

HB 729

2006

1 A bill to be entitled

2 An act relating to tax credits for taxpayer expenditures  
3 to promote employee fitness; creating s. 220.192, F.S.;  
4 providing for a credit against the corporate income tax  
5 for certain corporate taxpayer expenditures relating to  
6 providing employee fitness facilities or supporting  
7 fitness-related activities by employees; providing for  
8 administration by the Department of Revenue; requiring the  
9 department to adopt rules; providing for expiration;  
10 providing an exception; defining terms; amending s.  
11 220.02, F.S.; providing an addition to the order in which  
12 credits against the corporate income tax are taken;  
13 amending s. 220.13, F.S.; adding the amount taken as a  
14 credit under s. 220.192, F.S., to adjusted federal income;  
15 creating s. 624.5108, F.S.; providing definitions;  
16 providing for a credit against the insurance premium tax  
17 for certain insurer expenditures relating to providing  
18 employee fitness facilities or supporting fitness-related  
19 activities by employees; providing for administration by  
20 the Department of Revenue; requiring the department to  
21 adopt rules; providing for expiration; providing an  
22 exception; providing applicability; providing an effective  
23 date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Section 220.192, Florida Statutes, is created  
28 to read:

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29           220.192 Employee fitness tax credits.--  
 30           (1) AUTHORIZATION TO GRANT TAX CREDITS; LIMITATIONS.--  
 31           (a) A taxpayer shall be allowed a credit against any tax  
 32 due for a taxable year under this chapter equal to 10 percent of  
 33 the taxpayer's expenditures during the taxable year for:  
 34           1. The costs of equipping, operating, and maintaining a  
 35 facility owned by the taxpayer, located on the taxpayer's  
 36 premises, and used exclusively for the purpose of promoting the  
 37 physical fitness of the taxpayer's employees in this state,  
 38 including, but not limited to, a gymnasium, weight training  
 39 room, aerobics workout space, swimming pool, running track, or  
 40 any indoor or outdoor court, field, or other site used for  
 41 competitive sports events or games.  
 42           2. The costs, to the extent not covered in subparagraph  
 43 1., of equipping and providing any related financial support for  
 44 an amateur athletic team that engages in vigorous athletic  
 45 activity and is under the sponsorship of the taxpayer, either  
 46 alone or jointly with one or more other employers, if the  
 47 membership of the team consists entirely of employees of the  
 48 taxpayer in this state or the taxpayer and another employer or  
 49 employers with whom the taxpayer has joined to provide employee  
 50 fitness equipment and financial support.  
 51           3. Fifty percent of the cost of employing a qualified  
 52 person to conduct, on the taxpayer's business premises in this  
 53 state, a class or classes offering:  
 54           a. Information and guidance on subjects relating to  
 55 personal and family health, such as nutrition, hygiene, and  
 56 methods of preventing, recognizing, and combating substance

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57 abuse; or

58 b. Instruction in and opportunity for fitness enhancement  
59 activity, including, but not limited to, dance or other aerobic  
60 exercise, yoga, muscle stretching, and martial arts routines.

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

64 (c) Credits authorized under this section for any taxpayer  
65 may not exceed \$50 multiplied by the average of the number of  
66 full-time employees of the taxpayer as of the last day of the  
67 3rd, 6th, 9th, and 12th months of the taxable year.

68 (d) Two or more taxpayers may join together to establish  
69 and operate an employee fitness facility, provide employee  
70 fitness equipment and financial support, or provide employee  
71 fitness instruction in accordance with this section. The  
72 participating taxpayers may apportion the annual employee  
73 fitness credits in any manner they consider appropriate, but a  
74 jointly operated employee fitness facility established under  
75 this section may not receive more than \$50 multiplied by the  
76 average of the number of full-time employees of the  
77 participating taxpayers as of the last day of the 3rd, 6th, 9th,  
78 and 12th months of the taxable year.

79 (e) A taxpayer, or two or more taxpayers acting jointly,  
80 may employ a not-for-profit corporation to operate an employee  
81 fitness facility, provide employee fitness equipment and  
82 financial support, or provide employee fitness instruction.

83 (f) If the credit granted under this section is not fully  
84 used in any one year because of insufficient tax liability on

85 the part of the corporation, the unused amount may be carried  
 86 forward for a period not to exceed 5 years. The carryover credit  
 87 may be used in a subsequent year when the tax imposed by this  
 88 chapter for that year exceeds the credit for which the  
 89 corporation is eligible in that year under this section after  
 90 applying the other credits and unused carryovers in the order  
 91 provided by s. 220.02(8).

