

By the Committee on Finance & Taxation and Representatives
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1 A bill to be entitled
2 An act relating to credits against taxes;
3 amending s. 220.02, F.S.; providing the order
4 of credits against the corporate income tax or
5 franchise tax; amending s. 220.03, F.S.;
6 revising the definition of "child care facility
7 startup costs" and defining "operation of a
8 child care facility"; amending s. 220.12, F.S.;
9 revising the definition of a taxpayer's net
10 income for corporate income tax purposes to
11 delete the deduction of child care facility
12 startup costs; creating s. 220.19, F.S.;
13 authorizing a credit against the corporate
14 income tax for child care facility startup
15 costs and operation, and for payment of an
16 employee's child care costs; providing
17 limitations; requiring a recipient to refund a
18 portion of tax credits received under certain
19 conditions; providing eligibility and
20 application requirements; providing for
21 administration by the Department of Children
22 and Family Services; providing for future
23 expiration; defining "corporation"; creating s.
24 624.5107, F.S.; authorizing a credit against
25 insurance premium taxes for child care facility
26 startup costs and operation, and for payment of
27 an employee's child care costs; providing
28 definitions; providing limitations; requiring a
29 recipient to refund a portion of tax credits
30 received under certain conditions; providing
31 eligibility and application requirements;

1 providing for administration by the Department
2 of Children and Family Services; providing for
3 future expiration; providing an effective date.
4

5 Be It Enacted by the Legislature of the State of Florida:
6

7 Section 1. Subsection (10) of section 220.02, Florida
8 Statutes, is amended to read:

9 220.02 Legislative intent.--

10 (10) It is the intent of the Legislature that credits
11 against either the corporate income tax or the franchise tax
12 be applied in the following order: those enumerated in s.
13 ~~220.68, those enumerated in s. 631.719(1), those enumerated in~~
14 ~~s. 631.705,~~ those enumerated in s. 220.18, those enumerated in
15 s. 631.828, those enumerated in s. 220.181, those enumerated
16 in s. 220.183, those enumerated in s. 220.182, those
17 enumerated in s. 221.02, those enumerated in s. 220.184, those
18 enumerated in s. 220.186, ~~and~~ those enumerated in s. 220.188,
19 and those enumerated in s. 220.19.

20 Section 2. Paragraph (cc) of subsection (1) of section
21 220.03, Florida Statutes, 1996 Supplement, is amended, and
22 paragraph (gg) is added to said subsection, to read:

23 220.03 Definitions.--

24 (1) SPECIFIC TERMS.--When used in this code, and when
25 not otherwise distinctly expressed or manifestly incompatible
26 with the intent thereof, the following terms shall have the
27 following meanings:

28 (cc) "Child care facility startup costs" means
29 expenditures for substantial renovation, equipment, including
30 playground equipment and kitchen appliances and cooking
31 equipment, ~~and~~ real property, including land and improvements,

1 and for reduction of debt, made in connection with ~~used to~~
2 ~~establish~~ a child care facility as defined by s. 402.302(4),
3 or any facility providing daily care to children who are
4 mildly ill, which is located in this the state on the
5 taxpayer's premises ~~or within 5 miles of the employees'~~
6 ~~workplace~~ and used ~~exclusively~~ by the employees of the
7 taxpayer.

8 (gg) "Operation of a child care facility" means
9 operation of a child care facility as defined by s.
10 402.302(4), or any facility providing daily care to children
11 who are mildly ill, which is located in this state within 5
12 miles of at least one place of business of the taxpayer and
13 which is used by the employees of the taxpayer.

14 Section 3. Section 220.12, Florida Statutes, 1996
15 Supplement, is amended to read:

16 220.12 "Net income" defined.--For purposes of this
17 code, a taxpayer's net income for a taxable year shall be its
18 adjusted federal income, or that share of its adjusted federal
19 income for such year which is apportioned to this state under
20 s. 220.15, plus nonbusiness income allocated to this state
21 pursuant to s. 220.16, ~~less child care facility startup costs~~
22 ~~as defined by s. 220.03(1)(dd),~~ less the exemption allowed by
23 s. 220.14.

24 Section 4. Section 220.19, Florida Statutes, is
25 created to read:

26 220.19 Child care tax credits.--

27 (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

28 (a)1. A credit of 50 percent of the startup costs of
29 child care facilities operated by a corporation for its
30 employees is allowed against any tax due for a taxable year
31 under this chapter. A credit against such tax is also allowed

1 for the operation of a child care facility by a corporation
2 for its employees, which credit is in the amount of \$50 per
3 month for each child enrolled in the facility.

4 2. A credit is allowed against any tax due for a
5 taxable year under this chapter for any taxpayer that makes
6 payments directly to a child care facility as defined by s.
7 402.302 which is licensed in accordance with s. 402.305, or to
8 any facility providing daily care to children who are mildly
9 ill, which payments are made in the name of and for the
10 benefit of an employee of the taxpayer in this state whose
11 child attends the child care facility during the employee's
12 working hours. The credit shall be an amount equal to 50
13 percent of the amount of such child care payments.

