



State of Wisconsin
2005 - 2006 LEGISLATURE

LRBs0521/2
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**ASSEMBLY SUBSTITUTE AMENDMENT 1,
TO 2005 ASSEMBLY BILL 954**

February 13, 2006 - Offered by Representative MOULTON.

1 **AN ACT** *to amend* 71.05 (6) (a) 15., 71.21 (4), 71.26 (2) (a), 71.34 (1) (g), 71.45 (2)
2 (a) 10. and 77.92 (4); and *to create* 71.07 (5e), 71.10 (4) (gxx), 71.28 (5e), 71.30
3 (3) (epa), 71.47 (5e) and 71.49 (1) (epa) of the statutes; **relating to:** an income
4 and franchise tax credit for workplace wellness programs and requiring the
5 exercise of rule-making authority.

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

6 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:
7 71.05 (6) (a) 15. The amount of the credits computed under s. 71.07 (2dd), (2de),
8 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), and (5d), and (5e)
9 and not passed through by a partnership, limited liability company, or tax-option
10 corporation that has added that amount to the partnership's, company's, or
11 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g).

12 **SECTION 2.** 71.07 (5e) of the statutes is created to read:

1 71.07 (5e) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions*. In this
2 subsection:

3 1. “Claimant” means a person who files a claim under this subsection.

4 2. “Workplace wellness program” means a health or fitness program, as defined
5 by rule by the department, and includes the following programs or services:

6 a. Smoking cessation.

7 b. Weight management.

8 c. Stress management.

9 d. Health risk assessments.

10 e. Health screenings.

11 f. Nutrition education.

12 g. Health or fitness incentive programs.

13 (b) *Filing claims*. Subject to the limitations provided in this subsection, a
14 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
15 amount of those taxes, in each taxable year for 3 years, an amount that is equal to
16 30 percent of the amount the claimant paid in the taxable year to provide a workplace
17 wellness program to any of the claimant’s employees who are employed in this state,
18 not including any amount paid for capital improvements.

19 (c) *Limitations*. 1. The maximum amount of the credits that may be claimed
20 under this subsection and ss. 71.28 (5e) and 71.47 (5e) in any taxable year is
21 \$1,000,000 for all claimants who employ 50 or fewer employees in the taxable year
22 and \$1,000,000 for all claimants who employ more than 50 employees in the taxable
23 year. If the amount of the credits claimed under this subsection in any taxable year
24 exceeds the maximum amount provided under this subdivision, the department
25 shall reduce the amount of each credit claimed in proportion to the total amount of

1 all credits claimed. No credit may be claimed under this subsection unless the
2 claimant files an application for the credit with the department on the form and in
3 the manner prescribed by the department by rule.

4 2. Partnerships, limited liability companies, and tax-option corporations may
5 not claim the credit under this subsection, but the eligibility for, and the amount of,
6 the credit are based on their payment of amounts under par. (b). A partnership,
7 limited liability company, or tax-option corporation shall compute the amount of
8 credit that each of its partners, members, or shareholders may claim and shall
9 provide that information to each of them. Partners, members of limited liability
10 companies, and shareholders of tax-option corporations may claim the credit in
11 proportion to their ownership interests.

12 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
13 s. 71.28 (4), applies to the credit under this subsection.

14 **SECTION 3.** 71.10 (4) (gxx) of the statutes is created to read:

15 71.10 (4) (gxx) Workplace wellness program credit under s. 71.07 (5e).

16 **SECTION 4.** 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
17 amended to read:

18 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
19 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), (5e), and (5g) and passed
20 through to partners shall be added to the partnership's income.

21 **SECTION 5.** 71.26 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 74,
22 is amended to read:

23 71.26 (2) (a) *Corporations in general.* The "net income" of a corporation means
24 the gross income as computed under the Internal Revenue Code as modified under
25 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit

1 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
2 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
3 under this paragraph at the time that the taxpayer first claimed the credit plus the
4 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
5 (1ds), (1dx), (3g), (3n), (3t), (5b), (5e), and (5g) and not passed through by a
6 partnership, limited liability company, or tax-option corporation that has added that
7 amount to the partnership's, limited liability company's, or tax-option corporation's
8 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
9 other disposition of assets the gain from which would be wholly exempt income, as
10 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
11 minus deductions, as computed under the Internal Revenue Code as modified under
12 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
13 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
14 otherwise disposed of in a taxable transaction during the taxable year, except as
15 provided in par. (b) and s. 71.45 (2) and (5).

16 **SECTION 6.** 71.28 (5e) of the statutes is created to read:

17 71.28 (5e) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
18 subsection:

- 19 1. "Claimant" means a person who files a claim under this subsection.
- 20 2. "Workplace wellness program" means a health or fitness program, as defined
21 by rule by the department, and includes the following programs or services:
 - 22 a. Smoking cessation.
 - 23 b. Weight management.
 - 24 c. Stress management.
 - 25 d. Health risk assessments.

1 e. Health screenings.

2 f. Nutrition education.

3 g. Health or fitness incentive programs.

4 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
5 claimant may claim as a credit against the taxes imposed under s. 71.23, up to the
6 amount of those taxes, in each taxable year for 3 years, an amount that is equal to
7 30 percent of the amount the claimant paid in the taxable year to provide a workplace
8 wellness program to any of the claimant's employees who are employed in this state,
9 not including any amount paid for capital improvements.

