



State of Wisconsin
2017 - 2018 LEGISLATURE

LRBs0416/1
MES:jld

**SENATE SUBSTITUTE AMENDMENT 3,
TO SENATE BILL 798**

March 20, 2018 - Offered by Senators SHILLING, BEWLEY, HANSEN, LARSON, SCHACHTNER, JOHNSON, VINEHOUT, CARPENTER, ERPENBACH, RISSER, RINGHAND, MILLER and L. TAYLOR.

1 **AN ACT** *to create* 71.07 (8m) and 71.10 (4) (cs) of the statutes; **relating to:**
2 creating a nonrefundable individual income tax credit based on the federal tax
3 credit for certain expenses for household and dependent care services.

Analysis by the Legislative Reference Bureau

This substitute amendment creates a nonrefundable individual income tax credit for certain expenses for household and dependent care services, based on a similar federal credit.

Under current federal law, there exists a tax credit for expenses for household and dependent care services necessary for gainful employment. Generally, the federal credit is a nonrefundable individual income tax credit that may be claimed by an individual for employment-related expenses for household services and dependent care services for a qualifying individual. Because the credit is nonrefundable, it may be claimed only up to the amount of a taxpayer's tax liability.

Generally, under federal law, a qualifying individual is someone who has the same principal place of abode as the claimant for more than one-half the year, is the claimant's dependent, and is 1) a child age 12 or under; 2) a child age 13 or older who is incapable of self-care; or 3) the claimant's spouse who is incapable of self-care.

The credit may be claimed for expenses to enable the claimant to be gainfully employed or actively search for gainful employment. Generally, allowable expenses for a qualifying individual under federal law include costs for in-home care or

daycare, nursery school or preschool programs, and before-school and after-school care for school-age children. Depending on the claimant's adjusted gross income, the credit may be worth between 20 percent and 35 percent of the claimant's allowable expenses, up to a maximum annual amount of \$3,000 if there is one qualifying individual and up to \$6,000 if there are two or more qualifying individuals.

This substitute amendment creates a nonrefundable individual income tax credit based on the federal tax credit for expenses for household and dependent care services. Under the substitute amendment, an individual who is eligible for and claims the federal tax credit for expenses for household and dependent care services may claim the same amount as a nonrefundable credit on his or her Wisconsin income tax return. Under the substitute amendment, the Wisconsin credit may not be claimed by a part-year or nonresident of this state.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 71.07 (8m) of the statutes is created to read:

2 71.07 **(8m)** ADDITIONAL HOUSEHOLD AND DEPENDENT CARE EXPENSES TAX CREDIT.

3 (a) *Definitions.* In this subsection:

4 1. "Claimant" means an individual who is eligible for and claims the household
5 and dependent care expenses tax credit for the taxable year to which the claim under
6 this subsection relates.

7 2. "Household and dependent care expenses tax credit" means the tax credit
8 under section 21 of the Internal Revenue Code.

9 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
10 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
11 amount of those taxes, an amount equal to the amount of the household and
12 dependent care expenses tax credit that the taxpayer claimed on his or her federal
13 income tax return for the taxable year to which the claim under this subsection
14 relates.

1 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
2 is claimed within the time period under s. 71.75 (2).

3 2. No credit may be allowed under this subsection for a taxable year covering
4 a period of less than 12 months, except for a taxable year closed by reason of the death
5 of the taxpayer.

6 3. The credit under this subsection may not be claimed by either a part-year
7 resident or nonresident of this state.

8 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
9 under that subsection, applies to the credit under this subsection.

10 **SECTION 2.** 71.10 (4) (cs) of the statutes is created to read:

11 71.10 (4) (cs) Additional household and dependent care expenses tax credit
12 under s. 71.07 (8m).

13 **SECTION 3. Initial applicability.**

14 (1) This act first applies to taxable years beginning on January 1 of the year
15 in which this subsection takes effect, except that if this subsection takes effect after
16 July 31 this act first applies to taxable years beginning on January 1 of the year
17 following the year in which this subsection takes effect.

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(END)