



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-5618/1
MDE&KP:cdc

2023 ASSEMBLY BILL 1217

April 11, 2024 - Introduced by Representatives MADISON, MOORE OMOKUNDE, C. ANDERSON, STUBBS, CLANCY and BARE. Referred to Committee on Ways and Means.

AN ACT *to amend* 71.05 (6) (a) 15., 71.21 (4) (a), 71.26 (2) (a) 4., 71.34 (1k) (g), 71.45 (2) (a) 10. and 238.12 (1); and *to create* 71.05 (6) (b) 57., 71.07 (11), 71.10 (4) (em), 71.26 (1) (j), 71.28 (11), 71.30 (3) (am), 71.45 (1) (e), 71.47 (11), 71.49 (1) (am) and 238.309 of the statutes; **relating to:** creating an employee ownership conversion costs tax credit and an exemption for capital gains from the transfer of a business to employee ownership.

Analysis by the Legislative Reference Bureau

This bill creates tax incentives related to businesses in this state converting to an employee ownership business structure.

Employee ownership conversion costs tax credit

Under the bill, the Wisconsin Economic Development Corporation may certify a business to claim a nonrefundable income tax credit for an amount equal to 70 percent of costs related to converting the business to a worker-owned cooperative or 50 percent of the costs related to converting the business to an employee ownership trust or an employee stock ownership plan. The credit is limited to a maximum amount of \$100,000. A business is qualified to receive the credit if the business is subject to income and franchise taxes in this state and, at the time the business

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receives the credit, is not owned in whole or in part by an employee ownership trust, does not have an employee stock ownership plan, and is not, in whole or in part, a worker-owned cooperative.

Capital gain exemption

The bill also creates an individual income tax subtraction and a corporate income and franchise tax exemption for the amount of the capital gain realized from the transfer of ownership of a business in this state to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust. Under the bill, the subtraction or exemption may not be claimed for a taxable year unless the business whose transfer results in a capital gain has entered a labor peace agreement with the labor organization representing the employees of the business for that taxable year.

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:

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

71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n), (5e), (5i), (5j), (5k), (5r), (5rm), (6n), ~~and (10), and (11)~~ and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership's, company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

SECTION 2. 71.05 (6) (b) 57. of the statutes is created to read:

71.05 (6) (b) 57. a. For taxable years beginning after December 31, 2023, to the extent otherwise included in Wisconsin taxable income if not for this subdivision, the amount of the capital gain as computed under the Internal

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Revenue Code from the transfer of ownership of a business in this state to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust.

b. No modification may be claimed under this subdivision unless an employee stock ownership plan, worker-owned cooperative, or employee ownership trust owns more than 50 percent of the business whose transfer results in a capital gain described in subd. 57. a.

c. No modification may be claimed for a taxable year under this subdivision unless the business whose transfer results in a capital gain described in subd. 57. a. has entered a labor peace agreement, as defined in s. 238.309 (1) (d), with the labor organization representing the employees of the business for the taxable year.

d. In this subdivision, “employee ownership trust” has the meaning given in s. 238.309 (1) (b).

e. In this subdivision, “employee stock ownership plan” has the meaning given in 26 USC 4975 (e) (7).

f. In this subdivision, “worker-owned cooperative” has the meaning given for “eligible worker-owned cooperative” in 26 USC 1042 (c) (2).

SECTION 3. 71.07 (11) of the statutes is created to read:

71.07 (11) EMPLOYEE OWNERSHIP CONVERSION COSTS CREDIT. (a) *Definitions.*

In this subsection:

1. “Claimant” means a person that owns an interest in a qualified business prior to its conversion to a employee ownership trust, employee stock ownership plan, or worker-owned cooperative and that files a claim under this subsection.

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2. “Conversion costs” has the meaning given in s. 238.309 (1) (a).
3. “Employee ownership trust” has the meaning given in s. 238.309 (1) (b).
4. “Employee stock ownership plan” has the meaning given in 26 USC 4975 (e) (7).
5. “Qualified business” has the meaning given in s. 238.309 (1) (e).
6. “Worker-owned cooperative” has the meaning given for “eligible worker-owned cooperative” in 26 USC 1042 (c) (2).

