



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2001 Assembly Bill 183	Assembly Substitute Amendment 1
Memo published: April 26, 2001	
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Assembly Substitute Amendment 1 would provide an income and franchise tax credit to an employer who provides day care services to his or her employees during their working hours. The tax credit would be available to all employers, including employers organized as corporations, sole proprietors and partnerships.

AMOUNT OF CREDIT

The amount of the tax credit would be:

1. An amount equal to 50% of the amount paid by the employer during the taxable year to ***construct, and to purchase equipment to be used*** at, a day care center that is licensed under s. 48.65, Stats., and that is owned and operated by the employer to care for the children of his or her employees during their working hours.
2. An amount equal to 50% of the amount paid by the employer to ***operate*** his or her day care center for the taxable year.
3. An amount equal to 50% of the amount paid by an employer during the taxable year to a day care center licensed under s. 48.65 (***other than a day care center owned and operated by the employer***) to provide care for the children of his or her employees during their working hours.

The substitute amendment would limit the amount of the tax credit to each claimant to no more than \$20,000 in a taxable year. Two or more employers who jointly construct, equip or operate a licensed day care center may jointly claim a tax credit, but the maximum amount of the credit is limited to \$20,000 in a taxable year.

ADMINISTRATION OF CREDIT

The tax credit would not be refundable, meaning that if the amount of the tax credit exceeds an employer's income tax liability, no check would be issued by the state to pay the difference. However, the substitute amendment provides that the tax credit may be carried forward and used to offset income tax liability for up to five taxable years after the tax credit is first claimed.

The substitute amendment authorizes the DOR to administer the tax credit program and to take any action, conduct any proceeding and proceed as it is authorized to proceed with respect to income and franchise taxes imposed under ch. 71, Stats. In addition, the substitute amendment provides that a tax credit for day care may be claimed within four years of the date under which the tax return is due.

RECAPTURE OF CREDITS IF DAY CARE CEASES OPERATION

The substitute amendment also provides a procedure to reclaim tax credits paid with respect to a day care center constructed and equipped if that day care center ceases operation within five years from the date that the construction of the day care center was completed.

Under this provision, if the operation of the day care center ceases during the first year after the date on which construction is completed, 100% of the tax credits must be repaid; if the operation of the day care center ceases during the second year after the date on which construction of the day care center is completed, 80% of the tax credits must be repaid; if the operation of the day care center ceases during the third year after the date on which the construction of the day care center is completed, 60% of the tax credits must be repaid; if the operation of the day care center ceases during the fourth year after the date on which the construction of the day center is completed, 40% of the tax credits must be paid; and if the operation of the day care center ceases during the fifth year after the date on which the construction of the day care center is completed, 20% of the tax credits must be repaid.

However, this provision does not apply to an employer whose business ceases operation within five years after the date on which the construction of his or her day care center is completed or to an employer who presents evidence to the DOR that the majority of the claimant's employees do not want to enroll their children in the claimant's day care center.

EFFECTIVE DATE

The substitute amendment provides that the tax credit would first apply to taxable years beginning on January 1 of the year in which the act takes effect, except that if the act takes effect after July 31, the tax credits first take effect for taxable years beginning on January 1 of the year following the year in which the act takes effect.

Passage of *Assembly Substitute Amendment 1* was recommended by the Assembly Committee on Ways and Means, Ayes, 10, Noes, 3, April 25, 2001.

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