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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 10-129

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### **2. Form, Style and Placement in Administrative Code**

a. In s. Tax 20.02 (3), the department should consider placing the material after the first sentence in a separate definition (e.g., “domicile”) rather than including the material in the definition of resident individual. Alternatively, the department should consider deleting the reference to domicile and shortening the definition of resident individual to mean the items included in the second sentence of the current definition. Also, in sub. (3) (intro.), the phrase “all of” should be inserted before the phrase “the following.” [See also ss. Tax 20.05 (13) (intro.) and 20.11 (1) (b) (intro.).]

b. In s. Tax 20.05 (3), the department should clarify that the latter clause relating to the date determined under s. 66.0435 (3) (c) 2., Stats., applies only to manufactured and mobile homes. The department could move the reference to manufactured and mobile homes to achieve this result.

c. In s. Tax 20.05 (4), does the department intend to refer to s. 66.0435 (3) (c) 8., Stats., rather than par. (e)?

d. In s. Tax 20.05 (7), the department should refer to s. 66.0435 (1) (cm), Stats.

e. In s. Tax 20.05 (8), the words “Credit” and “Value” should be shown in lowercase.

f. In s. Tax 20.05 (9), the department should refer to s. 66.0435 (1) (d), Stats.

g. In s. Tax 20.05 (10), the department should refer to s. 66.0435 (1) (c), Stats.

h. In s. Tax 20.05 (11), the phrase “in this state” is unnecessary and should be deleted. [See also s. Tax 20.02 (2).]

i. In s. Tax 20.05 (13), the department should revise the definition of primary residence, taking into account the appropriate use of “means” under s. 1.01 (7) (c), Manual. See also, the comment in 2. a., above.

j. In s. Tax 20.05 (14), the phrase “Tax Incremental District” should be shown in lowercase.

k. In s. Tax 20.07 (1) (e), the word “should” should be replaced by the word “shall” in conjunction with the notion that if the owner desires a credit, the owner “shall” file an application. [See also s. Tax 20.11 (2).]

l. In the title to s. Tax 20.08 (4) (a), the phrase “Credit Reimbursement Report” should be shown in lowercase.

m. Should the department repeal the Appendix to ch. Tax 20, Wis. Adm. Code? The material in the Appendix appears to relate to material deleted from ch. Tax 20, as recreated, by the proposed rule.

#### **4. Adequacy of References to Related Statutes, Rules and Forms**

The rule is replete with references to forms prepared or made available by the department. The requirements of s. 227.14 (3), Stats., should be met.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In the second paragraph of the rule preface discussion of analysis and supporting documents used to determine effect on small business, the first occurrence of the word “effect” should be replaced by the word “affect.”

b. Section Tax 20.06 (2) uses the phrase “net fair market value.” The term should not be set off within quotation marks. Also, the term is not used in s. 66.0435 (3) (c), Stats. Does the term need to be further clarified?

c. Section Tax 20.11 (2) provides that if the department makes a determination by October 1 that there was an omitted lottery and gaming credit due to an eligible claim made after January 31 and no later than October 31, the department must issue a check to the taxpayer in the amount equal to the computed credit. How will the department make this determination by October 1 if a claim is submitted after October 1 and before November 1?