15 allowable credits, deductions, and exclusions.

16 (c) *Limitations.* 1. No person may claim a credit under this subsection if the
17 person has done business in this state during any of the 10 taxable years preceding
18 the first taxable year in which the person would otherwise be eligible to claim a credit
19 under par. (b).

20 2. Partnerships, limited liability companies, and tax-option corporations may
21 not claim the credit under this subsection.

22 (d) *Administration.* 1. Subsection (4) (g) and (h), as it applies to the credit
23 under sub. (4), applies to the credit under this subsection.

24 2. The department shall promulgate rules to administer this subsection.

25 **SECTION 5.** 71.30 (3) (ex) of the statutes is created to read:

1 71.30 (3) (ex) Relocated business credit under s. 71.28 (9s).

2 **SECTION 6.** 71.45 (2) (a) 10. of the statutes is amended to read:

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

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

11 71.47 (9s) RELOCATED BUSINESS CREDIT. (a) *Definition.* In this subsection:

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

13 2. "Locates to this state" means moving either 51 percent or more of the
14 workforce payroll of the business or at least \$200,000 of wages, as defined in section
15 3121 of the Internal Revenue Code, paid to such workforce to Wisconsin during the
16 first year to which a credit under this subsection relates.

17 (b) *Filing claims.* Subject to the limitations provided under this subsection, for
18 taxable years beginning after December 31, 2010, for 2 consecutive taxable years
19 beginning with the taxable year in which the claimant's business locates to this state
20 from another state and begins doing business in this state, a claimant may claim as
21 a credit against the taxes imposed under s. 71.43, up to the amount of the taxes, the
22 amount of the claimant's tax liability under this subchapter after applying all other
23 allowable credits, deductions, and exclusions.

24 (c) *Limitations.* 1. No person may claim a credit under this subsection if the
25 person has done business in this state during any of the 10 taxable years preceding

1 the first taxable year in which the person would otherwise be eligible to claim a credit
2 under par. (b).

3 2. Partnerships, limited liability companies, and tax-option corporations may
4 not claim the credit under this subsection.

5 (d) *Administration.* 1. Section 71.28 (4) (g) and (h), as it applies to the credit
6 under s. 71.28 (4), applies to the credit under this subsection.

7 2. The department shall promulgate rules to administer this subsection.

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

9 71.49 (1) (ex) Relocated business credit under s. 71.47 (9s).

10 **SECTION 9. Nonstatutory provisions.**

11 (1) **REQUIRED GENERAL FUND BALANCE.** Section 20.003 (4) of the statutes does not
12 apply to the action of the legislature in enacting this act.

13 (END)