

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 in s. 501.0125 and located in
21 Florida; and

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

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

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

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

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

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

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

- 25 1. Operate an employee fitness facility;
26 2. Provide employee fitness equipment and financial
27 support; or
28 3. Provide employee fitness instruction,
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30 on the taxpayer's premises in this state.
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1 (f) If the credit granted under this section is not
2 fully used in any one year because of insufficient tax
3 liability on the part of the corporation, the unused amount
4 may be carried forward for a period not to exceed 5 years. The
5 carryover credit may be used in a subsequent year when the tax
6 imposed by this chapter for that year exceeds the credit for
7 which the corporation is eligible in that year under this
8 section after applying the other credits and unused carryovers
9 in the order provided by s. 220.02(8).

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

13 (h) A taxpayer that is eligible to receive credit
14 under s. 624.5108 is ineligible to receive credit under this
15 section.

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

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

25 (2) ADMINISTRATION.--

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

30 (b) Verification of payments to a not-for-profit or
31 for-profit corporation or to a person who provides health or

1 fitness instruction to a taxpayer's employees must be in
2 writing and must be retained by the taxpayer in support of the
3 credit claimed on the tax return.

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

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

22 (3) EXPIRATION.--This section expires on December 31,
23 2017, except that paragraph (1)(f), which relates to carryover
24 credits, does not expire on that date.

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

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

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1 (b) "Qualified person" means a person holding a state
2 license and working within his or her scope of practice who is
3 certified by a recognized national organization to provide the
4 instruction for which a tax credit is being sought. In the
5 case of fitness instruction, for which licensure does not
6 exist, the term means a person who holds a minimum of an
7 associate's degree from an accredited university in a
8 health-related or fitness-related field or at least one
9 current fitness-instruction certification from a certifying
10 organization or agency that has at least begun third-party
11 accreditation of its certification procedures and protocols
12 from the National Commission for Certifying Agencies or an
13 equivalent accrediting organization recognized by the Council
14 for Higher Education Accreditation or the United States
15 Department of Education.

16 (c) "Vigorous athletic activity" means exertion that
17 makes a person sweat and breathe hard, such as basketball,
18 soccer, running, swimming laps, fast bicycling, fast dancing,
19 and similar aerobic activities.

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

22 220.02 Legislative intent.--

23 (8) It is the intent of the Legislature that credits
24 against either the corporate income tax or the franchise tax
25 be applied in the following order: those enumerated in s.
26 631.828, those enumerated in s. 220.191, those enumerated in
27 s. 220.181, those enumerated in s. 220.183, those enumerated
28 in s. 220.182, those enumerated in s. 220.1895, those
29 enumerated in s. 221.02, those enumerated in s. 220.184, those
30 enumerated in s. 220.186, those enumerated in s. 220.1845,
31 those enumerated in s. 220.19, those enumerated in s. 220.185,

1 those enumerated in s. 220.187, those enumerated in s.
2 220.192, ~~and~~ those enumerated in s. 220.193, and those
3 enumerated in s. 220.1925.

4 Section 3. Paragraph (a) of subsection (1) of section
5 220.13, Florida Statutes, is amended to read:

6 220.13 "Adjusted federal income" defined.--

7 (1) The term "adjusted federal income" means an amount
8 equal to the taxpayer's taxable income as defined in
9 subsection (2), or such taxable income of more than one
10 taxpayer as provided in s. 220.131, for the taxable year,
11 adjusted as follows:

12 (a) Additions.--There shall be added to such taxable
13 income:

14 1. The amount of any tax upon or measured by income,
15 excluding taxes based on gross receipts or revenues, paid or
16 accrued as a liability to the District of Columbia or any
17 state of the United States which is deductible from gross
18 income in the computation of taxable income for the taxable
19 year.

20 2. The amount of interest which is excluded from
21 taxable income under s. 103(a) of the Internal Revenue Code or
22 any other federal law, less the associated expenses disallowed
23 in the computation of taxable income under s. 265 of the
24 Internal Revenue Code or any other law, excluding 60 percent
25 of any amounts included in alternative minimum taxable income,
26 as defined in s. 55(b)(2) of the Internal Revenue Code, if the
27 taxpayer pays tax under s. 220.11(3).

28 3. In the case of a regulated investment company or
29 real estate investment trust, an amount equal to the excess of
30 the net long-term capital gain for the taxable year over the
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1 amount of the capital gain dividends attributable to the
2 taxable year.

3 4. That portion of the wages or salaries paid or
4 incurred for the taxable year which is equal to the amount of
5 the credit allowable for the taxable year under s. 220.181.
6 This subparagraph shall expire on the date specified in s.
7 290.016 for the expiration of the Florida Enterprise Zone Act.

