



State of Wisconsin  
1999 - 2000 LEGISLATURE

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ARC:.....Kratochwill - Am # 312(4) Assignment of lottery prizes

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

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1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 825, line 14: after that line insert:

3 "SECTION 1674v. 71.04 (1) (a) of the statutes is amended to read:

4 71.04 (1) (a) All income or loss of resident individuals and resident estates and  
5 trusts shall follow the residence of the individual, estate or trust. Income or loss of  
6 nonresident individuals and nonresident estates and trusts from business, not  
7 requiring apportionment under sub. (4), (10) or (11), shall follow the situs of the  
8 business from which derived, except that all income that is realized from the  
9 purchase and subsequent sale or redemption of lottery prizes if the winning tickets

1 were originally bought in this state shall be allocated to this state. All items of  
2 income, loss and deductions of nonresident individuals and nonresident estates and  
3 trusts derived from a tax-option corporation not requiring apportionment under  
4 sub. (9) shall follow the situs of the business of the corporation from which derived,  
5 except that all income that is realized from the purchase and subsequent sale or  
6 redemption of lottery prizes if the winning tickets were originally bought in this state  
7 shall be allocated to this state. Income or loss of nonresident individuals and  
8 nonresident estates and trusts derived from rentals and royalties from real estate  
9 or tangible personal property, or from the operation of any farm, mine or quarry, or  
10 from the sale of real property or tangible personal property shall follow the situs of  
11 the property from which derived. Income from personal services of nonresident  
12 individuals, including income from professions, shall follow the situs of the services.  
13 A nonresident limited partner's distributive share of partnership income shall follow  
14 the situs of the business, except that all income that is realized from the purchase  
15 and subsequent sale or redemption of lottery prizes if the winning tickets were  
16 originally bought in this state shall be allocated to this state. A nonresident limited  
17 liability company member's distributive share of limited liability company income  
18 shall follow the situs of the business, except that all income that is realized from the  
19 purchase and subsequent sale or redemption of lottery prizes if the winning tickets  
20 were originally bought in this state shall be allocated to this state. Income of  
21 nonresident individuals, estates and trusts from the state lottery under ch. 565 is  
22 taxable by this state. Income of nonresident individuals, estates and trusts from any  
23 multijurisdictional lottery under ch. 565 is taxable by this state, but only if the  
24 winning lottery ticket or lottery share was purchased from a retailer, as defined in  
25 s. 565.01 (6), located in this state or from the department. Income of nonresident

1 individuals, nonresident trusts and nonresident estates from pari-mutuel winnings  
2 or purses under ch. 562 is taxable by this state. Income of nonresident individuals,  
3 estates and trusts from winnings from a casino or bingo hall that is located in this  
4 state and that is operated by a Native American tribe or band shall follow the situs  
5 of the casino or bingo hall. All other income or loss of nonresident individuals and  
6 nonresident estates and trusts, including income or loss derived from land contracts,  
7 mortgages, stocks, bonds and securities or from the sale of similar intangible  
8 personal property, shall follow the residence of such persons, except as provided in  
9 par. (b) and sub. (9), except that all income that is realized from the purchase and  
10 subsequent sale or redemption of lottery prizes if the winning tickets were originally  
11 bought in this state shall be allocated to this state.”.

12 **2.** Page 832, line 21: after that line insert:

13 “SECTION 1682pd. 71.04 (9) of the statutes is amended to read:

14 71.04 (9) NONRESIDENT INCOME FROM MULTISTATE TAX-OPTION CORPORATION.

15 Nonresident individuals and nonresident estates and trusts deriving income from a  
16 tax-option corporation which is engaged in business within and without this state  
17 shall be taxed only on the income of the corporation derived from business transacted  
18 and property located in this state and losses and other items of the corporation  
19 deductible by such shareholders shall be limited to their proportionate share of the  
20 Wisconsin loss or other item, except that all income that is realized from the purchase  
21 and subsequent sale or redemption of lottery prizes if the winning tickets were  
22 originally bought in this state shall be allocated to this state. For purposes of this  
23 subsection, all intangible income of tax-option corporations passed through to  
24 shareholders is business income that follows the situs of the business, except that all

1 income that is realized from the purchase and subsequent sale or redemption of  
2 lottery prizes if the winning tickets were originally bought in this state shall be  
3 allocated to this state.”.

4 **3.** Page 873, line 19: after “both” insert “, or that buy or sell lottery prizes if  
5 the winning tickets were originally bought in this state”.

6 **4.** Page 873, line 21: after that line insert:

7 “SECTION 1722yb. 71.23 (2) of the statutes is amended to read:

8 71.23 (2) FRANCHISE TAX. For the privilege of exercising its franchise, buying  
9 or selling lottery prizes if the winning tickets were originally bought in this state or  
10 doing business in this state in a corporate capacity, except as provided under sub. (3),  
11 every domestic or foreign corporation, except corporations specified in s. 71.26 (1),  
12 and every nuclear decommissioning trust or reserve fund shall annually pay a  
13 franchise tax according to or measured by its entire Wisconsin net income of the  
14 preceding taxable year at the rate set forth in s. 71.27 (2). In addition, except as  
15 provided in sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this  
16 state and a nuclear decommissioning trust or reserve fund that is terminated shall  
17 pay a special franchise tax according to or measured by its entire Wisconsin net  
18 income for the taxable year during which the corporation ceases doing business in  
19 this state or the nuclear decommissioning trust or reserve fund is terminated at the  
20 rates under s. 71.27 (2). Every corporation organized under the laws of this state  
21 shall be deemed to be residing within this state for the purposes of this franchise tax.  
22 All provisions of this chapter and ch. 73 relating to income taxation of corporations  
23 shall apply to franchise taxes imposed under this subsection, unless the context  
24 requires otherwise. The tax imposed by this subsection on national banking

1 associations shall be in lieu of all taxes imposed by this state on national banking  
2 associations to the extent it is not permissible to tax such associations under federal  
3 law.

4 **SECTION 1722ym.** 71.25 (5) (b) of the statutes is amended to read:

5 71.25 (5) (b) *Nonapportionable income.* 1. Income, gain or loss from the sale  
6 of nonbusiness real property or nonbusiness tangible personal property, rental of  
7 nonbusiness real property or nonbusiness tangible personal property and royalties  
8 from nonbusiness real property or nonbusiness tangible personal property are  
9 nonapportionable and shall be allocated to the situs of the property, except that all  
10 income that is realized from the purchase and subsequent sale or redemption of  
11 lottery prizes if the winning tickets were originally bought in this state shall be  
12 allocated to this state.

13 2. All income, gain or loss from intangible property that is earned by a personal  
14 holding company, as defined in section 542 of the internal revenue code, as amended  
15 to December 31, 1974, shall be allocated to the residence of the taxpayer, except that  
16 all income that is realized from the purchase and subsequent sale or redemption of  
17 lottery prizes if the winning tickets were originally bought in this state shall be  
18 allocated to this state.”.

19 **5.** Page 888, line 25: after that line insert:

20 “**SECTION 1738t.** 71.26 (1) (a) of the statutes is amended to read:

21 71.26 (1) (a) *Certain corporations.* Income of corporations organized under ch.  
22 185, except income of a cooperative sickness care association organized under s.  
23 185.981, or of a service insurance corporation organized under ch. 613, that is derived  
24 from a health maintenance organization as defined in s. 609.01 (2) or a limited

1 service health organization as defined in s. 609.01 (3), or operating under subch. I  
2 of ch. 616 which are bona fide cooperatives operated without pecuniary profit to any  
3 shareholder or member, or operated on a cooperative plan pursuant to which they  
4 determine and distribute their proceeds in substantial compliance with s. 185.45,  
5 and the income, except the unrelated business taxable income as defined in section  
6 512 of the internal revenue code and except income that is derived from a health  
7 maintenance organization as defined in s. 609.01 (2) or a limited service health  
8 organization as defined in s. 609.01 (3), of all religious, scientific, educational,  
9 benevolent or other corporations or associations of individuals not organized or  
10 conducted for pecuniary profit. This paragraph does not apply to the income of  
11 savings banks, mutual loan corporations or savings and loan associations. This  
12 paragraph does not apply to income that is realized from the purchase and  
13 subsequent sale or redemption of lottery prizes if the winning tickets were originally  
14 bought in this state. This paragraph applies to the income of credit unions except to  
15 the income of any credit union that is derived from public deposits for any taxable  
16 year in which the credit union is approved as a public depository under ch. 34 and  
17 acts as a depository of state or local funds under s. 186.113 (20). For purposes of this  
18 paragraph, the income of a credit union that is derived from public deposits is the  
19 product of the credit union's gross annual income for the taxable year multiplied by  
20 a fraction, the numerator of which is the average monthly balance of public deposits  
21 in the credit union during the taxable year, and the denominator of which is the  
22 average monthly balance of all deposits in the credit union during the taxable year.”.

23 **6.** Page 927, line 8: after that line insert:

24 “SECTION 1748Lm. 71.362 (1) of the statutes is amended to read:

1           71.362 (1) All tax–option items of nonresident individuals, nonresident estates  
2 and nonresident trusts derived from a tax–option corporation not requiring  
3 apportionment under sub. (2) shall follow the situs of the business of the corporation  
4 from which they are derived, except that all income that is realized from the purchase  
5 and subsequent sale or redemption of lottery prizes if the winning tickets were  
6 originally bought in this state shall be allocated to this state.

7           **SECTION 1748Ln.** 71.362 (2) of the statutes is amended to read:

8           71.362 (2) Nonresident individuals, nonresident estates and nonresident  
9 trusts deriving income from a tax–option corporation which is engaged in business  
10 within and without this state shall be taxed only on the income of the corporation  
11 derived from business transacted and property located in this state and losses and  
12 other items of the corporation deductible by such shareholders shall be limited to  
13 their proportionate share of the Wisconsin loss or other item, except that all income  
14 that is realized from the purchase and subsequent sale or redemption of lottery  
15 prizes if the winning tickets were originally bought in this state shall be allocated  
16 to this state. For purposes of this subsection, all intangible income of tax–option  
17 corporations passed through to shareholders is business income that follows the  
18 situs of the business, except that all income that is realized from the purchase and  
19 subsequent sale or redemption of lottery prizes if the winning tickets were originally  
20 bought in this state shall be allocated to this state.”.

21           **7.** Page 937, line 24: after “both” insert “, or that buy or sell lottery prizes if  
22 the winning tickets were originally bought in this state”.

23           **8.** Page 938, line 2: after that line insert:

24           **“SECTION 1748yb.** 71.43 (2) of the statutes is amended to read:

1           71.43 (2) FRANCHISE TAX ON CORPORATIONS. For the privilege of exercising its  
2 franchise, buying or selling lottery prizes if the winning tickets were originally  
3 bought in this state or doing business in this state in a corporate capacity, except as  
4 provided under s. 71.23 (3), every domestic or foreign corporation, except  
5 corporations specified in ss. 71.26 (1) and 71.45 (1), shall annually pay a franchise  
6 tax according to or measured by its entire Wisconsin net income of the preceding  
7 taxable year at the rates set forth in s. 71.46 (2). In addition, except as provided in  
8 ss. 71.23 (3), 71.26 (1) and 71.45 (1), a corporation that ceases doing business in this  
9 state shall pay a special franchise tax according to or measured by its entire  
10 Wisconsin net income for the taxable year during which the corporation ceases doing  
11 business in this state at the rate under s. 71.46 (2). Every corporation organized  
12 under the laws of this state shall be deemed to be residing within this state for the  
13 purposes of this franchise tax. All provisions of this chapter and ch. 73 relating to  
14 income taxation of corporations shall apply to franchise taxes imposed under this  
15 subsection, unless the context requires otherwise. The tax imposed by this  
16 subsection on insurance companies subject to taxation under this chapter shall be  
17 based on Wisconsin net income computed under s. 71.45, and no other provision of  
18 this chapter relating to computation of taxable income for other corporations shall  
19 apply to such insurance companies. All other provisions of this chapter shall apply  
20 to insurance companies subject to taxation under this chapter unless the context  
21 clearly requires otherwise.

