



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-1673/2
JK:jld:jd

2015 ASSEMBLY BILL 178

April 22, 2015 – Introduced by Representatives KREMER, HORLACHER, KNODL, KULP, QUINN and T. LARSON. Referred to Committee on Ways and Means.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.) and 71.21 (4) (a); and **to**
2 **create** 71.07 (10), 71.10 (4) (gya), 71.26 (1) (i), 73.03 (72), 73.03 (72m) and
3 238.24 of the statutes; **relating to:** tax credits and exemptions for businesses
4 that sell noncompeting products in this state.

Analysis by the Legislative Reference Bureau

This bill provides an income and franchise tax exemption to a corporation that establishes its headquarters in this state if the Wisconsin Economic Development Corporation Board determines that the corporation would not sell products that directly compete with products sold by any other business that has its headquarters in this state. The bill also provides an individual income tax credit equal to 7.65 percent of the individual's income derived from sales of products by a partnership, limited liability company, or tax-option corporation that establishes its headquarters in this state if the products sold by the entity do not directly compete with products sold by any other business that has its headquarters in this state. Taxpayers may claim the exemption or credit for 20 taxable years. During that time, the Department of Revenue (DOR) will annually determine the amount of any additional income tax revenue collected from individuals employed by the business and use that revenue to decrease individual income tax rates. With regard to a business that claims the exemption, after the business stops claiming the exemption, DOR will determine the amount of any additional corporate tax revenue collected from the business and use that revenue to decrease corporate tax rates.

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Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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:

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

2 71.05 **(6)** (a) 15. Except as provided under s. 71.07 (3p) (c) 5., the amount of the
3 credits computed under s. 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2dr), (2ds),
4 (2dx), (2dy), (3g), (3h), (3n), (3p), (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (4k), (4n), (5e),
5 (5f), (5h), (5i), (5j), (5k), (5r), (5rm), (6n), ~~and (8r)~~, and (10) and not passed through
6 by a partnership, limited liability company, or tax-option corporation that has added
7 that amount to the partnership's, company's, or tax-option corporation's income
8 under s. 71.21 (4) or 71.34 (1k) (g).

9 **SECTION 2.** 71.07 (10) of the statutes is created to read:

10 71.07 **(10)** NONCOMPETING PRODUCT CREDIT. (a) *Definitions.* In this subsection:

11 1. "Claimant" means a partner of a partnership, member of a limited liability
12 company, or shareholder of a tax-option corporation who files a claim under this
13 subsection.

14 2. "Noncompeting product" means a product sold by a partnership, limited
15 liability company, or tax-option corporation, as determined under s. 238.24 (2).

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. 71.02 or 71.08, up
18 to the amount of the tax, 7.65 percent of the claimant's income derived from sales of
19 the claimant's noncompeting product.

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1 (c) *Limitations.* 1. A claimant may claim the credit under this subsection for
2 no more than 20 taxable years beginning with the first taxable year for which the
3 claimant is certified under s. 238.24 (2) to claim the credit.

4 2. A claimant shall submit with his or her tax return a copy of the claimant's
5 certification under s. 238.24 (2).

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

8 **SECTION 3.** 71.08 (1) (intro.) of the statutes is amended to read:

9 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
10 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
11 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2dy), (3m), (3n), (3p),
12 (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (4k), (5b), (5d), (5e), (5f), (5h), (5i), (5j), (5n), (6),
13 (6e), (8r), (9e), (9m), and (9r), and (10), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds),
14 (1dx), (1dy), (2m), (3), (3n), (3t), and (3w), 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds),
15 (1dx), (1dy), (2m), (3), (3n), (3t), and (3w), 71.57 to 71.61, and 71.613 and subch. VIII
16 and payments to other states under s. 71.07 (7), is less than the tax under this
17 section, there is imposed on that natural person, married couple filing jointly, trust
18 or estate, instead of the tax under s. 71.02, an alternative minimum tax computed
19 as follows:

20 **SECTION 4.** 71.10 (4) (gya) of the statutes is created to read:

21 71.10 (4) (gya) Noncompeting product credit under s. 71.07 (10).

