



1997 ASSEMBLY BILL 901

March 11, 1998 - Introduced by Representatives SPILLNER, OTT, GREEN, MUSSER, HAHN, OLSEN and LORGE, cosponsored by Senator ROESSLER. Referred to Committee on Agriculture.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.21 (4), 71.26 (2) (a), 71.34
2 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (3e), 71.10 (4) (cm),
3 71.28 (2e), 71.30 (3) (cm), 71.47 (2e) and 71.49 (1) (cm) of the statutes; **relating**
4 **to:** creating a nonrefundable income and franchise tax credit for agricultural
5 education expenses, investments and sales taxes.

Analysis by the Legislative Reference Bureau

This bill creates a nonrefundable individual income tax credit and a nonrefundable corporate income and franchise tax credit for various education and environmental costs and expenses incurred by persons actively engaged in farming. Because the credits are nonrefundable, no refund will be paid to a claimant if the amount of the credit for which the claimant is otherwise eligible exceeds the claimant's tax liability.

Under the bill, and subject to some limitations, an individual or corporate claimant may claim against taxes imposed 5% of the educational costs incurred by the claimant for the claimant, or the corporate claimant's employes, to attend courses in the fields of agriculture or farm management. An individual or corporate claimant may also claim, under the bill, 5% of the cost expended by a claimant to do any of the following: 1) construct or repair water and waste management systems that are related to farming; 2) limit and control soil erosion on the claimant's farmland; 3) reforest the claimant's farmland; and 4) take corrective action to restore the environment to minimize the effects of a discharge of agricultural chemicals on the claimant's farmland.

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This bill will be referred to the joint survey committee on tax exemptions for a detailed analysis, which will be printed as an appendix to this bill.

For further information see the *state and local* 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, as affected by 1997 Wisconsin Act
2 27, is amended to read:

3 71.05 **(6)** (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
4 (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (3e) and (3s) and not passed through by a
5 partnership, limited liability company or tax-option corporation that has added that
6 amount to the partnership's, company's or tax-option corporation's income under s.
7 71.21 (4) or 71.34 (1) (g).

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

9 71.07 **(3e)** FARMLAND EDUCATION, INVESTMENT AND SALES TAX CREDIT. (a)

10 *Definitions.* In this subsection:

11 1. "Agricultural use" has the meaning given in s. 91.01 (1).

12 2. "Claimant" has the meaning given in sub. (3m) (a) 1.

13 3. "Department" means the department of revenue.

14 4. "Educational expenses" means amounts paid by the claimant for tuition and
15 textbooks that relate to the claimant's attendance at an eligible institution.

16 5. "Eligible institution" means a center or institution within the University of
17 Wisconsin System, a technical college that is located in this state or any institution
18 of higher education located in this state that grants a bachelor's or higher degree and
19 that is accredited by the North Central Association of Colleges and Schools, the

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1 Independent Schools Association of the Central States or the Wisconsin Nonpublic
2 School Accrediting Association.

3 6. "Farming" means being actively engaged in a trade or business that involves
4 the agricultural use of farmland.

5 7. "Farmland" has the meaning given in sub. (3m) (a) 3.

6 8. "Livestock" means cattle, swine, sheep, goats and other species of animals
7 that may be used in the production of food for human consumption.

8 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
9 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
10 amount of those taxes, any of the following amounts for which the claimant is
11 eligible:

12 1. An amount equal to 5% of the educational expenses incurred by the claimant,
13 in the year to which the claim relates, for the claimant to attend courses in the fields
14 of agriculture or farm management at an eligible institution.

15 2. An amount equal to 5% of the cost expended by a claimant, in the year to
16 which the claim relates, to do any of the following on the claimant's farmland:

17 a. Construct, renovate or repair water and waste management systems.

18 b. Limit and control soil erosion.

19 c. Engage in the reforestation of farmland.

20 d. Take corrective action, as defined in s. 94.73 (1) (b).

21 (c) *Limitations.* No credit may be allowed under this subsection:

22 1. Unless a claim is filed with the department in conformity with the filing
23 requirements in s. 71.03 (6) and (7).

24 2. Unless it is claimed within the time period under s. 71.75 (2).

ASSEMBLY BILL 901**SECTION 2**

1 3. If the department determines that ownership of the farmland has been
2 transferred to the claimant for the purpose of maximizing benefits under this
3 subsection.

