

CR 90-13

CERTIFICATE

RECEIVED

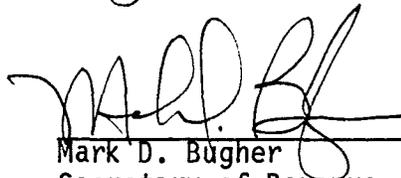
STATE OF WISCONSIN)
) SS
DEPARTMENT OF REVENUE)

JUN 22 1990
8:45 am
Revisor of Statutes
Bureau

I, Mark D. Bugher, Secretary of the Department of Revenue and custodian of the official records certify that the annexed rule, relating to homestead credit was duly approved and adopted by this department on June 20, 1990.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand at 125 South Webster Street in the City of Madison, this 19th day of June, 1990.



Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/M021590J

9-1-90

JUN 22 1990

Revisor of Statutes
Bureau

ORDER OF THE DEPARTMENT OF REVENUE
PROMULGATING RULES

The Wisconsin Department of Revenue adopts an order to amend Tax 14.03 and 14.06, relating to the homestead credit.

Analysis by the Wisconsin Department of Revenue

Statutory Authority: s. 71.80(1)(c), Stats.

Statutes Interpreted: s. 71.52(5), Stats.

SECTIONS 1 to 3. Tax 14.03(3) to (6) are revised to update the code with respect to a law change allowing a deduction from household income for homestead credit purposes for certain qualifying dependents. Section 71.52(5), Stats., was amended by 1989 Wisconsin Acts 31 and 100, effective for 1989 claims filed in calendar year 1990.

A "note" is added at the end of s. Tax 14.03 to explain what the law was prior to enactment of 1989 Wisconsin Acts 31 and 100.

All of the examples at the end of subs. (2) to (4) of s. Tax 14.06 are revised to include language regarding the deduction for dependents.

SECTION 1. Tax 14.03(3) to (6) are renumbered (4) to (7).

SECTION 2. Tax 14.03(3) is created to read:

Tax 14.03(3) DEDUCTION FOR DEPENDENTS. (a) Under s. 71.52(5), Stats., a deduction of \$250 is allowed for each of the claimant's dependents, as defined in section 152 of the internal revenue code, who have the same principal abode as the claimant for more than six months during the calendar year to which a claim for homestead credit relates. A claimant may multiply the number of dependents with the same principal abode for more than six months by \$250, and subtract the result from the total of the income items, to arrive at household income.

Note: Example. A claimant and the claimant's spouse claim 3 dependents on their 1989 federal income tax return, and all 3 dependents have the same principal abode as the claimant for the entire year. Household income items include Wisconsin adjusted gross income of \$7,500, depreciation of \$1,500, an IRA contribution of \$1,000, and unemployment compensation of \$500. Total household income is \$9,750, consisting of the total of the income items listed (\$7,500 + \$1,500 + \$1,000 + \$500 = \$10,500) minus the dependent deduction of \$750 (\$250 x 3 dependents).

(b) A dependent is considered to have the same principal abode as the claimant during temporary absences from the claimant's homestead for reasons such as school attendance, illness, vacations, business commitments, or military service.

(c) In the following situations, a dependent who does not have the same principal abode as the claimant for more than six months during the calendar year to which a claim for homestead credit relates is nonetheless considered to have the same principal abode for more than six months if during that year:

1. The dependent is born or dies, and the dependent has the same principal abode as the claimant during the entire time the dependent is alive during that year.

2. The dependent is adopted by the claimant, is placed with the claimant for adoption, or becomes the stepchild of the claimant, and the dependent has the same principal abode as the claimant from that time to the end of that calendar year.

SECTION 3. Tax 14.03(5)(a)1 as renumbered is amended to read:

Tax 14.03(5)(a)1. Amounts described in sub. ~~(3)~~ (4)(b)1, 3.b, 7, and 14 as not being includable in income.

Note to Revisor: The "Note" at the end of s. Tax 14.03 should be revised to read as follows:

Note: 1) Household income of a claimant who becomes married or divorced during a claim year or occupies a separate dwelling from his or her spouse for any part of a claim year is described in s. Tax 14.06.

2) Section 71.52(5), 1987 Stats., was amended by 1989 Wisconsin Acts 31 and 100, effective for 1989 claims filed in calendar year 1990. Under the statute in effect immediately prior to enactment of 1989 Wisconsin Acts 31 and 100, the deduction for dependents described in sub. (3) did not apply.