14 (b) A corporation may not receive more than \$50,000 in
15 annual tax credits for all approved child care costs that the
16 corporation incurs in any one year.

17 (c) The total amount of tax credits which may be
18 granted for all programs approved under this section and s.
19 624.5107 is \$2 million annually.

20 (d) An application for tax credit under this section
21 must be approved by the secretary of the department.

22 (e) If the credit granted under this section is not
23 fully used in any one year because of insufficient tax
24 liability on the part of the corporation, the unused amount
25 may be carried forward for a period not to exceed 5 years.
26 The carryover credit may be used in a subsequent year when the
27 tax imposed by this chapter for that year exceeds the credit
28 for which the corporation is eligible in that year under this
29 section after applying the other credits and unused carryovers
30 in the order provided by s. 220.02(10).

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1 (f) If a corporation receives a credit for child care
2 facility startup costs, and the facility fails to operate for
3 at least 5 years, a pro rata share of the credit must be
4 repaid, in accordance with the formula: $A = C \times (1 - (N/60))$,
5 where:

6 1. "A" is the amount in dollars of the required
7 repayment.

8 2. "C" is the total credits taken by the corporation
9 for child care facility startup costs.

10 3. "N" is the number of months the facility was in
11 operation.

12
13 This repayment requirement is inapplicable if the corporation
14 goes out of business or can demonstrate to the department that
15 its employees no longer want to have a child care facility.

16 (g) A taxpayer that files a consolidated return in
17 this state as a member of an affiliated group under s.
18 220.131(1) may be allowed the credit on a consolidated return
19 basis.

20 (h) A taxpayer that is eligible to receive credit
21 under s. 624.5107 is ineligible to receive credit under this
22 section.

23 (2) ELIGIBILITY REQUIREMENTS.--

24 (a) A child care facility with respect to which a
25 corporation claims a child care tax credit must be a child
26 care facility as defined by s. 402.302 and must be licensed in
27 accordance with s. 402.305, or must be a facility providing
28 daily care to children who are mildly ill.

29 (b) The services of a child care facility for which a
30 corporation claims a child care tax credit under subparagraph
31 (1)(a)1. must be available to all employees of the

1 corporation, or must be allocated on a first-come,
2 first-served basis, and must be used by employees of the
3 taxpayer.

4 (c) Two or more corporations may join together to
5 start and to operate a child care facility according to the
6 provisions of this section. If two or more corporations choose
7 to jointly operate a child care facility, or cause a
8 not-for-profit corporation to operate the child care facility,
9 the corporations must file a joint application or the
10 not-for-profit corporation may file the application with the
11 department, pursuant to subsection (3), setting forth their
12 proposal. The participating corporations may proportion the
13 annual child care costs credits in any manner they choose as
14 appropriate, but no jointly operated corporate child care
15 facility established under this section may receive more than
16 \$50,000 in annual tax credits for all approved child care
17 costs that the participating corporations incur in any one
18 year.

19 (d) Child care payments for which a corporation claims
20 a credit under subparagraph (1)(a)2. shall not exceed the
21 amount charged by the child care facility to other children of
22 like age and abilities of persons not employed by the
23 corporation.

24 (3) APPLICATION REQUIREMENTS.--Any corporation that
25 wishes to participate in this program must submit to the
26 department an application for tax credit which sets forth the
27 proposal for establishing a child care facility for the use of
28 its employees or for payment of the cost of child care for its
29 employees. This application must state the anticipated
30 startup costs and the number of children to be enrolled, in
31 the case of credit claimed under subparagraph (1)(a)1., or the

1 number of children for whom child care costs will be paid, in
2 the case of credit claimed under subparagraph (1)(a)2.

3 (4) ADMINISTRATION.--

4 (a) The Department of Children and Family Services may
5 adopt all rules necessary to administer this section,
6 including rules for the approval or disapproval of proposals
7 submitted by corporations and rules to provide for cooperative
8 arrangements between profit and nonprofit corporations.

9 (b) The secretary's decision to approve or disapprove
10 a proposal must be in writing, and, if the proposal is
11 approved, the decision must state the maximum credit allowable
12 to the corporation.

13 (5) EXPIRATION.--This section expires on June 30,
14 2007, except that paragraph (1)(e), which relates to carryover
15 credits, and paragraph (1)(f), which relates to repaying tax
16 credits in specified circumstances, do not expire on that
17 date.

18 (6) MEANING OF CORPORATION.--As used in this section,
19 the term "corporation" includes all general partnerships,
20 limited partnerships, unincorporated businesses, and all other
21 business entities which are owned or controlled by the parent
22 corporation.

23 Section 5. Section 624.5107, Florida Statutes, is
24 created to read:

25 624.5107 Child care tax credits; definitions;
26 authorization; limitations; eligibility and application
27 requirements; administration; expiration.--

28 (1) DEFINITIONS.--As used in this section:

29 (a) "Child care facility startup costs" means
30 expenditures for substantial renovation, equipment, including
31 playground equipment and kitchen appliances and cooking

1 equipment, real property, including land and improvements, and
2 for reduction of debt, made in connection with the
3 establishment of a child care facility as defined by s.
4 402.302, or any facility providing daily care to children who
5 are mildly ill, which is located in this state on the
6 insurer's premises and used by the employees of the insurer.

