



State of Wisconsin
2005 - 2006 LEGISLATURE

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**ASSEMBLY SUBSTITUTE AMENDMENT 2,
TO 2005 ASSEMBLY BILL 954**

February 28, 2006 – Offered by Representative MOULTON.

1 **AN ACT to amend** 71.05 (6) (a) 15., 71.08 (1) (intro.), 71.21 (4), 71.26 (2) (a), 71.34
2 (1) (g), 71.45 (2) (a) 10. and 77.92 (4); and **to create** 71.07 (5e), 71.10 (4) (gxx),
3 71.28 (5e), 71.30 (3) (epa), 71.47 (5e), 71.49 (1) (epa) and 560.204 of the statutes;
4 **relating to:** an income and franchise tax credit for workplace wellness
5 programs, granting rule-making authority, and requiring the exercise of
6 rule-making authority.

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

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

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

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

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

5 2. “Workplace wellness program” means a health or fitness program, as defined
6 by rule under s. 560.204 (4), and includes the following programs or services:

7 a. Smoking cessation.

8 b. Weight management.

9 c. Stress management.

10 d. Health risk assessments.

11 e. Health screenings.

12 f. Nutrition education.

13 g. Health or fitness incentive programs.

14 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
15 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.02
16 or 71.08, up to the amount of those taxes, in each taxable year for 3 years, an amount
17 that is equal to 30 percent of the amount the claimant paid in the taxable year to
18 provide a workplace wellness program to any of the claimant’s employees who are
19 employed in this state, not including any amount paid to acquire, construct,
20 rehabilitate, remodel, or repair real property.

21 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
22 under this subsection and ss. 71.28 (5e) and 71.47 (5e) in any taxable year is
23 \$1,000,000 for all claimants who employ 50 or fewer employees in the taxable year
24 and \$1,000,000 for all claimants who employ more than 50 employees in the taxable
25 year.

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

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

11 **SECTION 3.** 71.08 (1) (intro.) of the statutes, as affected by 2005 Wisconsin Act
12 25, is amended to read:

13 71.08 (1) IMPOSITION. (intro.) If the tax imposed on a natural person, married
14 couple filing jointly, trust, or estate under s. 71.02, not considering the credits under
15 ss. 71.07 (1), (2dd), (2de), (2di), (2dj), (2dL), (2dr), (2ds), (2dx), (2fd), (3m), (3n), (3s),
16 (3t), (5b), (5d), (~~5e~~), (6), (6e), and (9e), 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1ds),
17 (1dx), (1fd), (2m), (3), (3n), and (3t) and 71.47 (1dd), (1de), (1di), (1dj), (1dL), (1ds),
18 (1dx), (1fd), (2m), (3), (3n), and (3t) and subchs. VIII and IX and payments to other
19 states under s. 71.07 (7), is less than the tax under this section, there is imposed on
20 that natural person, married couple filing jointly, trust, or estate, instead of the tax
21 under s. 71.02, an alternative minimum tax computed as follows:

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

23 71.10 (4) (gxx) Workplace wellness program credit under s. 71.07 (5e).

24 **SECTION 5.** 71.21 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
25 amended to read:

1 71.21 (4) Credits computed by a partnership under s. 71.07 (2dd), (2de), (2di),
2 (2dj), (2dL), (2dm), (2ds), (2dx), (3g), (3n), (3s), (3t), (5b), (5e), and (5g) and passed
3 through to partners shall be added to the partnership's income.

4 **SECTION 6.** 71.26 (2) (a) of the statutes, as affected by 2005 Wisconsin Act 74,
5 is amended to read:

6 71.26 (2) (a) *Corporations in general.* The “net income” of a corporation means
7 the gross income as computed under the Internal Revenue Code as modified under
8 sub. (3) minus the amount of recapture under s. 71.28 (1di) plus the amount of credit
9 computed under s. 71.28 (1), (3), (4), and (5) minus, as provided under s. 71.28 (3) (c)
10 7., the amount of the credit under s. 71.28 (3) that the taxpayer added to income
11 under this paragraph at the time that the taxpayer first claimed the credit plus the
12 amount of the credit computed under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm),
13 (1ds), (1dx), (3g), (3n), (3t), (5b), (5e), and (5g) and not passed through by a
14 partnership, limited liability company, or tax-option corporation that has added that
15 amount to the partnership's, limited liability company's, or tax-option corporation's
16 income under s. 71.21 (4) or 71.34 (1) (g) plus the amount of losses from the sale or
17 other disposition of assets the gain from which would be wholly exempt income, as
18 defined in sub. (3) (L), if the assets were sold or otherwise disposed of at a gain and
19 minus deductions, as computed under the Internal Revenue Code as modified under
20 sub. (3), plus or minus, as appropriate, an amount equal to the difference between
21 the federal basis and Wisconsin basis of any asset sold, exchanged, abandoned, or
22 otherwise disposed of in a taxable transaction during the taxable year, except as
23 provided in par. (b) and s. 71.45 (2) and (5).