3) Section 71.09(7)(a)6, 1985 Stats., was amended by 1987 Wisconsin Act 27, effective for 1987 claims filed in calendar year 1988. This amendment changed the definition of "income" for homestead credit purposes and is reflected in subs. (4) and (5). Section 71.09(7)(a)6, Stats., as amended was renumbered s. 71.52(6), Stats., by 1987 Wisconsin Act 312.

a) Under the statute in effect immediately prior to enactment of 1987 Wisconsin Act 27, income as described in sub. (4)(b) also included:

June 6, 1990

1. Foster care payments.
2. Community options program, or "COP" payments.

b) Under the statute in effect immediately prior to enactment of 1987 Wisconsin Act 27, income as described in sub. (4)(b) did not include:

1. Income of a nonresident or part-year resident married to a full-year resident of Wisconsin.
2. A housing allowance provided to a member of the clergy.
3. The amount by which a resident manager's rent is reduced.
4. Nontaxable income of an American Indian.
5. Nontaxable income from sources outside of Wisconsin.
6. Nontaxable deferred compensation.
7. The following items deducted in determining Wisconsin adjusted gross income, including items deducted in arriving at partnership income or losses:
 - a. Expenses deducted under section 179 of the internal revenue code.
 - b. Amortization.
 - c. Contributions to Keogh plans.
 - d. Net operating loss carryforwards.
 - e. Capital loss carryforwards.

c) Under the statute in effect immediately prior to enactment of 1987 Wisconsin Act 27, sub. (5)(b) did not apply.

4) Section 71.042(1), 1985 Stats., was renumbered s. 71.042(2) and amended by 1987 Wisconsin Act 27, effective for a tax-option corporation's 1987 taxable year and shareholder's 1987 or 1988 taxable year, as appropriate to conform the shareholder's treatment of income, loss, or deduction to the tax-option corporation's treatment. This amendment provides that the items of income, loss, and deduction of tax-option corporations retain their character when passed through to shareholders. The effect of this provision on household income is reflected in sub. (4)(b)23. Section 71.042(2), Stats., as amended was renumbered s. 71.36(1m), Stats., by 1987 Wisconsin Act 312. For 1986 and prior year claims filed in 1987 and prior calendar years, or for 1987 claims of shareholders whose tax-option corporation's taxable year ended before July 1, 1987, items in sub. (4)(b)23 did not have to be included in household income if distributed by a tax-option corporation to a shareholder because such items did not retain their character upon distribution to the shareholder.

Note to Revisor: The "note" at the end of s. Tax 14.06(2) should be revised to read as follows:

Note: Example. X marries Y on September 1, and they decide that X is to be the claimant. Prior to the marriage, X pays gross rent of \$250 per month and Y pays gross rent of \$350 per month. They pay gross rent of \$500 per month for their jointly occupied apartment after the marriage. Heat is not included at any of the dwellings. X's income is \$4,000 prior to the marriage, and X's services and property generate marital property income of \$2,000 after the marriage. Y's income is \$10,000 prior to the marriage, and Y's services and property generate marital property income of \$5,000 after the marriage. There are no dependents. In this situation, household income reportable by X is \$11,000, consisting of X's income prior to the marriage (\$4,000) plus the income of both X and Y after the marriage (\$7,000). Rent constituting property taxes accrued which may be claimed by X is \$1,000, 25% of the sum of X's rent of \$250 per month for 8 months (\$2,000) and 4 months rent at \$500 per month after the marriage (\$2,000), totaling \$4,000 for the year. Since Y is not the claimant, Y's rent of \$350 per month and income of \$10,000 for the 8 months prior to the marriage are not considered in computing the homestead credit.

Note to Revisor: The "note" at the end of s. Tax 14.06(3) should be revised to read as follows:

Note: Examples. 1) SEPARATION AT THE END OF A CLAIM YEAR. A husband and wife reside in their jointly owned homestead from January 1 to July 31, when the wife moves permanently to a Wisconsin nursing home that is not exempt from property taxes. The husband pays the heat and all the property taxes of \$1,200 for the year. Rent paid by the wife for occupancy at the nursing home for the period August 1 through December 31 is \$1,000, and the nursing home pays the heat. There are no dependents. Each spouse notifies the other of the marital property income generated by their respective services and properties. Income consists of both non-marital property income and marital property income, as follows:

<u>Income</u>	<u>Husband</u>	<u>Wife</u>
N-M.P.* January 1 - July 31	\$ 4,000	\$ 2,400
M.P.** January 1 - July 31	1,000	600
N-M.P.* August 1 - December 31	3,200	1,600
M.P.** August 1 - December 31	800	400
Total Income	<u>\$ 9,000</u>	<u>\$ 5,000</u>

