

**2001 DRAFTING REQUEST**

**Bill**

Received: **01/07/2002**

Received By: **jkreye**

Wanted: **Soon**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Koskinen**

This file may be shown to any legislator: **NO**

Drafter: **jkreye**

May Contact:

Addl. Drafters:

Subject: **Tax - corp. inc. and fran.**  
**Tax - individual income**  
**Tax - miscellaneous**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Koskinen -

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**Topic:**

Internal Revenue Code update

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**Instructions:**

See Attached

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**Drafting History:**

| <u>Vers.</u> | <u>Drafted</u>       | <u>Reviewed</u>       | <u>Typed</u>           | <u>Proofed</u> | <u>Submitted</u>           | <u>Jacketed</u> | <u>Required</u> |
|--------------|----------------------|-----------------------|------------------------|----------------|----------------------------|-----------------|-----------------|
| /?           | jkreye<br>01/07/2002 | gilfokm<br>01/09/2002 |                        | _____          |                            |                 | State<br>Tax    |
| /1           | jkreye<br>01/15/2002 | gilfokm<br>01/15/2002 | haugeca<br>01/10/2002  | _____          | lrb_docadmin<br>01/10/2002 |                 | State<br>Tax    |
| /2           | jkreye<br>01/16/2002 | gilfokm<br>01/16/2002 | jfrantze<br>01/16/2002 | _____          | lrb_docadmin<br>01/16/2002 |                 | State<br>Tax    |
| /3           |                      |                       | kfollet<br>01/16/2002  | _____          | lrb_docadmin<br>01/16/2002 |                 |                 |

Vers.    Drafted    Reviewed    Typed    Proofed    Submitted    Jacketed    Required

FE Sent For:

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| /2           |                      | 1/3-1/16<br>KMG       | jfrantze<br>01/16/2002 | _____          | lrb_docadmin<br>01/16/2002 |                 |                 |
| FE Sent For: |                      |                       | 1/16                   | 1/16           |                            |                 |                 |

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| /1           |                      | 12-1/15<br>Kmg        | haugcca<br>01/10/2002 | _____          | lrb_docadmin<br>01/10/2002 |                 |                 |

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|--------------|----------------|-----------------|-----------------|----------------------|------------------|-----------------|-----------------|
| 1?           | jkreye         | 1-1/9-02<br>hmg | CH<br>1-9-02/02 | CH<br>1-10-02<br>jke |                  |                 |                 |

FE Sent For:

<END>

## Kreye, Joseph

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**From:** Miller, Steve  
**Sent:** Saturday, January 05, 2002 2:35 PM  
**To:** Kreye, Joseph; Shovers, Marc  
**Cc:** Grant, Peter  
**Subject:** FW: Drafting Instructions for IRC Update

**Sensitivity:** Private

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

**From:** Koskinen, John  
**Sent:** Friday, January 04, 2002 5:15 PM  
**To:** Miller, Steve  
**Cc:** Uecker, Deborah; 'jbksknn@attglobal.net'  
**Subject:** FW: Drafting Instructions for IRC Update  
**Sensitivity:** Private

Please draft the IRC update for inclusion in the Budget Adjustment Bill. A separate bill draft should also be prepared.

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

**From:** Collier, Dennis J  
**Sent:** Friday, January 04, 2002 3:37 PM  
**To:** Koskinen, John  
**Subject:** Drafting Instructions for IRC Update  
**Sensitivity:** Private

We have completed the drafting instructions for the IRC update, and they are attached. Rick Chandler told us this morning that the governor's intention is to include the IRC update in the budget adjustment bill, adopting all provisions except the deduction for higher education expenses. That would include the provisions of the Economic Growth and Tax Relief Reconciliation Act signed into law last June, plus all provisions of the three federal laws enacted in 2000 that the legislature failed to adopt last fall.

By early next week, I hope to distribute a nice, little 30-page paper discussing each of the items with a substantive impact. I'll send you a copy as soon as its available. That paper will include the attached table of estimated fiscal effects by item. (I also hope to identify some potential sources for offsetting the revenue loss, if anyone is interested.)