22           **SECTION 1748ym.** 71.45 (1) of the statutes is amended to read:

23           71.45 (1) EXEMPT AND EXCLUDABLE INCOME. There shall be exempt from taxation  
24 under this subchapter income of insurers exempt from federal income taxation  
25 pursuant to section 501 (c) (15) of the internal revenue code, town mutuals organized



1 under or subject to ch. 612, foreign insurers, and domestic insurers engaged  
2 exclusively in life insurance business, domestic insurers insuring against financial  
3 loss by reason of nonpayment of principal, interest and other sums agreed to be paid  
4 under the terms of any note or bond or other evidence of indebtedness secured by a  
5 mortgage, deed of trust or other instrument constituting a lien or charge on real  
6 estate and corporations organized under ch. 185, but not including income of  
7 cooperative sickness care associations organized under s. 185.981, or of a service  
8 insurance corporation organized under ch. 613, that is derived from a health  
9 maintenance organization as defined in s. 609.01 (2) or a limited service health  
10 organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which  
11 are bona fide cooperatives operated without pecuniary profit to any shareholder or  
12 member, or operated on a cooperative plan pursuant to which they determine and  
13 distribute their proceeds in substantial compliance with s. 185.45. This subsection  
14 does not apply to income that is realized from the purchase and subsequent sale or  
15 redemption of lottery prizes if the winning tickets were originally bought in this  
16 state.”.

17 **9.** Page 938, line 23: after that line insert:

18 “SECTION 1749p. 71.45 (2) (a) 15. of the statutes is created to read:

19 71.45 (2) (a) 15. By subtracting from federal taxable income all income that is  
20 realized from the purchase and subsequent sale or redemption of lottery prizes that  
21 is treated as nonapportionable income under sub. (3r).”.

22 **10.** Page 941, line 10: after that line insert:

23 “SECTION 1753d. 71.45 (3r) of the statutes is created to read:

1           71.45 (3r) ALLOCATION OF CERTAIN PROCEEDS. All income that is realized from  
2 the purchase and subsequent sale or redemption of lottery prizes if the winning  
3 tickets were originally bought in this state shall be allocated to this state.”

4           **11.** Page 941, line 21: after that line insert:

5           “SECTION 1753m. 71.46 (3) of the statutes is amended to read:

6           71.46 (3) The tax imposed under this subchapter on each domestic insurer on  
7 or measured by its entire net income attributable to lines of insurance in this state  
8 may not exceed 2% of the gross premiums, as defined in s. 76.62, received during the  
9 taxable year by the insurer on all policies on those lines of insurance if the subject  
10 of that insurance was resident, located or to be performed in this state plus 7.9% of  
11 the income that is realized from the purchase and subsequent sale or redemption of  
12 lottery prizes if the winning tickets were originally bought in this state.”.

13           **12.** Page 947, line 11: delete lines 11 and 12 and substitute “by multiplying  
14 the amount of the prize by the highest rate applicable to ~~individuals under s. 71.06~~  
15 ~~(1) or (1m)~~ to the person who claims the prize. The administrator shall deposit the  
16 amounts”.

17           **13.** Page 1401, line 5: after that line insert:

18           “SECTION 3023t. 565.02 (2) (e) of the statutes is created to read:

19           565.02 (2) (e) If requested by a lottery prize winner to provide a certification  
20 that lists the amounts of the lottery prize payments, if any, that the administrator  
21 is required to withhold under s. 565.30 (4), (5), (5m) and (5r), the administrator shall  
22 provide the certification.”.

23           **14.** Page 1402, line 19: after that line insert:

1           **“SECTION 3025m.** 565.30 (5) of the statutes, as affected by 1997 Wisconsin Act  
2           27, is amended to read:

3           **565.30 (5) WITHHOLDING OF DELINQUENT STATE TAXES, CHILD SUPPORT OR DEBTS**  
4           **OWED THE STATE.** The administrator shall report the name, address and social security  
5           number of each winner of a lottery prize equal to or greater than \$1,000 and the  
6           name, address and social security number of each person to whom a lottery prize  
7           equal to or greater than \$1,000 has been assigned to the department of revenue to  
8           determine whether the payee or assignee of the prize is delinquent in the payment  
9           of state taxes under ch. 71, 72, 76, 77, 78 or 139 or in court-ordered payment of child  
10          support or has a debt owing to the state. Upon receipt of a report under this  
11          subsection, the department of revenue shall first ascertain based on certifications by  
12          the department of workforce development or its designee under s. 49.855 (1) whether  
13          any person named in the report is currently delinquent in court-ordered payment  
14          of child support and shall next certify to the administrator whether any person  
15          named in the report is delinquent in court-ordered payment of child support or  
16          payment of state taxes under ch. 71, 72, 76, 77, 78 or 139. Upon this certification by  
17          the department of revenue or upon court order the administrator shall withhold the  
18          certified amount and send it to the department of revenue for remittance to the  
19          appropriate agency or person. At the time of remittance, the department of revenue  
20          shall charge its administrative expenses to the state agency that has received the  
21          remittance. The administrative expenses received by the department of revenue  
22          shall be credited to the appropriation under s. 20.566 (1) (h). In instances in which  
23          the payee or assignee of the prize is delinquent both in payments for state taxes and  
24          in court-ordered payments of child support, or is delinquent in one or both of these  
25          payments and has a debt owing to the state, the amount remitted to the appropriate

1 agency or person shall be in proportion to the prize amount as is the delinquency or  
2 debt owed by the payee or assignee.

3 **SECTION 3025p.** 565.30 (5m) of the statutes is renumbered 565.30 (5m) (a) and  
4 amended to read:

5 565.30 (5m) (a) WITHHOLDING OF CHILD SUPPORT, SPOUSAL SUPPORT, MAINTENANCE  
6 OR FAMILY SUPPORT. The administrator shall report to the department of workforce  
7 development the name, address and social security number of each winner of a  
8 lottery prize that is payable in instalments and the name, address and social security  
9 number or federal income tax number of the person who has been assigned a lottery  
10 prize that is payable in instalments. Upon receipt of the report, the department of  
11 workforce development shall certify to the administrator whether any payee or  
12 assignee named in the report is obligated to provide child support, spousal support,  
13 maintenance or family support under s. 767.02 (1) (f) or (g), 767.10, 767.23, 767.25,  
14 767.26, 767.261, 767.458 (3), 767.465 (2m), 767.477, 767.51 (3), 767.62 (4) (a) or  
15 948.22 (7) or ch. 769 and the amount required to be withheld from the lottery prize  
16 under s. 767.265. The Subject to par. (b), the administrator shall withhold the  
17 certified amount from each payment made to the winner or assignee and remit the  
18 certified amount to the department of workforce development.

19 **SECTION 3025pc.** 565.30 (5m) (b) of the statutes is created to read:

20 565.30 (5m) (b) The administrator may not withhold from any payment to an  
21 assignee of a lottery prize any child support, spousal support, maintenance or family  
22 support specified in par. (a) that is owed by a winner of a lottery prize, nor may the  
23 administrator withhold from any payment to a winner any child support, spousal  
24 support maintenance or family support that is owed by an assignee.

25 **SECTION 3025pf.** 565.30 (5r) (a) of the statutes is amended to read:

1           565.30 (5r) (a) Annually, the administrator shall provide each clerk of circuit  
2 court in the state with a list of the winners or assignees of a lottery prize that is  
3 payable in instalments. The list shall include each winner or assignee since the date  
4 of the previous list.

5           **SECTION 3025pg.** 565.30 (5r) (b) of the statutes is amended to read:

6           565.30 (5r) (b) ~~If Subject to par. (c),~~ if the administrator receives a notice under  
7 s. 973.05 (5) (a) or 778.30 (2) (a) of the assignment of lottery prizes under s. 973.05  
8 (4) (c) or 778.30 (1) (c) and determines that the person subject to the assignment is  
9 a winner or assignee of a lottery prize that is payable in instalments, the  
10 administrator shall withhold the amount of the judgment that is the basis of the  
11 assignment from the next instalment payment. The administrator shall submit the  
12 withheld amount to the court that issued the assignment. At the time of the  
13 submittal, the administrator shall charge the administrative expenses related to  
14 that withholding and submittal to the winner or assignee of the lottery prize and  
15 withhold those expenses from the balance of the instalment payment. The  
16 administrator shall notify the winner or assignee of the reason that the amount is  
17 withheld from the instalment payment. If the initial instalment payment is  
18 insufficient to pay the judgment and administrative expenses, the administrator  
19 shall withhold and submit to the court an amount from any additional instalment  
20 payments until the judgment and administrative expenses are paid in full and the  
21 assignment is no longer in effect. The administrative expenses received by the  
22 department shall be credited to the appropriation under s. 20.566 (1) (h).

23           **SECTION 3025ph.** 565.30 (5r) (c) of the statutes is created to read:

24           565.30 (5r) (c) The administrator may not withhold from any payment to an  
25 assignee of a lottery prize the amount specified in par. (b) that is owed by a winner

1 of a lottery prize, nor may the administrator withhold from any payment to a winner  
2 the amount specified in par. (b) that is owed by an assignee.

3 **SECTION 3025pj.** 565.30 (5t) of the statutes is amended to read:

4 565.30 (5t) PRIORITY OF WITHHOLDING. (intro.) The administrator shall withhold  
5 payments under this section from a winner or assignee of a lottery prize in the  
6 following order:

7 **SECTION 3025pL.** 565.30 (6) of the statutes is repealed.

8 **SECTION 3025pm.** 565.30 (6m) of the statutes is created to read:

9 565.30 (6m) USE OF LOTTERY PRIZE AS SECURITY FOR LOAN. (a) *Definition.* In this  
10 subsection, “prize winner” means a person who has won a lottery prize and any other  
11 person who is authorized by law to use a lottery prize as security for a loan.

12 (b) *Security for a loan.* A prize winner may use a lottery prize or part of a lottery  
13 prize as security for a loan only pursuant to a court order issued under this  
14 subsection.

15 (c) *Judicial process for using lottery prizes as security for loans.* Any prize  
16 winner who intends to use part or all of a lottery prize as security for a loan shall  
17 petition the circuit court of the county in which the prize winner resides or the circuit  
18 court of Dane County for a court order confirming the use of a lottery prize as security  
19 for a loan. The circuit court of the county in which the prize winner resides or the  
20 circuit court of Dane County shall issue an order confirming the use of a lottery prize  
21 as security for a loan only if all of the following occur:

22 1. The prize winner is represented by independent legal counsel.

23 2. A copy of the contract that provides for using any part of the lottery prize as  
24 security for the loan is attached to the petition.

1           3. The contract is executed by the prize winner, is subject to the laws of this  
2 state and provides that the prize winner has the right to cancel the contract until  
3 midnight of the 3rd business day after the date on which the prize winner entered  
4 into the contract.

5           4. The prize winner attests, by sworn affidavit, that he or she is of sound mind,  
6 is not acting under duress and acknowledges that the state will not make any of the  
7 lottery prize payments or parts of lottery prize payments to the prize winner that are  
8 being used as security for the loan in the event the prize winner defaults on the loan.

9           5. The prize winner, by sworn affidavit, provides the court with an accounting  
10 of all claims to, or judgments, liens, security interests, garnishments, assignments  
11 or attachments against, all or any part of the lottery prize payments.

12           6. The prize winner provides the court a certification from the administrator  
13 that lists the amounts of the lottery prize payments, if any, that the administrator  
14 is required to withhold for the prize winner under subs. (4), (5), (5m) and (5r).

