

1 premises, and used exclusively for the purpose of promoting
2 the physical fitness of the taxpayer's employees in this
3 state, including, but not limited to, a gymnasium, weight
4 training room, aerobics workout space, swimming pool, running
5 track, or any indoor or outdoor court, field, or other site
6 used for competitive sports events or games;

7 2. The costs, to the extent not covered in
8 subparagraph 1., of equipping and providing any related
9 financial support for an amateur athletic team that engages in
10 vigorous athletic activity and is under the sponsorship of the
11 taxpayer, either alone or jointly with one or more other
12 employers, if the membership of the team consists entirely of
13 employees of the taxpayer in this state or the taxpayer and
14 another employer or employers with whom the taxpayer has
15 joined to provide employee fitness equipment and financial
16 support; and

17 3. Fifty percent of the cost of employing a qualified
18 person to conduct, on the taxpayer's business premises in this
19 state, a class or classes offering:

20 a. Information and guidance on subjects relating to
21 personal and family health, such as nutrition, hygiene, and
22 methods of preventing, recognizing, and combating substance
23 abuse; or

24 b. Instruction in and opportunity for fitness
25 enhancement activity, including, but not limited to, dance or
26 other aerobic exercise, yoga, muscle stretching, and martial
27 arts routines.

28 (b) Credits authorized under this section for any
29 taxpayer may not exceed 50 percent of the tax due under this
30 chapter for any taxable year.

31

1 (c) Credits authorized under this section for any
2 taxpayer may not exceed \$50 multiplied by the average of the
3 number of full-time employees of the taxpayer as of the last
4 day of the 3rd, 6th, 9th, and 12th months of the taxable year.

5 (d) Two or more taxpayers may join together to
6 establish and operate an employee fitness facility, provide
7 employee fitness equipment and financial support, or provide
8 employee fitness instruction in accordance with this section.
9 The participating taxpayers may apportion the annual employee
10 fitness credits in any manner they consider appropriate, but a
11 jointly operated employee fitness facility established under
12 this section may not receive more than \$50 multiplied by the
13 average of the number of full-time employees of the
14 participating taxpayers as of the last day of the 3rd, 6th,
15 9th, and 12th months of the taxable year.

16 (e) A taxpayer, or two or more taxpayers acting
17 jointly, may employ a not-for-profit corporation to operate an
18 employee fitness facility, provide employee fitness equipment
19 and financial support, or provide employee fitness
20 instruction.

21 (f) If the credit granted under this section is not
22 fully used in any one year because of insufficient tax
23 liability on the part of the corporation, the unused amount
24 may be carried forward for a period not to exceed 5 years. The
25 carryover credit may be used in a subsequent year when the tax
26 imposed by this chapter for that year exceeds the credit for
27 which the corporation is eligible in that year under this
28 section after applying the other credits and unused carryovers
29 in the order provided by s. 220.02(8).

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

4 (h) A taxpayer that is eligible to receive credit
5 under s. 624.5107 is ineligible to receive credit under this
6 section.

7 (i) An expenditure by a taxpayer to provide any of the
8 employee fitness benefits described in paragraph (a) does not
9 qualify for a credit under this section unless the benefit is
10 extended equally to all full-time employees.

11 (j) Credits authorized under this section are not
12 available to any professional sports franchise or facility or
13 to any taxpayer whose primary business activity is operating a
14 fitness facility or providing any services eligible for
15 credits under this section.

16 (2) ADMINISTRATION.--

17 (a) The Department of Revenue shall adopt rules and
18 forms necessary to administer this section, including rules to
19 provide for cooperative arrangements between taxpayers and
20 not-for-profit corporations.

21 (b) Verification of payments to a not-for-profit
22 corporation, to a health studio or other fitness facility, or
23 to a person who provides health or fitness instruction to a
24 taxpayer's employees must be in writing and must be retained
25 by the taxpayer in support of the credit claimed on the tax
26 return.

27 (c) Application for credit for payments made to
28 construct or rehabilitate a facility used for the purpose of
29 promoting the physical fitness of the taxpayer's employees in
30 this state must be submitted to the department within 6 months
31 after the local building inspector deems that the construction

1 or rehabilitation of the facility is substantially completed.
2 Application for credit for eligible expenditures pursuant to
3 paragraph (1)(a) must be submitted to the department with the
4 tax return on which the credit is claimed.

5 (d) A business that files an amended return for a
6 taxable year may not receive any amount of credit or credit
7 carryforward pursuant to this section in excess of the amount
8 claimed by the business on its original return for the taxable
9 year. This subsection does not apply to increases in the
10 amount of credit claimed under this section on an amended
11 return due to the use of any credit amount previously carried
12 forward for the taxable year on the original return or any
13 eligible prior year under paragraph (1)(f).

