



2007 ASSEMBLY BILL 381

May 31, 2007 - Introduced by Representatives WIECKERT, HAHN, GRONEMUS, MUSSER, MURSAU, MASON, TAUCHEN, A. OTT, HINES, BIES, ALBERS, TOWNSEND, GUNDERSON and MURTHA, cosponsored by Senators LEIBHAM and ROESSLER. Referred to Committee on Agriculture.

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 (5j), 71.10 (4) (cq), 71.28 (5j), 71.30 (3)
3 (dq), 71.47 (5j) and 71.49 (1) (dq) of the statutes; **relating to:** an income and
4 franchise tax credit for sales and use taxes paid on the purchase of electricity
5 used in agricultural biotechnology.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for the amount of the sales and use tax that a taxpayer pays in the taxable year on the purchase of electricity used in agricultural biotechnology. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but, instead, may claim the amount of any unused credit in subsequent taxable years.

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:

6 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

ASSEMBLY BILL 381**SECTION 1**

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

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

7 71.07 (5j) AGRICULTURAL BIOTECHNOLOGY CREDIT. (a) *Definitions.* In this
8 subsection:

9 1. "Agricultural biotechnology" means the application of technologies,
10 including recombinant deoxyribonucleic acid techniques, biochemistry, molecular
11 and cellular biology, genetics, genetic engineering, biological cell fusion techniques,
12 and new bioprocesses, that use living organisms or parts of organisms to produce or
13 modify products, improve plants or animals used in agriculture, develop
14 microorganisms for specific agricultural uses, identify targets for small molecule
15 pharmaceutical development for agricultural use, or transform biological systems
16 into useful agricultural processes and products.

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

18 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
19 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
20 amount of those taxes, an amount that is equal to the amount of the taxes imposed
21 under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase
22 of any of electricity consumed in product research or product development for
23 agricultural biotechnology in this state.

24 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
25 corporations may not claim the credit under this subsection, but the eligibility for,

ASSEMBLY BILL 381

1 and the amount of, the credit are based on their payment of amounts described under
2 par. (b). A partnership, limited liability company, or tax-option corporation shall
3 compute the amount of credit that each of its partners, members, or shareholders
4 may claim and shall provide that information to each of them. Partners, members
5 of limited liability companies, and shareholders of tax-option corporations may
6 claim the credit in proportion to their ownership interests.

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

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

10 71.10 (4) (cq) Agricultural biotechnology credit under s. 71.07 (5j).

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

12 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
13 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~
14 and (5j) and passed through to partners shall be added to the partnership's income.

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

16 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
17 the gross income as computed under the Internal Revenue Code as modified under
18 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
19 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
20 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
21 under this paragraph at the time that the taxpayer first claimed the credit plus the
22 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
23 (1ds), (1dx), (3g), (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h), and (5j)~~ and not passed
24 through by a partnership, limited liability company, or tax-option corporation that
25 has added that amount to the partnership's, limited liability company's, or

ASSEMBLY BILL 381**SECTION 5**

1 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) plus the amount
2 of losses from the sale or other disposition of assets the gain from which would be
3 wholly exempt income, as defined in sub. (3) (L), if the assets were sold or otherwise
4 disposed of at a gain and minus deductions, as computed under the Internal Revenue
5 Code as modified under sub. (3), plus or minus, as appropriate, an amount equal to
6 the difference between the federal basis and Wisconsin basis of any asset sold,
7 exchanged, abandoned, or otherwise disposed of in a taxable transaction during the
8 taxable year, except as provided in par. (b) and s. 71.45 (2) and (5).

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

10 71.28 (5j) AGRICULTURAL BIOTECHNOLOGY CREDIT. (a) *Definitions.* In this
11 subsection:

12 1. "Agricultural biotechnology" means the application of technologies,
13 including recombinant deoxyribonucleic acid techniques, biochemistry, molecular
14 and cellular biology, genetics, genetic engineering, biological cell fusion techniques,
15 and new bioprocesses, that use living organisms or parts of organisms to produce or
16 modify products, improve plants or animals used in agriculture, develop
17 microorganisms for specific agricultural uses, identify targets for small molecule
18 pharmaceutical development for agricultural use, or transform biological systems
19 into useful agricultural processes and products.