4 4. If the department determines that the claimant is not farming in the year
5 to which the claim relates.

6 (d) *Change of business, carry-over, administration, timeliness, nonclaimants.*
7 Section 71.28 (4) (e), (f), (g), (h) and (i), as it applies to the credit under s. 71.28 (4),
8 applies to the credit under this subsection.

9 **SECTION 3.** 71.08 (1) (intro.) of the statutes, as affected by 1997 Wisconsin Act
10 27, is amended to read:

11 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
12 couple filing jointly, trust or estate under s. 71.02, not considering the credits under
13 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), ~~(3e)~~, (3m), (6) and
14 (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd) and (2m) and 71.47 (1dd),
15 (1de), (1di), (1dj), (1dL), (1ds), (1dx), (1fd) and (2m) and subchs. VIII and IX and
16 payments to other states under s. 71.07 (7), is less than the tax under this section,
17 there is imposed on that natural person, married couple filing jointly, trust or estate,
18 instead of the tax under s. 71.02, an alternative minimum tax computed as follows:

19 **SECTION 4.** 71.10 (4) (cm) of the statutes is created to read:

20 71.10 (4) (cm) Farmland education, investment and sales tax credit under s.
21 71.07 (3e).

22 **SECTION 5.** 71.21 (4) of the statutes, as affected by 1997 Wisconsin Act 27, is
23 amended to read:

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1 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
2 (2dj), (2dL), (2ds), (2dx), ~~(3e)~~ and (3s) and passed through to partners shall be added
3 to the partnership's income.

4 **SECTION 6.** 71.26 (2) (a) of the statutes, as affected by 1997 Wisconsin Act 27,
5 is amended to read:

6 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
7 the gross income as computed under the internal revenue code as modified under
8 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
9 computed under s. 71.28 (1) and (3) to (5) plus the amount of the credit computed
10 under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds) ~~and~~, (1dx) and (2e) and not passed
11 through by a partnership, limited liability company or tax-option corporation that
12 has added that amount to the partnership's, limited liability company's or tax-option
13 corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from
14 the sale or other disposition of assets the gain from which would be wholly exempt
15 income, as defined in sub. (3) (L), if the assets were sold or otherwise disposed of at
16 a gain and minus deductions, as computed under the internal revenue code as
17 modified under sub. (3), plus or minus, as appropriate, an amount equal to the
18 difference between the federal basis and Wisconsin basis of any asset sold,
19 exchanged, abandoned or otherwise disposed of in a taxable transaction during the
20 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

21 **SECTION 7.** 71.28 (2e) of the statutes is created to read:

22 71.28 (2e) FARMLAND EDUCATION, INVESTMENT AND SALES TAX CREDIT. (a)

23 *Definitions.* In this subsection:

24 1. "Agricultural use" has the meaning given in s. 91.01 (1).

25 2. "Claimant" has the meaning given in sub. (2m) (a) 1.

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1 3. "Department" means the department of revenue.

2 4. "Educational expenses" means amounts paid by the claimant for tuition and
3 textbooks that relate to the claimant's employe's attendance at an eligible
4 institution.

5 5. "Eligible institution" means a center or institution within the University of
6 Wisconsin System, a technical college that is located in this state or any institution
7 of higher education located in this state that grants a bachelor's or higher degree and
8 that is accredited by the North Central Association of Colleges and Schools, the
9 Independent Schools Association of the Central States or the Wisconsin Nonpublic
10 School Accrediting Association.

11 6. "Farming" means being actively engaged in a trade or business that involves
12 the agricultural use of farmland.

13 7. "Farmland" has the meaning given in sub. (2m) (a) 3.

14 8. "Livestock" means cattle, swine, sheep, goats and other species of animals
15 that may be used in the production of food for human consumption.

16 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
17 claimant may claim as a credit against the tax imposed under s. 71.23, up to the
18 amount of those taxes, any of the following amounts for which the claimant is
19 eligible:

20 1. An amount equal to 5% of the educational expenses incurred by the claimant,
21 in the year to which the claim relates, for the claimant's employes to attend courses
22 in the fields of agriculture or farm management at an eligible institution.

23 2. An amount equal to 5% of cost expended by a claimant, in the year to which
24 the claim relates, to do any of the following on the claimant's farmland:

25 a. Construct, renovate or repair water and waste management systems.

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1 b. Limit and control soil erosion.

2 c. Engage in the reforestation of farmland.