15           7. The part of the lottery prize that is being used as security for the loan does  
16 not include the amounts of any withholdings specified under subs. (4), (5), (5m) and  
17 (5r).

18           8. The court determines that the interest rate on the loan does not exceed the  
19 weekly prime rate for the week prior to the date on which the court received a copy  
20 of the contract, as reported by the federal reserve board in federal reserve statistical  
21 release H. 15, plus 6%. In making the calculation under this subdivision, the court  
22 shall subtract from the compensation received by the individual or organization  
23 making the loan any required fees or other costs charged the prize winner.

24           (d) *Contents of court order.* A court order issued under par. (c) shall include all  
25 of the following:

- 1           1. The name of the prize winner.
- 2           2. The prize winner's social security number if the prize winner is an
- 3 individual, or federal income tax identification number if the prize winner is an
- 4 organization.
- 5           3. The name of the individual or organization that is making the loan to the
- 6 prize winner.
- 7           4. The social security number of the individual or the federal income tax
- 8 identification number of the organization that is making the loan to the prize winner.
- 9           5. If an individual is making the loan to the prize winner, the citizenship of the
- 10 individual. If the individual is not a citizen of the United States of America, the order
- 11 shall include the individual's resident alien number.

12           (e) *Administration.* Upon receipt of a court order issued under par. (c), the

13 individual or organization making the loan shall provide a certified copy of the court

14 order to the administrator. The administrator shall acknowledge receipt of the court

15 order in writing to the individual or organization making the loan and shall make

16 all lottery prize payments according to the terms specified in the court order. The

17 administrator may charge an initial processing fee, in an amount determined by

18 rule, to cover any costs associated with processing the lottery prize payments in

19 accordance with the terms specified in the court order.

20           **SECTION 3025pp.** 565.30 (6r) of the statutes is created to read:

21           565.30 (6r) VOLUNTARY ASSIGNMENT OF LOTTERY PRIZE. (a) *Definition.* In this

22 subsection, "assignor" means a lottery prizewinner or a person who has the right to

23 assign all or part of a lottery prize.



1           (b) *Voluntary assignment.* An assignor may make a voluntary assignment of  
2 a lottery prize or part of a lottery prize only pursuant to a court order issued under  
3 this subsection.

4           (c) *Judicial process for assignment.* Any assignor who intends to voluntarily  
5 assign part or all of a lottery prize to any individual or organization shall petition the  
6 circuit court of the county in which the assignor resides or the circuit court of Dane  
7 County for a court order confirming the assignment. The circuit court of the county  
8 in which the assignor resides or the circuit court of Dane County shall issue an order  
9 confirming the assignment only if all of the following occur:

- 10           1. The assignor is represented by independent legal counsel.  
11           2. A copy of the assignment is attached to the petition.  
12           3. The assignment is in writing, is executed by the assignor and is subject to  
13 the laws of this state.

14           3m. The contract for the assignment provides that the assignor has the right  
15 to cancel the contract until midnight of the 3rd business day after the date on which  
16 the assignor entered into the contract.

17           3r. The contract for the assignment provides that the assignor, from the  
18 proceeds received from the individual or organization to whom part or all of the  
19 lottery prize ~~is~~ assigned, agrees to pay in full any delinquent payments that may  
20 be owed by the assignor under subs. (4), (5), (5m) and (5r).

21           4. The assignor attests, by sworn affidavit, that he or she is of sound mind, is  
22 not acting under duress and acknowledges that the state will not make any of the  
23 assigned lottery prize payments or parts of lottery prize payments to the assignor.

1           5. The assignor, by sworn affidavit, provides the court with an accounting of all  
2 claims to, or judgments, liens, security interests, garnishments, assignments or  
3 attachments against, all or any part of the lottery prize payments.

4           6. The assignment does not include the amounts of any withholdings specified  
5 under sub. (4), (5), (5m) or (5r).

6           7. The assignor provides the court a certification from the administrator that  
7 lists the amounts of the lottery prize payments, if any, that the administrator is  
8 required to withhold for the assignor under subs. (4), (5), (5m) and (5r).

9           8. The payment that the assignor will receive as compensation for the  
10 assignment is at least equal to the present value of the assigned lottery prize  
11 payments, discounted at a rate no greater than the weekly prime rate for the week  
12 prior to the date on which the court received a copy of the assignment, as reported  
13 by the federal reserve board in federal reserve statistical release H. 15, plus 6%. In  
14 making the calculation under this subdivision, the court shall subtract from the  
15 compensation received by the assignor any required fees or other costs charged the  
16 assignor.

17           9. The individual or organization to whom part or all of the lottery prize~~s~~ is  
18 assigned specifies in an affidavit that the individual or organization agrees to report  
19 and pay any state income or franchise tax that is owed on any income or gain realized  
20 from the purchase and subsequent sale or redemption of any lottery prize.

21           (d) *Contents of court order.* A court order issued under par. (c) shall include all  
22 of the following:

23           1. The name of the prizewinner or the name of the assignor, if different from  
24 the prizewinner.

1           2. The assignor's social security number if the assignor is an individual, or  
2           federal income tax identification number if the assignor is an organization.

3           3. The name of the individual or organization to whom part or all of the lottery  
4           prize is assigned.

5           4. The social security number of the individual or the federal income tax  
6           identification number of the organization to whom part or all of the lottery prize is  
7           assigned.

8           5. If part or all of the lottery prize is assigned to an individual, the citizenship  
9           of the individual. If the individual is not a citizen of the United States of America,  
10          the order shall include the individual's resident alien number.

11          6. The number of assigned lottery prize payments and the dates on which the  
12          assigned lottery prize payments are to be paid.

13          7. The gross amount of each of the lottery prize payments that are subject to  
14          withholding for tax purposes and that are assigned.

15          (e) *Administration of lottery prize assignment.* Upon receipt of a court order  
16          issued under par. (c), the individual or organization to whom the lottery prize is  
17          assigned shall provide a certified copy of the court order to the administrator. The  
18          administrator shall acknowledge receipt of the court order in writing to the  
19          individual or organization to whom the lottery prize is assigned and shall make all  
20          lottery prize payments according to the terms specified in the court order. The  
21          administrator may charge an initial processing fee, in an amount determined by  
22          rule, to cover any costs associated with processing the lottery prize payments in  
23          accordance with the terms specified in the court order.”.

24          **15.** Page 1600, line 6: after that line insert:



## Kreye, Joseph

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**From:** Ourada, Thomas D  
**Sent:** Friday, June 25, 1999 3:30 PM  
**To:** Kreye, Joseph  
**Subject:** RE: Lottery assignability

Joe, as I mentioned in the voice mail, Marcy Stock and John Evans have considered this issue and suggest that language be added in sec. 71.05(6)(b)9 as follows:

...and not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason and not including amounts treated as capital gain for federal income tax purposes from the sale or exchange of a lottery prize.

Please get back to me with any concerns. Thanks Joe.

-----Original Message-----

**From:** Kreye, Joseph  
**Sent:** Friday, June 25, 1999 1:18 PM  
**To:** Ourada, Thomas D  
**Subject:** FW: Lottery assignability

Kelsie sent your message to me so I could make the recommended changes. However, because I do not often draft in the area of capital gains, I am not sure how to address Mr. Evans concerns related to capital gains. Could you have someone from DOR contact me regarding what statutes I need to amend to address the concern? Thanks.

**Joseph T. Kreye**, Legislative Attorney  
Legislative Reference Bureau  
(608) 266-2263  
[joseph.kreye@legis.state.wi.us](mailto:joseph.kreye@legis.state.wi.us)

-----Original Message-----

**From:** Doty, Kelsie  
**Sent:** Friday, June 25, 1999 11:38 AM  
**To:** Kreye, Joseph  
**Subject:** FW: Lottery assignability

Joe, here is DOR's letter of "concern".

-----Original Message-----

**From:** Ourada, Thomas D  
**Sent:** Friday, June 18, 1999 5:51 PM  
**To:** Doty, Kelsie  
**Subject:** Lottery assignability

Kelsie, I spoke with R.J. Pirlot in the Speaker's office about this issue and he asked that I get back to you with the dept. concerns about this possible motion. My understanding is that a proposal will be offered that mimics ASA 1 from 1997 AB729. The dept. is basically ok with that language, but John Evans our Chief Legal Counsel had two issues he wanted you to be aware of.

1) It is possible that the winner could argue that there is no tax due because it is income from the sale of an intangible rather than income from the lottery. The lottery win language is "from the state lottery" and so it could be argued that the statute sets up the tax scheme for the prizes and the lump payment by the assignment company is not defined or is excluded.

This would make the company solely responsible for the remaining payouts from the lottery from a tax perspective. Do they pay tax on the total payout without a deduction for the amount paid to the winner? Or are they allowed the basis adjustment and then do we get the tax from the winner on the lump sum? Evans suggests adding "sale of or" before "purchase" on line 8 of page 2 of the sub. and all similar places. This will provide a tax on the winner at the time the winner sells on the proceeds and tax the investment income on the prize payout less the amortized purchase price.

2) There is a concern that if the assignment company resells the prize they might be able to claim it as capital gains and get the exclusion, rather than paying tax on the entire value of the prize. The department believes it might be necessary to exclude lottery prizes from capital gains treatment.

I hope that you can consider these comments in your review of the proposal and include changes if you agree they are needed. Thanks.



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRBb1181/2  
ISR&JK:jlj:ijs

6-25-99  
mm

ARC:.....Kratochwill - Am # 312(4) Assignment of lottery prizes

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

SOON

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 825, line 14: after that line insert:

3 "SECTION 1674v. 71.04 (1) (a) of the statutes is amended to read:

4 71.04 (1) (a) All income or loss of resident individuals and resident estates and  
5 trusts shall follow the residence of the individual, estate or trust. Income or loss of  
6 nonresident individuals and nonresident estates and trusts from business, not  
7 requiring apportionment under sub. (4), (10) or (11), shall follow the situs of the  
8 business from which derived, except that all income that is realized from the

9 purchase and subsequent sale or redemption of lottery prizes if the winning tickets

sale of or ✓

1 were originally bought in this state shall be allocated to this state. All items of  
2 income, loss and deductions of nonresident individuals and nonresident estates and  
3 trusts derived from a tax-option corporation not requiring apportionment under  
4 sub. (9) shall follow the situs of the business of the corporation from which derived,  
5 except that all income that is realized from the <sup>sale of or</sup> purchase and subsequent sale or  
6 redemption of lottery prizes if the winning tickets were originally bought in this state  
7 shall be allocated to this state. Income or loss of nonresident individuals and  
8 nonresident estates and trusts derived from rentals and royalties from real estate  
9 or tangible personal property, or from the operation of any farm, mine or quarry, or  
10 from the sale of real property or tangible personal property shall follow the situs of  
11 the property from which derived. Income from personal services of nonresident  
12 individuals, including income from professions, shall follow the situs of the services.  
13 A nonresident limited partner's distributive share of partnership income shall follow  
14 the situs of the business, except that all income that is realized from the <sup>sale of or</sup> purchase  
15 and subsequent sale or redemption of lottery prizes if the winning tickets were  
16 originally bought in this state shall be allocated to this state. A nonresident limited  
17 liability company member's distributive share of limited liability company income  
18 shall follow the situs of the business, except that all income that is realized from the <sup>sale of or</sup>  
19 purchase and subsequent sale or redemption of lottery prizes if the winning tickets  
20 were originally bought in this state shall be allocated to this state. Income of  
21 nonresident individuals, estates and trusts from the state lottery under ch. 565 is  
22 taxable by this state. Income of nonresident individuals, estates and trusts from any  
23 multijurisdictional lottery under ch. 565 is taxable by this state, but only if the  
24 winning lottery ticket or lottery share was purchased from a retailer, as defined in  
25 s. 565.01 (6), located in this state or from the department. Income of nonresident

1 individuals, nonresident trusts and nonresident estates from pari-mutuel winnings  
2 or purses under ch. 562 is taxable by this state. Income of nonresident individuals,  
3 estates and trusts from winnings from a casino or bingo hall that is located in this  
4 state and that is operated by a Native American tribe or band shall follow the situs  
5 of the casino or bingo hall. All other income or loss of nonresident individuals and  
6 nonresident estates and trusts, including income or loss derived from land contracts,  
7 mortgages, stocks, bonds and securities or from the sale of similar intangible  
8 personal property, shall follow the residence of such persons, except as provided in  
9 par. (b) and sub. (9), except that all income that is realized from the purchase and  
10 subsequent sale or redemption of lottery prizes if the winning tickets were originally  
11 bought in this state shall be allocated to this state.”

