



2011 SENATE BILL 227

October 11, 2011 – Introduced by Senators LEIBHAM and KEDZIE, cosponsored by Representatives ENDSLEY, A. OTT, SPANBAUER, BROOKS, BIES and KESTELL. Referred to Committee on Economic Development and Veterans and Military Affairs.

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 (9g), 71.10 (4) (cr), 71.28 (9g), 71.30
3 (3) (dn), 71.47 (9g) 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 energy efficient products.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit equal to the amount that the taxpayer pays in the taxable year to purchase or manufacture insulating concrete forms used to construct a building and energy efficient products. If the amount of the credit exceeds the taxpayer's tax liability, the taxpayer does not receive a refund, but may claim the amount of any unused credit in subsequent taxable years.

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:

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

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

7 **SECTION 2.** 71.07 (9g) of the statutes is created to read:

8 71.07 **(9g)** INSULATING CONCRETE FORMS AND ENERGY EFFICIENT PRODUCTS CREDIT.

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

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

11 2. "Insulating concrete form" means a hollow expandable polystyrene form
12 system that is filled with concrete and includes the concrete used to fill the form.

13 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
15 amount of the taxes, an amount equal to the amount that the claimant paid in the
16 taxable year to purchase any of the following for use in this state or to manufacture
17 any of the following in this state:

18 1. Insulating concrete forms used to construct the foundation walls, frost walls,
19 or insulated interior or exterior walls of any building.

20 2. Any item of tangible personal property that is governed by and satisfies any
21 of the following standards for energy efficiency:

22 a. The 2001 supplement of the 2000 International Energy Conservation Code.

23 b. The 2004 supplement of the 2003 International Energy Conservation Code.

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1 c. The 2007 energy efficiency guidelines established by the federal
2 environmental protection agency and the federal department of energy under the
3 Energy Star program.

4 (c) *Limitations.* 1. No person may claim a credit under this subsection for any
5 item for which the person has received a rebate under any state program, including
6 a state program operated in conjunction with private entities.

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

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

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

18 71.10 (4) (cr) Insulating concrete forms and energy efficient products credit
19 under s. 71.07 (9g).

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

21 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
22 (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s),
23 (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), ~~and (8r), and (9g)~~ and passed
24 through to partners shall be added to the partnership's income.

SENATE BILL 227**SECTION 5**

1 **SECTION 5.** 71.26 (2) (a) 4. of the statutes, as affected by 2011 Wisconsin Act 3,
2 is amended to read:

3 71.26 **(2)** (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
4 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3q), (3r),
5 (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), (8r), (9g), and
6 (9s) and not passed through by a partnership, limited liability company, or
7 tax-option corporation that has added that amount to the partnership's, limited
8 liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k)
9 (g).

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

11 71.28 **(9g)** INSULATING CONCRETE FORMS AND ENERGY EFFICIENT PRODUCTS CREDIT.

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

- 13 1. "Claimant" means a person who files a claim under this subsection.
14 2. "Insulating concrete form" means a hollow expandable polystyrene form
15 system that is filled with concrete and includes the concrete used to fill the form.

16 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
17 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
18 amount of the taxes, an amount equal to the amount that the claimant paid in the
19 taxable year to purchase any of the following for use in this state or to manufacture
20 any of the following in this state:

21 1. Insulating concrete forms used to construct the foundation walls, frost walls,
22 or insulated interior or exterior walls of any building.

23 2. Any item of tangible personal property that is governed by and satisfies any
24 of the following standards for energy efficiency:

25 a. The 2001 supplement of the 2000 International Energy Conservation Code.

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1 b. The 2004 supplement of the 2003 International Energy Conservation Code.

2 c. The 2007 energy efficiency guidelines established by the federal
3 environmental protection agency and the federal department of energy under the
4 Energy Star program.

5 (c) *Limitations.* 1. No person may claim a credit under this subsection for any
6 item for which the person has received a rebate under any state program, including
7 a state program operated in conjunction with private entities.

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

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

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

19 71.30 (3) (dn) Insulating concrete forms and energy efficient products credit
20 under s. 71.28 (9g).

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

22 71.34 (1k) (g) An addition shall be made for credits computed by a tax-option
23 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy),
24 (3), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j),
25 (5k), (5r), (5rm), ~~and (8r)~~, and (9g) and passed through to shareholders.

SENATE BILL 227**SECTION 9**

1 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2011 Wisconsin Act
2 3, 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), (8r), (9g), 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 10.** 71.47 (9g) of the statutes is created to read:

11 71.47 **(9g)** INSULATING CONCRETE FORMS AND ENERGY EFFICIENT PRODUCTS CREDIT.

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

- 13 1. "Claimant" means a person who files a claim under this subsection.
14 2. "Insulating concrete form" means a hollow expandable polystyrene form
15 system that is filled with concrete and includes the concrete used to fill the form.

16 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
17 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
18 amount of the taxes, an amount equal to the amount that the claimant paid in the
19 taxable year to purchase any of the following for use in this state or to manufacture
20 any of the following in this state:

21 1. Insulating concrete forms used to construct the foundation walls, frost walls,
22 or insulated interior or exterior walls of any building.

23 2. Any item of tangible personal property that is governed by and satisfies any
24 of the following standards for energy efficiency:

25 a. The 2001 supplement of the 2000 International Energy Conservation Code.

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1 b. The 2004 supplement of the 2003 International Energy Conservation Code.

2 c. The 2007 energy efficiency guidelines established by the federal
3 environmental protection agency and the federal department of energy under the
4 Energy Star program.

5 (c) *Limitations.* 1. No person may claim a credit under this subsection for any
6 item for which the person has received a rebate under any state program, including
7 a state program operated in conjunction with private entities.

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

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

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

19 71.49 (1) (dn) Insulating concrete forms and energy efficient products credit
20 under s. 71.47 (9g).

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

22 77.92 (4) "Net business income," with respect to a partnership, means taxable
23 income as calculated under section 703 of the Internal Revenue Code; plus the items
24 of income and gain under section 702 of the Internal Revenue Code, including taxable
25 state and municipal bond interest and excluding nontaxable interest income or

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1 dividend income from federal government obligations; minus the items of loss and
2 deduction under section 702 of the Internal Revenue Code, except items that are not
3 deductible under s. 71.21; plus guaranteed payments to partners under section 707
4 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
5 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r),
6 (3rm), (3rn), (3s), (3t), (3w), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r), (5rm), ~~and (8r),~~
7 and (9g); and plus or minus, as appropriate, transitional adjustments, depreciation
8 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
9 excluding income, gain, loss, and deductions from farming. “Net business income,”
10 with respect to a natural person, estate, or trust, means profit from a trade or
11 business for federal income tax purposes and includes net income derived as an
12 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

SECTION 13. Initial applicability.

13
14 (1) This act first applies to taxable years beginning on January 1 of the year
15 in which this subsection takes effect, except that if this subsection takes effect after
16 July 31 this act first applies to taxable years beginning on January 1 of the year
17 following the year in which this subsection takes effect.

18 (END)