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

95 (h) A taxpayer that is eligible to receive credit under s.  
 96 624.5108 is ineligible to receive credit under this section.

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

101 (j) Credits authorized under this section are not  
 102 available to any professional sports franchise or facility or to  
 103 any taxpayer whose primary business activity is operating a  
 104 fitness facility or providing any services eligible for credits  
 105 under this section.

106 (2) ADMINISTRATION.--

107 (a) The Department of Revenue shall adopt rules and forms  
 108 necessary to administer this section, including rules to provide  
 109 for cooperative arrangements between taxpayers and not-for-  
 110 profit corporations.

111 (b) Verification of payments to a not-for-profit  
 112 corporation, to a health studio or other fitness facility, or to

113 a person who provides health or fitness instruction to a  
 114 taxpayer's employees must be in writing and must be retained by  
 115 the taxpayer in support of the credit claimed on the tax return.

116 (c) Application for credit for payments made to construct  
 117 or rehabilitate a facility used for the purpose of promoting the  
 118 physical fitness of the taxpayer's employees in this state must  
 119 be submitted to the department within 6 months after the local  
 120 building inspector deems that the construction or rehabilitation  
 121 of the facility is substantially completed. Application for  
 122 credit for eligible expenditures pursuant to paragraph (1)(a)  
 123 must be submitted to the department with the tax return on which  
 124 the credit is claimed.

125 (d) A business that files an amended return for a taxable  
 126 year may not receive any amount of credit or credit carryforward  
 127 pursuant to this section in excess of the amount claimed by the  
 128 business on its original return for the taxable year. This  
 129 subsection does not apply to increases in the amount of credit  
 130 claimed under this section on an amended return due to the use  
 131 of any credit amount previously carried forward for the taxable  
 132 year on the original return or any eligible prior year under  
 133 paragraph (1)(f).

134 (3) EXPIRATION.--This section expires on December 31,  
 135 2016, except that paragraph (1)(f), which relates to carryover  
 136 credits, does not expire on that date.

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

138 (a) "Amateur athletic team" means a team of persons who  
 139 engage in competitive athletic events for which no monetary  
 140 remuneration is provided, all of whom are employed by the

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141 taxpayer or an employer with whom the taxpayer has joined to  
 142 provide employee fitness equipment and financial support.

143 (b) "Other fitness facility" means a facility that is  
 144 engaged in the sale of services for instruction, training, or  
 145 assistance in a program of physical exercise or in the sale of  
 146 services for the right or privilege to use equipment or  
 147 facilities in furtherance of a program of physical exercise but  
 148 is not subject to chapter 501.

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

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

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

158 220.02 Legislative intent.--

159 (8) It is the intent of the Legislature that credits  
 160 against either the corporate income tax or the franchise tax be  
 161 applied in the following order: those enumerated in s. 631.828,  
 162 those enumerated in s. 220.191, those enumerated in s. 220.181,  
 163 those enumerated in s. 220.183, those enumerated in s. 220.182,  
 164 those enumerated in s. 220.1895, those enumerated in s. 221.02,  
 165 those enumerated in s. 220.184, those enumerated in s. 220.186,  
 166 those enumerated in s. 220.1845, those enumerated in s. 220.19,  
 167 those enumerated in s. 220.185, ~~and~~ those enumerated in s.  
 168 220.187, and those enumerated in s. 220.192.

169 Section 3. Paragraph (a) of subsection (1) of section  
 170 220.13, Florida Statutes, is amended to read:

171 220.13 "Adjusted federal income" defined.--

172 (1) The term "adjusted federal income" means an amount  
 173 equal to the taxpayer's taxable income as defined in subsection  
 174 (2), or such taxable income of more than one taxpayer as  
 175 provided in s. 220.131, for the taxable year, adjusted as  
 176 follows:

177 (a) Additions.--There shall be added to such taxable  
 178 income:

179 1. The amount of any tax upon or measured by income,  
 180 excluding taxes based on gross receipts or revenues, paid or  
 181 accrued as a liability to the District of Columbia or any state  
 182 of the United States which is deductible from gross income in  
 183 the computation of taxable income for the taxable year.

184 2. The amount of interest which is excluded from taxable  
 185 income under s. 103(a) of the Internal Revenue Code or any other  
 186 federal law, less the associated expenses disallowed in the  
 187 computation of taxable income under s. 265 of the Internal  
 188 Revenue Code or any other law, excluding 60 percent of any  
 189 amounts included in alternative minimum taxable income, as  
 190 defined in s. 55(b)(2) of the Internal Revenue Code, if the  
 191 taxpayer pays tax under s. 220.11(3).