14 (3) EXPIRATION.--This section expires on December 31,
15 2016, except that paragraph (1)(f), which relates to carryover
16 credits, does not expire on that date.

17 (4) DEFINITIONS.--As used in this section, the term:

18 (a) "Amateur athletic team" means a team of persons
19 who engage in competitive athletic events for which no
20 monetary remuneration is provided, all of whom are employed by
21 the taxpayer or an employer with whom the taxpayer has joined
22 to provide employee fitness equipment and financial support.

23 (b) "Other fitness facility" means a facility that is
24 engaged in the sale of services for instruction, training, or
25 assistance in a program of physical exercise or in the sale of
26 services for the right or privilege to use equipment or
27 facilities in furtherance of a program of physical exercise
28 but is not subject to chapter 501.

29 (c) "Qualified person" means a person certified by a
30 recognized national organization to provide the instruction
31 for which a tax credit is being sought.

1 (d) "Vigorous athletic activity" means exertion that
2 makes a person sweat and breathe hard, such as basketball,
3 soccer, running, swimming laps, fast bicycling, fast dancing,
4 and similar aerobic activities.

5 Section 2. Subsection (8) of section 220.02, Florida
6 Statutes, is amended to read:

7 220.02 Legislative intent.--

8 (8) It is the intent of the Legislature that credits
9 against either the corporate income tax or the franchise tax
10 be applied in the following order: those enumerated in s.
11 631.828, those enumerated in s. 220.191, those enumerated in
12 s. 220.181, those enumerated in s. 220.183, those enumerated
13 in s. 220.182, those enumerated in s. 220.1895, those
14 enumerated in s. 221.02, those enumerated in s. 220.184, those
15 enumerated in s. 220.186, those enumerated in s. 220.1845,
16 those enumerated in s. 220.19, those enumerated in s. 220.185,
17 ~~and~~ those enumerated in s. 220.187, and those enumerated in s.
18 220.192.

19 Section 3. Paragraph (a) of subsection (1) of section
20 220.13, Florida Statutes, is amended to read:

21 220.13 "Adjusted federal income" defined.--

22 (1) The term "adjusted federal income" means an amount
23 equal to the taxpayer's taxable income as defined in
24 subsection (2), or such taxable income of more than one
25 taxpayer as provided in s. 220.131, for the taxable year,
26 adjusted as follows:

27 (a) Additions.--There shall be added to such taxable
28 income:

29 1. The amount of any tax upon or measured by income,
30 excluding taxes based on gross receipts or revenues, paid or
31 accrued as a liability to the District of Columbia or any

1 | state of the United States which is deductible from gross
2 | income in the computation of taxable income for the taxable
3 | year.

4 | 2. The amount of interest which is excluded from
5 | taxable income under s. 103(a) of the Internal Revenue Code or
6 | any other federal law, less the associated expenses disallowed
7 | in the computation of taxable income under s. 265 of the
8 | Internal Revenue Code or any other law, excluding 60 percent
9 | of any amounts included in alternative minimum taxable income,
10 | as defined in s. 55(b)(2) of the Internal Revenue Code, if the
11 | taxpayer pays tax under s. 220.11(3).

12 | 3. In the case of a regulated investment company or
13 | real estate investment trust, an amount equal to the excess of
14 | the net long-term capital gain for the taxable year over the
15 | amount of the capital gain dividends attributable to the
16 | taxable year.

17 | 4. That portion of the wages or salaries paid or
18 | incurred for the taxable year which is equal to the amount of
19 | the credit allowable for the taxable year under s. 220.181.
20 | The provisions of this subparagraph shall expire and be void
21 | on June 30, 2005.

22 | 5. That portion of the ad valorem school taxes paid or
23 | incurred for the taxable year which is equal to the amount of
24 | the credit allowable for the taxable year under s. 220.182.
25 | The provisions of this subparagraph shall expire and be void
26 | on June 30, 2005.

27 | 6. The amount of emergency excise tax paid or accrued
28 | as a liability to this state under chapter 221 which tax is
29 | deductible from gross income in the computation of taxable
30 | income for the taxable year.

31 |

1 7. That portion of assessments to fund a guaranty
2 association incurred for the taxable year which is equal to
3 the amount of the credit allowable for the taxable year.

4 8. In the case of a nonprofit corporation which holds
5 a pari-mutuel permit and which is exempt from federal income
6 tax as a farmers' cooperative, an amount equal to the excess
7 of the gross income attributable to the pari-mutuel operations
8 over the attributable expenses for the taxable year.

9 9. The amount taken as a credit for the taxable year
10 under s. 220.1895.

11 10. Up to nine percent of the eligible basis of any
12 designated project which is equal to the credit allowable for
13 the taxable year under s. 220.185.

14 11. The amount taken as a credit for the taxable year
15 under s. 220.187.

16 12. The amount taken as a credit under s. 220.192.