10 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
11 under this subsection and ss. 71.07 (5e) and 71.47 (5e) in any taxable year is
12 \$1,000,000 for all claimants who employ 50 or fewer employees in the taxable year
13 and \$1,000,000 for all claimants who employ more than 50 employees in the taxable
14 year. If the amount of the credits claimed under this subsection in any taxable year
15 exceeds the maximum amount provided under this subdivision, the department
16 shall reduce the amount of each credit claimed in proportion to the total amount of
17 all credits claimed. No credit may be claimed under this subsection unless the
18 claimant files an application for the credit with the department on the form and in
19 the manner prescribed by the department by rule.

20 2. Partnerships, limited liability companies, and tax-option corporations may
21 not claim the credit under this subsection, but the eligibility for, and the amount of,
22 the credit are based on their payment of amounts under par. (b). A partnership,
23 limited liability company, or tax-option corporation shall compute the amount of
24 credit that each of its partners, members, or shareholders may claim and shall
25 provide that information to each of them. Partners, members of limited liability

1 companies, and shareholders of tax-option corporations may claim the credit in
2 proportion to their ownership interests.

3 (d) *Administration.* Subsection (4) (e) to (h), as it applies to the credit under
4 sub. (4), applies to the credit under this subsection.

5 **SECTION 7.** 71.30 (3) (epa) of the statutes is created to read:

6 71.30 (3) (epa) Workplace wellness program credit under s. 71.28 (5e).

7 **SECTION 8.** 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74,
8 is amended to read:

9 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
10 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
11 (3n), (3t), (5b), (5e), and (5g) and passed through to shareholders.

12 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act
13 74, is amended to read:

14 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
15 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), (5e), and (5g) and not passed
16 through by a partnership, limited liability company, or tax-option corporation that
17 has added that amount to the partnership's, limited liability company's, or
18 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
19 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

20 **SECTION 10.** 71.47 (5e) of the statutes is created to read:

21 71.47 (5e) WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
22 subsection:

23 1. "Claimant" means a person who files a claim under this subsection.

24 2. "Workplace wellness program" means a health or fitness program, as defined
25 by rule by the department, and includes the following programs or services:

- 1 a. Smoking cessation.
- 2 b. Weight management.
- 3 c. Stress management.
- 4 d. Health risk assessments.
- 5 e. Health screenings.
- 6 f. Nutrition education.
- 7 g. Health or fitness incentive programs.

8 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
9 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
10 amount of those taxes, in each taxable year for 3 years, an amount that is equal to
11 30 percent of the amount the claimant paid in the taxable year to provide a workplace
12 wellness program to any of the claimant's employees who are employed in this state,
13 not including any amount paid for capital improvements.

14 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
15 under this subsection and ss. 71.07 (5e) and 71.28 (5e) in any taxable year is
16 \$1,000,000 for all claimants who employ 50 or fewer employees in the taxable year
17 and \$1,000,000 for all claimants who employ more than 50 employees in the taxable
18 year. If the amount of the credits claimed under this subsection in any taxable year
19 exceeds the maximum amount provided under this subdivision, the department
20 shall reduce the amount of each credit claimed in proportion to the total amount of
21 all credits claimed. No credit may be claimed under this subsection unless the
22 claimant files an application for the credit with the department on the form and in
23 the manner prescribed by the department by rule.

24 2. Partnerships, limited liability companies, and tax-option corporations may
25 not claim the credit under this subsection, but the eligibility for, and the amount of,

1 the credit are based on their payment of amounts under par. (b). A partnership,
2 limited liability company, or tax-option corporation shall compute the amount of
3 credit that each of its partners, members, or shareholders may claim and shall
4 provide that information to each of them. Partners, members of limited liability
5 companies, and shareholders of tax-option corporations may claim the credit in
6 proportion to their ownership interests.

7 (d) *Administration.* Section 71.28 (4) (e) to (h), as it applies to the credit under
8 s. 71.28 (4), applies to the credit under this subsection.

9 **SECTION 11.** 71.49 (1) (epa) of the statutes is created to read:

10 71.49 (1) (epa) Workplace wellness program credit under s. 71.47 (5e).

11 **SECTION 12.** 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
12 amended to read:

13 77.92 (4) “Net business income,” with respect to a partnership, means taxable
14 income as calculated under section 703 of the Internal Revenue Code; plus the items
15 of income and gain under section 702 of the Internal Revenue Code, including taxable
16 state and municipal bond interest and excluding nontaxable interest income or
17 dividend income from federal government obligations; minus the items of loss and
18 deduction under section 702 of the Internal Revenue Code, except items that are not
19 deductible under s. 71.21; plus guaranteed payments to partners under section 707
20 (c) of the Internal Revenue Code; plus the credits claimed under s. 71.07 (2dd), (2de),
21 (2di), (2dj), (2dL), (2dm), (2dr), (2ds), (2dx), (3g), (3s), (3n), (3t), (5b), (5e), and (5g);
22 and plus or minus, as appropriate, transitional adjustments, depreciation
23 differences, and basis differences under s. 71.05 (13), (15), (16), (17), and (19); but
24 excluding income, gain, loss, and deductions from farming. “Net business income,”
25 with respect to a natural person, estate, or trust, means profit from a trade or

1 business for federal income tax purposes and includes net income derived as an
2 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

3 **SECTION 13. Initial applicability.**

4 (1) This act first applies to taxable years beginning on January 1, 2008.

5 (END)