24 **SECTION 7.** 71.28 (5e) of the statutes is created to read:

1 71.28 (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 under s. 560.204 (4), 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 and s.
14 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.23,
15 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
16 equal to 30 percent of the amount the claimant paid in the taxable year to provide
17 a workplace wellness program to any of the claimant’s employees who are employed
18 in this state, not including any amount paid to acquire, construct, rehabilitate,
19 remodel, or repair real property.

20 (c) *Limitations*. 1. The maximum amount of the credits that may be claimed
21 under this subsection and ss. 71.07 (5e) and 71.47 (5e) in any taxable year is
22 \$1,000,000 for all claimants who employ 50 or fewer employees in the taxable year
23 and \$1,000,000 for all claimants who employ more than 50 employees in the taxable
24 year.

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

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

11 **SECTION 8.** 71.30 (3) (epa) of the statutes is created to read:

12 71.30 (3) (epa) Workplace wellness program credit under s. 71.28 (5e).

13 **SECTION 9.** 71.34 (1) (g) of the statutes, as affected by 2005 Wisconsin Act 74,
14 is amended to read:

15 71.34 (1) (g) An addition shall be made for credits computed by a tax-option
16 corporation under s. 71.28 (1dd), (1de), (1di), (1dj), (1dL), (1dm), (1ds), (1dx), (3), (3g),
17 (3n), (3t), (5b), (5e), and (5g) and passed through to shareholders.

18 **SECTION 10.** 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act
19 74, is amended to read:

20 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
21 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), (5e), and (5g) and not passed
22 through by a partnership, limited liability company, or tax-option corporation that
23 has added that amount to the partnership's, limited liability company's, or
24 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
25 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

1 **SECTION 11.** 71.47 (5e) of the statutes is created to read:

2 71.47 **(5e)** WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
3 subsection:

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

5 2. "Workplace wellness program" means a health or fitness program, as defined
6 by rule under s. 560.204 (4), and includes the following programs or services:

7 a. Smoking cessation.

8 b. Weight management.

9 c. Stress management.

10 d. Health risk assessments.

11 e. Health screenings.

12 f. Nutrition education.

13 g. Health or fitness incentive programs.

14 (b) *Filing claims.* Subject to the limitations provided in this subsection and s.
15 560.204, a claimant may claim as a credit against the taxes imposed under s. 71.43,
16 up to the amount of those taxes, in each taxable year for 3 years, an amount that is
17 equal to 30 percent of the amount the claimant paid in the taxable year to provide
18 a workplace wellness program to any of the claimant's employees who are employed
19 in this state, not including any amount paid to acquire, construct, rehabilitate,
20 remodel, or repair real property.

21 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
22 under this subsection and ss. 71.07 (5e) and 71.28 (5e) in any taxable year is
23 \$1,000,000 for all claimants who employ 50 or fewer employees in the taxable year
24 and \$1,000,000 for all claimants who employ more than 50 employees in the taxable
25 year.

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

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

11 **SECTION 12.** 71.49 (1) (epa) of the statutes is created to read:

12 71.49 (1) (epa) Workplace wellness program credit under s. 71.47 (5e).

13 **SECTION 13.** 77.92 (4) of the statutes, as affected by 2005 Wisconsin Act 74, is
14 amended to read:

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

1 excluding income, gain, loss, and deductions from farming. “Net business income,”
2 with respect to a natural person, estate, or trust, means profit from a trade or
3 business for federal income tax purposes and includes net income derived as an
4 employee as defined in section 3121 (d) (3) of the Internal Revenue Code.

5 **SECTION 14.** 560.204 of the statutes is created to read:

6 **560.204 Workplace wellness programs.** (1) The department shall
7 implement a program to certify workplace wellness programs under ss. 71.07 (5e),
8 71.28 (5e), and 71.47 (5e).

9 (2) If the department certifies a workplace wellness program under sub. (1),
10 the department shall determine the amount of workplace wellness program credits
11 to allocate to the business providing the workplace wellness program. The total
12 amount of workplace wellness program credits allocated to businesses in any year
13 may not exceed \$2,000,000. In any year, the department may not allocate more than
14 \$1,000,000 in credits to businesses with more than 50 employees, and may not
15 allocate more than \$1,000,000 in credits to businesses with 50 or fewer employees.

16 (3) The department shall inform the department of revenue of every business
17 whose workplace wellness program is certified under sub. (1) and the amount of
18 credits allocated to the business.

19 (4) The department, in consultation with the department of revenue, shall
20 promulgate rules to administer this section.

21 **SECTION 15. Initial applicability.**

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

23 (END)