12 **2.** Page 832, line 21: after that line insert:

13 “SECTION 1682pd. 71.04 (9) of the statutes is amended to read:

14 71.04 (9) NONRESIDENT INCOME FROM MULTISTATE TAX-OPTION CORPORATION.  
15 Nonresident individuals and nonresident estates and trusts deriving income from a  
16 tax-option corporation which is engaged in business within and without this state  
17 shall be taxed only on the income of the corporation derived from business transacted  
18 and property located in this state and losses and other items of the corporation  
19 deductible by such shareholders shall be limited to their proportionate share of the  
20 Wisconsin loss or other item, except that all income that is realized from the purchase  
21 and subsequent sale or redemption of lottery prizes if the winning tickets were  
22 originally bought in this state shall be allocated to this state. For purposes of this  
23 subsection, all intangible income of tax-option corporations passed through to  
24 shareholders is business income that follows the situs of the business, except that all



INSERT 4-3 ✓

sale of a ✓

① income that is realized from the purchase and subsequent sale or redemption of  
2 lottery prizes if the winning tickets were originally bought in this state shall be  
3 allocated to this state.”.

4 **3.** Page 873, line 19: after “both” insert “, or that buy or sell lottery prizes if  
5 the winning tickets were originally bought in this state”.

6 **4.** Page 873, line 21: after that line insert:

7 “SECTION 1722yb. 71.23 (2) of the statutes is amended to read:

8 71.23 (2) FRANCHISE TAX. For the privilege of exercising its franchise, buying  
9 or selling lottery prizes if the winning tickets were originally bought in this state or  
10 doing business in this state in a corporate capacity, except as provided under sub. (3),  
11 every domestic or foreign corporation, except corporations specified in s. 71.26 (1),  
12 and every nuclear decommissioning trust or reserve fund shall annually pay a  
13 franchise tax according to or measured by its entire Wisconsin net income of the  
14 preceding taxable year at the rate set forth in s. 71.27 (2). In addition, except as  
15 provided in sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this  
16 state and a nuclear decommissioning trust or reserve fund that is terminated shall  
17 pay a special franchise tax according to or measured by its entire Wisconsin net  
18 income for the taxable year during which the corporation ceases doing business in  
19 this state or the nuclear decommissioning trust or reserve fund is terminated at the  
20 rates under s. 71.27 (2). Every corporation organized under the laws of this state  
21 shall be deemed to be residing within this state for the purposes of this franchise tax.  
22 All provisions of this chapter and ch. 73 relating to income taxation of corporations  
23 shall apply to franchise taxes imposed under this subsection, unless the context  
24 requires otherwise. The tax imposed by this subsection on national banking

1 associations shall be in lieu of all taxes imposed by this state on national banking  
2 associations to the extent it is not permissible to tax such associations under federal  
3 law.

4 **SECTION 1722ym.** 71.25 (5) (b) of the statutes is amended to read:

5 71.25 (5) (b) *Nonapportionable income.* 1. Income, gain or loss from the sale  
6 of nonbusiness real property or nonbusiness tangible personal property, rental of  
7 nonbusiness real property or nonbusiness tangible personal property and royalties  
8 from nonbusiness real property or nonbusiness tangible personal property are  
9 nonapportionable and shall be allocated to the situs of the property, except that all  
10 income that is realized from the <sup>sale of or</sup> purchase and subsequent sale or redemption of  
11 lottery prizes if the winning tickets were originally bought in this state shall be  
12 allocated to this state.

13 2. All income, gain or loss from intangible property that is earned by a personal  
14 holding company, as defined in section 542 of the internal revenue code, as amended  
15 to December 31, 1974, shall be allocated to the residence of the taxpayer, except that  
16 all income that is realized from the <sup>sale of or</sup> purchase and subsequent sale or redemption of  
17 lottery prizes if the winning tickets were originally bought in this state shall be  
18 allocated to this state.”

19 **5.** Page 888, line 25: after that line insert:

20 “**SECTION 1738t.** 71.26 (1) (a) of the statutes is amended to read:

21 71.26 (1) (a) *Certain corporations.* Income of corporations organized under ch.  
22 185, except income of a cooperative sickness care association organized under s.  
23 185.981, or of a service insurance corporation organized under ch. 613, that is derived  
24 from a health maintenance organization as defined in s. 609.01 (2) or a limited

1 service health organization as defined in s. 609.01 (3), or operating under subch. I  
2 of ch. 616 which are bona fide cooperatives operated without pecuniary profit to any  
3 shareholder or member, or operated on a cooperative plan pursuant to which they  
4 determine and distribute their proceeds in substantial compliance with s. 185.45,  
5 and the income, except the unrelated business taxable income as defined in section  
6 512 of the internal revenue code and except income that is derived from a health  
7 maintenance organization as defined in s. 609.01 (2) or a limited service health  
8 organization as defined in s. 609.01 (3), of all religious, scientific, educational,  
9 benevolent or other corporations or associations of individuals not organized or  
10 conducted for pecuniary profit. This paragraph does not apply to the income of  
11 savings banks, mutual loan corporations or savings and loan associations. This  
12 paragraph does not apply to income that is realized from the purchase and  
13 subsequent sale or redemption of lottery prizes if the winning tickets were originally  
14 bought in this state. This paragraph applies to the income of credit unions except to  
15 the income of any credit union that is derived from public deposits for any taxable  
16 year in which the credit union is approved as a public depository under ch. 34 and  
17 acts as a depository of state or local funds under s. 186.113 (20). For purposes of this  
18 paragraph, the income of a credit union that is derived from public deposits is the  
19 product of the credit union's gross annual income for the taxable year multiplied by  
20 a fraction, the numerator of which is the average monthly balance of public deposits  
21 in the credit union during the taxable year, and the denominator of which is the  
22 average monthly balance of all deposits in the credit union during the taxable year.”.

23 **6.** Page 927, line 8: after that line insert:

24 “SECTION 1748Lm. 71.362 (1) of the statutes is amended to read:

1           71.362 (1) All tax-option items of nonresident individuals, nonresident estates  
2 and nonresident trusts derived from a tax-option corporation not requiring  
3 apportionment under sub. (2) shall follow the situs of the business of the corporation  
4 from which they are derived, except that all income that is realized from the purchase  
5 and subsequent sale or redemption of lottery prizes if the winning tickets were  
6 originally bought in this state shall be allocated to this state.

7           **SECTION 1748Ln.** 71.362 (2) of the statutes is amended to read:

8           71.362 (2) Nonresident individuals, nonresident estates and nonresident  
9 trusts deriving income from a tax-option corporation which is engaged in business  
10 within and without this state shall be taxed only on the income of the corporation  
11 derived from business transacted and property located in this state and losses and  
12 other items of the corporation deductible by such shareholders shall be limited to  
13 their proportionate share of the Wisconsin loss or other item, except that all income  
14 that is realized from the purchase and subsequent sale or redemption of lottery  
15 prizes if the winning tickets were originally bought in this state shall be allocated  
16 to this state. For purposes of this subsection, all intangible income of tax-option  
17 corporations passed through to shareholders is business income that follows the  
18 situs of the business, except that all income that is realized from the purchase and  
19 subsequent sale or redemption of lottery prizes if the winning tickets were originally  
20 bought in this state shall be allocated to this state.”.

21           **7.** Page 937, line 24: after “both” insert “, or that buy or sell lottery prizes if  
22 the winning tickets were originally bought in this state”.

23           **8.** Page 938, line 2: after that line insert:

24           **“SECTION 1748yb.** 71.43 (2) of the statutes is amended to read:

1           71.43 (2) FRANCHISE TAX ON CORPORATIONS. For the privilege of exercising its  
2 franchise, buying or selling lottery prizes if the winning tickets were originally  
3 bought in this state or doing business in this state in a corporate capacity, except as  
4 provided under s. 71.23 (3), every domestic or foreign corporation, except  
5 corporations specified in ss. 71.26 (1) and 71.45 (1), shall annually pay a franchise  
6 tax according to or measured by its entire Wisconsin net income of the preceding  
7 taxable year at the rates set forth in s. 71.46 (2). In addition, except as provided in  
8 ss. 71.23 (3), 71.26 (1) and 71.45 (1), a corporation that ceases doing business in this  
9 state shall pay a special franchise tax according to or measured by its entire  
10 Wisconsin net income for the taxable year during which the corporation ceases doing  
11 business in this state at the rate under s. 71.46 (2). Every corporation organized  
12 under the laws of this state shall be deemed to be residing within this state for the  
13 purposes of this franchise tax. All provisions of this chapter and ch. 73 relating to  
14 income taxation of corporations shall apply to franchise taxes imposed under this  
15 subsection, unless the context requires otherwise. The tax imposed by this  
16 subsection on insurance companies subject to taxation under this chapter shall be  
17 based on Wisconsin net income computed under s. 71.45, and no other provision of  
18 this chapter relating to computation of taxable income for other corporations shall  
19 apply to such insurance companies. All other provisions of this chapter shall apply  
20 to insurance companies subject to taxation under this chapter unless the context  
21 clearly requires otherwise.

22           **SECTION 1748ym.** 71.45 (1) of the statutes is amended to read:

23           71.45 (1) EXEMPT AND EXCLUDABLE INCOME. There shall be exempt from taxation  
24 under this subchapter income of insurers exempt from federal income taxation  
25 pursuant to section 501 (c) (15) of the internal revenue code, town mutuals organized

1 under or subject to ch. 612, foreign insurers, and domestic insurers engaged  
2 exclusively in life insurance business, domestic insurers insuring against financial  
3 loss by reason of nonpayment of principal, interest and other sums agreed to be paid  
4 under the terms of any note or bond or other evidence of indebtedness secured by a  
5 mortgage, deed of trust or other instrument constituting a lien or charge on real  
6 estate and corporations organized under ch. 185, but not including income of  
7 cooperative sickness care associations organized under s. 185.981, or of a service  
8 insurance corporation organized under ch. 613, that is derived from a health  
9 maintenance organization as defined in s. 609.01 (2) or a limited service health  
10 organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which  
11 are bona fide cooperatives operated without pecuniary profit to any shareholder or  
12 member, or operated on a cooperative plan pursuant to which they determine and  
13 distribute their proceeds in substantial compliance with s. 185.45. This subsection  
14 does not apply to income that is realized from the <sup>sale of or</sup> purchase and subsequent sale or  
15 redemption of lottery prizes if the winning tickets were originally bought in this  
16 state.”

17 **9.** Page 938, line 23: after that line insert:

18 “SECTION 1749p. 71.45 (2) (a) 15. of the statutes is created to read:

19 71.45 (2) (a) 15. By subtracting from federal taxable income all income that is  
20 realized from the purchase and subsequent sale or redemption of lottery prizes that  
21 is treated as nonapportionable income under sub. (3r).”

22 **10.** Page 941, line 10: after that line insert:

23 “SECTION 1753d. 71.45 (3r) of the statutes is created to read:

1           71.45 (3r) ALLOCATION OF CERTAIN PROCEEDS. All income that is realized from  
2 the purchase and subsequent sale or redemption of lottery prizes if the winning  
3 tickets were originally bought in this state shall be allocated to this state.”