Please let me know if you have any questions.



irc drafting.doc



irc table.doc

Wisconsin Department of Revenue  
IS&E Division  
January 4, 2002

**TITLE:** Update References to the Internal Revenue Code for Individuals, Corporations, Exempt Organizations, Regulated Investment Companies, Real Estate Mortgage Investment Conduits, Real Estate Investment Trusts, Financial Asset Securitization Investment Trusts, Tax-Option (S) Corporations, and Insurance Companies

**DESCRIPTION OF CURRENT LAW AND PROBLEM:**

For taxable years that begin after December 31, 1999, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 1999, with certain exceptions. During 2000, Congress enacted Public Laws 106-200, 106-230, 106-519, 106-554, and 106-573, which make changes to the Internal Revenue Code. During 2001, Congress enacted Public Laws 107-15, 107-16, and 107-22. To simplify the computation of net income for Wisconsin franchise and income tax purposes, the federal law changes enacted during 2000 and 2001 should be adopted for Wisconsin purposes to apply at the same time as for federal purposes, except for section 431 of Public Law 107-16 which allows a deduction for education expenses.

For property placed in service in taxable years beginning on or after January 1, 2000, taxpayers have the option of computing depreciation under either the Internal Revenue Code in effect for the taxable year for which the return is filed or the Internal Revenue Code as amended to December 31, 1999. For taxable year 2001, taxpayers should have the option of computing depreciation under either the Internal Revenue Code in effect for the taxable year for which the return is filed or the Internal Revenue Code as amended to December 31, 2000. For taxable years beginning on or after January 1, 2002, taxpayers should have the option of computing depreciation under either the Internal Revenue Code in effect for the taxable year for which the return is filed or the Internal Revenue Code as amended to December 31, 2001.

**RECOMMENDATION FOR ACTION:**

Update the definitions of "Internal Revenue Code" for individuals, corporations, exempt organizations, regulated investment companies, real estate mortgage investment conduits, real estate investment trusts, financial asset securitization investment trusts, tax-option (S) corporations, and insurance companies so that the federal law changes enacted through December 31, 2001, except section 431 of Public Law 107-16, apply for Wisconsin purposes at the same time as for federal purposes.

**FISCAL/ADMINISTRATIVE IMPACT:**

Adopting federal law changes to apply for Wisconsin purposes at the same time as for federal purposes simplifies compliance with the law for taxpayers and the administration of the law.

**DRAFTING INSTRUCTIONS:**

Make the following changes to the Wisconsin Statutes:

1. Repeal secs. 71.01(6)(g), 71.22(4)(g) and (4m)(e), 71.26(2)(b)7., 71.34(1g)(g), and 71.42(2)(f), Stats.
2. Amend the following sections of the Wisconsin Statutes to include references to Public Law 106-554:
  - Sec. 71.01(6)(h), (i), (j), and (k)
  - Sec. 71.22(4)(h), (i), (j), and (k)
  - Sec. 71.22(4m)(f), (g), (h) and (i)
  - Sec. 71.26(2)(b)8, 9, 10, and 11
  - Sec. 71.34(1g)(h), (i), (j), and (k)
  - Sec. 71.42(2)(g), (h), (i), and (j)

**Note:** Generally, each public law is referenced in 4 places in the definition of "Internal Revenue Code" for each year. However, each public law is referenced in 8 places in the definitions in sec. 71.26(2)(b).

3. Amend the following sections of the Wisconsin Statutes to include references to Public Laws 106-554 and 107-16, excluding section 431 of Public Law 107-16:
  - Sec. 71.01(6)(L)
  - Sec. 71.22(4)(L)
  - Sec. 71.22(4m)(j)
  - Sec. 71.26(2)(b)12
  - Sec. 71.34(1g)(L)
  - 71.42(2)(k)

4. Amend the following sections of the Wisconsin Statutes to include references to Public Laws 106-554, 106-573, and 107-16, excluding section 431 of Public Law 107-16:

- ✓ Sec. 71.01(6)(m)
- ✓ Sec. 71.22(4)(m)
- ✓ Sec. 71.22(4m)(k)
- ✓ Sec. 71.26(2)(b)13
- ✓ Sec. 71.34(1g)(m)
- ✓ Sec. 71.42(2)(L)

5. Amend the following sections of the Wisconsin Statutes to include references to Public Laws 106-230, 106-519, 106-554, 106-573, and 107-16, excluding section 431 of Public Law 107-16:

- ✓ Sec. 71.01(6)(n)
- ✓ Sec. 71.22(4)(n)
- ✓ Sec. 71.22(4m)(L)
- ✓ Sec. 71.26(2)(b)14
- ✓ Sec. 71.34(1g)(n)
- ✓ Sec. 71.42(2)(m)

6. Amend secs. 71.01(4)(o), 71.22(4)(o) and (4m)(m), 71.26(2)(b)15., 71.34(1g)(o), and 71.42(2)(n) of the Wisconsin Statutes to:

- a. Limit each provision to taxable years that begin after December 31, 1999, and before January 1, 2001.
- b. Include references to Public Laws 106-200, 106-230, 106-519, 106-554, 106-573, and 107-16, excluding section 431 of Public Law 107-16.
- c. Include language similar to the following at the end of each of these provisions:

“Amendments to the federal Internal Revenue Code enacted after December 31, 1999, do not apply to this paragraph with respect to taxable years beginning after December 31, 1999, and before January 1, 2001, except that changes to the Internal Revenue Code made by P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and

P.L. 107-16, excluding section 431 of Public Law 107-16, and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, and P.L. 107-16, excluding section 431 of Public Law 107-16, apply for Wisconsin purposes at the same time as for federal purposes.

7. Create secs. 71.01(6)(p), 71.22(4)(p) and (4m)(n), 71.26(2)(b)16., 71.34(1g)(p), and 71.42(2)(o) to provide a definition of "Internal Revenue Code" for taxable years that begin after December 31, 2000, and before January 1, 2002. Sample language for sec. 71.01(6)(p) is as follows: (This sample language should be applied as appropriate to secs. 71.22(4)(p) and (4m)(n), 71.26(2)(b)16, 71.34(1g)(p), and 71.42(2)(o).)

(p) For taxable years that begin after December 31, 2000, and before January 1, 2002, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2000, excluding sections 103, 104 and 110 of P.L. 102-227, sections 13113, 13150(d), 13171 (d), 13174 and 13203(d) of P.L. 103-66 and sections 1123(b), 1202(c), 1204(f), 1311 and 1605(d) of P.L. 104-188, and as amended by P.L. 107-16, excluding section 431 of P. L. 107-16, and P.L. 107-22, and as indirectly affected by P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-280, P.L. 101-508, P.L. 102-90, P.L. 102-227, excluding sections 103, 104 and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150(d), 13171(d), 13174 and 13203(d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-117, P.L. 104-188, excluding sections 1123(b), 1202(c), 1204(f), 1311 and 1605(d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36, P.L. 106-170, P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, P.L. 107-16, excluding section 431 of P. L. 107-16, and P.L. 107-22. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2000, do not apply to this paragraph with respect to taxable years beginning after December 31, 2000, and before January 1, 2002, except that changes to the Internal Revenue Code made by P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L. 107-22 and changes that indirectly affect the provisions applicable to this subchapter made by P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L. 107-22 apply for Wisconsin purposes at the same time as for federal purposes.

8. Create secs. 71.01(6)(q), 71.22(4)(q) and (4m)(o), 71.26(2)(b)17., 71.34(1g)(q), and 71.42(2)(p) to provide a definition of "Internal Revenue Code" for taxable years that begin after December 31, 2001. Following is sample language for sec. 71.01(6)(q):

(q) For taxable years that begin after December 31, 2001, for natural persons and fiduciaries, except fiduciaries of nuclear decommissioning trust or reserve funds, "Internal Revenue Code" means the federal Internal Revenue Code as amended to December 31, 2001, excluding sections 103, 104 and 110 of P.L. 102-227, sections 13113, 13150(d), 13171 (d), 13174 and 13203(d) of P.L. 103-66, sections 1123(b), 1202(c), 1204(f), 1311 and 1605(d) of P.L. 104-188, and section 431 of P.L. 107-16, and as indirectly affected by

P.L. 99-514, P.L. 100-203, P.L. 100-647, P.L. 101-73, P.L. 101-140, P.L. 101-179, P.L. 101-239, P.L. 101-280, P.L. 101-508, P.L. 102-90, P.L. 102-227, excluding sections 103, 104 and 110 of P.L. 102-227, P.L. 102-318, P.L. 102-486, P.L. 103-66, excluding sections 13113, 13150(d), 13171(d), 13174 and 13203(d) of P.L. 103-66, P.L. 103-296, P.L. 103-337, P.L. 103-465, P.L. 104-7, P.L. 104-117, P.L. 104-188, excluding sections 1123(b), 1202(c), 1204(f), 1311 and 1605(d) of P.L. 104-188, P.L. 104-191, P.L. 104-193, P.L. 105-33, P.L. 105-34, P.L. 105-178, P.L. 105-206, P.L. 105-277, P.L. 106-36, P.L. 106-170, P.L. 106-200, P.L. 106-230, P.L. 106-519, P.L. 106-554, P.L. 106-573, P.L. 107-15, P.L. 107-16, excluding section 431 of P.L. 107-16, and P.L. 107-22. The Internal Revenue Code applies for Wisconsin purposes at the same time as for federal purposes. Amendments to the federal Internal Revenue Code enacted after December 31, 2001, do not apply to this paragraph with respect to taxable years beginning after December 31, 2001.