(b) *Filing claims.* For taxable years beginning after December 31, 2023, and subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02 for the taxable year during which a conversion to a employee ownership trust, employee stock ownership plan, or worker-owned cooperative is complete, up to the amount of those taxes, all of the following:

1. An amount equal to 70 percent of the conversion costs, up to \$100,000, incurred by a qualified business for converting to a worker-owned cooperative.
2. An amount equal to 50 percent of the conversion costs, up to \$100,000, incurred by a qualified business for converting to an employee ownership trust or an employee stock ownership plan.

(c) *Limitations.* 1. No credit is allowed under this subsection for a taxable year if the qualified business has not entered into a labor peace agreement, as defined in s. 238.309 (1) (d), with the labor organization representing the employees of the business for the taxable year.

2. No credit may be allowed under this subsection unless the claimant files an

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application with the Wisconsin Economic Development Corporation, at the time and in the manner prescribed by the Wisconsin Economic Development Corporation, and the Wisconsin Economic Development Corporation approves the application. The claimant shall submit a copy of the certification under s. 238.309 (3) with the claimant's return.

3. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for and the amount of the credit are based on the amounts paid by the entities under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of the credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members, and shareholders may claim the credit in proportion to their ownership interests.

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

SECTION 4. 71.10 (4) (em) of the statutes is created to read:

71.10 (4) (em) Employee ownership conversion costs credit under s. 71.07 (11).

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

71.21 (4) (a) The amount of the credits computed by a partnership under s. 71.07 (2dm), (2dx), (2dy), (3g), (3h), (3n), (3q), (3s), (3t), (3w), (3wm), (3y), (4k), (4n), (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), ~~and (10), and (11)~~ and passed through to partners shall be added to the partnership's income.

SECTION 6. 71.26 (1) (j) of the statutes is created to read:

71.26 (1) (j) *Capital gain from transfer of business to employee ownership.* 1.

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The amount of the capital gain as computed under the Internal Revenue Code from the transfer of ownership of a business in this state to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust.

2. The exemption under this paragraph does not apply unless an employee stock ownership plan, worker-owned cooperative, or employee ownership trust owns more than 50 percent of the business whose transfer results in a capital gain described in subd. 1.

3. The exemption under this paragraph does not apply for a taxable year unless the business whose transfer results in a capital gain described in subd. 1. has entered a labor peace agreement, as defined in s. 238.309 (1) (d), with the labor organization representing the employees of the business for the taxable year.

4. In this paragraph, “employee ownership trust” has the meaning given in s. 238.309 (1) (b).

5. In this paragraph, “employee stock ownership plan” has the meaning given in 26 USC 4975 (e) (7).

6. In this paragraph, “worker-owned cooperative” has the meaning given for “eligible worker-owned cooperative” in 26 USC 1042 (c) (2).

SECTION 7. 71.26 (2) (a) 4. of the statutes is amended to read:

71.26 (2) (a) 4. Plus the amount of the credit computed under s. 71.28 (1dm), (1dx), (1dy), (3g), (3h), (3n), (3q), (3t), (3w), (3wm), (3y), (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), ~~and (10), and (11)~~ and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the

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partnership's, limited liability company's, or tax-option corporation's income under s. 71.21 (4) or 71.34 (1k) (g).

SECTION 8. 71.28 (11) of the statutes is created to read:

71.28 (11) EMPLOYEE OWNERSHIP CONVERSION COSTS CREDIT. (a) *Definitions.*

In this subsection:

1. "Claimant" means a person that owns an interest in a qualified business prior to its conversion to a employee ownership trust, employee stock ownership plan, or worker-owned cooperative and that files a claim under this subsection.
2. "Conversion costs" has the meaning given in s. 238.309 (1) (a).
3. "Employee ownership trust" has the meaning given in s. 238.309 (1) (b).
4. "Employee stock ownership plan" has the meaning given in 26 USC 4975 (e) (7).
5. "Qualified business" has the meaning given in s. 238.309 (1) (e).
6. "Worker-owned cooperative" has the meaning given for "eligible worker-owned cooperative" in 26 USC 1042 (c) (2).

(b) *Filing claims.* For taxable years beginning after December 31, 2023, and subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.23 for the taxable year during which a conversion to a employee ownership trust, employee stock ownership plan, or worker-owned cooperative is complete, up to the amount of those taxes, all of the following:

1. An amount equal to 70 percent of the conversion costs, up to \$100,000, incurred by a qualified business for converting to a worker-owned cooperative.