8 5. That portion of the ad valorem school taxes paid or
9 incurred for the taxable year which is equal to the amount of
10 the credit allowable for the taxable year under s. 220.182.
11 This subparagraph shall expire on the date specified in s.
12 290.016 for the expiration of the Florida Enterprise Zone Act.

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

17 7. That portion of assessments to fund a guaranty
18 association incurred for the taxable year which is equal to
19 the amount of the credit allowable for the taxable year.

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

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

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

30 11. The amount taken as a credit for the taxable year
31 under s. 220.187.

1 12. The amount taken as a credit for the taxable year
2 under s. 220.192.

3 13. The amount taken as a credit for the taxable year
4 under s. 220.193.

5 14. The amount taken as a credit under s. 220.1925.

6 Section 4. Section 624.5108, Florida Statutes, is
7 created to read:

8 624.5108 Employee fitness tax credits; definitions;
9 authorization; limitations; eligibility and application
10 requirements; administration; expiration.--

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

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

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

18 (c) "Employee fitness costs" means:

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

27 2. The costs, to the extent not covered in
28 subparagraph 1., of equipping and providing any related
29 financial support for an amateur athletic team that engages in
30 vigorous athletic activity under the sponsorship of the
31 taxpayer, either alone or jointly with one or more other

1 employers, if the membership of the team consists entirely of
2 employees of the taxpayer in this state or the taxpayer and
3 another employer or employers, as appropriate; and

4 3. The cost of subsidizing an employee's membership to
5 a health studio as defined in s. 501.0125 and located in
6 Florida; and

7 4. Fifty percent of the cost of employing a qualified
8 person or organization that employs a qualified person to
9 provide, on the taxpayer's business premises in this state:

10 a. Information and guidance on subjects relating to
11 personal and family health, such as nutrition, hygiene, and
12 methods of preventing, recognizing, and combating substance
13 abuse; or

14 b. Instruction in and opportunity for fitness
15 enhancement activity, including, but not limited to, dance or
16 other aerobic exercise, yoga, muscle stretching, and martial
17 arts routines.

18 (d) "Qualified person" means a person holding a state
19 license and working within his or her scope of practice who is
20 certified by a recognized national organization to provide the
21 instruction for which a tax credit is being sought. In the
22 case of fitness instruction, for which licensure does not
23 exist, the term means a person who holds a minimum of an
24 associate's degree from an accredited university in a
25 health-related or fitness-related field or at least one
26 current fitness-instruction certification from a certifying
27 organization or agency that has at least begun third-party
28 accreditation of its certification procedures and protocols
29 from the National Commission for Certifying Agencies or an
30 equivalent accrediting organization recognized by the Council

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1 for Higher Education Accreditation or the United States
2 Department of Education.

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

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

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

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 equivalent employees of the insurer in
18 this state as of the last day of the 3rd, 6th, 9th, and 12th
19 months of the taxable year.

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

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1 (e) A taxpayer, or two or more taxpayers acting
2 jointly, may employ a not-for-profit or for-profit corporation
3 to:

4 1. Operate an employee fitness facility;

5 2. Provide employee fitness equipment and financial
6 support; or

7 3. Provide employee fitness instruction,

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9 on the taxpayer's premises in this state.

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

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

22 (4) 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 a taxpayer's employees in
4 this state must be submitted to the department within 6 months
5 after the construction or rehabilitation of the facility is
6 deemed to be substantially completed by the local building
7 code inspector. Application for credit for eligible
8 expenditures pursuant to paragraph (2)(a) must be submitted to
9 the department with the tax return on which the credit is
10 claimed.

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

21 (5) EXPIRATION.--This section expires on December 31,
22 2017, except that paragraph (2)(f), which relates to carryover
23 credits, does not expire on that date.

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

26 624.509 Premium tax; rate and computation.--

27 (7) Credits and deductions against the tax imposed by
28 this section shall be taken in the following order: deductions
29 for assessments made pursuant to s. 440.51; credits for taxes
30 paid under ss. 175.101 and 185.08; credits for income taxes
31 paid under chapter 220, the emergency excise tax paid under

1 chapter 221, and the credit allowed under subsection (5), as
2 these credits are limited by subsection (6); employee fitness
3 tax credits authorized under s. 624.5108; and all other
4 available credits and deductions.

5 Section 6. This act shall take effect January 1, 2008,
6 and shall apply to tax years beginning on or after that date.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 194

11 The Committee Substitute for Senate Bill 194 differs from the
12 bill as filed in the following ways:

- 13 - Replaces the definition of "qualified person" to include
14 additional and alternative requirements for
15 health/fitness education of licensure; and
16 - Clarifies that organizations hired by employers to
17 provide fitness/wellness training at the work site must
18 have a "qualified person" on staff.
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