9. Create the following nonstatutory provision:

✓ **ADOPTION OF FEDERAL INCOME TAX CHANGES.** Changes to the Internal Revenue Code made by P.L. 106-554 apply to the definitions of the "Internal Revenue Code" in chapter 71 of the statutes at the time that those changes apply for federal income tax purposes.

10. Change the references from "December 31, 1999" to "December 31, 2000" for the taxable year 2001, and provide a reference date of "December 31, 2001" for taxable year 2002 and thereafter in the following statutory sections:

- ✓ • Sec. 71.01(7r)
- ✓ • Sec. 71.26(3)(y)
- ✓ • Sec. 71.365(1m)
- ✓ Sec. 71.45(2)(a)13

✓ **EFFECTIVE DATE OR INITIAL APPLICABILITY:**

The amendment to change the reference date specified in 10. above from December 31, 1999 to December 31, 2000, should first apply for property placed in service in taxable years beginning in 2001. The amendment to change the reference date specified in 10. above to December 31, 2001, should first apply for property placed in service in taxable years beginning on January 1, 2002.

**PERSON TO CONTACT:**

Tom Reid, telephone (608) 266-8474

**Prepared by:** Tom Reid  
January 4, 2002

e:Marcy/IRCUPDATE

| Federal Tax Change*   | Federal Law | Effective Date | Fiscal Effect (\$ mill) |          |
|---|-------------|----------------|-------------------------|----------|
|   |             |                | FY02                    | FY03     |
| <u>Individual Income Tax Provisions</u>                                       |             |                |                         |          |
| Expansion of Employer Adoption Assistance Exclusion                           | EGTRRA      | 1/1/02         | -\$0.05                 | -\$0.20  |
| Increased Contributions to IRAs   | EGTRRA      | 1/1/02         | -2.25                   | -5.95    |
| Increase in AMT Exemption   | EGTRRA      | 1/1/01         | Min                     | -0.20    |
| Educational Assistance Programs   | EGTRRA      | 1/1/02         | -2.70                   | -4.65    |
| Education IRAs  | EGTRRA      | 1/1/02         | -1.05                   | -2.25    |
| Student Loan Interest Deduction   | EGTRRA      | 1/1/02         | -0.90                   | -1.55    |
| <u>Corporate and Other Business Tax Provisions</u>                            |             |                |                         |          |
| Repeal of Distance Requirements for Qualified Conservation Easements          | EGTRRA      | 1/1/02         | Min                     | -0.10    |
| Environmental Remediation Costs   | CRTRA       | 12/22/00       | Min                     | -1.25    |
| Corporate Donations of Computer Technology                                    | CRTRA       | 1/1/01         | Min                     | -1.10    |
| Duplication or Acceleration of Loss Through Assumption of Certain Liabilities | CRTRA       | 10/19/99       | Min                     | +0.20    |
| Foreign Sales Corporations  | FSCRA       | 10/1/00        | Min                     | -2.80    |
| <u>Pension Provisions</u>   |             |                |                         |          |
| Increase in Contribution Limits   | EGTRRA      | 1/1/02         | -0.40                   | -1.50    |
| Benefit Limits under Qualified Plans  | EGTRRA      | 1/1/02         | -0.10                   | -0.25    |
| Catch-up Contributions  | EGTRRA      | 1/1/02         | -0.50                   | -1.20    |
| Increases in Defined Contribution Plan Limit                                  | EGTRRA      | 1/1/02         | -0.20                   | -0.40    |
| Repeal of the Coordination Requirements for Section 457 Plan Limits           | EGTRRA      | 1/1/02         | -0.05                   | -0.15    |
| Increase in Employer Deduction Limits   | EGTRRA      | 1/1/02         | Min                     | -0.10    |
| Exclusion of Elective Deferrals in Determination of Deduction Limits          | EGTRRA      | 1/1/02         | -0.20                   | -0.40    |
| Treatment of Contributions to a Multiemployer Plan                            | EGTRRA      | 1/1/02         | Min                     | -0.05    |
| Repeal of the 160% Current Liability Funding Limit                            | EGTRRA      | 1/1/02         | -0.05                   | -0.10    |
| Plan Loans for Small Business Owners  | EGTRRA      | 1/1/02         | -0.10                   | -0.15    |
| Rollovers to and from Governmental Plans and Tax-Sheltered Annuities          | EGTRRA      | 1/1/02         | +0.10                   | Min      |
| Reinvestment of ESOP Dividends  | EGTRRA      | 1/1/02         | -0.10                   | -0.25    |
| Modification of Top-Heavy Rules   | EGTRRA      | 1/1/02         | Min.                    | -0.05    |
| Total   |             |                | -\$8.55                 | -\$24.45 |