

State of Wisconsin



2011 Senate Bill 463

Date of enactment: April 5, 2012
Date of publication*: April 19, 2012

2011 WISCONSIN ACT 213

AN ACT to amend 71.07 (5b) (d) 3., 71.07 (5d) (d) 1., 71.28 (5b) (d) 3., 71.47 (5b) (d) 3., 238.15 (1) (intro.), 238.15 (1) (h), 238.15 (1) (j), 238.15 (1) (km) and 238.15 (3) (d) (intro.); and to create 238.15 (1) (m) of the statutes; relating to: the angel investment and early stage seed investment tax credit programs.

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

SECTION 1d. 71.07 (5b) (d) 3. of the statutes, as affected by [2011 Wisconsin Act 32](#), is amended to read:

71.07 (5b) (d) 3. ~~For~~ Except as provided under s. 238.15 (3) (d) (intro.), for investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

SECTION 1h. 71.07 (5d) (d) 1. of the statutes, as affected by [2011 Wisconsin Act 32](#), is amended to read:

71.07 (5d) (d) 1. ~~For~~ Except as provided under s. 238.15 (3) (d) (intro.), for investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

SECTION 1j. 71.28 (5b) (d) 3. of the statutes, as affected by [2011 Wisconsin Act 32](#), is amended to read:

71.28 (5b) (d) 3. ~~For~~ Except as provided under s. 238.15 (3) (d) (intro.), for investments made after

December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

SECTION 1m. 71.47 (5b) (d) 3. of the statutes, as affected by [2011 Wisconsin Act 32](#), is amended to read:

71.47 (5b) (d) 3. ~~For~~ Except as provided under s. 238.15 (3) (d) (intro.), for investments made after December 31, 2007, if an investment for which a claimant claims a credit under par. (b) is held by the claimant for less than 3 years, the claimant shall pay to the department, in the manner prescribed by the department, the amount of the credit that the claimant received related to the investment.

SECTION 3. 238.15 (1) (intro.) of the statutes, as affected by [2011 Wisconsin Act 32](#), is amended to read:

238.15 (1) ANGEL INVESTMENT TAX CREDITS. (intro.) The corporation shall implement a program to certify businesses for purposes of s. 71.07 (5d). A business desiring certification shall submit an application to the corporation in each taxable year for which the business desires certification. The business shall specify in its application the investment amount it wishes to raise and the corporation may certify the business and determine the amount that qualifies for purposes of s. 71.07 (5d).

* Section 991.11, WISCONSIN STATUTES 2009-10 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

~~A business may be certified under this subsection, and may maintain such certification. The corporation may certify or recertify a business for purposes of s. 71.07 (5d) only if the business satisfies all of the following conditions:~~

SECTION 4. 238.15 (1) (h) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

238.15 (1) (h) ~~It~~ At the time it is initially certified under this subsection, it has less than 100 employees.

SECTION 5. 238.15 (1) (j) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

238.15 (1) (j) ~~It~~ At the time it is initially certified under this subsection, it has been in operation in this state for not more than 10 consecutive years.

SECTION 6. 238.15 (1) (km) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

238.15 (1) (km) It has not received aggregate private equity investment in cash of more than \$10,000,000 ~~prior to being~~ before it is initially certified under this subsection.

SECTION 7. 238.15 (1) (m) of the statutes is created to read:

238.15 (1) (m) 1. It agrees that it will not relocate outside of this state during the 3 years after it receives an investment for which a person may claim a tax credit under s. 71.07 (5d) and agrees to pay the corporation a penalty, in an amount determined under subd. 2., if the business relocates outside of this state during that 3-year period. For the purposes of this paragraph, a business relocates outside of this state when the business locates more than 51 percent of any of the following outside of this state:

- a. The business's employees.
- b. The business's total payroll.
- c. The activities of the business's headquarters, as determined by the corporation.

2. The amount of a penalty payment under subd. 1. is any of the following:

- a. If the relocation occurs less than 12 months after the investment, 100 percent of the tax credit that was claimed under s. 71.07 (5d) as the result of the investment.

- b. If the relocation occurs 12 months or more after the investment but less than 24 months after the investment, 80 percent of the tax credit that was claimed under s. 71.07 (5d) as the result of the investment.

- c. If the relocation occurs occurs 24 months or more after the investment but less than 36 months after the investment, 60 percent of the tax credit that was claimed under s. 71.07 (5d) as the result of the investment.

SECTION 8. 238.15 (3) (d) (intro.) of the statutes, as affected by 2011 Wisconsin Act 32, is amended to read:

238.15 (3) (d) *Rules.* (intro.) The corporation, in consultation with the department of revenue, shall adopt rules to administer this section. The rules shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1. The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per calendar year for calendar years beginning after December 31, 2004, and before January 1, 2008, \$5,500,000 per calendar year for calendar years beginning after December 31, 2007, and before January 1, 2010, \$6,500,000 for calendar year 2010, and \$20,000,000 per calendar year for calendar years beginning after December 31, 2010, plus, for taxable years beginning after December 31, 2010, an additional \$250,000 for tax credits that may be claimed for investments in nanotechnology businesses certified under sub. (1). The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28 (5b), 71.47 (5b), and 76.638 that may be claimed for investments paid to fund managers certified under sub. (2) at \$3,500,000 per calendar year for calendar years beginning after December 31, 2004, and before January 1, 2008, \$6,000,000 per calendar year for calendar years beginning after December 31, 2007, and before January 1, 2010, \$8,000,000 for calendar year 2010, and \$20,500,000 per calendar year for calendar years beginning after December 31, 2010, plus, for taxable years beginning after December 31, 2010, an additional \$250,000 for tax credits that may be claimed for investments in nanotechnology businesses certified under sub. (1). The rules shall also provide that, for calendar years beginning after December 31, 2007, ~~no a person may receive who receives~~ a credit under ss. 71.07 (5b) and (5d), 71.28 (5b), 71.47 (5b), or 76.638 ~~unless the person's must keep the investment is kept in a certified business, or with a certified fund manager, for no less than 3 years, unless the person's investment becomes worthless, as determined by the corporation, during the 3-year period or the person has kept the investment for no less than 12 months and a bona fide liquidity event, as determined by the corporation, occurs during the 3-year period.~~ The rules shall permit the corporation to reallocate credits under this section that are unused in any calendar year to a person eligible for tax benefits, as defined under s. 238.16 (1) (d), if all of the following apply: