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SENATE BILL 148

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY
Steve Komadina

AN ACT

RELATING TO TAXATION; PROVIDING AN INCOME TAX CREDIT FOR
EMPLOYERS FOR A PORTION OF THE COSTS OF PROVIDING WELLNESS
PROGRAMS FOR EMPLOYEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is enacted
to read:

"~~[NEW MATERIAL]~~ CREDIT--WELLNESS PROGRAM PROVIDED BY
EMPLOYER.--

A. The tax credit provided by this section may be
referred to as the "wellness program tax credit". A taxpayer
who is an employer and who files an individual New Mexico
income tax return may claim a credit in an amount equal to
fifty percent of the amount expended by the taxpayer in a
taxable year for a qualified wellness program for the

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1 taxpayer's employees who are residents of New Mexico; provided
2 that the credit allowed under this section for any taxable year
3 shall not exceed the sum of:

4 (1) the product of two hundred dollars (\$200)
5 and the number of employees, not in excess of two hundred
6 employees, who are residents of New Mexico; and

7 (2) the product of one hundred dollars (\$100)
8 and the number of employees, in excess of two hundred
9 employees, who are residents of New Mexico.

10 B. A husband and wife who file separate returns for
11 a taxable year in which they could have filed a joint return
12 may each claim only one-half of the credit that would have been
13 allowed on a joint return.

14 C. A taxpayer who otherwise qualifies and claims a
15 credit pursuant to Subsection A of this section and who is a
16 member of a partnership or business association that is the
17 employer incurring expenditures for wellness programs may claim
18 a credit only in proportion to the taxpayer's interest in the
19 partnership or association. The total credit claimed by all
20 members of the partnership or association shall not exceed the
21 amount of the tax credit that could have been claimed by a sole
22 employer.

23 D. The credit provided in this section may only be
24 deducted from the taxpayer's income tax liability for the
25 taxable year for which the credit is claimed.

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1 E. A taxpayer may apply for certification of
2 eligibility for the wellness program tax credit from the
3 department of health. If the department of health determines
4 that the taxpayer meets the requirements of this section and
5 rules adopted by the department of health to administer the
6 provisions of this section, it may issue a certificate of
7 eligibility to the taxpayer. To be eligible for the wellness
8 program tax credit, the taxpayer must provide to the taxation
9 and revenue department a certificate of eligibility issued by
10 the department of health.

11 F. As used in this section, "qualified wellness
12 program" means a program implemented by an employer for
13 employees that contains at least three of the following four
14 components:

15 (1) a health awareness component that provides
16 for:

17 (a) the dissemination of health
18 information that addresses the specific needs and health risks
19 of employees; or

20 (b) the opportunity for periodic
21 screenings for health problems and referrals for appropriate
22 follow-up measures;

23 (2) an employee engagement component that
24 provides for:

25 (a) the establishment of a committee to

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1 engage employees actively in workplace wellness programs
2 through workplace assessments and program planning, delivery,
3 evaluation and improvement efforts; and

4 (b) the tracking of employee
5 participation;

6 (3) a behavioral change component that
7 provides for altering employee lifestyles to encourage healthy
8 living through counseling, seminars, on-line programs or
9 self-help materials that provide technical assistance and
10 problem-solving skills. The component may include programs
11 relating to:

12 (a) tobacco use;

13 (b) obesity;

14 (c) stress management;

15 (d) physical fitness;

16 (e) nutrition;

17 (f) substance abuse;

18 (g) depression; or

19 (h) mental health promotion; and

20 (4) a supportive environment component that
21 includes:

22 (a) policies and services at the
23 workplace that promote a healthy lifestyle, including policies
24 and services relating to: 1) tobacco use at the workplace; 2)
25 the nutrition of food available at the workplace through

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1 cafeterias and vending machines; 3) minimizing stress and
2 promoting positive mental health in the workplace; 4) where
3 applicable, the provision of accessible and attractive stairs;
4 or 5) the encouragement of physical activity before, during and
5 after work hours; or

6 (b) benefits as incentives for each
7 employee who participates in: 1) the health screenings
8 described in Subparagraph (b) of Paragraph (1) of this
9 subsection; or 2) the behavioral change programs described in
10 Paragraph (3) of this subsection.

