

A bill to be entitled

An act relating to employee fitness expenditures tax credits; creating s. 220.1925, F.S.; providing a credit against the tax on corporate income for certain taxpayer expenditures relating to providing employee fitness facilities or supporting fitness-related activities by employees; defining terms; amending s. 220.02, F.S.; providing the order in which credits against the corporate income tax shall be taken; amending s. 220.13, F.S.; adding the amount taken as a credit under s. 220.192, F.S., to adjusted federal income; creating s. 624.5108, F.S.; providing a credit against the tax on insurers for employee fitness costs, as defined in this act, which are incurred by an insurer; amending s. 624.509, F.S.; providing for the order of credits against the tax on insurers; providing applicability; providing an effective date.

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

Section 1. Section 220.1925, Florida Statutes, is created to read:

220.1925 Employee fitness tax credits.--

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

(a) A taxpayer shall be allowed a credit against any tax due for a taxable year under this chapter equal to 10 percent of the taxpayer's expenditures during the taxable year for:

1. The costs of equipping, operating, and maintaining a

29 facility owned by the taxpayer, located on the taxpayer's
30 premises, and used exclusively for the purpose of promoting the
31 physical fitness of the taxpayer's employees in this state,
32 including, but not limited to, a gymnasium, weight training
33 room, aerobics workout space, swimming pool, running track, or
34 any indoor or outdoor court, field, or other site used for
35 competitive sports events or games;

36 2. The costs, to the extent not covered in subparagraph
37 1., of equipping and providing any related financial support for
38 an amateur athletic team that engages in vigorous athletic
39 activity and is under the sponsorship of the taxpayer, sponsored
40 alone or jointly with one or more other employers, if the
41 membership of the team consists entirely of employees of the
42 taxpayer in this state or the taxpayer and another employer or
43 employers with whom the taxpayer has joined to provide employee
44 fitness equipment and financial support;

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

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

50 a. Information and guidance on subjects relating to
51 personal and family health, such as nutrition, hygiene, and
52 methods of preventing, recognizing, and combating substance
53 abuse; or

54 b. Instruction in and opportunity for fitness enhancement
55 activities, including, but not limited to, dance, yoga, muscle
56 stretching, martial arts, or other aerobic activities.

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

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

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

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

- 78 1. Operate an employee fitness facility;
79 2. Provide employee fitness equipment and financial
80 support; or
81 3. Provide employee fitness instruction

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83 on the taxpayer's premises in this state.

84 (f) If the credit granted under this section is not fully

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

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

96 (h) A taxpayer that is eligible to receive credit under s.
97 624.5108 is ineligible to receive credit under this section.

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

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

107 (2) ADMINISTRATION.--

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

112 (b) Verification of payments to a not-for-profit or for-

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

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

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

135 (3) EXPIRATION.--This section expires on December 31,
136 2017, except that paragraph (1)(f), which relates to carryover
137 credits, does not expire on that date.

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

139 (a) "Amateur athletic team" means a team of persons who
140 engage in competitive athletic events for which no monetary

141 remuneration is provided, all of whom are employed by the
 142 taxpayer or an employer with whom the taxpayer has joined to
 143 provide employee fitness equipment and financial support.

144 (b) "Qualified person" means a person certified by a
 145 recognized national organization to provide the instruction for
 146 which a tax credit is being sought.

147 (c) "Vigorous athletic activity" means exertion that makes
 148 a person sweat and breathe hard, such as basketball, soccer,
 149 running, swimming laps, bicycling, dancing, and similar aerobic
 150 activities.

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

153 220.02 Legislative intent.--

154 (8) It is the intent of the Legislature that credits
 155 against either the corporate income tax or the franchise tax be
 156 applied in the following order: those enumerated in s. 631.828,
 157 those enumerated in s. 220.191, those enumerated in s. 220.181,
 158 those enumerated in s. 220.183, those enumerated in s. 220.182,
 159 those enumerated in s. 220.1895, those enumerated in s. 221.02,
 160 those enumerated in s. 220.184, those enumerated in s. 220.186,
 161 those enumerated in s. 220.1845, those enumerated in s. 220.19,
 162 those enumerated in s. 220.185, those enumerated in s. 220.187,
 163 those enumerated in s. 220.192, ~~and~~ those enumerated in s.
 164 220.193, and those enumerated in s. 220.1925.

165 Section 3. Paragraph (a) of subsection (1) of section
 166 220.13, Florida Statutes, is amended to read:

167 220.13 "Adjusted federal income" defined.--

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

173 (a) Additions.--There shall be added to such taxable
 174 income:

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

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

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

192 4. That portion of the wages or salaries paid or incurred
 193 for the taxable year which is equal to the amount of the credit
 194 allowable for the taxable year under s. 220.181. This

195 subparagraph shall expire on the date specified in s. 290.016
 196 for the expiration of the Florida Enterprise Zone Act.

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

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

206 7. That portion of assessments to fund a guaranty
 207 association incurred for the taxable year which is equal to the
 208 amount of the credit allowable for the taxable year.

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

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

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

219 11. The amount taken as a credit for the taxable year
 220 under s. 220.187.

