

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

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

19 3. The cost of subsidizing an employee's membership to
20 a health studio as defined by s. 501.0125; and

21 4. Fifty percent of the cost of employing a qualified
22 person or organization to provide, on the taxpayer's business
23 premises in this state:

24 a. Information and guidance on subjects relating to
25 personal and family health, such as nutrition, hygiene, and
26 methods of preventing, recognizing, and combating substance
27 abuse; or

28 b. Instruction in and opportunity for fitness
29 enhancement activity, including, but not limited to, dance or
30 other aerobic exercise, yoga, muscle stretching, and martial
31 arts routines.

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

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

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

20 (e) A taxpayer, or two or more taxpayers acting
21 jointly, may employ a not-for-profit or for-profit corporation
22 to:

- 23 1. Operate an employee fitness facility;
24 2. Provide employee fitness equipment and financial
25 support; or
26 3. Provide employee fitness instruction,

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28 on the taxpayers premises in this state.

29 (f) If the credit granted under this section is not
30 fully used in any one year because of insufficient tax
31 liability on the part of the corporation, the unused amount

1 may be carried forward for a period not to exceed 5 years. The
2 carryover credit may be used in a subsequent year when the tax
3 imposed by this chapter for that year exceeds the credit for
4 which the corporation is eligible in that year under this
5 section after applying the other credits and unused carryovers
6 in the order provided by s. 220.02(8).

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

10 (h) A taxpayer that is eligible to receive credit
11 under s. 624.5108 is ineligible to receive credit under this
12 section.

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

17 (j) Credits authorized under this section are not
18 available to any professional sports franchise or facility or
19 to any taxpayer whose primary business activity is operating a
20 fitness facility or providing any services eligible for
21 credits under this section.

22 (2) ADMINISTRATION.--

23 (a) The Department of Revenue shall adopt rules and
24 forms necessary to administer this section, including rules to
25 provide for cooperative arrangements between taxpayers and
26 not-for-profit or for-profit corporations.

27 (b) Verification of payments to a not-for-profit or
28 for-profit corporation or to a person who provides health or
29 fitness instruction to a taxpayer's employees must be in
30 writing and must be retained by the taxpayer in support of the
31 credit claimed on the tax return.

1 (c) Application for credit for payments made to
2 construct or rehabilitate a facility used for the purpose of
3 promoting the physical fitness of the taxpayer's employees in
4 this state must be submitted to the department within 6 months
5 after the local building inspector deems that the construction
6 or rehabilitation of the facility is substantially completed.
7 Application for credit for eligible expenditures pursuant to
8 paragraph (1)(a) must be submitted to the department with the
9 tax return on which the credit is claimed.

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

19 (3) EXPIRATION.--This section expires on December 31,
20 2016, except that paragraph (1)(f), which relates to carryover
21 credits, does not expire on that date.

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

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1 (c) "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.

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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 or organization to provide, on the taxpayer's business
17 premises in this state:

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) "Qualified person" means a person certified by a
27 recognized national organization to provide the instruction
28 for which a tax credit is being sought.

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

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

4 (a) A credit of 10 percent of employee fitness costs
5 incurred by an insurer during the taxable year is allowed
6 against any tax due for a taxable year under ss. 624.509 and
7 624.510.

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

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

16 (d) Two or more taxpayers may join together to
17 establish and operate an employee fitness facility, provide
18 employee fitness equipment and financial support, or provide
19 employee fitness instruction in accordance with this section.
20 The participating taxpayers may apportion the annual employee
21 fitness credits in any manner they consider appropriate, but a
22 jointly operated employee fitness facility established under
23 this section may not receive more than \$50 multiplied by the
24 average of the number of full-time equivalent employees of the
25 participating taxpayers in this state as of the last day of
26 the 3rd, 6th, 9th, and 12th months of the taxable year.

27 (e) A taxpayer, or two or more taxpayers acting
28 jointly, may employ a not-for-profit or for-profit corporation
29 to:

- 30 1. Operate an employee fitness facility;
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1 2. Provide employee fitness equipment and financial
2 support; or

3 3. Provide employee fitness instruction,
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5 on the taxpayers premises in this state.

6 (f) If the credit granted under this section is not
7 fully used in any one year because of insufficient tax
8 liability on the part of the insurer, the unused amount may be
9 carried forward for a period not to exceed 5 years. The
10 carryover credit may be used in a subsequent year when the tax
11 imposed by ss. 624.509 and 624.510 for that year exceeds the
12 credit for which the insurer is eligible in that year under
13 this section.

14 (3) An expenditure by an insurer to provide any of the
15 employee fitness benefits described in paragraph (1)(a) does
16 not qualify for a credit under this section unless the benefit
17 is extended equally to all full-time employees in this state.

18 (4) ADMINISTRATION.--

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

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

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

1 after the construction or rehabilitation of the facility is
2 deemed to be substantially completed by the local building
3 code inspector. Application for credit for eligible
4 expenditures pursuant to paragraph (2)(a) must be submitted to
5 the department with the tax return on which the credit is
6 claimed.

7 (d) An insurer that files an amended return for a
8 taxable year is not allowed any amount of credit or credit
9 carryforward pursuant to this section in excess of the amount
10 claimed by such insurer on its original return for the taxable
11 year. The provisions of this subsection do not apply to
12 increases in the amount of credit claimed under this section
13 on an amended return due to the use of any credit amount
14 previously carried forward for the taxable year on the
15 original return or any eligible prior year under paragraph
16 (2)(f).

17 (5) EXPIRATION.--This section expires on December 31,
18 2016, except that paragraph (2)(d), which relates to carryover
19 credits, does not expire on that date.

20 Section 5. Subsection (7) of section 624.509, Florida
21 Statutes, is amended to read:

22 624.509 Premium tax; rate and computation.--

23 (7) Credits and deductions against the tax imposed by
24 this section shall be taken in the following order: deductions
25 for assessments made pursuant to s. 440.51; credits for taxes
26 paid under ss. 175.101 and 185.08; credits for income taxes
27 paid under chapter 220, the emergency excise tax paid under
28 chapter 221, and the credit allowed under subsection (5), as
29 these credits are limited by subsection (6); employee fitness
30 tax credits authorized under s. 624.5108; and all other
31 available credits and deductions.

1 Section 6. This act shall take effect January 1, 2007,
2 and shall apply to tax years beginning on or after that date.

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4 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
5 COMMITTEE SUBSTITUTE FOR
6 Senate Bill 1230

7 The committee substitute differs from the bill in the
8 following ways: it provides that a business may also receive a
9 tax credit equal to 10 percent of the costs of subsidizing an
10 employee's membership to a health studio; and it allows
11 businesses to employ a for-profit corporation, in addition to
12 a not--for-profit corporation, to provide employee fitness
13 facilities or activities.