



STEPHEN R. MILLER
CHIEF

State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

100 NORTH HAMILTON STREET
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
LEGAL FAX: (608) 264-8522

REFERENCE SECTION: (608) 266-0341
REFERENCE FAX: (608) 266-5648

March 1, 2010

MEMORANDUM

To: Senator Taylor

From: Marc E. Shovers, Managing Attorney, (608) 266-0129

Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2009 SB 509** by **DOR** (LRB 09-1174/2)

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

The first point raised by the Department of Revenue (DOR) suggests that language relating to partnerships, LLCs, and tax-option corporations, which appears in ss. 71.28 (6g) (c) 2. and 71.47 (6g) (c) 2., should also appear in s. 71.07 (6g) (c). I'm not sure it's necessary to add this language, but there is nothing wrong with adding the language as DOR suggests.

DOR's second point is a policy concern, and not really a technical issue.

In its third point, DOR suggests that the phrase "in the year to which the claim relates" in s. 71.07 (6g) (b) should be made consistent with ss. 71.28 (6g) (b) and 71.47 (6g) (b), which use the phrase "That the claimant paid in the taxable year." The phrase "in the year to which the claim relates" appears 15 times in s. 71.07, and 14 more times in the rest of ch. 71, so I'm not sure why DOR seems to be confused by the phrase or wishes to start using a different phrase in subch. I of ch. 71.

DOR's fourth point claims uncertainty over the meaning of the phrase "to the extent that it applies to s. 71.07 (9e) (d)." This phrase appears 4 times in subch. I of ch. 71 and has been used hundreds of times over the course of many years in bills that have not been enacted. DOR has never raised this point before, so I'm not sure why the department is now expressing confusion.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

cc. Michael.Oakleaf@revenue.wi.gov

MEMORANDUM

February 22, 2010

TO: Joseph Kreye
Marc E. Shovers
Legislative Reference Bureau

FROM: Rebecca Boldt
Department of Revenue

SUBJECT: Technical Memorandum on SB 509 (LRB 1174/2) – Credit for Contributions to Schools

The Department has the following technical concerns with the above-referenced bill.

- The language in proposed s. 71.28(6g)(c)2. and 71.47(6g)(c)2. regarding the treatment of partnerships, limited liability companies, and tax-option corporations should also be included in sec. 71.07(6g)(c).
- The bill appears to allow a credit to be claimed for a contribution to a private school that is used by the school to pay the tuition or fees for the claimant's child or dependent. While such a contribution would not be allowed as a charitable contribution for federal tax purposes, the bill would allow the contribution for purposes of claiming the credit. Is this the author's intent?
- In proposed s. 71.07(6g)(b), the credit is based on the contribution "in the year to which the claim relates." In proposed s. 71.28 (6g) and s. 71.47(6g)(b), the credit is based on the contribution "that the claimant paid in the taxable year." It is unclear why the language is different. Other credits are generally based on actions or expenditures that take place during the taxable year. The author may wish to amend s. 71.07(6g)(b) so that it is consistent with the language in s. 71.28 (6g) and s. 71.47(6g)(b) and with other credits.
- In proposed section 71.07(6g)(d), it is unclear what is meant by "to the extent that it applies to" s. 71.07(9e)(d). As it is currently worded, it appears there would be cases where the powers to administer the credit that are granted to the Department in 71.07(9e)(d) would not apply, yet the circumstances of those cases are not spelled out. It would be preferable if it simply stated that sub. (9e)(d) applies to this new credit.

If you have any questions regarding this technical memorandum, please contact Michael Oakleaf at 261-5173, or via email at Michael.oakleaf@revenue.wi.gov.

cc: Sen. Taylor