* N-M.P. = non-marital property income

** M.P. = marital property income - in husband's column, income generated by his services and property; in wife's column, income generated by her services and property

Both husband and wife are otherwise qualified for the homestead credit. Household income, property taxes accrued, and rent constituting property taxes accrued applicable to each claimant for the year are computed as follows:

<u>Household Income</u>	<u>Husband's Claim</u>	<u>Wife's Claim</u>
(H) N-M.P. January 1 - July 31*	\$ 4,000	\$ 4,000
(H) M.P. January 1 - July 31*	1,000	1,000
(W) N-M.P. January 1 - July 31*	2,400	2,400
(W) M.P. January 1 - July 31*	600	600
(H) N-M.P. August 1 - December 31	3,200	0
(H) M.P. August 1 - December 31	400	400
(W) N-M.P. August 1 - December 31	0	1,600
(W) M.P. August 1 - December 31	200	200
Total Household Income	<u>\$11,800</u>	<u>\$10,200</u>

Property Taxes Accrued

(H) January 1 - July 31* (7/12 x \$1,200 x 1/2)	\$ 350	\$ 350
(W) January 1 - July 31* (7/12 x \$1,200 x 1/2)	350	350
(H) August 1 - December 31 (5/12 x \$1,200 x 1/2)	250	--
(W) August 1 - December 31	(see below)	--
Total Taxes	<u>\$ 950</u>	<u>\$ 700</u>

Rent Constituting Property Taxes Accrued

(H) 25% of wife's share of property taxes paid by husband for the period August 1 through December 31 (5/12 x \$1,200 x 1/2) x 25%**	\$ 62.50	\$ --
(W) 20% of rent paid for occupancy only (20% x \$1,000)	--	200
Total Allowable Taxes and Rent	<u>\$ 1,012.50</u>	<u>\$ 900</u>

* The income and taxes for the time the claimants are members of the same household are reportable on both claims.

** The husband may claim as rent constituting property taxes accrued 25% of the wife's share of property taxes he pays for the period of time she does not reside in the jointly owned home.

2) SEPARATION DURING A CLAIM YEAR BUT NOT ON DECEMBER 31. X and Y are married and live together through April 30. Y moves to another homestead in Wisconsin on May 1 but moves back to X's homestead on November 1 of the same year. Gross rent for the homestead X resides in is \$300 per month all year, and gross rent for Y's homestead for May through October is \$200 per month. Heat is not included at either dwelling. The income X's services and property generate is \$1,000 per month for all 12 months, and the income Y's services and property generate is \$500 per month for all 12 months. All income is marital property income, and X and Y both notify each other of the marital property income generated by their respective services and properties. There are no dependents. In this situation, since X and Y are one household at the end of the year, only one may file a claim for homestead credit; household income and rent constituting property taxes accrued for each spouse are computed as follows:

<u>Household Income</u>	<u>If X Is Claimant</u>	<u>If Y Is Claimant</u>
(X) January 1 - April 30*	\$ 4,000	\$ 4,000
(Y) January 1 - April 30*	2,000	2,000
(X) May 1 - October 31	3,000	3,000
(Y) May 1 - October 31	1,500	1,500
(X) November 1 - December 31*	2,000	2,000
(Y) November 1 - December 31*	1,000	1,000
Total Household Income	<u>\$13,500</u>	<u>\$13,500</u>

<u>Rent Constituting Property Taxes Accrued (25% of Rent)</u>		
January 1 - April 30*	\$ 300	\$ 300
May 1 - October 31	450	300
November 1 - December 31*	150	150
Total Rent Constituting Property Taxes Accrued	<u>\$ 900</u>	<u>\$ 750</u>

* The income and rent for the time the spouses are members of the same household are reportable on either claim.

3) DIVORCE DURING A CLAIM YEAR. X and Z are married, live together through May 31, and pay gross rent of \$400 per month to that date. On June 1 they both move to separate Wisconsin homesteads, and thereafter X pays gross rent of \$300 per month and Z pays gross rent of \$400 per month. Heat is not included at any of the dwellings. On November 30, X and Z are divorced. The income X's services and property generate is \$4,000 through May 31 and \$5,000 from June 1 to November 30, and X's income is \$1,000 in December. The income Z's services and property generate is \$2,000 through May 31 and \$3,000 from June 1 to November 30, and Z's income is \$2,000 in December. All income of both spouses through November 30 is marital property income. Each spouse notifies the other of the marital property income generated by their respective services and properties. There are no dependents. In this situation, household income and rent constituting property taxes accrued for each claimant are computed as follows:

	X's Claim	Z's Claim
<u>Household Income</u>		
(X) January 1 - May 31*	\$ 4,000	\$ 4,000
(Z) January 1 - May 31*	2,000	2,000
(X) June 1 - November 30	2,500	2,500
(Z) June 1 - November 30	1,500	1,500
(X) December 1 - December 31	1,000	--
(Z) December 1 - December 31	--	2,000
Total Household Income	<u>\$11,000</u>	<u>\$12,000</u>
 <u>Rent Constituting Property</u>		
<u>Taxes Accrued (25% of Rent)</u>		
(X) & (Z) January 1 - May 31*	\$ 500	\$ 500
(X) June 1 - December 31	525	--
(Z) June 1 - December 31	<u>--</u>	<u>700</u>
Total Rent Constituting Property Taxes Accrued	<u>\$ 1,025</u>	<u>\$ 1,200</u>

* The income and rent for the time the claimants are members of the same household are reportable on both claims.

Note to Revisor: The "note" at the end of s. Tax 14.06(4) should be revised to read as follows:

Note: Example. X and Z are married and living together, even though a divorce action is pending. X and Z both move to separate Wisconsin homesteads on March 31 and a divorce is granted on April 30. On November 1 of the same year, X marries Y and they share the same homestead for the rest of the year. Z does not remarry during the year. Each individual or couple pays rent for the entire year, and heat is not included at any dwelling. There are no dependents. X and Z notify each other of the marital property income generated by their respective services and properties for January 1 to April 30. Notification between X and Y is immaterial because they do not occupy separate dwellings as husband and wife during the year. Income for each individual and gross rent paid for the year are as follows:

	<u>X</u>	<u>Y</u>	<u>Z</u>
<u>Income</u>			
January 1 - March 31	\$ 2,000*	\$1,500	\$1,000*
April 1 - April 30	1,000*	200	400*
May 1 - October 31	6,000	4,000	3,000
November 1 - December 31	2,000*	500*	2,000
	<u>\$11,000</u>	<u>\$6,200</u>	<u>\$6,400</u>

* In this example, all income of each spouse while married to each other is marital property income, and the income listed in each column is the income generated by that person's services and property.

	<u>X</u>	<u>Y</u>	<u>Z</u>	<u>X + Z</u>	<u>X + Y</u>
<u>Gross Rent Paid</u>					
January 1 - March 31	\$ --	\$ 600	\$ --	\$900	\$ --
April 1 - October 31	1,800	1,400	1,400	--	--
November 1 - December 31	--	--	400	--	500

Since X and Y are one household at the end of the year, only one of them may file a claim for homestead credit. Z is also entitled to file a homestead credit claim for the year. Household income and rent constituting property taxes accrued are computed as follows:

	<u>If X Is Claimant</u>	<u>If Y Is Claimant</u>	<u>Z's Claim</u>
<u>Household Income</u>			
January 1 - March 31	(X)* \$ 2,000	(Y) \$1,500	(Z)* \$1,000
January 1 - March 31	(Z)* 1,000	--	(X)* 2,000
April 1 - April 30	(X) 500	(Y) 200	(Z) 200
April 1 - April 30	(Z) 200	--	(X) 500
May 1 - October 31	(X) 6,000	(Y) 4,000	(Z) 3,000
November 1 - December 31	(X)* 2,000	(Y)* 500	(Z) 2,000
November 1 - December 31	(Y)* 500	(X)* 2,000	--
<u>Total Household Income</u>	<u>\$12,200</u>	<u>\$8,200</u>	<u>\$8,700</u>
<u>Rent Constituting Property</u>			
<u>Taxes Accrued (25% of Rent)</u>			
January 1 - March 31	(X + Z)* \$ 225	(Y) \$ 150	(X + Z)* \$ 225
April 1 - October 31	(X) 450	(Y) 350	(Z) 350
November 1 - December 31	(X + Y)* 125	(X + Y)* 125	(Z) 100
<u>Total Rent Constituting Property Taxes Accrued</u>	<u>\$ 800</u>	<u>\$ 625</u>	<u>\$ 675</u>

* The income and rent for the time the claimants are members of the same household are reportable on each claim filed.

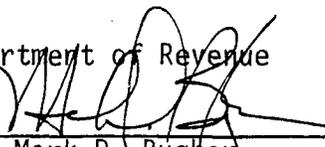
The rules contained in this order shall take effect on the first day of the month following publication as provided in s. 227.22(2)(intro.), Stats.

Final Regulatory Flexibility Analysis

This rule order does not have significant economic impact on a substantial number of small businesses.