20 2. "Claimant" means a person who files a claim under this subsection.

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. 71.23, up to the
23 amount of those taxes, an amount that is equal to the amount of the taxes imposed
24 under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase

ASSEMBLY BILL 381

1 of any of electricity consumed in product research or product development for
2 agricultural biotechnology in this state.

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 amounts described under
6 par. (b). A partnership, limited liability company, or tax-option corporation shall
7 compute the amount of credit that each of its partners, members, or shareholders
8 may claim and shall provide that information to each of them. Partners, members
9 of limited liability companies, and shareholders of tax-option corporations may
10 claim the credit in proportion to their ownership interests.

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

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

14 71.30 (3) (dq) Agricultural biotechnology credit under s. 71.28 (5j).

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

16 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
17 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
18 (3n), (3t), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and (5j) and passed through to
19 shareholders.

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

21 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
22 computed under s. 71.47 (1dd) to (1dx), (3n), (3w), (5b), (5e), (5f), (5g), ~~and (5h),~~ and
23 (5j) and not passed through by a partnership, limited liability company, or tax-option
24 corporation that has added that amount to the partnership's, limited liability

ASSEMBLY BILL 381**SECTION 9**

1 company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and
2 the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

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

4 71.47 (5j) AGRICULTURAL BIOTECHNOLOGY CREDIT. (a) *Definitions.* In this
5 subsection:

6 1. "Agricultural biotechnology" means the application of technologies,
7 including recombinant deoxyribonucleic acid techniques, biochemistry, molecular
8 and cellular biology, genetics, genetic engineering, biological cell fusion techniques,
9 and new bioprocesses, that use living organisms or parts of organisms to produce or
10 modify products, improve plants or animals used in agriculture, develop
11 microorganisms for specific agricultural uses, identify targets for small molecule
12 pharmaceutical development for agricultural use, or transform biological systems
13 into useful agricultural processes and products.

14 2. "Claimant" means a person who files a claim under this subsection.

15 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
16 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
17 amount of those taxes, an amount that is equal to the amount of the taxes imposed
18 under ss. 77.52 and 77.53 that the claimant paid in the taxable year on the purchase
19 of electricity consumed in product research or product development for agricultural
20 biotechnology in this state.

21 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
22 corporations may not claim the credit under this subsection, but the eligibility for,
23 and the amount of, the credit are based on their payment of amounts described under
24 par. (b). A partnership, limited liability company, or tax-option corporation shall
25 compute the amount of credit that each of its partners, members, or shareholders

ASSEMBLY BILL 381

1 may claim and shall provide that information to each of them. Partners, members
2 of limited liability companies, and shareholders of tax-option corporations may
3 claim the credit in proportion to their ownership interests.

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

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

7 71.49 (1) (dq) Agricultural biotechnology credit under s. 71.47 (5j).

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

9 77.92 (4) “Net business income,” with respect to a partnership, means taxable
10 income as calculated under section 703 of the Internal Revenue Code; plus the items
11 of income and gain under section 702 of the Internal Revenue Code, including taxable
12 state and municipal bond interest and excluding nontaxable interest income or
13 dividend income from federal government obligations; minus the items of loss and
14 deduction under section 702 of the Internal Revenue Code, except items that are not
15 deductible under s. 71.21; plus guaranteed payments to partners under section 707
16 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
17 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (3w), (5b), (5e), (5f),
18 (5g), ~~and (5h), and (5j)~~; and plus or minus, as appropriate, transitional adjustments,
19 depreciation differences, and basis differences under s. 71.05 (13), (15), (16), (17), and
20 (19); but excluding income, gain, loss, and deductions from farming. “Net business
21 income,” with respect to a natural person, estate, or trust, means profit from a trade
22 or business for federal income tax purposes and includes net income derived as an
23 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

24 **SECTION 13. Initial applicability.**