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2. An amount equal to 50 percent of the conversion costs, up to \$100,000, incurred by a qualified business for converting to an employee ownership trust or an employee stock ownership plan.

(c) *Limitations.* 1. No credit is allowed under this subsection for a taxable year if the qualified business has not entered into a labor peace agreement, as defined in s. 238.309 (1) (d), with the labor organization representing the employees of the business for the taxable year.

2. No credit may be allowed under this subsection unless the claimant files an application with the Wisconsin Economic Development Corporation, at the time and in the manner prescribed by the Wisconsin Economic Development Corporation, and the Wisconsin Economic Development Corporation approves the application. The claimant shall submit a copy of the certification under s. 238.309 (3) with the claimant's return.

3. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for and the amount of the credit are based on the amounts paid by the entities under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of the credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members, and shareholders may claim the credit in proportion to their ownership interests.

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

SECTION 9. 71.30 (3) (am) of the statutes is created to read:

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71.30 (3) (am) Employee ownership conversion costs credit under s. 71.28 (11).

SECTION 10. 71.34 (1k) (g) of the statutes is amended to read:

71.34 (1k) (g) An addition shall be made for credits computed by a tax-option corporation under s. 71.28 (1dm), (1dx), (1dy), (3), (3g), (3h), (3n), (3q), (3t), (3w), (3wm), (3y), (4), (5), (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), ~~and (10), and (11)~~ and passed through to shareholders.

SECTION 11. 71.45 (1) (e) of the statutes is created to read:

71.45 (1) (e) 1. The amount of the capital gain as computed under the Internal Revenue Code from the transfer of ownership of a business in this state to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust.

2. The exemption under this paragraph does not apply unless an employee stock ownership plan, worker-owned cooperative, or employee ownership trust owns more than 50 percent of the business whose transfer results in a capital gain described in subd. 1.

3. The exemption under this paragraph does not apply for a taxable year unless the business whose transfer results in a capital gain described in subd. 1. has entered a labor peace agreement, as defined in s. 238.309 (1) (d), with the labor organization representing the employees of the business for the taxable year.

4. In this paragraph, “employee ownership trust” has the meaning given in s. 238.309 (1) (b).

5. In this paragraph, “employee stock ownership plan” has the meaning given in 26 USC 4975 (e) (7).

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6. In this paragraph, “worker-owned cooperative” has the meaning given for “eligible worker-owned cooperative” in 26 USC 1042 (c) (2).

SECTION 12. 71.45 (2) (a) 10. of the statutes is amended to read:

71.45 (2) (a) 10. By adding to federal taxable income the amount of credit computed under s. 71.47 (1dm) to (1dy), (3g), (3h), (3n), (3q), (3w), (3y), (5e), (5g), (5i), (5j), (5k), (5r), (5rm), (6n), ~~and (10),~~ and (11) and not passed through by a partnership, limited liability company, or tax-option corporation that has added that amount to the partnership’s, limited liability company’s, or tax-option corporation’s income under s. 71.21 (4) or 71.34 (1k) (g) and the amount of credit computed under s. 71.47 (3), (3t), (4), (4m), and (5).

SECTION 13. 71.47 (11) of the statutes is created to read:

71.47 (11) EMPLOYEE OWNERSHIP CONVERSION COSTS CREDIT. (a) *Definitions.*

In this subsection:

1. “Claimant” means a person that owns an interest in a qualified business prior to its conversion to a employee ownership trust, employee stock ownership plan, or worker-owned cooperative and that files a claim under this subsection.
2. “Conversion costs” has the meaning given in s. 238.309 (1) (a).
3. “Employee ownership trust” has the meaning given in s. 238.309 (1) (b).
4. “Employee stock ownership plan” has the meaning given in 26 USC 4975 (e) (7).
5. “Qualified business” has the meaning given in s. 238.309 (1) (e).
6. “Worker-owned cooperative” has the meaning given for “eligible worker-owned cooperative” in 26 USC 1042 (c) (2).

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(b) *Filing claims.* For taxable years beginning after December 31, 2023, and subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.43 for the taxable year during which a conversion to a employee ownership trust, employee stock ownership plan, or worker-owned cooperative is complete, up to the amount of those taxes, all of the following:

1. An amount equal to 70 percent of the conversion costs, up to \$100,000, incurred by a qualified business for converting to a worker-owned cooperative.

2. An amount equal to 50 percent of the conversion costs, up to \$100,000, incurred by a qualified business for converting to an employee ownership trust or an employee stock ownership plan.

