



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

November 7, 2011

MEMORANDUM

To: Representative Pocan

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

Subject: Technical Memorandum to **2011 AB 356** (LRB-2398/1) by **DOR**

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

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

MEMORANDUM

November 2, 2011

TO: Joseph Kreye
Legislative Reference Bureau

FROM: John Koskinen
Michael Oakleaf
Department of Revenue

SUBJECT: Technical Memorandum on AB 356 (LRB 2398/1) -- Limiting the Corporate Tax Deduction for Compensation of Officers and Other Employees

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

- The term "full-time equivalent employee" is not defined. Could a taxpayer who has ten employees who each work four hours per week and are all paid the same wage rate considered these ten employees a single full-time equivalent employee under the bill? In order to reduce confusion for the taxpayer, it is suggested that a definition for the term be added.
- In order to clarify the period for which the compensation limitation applies, the phrase "in the current taxable year" should be added to text after "bonuses paid to an employee or officer" and after "lowest-paid full-time employee" in order to make it clear that the compensation limitation applies to compensation paid in the current taxable year.
- Under current federal law, the deduction for compensation paid to officers cannot exceed \$1 million unless the compensation is performance-based. As drafted, the bill could allow a deduction larger than that allowed under federal law, for example if the lowest-paid full-time employee is paid more than \$40,000 ($\$41,000 \times 25 = \$1,025,000$). Is this the author's intent? If not, the author may wish to include a provision that the deduction be the smaller of the deduction allowed under federal law or 25 times the compensation paid to the lowest-paid full-time employee.
- Because the bill only modifies s. 71.26(3)(e)1. It would only apply to regular C corporations. It would not apply to tax option corporations, partnerships, or sole proprietors. Is this the author's intent?
- The bill would apply for taxable years beginning on January 1, 2011. Forms for tax year 2011 have already been developed. It would be preferable if the bill first applied for taxable years beginning on or after January 1, 2012.

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: Rep. Pocan