



State of Wisconsin

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STEPHEN R. MILLER
CHIEF

January 15, 2014

MEMORANDUM

To: Senator Darling

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

Subject: Technical Memorandum to **2013 SB 490** (LRB-3490/2) 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

January 13, 2014

TO: Joe Kreye
Legislative Reference Bureau

FROM: Bob Schmidt
Department of Revenue

SUBJECT: Technical Memorandum on SB 490 – relating to sales tax bad debt return adjustments for private label credit card bad debt.

The department has the following concerns with SB 490:

1. The methods for determining the deduction or refund amount under sec. 77.585 (11)(c)1. and 2. produce an estimate of bad debts related to taxable Wisconsin sales. Under these methods, bad debt deductions will be allowed for sales that were made in other states and Wisconsin sales of exempt products, allowing for refunds of taxes that were not collected. Further, the bill does not provide directions for calculating bad debt deduction using the methodologies under sec. 77.585(11)(c). The department suggests the bill be modified to provide specific directions for calculating the bad debt deduction based on actual amounts reported by sellers and lenders.
2. The bill allows sellers or lenders (including a lender's affiliates) to claim the bad debt sales tax deduction per the written agreement between the seller and lender. The department would need to review the agreements before allowing each bad debt deduction. Without an audit, the department would not be able to verify who is entitled to the deduction or determine if the deduction was already claimed by another entity.
3. Under current law, income tax deductions may only be claimed by the person entitled to the deduction. The proposed sales tax deduction is contrary to current law and tax practices for income and sales tax purposes, which may result in compliance issues.
4. As written, the bill could be interpreted to apply to dual purpose credit card sales by any seller that enters into an agreement with the provider of dual purpose credit cards, not strictly the seller branded on the credit card. The department suggests the bill be modified to limit the deduction to transactions that occur at the seller whose logo appears on the dual purpose credit card.

If you have questions regarding this technical memorandum, please contact Bob Schmidt at (608) 266-5773 or robertk1.schmidt@revenue.wi.gov.

cc: Senator Darling