4           **11.** Page 941, line 21: after that line insert:

5           “SECTION 1753m. 71.46 (3) of the statutes is amended to read:

6           71.46 (3) The tax imposed under this subchapter on each domestic insurer on  
7 or measured by its entire net income attributable to lines of insurance in this state  
8 may not exceed 2% of the gross premiums, as defined in s. 76.62, received during the  
9 taxable year by the insurer on all policies on those lines of insurance if the subject  
10 of that insurance was resident, located or to be performed in this state plus 7.9% of  
11 the income that is realized from the <sup>sale of</sup> purchase and subsequent sale or redemption of  
12 lottery prizes if the winning tickets were originally bought in this state.”

13           **12.** Page 947, line 11: delete lines 11 and 12 and substitute “by multiplying  
14 the amount of the prize by the highest rate applicable to ~~individuals under s. 71.06~~  
15 ~~(1) or (1m)~~ to the person who claims the prize. The administrator shall deposit the  
16 amounts”.

17           **13.** Page 1401, line 5: after that line insert:

18           “SECTION 3023t. 565.02 (2) (e) of the statutes is created to read:

19           565.02 (2) (e) If requested by a lottery prize winner to provide a certification  
20 that lists the amounts of the lottery prize payments, if any, that the administrator  
21 is required to withhold under s. 565.30 (4), (5), (5m) and (5r), the administrator shall  
22 provide the certification.”

23           **14.** Page 1402, line 19: after that line insert:

1           “SECTION 3025m. 565.30 (5) of the statutes, as affected by 1997 Wisconsin Act  
2 27, is amended to read:

3           565.30 (5) WITHHOLDING OF DELINQUENT STATE TAXES, CHILD SUPPORT OR DEBTS  
4 OWED THE STATE. The administrator shall report the name, address and social security  
5 number of each winner of a lottery prize equal to or greater than \$1,000 and the  
6 name, address and social security number of each person to whom a lottery prize  
7 equal to or greater than \$1,000 has been assigned to the department of revenue to  
8 determine whether the payee or assignee of the prize is delinquent in the payment  
9 of state taxes under ch. 71, 72, 76, 77, 78 or 139 or in court-ordered payment of child  
10 support or has a debt owing to the state. Upon receipt of a report under this  
11 subsection, the department of revenue shall first ascertain based on certifications by  
12 the department of workforce development or its designee under s. 49.855 (1) whether  
13 any person named in the report is currently delinquent in court-ordered payment  
14 of child support and shall next certify to the administrator whether any person  
15 named in the report is delinquent in court-ordered payment of child support or  
16 payment of state taxes under ch. 71, 72, 76, 77, 78 or 139. Upon this certification by  
17 the department of revenue or upon court order the administrator shall withhold the  
18 certified amount and send it to the department of revenue for remittance to the  
19 appropriate agency or person. At the time of remittance, the department of revenue  
20 shall charge its administrative expenses to the state agency that has received the  
21 remittance. The administrative expenses received by the department of revenue  
22 shall be credited to the appropriation under s. 20.566 (1) (h). In instances in which  
23 the payee or assignee of the prize is delinquent both in payments for state taxes and  
24 in court-ordered payments of child support, or is delinquent in one or both of these  
25 payments and has a debt owing to the state, the amount remitted to the appropriate



1 agency or person shall be in proportion to the prize amount as is the delinquency or  
2 debt owed by the payee or assignee.

3 **SECTION 3025p.** 565.30 (5m) of the statutes is renumbered 565.30 (5m) (a) and  
4 amended to read:

5 **565.30 (5m) (a)** WITHHOLDING OF CHILD SUPPORT, SPOUSAL SUPPORT, MAINTENANCE  
6 OR FAMILY SUPPORT. The administrator shall report to the department of workforce  
7 development the name, address and social security number of each winner of a  
8 lottery prize that is payable in instalments and the name, address and social security  
9 number or federal income tax number of the person who has been assigned a lottery  
10 prize that is payable in instalments. Upon receipt of the report, the department of  
11 workforce development shall certify to the administrator whether any payee or  
12 assignee named in the report is obligated to provide child support, spousal support,  
13 maintenance or family support under s. 767.02 (1) (f) or (g), 767.10, 767.23, 767.25,  
14 767.26, 767.261, 767.458 (3), 767.465 (2m), 767.477, 767.51 (3), 767.62 (4) (a) or  
15 948.22 (7) or ch. 769 and the amount required to be withheld from the lottery prize  
16 under s. 767.265. The Subject to par. (b), the administrator shall withhold the  
17 certified amount from each payment made to the winner or assignee and remit the  
18 certified amount to the department of workforce development.

19 **SECTION 3025pc.** 565.30 (5m) (b) of the statutes is created to read:

20 **565.30 (5m) (b)** The administrator may not withhold from any payment to an  
21 assignee of a lottery prize any child support, spousal support, maintenance or family  
22 support specified in par. (a) that is owed by a winner of a lottery prize, nor may the  
23 administrator withhold from any payment to a winner any child support, spousal  
24 support maintenance or family support that is owed by an assignee.

25 **SECTION 3025pf.** 565.30 (5r) (a) of the statutes is amended to read:

1           565.30 (5r) (a) Annually, the administrator shall provide each clerk of circuit  
2 court in the state with a list of the winners or assignees of a lottery prize that is  
3 payable in instalments. The list shall include each winner or assignee since the date  
4 of the previous list.

5           **SECTION 3025pg.** 565.30 (5r) (b) of the statutes is amended to read:

6           565.30 (5r) (b) ~~If Subject to par. (c),~~ if the administrator receives a notice under  
7 s. 973.05 (5) (a) or 778.30 (2) (a) of the assignment of lottery prizes under s. 973.05  
8 (4) (c) or 778.30 (1) (c) and determines that the person subject to the assignment is  
9 a winner or assignee of a lottery prize that is payable in instalments, the  
10 administrator shall withhold the amount of the judgment that is the basis of the  
11 assignment from the next instalment payment. The administrator shall submit the  
12 withheld amount to the court that issued the assignment. At the time of the  
13 submittal, the administrator shall charge the administrative expenses related to  
14 that withholding and submittal to the winner or assignee of the lottery prize and  
15 withhold those expenses from the balance of the instalment payment. The  
16 administrator shall notify the winner or assignee of the reason that the amount is  
17 withheld from the instalment payment. If the initial instalment payment is  
18 insufficient to pay the judgment and administrative expenses, the administrator  
19 shall withhold and submit to the court an amount from any additional instalment  
20 payments until the judgment and administrative expenses are paid in full and the  
21 assignment is no longer in effect. The administrative expenses received by the  
22 department shall be credited to the appropriation under s. 20.566 (1) (h).

23           **SECTION 3025ph.** 565.30 (5r) (c) of the statutes is created to read:

24           565.30 (5r) (c) The administrator may not withhold from any payment to an  
25 assignee of a lottery prize the amount specified in par. (b) that is owed by a winner

1 of a lottery prize, nor may the administrator withhold from any payment to a winner  
2 the amount specified in par. (b) that is owed by an assignee.

3 **SECTION 3025pj.** 565.30 (5t) of the statutes is amended to read:

4 **565.30 (5t) PRIORITY OF WITHHOLDING.** (intro.) The administrator shall withhold  
5 payments under this section from a winner or assignee of a lottery prize in the  
6 following order:

7 **SECTION 3025pL.** 565.30 (6) of the statutes is repealed.

8 **SECTION 3025pm.** 565.30 (6m) of the statutes is created to read:

9 **565.30 (6m) USE OF LOTTERY PRIZE AS SECURITY FOR LOAN.** (a) *Definition.* In this  
10 subsection, “prize winner” means a person who has won a lottery prize and any other  
11 person who is authorized by law to use a lottery prize as security for a loan.

12 (b) *Security for a loan.* A prize winner may use a lottery prize or part of a lottery  
13 prize as security for a loan only pursuant to a court order issued under this  
14 subsection.

15 (c) *Judicial process for using lottery prizes as security for loans.* Any prize  
16 winner who intends to use part or all of a lottery prize as security for a loan shall  
17 petition the circuit court of the county in which the prize winner resides or the circuit  
18 court of Dane County for a court order confirming the use of a lottery prize as security  
19 for a loan. The circuit court of the county in which the prize winner resides or the  
20 circuit court of Dane County shall issue an order confirming the use of a lottery prize  
21 as security for a loan only if all of the following occur:

22 1. The prize winner is represented by independent legal counsel.

23 2. A copy of the contract that provides for using any part of the lottery prize as  
24 security for the loan is attached to the petition.

1           3. The contract is executed by the prize winner, is subject to the laws of this  
2 state and provides that the prize winner has the right to cancel the contract until  
3 midnight of the 3rd business day after the date on which the prize winner entered  
4 into the contract.

5           4. The prize winner attests, by sworn affidavit, that he or she is of sound mind,  
6 is not acting under duress and acknowledges that the state will not make any of the  
7 lottery prize payments or parts of lottery prize payments to the prize winner that are  
8 being used as security for the loan in the event the prize winner defaults on the loan.

9           5. The prize winner, by sworn affidavit, provides the court with an accounting  
10 of all claims to, or judgments, liens, security interests, garnishments, assignments  
11 or attachments against, all or any part of the lottery prize payments.

12           6. The prize winner provides the court a certification from the administrator  
13 that lists the amounts of the lottery prize payments, if any, that the administrator  
14 is required to withhold for the prize winner under subs. (4), (5), (5m) and (5r).

15           7. The part of the lottery prize that is being used as security for the loan does  
16 not include the amounts of any withholdings specified under subs. (4), (5), (5m) and  
17 (5r).

18           8. The court determines that the interest rate on the loan does not exceed the  
19 weekly prime rate for the week prior to the date on which the court received a copy  
20 of the contract, as reported by the federal reserve board in federal reserve statistical  
21 release H. 15, plus 6%. In making the calculation under this subdivision, the court  
22 shall subtract from the compensation received by the individual or organization  
23 making the loan any required fees or other costs charged the prize winner.

24           (d) *Contents of court order.* A court order issued under par. (c) shall include all  
25 of the following:

1           1. The name of the prize winner.

2           2. The prize winner's social security number if the prize winner is an  
3 individual, or federal income tax identification number if the prize winner is an  
4 organization.

5           3. The name of the individual or organization that is making the loan to the  
6 prize winner.

7           4. The social security number of the individual or the federal income tax  
8 identification number of the organization that is making the loan to the prize winner.

9           5. If an individual is making the loan to the prize winner, the citizenship of the  
10 individual. If the individual is not a citizen of the United States of America, the order  
11 shall include the individual's resident alien number.

12           (e) *Administration.* Upon receipt of a court order issued under par. (c), the  
13 individual or organization making the loan shall provide a certified copy of the court  
14 order to the administrator. The administrator shall acknowledge receipt of the court  
15 order in writing to the individual or organization making the loan and shall make  
16 all lottery prize payments according to the terms specified in the court order. The  
17 administrator may charge an initial processing fee, in an amount determined by  
18 rule, to cover any costs associated with processing the lottery prize payments in  
19 accordance with the terms specified in the court order.

20           **SECTION 3025pp.** 565.30 (6r) of the statutes is created to read:

21           565.30 (6r) VOLUNTARY ASSIGNMENT OF LOTTERY PRIZE. (a) *Definition.* In this  
22 subsection, "assignor" means a lottery prizewinner or a person who has the right to  
23 assign all or part of a lottery prize.

1           (b) *Voluntary assignment.* An assignor may make a voluntary assignment of  
2 a lottery prize or part of a lottery prize only pursuant to a court order issued under  
3 this subsection.

4           (c) *Judicial process for assignment.* Any assignor who intends to voluntarily  
5 assign part or all of a lottery prize to any individual or organization shall petition the  
6 circuit court of the county in which the assignor resides or the circuit court of Dane  
7 County for a court order confirming the assignment. The circuit court of the county  
8 in which the assignor resides or the circuit court of Dane County shall issue an order  
9 confirming the assignment only if all of the following occur:

10           1. The assignor is represented by independent legal counsel.

11           2. A copy of the assignment is attached to the petition.

12           3. The assignment is in writing, is executed by the assignor and is subject to  
13 the laws of this state.

14           3m. The contract for the assignment provides that the assignor has the right  
15 to cancel the contract until midnight of the 3rd business day after the date on which  
16 the assignor entered into the contract.

17           3r. The contract for the assignment provides that the assignor, from the  
18 proceeds received from the individual or organization to whom part or all of the  
19 lottery prize is assigned, agrees to pay in full any delinquent payments that may be  
20 owed by the assignor under subs. (4), (5), (5m) and (5r).

21           4. The assignor attests, by sworn affidavit, that he or she is of sound mind, is  
22 not acting under duress and acknowledges that the state will not make any of the  
23 assigned lottery prize payments or parts of lottery prize payments to the assignor.

1           5. The assignor, by sworn affidavit, provides the court with an accounting of all  
2 claims to, or judgments, liens, security interests, garnishments, assignments or  
3 attachments against, all or any part of the lottery prize payments.

4           6. The assignment does not include the amounts of any withholdings specified  
5 under sub. (4), (5), (5m) or (5r).

6           7. The assignor provides the court a certification from the administrator that  
7 lists the amounts of the lottery prize payments, if any, that the administrator is  
8 required to withhold for the assignor under subs. (4), (5), (5m) and (5r).

9           8. The payment that the assignor will receive as compensation for the  
10 assignment is at least equal to the present value of the assigned lottery prize  
11 payments, discounted at a rate no greater than the weekly prime rate for the week  
12 prior to the date on which the court received a copy of the assignment, as reported  
13 by the federal reserve board in federal reserve statistical release H. 15, plus 6%. In  
14 making the calculation under this subdivision, the court shall subtract from the  
15 compensation received by the assignor any required fees or other costs charged the  
16 assignor.

17           9. The individual or organization to whom part or all of the lottery prize is  
18 assigned specifies in an affidavit that the individual or organization agrees to report  
19 and pay any state income or franchise tax that is owed on any income or gain realized  
20 from the purchase and subsequent sale or redemption of any lottery prize.

21           (d) *Contents of court order.* A court order issued under par. (c) shall include all  
22 of the following:

23           1. The name of the prizewinner or the name of the assignor, if different from  
24 the prizewinner.

1           2. The assignor's social security number if the assignor is an individual, or  
2 federal income tax identification number if the assignor is an organization.

3           3. The name of the individual or organization to whom part or all of the lottery  
4 prize is assigned.

5           4. The social security number of the individual or the federal income tax  
6 identification number of the organization to whom part or all of the lottery prize is  
7 assigned.

8           5. If part or all of the lottery prize is assigned to an individual, the citizenship  
9 of the individual. If the individual is not a citizen of the United States of America,  
10 the order shall include the individual's resident alien number.

11           6. The number of assigned lottery prize payments and the dates on which the  
12 assigned lottery prize payments are to be paid.

13           7. The gross amount of each of the lottery prize payments that are subject to  
14 withholding for tax purposes and that are assigned.

15           (e) *Administration of lottery prize assignment.* Upon receipt of a court order  
16 issued under par. (c), the individual or organization to whom the lottery prize is  
17 assigned shall provide a certified copy of the court order to the administrator. The  
18 administrator shall acknowledge receipt of the court order in writing to the  
19 individual or organization to whom the lottery prize is assigned and shall make all  
20 lottery prize payments according to the terms specified in the court order. The  
21 administrator may charge an initial processing fee, in an amount determined by  
22 rule, to cover any costs associated with processing the lottery prize payments in  
23 accordance with the terms specified in the court order.”.

24           **15.** Page 1600, line 6: after that line insert:





INSERT 4-3

\* <sup>min</sup> page 834, line 22: after that line insert:

Section #. 71.05 (6) (b) 9. <sup>x</sup> of the statutes is amended to read:  
↑ 1685C

71.05 (6) (b) 9. On assets held more than one year and on all assets acquired from a decedent, 60% of the capital gain as computed under the internal revenue code, not including capital gains for which the federal tax treatment is determined under section 406 of P.L. 99-514 ~~and~~ not including amounts treated as ordinary income for federal income tax purposes because of the recapture of depreciation or any other reason. For purposes of this subdivision, the capital gains and capital losses for all assets shall be netted before application of the percentage. <sup>;</sup>

~~1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371, 403, 453; 1997 a. 27, 35, 39, 237. 1987 a. 312; 1987 a. 411 ss. 42, 43, 45, 47 to 49, 51 to 53; 1989 a. 31, 46; 1991 a. 2, 37, 39, 269; 1993 a. 16, 112, 204, 263, 437; 1995 a. 27, 56, 209, 227, 261, 371; 403, 453; 1997 a. 27, 35, 39, 237.~~

NO P ; and not including amounts treated as capital gain for federal income tax purposes from the sale or exchange of a lottery prize



State of Wisconsin  
1999 – 2000 LEGISLATURE

LRBb1181/3  
ISR&JK:jl:ijs

ARC:.....Kratochwill – Am # 312(4) Assignment of lottery prizes

FOR 1999–01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 1. Page 825, line 14: after that line insert:

3 “SECTION 1674v. 71.04 (1) (a) of the statutes is amended to read:

4 71.04 (1) (a) All income or loss of resident individuals and resident estates and  
5 trusts shall follow the residence of the individual, estate or trust. Income or loss of  
6 nonresident individuals and nonresident estates and trusts from business, not  
7 requiring apportionment under sub. (4), (10) or (11), shall follow the situs of the  
8 business from which derived, except that all income that is realized from the sale of  
9 or purchase and subsequent sale or redemption of lottery prizes if the winning tickets

1 were originally bought in this state shall be allocated to this state. All items of  
2 income, loss and deductions of nonresident individuals and nonresident estates and  
3 trusts derived from a tax-option corporation not requiring apportionment under  
4 sub. (9) shall follow the situs of the business of the corporation from which derived,  
5 except that all income that is realized from the sale of or purchase and subsequent  
6 sale or redemption of lottery prizes if the winning tickets were originally bought in  
7 this state shall be allocated to this state. Income or loss of nonresident individuals  
8 and nonresident estates and trusts derived from rentals and royalties from real  
9 estate or tangible personal property, or from the operation of any farm, mine or  
10 quarry, or from the sale of real property or tangible personal property shall follow the  
11 situs of the property from which derived. Income from personal services of  
12 nonresident individuals, including income from professions, shall follow the situs of  
13 the services. A nonresident limited partner's distributive share of partnership  
14 income shall follow the situs of the business, except that all income that is realized  
15 from the sale of or purchase and subsequent sale or redemption of lottery prizes if  
16 the winning tickets were originally bought in this state shall be allocated to this  
17 state. A nonresident limited liability company member's distributive share of  
18 limited liability company income shall follow the situs of the business, except that  
19 all income that is realized from the sale of or purchase and subsequent sale or  
20 redemption of lottery prizes if the winning tickets were originally bought in this state  
21 shall be allocated to this state. Income of nonresident individuals, estates and trusts  
22 from the state lottery under ch. 565 is taxable by this state. Income of nonresident  
23 individuals, estates and trusts from any multijurisdictional lottery under ch. 565 is  
24 taxable by this state, but only if the winning lottery ticket or lottery share was  
25 purchased from a retailer, as defined in s. 565.01 (6), located in this state or from the

1 department. Income of nonresident individuals, nonresident trusts and nonresident  
2 estates from pari-mutuel winnings or purses under ch. 562 is taxable by this state.  
3 Income of nonresident individuals, estates and trusts from winnings from a casino  
4 or bingo hall that is located in this state and that is operated by a Native American  
5 tribe or band shall follow the situs of the casino or bingo hall. All other income or loss  
6 of nonresident individuals and nonresident estates and trusts, including income or  
7 loss derived from land contracts, mortgages, stocks, bonds and securities or from the  
8 sale of similar intangible personal property, shall follow the residence of such  
9 persons, except as provided in par. (b) and sub. (9), except that all income that is  
10 realized from the sale of or purchase and subsequent sale or redemption of lottery  
11 prizes if the winning tickets were originally bought in this state shall be allocated  
12 to this state.”

13 **2.** Page 832, line 21: after that line insert:

14 “SECTION 1682pd. 71.04 (9) of the statutes is amended to read:

15 71.04 (9) NONRESIDENT INCOME FROM MULTISTATE TAX-OPTION CORPORATION.

16 Nonresident individuals and nonresident estates and trusts deriving income from a  
17 tax-option corporation which is engaged in business within and without this state  
18 shall be taxed only on the income of the corporation derived from business transacted  
19 and property located in this state and losses and other items of the corporation  
20 deductible by such shareholders shall be limited to their proportionate share of the  
21 Wisconsin loss or other item, except that all income that is realized from the sale of  
22 or purchase and subsequent sale or redemption of lottery prizes if the winning tickets  
23 were originally bought in this state shall be allocated to this state. For purposes of  
24 this subsection, all intangible income of tax-option corporations passed through to

1 shareholders is business income that follows the situs of the business, except that all  
2 income that is realized from the sale of or purchase and subsequent sale or  
3 redemption of lottery prizes if the winning tickets were originally bought in this state  
4 shall be allocated to this state.”.

5 **3.** Page 834, line 22: after that line insert:

6 “SECTION 1685c. 71.05 (6) (b) 9. of the statutes is amended to read:

7 71.05 (6) (b) 9. On assets held more than one year and on all assets acquired  
8 from a decedent, 60% of the capital gain as computed under the internal revenue  
9 code, not including capital gains for which the federal tax treatment is determined  
10 under section 406 of P.L. 99–514 ~~and~~; not including amounts treated as ordinary  
11 income for federal income tax purposes because of the recapture of depreciation or  
12 any other reason; and not including amounts treated as capital gain for federal  
13 income tax purposes from the sale or exchange of a lottery prize. For purposes of this  
14 subdivision, the capital gains and capital losses for all assets shall be netted before  
15 application of the percentage.”.

16 **4.** Page 873, line 19: after “both” insert “, or that buy or sell lottery prizes if  
17 the winning tickets were originally bought in this state”.

18 **5.** Page 873, line 21: after that line insert:

19 “SECTION 1722yb. 71.23 (2) of the statutes is amended to read:

20 71.23 (2) FRANCHISE TAX. For the privilege of exercising its franchise, buying  
21 or selling lottery prizes if the winning tickets were originally bought in this state or  
22 doing business in this state in a corporate capacity, except as provided under sub. (3),  
23 every domestic or foreign corporation, except corporations specified in s. 71.26 (1),  
24 and every nuclear decommissioning trust or reserve fund shall annually pay a

1 franchise tax according to or measured by its entire Wisconsin net income of the  
2 preceding taxable year at the rate set forth in s. 71.27 (2). In addition, except as  
3 provided in sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this  
4 state and a nuclear decommissioning trust or reserve fund that is terminated shall  
5 pay a special franchise tax according to or measured by its entire Wisconsin net  
6 income for the taxable year during which the corporation ceases doing business in  
7 this state or the nuclear decommissioning trust or reserve fund is terminated at the  
8 rates under s. 71.27 (2). Every corporation organized under the laws of this state  
9 shall be deemed to be residing within this state for the purposes of this franchise tax.  
10 All provisions of this chapter and ch. 73 relating to income taxation of corporations  
11 shall apply to franchise taxes imposed under this subsection, unless the context  
12 requires otherwise. The tax imposed by this subsection on national banking  
13 associations shall be in lieu of all taxes imposed by this state on national banking  
14 associations to the extent it is not permissible to tax such associations under federal  
15 law.