221 12. The amount taken as a credit for the taxable year
 222 under s. 220.192.

223 13. The amount taken as a credit for the taxable year
 224 under s. 220.193.

225 14. The amount taken as a credit for the taxable year
 226 under s. 220.1925.

227 Section 4. Section 624.5108, Florida Statutes, is created
 228 to read:

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

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

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

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

239 (c) "Employee fitness costs" means:

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

248 2. The costs, to the extent not covered in subparagraph
 249 1., of equipping and providing any related financial support for
 250 an amateur athletic team that engages in vigorous athletic

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251 activity under the sponsorship of the taxpayer, sponsored alone
252 or jointly with one or more other employers, if the membership
253 of the team consists entirely of employees of the taxpayer in
254 this state or the taxpayer and another employer or employers, as
255 appropriate; and

256 3. Fifty percent of the cost of employing a qualified
257 person or organization to provide, on the taxpayer's business
258 premises in this state:

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

263 b. Instruction in and opportunity for fitness enhancement
264 activities, including, but not limited to, dance, yoga, muscle
265 stretching, martial arts, or other aerobic activities.

266 (d) "Qualified person" means a person certified by a
267 recognized national organization to provide the instruction for
268 which a tax credit is being sought.

269 (e) "Vigorous athletic activity" means exertion that makes
270 a person sweat and breathe hard, such as basketball, soccer,
271 running, swimming laps, bicycling, dancing, and similar aerobic
272 activities.

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

274 (a) A credit of 10 percent of employee fitness costs
275 incurred by an insurer during the taxable year is allowed
276 against any tax due for a taxable year under ss. 624.509 and
277 624.510.

278 (b) Credits authorized under this section for any taxpayer

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279 may not exceed 50 percent of the tax due under this chapter for
280 any taxable year.

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

286 (d) Two or more taxpayers may join together to establish
287 and operate an employee fitness facility, provide employee
288 fitness equipment and financial support, or provide employee
289 fitness instruction in accordance with this section. The
290 participating taxpayers may apportion the annual employee
291 fitness credits in any manner they consider appropriate, but a
292 jointly operated employee fitness facility established under
293 this section may not receive more than \$50 multiplied by the
294 average of the number of full-time equivalent employees of the
295 participating taxpayers in this state as of the last day of the
296 3rd, 6th, 9th, and 12th months of the taxable year.

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

299 1. Operate an employee fitness facility;
300 2. Provide employee fitness equipment and financial
301 support; or

302 3. Provide employee fitness instruction

303
304 on the taxpayer's premises in this state.

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

307 the part of the insurer, the unused amount may be carried
308 forward for a period not to exceed 5 years. The carryover credit
309 may be used in a subsequent year when the tax imposed by ss.
310 624.509 and 624.510 for that year exceeds the credit for which
311 the insurer is eligible in that year under this section.

312 (g) An expenditure by an insurer to provide any of the
313 employee fitness benefits described in paragraph (1)(c) does not
314 qualify for a credit under this section unless the benefit is
315 extended equally to all full-time employees in this state.

316 (3) ADMINISTRATION.--

317 (a) The Department of Revenue shall adopt rules and forms
318 necessary to administer this section, including rules to provide
319 for cooperative arrangements between taxpayers and not-for-
320 profit or for-profit corporations.

321 (b) Verification of payments to a not-for-profit or for-
322 profit corporation or to a person who provides health or fitness
323 instruction to a taxpayer's employees must be in writing and
324 must be retained by the taxpayer in support of the credit
325 claimed on the tax return.

326 (c) Application for credit for payments made to construct
327 or rehabilitate a facility used for the purpose of promoting the
328 physical fitness of a taxpayer's employees in this state must be
329 submitted to the department within 6 months after the
330 construction or rehabilitation of the facility is deemed to be
331 substantially completed by the local building code inspector.
332 Application for credit for eligible expenditures pursuant to
333 paragraph (2)(a) must be submitted to the department with the
334 tax return on which the credit is claimed.

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335 (d) An insurer that files an amended return for a taxable
336 year is not allowed any amount of credit or credit carryforward
337 pursuant to this section in excess of the amount claimed by such
338 insurer on its original return for the taxable year. This
339 paragraph does not apply to increases in the amount of credit
340 claimed under this section on an amended return due to the use
341 of any credit amount previously carried forward for the taxable
342 year on the original return or any eligible prior year under
343 paragraph (2)(f).

344 (4) EXPIRATION.--This section expires on December 31,
345 2017, except that paragraph (2)(f), which relates to carryover
346 credits, does not expire on that date.

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

349 624.509 Premium tax; rate and computation.--

350 (7) Credits and deductions against the tax imposed by this
351 section shall be taken in the following order: deductions for
352 assessments made pursuant to s. 440.51; credits for taxes paid
353 under ss. 175.101 and 185.08; credits for income taxes paid
354 under chapter 220, the emergency excise tax paid under chapter
355 221 and the credit allowed under subsection (5), as these
356 credits are limited by subsection (6); employee fitness tax
357 credits authorized under s. 624.5108; all other available
358 credits and deductions.

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