



State of Wisconsin
2019 - 2020 LEGISLATURE

LRB-3366/1
MES:cjs

2019 ASSEMBLY BILL 642

December 2, 2019 - Introduced by Representatives SARGENT, GRUSZYNSKI, ANDERSON, BILLINGS, BROSTOFF, CONSIDINE, CROWLEY, EMERSON, FIELDS, KOLSTE, MILROY, NEUBAUER, POPE, SHANKLAND, SINICKI, SPREITZER, STUBBS, C. TAYLOR, VINING, VRUWINK and ZAMARRIPA, cosponsored by Senators JOHNSON, SHILLING, BEWLEY, CARPENTER, HANSEN, LARSON, MILLER, L. TAYLOR and WIRCH. Referred to Committee on Ways and Means.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to amend* 71.05 (6) (b) 43. d.; and *to create* 71.07 (8m) and 71.10 (4) (cs)
2 of the statutes; **relating to:** creating a nonrefundable individual income tax
3 credit based on the federal tax credit for certain expenses for household and
4 dependent care services and sunsetting a deduction based on the same
5 expenses.

Analysis by the Legislative Reference Bureau

This bill creates a nonrefundable individual income tax credit based on the federal tax credit for expenses for household and dependent care services necessary for gainful employment. Under the bill, an individual who is eligible for and claims the federal tax credit for expenses for household and dependent care services may claim the same amount as a nonrefundable credit on his or her Wisconsin income tax return. Under the bill, the Wisconsin credit may not be claimed by a part-year resident or nonresident of this state.

This bill also sunsets the current-law individual income tax subtract modification that allows a taxpayer a deduction for the same expenses for which the credit may be claimed.

Generally, the federal credit is a nonrefundable individual income tax credit that may be claimed by an individual for employment-related expenses for household services and dependent care services for a qualifying individual. Because the credit is nonrefundable, it may be claimed only up to the amount of a taxpayer's tax liability. Under federal law, a qualifying individual is someone who has the same

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principal place of abode as the claimant for more than one-half the year, is the claimant's dependent, and is 1) a child 12 or under; 2) a child 13 or older who is incapable of self-care; or 3) the claimant's spouse who is incapable of self-care.

The federal credit may be claimed for expenses incurred to enable the claimant to be gainfully employed or to actively search for gainful employment. Generally, allowable expenses for a qualifying individual under federal law include costs for in-home care or daycare, nursery school or preschool programs, and before-school and after-school care for school-age children. Depending on the claimant's adjusted gross income, the credit may be worth between 20 percent and 35 percent of the claimant's allowable expenses, up to a maximum annual amount of \$3,000 if there is one qualifying individual and up to \$6,000 if there are two or more qualifying individuals.

Because this bill relates to an exemption from state or local taxes, it may be referred to the Joint Survey Committee on Tax Exemptions for a report to be printed as an appendix to the bill.

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:

1 **SECTION 1.** 71.05 (6) (b) 43. d. of the statutes is amended to read:

2 71.05 **(6)** (b) 43. d. For taxable years beginning after December 31, 2013, and
3 before January 1, 2020, up to \$3,000 if the claimant has one qualified individual and
4 up to \$6,000 if the claimant has more than one qualified individual.

5 **SECTION 2.** 71.07 (8m) of the statutes is created to read:

6 71.07 **(8m)** ADDITIONAL HOUSEHOLD AND DEPENDENT CARE EXPENSES TAX CREDIT.

7 (a) *Definitions.* In this subsection:

8 1. "Claimant" means an individual who is eligible for and claims the household
9 and dependent care expenses tax credit for the taxable year to which the claim under
10 this subsection relates.

11 2. "Household and dependent care expenses tax credit" means the tax credit
12 under section 21 of the Internal Revenue Code.

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1 (b) *Filing claims.* Subject to the limitations provided in this subsection, a
2 claimant may claim as a credit against the tax imposed under s. 71.02, up to the
3 amount of those taxes, an amount equal to the amount of the household and
4 dependent care expenses tax credit that the claimant claimed on his or her federal
5 income tax return for the taxable year to which the claim under this subsection
6 relates.

7 (c) *Limitations.* 1. No credit may be allowed under this subsection unless it
8 is claimed within the time period under s. 71.75 (2).

9 2. No credit may be allowed under this subsection for a taxable year covering
10 a period of less than 12 months, except for a taxable year closed by reason of the death
11 of the taxpayer.

12 3. The credit under this subsection may not be claimed by either a part-year
13 resident or a nonresident of this state.

14 4. The credit under this subsection may be claimed for taxable years beginning
15 after December 31, 2019.

16 (d) *Administration.* Subsection (9e) (d), to the extent that it applies to the credit
17 under that subsection, applies to the credit under this subsection.

18 **SECTION 3.** 71.10 (4) (cs) of the statutes is created to read:

19 71.10 (4) (cs) Additional household and dependent care expenses tax credit
20 under s. 71.07 (8m).

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(END)