192 3. In the case of a regulated investment company or real  
 193 estate investment trust, an amount equal to the excess of the  
 194 net long-term capital gain for the taxable year over the amount  
 195 of the capital gain dividends attributable to the taxable year.

196 4. That portion of the wages or salaries paid or incurred

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197 for the taxable year which is equal to the amount of the credit  
198 allowable for the taxable year under s. 220.181. The provisions  
199 of this subparagraph shall expire and be void on June 30, 2005.

200 5. That portion of the ad valorem school taxes paid or  
201 incurred for the taxable year which is equal to the amount of  
202 the credit allowable for the taxable year under s. 220.182. The  
203 provisions of this subparagraph shall expire and be void on June  
204 30, 2005.

205 6. The amount of emergency excise tax paid or accrued as a  
206 liability to this state under chapter 221 which tax is  
207 deductible from gross income in the computation of taxable  
208 income for the taxable year.

209 7. That portion of assessments to fund a guaranty  
210 association incurred for the taxable year which is equal to the  
211 amount of the credit allowable for the taxable year.

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

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

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

222 11. The amount taken as a credit for the taxable year  
223 under s. 220.187.

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



225 Section 4. Section 624.5108, Florida Statutes, is created  
 226 to read:

227 624.5108 Employee fitness tax credits; definitions;  
 228 authorization; limitations; eligibility and application  
 229 requirements; administration; expiration.--

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

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

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

237 (c) "Employee fitness costs" means:

238 1. The costs of equipping, operating, and maintaining a  
 239 facility owned by the taxpayer, located on the taxpayer's  
 240 premises, and used exclusively for the purpose of promoting the  
 241 physical fitness of the taxpayer's employees in this state,  
 242 including, but not limited to, a gymnasium, weight training  
 243 room, aerobics workout space, swimming pool, running track, or  
 244 any indoor or outdoor court, field, or other site used for  
 245 competitive sports events or games.

246 2. The costs, to the extent not covered in subparagraph  
 247 1., of equipping and providing any related financial support for  
 248 an amateur athletic team that engages in vigorous athletic  
 249 activity under the sponsorship of the taxpayer, either alone or  
 250 jointly with one or more other employers, if the membership of  
 251 the team consists entirely of employees of the taxpayer in this  
 252 state or the taxpayer and another employer or employers, as

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253 appropriate.

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

257 a. Information and guidance on subjects relating to  
258 personal and family health, such as nutrition, hygiene, and  
259 methods of preventing, recognizing, and combating substance  
260 abuse; or

261 b. Instruction in and opportunity for fitness enhancement  
262 activity, including, but not limited to, dance or other aerobic  
263 exercise, yoga, muscle stretching, and martial arts routines.

264 (d) "Other fitness facility" means a facility that is  
265 engaged in the sale of services for instruction, training, or  
266 assistance in a program of physical exercise or in the sale of  
267 services for the right or privilege to use equipment or  
268 facilities in furtherance of a program of physical exercise but  
269 is not subject to chapter 501.

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

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

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

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

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

284       (c) Credits authorized under this section for any taxpayer  
 285 may not exceed \$50 multiplied by the average of the number of  
 286 full-time employees of the insurer as of the last day of the  
 287 3rd, 6th, 9th, and 12th months of the taxable year.

288       (d) If the credit granted under this section is not fully  
 289 used in any one year because of insufficient tax liability on  
 290 the part of the insurer, the unused amount may be carried  
 291 forward for a period not to exceed 5 years. The carryover credit  
 292 may be used in a subsequent year when the tax imposed by ss.  
 293 624.509 and 624.510 for that year exceeds the credit for which  
 294 the insurer is eligible in that year under this section.

295       (e) An insurer that is eligible to receive credit under s.  
 296 220.192 is ineligible to receive credit under this section.

297       (f) An expenditure by an insurer to provide any of the  
 298 employee fitness benefits described in paragraph (1)(a) does not  
 299 qualify for a credit under this section unless the benefit is  
 300 extended equally to all full-time employees.

301       (3) ADMINISTRATION.--

302       (a) The Department of Revenue shall adopt rules and forms  
 303 necessary to administer this section, including rules to provide  
 304 for cooperative arrangements between taxpayers and not-for-  
 305 profit corporations.

306       (b) Verification of payments to a not-for-profit  
 307 corporation, to a health studio or other fitness facility, or to  
 308 a person who provides health or fitness instruction to a

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309 taxpayer's employees must be in writing and must be retained by  
310 the taxpayer in support of the credit claimed on the tax return.

311 (4) EXPIRATION.--This section expires on December 31,  
312 2016, except that paragraph (2)(d), which relates to carryover  
313 credits, does not expire on that date.

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