17 Section 4. Section 624.5108, Florida Statutes, is
18 created to read:

19 624.5108 Employee fitness tax credits; definitions;
20 authorization; limitations; eligibility and application
21 requirements; administration; expiration.--

22 (1) DEFINITIONS.--As used in this section, the term:

23 (a) "Amateur athletic team" means a team of persons
24 who engage in competitive athletic events for which no
25 monetary remuneration is provided, all of whom are employed by
26 the taxpayer or an employer with whom the taxpayer has joined
27 to provide employee fitness equipment and financial support.

28 (b) "Department" means the Department of Revenue.

29 (c) "Employee fitness costs" means:

30 1. The costs of equipping, operating, and maintaining
31 a facility owned by the taxpayer, located on the taxpayer's

1 premises, and used exclusively for the purpose of promoting
2 the physical fitness of the taxpayer's employees in this
3 state, including, but not limited to, a gymnasium, weight
4 training room, aerobics workout space, swimming pool, running
5 track, or any indoor or outdoor court, field, or other site
6 used for competitive sports events or games;

7 2. The costs, to the extent not covered in
8 subparagraph 1., of equipping and providing any related
9 financial support for an amateur athletic team that engages in
10 vigorous athletic activity under the sponsorship of the
11 taxpayer, either alone or jointly with one or more other
12 employers, if the membership of the team consists entirely of
13 employees of the taxpayer in this state or the taxpayer and
14 another employer or employers, as appropriate; and

15 3. Fifty percent of the cost of employing a qualified
16 person to conduct, on the taxpayer's business premises in this
17 state, a class or classes offering:

18 a. Information and guidance on subjects relating to
19 personal and family health, such as nutrition, hygiene, and
20 methods of preventing, recognizing, and combating substance
21 abuse; or

22 b. Instruction in and opportunity for fitness
23 enhancement activity, including, but not limited to, dance or
24 other aerobic exercise, yoga, muscle stretching, and martial
25 arts routines.

26 (d) "Other fitness facility" means a facility that is
27 engaged in the sale of services for instruction, training, or
28 assistance in a program of physical exercise or in the sale of
29 services for the right or privilege to use equipment or
30 facilities in furtherance of a program of physical exercise
31 but is not subject to chapter 501.

1 (e) "Qualified person" means a person certified by a
2 recognized national organization to provide the instruction
3 for which a tax credit is being sought.

4 (f) "Vigorous athletic activity" means exertion that
5 makes a person sweat and breathe hard, such as basketball,
6 soccer, running, swimming laps, fast bicycling, fast dancing,
7 and similar aerobic activities.

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

9 (a) A credit of 10 percent of employee fitness costs
10 incurred by an insurer is allowed against any tax due for a
11 taxable year under ss. 624.509 and 624.510.

12 (b) Credits authorized under this section for any
13 taxpayer may not exceed 50 percent of the tax due under this
14 chapter for any taxable year.

15 (c) Credits authorized under this section for any
16 taxpayer may not exceed \$50 multiplied by the average of the
17 number of full-time employees of the insurer as of the last
18 day of the 3rd, 6th, 9th, and 12th months of the taxable year.

19 (d) If the credit granted under this section is not
20 fully used in any one year because of insufficient tax
21 liability on the part of the insurer, the unused amount may be
22 carried forward for a period not to exceed 5 years. The
23 carryover credit may be used in a subsequent year when the tax
24 imposed by ss. 624.509 and 624.510 for that year exceeds the
25 credit for which the insurer is eligible in that year under
26 this section.

27 (e) An insurer that is eligible to receive credit
28 under s. 220.192 is ineligible to receive credit under this
29 section.

30 (2) An expenditure by an insurer to provide any of the
31 employee fitness benefits described in paragraph (1)(a) does

1 not qualify for a credit under this section unless the benefit
2 is extended equally to all full-time employees.

3 (3) ADMINISTRATION.--

4 (a) The Department of Revenue shall adopt rules and
5 forms necessary to administer this section, including rules to
6 provide for cooperative arrangements between taxpayers and
7 not-for-profit corporations.

8 (b) Verification of payments to a not-for-profit
9 corporation, to a health studio or other fitness facility, or
10 to a person who provides health or fitness instruction to a
11 taxpayer's employees must be in writing and must be retained
12 by the taxpayer in support of the credit claimed on the tax
13 return.

14 (4) EXPIRATION.--This section expires on December 31,
15 2016, except that paragraph (2)(d), which relates to carryover
16 credits, does not expire on that date.

17 Section 5. This act shall take effect January 1, 2007,
18 and shall apply to tax years beginning on or after that date.

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21 SENATE SUMMARY

22 Provides tax credits for certain taxpayer expenditures to
23 promote employee fitness, including a credit against the
24 tax on corporate income and a credit against the tax on
25 insurers. Defines terms. Provides the order in which
26 credits against the corporate income tax shall be taken.
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