



2005 ASSEMBLY BILL 954

January 30, 2006 - Introduced by Representatives MOULTON, UNDERHEIM, VRUWINK, OTT, HINES, KRAWCZYK, LEMAHIEU, BIES, VOS, KREIBICH, HONADEL and PETROWSKI, cosponsored by Senators LEIBHAM and ROESSLER. Referred to Committee on Ways and Means.

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.

Analysis by the Legislative Reference Bureau

This bill creates an income and franchise tax credit for workplace wellness programs. The amount of the credit is equal to the amount that an employer pays in the taxable year to provide a workplace wellness program to any of the employer's employees. A workplace wellness program is a health or fitness program, as defined by administrative rule by the Department of Revenue, and includes smoking cessation programs, weight management, stress management, health risk assessments, health screenings, nutrition education, and health or fitness incentive programs.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

ASSEMBLY BILL 954**SECTION 1**

1 **SECTION 1.** 71.05 (6) (a) 15. of the statutes is amended to read:

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

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

8 71.07 **(5e)** WORKPLACE WELLNESS PROGRAM CREDIT. (a) *Definitions.* In this
9 subsection:

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

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

13 a. Smoking cessation.

14 b. Weight management.

15 c. Stress management.

16 d. Health risk assessments.

17 e. Health screenings.

18 f. Nutrition education.

19 g. Health or fitness incentive programs.

20 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
21 claimant may claim as a credit against the taxes imposed under s. 71.02, up to the
22 amount of those taxes, in each taxable year for 3 years, beginning with the first
23 taxable year in which the claimant provides the workplace wellness program, an
24 amount that is equal to the amount the claimant paid in the taxable year to provide
25 a workplace wellness program to any of the claimant's employees.

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1 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
2 under this subsection and ss. 71.28 (5e) and 71.47 (5e) in any taxable year is
3 \$2,000,000.

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

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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.

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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, beginning with the first
7 taxable year in which the claimant provides the workplace wellness program, an
8 amount that is equal to the amount the claimant paid in the taxable year to provide
9 a workplace wellness program to any of the claimant's employees.

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 \$2,000,000.

13 2. Partnerships, limited liability companies, and tax-option corporations may
14 not claim the credit under this subsection, but the eligibility for, and the amount of,
15 the credit are based on their payment of amounts under par. (b). A partnership,
16 limited liability company, or tax-option corporation shall compute the amount of
17 credit that each of its partners, members, or shareholders may claim and shall
18 provide that information to each of them. Partners, members of limited liability
19 companies, and shareholders of tax-option corporations may claim the credit in
20 proportion to their ownership interests.

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

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

24 71.30 (3) (epa) Workplace wellness program credit under s. 71.28 (5e).

ASSEMBLY BILL 954**SECTION 8**

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

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

6 **SECTION 9.** 71.45 (2) (a) 10. of the statutes, as affected by 2005 Wisconsin Act
7 74, is amended to read:

8 71.45 (2) (a) 10. By adding to federal taxable income the amount of credit
9 computed under s. 71.47 (1dd) to (1dx), (3n), (5b), ~~(5e)~~, and (5g) and not passed
10 through by a partnership, limited liability company, or tax-option corporation that
11 has added that amount to the partnership's, limited liability company's, or
12 tax-option corporation's income under s. 71.21 (4) or 71.34 (1) (g) and the amount of
13 credit computed under s. 71.47 (1), (3), (3t), (4), and (5).

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

15 71.47 (5e) **WORKPLACE WELLNESS PROGRAM CREDIT.** (a) *Definitions.* In this
16 subsection:

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

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

20 a. Smoking cessation.

21 b. Weight management.

22 c. Stress management.

23 d. Health risk assessments.

24 e. Health screenings.

25 f. Nutrition education.

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1 g. Health or fitness incentive programs.

2 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
3 claimant may claim as a credit against the taxes imposed under s. 71.43, up to the
4 amount of those taxes, in each taxable year for 3 years, beginning with the first
5 taxable year in which the claimant provides the workplace wellness program, an
6 amount that is equal to the amount the claimant paid in the taxable year to provide
7 a workplace wellness program to any of the claimant's employees.

8 (c) *Limitations.* 1. The maximum amount of the credits that may be claimed
9 under this subsection and ss. 71.07 (5e) and 71.28 (5e) in any taxable year is
10 \$2,000,000.

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

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

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

22 71.49 (1) (epa) Workplace wellness program credit under s. 71.47 (5e).

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