7 (b) "Operation of a child care facility" means
8 operation of a child care facility as defined by s. 402.302,
9 or any facility providing daily care to children who are
10 mildly ill, which is located in this state within 5 miles of
11 at least one place of business of the insurer and which is
12 used by the employees of the insurer.

13 (c) "Department" means the Department of Children and
14 Family Services.

15 (d) "Secretary" means the secretary of the Department
16 of Children and Family Services.

17 (2) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--

18 (a)1. A credit of 50 percent of the startup costs of
19 child care facilities operated by an insurer for its employees
20 is allowed against any tax due for a taxable year under s.
21 624.509 or s. 624.510. A credit against such tax is also
22 allowed for the operation of a child care facility by an
23 insurer for its employees, which credit is in the amount of
24 \$50 per month for each child enrolled in the facility.

25 2. A credit is allowed against any tax due for a
26 taxable year under s. 624.509 or s. 624.510 for any insurer
27 that makes payments directly to a child care facility as
28 defined by s. 402.302 which is licensed in accordance with s.
29 402.305, or to any facility providing daily care to children
30 who are mildly ill, which payments are made in the name of and
31 for the benefit of an employee of the insurer in this state

1 whose child attends the child care facility during the
2 employee's working hours. The credit shall be an amount equal
3 to 50 percent of the amount of such child care payments.

4 (b) An insurer may not receive more than \$50,000 in
5 annual tax credits for all approved child care costs that the
6 insurer incurs in any one year.

7 (c) The total amount of tax credits which may be
8 granted for all programs approved under this section and s.
9 220.19 is \$2 million annually.

10 (d) An application for tax credit under this section
11 must be approved by the secretary.

12 (e) If the credit granted under this section is not
13 fully used in any one year because of insufficient tax
14 liability on the part of the insurer, the unused amount may be
15 carried forward for a period not to exceed 5 years. The
16 carryover credit may be used in a subsequent year when the tax
17 imposed by s. 624.509 or s. 624.510 for that year exceeds the
18 credit for which the insurer is eligible in that year under
19 this section.

20 (f) If an insurer receives a credit for child care
21 facility startup costs, and the facility fails to operate for
22 at least 5 years, a pro rata share of the credit must be
23 repaid, in accordance with the formula: $A = C \times (1 - (N/60))$,
24 where:

25 1. "A" is the amount in dollars of the required
26 repayment.

27 2. "C" is the total credits taken by the insurer for
28 child care facility startup costs.

29 3. "N" is the number of months the facility was in
30 operation.

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1 This repayment requirement is inapplicable if the insurer goes
2 out of business or can demonstrate to the department that its
3 employees no longer want to have a child care facility.

4 (3) ELIGIBILITY REQUIREMENTS.--

5 (a) A child care facility with respect to which an
6 insurer claims a child care tax credit must be a child care
7 facility as defined by s. 402.302 and must be licensed in
8 accordance with s. 402.305, or must be a facility providing
9 daily care to children who are mildly ill.

10 (b) The services of a child care facility for which an
11 insurer claims a child care tax credit under subparagraph
12 (2)(a)1. must be available to all employees of the insurer or
13 must be allocated on a first-come, first-served basis, and
14 must be used by employees of the insurer.

15 (c) Child care payments for which an insurer claims a
16 credit under subparagraph (2)(a)2. shall not exceed the amount
17 charged by the child care facility to other children of like
18 age and abilities of persons not employed by the insurer.

19 (4) APPLICATION REQUIREMENTS.--Any insurer that wishes
20 to participate in this program must submit to the department
21 an application for tax credit which sets forth the proposal
22 for establishing a child care facility for the use of its
23 employees or for payment of the cost of child care for its
24 employees. This application must state the anticipated startup
25 costs and the number of children to be enrolled, in the case
26 of credit claimed under subparagraph (2)(a)1., or the number
27 of children for whom child care costs will be paid, in the
28 case of credit claimed under subparagraph (2)(a)2.

29 (5) ADMINISTRATION.--

30 (a) The Department of Children and Family Services may
31 adopt all rules necessary to administer this section,

1 including rules for the approval or disapproval of proposals
2 submitted by insurers and rules to provide for cooperative
3 arrangements between profit and nonprofit entities.

4 (b) The secretary's decision to approve or disapprove
5 a proposal must be in writing, and, if the proposal is
6 approved, the decision must state the maximum credit allowable
7 to the insurer.

8 (6) EXPIRATION.--This section expires on June 30,
9 2007, except that paragraph (2)(e), which relates to carryover
10 credits, and paragraph (2)(f), which relates to repaying tax
11 credits in specified circumstances, do not expire on that
12 date.

13 Section 6. This act shall take effect December 31,
14 1997.

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