11 G. The department of health, in consultation with
12 the taxation and revenue department, the workforce solutions
13 department and the New Mexico health policy commission, shall
14 promulgate such rules as are necessary to effectuate the
15 provisions of this section."

16 Section 2. A new section of the Corporate Income and
17 Franchise Tax Act is enacted to read:

18 "[NEW MATERIAL] CREDIT--WELLNESS PROGRAM PROVIDED BY
19 EMPLOYER.--

20 A. The tax credit provided by this section may be
21 referred to as the "wellness program tax credit". A taxpayer
22 that is an employer and that files a corporate income tax
23 return may claim a credit in an amount equal to fifty percent
24 of the amount expended by the taxpayer in a taxable year for a
25 qualified wellness program for the taxpayer's employees who are

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1 residents of New Mexico; provided that the credit allowed under
2 this section for any taxable year shall not exceed the sum of:

3 (1) the product of two hundred dollars (\$200)
4 and the number of employees, not in excess of two hundred
5 employees, who are residents of New Mexico; and

6 (2) the product of one hundred dollars (\$100)
7 and the number of employees, in excess of two hundred
8 employees, who are residents of New Mexico.

9 B. A taxpayer that otherwise qualifies and claims a
10 credit pursuant to Subsection A of this section and that is a
11 member of a partnership or business association that is the
12 employer incurring expenditures for wellness programs may claim
13 a credit only in proportion to the taxpayer's interest in the
14 partnership or association. The total credit claimed by all
15 members of the partnership or association shall not exceed the
16 amount of the tax credit that could have been claimed by a sole
17 employer.

18 C. The credit provided in this section may only be
19 deducted from the taxpayer's corporate income tax liability for
20 the taxable year for which the credit is claimed.

21 D. A taxpayer may apply for certification of
22 eligibility for the wellness program tax credit from the
23 department of health. If the department of health determines
24 that the taxpayer meets the requirements of this section and
25 rules adopted by the department of health to administer the

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1 provisions of this section, it may issue a certificate of
2 eligibility to the taxpayer. To be eligible for the wellness
3 program tax credit, the taxpayer must provide to the taxation
4 and revenue department a certificate of eligibility issued by
5 the department of health.

6 E. As used in this section, a "qualified wellness
7 program" means a program implemented by an employer for
8 employees that contains at least three of the following four
9 components:

10 (1) a health awareness component that provides
11 for:

12 (a) the dissemination of health
13 information that addresses the specific needs and health risks
14 of employees; or

15 (b) the opportunity for periodic
16 screenings for health problems and referrals for appropriate
17 follow-up measures;

18 (2) an employee engagement component that
19 provides for:

20 (a) the establishment of a committee to
21 engage employees actively in workplace wellness programs
22 through workplace assessments and program planning, delivery,
23 evaluation and improvement efforts; and

24 (b) the tracking of employee
25 participation;

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1 (3) a behavioral change component that
2 provides for altering employee lifestyles to encourage healthy
3 living through counseling, seminars, on-line programs or
4 self-help materials that provide technical assistance and
5 problem-solving skills. The component may include programs
6 relating to:

- 7 (a) tobacco use;
- 8 (b) obesity;
- 9 (c) stress management;
- 10 (d) physical fitness;
- 11 (e) nutrition;
- 12 (f) substance abuse;
- 13 (g) depression; or
- 14 (h) mental health promotion; and

15 (4) a supportive environment component that
16 includes:

17 (a) policies and services at the work
18 place that promote a healthy lifestyle, including policies and
19 services relating to: 1) tobacco use at the workplace; 2) the
20 nutrition of food available at the workplace through cafeterias
21 and vending machines; 3) minimizing stress and promoting
22 positive mental health in the workplace; 4) where applicable,
23 the provision of accessible and attractive stairs; or 5) the
24 encouragement of physical activity before, during and after
25 work hours; or

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(b) benefits as incentives for each employee who participates in: 1) the health screenings described in Subparagraph (b) of Paragraph (1) of this subsection; or 2) the behavioral change programs described in Paragraph (3) of this subsection.

F. The department of health, in consultation with the taxation and revenue department, the workforce solutions department and the New Mexico health policy commission, shall promulgate such rules as are necessary to effectuate the provisions of this section."

Section 3. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2008 and before January 1, 2018.