3 d. Take corrective action, as defined in s. 94.73 (1) (b).

4 (c) *Limitations.* No credit may be allowed under this subsection:

5 1. Unless a claim is filed with the department in conformity with the filing
6 requirements in s. 71.24 (1), (6) and (7).

7 2. If the department determines that ownership of the farmland has been
8 transferred to the claimant for the purpose of maximizing benefits under this
9 subsection.

10 3. If the department determines that the claimant is not farming in the year
11 to which the claim relates.

12 (d) *Change of business, carry-over, administration, timeliness, nonclaimants.*
13 Subsection (4) (e), (f), (g), (h) and (i), as it applies to the credit under sub. (4), applies
14 to the credit under this subsection.

15 **SECTION 8.** 71.30 (3) (cm) of the statutes is created to read:

16 71.30 (3) (cm) Farmland education, investment and sales tax credit under s.
17 71.28 (2e).

18 **SECTION 9.** 71.34 (1) (g) of the statutes, as affected by 1997 Wisconsin Act 27,
19 is amended to read:

20 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
21 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds), (1dx) ~~and, (2e) and~~
22 (3) and passed through to shareholders.

23 **SECTION 10.** 71.45 (2) (a) 10. of the statutes, as affected by 1997 Wisconsin Act
24 27, is amended to read:

ASSEMBLY BILL 901**SECTION 10**

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) and (2e) and not passed through by a
3 partnership, limited liability company or tax-option corporation that has added that
4 amount to the partnership's, limited liability company's or tax-option corporation's
5 income under s. 71.21 (4) or 71.34 (1) (g) and the amount of credit computed under
6 s. 71.47 (1), (3), (4) and (5).

7 **SECTION 11.** 71.47 (2e) of the statutes is created to read:

8 71.47 (2e) FARMLAND EDUCATION, INVESTMENT AND SALES TAX CREDIT. (a)

9 *Definitions.* In this subsection:

10 1. "Agricultural use" has the meaning given in s. 91.01 (1).

11 2. "Claimant" has the meaning given in sub. (2m) (a) 1.

12 3. "Department" means the department of revenue.

13 4. "Educational expenses" means amounts paid by the claimant for tuition and
14 textbooks that relate to the claimant's employee's attendance at an eligible institution

15 5. "Eligible institution" means a center or institution within the University of
16 Wisconsin System, a technical college that is located in this state or any institution
17 of higher education located in this state that grants a bachelor's or higher degree and
18 that is accredited by the North Central Association of Colleges and Schools, the
19 Independent Schools Association of the Central States or the Wisconsin Nonpublic
20 School Accrediting Association.

21 6. "Farming" means being actively engaged in a trade or business that involves
22 the agricultural use of farmland.

23 7. "Farmland" has the meaning given in sub. (2m) (a) 3.

24 8. "Livestock" means cattle, swine, sheep, goats and other species of animals
25 that may be used in the production of food for human consumption.

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1 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
2 claimant may claim as a credit against the tax imposed under s. 71.43, up to the
3 amount of those taxes, any of the following amounts for which the claimant is
4 eligible:

5 1. An amount equal to 5% of the educational expenses incurred by the claimant,
6 in the year to which the claim relates, for the claimant's employes to attend courses
7 in the fields of agriculture or farm management at an eligible institution.

8 2. An amount equal to 5% of cost expended by a claimant, in the year to which
9 the claim relates, to do any of the following on the claimant's farmland:

10 a. Construct, renovate or repair water and waste management systems.

11 b. Limit and control soil erosion.

12 c. Engage in the reforestation of farmland.

13 d. Take corrective action, as defined in s. 94.73 (1) (b).

14 (c) *Limitations.* No credit may be allowed under this subsection:

15 1. Unless a claim is filed with the department in conformity with the filing
16 requirements in s. 71.44 (1), (2) and (3).

17 2. If the department determines that ownership of the farmland has been
18 transferred to the claimant for the purpose of maximizing benefits under this
19 subsection.

20 3. If the department determines that the claimant is not farming in the year
21 to which the claim relates.

22 (d) *Change of business, carry-over, administration, timeliness, nonclaimants.*
23 Subsection (4) (e), (f), (g), (h) and (i), as it applies to the credit under sub. (4), applies
24 to the credit under this subsection.

25 **SECTION 12.** 71.49 (1) (cm) of the statutes is created to read:

