

## REVENUE ESTIMATING CONFERENCE

**Tax:** Corporate Income Tax

**Issue:** Profit sharing and ESOPs

**Bill Number(s):** Proposed Language

**Entire Bill**

**Partial Bill:**

**Sponsor(s):**

**Month/Year Impact Begins:** July 1, 2015

**Date of Analysis:** 3/11/2015

### Section 1: Narrative

- a. Current Law:** There currently exists no credit against corporate income tax for profit sharing, paying qualifying compensation or providing administrative provisions.
- b. Proposed Change:** 220.13 (1) "Adjusted federal income" means an amount equal to the taxpayers taxable income as defined in subsection (2), or such taxable income of more than one taxpayer as provided in s. 220.131, for the taxable year, adjusted as follows:
- (a) There shall be added to such taxable income: 18. The amount taken as a credit for the taxable year pursuant to s. 220.197.

Creates 220.197 Business Revenue Sharing Tax Credit

"Applicant" means an eligible employer that submitted an application for credit pursuant to this section. "Compensation" has the same definition as in Section 1.415(c)-2(d)(2) of the United States Treasury Regulations, except that it shall exclude qualifying compensation. "Eligible employee" means any employee that:

1. Was employed by the taxpayer or leased by the tax payer from an employee leasing company on the last day of its taxable year;
2. Was a resident of this state for at least 12 months prior to the end of the taxpayers' taxable year;
3. Worked an average of 25 hours or more per week during the taxpayers' taxable year;
4. Was continuously employed by the taxpayer or leased by the taxpayer from an employee leasing company for a period of at least 12 months prior to the end of the taxpayers' taxable year;
5. Does not own 5% or more of the equity or voting power of the taxpayer;
6. Is not an officer of the taxpayer;
7. Is not related by blood, marriage, or adoption to either an owner of 5% or more of the equity or voting power of the taxpayer;
8. Received compensation from the taxpayer no greater than 4.2 times the poverty guideline for a family of 1 in the 48 contiguous states and District of Columbia as published by the Department of Health and Human Services in the Federal Register, during the taxpayers' taxable year; and
9. Received compensation not less than the compensation paid to such employee by the taxpayer during the previous taxable year.

"Eligible employer" means any taxpayer that employs at least two eligible employees or leases at least two eligible employees from an employee leasing company during its taxable year. "Employee leasing company" has the same meaning as in s. 468.520(4), except that s. 468.520(4)(d) shall not apply for the purposes of this section.

"Qualifying compensation" means a payment made after June 30, 2015 to an eligible employee by an eligible employer during its taxable year if it is:

1. Paid pursuant to a revenue sharing agreement; or
2. A contribution allocated to an eligible employee under an employee stock ownership plan as defined under section 4975(e)(7) of the Internal Revenue Code, including dividends paid on stock owned by such plan, except that contributions used to pay interest on debt owed by such plans shall be excluded from qualifying compensation.

(i) "Revenue sharing arrangement" means a written plan adopted by an employer that provides for mandatory or discretionary distribution of revenue sharing pool by the eligible employer:

1. To all eligible employees of the eligible employer who were employed on the last day of the period for which the payment was made;
2. On a non-discriminatory basis; and
3. During the eligible employers' taxable year.

"Revenue sharing pool" means a percentage of a taxpayer's actual or estimated profits, net income, or net earnings as these terms are commonly used and applied under generally accepted accounting principles, paid to eligible employees pursuant to a revenue sharing arrangement. The revenue sharing arrangement must state what percentage will be used to calculate the size

**REVENUE ESTIMATING CONFERENCE**

**Tax:** Corporate Income Tax

**Issue:** Profit sharing and ESOPs

**Bill Number(s):** Proposed Language

of the revenue sharing pool. For the purposes of making a payment pursuant to a revenue sharing arrangement, a taxpayer may estimate its profits, net income, or net earnings for a period of one year or less. Such estimate must be made using generally accepted accounting principles.

(2) TAX CREDIT. Except as otherwise limited, there shall be allowed a credit against the tax imposed by this chapter to any eligible employer that paid qualifying compensation to its eligible employees during the taxable year for which a return is filed pursuant to s. 220.22. **The amount of such credit shall be equal to 10 percent of the qualifying compensation paid, except that no taxpayer or group of affiliated companies eligible to file a consolidated return pursuant to s. 220.131 shall be eligible for a credit greater than \$1 million for any taxable year.**

(4) CREDIT LIMITATION. **The total credits awarded pursuant to this section shall not exceed \$20 million each state fiscal year.** If the total amount of credits applied for during the evaluation period exceeds \$20 million, each applicant which is eligible for a credit pursuant to this section shall receive a pro rata portion of the available credits based on its proportional share of the total qualifying compensation paid by all applicants filing during the evaluation period.

(5) UNUSED CREDITS. If any credit granted pursuant to this section is not fully used in the first year for which it becomes available, the unused amount may be carried forward for a period not to exceed 5 years. The carryover may be used in a subsequent year when the tax imposed by this chapter for such year exceeds the credit for such year under this section after applying the other credits and unused credit carryovers in the

**Section 2: Description of Data and Sources**

<http://aspe.hhs.gov/poverty/15poverty.cfm>

**Section 3: Methodology (Include Assumptions and Attach Details)**

The middle estimate assumes the FY cap will be reached. The low assumes we will reach 75% of the FY cap.

**Section 4: Proposed Fiscal Impact**

	High		Middle		Low	
	Cash	Recurring	Cash	Recurring	Cash	Recurring
2015-16			(\$20.0m)	(\$20.0m)	(\$15.0m)	(\$15.0m)
2016-17			(\$20.0m)	(\$20.0m)	(\$15.0m)	(\$15.0m)
2017-18			(\$20.0m)	(\$20.0m)	(\$15.0m)	(\$15.0m)
2018-19			(\$20.0m)	(\$20.0m)	(\$15.0m)	(\$15.0m)
2019-20			(\$20.0m)	(\$20.0m)	(\$15.0m)	(\$15.0m)

**List of affected Trust Funds:** General Revenue

**Section 5: Consensus Estimate (Adopted: 03/13/2015): The Conference adopted the middle estimate but assumed the first year's cash would be zero.**

	GR		Trust		Local/Other		Total	
	Cash	Recurring	Cash	Recurring	Cash	Recurring	Cash	Recurring
2015-16	0.0	(20.0)	0.0	0.0	0.0	0.0	0.0	(20.0)
2016-17	(20.0)	(20.0)	0.0	0.0	0.0	0.0	(20.0)	(20.0)
2017-18	(20.0)	(20.0)	0.0	0.0	0.0	0.0	(20.0)	(20.0)
2018-19	(20.0)	(20.0)	0.0	0.0	0.0	0.0	(20.0)	(20.0)
2019-20	(20.0)	(20.0)	0.0	0.0	0.0	0.0	(20.0)	(20.0)

Proposed Language - Profit Sharing and ESOPs

	A	B	C	D	E	F	G
1							
2							
3		FY Cap	\$20,000,000				
4		FY Cap per entity	\$1,000,000				
5							
6		Poverty Guideline Family of 1	\$11,770			<a href="http://aspe.hhs.gov/poverty/15poverty.cfm">http://aspe.hhs.gov/poverty/15poverty.cfm</a>	
7							
8	*	4.2	\$49,434	Max salary			
9							
10							
11		Assumed Profit Sharing	20%	15%	10%		
12		or ESOP Level	\$9,887	\$7,415	\$4,943		
13							
14							
15		Max credit per employee					
16		10%	\$989	\$742	\$494		
17							
18		# of employees to reach	1011	1349	2023		
19		per entity Cap @ Max salary					
20							
21		# of employees to reach	20,229	26,972	40,458		
22		state FY entity Cap @ Max salary					