



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

September 30, 2003

TO: Members
Joint Committee on Finance

FROM: Bob Lang, Director

SUBJECT: Assembly Bill 508: Individual and Corporate Income and Franchise Taxes--Credit for Sales Tax on Fuel and Electricity used in Manufacturing

Assembly Bill 508, relating to the income and franchise tax credit for sales tax on fuel and electricity used in manufacturing, was introduced on September 11, 2003, and referred to Assembly Committee on Economic Development. The bill was withdrawn from that Committee and referred to the Joint Committee on Finance on September 18, 2003.

CURRENT LAW

Under current law, a credit against the state individual and corporate income and franchise taxes may be claimed for the amount of sales and use tax paid for fuel and electricity consumed in manufacturing in Wisconsin. The credit may not be claimed for heating, light, or other uses of energy that are not directly related to a manufacturing process. The manufacturer must allocate manufacturing use as a portion of total energy use for the purposes of computing the credit. If the credit exceeds tax liability for the year, it is not refundable but any unused portion may be carried forward up to 15 years to offset any future tax liability.

Corporations and owners, partners, shareholders, and members of businesses organized as sole proprietorships, partnerships, S corporations, and limited liability companies (LLCs) treated as partnerships can claim the credit. Partners, shareholders of S corporations, and members of LLCs claim the credit in proportion to their ownership interest. The credit can only be claimed against the tax imposed on the business operations of the claimant in which the fuel and electricity are consumed and, for partners, shareholders, and members, the credit can only be claimed against their pro-rated share of income.

Manufacturing is the production by machinery of a new article with a different form, use, and name from existing materials by a process popularly regarded as manufacturing. Manufacturing includes the assembly of finished units of tangible personal property and packaging when: (a) it is part of an operation performed by the producer of the product or by another on the producer's behalf; and (b) the package or container becomes part of the tangible personal property as such unit is customarily offered for sale by the manufacturer. Manufacturing also includes: (a) conveyance of raw materials and supplies from plant inventory to the work point of the same plant; (b) conveyance of work in progress directly from one manufacturing operation to another in the same plant; and (c) conveyance of finished products to the point of first storage on the plant premises. It includes testing or inspection throughout the production cycle. Manufacturing does not include storage, delivery to or from the plant, repairing or maintaining facilities, or research and development.

SUMMARY OF BILL

Assembly Bill 508 would increase, from 15 years to 20 years, the number of years unused credits could be carried forward to offset future tax liabilities. For corporations and insurance companies, these provisions would first apply to credits computed for tax years beginning on or after January 1, 1988. For individuals, tax-option corporations, partnerships, and limited liability companies, the provisions would first apply to tax years beginning on or after January 1, 1998. (The manufacturers' sales tax credit was first available to non-corporate taxpayers in tax year 1998.)

FISCAL EFFECT

The bill would extend the carry-forward period for unused manufacturers sales tax credits from 15 to 20 years. According to data from the Department of Revenue, there were approximately \$155 million in unused corporate manufacturers' sales tax credits in 2001. However, specific data related to the amount of unused carry-forwards that would be affected is not currently available. As a result, the fiscal effect of AB 508 is unknown. Corporate tax revenues would decrease under the bill but the amount would be unknown.

Prepared by: Ron Shanovich