Dated: June 19, 1990

Department of Revenue

By: 

Mark D. Bugher
Secretary of Revenue

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FISCAL ESTIMATE

DCA-2048 (R 10/88)

ORIGINAL
 CORRECTED

UPDATED
 SUPPLEMENTAL

Subject

Homestead Rules

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or allocates a sum sufficient appropriation.

- Increase Existing Appropriation Increase Existing Revenues
- Decrease Existing Appropriation Decrease Existing Revenues
- Create New Appropriation

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Decrease Costs

Local: No local government costs

- 1. Increase Costs
 Permissive Mandatory
- 2. Decrease Costs
 Permissive Mandatory

- 3. Increase Revenues
 Permissive Mandatory
- 4. Decrease Revenues
 Permissive Mandatory

5. Types of Local Governmental Units Affected:
- Towns Villages Cities
 - Counties Others _____

Fund Sources Affected

- GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The rule changes reflect changes in state law regarding the Homestead Credit and thus have no effect on state GPR expenditures.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)
Wisconsin Department of Revenue
Gene Schubert, 266-8132

Authorized Signature/Telephone No. 266-2700

Robert M. Kenna

Date

12/21/89

FISCAL ESTIMATE WORKSHEET

1989 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
 Tax Rule 14.03/14.06

Subject

Homestead Rules

I. One-time Costs or Revenue Fluctuations for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:		Annualized Fiscal Impact on State funds from:	
Note: Treat fiscal costs like a "checkbook": increased costs reduce available funds (-); decreased costs increase available funds (+).		Increased Costs	Decreased Costs
A. State Costs by Category			
Salaries and Fringes		\$ -	\$ +
Staff Support Costs		-	+
Other State Costs		-	+
Local Assistance		--	+
Aids to Individuals or Organizations		-	+
TOTAL State Costs by Category		\$ -	\$ +
B. State Costs by Source of Funds			
GPR		\$ -	\$ +
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
C. FTE Position Changes		Increased Pos. + ()	Decreased Pos. - ()
III. State Revenues-			
Complete this only when proposal will increase or decrease state revenues, such as taxes, license fees, etc.		Decreased Rev.	Increased Rev.
GPR Taxes		\$ -	\$ +
GPR Earned		-	+
FED		-	+
PRO/PRS		-	+
SEG/SEG-S		-	+
TOTAL State Revenues		\$ -	\$ +

Net Annualized Fiscal Impact on State & Local Funds

State	Annual Increases	Annual Decreases	Local	Annual Increases	Annual Decreases
Total Costs	\$ -	\$ +	Total Costs	\$ -	\$ +
Total Revenues	+	-	Total Revenues	+	-
NET Impact on State Funds	\$ (+) or None (-)		NET Impact on Local Funds	\$ (+) or None (-)	

Agency/Prepared by: (Name & Phone No.)
 Wisconsin Department of Revenue
 Gene Schubert, 266-8132

Authorized Signature/Telephone No.

Date

Margaret A. Reuss 266-2700 12/21/89



State of Wisconsin ● **DEPARTMENT OF REVENUE**

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

June 20, 1990

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Gary L. Poulson, Assistant Revisor
Revisor of Statutes
30 West Mifflin Street, Suite 702
Madison, WI 53703

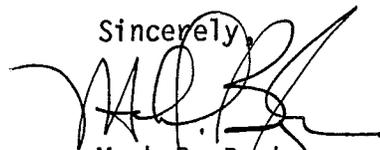
Re: Clearinghouse Rule 90-13

Dear Mr. Poulson:

Enclosed are a certified copy and an extra copy of an Order of the Department of Revenue promulgating rules relating to homestead credit.

These materials are filed with you pursuant to s. 277.20(1), Wis. Stats.

Sincerely,


Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/M021590F

Enclosure

cc: Douglas J. LaFollette, Secretary of State
Prentice Hall, Inc.
Commerce Clearinghouse, Inc.



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708 ● 608-266-6466

Tommy G. Thompson
Governor

Mark D. Bugher
Secretary of Revenue

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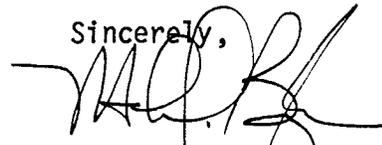
Douglas LaFollette
Secretary of State
30 West Mifflin Street, 10th Floor
Madison, WI 53703

Dear Secretary LaFollette:

Enclosed are a Certificate and an Order of the Department of Revenue adopting Clearinghouse Rule 90-13.

These materials are filed with you pursuant to s. 227.20, Wis. Stats.

Sincerely,



Mark D. Bugher
Secretary of Revenue

MDB:VLG:1c
CKLEG/M021590G

Enclosure

cc: Revisor of Statutes