22 **SECTION 5.** 71.21 (4) (a) of the statutes is amended to read:

23 71.21 (4) (a) The amount of the credits computed by a partnership under s.
24 71.07 (2dd), (2de), (2di), (2dj), (2dL), (2dm), (2ds), (2dx), (2dy), (3g), (3h), (3n), (3p),
25 (3q), (3r), (3rm), (3rn), (3s), (3t), (3w), (4k), (4n), (5e), (5f), (5g), (5h), (5i), (5j), (5k), (5r),

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1 (5rm), (6n), and (8r), and (10) and passed through to partners shall be added to the
2 partnership's income.

3 **SECTION 6.** 71.26 (1) (i) of the statutes is created to read:

4 71.26 (1) (i) *Income from noncompeting products.* Income derived from the sale
5 of products by a corporation certified under s. 238.24 (1). A corporation certified
6 under s. 238.24 (1) may claim the exemption under this paragraph for no more than
7 20 taxable years beginning in the year in which the corporation establishes its
8 commercial domicile in this state.

9 **SECTION 7.** 73.03 (72) of the statutes is created to read:

10 73.03 (72) (a) Annually, to determine the amount of additional revenue that the
11 department collected from the taxes imposed under s. 71.02 from individuals who are
12 employed by the entities described under s. 238.24.

13 (b) After the department makes the determination under par. (a), the
14 department shall determine how much the individual income tax rates under s.
15 71.06 may be reduced in the following taxable year in order to decrease individual
16 income tax revenue by the amount determined under par. (a). For purposes of this
17 paragraph, the department shall calculate the tax rate reductions in proportion to
18 the share of gross tax attributable to each of the tax brackets under s. 71.06 in effect
19 during the most recently completed taxable year.

20 (c) The department shall certify the determinations made under pars. (a) and
21 (b) to the secretary of the department of administration, to the governor, and to the
22 legislature and specify with that certification that the new tax rates take effect in the
23 taxable year following the taxable year in which the department makes the
24 certification under this paragraph.

25 **SECTION 8.** 73.03 (72m) of the statutes is created to read:

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1 73.03 (**72m**) (a) Annually, to determine the amount of additional revenue that
2 the department collected from the taxes imposed under s. 71.23 (1) and (2) from
3 corporations certified under s. 238.24 (1) that no longer claim the exemption under
4 s. 71.26 (1) (i).

5 (b) After the department makes the determination under par. (a), the
6 department shall determine how much the tax rates under s. 71.27 may be reduced
7 in the following taxable year in order to decrease corporate income and franchise tax
8 revenue by the amount determined under par. (a).

9 (c) The department shall certify the determinations made under pars. (a) and
10 (b) to the secretary of the department of administration, to the governor, and to the
11 legislature and specify with that certification that the new tax rates take effect in the
12 taxable year following the taxable year in which the department makes the
13 certification under this paragraph.

14 **SECTION 9.** 238.24 of the statutes is created to read:

15 **238.24 Noncompeting products. (1)** A corporation that relocates from
16 another state or country to this state and establishes its commercial domicile, as
17 defined in s. 71.22 (1g), in this state may claim the exemption under s. 71.26 (1) (i)
18 if the board determines that the products sold by the corporation would not directly
19 compete with the products sold of any other entity that has its commercial domicile
20 in this state. The board may certify a corporation to claim the exemption under s.
21 71.26 (1) (i) in the manner determined by the board.

22 **(2)** If a partnership, limited liability company, or tax-option corporation
23 relocates from another state or country to this state and establishes its commercial
24 domicile, as defined in s. 71.01 (1b), in this state, the partners, members, or
25 shareholders may claim the credit under s. 71.07 (10) if the board determines that

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1 the products sold by the partnership, limited liability company, or tax-option
2 corporation would not directly compete with the products sold by any other entity
3 that has its commercial domicile in this state. The board may certify partners,
4 members, and shareholders to claim the credit under s. 71.07 (10) in the manner
5 determined by the board.

6 **(3)** (a) The board shall seek input from the entities doing business in this state
7 in order to make the determinations under subs. (1) and (2).

8 (b) The board shall revoke a certification under sub. (1) or (2) if the board
9 subsequently determines that a product sold by an entity described under sub. (1)
10 or (2) directly competes with another product sold in this state by an entity that has
11 its commercial domicile in this state.

12 **SECTION 10. Initial applicability.**

13 (1) This act first applies to taxable years beginning on July 1, 2015.

14 **(END)**