

Wisconsin jobs creation deduction enacted, effective for 2011 tax year

In an effort to improve its tax and economic climate, Wisconsin recently enacted several tax incentives that could be of significant benefit to your business. 2011 Wisconsin Act 5 (the Act) authorized a corporate franchise tax and personal income tax deduction from gross income for creating full-time jobs in the state. The deduction is available for tax years beginning on or after Jan. 1, 2011.

Deduction amount

The amount of the deduction is equal to the increase in the number of full-time equivalent employees employed by the taxpayer in Wisconsin during the taxable year, multiplied by \$4,000 for a business with gross receipts of up to \$5 million in the taxable year, or \$2,000 for a business with gross receipts of more than \$5 million in the taxable year.

Jobs created

The increase in the number of full-time equivalent employees is determined by subtracting the taxpayer's average employee count in the preceding tax year from the taxpayer's average employee count during the taxable year. The average employee count is determined from the taxpayer's quarterly unemployment insurance reports filed with the Wisconsin Department of Workforce Development or other information as required by the Wisconsin Department of Revenue. The average employee count is computed by totaling the number of full-time equivalent workers for an employer's quarterly reporting periods during the tax year and dividing this result by four. Special rules are provided for short tax years in which the number of state unemployment insurance returns are less than four.

The due dates for the applicable state insurance returns are: Jan. 31, April 31, July 31, and Oct. 31.

Full-time equivalent employee

The Act defines a "full-time equivalent employee" as an employee who is a resident of Wisconsin and is employed by the claimant in a nonseasonal job. The employee must be required to work at least 2,080 hours per year, including paid leave and holidays, as a condition of employment.

Employees working for related parties or entities

Employees who work for an entity or party related to the taxpayer or for a member of a commonly controlled group cannot be included in determining the average count of employees in the deduction computation. The exclusion from the average employee count applies if the individual worked for the related party or entity or a controlled group member at any time during the 12 months preceding the due date of the Wisconsin quarterly unemployment insurance return that is part of the average employee count calculation for the tax year.

The definitions of related entity or party and commonly controlled group are taken from existing Wisconsin income and franchise tax statutes e.g., the related party add-back and combined reporting rules.

Gross receipts standard

For purposes of determining whether a taxpayer qualifies for the \$4,000 or \$2,000 deduction, gross receipts are defined as gross sales, dividends, interest income, rents, royalties, gross proceeds from the sale or disposition of capital and business assets, gross income from pass-through entities, and other receipts **before apportionment for income and franchise tax purposes if the business entity files returns in more than one state.**

Partnerships, LLCs, and S corporations

The job creation deduction cannot be claimed directly by pass-through entities. Instead, they compute the amount of the total job creation deduction available and report the pro rata share of the deduction to each member, partner, or S corporation shareholder on their Wisconsin Form K-1.

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Other provisions

The deduction is not available if a taxpayer can claim the deduction – or credit, in the case of corporations – for relocating his or her business from another state to Wisconsin. 2011 Wisconsin Act 3 created a credit for relocating businesses to the state.

The Wisconsin Department of Revenue has proposed a draft administrative rule, Tax Section 3.05 Wis. Admin. Code, with the information detailed above. To the extent that the proposed rule is modified before final approval and publication, certain provisions in this alert are subject to change.

Planning should begin immediately to take advantage of the jobs creation deduction. Businesses that properly anticipate the amount of their job creation deduction can improve their cash flow now by reducing their quarterly income or franchise tax estimated payments.

For more information or any questions you might have on this topic, we encourage you to contact your Baker Tilly tax advisor or send an e-mail to tax@bakertilly.com.