



2023 ASSEMBLY BILL 235

April 28, 2023 - Introduced by Representatives SORTWELL, BEHNKE, EDMING, GUNDRUM, MAGNAFICI, ROZAR, SAPIK, WICHGERS and ORTIZ-VELEZ, cosponsored by Senator CABRAL-GUEVARA. Referred to Committee on Ways and Means.

AN ACT *to amend* 71.10 (4) (i); and *to create* 20.835 (2) (fm), 71.07 (9) (cm), 71.07 (11) and 71.54 (2s) of the statutes; **relating to:** a tax credit for certain property tax increases and making an appropriation.

Analysis by the Legislative Reference Bureau

This bill creates a refundable individual income tax credit for an increase in the property taxes that a person who has reached age 65 pays for a primary residence owned in this state. The credit amount is calculated as the difference between the property taxes levied on the claimant's primary residence in the year to which the claim relates and those property taxes in the base year.

Under the bill, the "base year" is the most recent of either of the following years: 1) if a claimant has not moved to a different primary residence after first claiming the credit, the year immediately before the year in which the claimant first claimed the credit or 2) if a claimant moves to a different primary residence after first claiming the credit, the first year for which property taxes are levied on that different primary residence for the claimant. To claim the credit, the claimant must have paid the property taxes that are the basis of the calculation. The maximum credit for a taxable year allowed under the bill is \$500.

Because the credit is refundable, if the amount of the claim for which a claimant is eligible exceeds the claimant's tax liability, the difference will be paid to the claimant by check.

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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. 20.835 (2) (fm) of the statutes is created to read:

20.835 (2) (fm) *Elder property tax increase credit.* A sum sufficient to pay the claims approved under s. 71.07 (11).

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

71.07 (9) (cm) No credit may be allowed under this subsection for an amount of property taxes claimed as a credit under sub. (11) that relates to the same taxable year for which a claim is made under this subsection.

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

71.07 (11) ELDER PROPERTY TAX INCREASE CREDIT. (a) *Definitions.* In this subsection:

1. “Base year” means the most recent of any of the following years:

a. If the claimant has not moved to a different principal dwelling after first filing a claim under this subsection, the year immediately preceding the year in which the claimant first files a claim under this subsection.

b. If a claimant moves to a different principal dwelling after the year in which the claimant first files a claim under this subsection, the first year for which the claimant has property taxes levied on that different principal dwelling.

2. “Claimant” means an individual who has reached age 65 by December 31 of the taxable year to which the claim relates, or an individual and his or her spouse

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filing a joint return, either of whom has reached age 65 by December 31 of the taxable to which the claim relates, and who files a claim under this subsection.

3. “Household” means an individual and his or her spouse.

4. “Principal dwelling” means a dwelling that is owned and used by the claimant as a primary dwelling for the entire taxable year for which the credit under this subsection is claimed and the land surrounding it that is reasonably necessary for use of the dwelling as a primary dwelling, including a part of a multidwelling or multipurpose building and a part of the land upon which it is built that is used as the claimant’s primary dwelling.

5. “Property taxes” means the real and personal property taxes, exclusive of special assessments, delinquent interest, and charges for service, paid by a claimant, and the claimant’s spouse if filing a joint return, levied on the claimant’s principal dwelling in this state less any property taxes levied that are properly includable as a trade or business expense under section 162 of the Internal Revenue Code. If the principal dwelling on which the taxes were paid is owned by 2 or more persons or entities as joint tenants or tenants in common or is owned by spouses as marital property, “property taxes” is that part of property taxes paid that reflects the ownership percentage of the claimant, except that this limitation does not apply to spouses who file a joint return. If the principal dwelling is sold during the taxable year, the “property taxes” for the seller and buyer shall be the amount of the tax prorated to each in the closing agreement pertaining to the sale or, if not so provided for in the closing agreement, the tax shall be prorated between the seller and buyer in proportion to months of their respective ownership. “Property taxes”

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includes monthly municipal permit fees with respect to a principal dwelling imposed under s. 66.0435 (3) (c).

(b) *Filing claims.* For taxable years beginning after December 31, 2022, and subject to the limitations provided in this subsection, a claimant may claim as a credit against the tax imposed under s. 71.02 the increase, if any, of the amount of the property taxes the claimant is levied in the taxable year to which the claim relates from the property taxes the claimant is levied in the base year. If the allowable amount of the claim exceeds the income taxes otherwise due on the claimant's income, the amount of the claim not used as an offset against those taxes shall be certified by the department of revenue to the department of administration for payment to the claimant by check, share draft, or other draft from the appropriation under s. 20.835 (2) (fm).

(c) *Limitations.* 1. The maximum amount of the credit that a claimant may claim under this subsection in a taxable year is \$500.

2. No credit may be allowed under this subsection if the claimant has not paid the property taxes on the principal dwelling for the years described in par. (b).

3. a. No credit may be allowed under this subsection if the claimant or the claimant's spouse files a claim under sub. (6e) that relates to the same taxable year for which a claim is made under this subsection.

b. No credit may be allowed under this subsection for an amount of property taxes claimed as a credit under sub. (9) or subch. VIII that relates to the same taxable year for which a claim is made under this subsection.

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4. Except as provided in subd. 6., only one claimant per household per taxable year may claim a credit under this subsection.

5. No credit may be allowed under this subsection for property taxes that the claimant pays on his or her principal dwelling that is leased to the claimant.

6. If married persons who are eligible to claim the credit under this subsection file separate returns, each spouse may claim a credit under this subsection based on his or her respective ownership interest in the principal dwelling.

7. No credit may be allowed under this subsection unless it is claimed within the time period under s. 71.75 (2).

(d) *Administration.* 1. In administering this subsection, the department of revenue shall make available suitable forms with instructions for claimants, including a form that may be included with, or as a part of, the individual income tax form.

2. Subsection (9e) (d), to the extent that it applies to the credit under that subsection, applies to the credit under this subsection.

SECTION 4. 71.10 (4) (i) of the statutes is amended to read:

71.10 (4) (i) The total of claim of right credit under s. 71.07 (1), farmland preservation credit under ss. 71.57 to 71.61, farmland preservation credit, 2010 and beyond under s. 71.613, homestead credit under subch. VIII, jobs tax credit under s. 71.07 (3q), business development credit under s. 71.07 (3y), research credit under s. 71.07 (4k) (e) 2. a., veterans and surviving spouses property tax credit under s. 71.07 (6e), elder property tax increase credit under s. 71.07 (11), enterprise zone jobs credit under s. 71.07 (3w), electronics and information technology

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manufacturing zone credit under s. 71.07 (3wm), earned income tax credit under s. 71.07 (9e), estimated tax payments under s. 71.09, and taxes withheld under subch. X.

SECTION 5. 71.54 (2s) of the statutes is created to read:

71.54 **(2s)** LIMITATION. No credit may be allowed under this subchapter for an amount of property taxes claimed as a credit under s. 71.07 (11) that relates to the same taxable year for which a claim is made under this subchapter.

(END)