(c) *Limitations.* 1. No credit is allowed under this subsection for a taxable year if the qualified business has not entered into a labor peace agreement, as defined in s. 238.309 (1) (d), with the labor organization representing the employees of the business for the taxable year.

2. No credit may be allowed under this subsection unless the claimant files an application with the Wisconsin Economic Development Corporation, at the time and in the manner prescribed by the Wisconsin Economic Development Corporation, and the Wisconsin Economic Development Corporation approves the application. The claimant shall submit a copy of the certification under s. 238.309 (3) with the claimant's return.

3. Partnerships, limited liability companies, and tax-option corporations may not claim the credit under this subsection, but the eligibility for and the amount of

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the credit are based on the amounts paid by the entities under par. (b). A partnership, limited liability company, or tax-option corporation shall compute the amount of the credit that each of its partners, members, or shareholders may claim and shall provide that information to each of them. Partners, members, and shareholders may claim the credit in proportion to their ownership interests.

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

SECTION 14. 71.49 (1) (am) of the statutes is created to read:

71.49 (1) (am) Employee ownership conversion costs credit under s. 71.47 (11).

SECTION 15. 238.12 (1) of the statutes is amended to read:

238.12 (1) In this section, “tax benefits” means the credits under ss. 71.07 (2dm), (2dx), (3g), (3t), ~~and (3wm), and (11),~~ 71.28 (1dm), (1dx), (3g), (3t), ~~and (3wm), and (11),~~ 71.47 (1dm), (1dx), (3g), ~~and (3t), and (11),~~ and 76.636.

SECTION 16. 238.309 of the statutes is created to read:

238.309 Employee ownership conversion costs tax credit. (1)

DEFINITIONS. (a) “Conversion costs” means professional services, including accounting, legal, and business advisory services, for any of the following:

1. A feasibility study or other preliminary assessments regarding a transition of a business to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust.

2. The transition of a business to an employee stock ownership plan, a worker-owned cooperative, or an employee ownership trust.

(b) “Employee ownership trust” means an indirect form of employee

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ownership in which a trust holds a controlling stake in a qualified business and benefits all employees on an equal basis.

(c) “Employee stock ownership plan” has the same meaning as in 26 USC 4975 (e) (7).

(d) “Labor peace agreement” means an agreement between an applicant under this section and a labor organization, as defined in s. 5.02 (8m), that does all of the following:

1. Prohibits labor organizations and its members from engaging in picketing, work stoppages, boycotts, and any other economic interference with persons doing business in this state.

2. Prohibits the applicant from disrupting the efforts of the labor organization to communicate with and to organize and represent the applicant’s employees.

3. Provides the labor organization access at reasonable times to areas in which the applicant’s employees work for the purpose of meeting with employees to discuss their right to representation, employment rights under state law, and terms and conditions of employment.

(e) “Qualified business” means a person eligible to receive tax benefits under this section.

(f) “Worker-owned cooperative” has the meaning given for “eligible worker-owned cooperative” in 26 USC 1042 (c) (2).

(2) ELIGIBILITY. An applicant for tax benefits under this section is eligible for certification under sub. (3) if all of the following apply:

- (a) The applicant is a business subject to taxes under ch. 71.

(b) The applicant is not owned in whole or in part by an employee ownership trust, does not have an employee stock ownership plan, and is not, in whole or in part, a worker-owned cooperative.

(c) The applicant has entered into a labor peace agreement.

(3) CERTIFICATION. The corporation may certify a qualified business to claim tax benefits as follows:

(a) An amount, not to exceed \$100,000, equal to up to 70 percent of conversion costs related to converting a qualified business to a worker cooperation, not to exceed \$100,000.

(b) An amount, not to exceed \$100,000, equal to up to 50 percent of conversion costs related to converting a qualified business to an employee ownership trust or an employee stock ownership plan.

(4) LIMIT. The corporation may allocate up to \$5,000,000 in tax benefits under this section each year. Any unused allocation may be carried forward.

(5) POLICIES AND PROCEDURES. The corporation shall establish policies and procedures for the operation of this section.

SECTION 17. Initial applicability.

(1) CAPITAL GAIN EXCLUSION. The treatment of ss. 71.26 (1) (j) and 71.45 (1) (e) first applies to taxable years beginning on January 1, 2024.

(END)