16 **SECTION 1722ym.** 71.25 (5) (b) of the statutes is amended to read:

17 71.25 (5) (b) *Nonapportionable income.* 1. Income, gain or loss from the sale  
18 of nonbusiness real property or nonbusiness tangible personal property, rental of  
19 nonbusiness real property or nonbusiness tangible personal property and royalties  
20 from nonbusiness real property or nonbusiness tangible personal property are  
21 nonapportionable and shall be allocated to the situs of the property, except that all  
22 income that is realized from the sale of or purchase and subsequent sale or  
23 redemption of lottery prizes if the winning tickets were originally bought in this state  
24 shall be allocated to this state.

1           2. All income, gain or loss from intangible property that is earned by a personal  
2 holding company, as defined in section 542 of the internal revenue code, as amended  
3 to December 31, 1974, shall be allocated to the residence of the taxpayer, except that  
4 all income that is realized from the sale of or purchase and subsequent sale or  
5 redemption of lottery prizes if the winning tickets were originally bought in this state  
6 shall be allocated to this state.”.

7           **6.** Page 888, line 25: after that line insert:

8           “SECTION 1738t. 71.26 (1) (a) of the statutes is amended to read:

9           71.26 (1) (a) *Certain corporations.* Income of corporations organized under ch.  
10 185, except income of a cooperative sickness care association organized under s.  
11 185.981, or of a service insurance corporation organized under ch. 613, that is derived  
12 from a health maintenance organization as defined in s. 609.01 (2) or a limited  
13 service health organization as defined in s. 609.01 (3), or operating under subch. I  
14 of ch. 616 which are bona fide cooperatives operated without pecuniary profit to any  
15 shareholder or member, or operated on a cooperative plan pursuant to which they  
16 determine and distribute their proceeds in substantial compliance with s. 185.45,  
17 and the income, except the unrelated business taxable income as defined in section  
18 512 of the internal revenue code and except income that is derived from a health  
19 maintenance organization as defined in s. 609.01 (2) or a limited service health  
20 organization as defined in s. 609.01 (3), of all religious, scientific, educational,  
21 benevolent or other corporations or associations of individuals not organized or  
22 conducted for pecuniary profit. This paragraph does not apply to the income of  
23 savings banks, mutual loan corporations or savings and loan associations. This  
24 paragraph does not apply to income that is realized from the sale of or purchase and



1 subsequent sale or redemption of lottery prizes if the winning tickets were originally  
2 bought in this state. This paragraph applies to the income of credit unions except to  
3 the income of any credit union that is derived from public deposits for any taxable  
4 year in which the credit union is approved as a public depository under ch. 34 and  
5 acts as a depository of state or local funds under s. 186.113 (20). For purposes of this  
6 paragraph, the income of a credit union that is derived from public deposits is the  
7 product of the credit union's gross annual income for the taxable year multiplied by  
8 a fraction, the numerator of which is the average monthly balance of public deposits  
9 in the credit union during the taxable year, and the denominator of which is the  
10 average monthly balance of all deposits in the credit union during the taxable year.”.

11 **7.** Page 927, line 8: after that line insert:

12 “SECTION 1748Lm. 71.362 (1) of the statutes is amended to read:

13 71.362 (1) All tax–option items of nonresident individuals, nonresident estates  
14 and nonresident trusts derived from a tax–option corporation not requiring  
15 apportionment under sub. (2) shall follow the situs of the business of the corporation  
16 from which they are derived, except that all income that is realized from the sale of  
17 or purchase and subsequent sale or redemption of lottery prizes if the winning tickets  
18 were originally bought in this state shall be allocated to this state.

19 SECTION 1748Ln. 71.362 (2) of the statutes is amended to read:

20 71.362 (2) Nonresident individuals, nonresident estates and nonresident  
21 trusts deriving income from a tax–option corporation which is engaged in business  
22 within and without this state shall be taxed only on the income of the corporation  
23 derived from business transacted and property located in this state and losses and  
24 other items of the corporation deductible by such shareholders shall be limited to

1 their proportionate share of the Wisconsin loss or other item, except that all income  
2 that is realized from the sale of or purchase and subsequent sale or redemption of  
3 lottery prizes if the winning tickets were originally bought in this state shall be  
4 allocated to this state. For purposes of this subsection, all intangible income of  
5 tax-option corporations passed through to shareholders is business income that  
6 follows the situs of the business, except that all income that is realized from the sale  
7 of or purchase and subsequent sale or redemption of lottery prizes if the winning  
8 tickets were originally bought in this state shall be allocated to this state.”.

9 **8.** Page 937, line 24: after “both” insert “, or that buy or sell lottery prizes if  
10 the winning tickets were originally bought in this state”.

11 **9.** Page 938, line 2: after that line insert:

12 “SECTION 1748yb. 71.43 (2) of the statutes is amended to read:

13 71.43 (2) FRANCHISE TAX ON CORPORATIONS. For the privilege of exercising its  
14 franchise, buying or selling lottery prizes if the winning tickets were originally  
15 bought in this state or doing business in this state in a corporate capacity, except as  
16 provided under s. 71.23 (3), every domestic or foreign corporation, except  
17 corporations specified in ss. 71.26 (1) and 71.45 (1), shall annually pay a franchise  
18 tax according to or measured by its entire Wisconsin net income of the preceding  
19 taxable year at the rates set forth in s. 71.46 (2). In addition, except as provided in  
20 ss. 71.23 (3), 71.26 (1) and 71.45 (1), a corporation that ceases doing business in this  
21 state shall pay a special franchise tax according to or measured by its entire  
22 Wisconsin net income for the taxable year during which the corporation ceases doing  
23 business in this state at the rate under s. 71.46 (2). Every corporation organized  
24 under the laws of this state shall be deemed to be residing within this state for the

1 purposes of this franchise tax. All provisions of this chapter and ch. 73 relating to  
2 income taxation of corporations shall apply to franchise taxes imposed under this  
3 subsection, unless the context requires otherwise. The tax imposed by this  
4 subsection on insurance companies subject to taxation under this chapter shall be  
5 based on Wisconsin net income computed under s. 71.45, and no other provision of  
6 this chapter relating to computation of taxable income for other corporations shall  
7 apply to such insurance companies. All other provisions of this chapter shall apply  
8 to insurance companies subject to taxation under this chapter unless the context  
9 clearly requires otherwise.

10 **SECTION 1748ym.** 71.45 (1) of the statutes is amended to read:

11 71.45 (1) EXEMPT AND EXCLUDABLE INCOME. There shall be exempt from taxation  
12 under this subchapter income of insurers exempt from federal income taxation  
13 pursuant to section 501 (c) (15) of the internal revenue code, town mutuals organized  
14 under or subject to ch. 612, foreign insurers, and domestic insurers engaged  
15 exclusively in life insurance business, domestic insurers insuring against financial  
16 loss by reason of nonpayment of principal, interest and other sums agreed to be paid  
17 under the terms of any note or bond or other evidence of indebtedness secured by a  
18 mortgage, deed of trust or other instrument constituting a lien or charge on real  
19 estate and corporations organized under ch. 185, but not including income of  
20 cooperative sickness care associations organized under s. 185.981, or of a service  
21 insurance corporation organized under ch. 613, that is derived from a health  
22 maintenance organization as defined in s. 609.01 (2) or a limited service health  
23 organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which  
24 are bona fide cooperatives operated without pecuniary profit to any shareholder or  
25 member, or operated on a cooperative plan pursuant to which they determine and

1 distribute their proceeds in substantial compliance with s. 185.45. This subsection  
2 does not apply to income that is realized from the sale of or purchase and subsequent  
3 sale or redemption of lottery prizes if the winning tickets were originally bought in  
4 this state.”.

5 **10.** Page 938, line 23: after that line insert:

6 “SECTION 1749p. 71.45 (2) (a) 15. of the statutes is created to read:

7 71.45 (2) (a) 15. By subtracting from federal taxable income all income that is  
8 realized from the purchase and subsequent sale or redemption of lottery prizes that  
9 is treated as nonapportionable income under sub. (3r).”.

10 **11.** Page 941, line 10: after that line insert:

11 “SECTION 1753d. 71.45 (3r) of the statutes is created to read:

12 71.45 (3r) ALLOCATION OF CERTAIN PROCEEDS. All income that is realized from  
13 the purchase and subsequent sale or redemption of lottery prizes if the winning  
14 tickets were originally bought in this state shall be allocated to this state.”.

15 **12.** Page 941, line 21: after that line insert:

16 “SECTION 1753m. 71.46 (3) of the statutes is amended to read:

17 71.46 (3) The tax imposed under this subchapter on each domestic insurer on  
18 or measured by its entire net income attributable to lines of insurance in this state  
19 may not exceed 2% of the gross premiums, as defined in s. 76.62, received during the  
20 taxable year by the insurer on all policies on those lines of insurance if the subject  
21 of that insurance was resident, located or to be performed in this state plus 7.9% of  
22 the income that is realized from the sale of or purchase and subsequent sale or  
23 redemption of lottery prizes if the winning tickets were originally bought in this  
24 state.”.

1           **13.** Page 947, line 11: delete lines 11 and 12 and substitute “by multiplying  
2 the amount of the prize by the highest rate applicable to ~~individuals under s. 71.06~~  
3 ~~(1) or (1m)~~ to the person who claims the prize. The administrator shall deposit the  
4 amounts”.

5           **14.** Page 1401, line 5: after that line insert:

6           “SECTION 3023t. 565.02 (2) (e) of the statutes is created to read:

7           565.02 (2) (e) If requested by a lottery prize winner to provide a certification  
8 that lists the amounts of the lottery prize payments, if any, that the administrator  
9 is required to withhold under s. 565.30 (4), (5), (5m) and (5r), the administrator shall  
10 provide the certification.”.

11           **15.** Page 1402, line 19: after that line insert:

12           “SECTION 3025m. 565.30 (5) of the statutes, as affected by 1997 Wisconsin Act  
13 27, is amended to read:

14           565.30 (5) WITHHOLDING OF DELINQUENT STATE TAXES, CHILD SUPPORT OR DEBTS  
15 OWED THE STATE. The administrator shall report the name, address and social security  
16 number of each winner of a lottery prize equal to or greater than \$1,000 and the  
17 name, address and social security number of each person to whom a lottery prize  
18 equal to or greater than \$1,000 has been assigned to the department of revenue to  
19 determine whether the payee or assignee of the prize is delinquent in the payment  
20 of state taxes under ch. 71, 72, 76, 77, 78 or 139 or in court-ordered payment of child  
21 support or has a debt owing to the state. Upon receipt of a report under this  
22 subsection, the department of revenue shall first ascertain based on certifications by  
23 the department of workforce development or its designee under s. 49.855 (1) whether  
24 any person named in the report is currently delinquent in court-ordered payment

1 of child support and shall next certify to the administrator whether any person  
2 named in the report is delinquent in court-ordered payment of child support or  
3 payment of state taxes under ch. 71, 72, 76, 77, 78 or 139. Upon this certification by  
4 the department of revenue or upon court order the administrator shall withhold the  
5 certified amount and send it to the department of revenue for remittance to the  
6 appropriate agency or person. At the time of remittance, the department of revenue  
7 shall charge its administrative expenses to the state agency that has received the  
8 remittance. The administrative expenses received by the department of revenue  
9 shall be credited to the appropriation under s. 20.566 (1) (h). In instances in which  
10 the payee or assignee of the prize is delinquent both in payments for state taxes and  
11 in court-ordered payments of child support, or is delinquent in one or both of these  
12 payments and has a debt owing to the state, the amount remitted to the appropriate  
13 agency or person shall be in proportion to the prize amount as is the delinquency or  
14 debt owed by the payee or assignee.

