



2009 ASSEMBLY BILL 300

June 2, 2009 – Introduced by Representatives VAN ROY, SHILLING, ZIPPERER, BROOKS, DANOU, DAVIS, JORGENSEN, KAUFERT, MONTGOMERY, NERISON, NYGREN, PETERSEN, ROTH, SEIDEL, SUDER, TOWNSEND, VOS and VUKMIR, cosponsored by Senators PLALE, HOLPERIN, GROTHMAN, HOPPER, KEDZIE, A. LASEE, LAZICH, LEIBHAM, SCHULTZ and TAYLOR. Referred to Committee on Jobs, the Economy and Small Business.

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 (5n), 71.10 (4) (cs), 71.28 (5n), 71.30
3 (3) (cs), 71.47 (5n) and 71.49 (1) (cs) of the statutes; **relating to:** an income and
4 franchise credit for property taxes paid on restaurant kitchen machinery and
5 equipment.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit in an amount that is equal to the amount of property taxes that a taxpayer paid in the taxable year on machinery and equipment, including refrigerators and other storage equipment, used primarily in the operation of a restaurant's kitchen to prepare or serve food or beverages. Under the bill, a restaurant includes pizza delivery establishments, snack bars, beverage bars, takeout food shops, and mobile food services, including mobile snack stands, mobile canteens, and ice cream vendors.

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:

ASSEMBLY BILL 300**SECTION 1**

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes, as affected by 2009 Wisconsin Act
2 2, 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), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3r), (3s), (3t),
5 (3w), (5e), (5f), (5h), (5i), (5j), ~~and (5k), and (5n)~~ and not passed through by a
6 partnership, limited liability company, or tax-option corporation that has added that
7 amount to the partnership's, company's, or tax-option corporation's income under s.
8 71.21 (4) or 71.34 (1k) (g).

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

10 71.07 **(5n)** RESTAURANT KITCHEN EQUIPMENT CREDIT. (a) *Definitions.* In this
11 subsection:

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

13 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.

14 3. "Restaurant" includes pizza delivery establishments, snack bars, beverage
15 bars, takeout food shops, and mobile food services, including mobile snack stands,
16 mobile canteens, and ice cream vendors.

17 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
18 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
19 amount of those taxes, an amount that is equal to the taxes imposed under ch. 70 that
20 the claimant paid in the taxable year on machinery and equipment, including
21 refrigerators and other storage equipment, used primarily in the operation of a
22 restaurant's kitchen to prepare or serve food or beverages.

23 (c) *Limitations.* Partnerships, limited liability companies, and tax-option
24 corporations may not claim the credit under this subsection, but the eligibility for,
25 and the amount of, the credit are based on their payment of amounts under par. (b).

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1 A partnership, limited liability company, or tax-option corporation shall compute
2 the amount of credit that each of its partners, members, or shareholders may claim
3 and shall provide that information to each of them. Partners, members of limited
4 liability companies, and shareholders of tax-option corporations may claim the
5 credit in proportion to their ownership interests.

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

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

9 71.10 (4) (cs) Restaurant kitchen equipment credit under s. 71.07 (5n).

10 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2009 Wisconsin Act 2, is
11 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), (2dy), (3g), (3h), (3n), (3p), (3r), (3s), (3t), (3w), (5e),
14 (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and (5n) and passed through to partners shall be
15 added to the partnership's income.

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

18 71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dd),
19 (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (1dy), (3g), (3h), (3n), (3p), (3r), (3t), (3w),
20 (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and (5n) and not passed through by a
21 partnership, limited liability company, or tax-option corporation that has added that
22 amount to the partnership's, limited liability company's, or tax-option corporation's
23 income under s. 71.21 (4) or 71.34 (1k) (g).

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

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SECTION 6

1 71.28 (5n) RESTAURANT KITCHEN EQUIPMENT CREDIT. (a) *Definitions*. In this
2 subsection:

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

4 2. “Machinery” has the meaning given in s. 70.11 (27) (a) 2.

5 3. “Restaurant” includes pizza delivery establishments, snack bars, beverage
6 bars, takeout food shops, and mobile food services, including mobile snack stands,
7 mobile canteens, and ice cream vendors.

8 (b) *Filing claims*. Subject to the limitations provided in this subsection, a
9 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
10 amount of those taxes, an amount that is equal to the taxes imposed under ch. 70 that
11 the claimant paid in the taxable year on machinery and equipment, including
12 refrigerators and other storage equipment, used primarily in the operation of a
13 restaurant’s kitchen to prepare or serve food or beverages.

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

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

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

25 71.30 (3) (cs) Restaurant kitchen equipment credit under s. 71.28 (5n).

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1 **SECTION 8.** 71.34 (1k) (g) of the statutes, as affected by 2009 Wisconsin Act 2,
2 is amended to read:

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

7 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2009 Wisconsin Act
8 2, is amended to read:

9 71.45 **(2)** (a) 10. By adding to federal taxable income the amount of credit
10 computed under s. 71.47 (1dd) to (1dy), (3h), (3n), (3p), (3r), (3w), (5e), (5f), (5g), (5h),
11 (5i), (5j), ~~and (5k), and (5n)~~ and not passed through by a partnership, limited liability
12 company, or tax-option corporation that has added that amount to the partnership's,
13 limited liability company's, or tax-option corporation's income under s. 71.21 (4) or
14 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (1), (3), (3t), (4), and
15 (5).

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

17 71.47 **(5n)** RESTAURANT KITCHEN EQUIPMENT CREDIT. (a) *Definitions.* In this
18 subsection:

- 19 1. "Claimant" means a person who files a claim under this subsection.
- 20 2. "Machinery" has the meaning given in s. 70.11 (27) (a) 2.
- 21 3. "Restaurant" includes pizza delivery establishments, snack bars, beverage
22 bars, takeout food shops, and mobile food services, including mobile snack stands,
23 mobile canteens, and ice cream vendors.

24 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
25 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the

ASSEMBLY BILL 300**SECTION 10**

1 amount of those taxes, an amount that is equal to the taxes imposed under ch. 70 that
2 the claimant paid in the taxable year on machinery and equipment, including
3 refrigerators and other storage equipment, used primarily in the operation of a
4 restaurant's kitchen to prepare or serve food or beverages.

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

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

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

16 71.49 (1) (cs) Restaurant kitchen equipment credit under s. 71.47 (5n).

17 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2009 Wisconsin Act 2, is
18 amended to read:

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

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1 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
2 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p), (3r), (3s), (3t),
3 (3w), (5e), (5f), (5g), (5h), (5i), (5j), ~~and (5k)~~, and (5n); and plus or minus, as
4 appropriate, transitional adjustments, depreciation differences, and basis
5 differences under s. 71.05 (13), (15), (16), (17), and (19); but excluding income, gain,
6 loss, and deductions from farming. “Net business income,” with respect to a natural
7 person, estate, or trust, means profit from a trade or business for federal income tax
8 purposes and includes net income derived as an employee as defined in section 3121
9 (d) (3) of the Internal Revenue Code.

10 **SECTION 13. Initial applicability.**

11 (1) This act first applies to taxable years beginning on January 1, 2009.

12 (END)