15 **SECTION 3025p.** 565.30 (5m) of the statutes is renumbered 565.30 (5m) (a) and  
16 amended to read:

17 **565.30 (5m) (a) WITHHOLDING OF CHILD SUPPORT, SPOUSAL SUPPORT, MAINTENANCE**  
18 **OR FAMILY SUPPORT.** The administrator shall report to the department of workforce  
19 development the name, address and social security number of each winner of a  
20 lottery prize that is payable in instalments and the name, address and social security  
21 number or federal income tax number of the person who has been assigned a lottery  
22 prize that is payable in instalments. Upon receipt of the report, the department of  
23 workforce development shall certify to the administrator whether any payee or  
24 assignee named in the report is obligated to provide child support, spousal support,  
25 maintenance or family support under s. 767.02 (1) (f) or (g), 767.10, 767.23, 767.25,

1 767.26, 767.261, 767.458 (3), 767.465 (2m), 767.477, 767.51 (3), 767.62 (4) (a) or  
2 948.22 (7) or ch. 769 and the amount required to be withheld from the lottery prize  
3 under s. 767.265. The Subject to par. (b), the administrator shall withhold the  
4 certified amount from each payment made to the winner or assignee and remit the  
5 certified amount to the department of workforce development.

6 **SECTION 3025pc.** 565.30 (5m) (b) of the statutes is created to read:

7 565.30 (5m) (b) The administrator may not withhold from any payment to an  
8 assignee of a lottery prize any child support, spousal support, maintenance or family  
9 support specified in par. (a) that is owed by a winner of a lottery prize, nor may the  
10 administrator withhold from any payment to a winner any child support, spousal  
11 support maintenance or family support that is owed by an assignee.

12 **SECTION 3025pf.** 565.30 (5r) (a) of the statutes is amended to read:

13 565.30 (5r) (a) Annually, the administrator shall provide each clerk of circuit  
14 court in the state with a list of the winners or assignees of a lottery prize that is  
15 payable in instalments. The list shall include each winner or assignee since the date  
16 of the previous list.

17 **SECTION 3025pg.** 565.30 (5r) (b) of the statutes is amended to read:

18 565.30 (5r) (b) If Subject to par. (c), if the administrator receives a notice under  
19 s. 973.05 (5) (a) or 778.30 (2) (a) of the assignment of lottery prizes under s. 973.05  
20 (4) (c) or 778.30 (1) (c) and determines that the person subject to the assignment is  
21 a winner or assignee of a lottery prize that is payable in instalments, the  
22 administrator shall withhold the amount of the judgment that is the basis of the  
23 assignment from the next instalment payment. The administrator shall submit the  
24 withheld amount to the court that issued the assignment. At the time of the  
25 submittal, the administrator shall charge the administrative expenses related to

1 that withholding and submittal to the winner or assignee of the lottery prize and  
2 withhold those expenses from the balance of the instalment payment. The  
3 administrator shall notify the winner or assignee of the reason that the amount is  
4 withheld from the instalment payment. If the initial instalment payment is  
5 insufficient to pay the judgment and administrative expenses, the administrator  
6 shall withhold and submit to the court an amount from any additional instalment  
7 payments until the judgment and administrative expenses are paid in full and the  
8 assignment is no longer in effect. The administrative expenses received by the  
9 department shall be credited to the appropriation under s. 20.566 (1) (h).

10 **SECTION 3025ph.** 565.30 (5r) (c) of the statutes is created to read:

11 565.30 (5r) (c) The administrator may not withhold from any payment to an  
12 assignee of a lottery prize the amount specified in par. (b) that is owed by a winner  
13 of a lottery prize, nor may the administrator withhold from any payment to a winner  
14 the amount specified in par. (b) that is owed by an assignee.

15 **SECTION 3025pj.** 565.30 (5t) of the statutes is amended to read:

16 565.30 (5t) PRIORITY OF WITHHOLDING. (intro.) The administrator shall withhold  
17 payments under this section from a winner or assignee of a lottery prize in the  
18 following order:

19 **SECTION 3025pL.** 565.30 (6) of the statutes is repealed.

20 **SECTION 3025pm.** 565.30 (6m) of the statutes is created to read:

21 565.30 (6m) USE OF LOTTERY PRIZE AS SECURITY FOR LOAN. (a) *Definition.* In this  
22 subsection, “prize winner” means a person who has won a lottery prize and any other  
23 person who is authorized by law to use a lottery prize as security for a loan.



1           (b) *Security for a loan.* A prize winner may use a lottery prize or part of a lottery  
2 prize as security for a loan only pursuant to a court order issued under this  
3 subsection.

4           (c) *Judicial process for using lottery prizes as security for loans.* Any prize  
5 winner who intends to use part or all of a lottery prize as security for a loan shall  
6 petition the circuit court of the county in which the prize winner resides or the circuit  
7 court of Dane County for a court order confirming the use of a lottery prize as security  
8 for a loan. The circuit court of the county in which the prize winner resides or the  
9 circuit court of Dane County shall issue an order confirming the use of a lottery prize  
10 as security for a loan only if all of the following occur:

- 11           1. The prize winner is represented by independent legal counsel.
- 12           2. A copy of the contract that provides for using any part of the lottery prize as  
13 security for the loan is attached to the petition.
- 14           3. The contract is executed by the prize winner, is subject to the laws of this  
15 state and provides that the prize winner has the right to cancel the contract until  
16 midnight of the 3rd business day after the date on which the prize winner entered  
17 into the contract.
- 18           4. The prize winner attests, by sworn affidavit, that he or she is of sound mind,  
19 is not acting under duress and acknowledges that the state will not make any of the  
20 lottery prize payments or parts of lottery prize payments to the prize winner that are  
21 being used as security for the loan in the event the prize winner defaults on the loan.
- 22           5. The prize winner, by sworn affidavit, provides the court with an accounting  
23 of all claims to, or judgments, liens, security interests, garnishments, assignments  
24 or attachments against, all or any part of the lottery prize payments.

1           6. The prize winner provides the court a certification from the administrator  
2 that lists the amounts of the lottery prize payments, if any, that the administrator  
3 is required to withhold for the prize winner under subs. (4), (5), (5m) and (5r).

4           7. The part of the lottery prize that is being used as security for the loan does  
5 not include the amounts of any withholdings specified under subs. (4), (5), (5m) and  
6 (5r).

7           8. The court determines that the interest rate on the loan does not exceed the  
8 weekly prime rate for the week prior to the date on which the court received a copy  
9 of the contract, as reported by the federal reserve board in federal reserve statistical  
10 release H. 15, plus 6%. In making the calculation under this subdivision, the court  
11 shall subtract from the compensation received by the individual or organization  
12 making the loan any required fees or other costs charged the prize winner.

13           (d) *Contents of court order.* A court order issued under par. (c) shall include all  
14 of the following:

15           1. The name of the prize winner.

16           2. The prize winner's social security number if the prize winner is an  
17 individual, or federal income tax identification number if the prize winner is an  
18 organization.

19           3. The name of the individual or organization that is making the loan to the  
20 prize winner.

21           4. The social security number of the individual or the federal income tax  
22 identification number of the organization that is making the loan to the prize winner.

23           5. If an individual is making the loan to the prize winner, the citizenship of the  
24 individual. If the individual is not a citizen of the United States of America, the order  
25 shall include the individual's resident alien number.

1           (e) *Administration.* Upon receipt of a court order issued under par. (c), the  
2 individual or organization making the loan shall provide a certified copy of the court  
3 order to the administrator. The administrator shall acknowledge receipt of the court  
4 order in writing to the individual or organization making the loan and shall make  
5 all lottery prize payments according to the terms specified in the court order. The  
6 administrator may charge an initial processing fee, in an amount determined by  
7 rule, to cover any costs associated with processing the lottery prize payments in  
8 accordance with the terms specified in the court order.

9           **SECTION 3025pp. 565.30 (6r)** of the statutes is created to read:

10           **565.30 (6r) VOLUNTARY ASSIGNMENT OF LOTTERY PRIZE.** (a) *Definition.* In this  
11 subsection, “assignor” means a lottery prizewinner or a person who has the right to  
12 assign all or part of a lottery prize.

13           (b) *Voluntary assignment.* An assignor may make a voluntary assignment of  
14 a lottery prize or part of a lottery prize only pursuant to a court order issued under  
15 this subsection.

16           (c) *Judicial process for assignment.* Any assignor who intends to voluntarily  
17 assign part or all of a lottery prize to any individual or organization shall petition the  
18 circuit court of the county in which the assignor resides or the circuit court of Dane  
19 County for a court order confirming the assignment. The circuit court of the county  
20 in which the assignor resides or the circuit court of Dane County shall issue an order  
21 confirming the assignment only if all of the following occur:

- 22           1. The assignor is represented by independent legal counsel.
- 23           2. A copy of the assignment is attached to the petition.
- 24           3. The assignment is in writing, is executed by the assignor and is subject to  
25 the laws of this state.

1           3m. The contract for the assignment provides that the assignor has the right  
2 to cancel the contract until midnight of the 3rd business day after the date on which  
3 the assignor entered into the contract.

4           3r. The contract for the assignment provides that the assignor, from the  
5 proceeds received from the individual or organization to whom part or all of the  
6 lottery prize is assigned, agrees to pay in full any delinquent payments that may be  
7 owed by the assignor under subs. (4), (5), (5m) and (5r).

8           4. The assignor attests, by sworn affidavit, that he or she is of sound mind, is  
9 not acting under duress and acknowledges that the state will not make any of the  
10 assigned lottery prize payments or parts of lottery prize payments to the assignor.

11           5. The assignor, by sworn affidavit, provides the court with an accounting of all  
12 claims to, or judgments, liens, security interests, garnishments, assignments or  
13 attachments against, all or any part of the lottery prize payments.

14           6. The assignment does not include the amounts of any withholdings specified  
15 under sub. (4), (5), (5m) or (5r).

16           7. The assignor provides the court a certification from the administrator that  
17 lists the amounts of the lottery prize payments, if any, that the administrator is  
18 required to withhold for the assignor under subs. (4), (5), (5m) and (5r).

19           8. The payment that the assignor will receive as compensation for the  
20 assignment is at least equal to the present value of the assigned lottery prize  
21 payments, discounted at a rate no greater than the weekly prime rate for the week  
22 prior to the date on which the court received a copy of the assignment, as reported  
23 by the federal reserve board in federal reserve statistical release H. 15, plus 6%. In  
24 making the calculation under this subdivision, the court shall subtract from the

1 compensation received by the assignor any required fees or other costs charged the  
2 assignor.

3 9. The individual or organization to whom part or all of the lottery prize is  
4 assigned specifies in an affidavit that the individual or organization agrees to report  
5 and pay any state income or franchise tax that is owed on any income or gain realized  
6 from the purchase and subsequent sale or redemption of any lottery prize.

7 (d) *Contents of court order.* A court order issued under par. (c) shall include all  
8 of the following:

9 1. The name of the prizewinner or the name of the assignor, if different from  
10 the prizewinner.

11 2. The assignor's social security number if the assignor is an individual, or  
12 federal income tax identification number if the assignor is an organization.

13 3. The name of the individual or organization to whom part or all of the lottery  
14 prize is assigned.

15 4. The social security number of the individual or the federal income tax  
16 identification number of the organization to whom part or all of the lottery prize is  
17 assigned.

18 5. If part or all of the lottery prize is assigned to an individual, the citizenship  
19 of the individual. If the individual is not a citizen of the United States of America,  
20 the order shall include the individual's resident alien number.

21 6. The number of assigned lottery prize payments and the dates on which the  
22 assigned lottery prize payments are to be paid.

23 7. The gross amount of each of the lottery prize payments that are subject to  
24 withholding for tax purposes and that are assigned.

